

**THE CORPORATION OF THE COUNTY OF LAMBTON
BY-LAW NO. 30 OF 2010**

**"A By-Law To Regulate The Disclosure Of Food Safety Inspection
Information To The Public And Regulate Mandatory Food Handler
Certification"**

WHEREAS section 9 of the *Municipal Act, 2001* (hereinafter, the "MA") grants Council the capacity, rights, powers and privileges of a natural person and that, without limiting the generality of section 9 of the MA, section 11 of the MA specifically authorizes Council to pass By-Laws necessary or desirable for municipal purposes and in particular for the protection of the health, safety and well-being of persons and the economic, social and environmental well-being of the municipality;

WHEREAS the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7 (hereinafter, the "HPPA") sets out numerous regulations applicable to, *inter alia*, food premises the purpose of which is the protection and promotion of public health;

WHEREAS subsection 10(2) of the HPPA authorizes The Corporation of the County of Lambton's Community Health Services Department to conduct health inspections of all food premises in Lambton County;

WHEREAS at its September 2, 2009 meeting Council endorsed the requirements of mandatory food handler certification and the creation of a food safety disclosure program with elements including the posting of green, yellow or red signs at the entrance to food establishments in Lambton County in order to protect and promote the health of the public in Lambton County;

AND WHEREAS Council deems it desirable for the health, safety and well-being of the public to provide the public with information regarding the food safety performance of food premises in Lambton County and require trained and certified food handlers in certain food premises;

NOW THEREFORE the Council of The Corporation of the County of Lambton enacts as follows:

SHORT TITLE

1. This By-Law may be cited as the “Lambton County Food Safety Inspection Disclosure and Certified Food Handlers By-Law.”

DEFINITIONS

2. In this By-Law:

- 2.1. "**Accredited Program**" means the Community Health Services Department's food handler certification program and such other equivalent food handler program certified by the Medical Officer of Health.
- 2.2. "**Community Health Services Department**" means the division or department of The Corporation of the County of Lambton responsible for public health matters and particularly the enforcement of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7.
- 2.3. "**Food**" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption.
- 2.4. "**Food Establishment**" means premises where Food:
 - a) is sold or offered for sale to the public;
 - b) is prepared for immediate consumption by the public; or,
 - c) is sold or served in a form that will permit immediate consumption by the public but does not include a private residence, dwelling, farm gates or food premises exempted from the application of *Food Premises*, R.R.O. 1990, Reg. 562 enacted under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7 as set out in section 2 of that Regulation.
- 2.5. "**Food Handler Training Certificate**" means a certificate, valid for a period of five (5) years from the date of issue, issued to a person by the provider of an Accredited Program certifying that the person has successfully completed that Accredited Program.
- 2.6. "**Food Handling Premise**" means High-Risk Establishments and Medium-Risk Establishments.

- 2.7. "**Hazardous Food**" means any Food that is capable of supporting the growth of pathogenic organisms or the production of the toxins of such organisms.
- 2.8. "**High-Risk Establishments**" means a Food Establishment where Hazardous Food is prepared and:
- i. a process or processes to prepare Food that involves many steps is used;
 - ii. Food frequently implicated as the cause of food-borne illness is stored, prepared and/or served;
 - iii. Food that has been implicated or confirmed as a source of food-borne illness is stored, prepared and/or served; or,
 - iv. Food that is served to a high risk population based on age or medical condition(s) including establishments such as, without limitation, nursing homes, homes for the aged, hospitals and residential facilities.
- 2.9. "**Lambton County**" means the geographic jurisdiction of The Corporation of the County of Lambton.
- 2.10. "**Lambton County Food Safety Inspection Report**" means an original copy of a completed, dated and signed inspection report of the latest inspection conducted by a Public Health Inspector that has been issued to an Operator of a Food Establishment.
- 2.11. "**Lambton County Food Safety Inspection Summary**" means the original colour copy sign issued by and belonging to the Community Health Services Department to a Food Establishment in the form depicted in one of Schedule "1", Schedule "2" and Schedule "3" to this By-Law.
- 2.12. "**Medium-Risk Establishments**" means a Food Establishment where Hazardous Food, other than Hazardous Food as described in paragraph (i) of the definition of High-Risk Establishments, is prepared.
- 2.13. "**Medical Officer of Health**" means the Medical Officer of Health and Associate Medical Officer of Health for the Community Health Services Department of The Corporation of the County of Lambton, appointed

under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7, as amended, and includes any person acting on his or her behalf.

- 2.14. "**Operator**" means any person who owns, occupies, manages, controls, governs or has responsibility for and control over the activity carried on within a Food Establishment or Food Handling Premise, although there may be more than one operator of the Food Establishment or Food Handling Premise;
- 2.15. "**Public Entrance**" means the main entrance used by the public to enter a Food Establishment.
- 2.16. "**Public Health Inspector**" means a public health inspector as defined in the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7 and any other person assigned or appointed to administer or enforce this By-Law and includes a person employed by The Corporation of the County of Lambton whose duties include the enforcement of this By-Law.
- 2.17. "**Sign Holder**" means a sign holder issued by and belonging to The Corporation of the County of Lambton, or other sign holder approved in writing by a Public Health Inspector.

APPLICATION

3. This By-Law shall apply to all Food Establishments and Food Handling Premises in Lambton County.

POSTING AND PRODUCTION REQUIREMENTS

4. Subject to section 5 below, every Operator of a Food Establishment shall ensure that the most recent Lambton County Food Safety Inspection Summary issued by a Public Health Inspector is immediately posted and maintained at all times in a Sign Holder in a clearly visible and conspicuous location at the Public Entrance of the Food Establishment.
5. Where a Food Establishment does not have a public entrance, every Operator of a Food Establishment shall forthwith post and maintain the most recent Lambton County Food Safety Inspection Summary in a conspicuous place clearly visible to members of the public, in a Sign

Holder, at or near the pick-up window or other location where customers are served.

6. Every Operator of a Food Establishment shall keep a copy of the most recent Lambton County Food Safety Inspection Report readily available onsite and shall immediately produce same for viewing, at no cost, upon request by a Public Health Inspector or member of the public.
7. No person shall deface, alter or remove any Lambton County Food Safety Inspection Summary posted in a Food Establishment.
8. No person shall deface or alter any Lambton County Food Safety Inspection Report.

FOOD HANDLER TRAINING AND CERTIFICATION REQUIREMENTS

9. Every Operator of a Food Handling Premise shall ensure that there is, at all times when the establishment is operating, at least one (1) holder of a valid Food Handler Training Certificate supervising the preparation, processing, packaging, service and storage of food.
10. Every food handler, when working as the certified food handler supervising the preparation, processing, packaging, service and storage of food, shall produce for inspection his or her Food Handler Training Certificate upon request by a Public Health Inspector or the Medical Officer of Health.

ENFORCEMENT

11. A Public Health Inspector may enter and have access to, through and over any Food Establishment and Food Handling Premise, at any reasonable time, for the purposes outlined in section 12 below.
12. The purposes mentioned in section 11 include the following:
 - 12.1. The purpose of this By-Law;
 - 12.2. The enforcement of any section of this By-Law;
 - 12.3. The exercise of a power or the carrying out of a duty under this By-Law or under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7 and regulations there under;

12.4. The carrying out of a direction given under this By-Law or the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7.

EXAMINATIONS

13. A Public Health Inspector may make examinations, investigations, tests and inquiries for a purpose mentioned in Section 11 above.

SAMPLES OR EXTRACTS

14. A Public Health Inspector may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in section 11 above.

DIRECTION

15. A Public Health Inspector may require an Operator of a Food Establishment to cease the operation of or dismantle, or both, any equipment on or in the retail food business establishment, for the purpose of an examination, investigation, test or inquiry.

16. A Public Health Inspector may require an Operator of a Food Establishment to return a Lambton County Food Safety Inspection Summary and Sign Holder to the Community Health Services Department.

17. An Operator of a Food Establishment shall comply promptly with a requirement under Section 15 and 16.

COPIES

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

OBSTRUCTION

19. No person shall hinder or obstruct an Inspector lawfully carrying out a power, duty or direction under this By-Law or the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7.

ENFORCEMENT

20. The Medical Officer of Health, a Public Health Inspector and Provincial Offences Officer may enforce all provisions of this By-Law.

OFFENCES AND PENALTIES

21. Any person who contravenes any of Sections 4, 5, 6, 7, 8, 9, 10, 15, 16, 17 or 19 of this By-Law is guilty of an offence and upon conviction is liable, for each day or part of a day that the offence occurs or continues, to a fine and such other penalty as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33 as amended.

PRECEDENCE AND SEVERABILITY

22. Where this By-Law conflicts with any other By-Law of The Corporation of the County of Lambton this By-Law shall take precedence to the extent of the conflict.

23. Should any section, paragraph or provision of this By-Law including any part of any schedule hereof be declared by a court of competent jurisdiction to be *ultra vires*, invalid or illegal for any reason, the same shall not affect the validity of the By-Law as a whole.

24. Nothing in this By-Law shall limit or be deemed a voluntary restriction upon any right, power or ability of the Medical Officer of Health and Public Health Inspector under any statute, regulation, By-Law or law in force in the Province of Ontario.

COMING INTO FORCE

25. This By-Law, save and except Sections 9 and 10, come into force and effect on October 1, 2010. Sections 9 and 10 come into force and take effect on May 1, 2011.

SCHEDULES

26. Schedules 1, 2, 3 (as amended by the Community Health Services Department from time to time) and 4 attached hereto form part of this By-Law.

This By-Law read a first, second, and third time and finally passed this 7th day of July, 2010.

Jim Burns, Warden

Stéphane Thiffeault, Clerk

County of Lambton
Community Health Services Department

PASS

Name

Address

This establishment has been inspected by the County of Lambton Community Health Services Department in accordance with the Ontario Food Premises Regulation and passed the inspection on,

Month/Day/Year

Results of the previous inspection on

Month/Day/Year

Pass

Conditional Pass

Closed

A copy of the most recent inspection report is available for review upon request at this establishment.

For further information contact the Community Health Services Department at 519 383-8331 or visit www.lambtonhealth.on.ca



Dr. Chris Greensmith

(A) Medical Officer of Health

County of Lambton Community Health Services Department



This placard is the property of The Corporation of the County of Lambton's Community Health Services Department ("CHSD") and shall not be removed or altered in any way. CHSD cannot and does not guarantee the same conditions are maintained at this establishment after this inspection date. It is the sole responsibility of the operator to maintain this establishment in accordance with the Ontario Food Premises Regulation.

DineSafe
LAMBTON

Adapted and reprinted with permission from Durham Region Health Department.

County of Lambton
Community Health Services Department

CONDITIONAL PASS

Name

Address

This establishment has been inspected by the County of Lambton Community Health Services Department
in accordance with the Ontario Food Premises Regulation on,

Month/Day/Year

The following infractions must be corrected immediately and will be
re-inspected within 72 hours.

- Inadequate food temperature control
- Inadequate protection of food from contamination/adulteration
- Improper food handler hygiene/handwashing
- Unapproved food source and supply
- Inadequate pest control
- Improper storage/removal of waste
- Improper sanitation/design/maintenance of surfaces/utensils/equipment

Results of the previous inspection on

Month/Day/Year

Pass

Conditional Pass

Closed

A copy of the most recent inspection report is available for review upon request at this establishment.

For further information contact the Community Health Services Department at
519 383-8331 or visit www.lambtonhealth.on.ca



Dr. Chris Greensmith

(A) Medical Officer of Health

County of Lambton Community Health Services Department



This placard is the property of The Corporation of the
County of Lambton's Community Health Services
Department ("CHSD") and shall not be removed or altered
in any way. CHSD cannot and does not guarantee the same
conditions are maintained at this establishment after this
inspection date. It is the sole responsibility of the operator
to maintain this establishment in accordance with the
Ontario Food Premises Regulation.



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County of Lambton
Community Health Services Department

CLOSED

BY ORDER OF THE MEDICAL OFFICER OF HEALTH under the authority of Section 13 of the Health Protection and Promotion Act, the establishment operating as

_____ Name

_____ Address

_____ Date

is **CLOSED** until further notice from Community Health Services Department due to:

- Failure to protect food from contamination/adulteration
- Failure to prevent infestation of insects, rodents, and vermin
- Failure to maintain cleanliness and sanitation
- Failure to provide a constant supply of potable hot and cold water
- Failure to contain wastewater/sewage in a sanitary manner
- Failure to operate establishment free from serious health hazard
- Fire, flood, power failure

Results of the previous inspection on

Month/Day/Year

Pass

Conditional Pass

Closed

For further information contact the Community Health Services Department at 519 383-8331 or visit www.lambtonhealth.on.ca



Dr. Chris Greensmith
(A) Medical Officer of Health
County of Lambton Community Health Services Department



This placard is the property of The Corporation of the County of Lambton's Community Health Services Department ("CHSD") and shall not be removed or altered in any way. CHSD cannot and does not guarantee the same conditions are maintained at this establishment after this inspection date. It is the sole responsibility of the operator to maintain this establishment in accordance with the Ontario Food Premises Regulation.



Schedule 4

The Corporation of the County of Lambton

By-Law No. 30 of 2010: Lambton County Food Safety Inspection Disclosure
and Certified Food Handlers By-Law

Part 1 Provincial Offences Act

Item	Short Form Wording	Provision Creating or defining Offence	Set Fine
1	Operator fail to post most recent copy of Lambton County Food Safety Inspection Summary at Public Entrance	s. 4	\$375.00
2	Operator fail to post most recent copy of Lambton County Food Safety Inspection Summary in Sign Holder at Public Entrance	s. 4	\$250.00
3	Operator fail to post most recent copy of Lambton County Food Safety Inspection Summary at a clearly visible and conspicuous location where no Public Entrance available	s. 5	\$375.00
4	Operator fail to post most recent copy of Lambton County Food Safety Inspection Summary in a Sign Holder at a clearly visible and conspicuous location where no Public Entrance available	s. 5	\$250.00
5	Operator fail to keep copy of most recent Lambton County Food Safety Inspection Report onsite	s. 6	\$375.00
6	Operator fail to produce for inspection most recent Lambton County Food Safety Inspection Report upon request	s. 6	\$375.00
7	Deface, alter or remove Lambton County Food Safety Inspection Summary	s. 7	\$375.00
8	Deface or alter Lambton County Food Safety Inspection Report	s. 8	\$375.00
9	Operator fail to have one (1) holder of valid Food Handler Training Certificate supervising preparation, processing, packaging, service and storage of food	s. 9	\$375.00

Item	Short Form Wording	Provision Creating or defining Offence	Set Fine
10	Certified Food Handler supervising preparation, processing, packaging, service and storage of food fail to produce Food Handler Training Certificate upon request	s. 10	\$50.00
11	Operator fail to return Lambton County Food Safety Inspection Summary	s. 17	\$250.00
12	Operator fail to return Sign Holder	s. 17	\$250.00

Note: the general penalty provision for the offences listed above is section 21 of By-Law No. 30 of 2010, a certified copy of which has been filed.