

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW 2009-55

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 Town of Amherstburg is a matter related to the health, safety and well-being of its inhabitants;

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

AND WHEREAS the Council of the Town of Amherstburg 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 Town of Amherstburg 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 Town of Amherstburg 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 Town of Amherstburg.

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 a 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 Town of Amherstburg 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 July 27, 2009.

MISCELLANEOUS:

16. Nothing in this by-law shall limit or be deemed a voluntary restriction upon any right, power, ability or duty of the Town of Amherstburg, 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 "Town of Amherstburg Food Safety Disclosure By-Law".

SCHEDULES:

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

Passed this 27th day of July 2009.



MAYOR



CLERK

1st Reading: July 27, 2009
2nd Reading: July 27, 2009
3rd Reading: July 27, 2009

Set Fine Schedule

Town of Amherstburg

Part 1 Provincial Offences Act

By-law 2009-55: 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 2009-55 a certified copy of which has been filed.

THE HONOURABLE KATHLEEN E. MCGOWAN
REGIONAL SENIOR JUSTICE
ONTARIO COURT OF JUSTICE
WEST REGION

80 DUNDAS STREET, 15th FLOOR, UNIT G
LONDON, ONTARIO N6A 6B3

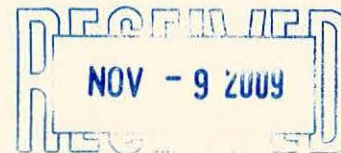


L'HONORABLE KATHLEEN E. MCGOWAN
JUGE PRINCIPALE RÉGIONALE
COUR DE JUSTICE DE L'ONTARIO
RÉGION DE L'OUEST

80, RUE DUNDAS, 15^e ÉTAGE, UNITÉ G
LONDON (ONTARIO) N6A 6B3

TELEPHONE/TÉLÉPHONE (519) 660-2292
FAX/TÉLÉCOPIEUR (519) 660-3138

November 3, 2009



Ms. Brenda M. Percy
Town of Amherstburg
271 Sandwich Street South
Amherstburg, Ontario
N9V 2A5

Dear Ms. Percy:

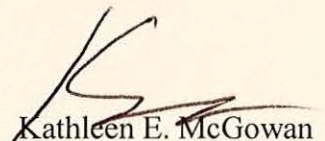
Re: Set Fines - Provincial Offences Act - Part I
By-law Number 2009-55, of the Town of Amherstburg

Enclosed herewith is a copy of an Order, and a copy of a schedule of set fines for the above referenced By-Law, the By-law indicated in the schedule.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

I have forwarded the copy of the Order and the schedule of set fines to the Provincial Offences Court in Windsor together with a certified copy of the By-law.

Yours truly,


Kathleen E. McGowan
Regional Senior Justice
West Region

Enclosures

/pp

cc: Manager, Provincial Offences

ONTARIO COURT OF JUSTICE

PROVINCIAL OFFENCES ACT

PART I

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite each of the offences in the schedule of offences under the Provincial Statutes and Regulations thereunder and Municipal By-law No. 2009-55, of the Town of Amherstburg attached hereto are the set fines for those offences. This Order is to take effect November 3, 2009.

Dated at London this 3rd day of November, 2009



Kathleen E. McGowan
Regional Senior Justice
West Region

The Corporation of the Town of Amherstburg
By-law No. 2009-55: Town of Amherstburg Food Safety Disclosure By-law
Part 1 Provincial Offences Act
Set Fine Schedule

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision Creating or Defining Offence	COLUMN 3 Set Fine
1	Fail to post certificate near entrance	Section 3	\$200.00
2	Fail to post certificate near pick up window	Section 4	
3	Fail to retain and/or provide certificate upon request	Section 5	\$200.00
4	Deface, alter or remove certificate	Section 7	\$200.00
5	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 2009-55, a certified copy of which has been filed.