

MUNICIPALITY OF LEAMINGTON AGENDA



PUBLIC MEETING

Windsor-Essex County Health Unit
Proposed Safe Food Counts and Food
Handler Certification By-laws

MONDAY, AUGUST 31, 2009
COMMENCING AT 7:00 P.M.
IN THE COUNCIL CHAMBERS

ITEMS FOR CONSIDERATION:

1. Notice of Public Meeting
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Draft By-law XXX-09, being a by-law to regulate disclosure of food safety inspection information to the public.

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Draft By-law XXX-09, being a by-law to regulate food handler certification in food premises and food service premises.

Pages 8-12

2. Report CL/09/09 dated June 5, 2009 re: Windsor-Essex County Health Unit - Proposed Food Safety Inspection By-law and Food Handler Certification By-law
(For Reference Only - Previously considered at the June 15, 2009 Council Meeting)
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NOTICE OF PUBLIC MEETING

Safe Food Counts Program

The Council of the Municipality of Leamington will host a public meeting to receive input from the public on the matter of the Windsor-Essex County Health Unit's Safe Food Counts Program being the proposed Food Safety Inspection By-law and the Food Handler Certification By-law.

Date of Meeting: Monday, August 31st, 2009
Time: 7:00 p.m.
Location: Leamington Council Chambers
38 Erie Street North, Leamington

Information is available regarding the proposed by-laws on Leamington's website www.leamington.ca under Public Notices or at the Municipal Office, 38 Erie Street North.

Kim Siddall,
Manager of Corporate Services
THE CORPORATION OF THE
MUNICIPALITY OF LEAMINGTON

Phone (519) 326-5761 ext 231

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

BY-LAW NUMBER: XXX-2009

**A by-law to regulate disclosure of food safety
inspection information to the public.**

WHEREAS the Windsor-Essex County Health Unit has a duty to inspect all food premises and food service premises in Essex County to ensure compliance with the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7, as amended, and regulations there under;

AND WHEREAS the Windsor-Essex County Health Unit has a duty to provide food safety information annually to the community and other prescribed persons under the Mandatory Health Programs and Service Guidelines;

AND WHEREAS the Windsor-Essex County Health Unit has developed a food safety disclosure program called Safe Food Counts in order to improve the health of inhabitants and visitors to Essex County;

AND WHEREAS the regulation of food safety performance by operators of food premises and food service premises within The Corporation of the Municipality of Leamington is a matter related to the health, safety and well-being of its inhabitants;

AND WHEREAS the Council of The Corporation of the Municipality of Leamington deems it desirable for the health, safety and well-being of inhabitants and visitors to The Corporation of the Municipality of Leamington to provide them with information regarding the food safety performance of food premises and food service premises in The Corporation of the Municipality of Leamington;

AND WHEREAS the Council of The Corporation of the Municipality of Leamington has endorsed and adopted the Safe Food Counts program as a mandatory food safety disclosure program in order to improve the health of inhabitants and visitors to The Corporation of the Municipality of Leamington on the terms set forth herein;

AND WHEREAS s. 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, otherwise authorizes a Council of a lower-tier municipality to pass by-laws related to the health, safety and well being of persons;

NOW THEREFORE the Council of The Corporation of the Municipality of Leamington hereby enacts as follows:

DEFINITIONS:

1. In this By-law:

"Act" means the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7, as amended, and any regulations created there under;

"Board of Health" means a board of health, as defined in the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7;

"Food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;

"Food Premises" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include:

- a. a private residence;
- b. premises exempt from inspection under Regulation 562 of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7, as amended; or
- c. premises designated by the Windsor-Essex Health Unit as institutional food premises such as, but not limited to, long term care facilities, day care facilities, nursing homes and rest homes.

"Food Service Premises" means any Food Premises, as defined herein, where meals or meal portions are prepared for immediate consumption or sold or served in a form that will permit immediate consumption on the premises or elsewhere;

"Medical Officer of Health" means the Medical Officer of Health of the Windsor-Essex County Health Unit, duly appointed under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended, and includes any staff acting on his or her behalf;

"Milk" means milk from cows, goats or sheep;

"Municipal By-law Enforcement Officer" is a person appointed by by-law by a municipal council to enforce the by-laws of the municipality;

"Operator" means any person who owns, occupies, manages, controls, governs, or has responsibility for and control over the activity carried on within a Food Premises or Food Service Premises, although there may be more than one operator of the food premise or food service premise;

"Public Entrance" means the main entrance used by the public to enter the Food Premises or Food Service Premises;

"Public Health Inspector" means a public health inspector of a board of health, as defined in the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7;

"Safe Food Counts Certificate" means the original embossed sign belonging to the Windsor-Essex County Health Unit and issued by the Windsor-Essex County Health Unit to a Food Premises or Food Service Premises in the form attached as Schedule "A" as a result of an inspection of such premises conducted pursuant to the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended or regulations there under;

"Sign Holder" means a Windsor-Essex County Health Unit issued sign holder, or other sign holder approved by the Windsor-Essex County Health Unit.

APPLICATION:

2. This By-law shall apply to all Food Premises and Food Service Premises in The Corporation of the Municipality of Leamington

POSTING REQUIREMENT:

3. Every Operator of a Food Premises or Food Service Premises shall keep posted in the Food Premises or Food Service Premises, in a Sign Holder and in conspicuous location at or near the Public Entrance or Entrances of such establishment and clearly visible to members of the public, the most recent Safe Food Counts Certificate.

4. Where a Food Premises or Food Service Premises does not have an Public Entrance or Entrances at which the most recent Safe Food Counts Certificate may be posted, then the Operator shall ensure that the Safe Food Counts Certificate is posted at or near the pick-up window or other location that is clearly visible to members of the public.

5. Every Operator of a Food Premises or Food Service Premises shall keep a copy of the most recent Safe Food Counts Certificate readily available on-site and shall produce same for viewing by a Public Health Inspector or member of the public upon request.

6. Every Safe Food Counts Certificate and Sign Holder shall remain the property of the Windsor-Essex County Health Unit. Operators, subject to the approval of the Windsor-Essex County Health Unit, are permitted to have Sign Holders other than that which is provided by the Windsor-Essex County Health Unit provided same in no way impairs or obscures the visibility of the Safe Food Counts Certificate.

7. No person shall deface, alter or remove any Safe Food Counts Certificate properly posted in a Food Premises or Food Service Premises.

ENFORCEMENT:

8. All Public Health Inspectors or designated Provincial Offence Officers exercising their duties pursuant to this by-law are hereby appointed as Municipal By-law Enforcement Officers for that purpose.

9. A Public Health Inspector or designated Provincial Offence Officer may enter and have access to, through and over any Food Premises or Food Service Premises, at any reasonable time, for the purposes of enforcing this by-law or the exercise of any power or duty under this by-law or the *Act*.

10. An Operator shall return to the Windsor-Essex County Health Unit any Safe Food Counts Certificate and/or Sign Holder upon the request of a Public Health Inspector.

OBSTRUCTION:

11. No person shall hinder or obstruct a Public Health Inspector or designated Provincial Offence Officers lawfully carrying out a power, duty or direction under this by-law

OFFENCE:

12. 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.

13. An offence for violation of Sections 3, 4, 5, 6 or 7 of this by-law is designated as a continuing offence pursuant to Section 429 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

SEVERABILITY:

14. 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 The Corporation of the Municipality of Leamington to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and to be enacted as such.

EFFECTIVE DATE:

15. This by-law as it relates to posting of the Safe Food Counts Certificate at the Public Entrance of a Food Premises or Food Service Premises shall come into force and take effect on **INSERT DATE**.

MISCELLANEOUS:

16. Nothing in this by-law shall limit or be deemed a voluntary restriction upon any right, power, ability or duty of The Corporation of the Municipality of Leamington, the Medical Officer of Health, the Windsor-Essex County Health Unit or any Public Health Inspector under any statute, regulation, by-law or law in force in the Province of Ontario.

SHORT TITLE:

17. This by-law may be referred to as the "Leamington Food Safety Disclosure By-Law".

SCHEDULES:

18. Schedule "A" attached hereto forms a part of this By-law.

BY-LAW read and passed this _____ day of _____ 2009.

Set Fine Schedule

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

Part 1 Provincial Offences Act

By-law XXX-2009: A by-law to regulate disclosure of food safety inspection information to the public.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Fail to post certificate	Section 3	\$200.00
2	Fail to post certificate	Section 4	\$200.00
3	Fail to retain and/or provide certificate upon request	Section 5	\$200.00
4	Fail to use approved sign holder	Section 6	\$200.00
5	Deface, alter or remove certificate	Section 7	\$200.00
6	Hinder or obstruct Public Health Officer/Provincial Offence Officer	Section 11	\$200.00

Penalty Provision for the offences indicated above in Section 12 of By-law XXX-2009, a certified copy of which has been filed.

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

BY-LAW NUMBER XXX-2009

A by-law to regulate food handler certification in food premises and food service premises.

WHEREAS the Windsor-Essex County Health Unit has a duty to inspect all food premises and food service premises in Essex County to ensure compliance with the *Health Protection and Promotion Act* and regulations there under;

AND WHEREAS food handler training and certification increases compliance with safe food handling practices and reduces food handling practices and behaviour which can cause, or increase risk of, food borne illnesses;

AND WHEREAS the regulation of food safety performance by operators of food premises and food service premises within The Corporation of the Municipality of Leamington is a matter related to the health, safety and well-being of its inhabitants;

AND WHEREAS s. 11(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, otherwise authorizes a Council of a lower-tier municipality to pass by-laws related to the health, safety and well being of persons;

NOW THEREFORE the Council of The Municipality of Leamington hereby enacts as follows:

DEFINITIONS:

1. In this By-law:

"Act" means the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7, as amended, and any regulations created there under;

"Board of Health" means a board of health, as defined in the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7;

"College" means a college established pursuant to the *Colleges of Applied Arts and Technology Act, 2002*, S.O. 2002, c.8 Schedule F, as amended, and any regulations created there under;

"Food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;

"Food Handler" means a person who is involved in the preparation of food, meals or meal portions in a food premises, as defined herein, and who is responsible to adhere to the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7, as amended, and any regulations created there under;

"Food Handler Certificate" means a certificate issued by an Ontario Board of Health or a College that is no more than five (5) years old, certifying that the holder of the certificate has successfully completed food handling education and testing.

"Food Premises" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence or a food premise that has been assessed by the Windsor-Essex County Health Unit as a low risk food premises according to the Ontario Public Health Standards 2008 Food Safety Protocol;

"Food Service Premises" means any food premises, as defined herein, where meals or meal portions are prepared for immediate consumption or sold or served in a form that will permit immediate consumption on the premises or elsewhere;

"Medical Officer of Health" means the Medical Officer of Health of the Windsor-Essex County Health Unit, duly appointed under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended, and includes any staff acting on his or her behalf;

"Milk" means milk from cows, goats or sheep;

"Municipal By-law Enforcement Officer" is a person appointed by by-law by a municipal council to enforce the by-laws of the municipality;

"Operator" means any person who owns, occupies, manages, controls, governs, or has responsibility for and control over the activity carried on within a food premises or food service premises, although there may be more than one operator of the food premises or food service premises;

"Public Health Inspector" means a public health inspector of a board of health, as defined in the *Health Protection and Promotion Act*, R.S.O. 1990, c. H-7;

APPLICATION:

2. This By-law shall apply to all Food Premises and Food Service Premises in The Municipality of Leamington.

FOOD HANDLER CERTIFICATE REQUIRED:

3. Every Operator of a Food Premises or a Food Service Premises shall ensure that all Food Handlers in the Food Premises or Food Service Premises possess a valid Food Handler Certificate.

4. Every Operator of a Food Premises or Food Service Premises shall keep a copy of the Food Handler Certificate for each Food Handler employed in the Food Premises or Food Service Premises readily available on-site and shall produce same for viewing by a Public Health Inspector.

5. Upon an inspection of a Food Premises or Food Service Premises by a Public Health Inspector, a Food Handler shall, upon request, provide photo identification issued by, or under the authority of, the Government of Canada, a Canadian province or territory, or a Canadian municipality confirming the identity of such person and that such person has a valid Food Handler Certificate.

ENFORCEMENT:

6. All Public Health Inspectors exercising their duties pursuant to this by-law are hereby appointed as Municipal By-law Enforcement Officers for that purpose.

7. A Public Health Inspector may enter and have access to, through and over any Food Premises or Food Service Premises, at any reasonable time, for the purposes of enforcing this by-law or the exercise of any power or duty under this by-law or the *Act*.

OBSTRUCTION:

8. No person shall hinder or obstruct a Public Health Inspector lawfully carrying out a power, duty or direction under this by-law

OFFENCE:

9. 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.

SEVERABILITY:

10. 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 The Municipality of Leamington to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and to be enacted as such.

EFFECTIVE DATE:

11. This by-law shall come into force and take effect on **January 1, 2012**.

MISCELLANEOUS:

12. Nothing in this by-law shall limit or be deemed a voluntary restriction upon any right, power, ability or duty of The Corporation of the Municipality of Leamington, the Medical Officer of Health, the Windsor-Essex County Health Unit or any Public Health Inspector under any statute, regulation, by-law or law in force in the Province of Ontario.

SHORT TITLE:

13. This by-law may be referred to as "Leamington's Food Handler Certificate By-Law".

BY-LAW read and passed this _____ day of _____ 2009.

DRAFT

Set Fine Schedule

THE CORPORATION OF THE MUNICIPALITY OF LEAMINGTON

Part 1 Provincial Offences Act

By-law XXX-2009 : A by-law to regulate food handler certification in food premises and food service premises.

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Fail to possess valid Food Handler Certificate	Section 3 and 5	\$200.00
2	Fail to retain and/or provide valid Food Handler Certificate upon request	Section 4	\$200.00
3	Hinder or obstruct Public Health Officer/Municipal By-law Enforcement Officer	Section 8	\$200.00

Penalty Provision for the offences indicated above in Section 9 of By-law XXX-2009, a certified copy of which has been filed.

REPORT

TO: MAYOR AND MEMBERS OF COUNCIL
FROM: BRIAN SWEET, DIRECTOR OF CORPORATE SERVICES
DATE: JUNE 5, 2009
RE: WINDSOR-ESSEX COUNTY HEALTH UNIT - PROPOSED FOOD SAFETY
INSPECTION BY-LAW AND FOOD HANDLER CERTIFICATION BY-LAW

AIM:

To report upon the request of the Windsor-Essex County Health Unit (Health Unit) that the Municipality of Leamington enact two by-laws with respect to food inspection and food handling.

BACKGROUND:

The Health Unit has made presentations recently to all the lower tier municipalities in Essex County requesting that they enact a Food Safety Inspection By-law and a Food Handler Certification By-law. The Health Unit has prepared precedent by-laws for the municipality to consider and the Health Unit has also offered to enforce the by-laws.

FOOD SAFETY INSPECTION BY-LAW:

This proposed by-law will require all “food premises” and all “food service premises” to post a “Safe Food Counts Certificate” in a conspicuous place near their front entrance. This is intended to better inform the public about the food safety of these premises.

Both “food premises” and “food service premises” are defined very broadly and in addition to restaurants includes hospitals, school cafeterias, legions, service clubs, etc.

The “Safe Foods Counts Certificate” is a sign issued by the Health Unit rating the premises as a result of an inspection. The rating will be done based upon a “Five Star” system.

The proposed by-law will provide for fines if the “Safe Food Counts Certificate” is not posted as prescribed.

The Health Unit did not propose a specific date for this by-law to take effect, but they are hopeful the by-law will have an effective date during 2009.

FOOD HANDLER CERTIFICATION BY-LAW:

This by-law provides that every “food handler” is required to successfully pass a course on food handling and obtain a certificate which is valid for five years. “Food handler” is very broadly defined.

The by-law requires every operator of a food premises or food service premises to ensure that every food handler has the appropriate certificate.

The proposed by-law provides for fines for both the food handler and the operator if there are violations of the proposed by-law.

The Health Unit is proposing that this by-law take effect on January 1, 2012. The Health Unit suggests this will provide food handlers with appropriate time to take the necessary courses and obtain certification.

PUBLIC MEETING:

During its presentation to Leamington Council, the Health Unit advised they held consultations and public meetings with restaurant owners and others who would be affected by this by-law, and for the most part had received a positive response. However, these two by-laws will affect many Leamington organizations and their members. Therefore, it is suggested that prior to considering the by-laws, council schedule a public meeting and obtain input from the restaurants and other organizations that will be affected by it.

RECOMMENDATION:

That administration be directed to schedule a public meeting to receive public input on the proposed "Food Safety Inspection By-law" and the proposed "Food Handler Certification By-law";

And that representatives of the Windsor-Essex County Health Unit be invited to attend the meeting. (Report CL/09/09)

Respectfully submitted,

Brian Sweet
Director of Corporate Services

BRS/jb