

THE REGIONAL MUNICIPALITY OF YORK

BYLAW NO. 2015-48

A bylaw respecting mandatory food handler certification

WHEREAS Section 474.21 of the *Municipal Act, 2001* (the “Act”) provides that The Regional Municipality of York (the “Region”) has the powers, rights and duties of a Board of Health under the *Health Protection and Promotion Act*;

AND WHEREAS Regional Council, acting on its own behalf and as the Board of Health, wishes to require the mandatory certification of food handlers in the Regional Municipality of York;

AND WHEREAS Sections 8, 9 and 11 of the Act authorize the Region to pass bylaws necessary or desirable for municipal purposes, and in particular paragraphs 6 and 8 of Subsection 11(2) authorize bylaws respecting: the health, safety and well-being of persons; and the protection of persons and property, including consumer protection;

AND WHEREAS the Act further authorizes the Region, amongst other things, to delegate its authority to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

AND WHEREAS Section 425 of the Act authorizes the Region to pass bylaws providing that a person who contravenes a bylaw of the Region passed under the Act is guilty of an offence;

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

1. DEFINITIONS

1.1 In this bylaw:

“**Act**” means the *Municipal Act, 2001*;

“**Board of Health**” means a Board of Health established or continued under the *Health Protection and Promotion Act*;

“**certified food handler**” means a food handler who holds a food handler certificate;

“**commercial food premises**” means a commercial premises where food is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, served, sold or offered for sale, and includes restaurants, banquet halls,

long-term care facilities, day nurseries, hospitals, catering providers, grocery stores and mobile preparation premises;

“Council” means the Council of The Regional Municipality of York;

“food” means food or drink for human consumption and includes an ingredient of food or drink for human consumption;

“food handler” means any person who handles or comes into contact with food at a commercial food premises during the manufacture, processing, preparation, storage, handling, display, distribution, transportation, sale, service, or offering for sale of the food;

“food handler certificate” means a certificate issued to a person:

- (a) by the Region certifying that the person has successfully completed the Region’s food handler certification program;
- (b) by a Board of Health located within Ontario certifying that the person has successfully completed that Board of Health’s food handler certification program;
or
- (c) by the provider of a recognized program certifying that the person has successfully completed the recognized program;

where not more than five (5) years has passed since the certificate’s date of issuance.

“high-risk food premises” means a commercial food premises where, in the assessment of the Medical Officer of Health, having reference to the risk factors outlined in the risk categorization template, there exists a high likelihood of an occurrence of a food borne illness outbreak;

“Medical Officer of Health” means the Region’s Medical Officer of Health appointed under the *Health Protection and Promotion Act*, and includes his or her designate;

“mobile preparation premises” means a vehicle or other mobile commercial food premises from which food is prepared and is offered for sale to the public;

“moderate-risk food premises” means a commercial food premises where, in the assessment of the Medical Officer of Health, having reference to the risk factors outlined in the risk categorization template, there exists a moderate likelihood of an occurrence of a food borne illness outbreak;

“officer” means:

- (a) a public health inspector; and
- (b) any other person appointed by the Medical Officer of Health for the purpose of enforcing this bylaw;

“operator” means a person or persons who has responsibility for, or control over, a commercial food premises;

“person” means any individual, firm, corporation, association or partnership;

“recognized program” means a food handler certification program that has been deemed by the Ministry of Health and Long-Term Care to be equivalent to the food handler and certification program of a Board of Health;

“Region” means The Regional Municipality of York;

“Region’s food handler certification program” means the food handler certification program approved by the Medical Officer of Health that is provided by, or on behalf of, the Region; and

“risk categorization template” means the Risk Categorization of Food Premises Template and the accompanying Guidance Document for the Risk Categorization of Food Premises, produced by the Public Health Division, Ministry of Health and Long-Term Care, dated January 2015, as amended or revised from time to time.

2. EFFECTIVE DATE

- 2.1 This bylaw shall come into force and take effect on January 1, 2017 with respect to high-risk food premises.
- 2.2 This bylaw shall come into force and take effect on January 1, 2019 with respect to moderate-risk food premises.

3. OPERATOR AND FOOD HANDLER DUTIES

- 3.1 Every operator of a commercial food premises that is a high-risk food premises or a moderate-risk food premises shall ensure that:
 - (a) the commercial food premises has a minimum of one (1) operator who possesses a food handler certificate, and one (1) certified food handler; and
 - (b) at least one (1) certified food handler is present at the commercial food premises at all times during its operation to supervise the manufacture, processing, preparation, storage, handling, display, distribution, transportation, service, sale, or offering for sale, of food at all times during operation.

3.2 Upon the request of the Medical Officer of Health or an officer:

- (a) every operator of a commercial food premises possessing a food handler certificate; and
- (b) every certified food handler;

shall produce for inspection his or her food handler certificate and photo identification.

4. INSPECTIONS AND ORDERS

4.1 Pursuant to the Act, an officer may enter a commercial food premises at any reasonable time for the purpose of carrying out an inspection to determine whether this bylaw is being complied with.

4.2 In addition to any powers or authorities granted under the Act, the *Health Protection and Promotion Act*, and their respective regulations, an officer may take all reasonable steps to effect an inspection, including the following:

- (a) requiring the production of any documents or things relevant to the inspection; and
- (b) reviewing, inspecting, copying, removing or seizing documents or things relevant to the inspection; and
- (c) requiring information from any person concerning a matter related to the inspection.

4.3 Where an officer has reasonable grounds to believe that an offence has been committed by a person, the officer may require the name, address and proof of identify of that person, and the person shall supply the required information.

4.4 In addition to any powers or authorities granted under the Act, the *Health Protection and Promotion Act*, and their respective regulations, if an officer is satisfied that a contravention of this bylaw has occurred, he or she may make an order requiring the person who contravened the bylaw, or who caused or permitted the contravention, or the operator, owner or occupier of the commercial food premises on which the contravention occurred, to, among other things discontinue the contravening activity.

- 4.5 An order under Subsection 4.4 shall set out:
- (a) the reasonable particulars of the contravention adequate to identify the contravention and the location of the commercial food premises on which the contravention occurred; and
 - (b) the action to be performed; and
 - (c) the date or dates by which the action must be performed.

4.6 Any order made under this bylaw must be given in writing and may be served personally or by courier, fax, email, or registered mail.

4.7 Where it is not reasonable to effect the service of an order as outlined in Subsection 4.6, sufficient service will be deemed to have taken place when the officer affixes a placard containing the order in a conspicuous place on the commercial food premises which is the subject of the order.

5. ADMINISTRATION AND ENFORCEMENT

5.1 Council hereby delegates to the Medical Officer of Health all the authority necessary to implement, administer, execute and enforce all provisions of this bylaw including the authority to impose any conditions necessary to ensure compliance with this bylaw.

5.2 The Medical Officer of Health may assign or appoint additional officers as required.

5.3 All officers have the authority to enforce this bylaw including the authority to carry out inspections, give immediate effect to any order or otherwise enforce this bylaw, and the Medical Officer of Health may assign duties or delegate tasks under this bylaw whether in his or her absence or otherwise.

6. OFFENCE

6.1 Every person who contravenes a provision of this bylaw is guilty of an offence.

6.2 If a corporation has contravened a provision of this bylaw, every director and officer who knowingly concurred in such a contravention is guilty of an offence.

6.3 Every person who is guilty of an offence under this bylaw shall be subject to the following penalties:

- (a) upon a first conviction of an individual, to a fine of not less than one hundred dollars (\$100.00) and not more than twenty-five thousand dollars (\$25,000.00);
- (b) upon a first conviction of a corporation, to a fine of not less than one hundred dollars (\$100.00) and not more than fifty thousand dollars (\$50,000.00);
- (c) upon a second or subsequent conviction by an individual for the same offence, to a fine of not less than one hundred dollars (\$100.00) and not more than fifty thousand dollars (\$50,000.00); and
- (d) upon a second or subsequent conviction by a corporation for the same offence, to a fine of not less than one hundred dollars (\$100.00) and not more than one hundred thousand dollars (\$100,000.00).

6.4 For the purposes of this bylaw, an offence is a second or subsequent offence if the act giving rise to the offence occurred after a conviction has been entered at an earlier date for the same offence.

ENACTED AND PASSED on September 24, 2015.

Denis Kelly

Wayne Emmerson

Regional Clerk

Regional Chair

Authorized by Clause 16, Report 13 of the Committee of the Whole, adopted by Regional Council at its meeting on September 24, 2015.