

# **FOOD SERVICES DOING BUSINESS IN WINNIPEG BY-LAW NO. 91/2008**

*(Consolidated update July 16, 2008)*

By-law Extract of pertinent sections regarding the regulation of specific business activities as adopted by Council effective June 1, 2008. This is only an extract. For more information please contact Community By-Law Enforcement Services at 986-2234

## **PART 1: GENERAL LICENSING PROVISIONS**

### **DEFINITIONS**

*For more information see the Food Services Establishment  
By-law No. 5160/89*

**“Food Service Establishment”** means any place where food is kept, handled, manufactured, packaged, stored, prepared, served or sold, regardless of whether consumption is on or off the premises and regardless of whether there is or is not a charge for the food, and includes

- (a) retail food stores and shops selling only pre-packaged foods;
- (b) bakeries;
- (c) butcher shops and fish shops;
- (d) delicatessens;
- (e) other retail food stores;
- (f) canteens and commissaries, whether stationary or mobile;
- (g) restaurants, banquet halls, cafeterias, beverage rooms, dairy bars, milk bars, ice cream parlours and caterers;
- (h) residential care facilities, nursing homes, detention centres, day care kitchens, schools, soup kitchens and shelters;
- (i) hostels and shared facilities dwellings with shared kitchens;
- (j) outdoor mobile food units;
- (k) food processing plants, food packaging and warehouse facilities;
- (l) any place where food service takes place on a temporary basis;
- (m) producer markets where any food is being sold, other than agricultural produce grown in Manitoba sold by the individual who produced it, a member of the producer’s immediate family or the producer’s employee;

**but does not include:**

- (n) residential dwelling units, unless food is prepared or served for sale;
- (o) food vending machines;
- (p) retail stores selling only pre-packaged food that is not potentially hazardous and does not require refrigeration; and
- (q) food supply vehicles.

**"Outdoor Mobile Food Unit"** means a trailer, cart or vehicle-mounted food service establishment designed to be readily movable and located out of doors.

**"Temporary Food Service Establishments"** means a food service establishment that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

## APPROVAL OF NEW LICENCE APPLICATION

## FOOD SERVICES ESTABLISHMENT

33(1) Subject to subsection (2), a person must not carry on the business of operating a food service establishment without holding a subsisting licence issued pursuant to this Division.

33(2) The requirement set out in subsection (1) does not apply to a person who operates or carries on a business of operating a retail food store that is limited to keeping, handling, storing and selling pre-packaged food products that are not potentially hazardous food.

33(3) A person who carries on the business of operating a food service establishment that is not a temporary food service establishment or a outdoor mobile food unit must obtain a

- (a) Food Service Establishment (Low Risk) Licence;
- (b) Food Service Establishment (Medium Risk) Licence; or
- (c) Food Service Establishment (High Risk) Licence;

as determined under section 34.

33(4) A person who operates or carries on the business of a temporary food service establishment must obtain:

- (a) a Temporary Food Service Establishment (Limited) Licence, if the establishment will operate for a period of two hours or less; or
- (b) a Temporary Food Service Establishment Licence for any other temporary food service establishment.

33(5) A person who holds a Temporary Food Service Establishment Licence for particular location may, prior to the expiration of the licence, obtain an extension of the licence for a period of up to seven days upon payment of the fee set out in Schedule "A" and upon the Designated Employee, prior to the extension, receiving verification from a public health inspector that the premises at which the temporary food service establishment is proposed to be operated or carried on meets the requirements of *The Public Health Act*, the Food Service Establishment By-law and other relevant City by-laws and other regulatory requirements relating to public health.

### **Multiple food service establishments on single premises**

35 Where a person operates more than one food service establishment that is

required to obtain a permit under the Food Services Establishment By-law, a licence issued under this Division is required for each food service establishment being operated.

### **APPROVAL OF NEW LICENCE APPLICATION**

36(2) A licence under this Division must not be issued to a food service establishment until the designated employee receives:

#### **Public Health**

- (a) verification from a public health inspector that the premises at which the food service establishment is proposed to be operated or carried on meets the requirements of *The Public Health Act*, the Food Service Establishment By-law and other relevant City by-laws and other regulatory requirements relating to public health;

#### **Zoning Compliance**

- (b) verification from a City employee authorized to administer and enforce the *Winnipeg Zoning By-law* or the *Downtown Winnipeg Zoning By-law* that operation of the business on the premises proposed is permitted under one of those two zoning by-laws;

#### **Occupancy Permit**

- (c) other than in the case of a outdoor mobile food unit or a food services establishment that will be in operation for 31 days or less, an occupancy permit authorizing the food service establishment to occupy the premises for which the licence is sought.

#### **Compliance with Food Service Establishments By-law Mandatory**

37(1) A person who is issued a licence under this Division must ensure that the food service establishment complies with the Food Service Establishment By-law, *The Public Health Act* and other regulatory requirements relating to public health.

37(2) Notwithstanding section 11 (suspensions), a licence issued under this Division is automatically suspended when a closing order is issued pursuant to the Food Service Establishment By-law and the suspension remains in effect as long as the closing order remains in effect.

### **OUTDOOR MOBILE FOOD UNIT**

33(6) A person who operates or carries on the business of an outdoor mobile food unit must obtain an Outdoor Mobile Food Unit Licence unless the outdoor mobile food unit sells only prepackaged food products that are not potentially hazardous food or fresh, uncut fruit or vegetables.

#### **Public Health**

36(3) An Outdoor Mobile Food Unit Licence must not be issued unless the designated employee receives verification from a public health inspector that the equipment

proposed to be used by the applicant meets the requirements of *The Public Health Act*, relevant City by-laws and other regulatory requirements relating to public health.

### **Compliance with Food Service Establishments By-law Mandatory**

37(1) A person who is issued a licence under this Division must ensure that the food service establishment complies with the Food Service Establishment By-law, *The Public Health Act* and other regulatory requirements relating to public health.

37(2) Notwithstanding section 11 (suspensions), a licence issued under this Division is automatically suspended when a closing order is issued pursuant to the Food Service Establishment By-law and the suspension remains in effect as long as the closing order remains in effect.

### **Insurance requirements for outdoor mobile food units**

38(1) An Outdoor Mobile Food Unit Licence must not be issued until an applicant provides, in form and substance satisfactory to the designated employee, evidence that the applicant has obtained a policy of commercial general liability insurance in the amount of one million dollars inclusive, naming the City of Winnipeg as an additional insured with evidence of cross liability clause, contractual liability and completed operations cover, including a provision requiring a minimum of 15 days notice of cancellation with the deductible to be paid by the applicant.

38(2) An Outdoor Mobile Food Unit Licence is issued on condition that the licence holder must provide written notice to the designated employee of any material change to the policy required by subsection (1) within 30 days of the change taking effect.

38(3) Notwithstanding section 11 (suspensions), an Outdoor Mobile Food Unit Licence is automatically suspended where the insurance required by subsection (1) in respect of the outdoor mobile food unit is withdrawn, lapses or is otherwise ineffective and the suspension remains in effect until the requirement of subsection (1) is met.

## **PART 2 – SPECIFIC PROVISIONS RELATING TO OUTDOOR MOBILE FOOD UNITS**

### **Outdoor mobile food units on streets**

39(1) A person operating or carrying on the business of operating a outdoor mobile food unit must ensure that the outdoor mobile food unit complies with the relevant provisions of the Streets By-law, the Traffic By-law and the Parking Meter By-law and, in particular, must ensure that, when being operated, neither the outdoor mobile food unit nor customers of the outdoor mobile food unit are obstructing or inhibiting vehicular or pedestrian traffic.

39(2) A person operating or carrying on the business of operating an outdoor mobile food unit that is not a motor vehicle licensed under *The Highway Traffic Act* must ensure that, when being operated, the outdoor mobile food unit is not located:

- (a) on a roadway;
- (b) on a street where the posted speed limit for vehicular traffic exceeds 60 kilometres per hour;

- (c) within 20 metres of an intersection of a street on which the posted speed limit for vehicular traffic exceeds 60 kilometres per hour;
- (d) within 5 metres of an intersection or crosswalk;
- (e) within three metres of the public entrance to a building;
- (f) within 20 metres of a bus stop;
- (g) within 20 metres of the vehicular or pedestrian entrance to a park;
- (h) within 20 metres of the entrance to a food service establishment that has been issued a subsisting licence under subsection 33(3).

39(3) A person operating or carrying on the business of a outdoor mobile food unit that is not a motor vehicle licensed under *The Highway Traffic Act* must ensure that:

- (a) when located on a street, the outdoor mobile food unit is equipped with wheels and that both it and any auxiliary receptacles used solely to store ice or beverages or to collect garbage are able to be easily moved by one person;
- (b) the outdoor mobile food unit is not left unattended on a street.

39(4) A person operating or carrying on the business of operating an outdoor mobile food unit that is a motor vehicle licensed under *The Highway Traffic Act* must ensure that, when being operated on a roadway, the outdoor mobile food unit is:

- (a) legally parked and engaged in business only with pedestrians located on a sidewalk;
- (b) not located within three metres of the public entrance to a building;
- (c) not within 20 metres of the vehicular or pedestrian entrance to a park;
- (d) not within 20 metres of the entrance to a food service establishment that has been issued a subsisting licence under subsection 33(3);
- (e) not within 20 metres of an intersection of a street on which the posted speed limit for vehicular traffic exceeds 60 kilometres per hour.

#### **General rules for outdoor mobile food units**

40 A person operating or carrying on the business of a outdoor mobile food unit must ensure that:

- (a) when the outdoor mobile food unit is operated on private property, the person has at that location a written document from owner of the property authorizing the outdoor mobile food unit to be operated from the property;
- (b) the name of the licence holder is displayed in letters at least 5 centimetres in height on the outdoor mobile food unit in location and manner that is clearly visible to the public.

## SCHEDULE A – FEES

*amended 12/7/08*

**Part 1:** All license fees in this part are applicable to the licence year June 1, 2011 to May 31, 2012 and are subject to an inflationary increase based on the Consumer Price Index thereafter. Licence holders renewing a licence must pay the fee as increased by the rate of inflation.

<b>No.</b>	<b>Business License</b>	<b>Annual Fee</b>
8	Food Services Establishment (Low Risk)	\$354
9	Food Services Establishment (Medium Risk)	\$422
10	Food Services Establishment (High Risk)	\$580
19(a)	Temporary Food Service Establishment	\$317
19(b)	Temporary Food Service Establishment - Extension	\$159
20	Temporary Food Services Establishment (Limited) (operate for a period of 2 hours or less)	\$132

**Part 2:** All license fees in this part are applicable to the licence year January 1, 2012 to December 31, 2012 and are subject to an inflationary increase based on the Consumer Price Index thereafter. Licence holders renewing a licence must pay the fee as increased by the rate of inflation.

<b>No.</b>	<b>Business License</b>	<b>Annual Fee</b>
26	Outdoor Mobile Food Unit	\$374

**SCHEDULE B**  
**FOOD SERVICES ESTABLISHMENT CHART**

**DEFINITIONS**

*For more information see the Food Services Establishment  
By-law No. 5160/89*

**“adult only establishments”** means premises that are, by law, accessible only to adults and includes establishments licensed under the Liquor Control Act from which minors are prohibited;

**“extensively handled”**, in relation to food, means food that has been or is being prepared in the food service establishment in a way that significantly increases the potential for contamination or temperature abuse of the food or the cross-contamination of equipment or utensils and includes food that has been or is being chopped, cut, mixed, stewed, simmered, blended, canned, pickled, cooked and cooled, or cooled and reheated;

**“low risk food”** means food that is not potentially hazardous food;

**“nursing homes”** includes personal care homes licensed under *The Health Services Insurance Act*;

**“medical boarding facility”** includes a residential care facility licensed under *The Social Services Administration Act*;

**“medical treatment facility”** includes a hospital, a sanatorium or a facility designated by regulations under *The Mental Health Act*;

**“minimally handled”**, in relation to food, means pre-packaged “ready to eat” food that has been or is being reheated or served in the food service establishment without having been removed from the original packaging;

**“moderately handled”**, in relation to food, means food that is neither extensively handled nor minimally handled and includes:

- (a) food that has been or is being taken from a frozen state to a cooked state in one step in the food service establishment; or
- (b) “ready to eat” food that was pre-packaged but has been or is being reheated or served in the food service establishment after having been removed from the original packaging;

**“potentially hazardous”** in relation to food, means potentially hazardous food as defined in the Food Service Establishment By-law;

**“pre-packaged”**, in relation to food, means food that was bottled, canned, or otherwise sealed or wrapped in a container that protects the integrity of the food prior to its arrival at the food service establishment and continues to be so packaged;

## INTERPRETING THE CHART

34(2) In the Chart attached as Schedule “B” to this By-law:

- (a) the categories in the first column refer to premises in which food service establishments are located and the numbers in each row of that column quantify the level of risk associated with that location;
- (b) the categories in the first row refer to risk factors determined by:
  - (i) the type of handling received by the food in that food service establishment in combination with
  - (ii) the level of hazard associated with the food prepared or serviced in that food service establishment;and the numbers in each column of that row quantify the level of risk of contamination or disease associated with that combination;
- (c) the remaining numbers in the Chart are the sum of the numbers referred to in clauses (a) and (b) for the relevant column and row and quantify the total public health risk associated with the type of food prepared or served by a food service establishment, its service or preparation and the establishment’s location.

34(3) In using the Chart attached as Schedule “B” to this By-law to determine the total public health risk associated with a particular food service establishment, the number assigned to the highest level of hazard of any food prepared or served by the food service establishment and the most extensive degree of handling received by any food prepared or served by the food service establishment shall be used.

34(4) A food service establishment that is required to obtain a Food Service Establishment Licence under subsection 33(3) must obtain:

- (a) a Food Service Establishment (Low Risk) Licence if the number in the Chart attached as Schedule “B” to this By-law and referred to in clause (2)(c) associated with that food service establishment is less than 25;
- (b) a Food Service Establishment Medium Risk (Medium Risk) Licence if the number in the Chart attached as Schedule “B” to this By-law referred to in clause (2)(c) associated with the food service establishment is 25 or 30;
- (c) a Food Service Establishment (High Risk) Licence if the number in the Chart attached as Schedule “B” to this By-law referred to in clause (2)(c) associated with the food service establishment is more than 30.

**PUBLIC HEALTH RISK ASSESSMENT CHART**

	HANDLING OF PRE-PACKAGED LOW RISK FOODS OTHER THAN IN A RETAIL FOOD STORE	HANDLING OF UN-PACKAGED LOW RISK FOODS	HANDLING OF PRE-PACKAGED POTENTIALLY HAZARDOUS FOODS	MINIMALLY HANDLED POTENTIALLY HAZARDOUS FOODS	MODERATELY HANDLED POTENTIALLY HAZARDOUS FOODS	EXTENSIVELY HANDLED POTENTIALLY HAZARDOUS FOODS
	5	5	10	15	20	30
ADULT ONLY ESTABLISHMENTS 5	10	10	15	20	25	35
ALL OTHER LOCATIONS 10	15	15	20	25	30	40
DAYCARES / NURSING HOMES / SENIORS RESIDENCES 15	20	20	25	30	35	45
MEDICAL TREATMENT FACILITY / MEDICAL BOARDING FACILITY 25	30	30	35	40	45	55

**GREEN – Low Risk**

**YELLOW – Medium Risk**

**RED – High Risk**