

## **Local Law** relating to Eating Houses

**HEALTH ACT 1911**  
*City of Melville*  
**HEALTH (EATING-HOUSES) LOCAL LAWS 2001**

Made by the Council of the City of Melville under section 342 of the *Health Act 1911* in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995*.

### **1. Citation**

These local laws may be cited as the City of Melville Health (Eating-Houses) Local Laws 2001.

### **2. Repeal**

The Health Local Laws of the City of Melville, described as *Eating House Local Laws* made by the City of Melville on 26 May 1987 and published in the Government Gazette on the 21 August 1987 and amended from time to time, are repealed.

### **3. Interpretation**

In these local laws, unless the context otherwise requires-

“Act” means the Health Act 1911 (as amended) and includes any subsidiary legislation made under the Health Act 1911.

“Certificate of Registration” means a registration certificate issued pursuant to the provisions of these local laws by the Council.

“Council” means the Council of the City of Melville or the Chief Executive Officer or his delegate.

“eating house” means an eating house as defined in Division 3, Section 160, of the Health Act 1911 (as amended) and includes a Restaurant and Take away food outlet as defined under the City of Melville Community Planning Scheme No. 5 as amended.

“Environmental Health Officer” means an Environmental Health Officer appointed under the Act, and includes any acting or assistant environmental health officer.

“licence” means a licence to conduct an eating house granted pursuant to the provisions of these local laws by the Council.

“proprietor” means the person having the management or control of premises.

“registered premises” means any premises that are registered as an eating house under these local laws.

#### **4. Requirement for Registration and Licensing**

No person shall occupy or use any premises as an eating house unless:

- (a) the premises are registered under these local laws as an eating house;
- (b) the proprietor of the said premises is the holder of a licence issued by the Council authorising him to conduct on the premises the business of an eating house; and
- (c) the premises and the operations conducted within the premises comply with the requirements of the Health (Food Hygiene) Regulations 1993.

#### **5. Registration of an Eating House**

(1) An application for registration of an eating-house shall be forwarded to the Chief Executive Officer together with:

- (i) the fee as fixed from time to time by Council under Section 344C of the Act;
- (ii) in relation to an eating house which is not currently registered, a copy of the valid planning approval for the premises, together with detailed plans and specifications of the eating-house which shall include the following details:
  - (a) the use of each room;
  - (b) the structural finish of each wall, floor and ceiling;
  - (c) the position and type of each fitting and fixture;
  - (d) all sanitary conveniences, change rooms, ventilating systems, drains, grease traps and provisions for waste disposal; and
  - (e) the proposed number of persons, including the proprietor or proprietors expected to be engaged in the preparation, manufacture, processing, cooking or serving of meals.

(2) Before any premises are registered as an eating house, the site intended to be used for such purpose shall be subject to the approval of the Council.

(3) The Council may attach such conditions as it deems necessary to ensure compliance with the requirements of the Act, to the registration of an eating house, and these conditions shall be set out in the certificate of registration.

(4) The application is approved, the Council shall issue to the applicant a certificate of registration endorsed with the type of eating house to which the licence applies, together with the maximum seating capacity allowable for the premises.

## **6. Prescribed Date**

(1) For the purposes of Section 162 of the Act, the prescribed date is fixed as the 30 June 1988.

(2) For the purpose of Section 163 of the Act, the 30<sup>th</sup> day of June in each year is prescribed as the date on or before which the annual application for registration of an eating-house and licence for the proprietor of an eating-house shall be made.

## **7. Licence to Conduct an Eating House**

(1) Before any licence to conduct an eating house is issued to any proprietor by the Council under these local laws, the proprietor shall make an application in writing and shall:

(i) include the full name and address of the applicant;

(ii) specify the location for which the licence is sought;

(iii) specify the proposed goods, wares, merchandise or services in respect of which the trading will be carried on;

(iv) include details of any previous experience in the operations of eating houses.

## **8. Register of Registrations and Licences**

Every certificate of registration of premises registered as an eating house and every licence issued to a proprietor shall be entered in a register maintained by the Council for that purpose.

## **9. Certificates of Registration and Licences**

Every proprietor of registered premises shall keep the certificates of registration and the licence on the registered premises in a position visible to the general public and shall, when requested to do so by an Environmental Health Officer, produce the certificate of registration and the licence issued to the proprietor in respect of such premises

## **10. Period of Registration and Licence**

Every certificate of registration and every licence shall be in force from the day of issue to the next 30<sup>th</sup> day of June, inclusive, unless the same is cancelled in the meantime in accordance with the provisions of the Act.

## **11. Renewal Applications**

Applications for renewal of certificates of registration and licences shall be made annually during the month of June.

*Item 12 is amended by the City of Melville's Amendment to Local Law Relating to Eating Houses published in the Government Gazette on 23 June 2009, No. 115*

## **12 Fees**

The fees payable to the Council on the registration of premises, the issue of a licence and on the renewal of any registration or licence shall be the fee as fixed from time to time by Council under Section 344C of the Act.

### **Scale of Fees**

#### **Eating House Licence and Registration Fees**

- Eating House Registration.....\$310
- Eating House Registration – Non Food Preparation..... \$185
- Eating House Proprietor Licence .....\$30

## **13. Change of Address**

Whenever any person identified as the proprietor on a certificate of registration and/or a licence issued pursuant to these local laws, changes his place of abode he shall, within seven days of such a change, give notice in writing to the Council specifying his new place of abode and he shall, at the same time, produce such certificate of registration and/or licence to the Council, and the amendment shall be endorsed thereon.

## **14. Licence Personal to holder**

Any licence issued under the provisions of these local laws to any proprietor to conduct an eating house, shall not be transferable to any other person except as specified in section 168 subsection 2 of the Act.

## **15. New Proprietors to apply for Licence**

If the licensed proprietor of any premises registered as an eating house ceases to be the proprietor, as defined under these local laws then any person wishing to become the proprietor of such premises must make application to the Council for a licence to conduct an eating house as required by Section 6 of these local laws.

## 16. Power to Grant or Refuse an Application or Cancel a Registration or Licence

Where application is made to the Council either for:

- (a) an eating house to be registered; or
- (b) a licence to be issued to conduct the business of an eating house, then:
  - (i) such application may be issued or refused subject to sections 165 and 166 of the Act,
  - (ii) any such registration or licence, if allowed and issued, may be cancelled at any time for any one of the reasons described in subsections 165(3) and 166(3) of the Act.

## 17. Offences and Penalties

Any person who commits a breach of any of the provisions of these local laws shall be guilty of an offence and upon conviction shall be liable to a fine that is not more than \$2,500 and not less than:

- (i) in the case of a first offence \$250;
- (ii) in the case of a second offence \$500; and
- (iii) in the case of a third or subsequent offence, \$1,250; and if that offence is a continuing offence, a daily penalty which is not more than \$250 and not less than \$125.

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Made at a meeting of the Council at City of Meeting held on 19<sup>th</sup> November 2001. The Common Seal of the City of Melville was hereunto affixed in the presence of-

On this 6<sup>th</sup> Day of November 2001.

**K.J MAIR**, Mayor.

**J.J McNALLY**, Chief Executive Officer.

Consented to –

**Dr. VIRGINIA A McLAUGHLIN**, Acting Executive Director.  
Public Health

Dated this 29<sup>th</sup> day of November 2001