

By-Law Number 45-2018
of The Regional Municipality Of Durham

Being a by-law to regulate disclosure of health inspection information to the public.

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

And whereas The Regional Municipality of Durham, in its capacity as a designated Board of Health under the provisions of the *Health Protection and Promotion Act, R.S.O. 1990, c. H-7* has a duty to ensure the provision of health programs and services in a variety of areas;

And whereas the Council of The Regional Municipality of Durham has endorsed the creation of mandatory health inspection disclosure programs in order to improve the health of Durham inhabitants on the terms set forth herein;

Now therefore, the Council of The Regional Municipality of Durham 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 *Act*;

“Establishment” means any buildings, outdoor lands, and/or public spaces where operations and activities occur as defined in section 2 of this By-law.

“Durham Inspection Report” means an original copy of an inspection report that corresponds to an inspection conducted by a public health inspector, that has been completed, signed and dated by a public health inspector, and that has been issued to an operator of an Establishment.

“Durham Notice of Inspection” means an original sign in the form depicted in one of Schedules “A”, “B” or “C” to this by-law belonging to and issued by the Regional Municipality of Durham to an Establishment as a result of any required health inspection conducted pursuant to the *Act*.

“Medical Officer of Health” means the duly appointed Medical Officer of Health for The Regional Municipality of Durham, and includes any designate acting on his or her behalf;
“Municipal Act, 2001” means the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, and any regulations created thereunder;

“Municipal Law Enforcement Officers” are persons appointed by by-law by the Region of Durham Council to enforce the by-laws of the municipality;

“Operator” means any person or persons whom own, occupy, manage, control, govern, or has responsibility for and control over the activity carried on or within a defined Establishment. For the sake of clarity it is recognized that there may be more than one operator of a defined Establishment;

“Public Health Inspector” means a public health inspector acting under the direction of the Medical Officer of Health for The Regional Municipality of Durham;

“Region” or “Region of Durham” means The Regional Municipality of Durham;

Application

2. This by-law shall apply to the following Establishments in the Region of Durham:
 - a) All Class A and B pools and class C facilities, public spas and recreational water facilities pursuant to R.R.O. 1990, Reg. 565 under the Health Protection and Promotion Act, R.S.O. 1990, c.H.7,
 - b) Recreational Camps pursuant to O. Reg. 503/17 under the Health Protection and Promotion Act, R.S.O. 1990, c.H.7,
 - c) Licensed child care settings pursuant to O. Reg 137/15 under the Child Care and Early Years Act, 2014, S.O. 2014, c. 11, and
 - d) Small Drinking Water Systems pursuant to O. Reg. 319/08 under the Health Protection and Promotion Act, R.S.O. 1990, c.H.7.

Posting Requirement

3. Every Operator of an Establishment shall keep posted in the Establishment, in a conspicuous location at or near the entrance or entrances of such establishment and clearly visible to members of the public, the Durham Notice of Inspection.
4. Where an Establishment does not have a defined entrance or entrances at which the Durham Notice of Inspection may be posted, then the Operator shall ensure that the Durham Notice of Inspection is posted at a location clearly visible to members of the public.
5. Every Operator of an Establishment shall keep a copy of the most recent Durham Inspection Report readily available and shall produce same for viewing by a Public Health Inspector or member of the public upon request.
6. Every Durham Notice of Inspection shall remain the property of the Region of Durham.
7. No person shall deface, alter or remove any Durham Region Notice of Inspection properly posted in an Establishment.

Enforcement

8. All Public Health Inspectors exercising their duties pursuant to this by-law are hereby appointed as Municipal Law Enforcement Officers for that purpose.
9. A Public Health Inspector may enter and have access to, through and over any Establishment, 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 Durham Region any Durham Notice of Inspection and/or Sign Holder upon the request of a Public Health Inspector.

Obstruction

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

Offences

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. Part 1 Provincial Offences Act offences and fines may apply to specific contraventions of the by-law as indicated in Schedule "D" to this By-law.

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 Council of Durham Region 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 Durham Notice of Inspection at the entrance of an Establishment shall come into force and effect on the date of passing this By-Law.

Miscellaneous

16. Nothing in this by-law shall limit or be deemed a voluntary restriction upon any right, power, ability or duty of the Region of Durham, the Medical Officer of Health 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 “Durham Notice of Inspection Disclosure ByLaw”.

This By-law Read and Passed on the 12th day of September, 2018.

G.L. O'Connor, Regional Chair and CEO

R. Walton, Regional Clerk