

Authority: Board of Health Report No. 7, Clause No. 1, as adopted by City of Toronto Council on October 3, 4 and 5, 2000; and Policy and Finance Committee Report No. 10, Clause No. 36 adopted as amended by City of Toronto Council on August 1, 2, 3 and 4, 2000
Enacted by Council: October 5, 2000

CITY OF TORONTO

BY-LAW No. 778-2000

To amend further City of Toronto By-law No. 574-2000, a by-law “Respecting the licensing, regulating and governing of trades, businesses and occupations in the City of Toronto”.

The Council of the City of Toronto HEREBY ENACTS as follows:

1. By-law No. 574-2000, as amended, a by-law “Respecting the licensing, regulating and governing of trades, businesses and occupations in the City of Toronto”, is further amended by adding the following section:

30.1 (1) In this section:

(a) “Eating or drinking establishment” means

(i) every place for the lodging, reception, refreshment or entertainment of the public;

(ii) every place where foodstuffs intended for human consumption are made for sale, offered for sale, stored or sold;

(iii) every victualling house, ordinary, and house where fruit, fish, oysters, clams or victuals are sold to be eaten therein; and any other place or premises or part thereof, named or described in section 2 of this By-law, where food or drink is sold or served in pursuance of a trade, business or occupation;

(iv) any other place or premises or part thereof, named or described in section 2 of the By-law, where food or drink is served in pursuance of a trade, business or occupation,

whether or not any person is licensed or required to be licensed under this By-law for the carrying on of or engaging in any trade, business or occupation in respect of such eating or drinking establishment;

(b) “Food or drink” means that term as defined in clause 30(1)(b);

(c) “To operate” means that term as defined in clause 30(1)(c);

- (d) “Food safety inspection report” means a report issued by the Medical Officer of Health to an eating or drinking establishment as a result of any inspection of such eating or drinking establishment conducted pursuant to the Health Protection and Promotion Act, or the Regulations enacted thereunder, as amended;
- (e) “Food safety inspection notice” means a notice issued by the Medical Officer of Health to an eating or drinking establishment as a result of any inspection of such eating or drinking establishment conducted pursuant to the Health Protection and Promotion Act, or the Regulations enacted thereunder, as amended;
- (f) “Owner or keeper” means the person or persons who operate or direct the activities carried on within the eating or drinking establishment and includes the person or persons actually in charge of the premises;
- (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) “Low risk premises” means any eating or drinking establishment which,
 - (i) serves hazardous food neither prepared nor packaged on the premises; or
 - (ii) prepares or serves food other than hazardous food, as defined in clause (1) (g);
- (i) “Medium risk premises” means any eating or drinking establishment wherein hazardous food, other than hazardous food as described in subclause (1) (j) (ii) or (iii), is prepared;
- (j) “High risk premises” means any eating or drinking establishment which prepares hazardous food, and
 - (i) serves a person or persons who are at high risk of experiencing an adverse effect on their health in consuming hazardous food;
 - (ii) uses a process or processes to prepare food that involves many preparation steps;

- (iii) serves food frequently implicated as the cause of food-borne illness; or
 - (iv) the establishment has been implicated or confirmed as a source of a food-borne illness or outbreak.
- (2) Every application for a licence as an owner or keeper of an eating or drinking establishment shall be submitted by the Municipal Licensing and Standards Division to the Medical Officer of Health, and any report received by the Municipal Licensing and Standards Division in response thereto shall be considered in the determination of whether or not the licence should be issued or refused in accordance with this By-law.
- (3) Every owner or keeper of an eating or drinking establishment shall keep posted, in a conspicuous place clearly visible to members of the public, at or near the entrance of such establishment, the most recent food safety inspection notice issued by the Medical Officer of Health.
- (4) Notwithstanding subsection 20(1) of this By-law, every owner or keeper of an eating or drinking establishment shall post the eating or drinking establishment licence, issued in accordance with this By-law, adjacent to the food safety inspection notice.
- (5) Every owner or keeper of an eating or drinking establishment shall, when so requested by any person, produce the food safety inspection report or reports relating to the currently posted food safety inspection notice for such establishment.
- (6) Every owner or keeper of an eating or drinking establishment shall notify the Municipal Licensing and Standards Division in writing of any change or changes to the operations of the business which may result in a change as to the applicability of clause (1) (h), (i), or (j) to such establishment, at least thirty days prior to the implementation of such change or changes.
- (7) Every limited liability company applying for a licence or licences as an owner or keeper of an eating or drinking establishment shall file an Annual Return with the Municipal Licensing and Standards Division on or before the time at which it applies for its licence.
- (8) Where the shares in a corporate owner are held in whole or in part by another corporation, such other corporation shall file with the Municipal Licensing and Standards Division at the same time as set out in in subsection (7) an Annual Return and if the Return discloses that shares in such corporation are in whole or in part by a third corporation, then such third corporation shall likewise file

an Annual Return in accordance with subsection (7) and so on until the names of living persons not being corporations are shown and identified as the shareholders of any and all corporations having an interest, direct or indirect, in any licence or licences as an owner or keeper of an eating or drinking establishment.

- (9) Every owner or keeper of an eating or drinking establishment shall forthwith notify the Municipal Licensing and Standards Division in writing of any change in the management or control of such establishment.
- (10) (a) Where a corporation is the holder of a licence or licences as an owner or keeper of an eating or drinking establishment, the corporation shall forthwith notify the Municipal Licensing and Standards Division in writing of all transfers of existing shares and of the issue of all new shares of the capital stock of the corporation.
- (b) Where, as a result of the transfer of existing shares or by the issue of new shares of a corporation, the Municipal Licensing and Standards Division has reasonable grounds to believe that the corporation may not be entitled to the continuation of its licence in accordance with this by-law, the Toronto Licensing Tribunal may determine whether the licence or licences shall be revoked or have conditions placed on it.
- (11) (a) Where by the transfer or sale of issued shares in, or by the issuance of new shares of, a corporation holding one or more licences as an owner or keeper of an eating or drinking establishment, the controlling interest in such corporation is sold, transferred or acquired, such licence or licences shall be terminated forthwith, and the Municipal Licensing and Standards Division may issue a new licence or new licences upon payment of the prescribed fee.
- (b) The Toronto Licensing Tribunal may, in its discretion, refuse to issue a new licence or licences to a purchaser in a transaction under this section if it determines that it is not in the public interest so to do or for any other reason which it is authorized by law to consider upon such application.
- (12) For the purpose of this section, “shareholder” and any words referring to the holding of shares includes all persons having a beneficial interest of any kind in the shares of the corporation.

- (13) Persons associated in a partnership applying for a licence or licences as an owner or keeper of an eating or drinking establishment shall file with their application to the Municipal Licensing and Standards Division a declaration in writing signed by all the members of the partnership, which declaration shall state:
- (a) the full name of every partner and the address of his or her ordinary residence;
 - (b) the name or names under which they carry on or intend to carry on business;
 - (c) that the persons therein named are the only members of the partnership; and
 - (d) the mailing address for the partnership.
- (14) If any member of a partnership applying for a licence as an owner or keeper of an eating or drinking establishment is a corporation, such corporation shall, for the purposes of this Schedule, be deemed to be a corporation applying for an owner's licence and if such licence is issued to the partnership such corporation shall, for the purposes of this schedule, be deemed to be a corporation which holds an owner's licence.
- (15) Every member of a partnership shall advise the Municipal Licensing and Standards Division immediately in writing of any change in the membership of the partnership and of any other change in any of the particulars relating to the partnership or its business which are required to be filed with the Municipal Licensing and Standards Division.
- (16) Where, by reason of any change in the membership of a partnership, the Municipal Licensing and Standards Division has reasonable grounds to believe that the partnership is not entitled to the continuation of its licence in accordance with this by-law, the Toronto Licensing Tribunal may, in its discretion, determine whether the licence or licences shall be revoked or terminated and whether or not a new licence should issue to the partnership as presently constituted.

2. Section 1 (27) of By-law No. 574-2000, as amended, is repealed and the following is inserted in lieu thereof:

1(27) "Medical Officer of Health" means the Medical Officer of Health for the City of Toronto Health Unit as defined in the Health Protection and Promotion Act, or his or her designate.

3. This by-law shall come into force on January 1, 2001.

ENACTED AND PASSED this 5th day of October, A.D. 2000.

CASE OOTES,
Deputy Mayor

NOVINA WONG,
City Clerk

(Corporate Seal)