

THE REGIONAL MUNICIPALITY OF HALTON

BY-LAW NO. 163-11

A BY-LAW RESPECTING MANDATORY FOOD HANDLER CERTIFICATION.

WHEREAS Regional Council in its capacity as the Region's Board of Health has a duty to provide a food safety program as mandated by provisions of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended (the "HPPA") and the Ministry of Health and Long-Term Care's Ontario Public Health Standards;

AND WHEREAS Regional Council in its capacity as the Region's Board of Health has the duty to ensure that Food Handlers in Food Premises have access to training in safe food-handling practices and principles as prescribed under the Ontario Public Health Standards;

AND WHEREAS Regional Council in its capacity as the Region's Board of Health has a duty to assess all Food Premises annually and determine their risk status according to the Ontario Public Health Standards and related Protocols;

AND WHEREAS sections 11 and 425 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "Municipal Act") authorize Regional Council to pass by-laws respecting the health, safety and well-being of persons and providing that a person who contravenes a by-law passed under that Act is guilty of an offence;

AND WHEREAS the Municipal Act further authorizes Regional Council in its capacity as the Region's Board of Health, amongst other things, to delegate its authority, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work.

NOW THEREFORE THE COUNCIL OF THE REGIONAL MUNICIPALITY OF HALTON HEREBY ENACTS AS FOLLOWS:

**Definitions**

1. THAT in this By-law:
  - (a) "Accredited Program" means:
    - (i) the Region's Food Handler Training and Certification Program,
    - (ii) a food handler training and certification program provided by a board of health established or continued under the HPPA,
    - (iii) a food handler training and certification program that has been accredited by the medical officer of health of a board of health

established or continued under the HPPA as being equivalent to the food handler training and certification program of that board of health, or

- (iv) a food handler training and certification program that has been accredited by the Ministry of Health and Long-Term Care;
- (b) “Certified Food Handler” means a Food Handler who holds a valid Food Handler Certificate;
- (c) “Food” means food or drink for human consumption and includes an ingredient of food or drink for human consumption;
- (d) “Food Handler” means any person who works at a Food Premises handling or coming in contact with Food during its manufacture, processing, preparation, storage, handling (including service), display, distribution, transportation, sale, or offering for sale;
- (e) “Food Handler Certificate” means a certificate issued to a person by the provider of an Accredited Program certifying that the person has successfully completed that Accredited Program;
- (f) “Food Premises” means a premises where Food or milk is manufactured, processed, prepared, stored, handled (including served), displayed, distributed, transported, sold or offered for sale;
- (g) “Hazardous Food” means any Food that is capable of supporting the growth of pathogenic organisms or the production of the toxins of such organisms;
- (h) “High-Risk Food Premises” means a Food Premises where Hazardous Food is prepared and:
  - (i) a process or processes to prepare Food that involves many preparation steps is used,
  - (ii) Food frequently implicated as the cause of food-borne illness is served, or
  - (iii) the premises has been implicated or confirmed as a source of food-borne illness;
- (i) “Inspector” means a public health inspector acting under the direction of the Medical Officer of Health;

- (j) “Medical Officer of Health” means the Region’s Medical Officer of Health or his or her designate;
- (k) “Moderate-Risk Food Premises” means a Food Premises, other than a High-Risk Food Premises, where Hazardous Food is prepared;
- (l) “Operator” means a Person who has responsibility for or control over an activity carried on at a Food Premises, and there may be more than one Operator of the same Food Premises;
- (m) “Person” includes a natural person, an association, a corporation, a body politic or a partnership whether acting by themselves or through, with or by a servant, agent, representative or employee and further includes the heirs, executors, administrators, successors and assigns or other legal representative of such person;
- (n) “Region” means The Regional Municipality of Halton;
- (o) “Regional Council” means the Council of the Region; and
- (p) “Region’s Food Handler Training and Certification Program” means a food handler training and certification program approved by the Medical Officer of Health that is provided by, or on behalf of, the Region.

**Operator and Certified Food Handler Duties**

- 2. THAT, subject to section 4, every Operator of a Food Premises described in that section shall:
  - (a) ensure that at least one Certified Food Handler is present at the Food Premises to supervise the manufacture, processing, preparation, storage, handling (including service), display, distribution, transportation, sale, or offering for sale of Food at all times during operation;
  - (b) on request by the Medical Officer of Health or an Inspector produce or cause to be produced for inspection the Food Handler Certificate for each Certified Food Handler present at the Food Premises along with a photo identification for each; and
  - (c) where the Food Handler Certificate produced pursuant to section 2(b) was issued by an Accredited Program as described in section 1(a)(iii), on request by the Medical Officer of Health or an Inspector produce or cause to be produced for inspection documentation to evidence that the food handler training and certification program was accredited by the

medical officer of health of the board of health at the time that the Food Handler Certificate was issued.

3. THAT, subject to section 4, every Certified Food Handler present at a Food Premises described in that section shall on request by the Medical Officer of Health or an Inspector produce for inspection his or her Food Handler Certificate along with a photo identification.
4. THAT the requirements of sections 2 and 3 shall come into effect as follows:
  - (a) for High-Risk Food Premises which are licensed day nurseries, hospitals and long-term care facilities, on January 1, 2013;
  - (b) for High-Risk Food Premises, other than High-Risk Food Premises as described in section 4(a), on January 1, 2014; and
  - (c) for Moderate-Risk Food Premises, on January 1, 2015.

#### **Food Handler Training and Certification**

5. THAT every provider of an Accredited Program shall, on request, provide the Medical Officer of Health with such information as the Medical Officer of Health considers necessary to verify the authenticity of any Food Handler Certificates produced for inspection pursuant to section 2(b) or 3 including, but not limited to, true copies of the certificates issued.
6. THAT unless terminated beforehand by the Medical Officer of Health, a Food Handler Certificate issued by the Region's Food Handler Training and Certification Program is valid for five years from the date of issue.
7. THAT a Food Handler Certificate issued by an Accredited Program other than the Region's Food Handler Training and Certification Program shall be considered valid for the purposes of this By-law for five years from the date of issue unless terminated beforehand.

#### **Inspections**

8. THAT pursuant to the Municipal Act, the HPPA and the regulations thereto, the Medical Officer of Health or an Inspector may enter a Food Premises at any reasonable time for the purpose of carrying out an inspection to determine whether the following are being complied with:
  - (a) this By-law; and
  - (b) any direction, requirement or order made or given under this By-law, the Municipal Act, the HPPA, or the regulations thereto.

9. THAT the Medical Officer of Health or an Inspector may take all reasonable steps to effect an inspection including the following:
- (a) requiring the production for inspection of documents or things relevant to the inspection;
  - (b) inspecting and removing documents or things relevant to the inspection for the purpose of making copies or extracts;
  - (c) requiring information from any Person concerning a matter related to the inspection; and
  - (d) alone or in conjunction with a Person possessing special or expert knowledge, making examinations or taking tests, samples, or photographs necessary for the purposes of the inspection.

### **Enforcement**

10. THAT Council hereby delegates to the Medical Officer of Health and Inspectors all authorities necessary to implement, administer, execute and enforce all provisions as set out in this By-law including the imposition of conditions as necessary to ensure compliance with this By-law.

### **Obstruction**

11. THAT no Person shall hinder or obstruct the Medical Officer of Health or an Inspector lawfully carrying out a power, duty or direction under this By-law or the HPPA.

### **Offences and Penalties**

12. THAT any Person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to a fine in accordance with the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

### **Copies**

13. THAT a copy of any written or recorded material related to an investigation, examination, test or inquiry and purporting to be certified by an Inspector, is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original.

**Headings for Reference Only**

14. THAT the headings inserted in this By-law are for convenience of reference only and shall not affect the construction or interpretation of this By-law.

**Severability**

15. THAT if any section or sections of this By-law or parts thereof are found by any court of competent jurisdiction to be illegal or beyond the power of Regional Council to enact, such section or sections or parts thereof shall be deemed to be severable from this By-law and all other sections.

**Short Title**

16. THAT this By-law may be referred to as the “Halton Region Mandatory Food Handler Certification By-law”.

**Effective Date**

17. THAT this By-law comes into force on the day it is passed.

READ and PASSED this 14th day of December, 2011.

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REGIONAL CHAIR

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REGIONAL CLERK