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**ONTARIO REGULATION  
TO BE MADE UNDER THE HEALTHY MENU CHOICES ACT, 2015:  
A CONSULTATION DRAFT**

**GENERAL**

**Definition**

1. In this Regulation,

“restaurant-type food or drink item” means a food or drink item that is either served in a regulated food service premise or processed and prepared primarily in a regulated food service premise, and that is intended for immediate consumption on the premises or elsewhere without further preparation by a consumer before consumption.

**Standard food items**

2. (1) For the purposes of the definition of “standard food item” in subsection 1 (1) of the Act, it is an additional requirement that the food or drink item be a restaurant-type food or drink item.

(2) The following food or drink items are exempt from the definition of “standard food item” in subsection 1 (1) of the Act:

1. Food or drink items that are offered for sale by the regulated food service premise for less than 90 days per calendar year, whether consecutively or non-consecutively.
2. Self-serve condiments that are available free of charge and that are not listed on the menu of the regulated food service premise.
3. Food or drink items that are prepared specifically for,
  - i. inpatients of a hospital within the meaning of the *Public Hospitals Act* or a private hospital within the meaning of the *Private Hospitals Act* or a psychiatric facility within the meaning of the *Mental Health Act*, or

- ii. residents of a long-term care home within the meaning of the *Long-Term Care Homes Act, 2007* or a retirement home within the meaning of the *Retirement Homes Act, 2010*.
4. Food or drink items that are prepared on an exceptional basis, in response to a specific customer request, and that deviate from the standard food items offered by the regulated food service premise.

**Definition, “Menu”**

3. (1) For the purposes of the Act and this Regulation,

“menu” means any document or other means of communicating information that lists standard food items offered for sale by a regulated food service premise and includes,

- (a) a paper menu,
- (b) an electronic menu,
- (c) a menu board,
- (d) a drive-through menu,
- (e) an online menu or a menu application,
- (f) an advertisement, and
- (g) a promotional flyer.

(2) Online menus and menu applications, advertisements and promotional flyers are exempt from the requirements of subsection 2 (2) of the Act as long as they satisfy either of the following criteria:

- 1. They do not list prices for standard food items.
- 2. They do not list standard food items that are available for delivery or takeaway ordering.

**Additional regulated food service premises**

4. Pursuant to clause (b) of the definition of “regulated food service premise” in subsection 1 (1) of the Act, cafeteria-style food service premises that sell food to the general public and that are owned or operated by a person that owns or operates 20 or more cafeteria-style food service premises in Ontario are regulated food service premises for the purposes of the Act and this Regulation.

## **Exemptions**

5. Persons who own or operate the following regulated food service premises are exempt from section 2 of the Act with respect to those food service premises:

1. Food service premises that operate for less than 60 days in a calendar year.
2. Food service premises that are located in a school or private school within the meaning of the *Education Act*.
3. Food service premises that are located in a correctional institution within the meaning of the *Ministry of Correctional Services Act*.
4. Food service premises that are located in a child care centre as defined in the *Child Care and Early Years Act, 2014*.

## **How calorie information is to be displayed on menus, etc.**

6. The information that, under section 2 of the Act, is required to be displayed on menus, labels and tags shall be displayed in accordance with the following rules:

1. The information must be adjacent to the name or price of the standard food item to which it refers.
2. The information must be in the same font and format as, and must be at least the same size and prominence as, the name or price of the standard food item to which it refers.
3. The information must be unobstructed and readily legible to individuals reading the menu, label or tag.
4. The information with respect to the number of calories of the standard food item must be rounded to the nearest 10 for items with over 50 calories and to the nearest five for items with 50 calories or less.
5. The term “Calories” or “Cals” must appear either,
  - i. as a heading above a column listing the number of calories for each standard food item and in the same size, font and prominence as the calorie numbers, or
  - ii. adjacent to the number of calories for each standard food item, and in the same size, font and prominence as the calorie numbers.
6. For standard food items that are normally intended to be shared among customers, the number of calories per individual serving, and the relevant serving size, must be

displayed in addition to the total number of calories of the standard food item as it is sold or offered for sale.

7. Where a standard food item that is available in a number of flavours, varieties or sizes is listed on a menu, label or tag,
  - i. if the menu, label or tag does not list the flavours, varieties or sizes of the standard food item that are available, and only includes a general description of the standard food item, the calorie range for the available flavours, varieties or sizes of the item must be displayed, and
  - ii. if the menu, label or tag lists specific flavours, varieties or sizes of the standard food item, the number of calories for each flavour, variety or size must be displayed.
8. For standard food items that are offered for sale with the option of adding standard supplementary items such as toppings, sauces, dressings or condiments that are listed on the menu, label or tag,
  - i. the number of calories must be displayed for the basic preparation of the standard food item,
  - ii. the number of calories must be separately declared for each standard supplementary item that is listed, and a statement must be included that indicates that the calories are additional to the calories displayed for the basic preparation of the standard food item, and
  - iii. the number of calories for each standard supplementary item that is listed on the menu, label or tag must be declared for each size of the standard food item it complements, or declared using a range between the smallest and largest servings of the standard supplementary item.
9. Where a menu, label or tag includes combination meals with two or more variable items, the number of calories for the combination meal must be displayed as a range between the lowest and highest calorie variations of the combination meal that are available. Where the variable items of the combination meal are individually listed on the menu, label or tag, the number of calories for each possible option must be displayed. If the menu, label or tag includes an option to increase or decrease the size of a combination meal, the impact of the option on the overall number of calories of the combination meal must be declared for the increased or decreased size within a range.
10. Where, under this section, the number of calories may or must be displayed within a range, the range must be displayed in the format “xx–yy”, where “xx” is the number

of calories of the lowest calorie option, and “yy” is the number of calories of the highest calorie option.

**Signs, premises that serve alcohol**

7. A person who owns or operates a regulated food service premise is exempt from paragraph 1 of subsection 2 (1) of the Act with respect to standard food items that are alcoholic beverages, as long as the information in the following Table, in substantially the same format as in the Table, is displayed in close proximity to the place where the alcoholic beverage is listed on the menu, label or tag, and in the same font, size and prominence:

Standard Alcoholic Beverages	Standard Serving Size	Average Calories per Standard Serving Size	Calories per 100 mL
Red Wine (11.5%)	1 glass (150 mL/5 oz)	127	85
White Wine (11.5%)	1 glass (150 mL/5 oz)	123	83
Regular Beer (5%)	1 bottle (341 mL)	147	43
Light Beer (4%)	1 bottle (341 mL)	99	29
Spirits (40%)	1 shot (45 mL/1½ oz)	98	217
Note: Actual calories of alcoholic beverages may vary and calories for additional ingredients are not included. Standard serving sizes are based on one drink as outlined in Canada’s Low-Risk Alcohol Drinking Guidelines.			

**Signs, food and drink that customers serve for themselves**

8. (1) For the purposes of subsections 2 (6) and (7) of the Act, every regulated food service premise that sells or offers for sale a restaurant-type food or drink item that customers serve for themselves is required to publicly post one or more signs adjacent to and clearly associated with the item that,

- (a) set out the number of calories of a serving of the food or drink item and the serving size used to determine the number of calories;
- (b) are positioned in such a way that an individual could reasonably be expected to clearly associate the calorie declaration with the food or drink item; and
- (c) include the name of the food or drink item.

(2) For the purposes of subsection (1), serving sizes shall be determined as follows:

- 1. Where the regulated food service premise provides a serving instrument that dispenses uniform amounts of food, by the volume of a serving dispensed by the instrument.
- 2. Where cups or other vessels are offered for self-serve drinks, by the volume of the cups or vessels, expressed in millilitres or, if applicable, by description of the cup size.
- 3. For other food or drink items, by a reasonable serving size determined by the person who owns or operates the regulated food service premise.

### **Contextual statement, certain premises**

**9.** (1) For the purposes of subsections 2 (6) and (7) of the Act, one or more signs that comply with the following rules are required to be publicly posted at every regulated food service premise:

1. The sign or signs must be posted in such a manner that at least one sign is readily visible by, and legible to, every individual who is in a place in the regulated food service premises where customers order food or drink.
2. Each sign must contain the following information: “The average adult requires approximately 2,000 to 2,400 calories per day; however, individual needs may vary” and, where the regulated food service premise sells or offers for sale standard food items that are targeted at children, may contain the following information: “The average child aged 4 to 9 years old requires approximately 1,200 to 2,000 calories per day, and the average child aged 10 to 13 years old requires approximately 1,500 to 2,600 calories per day; however, individual needs may vary”.

(2) A person who owns or operates a regulated food service premise is exempt from subsection (1) if the information required under paragraph 2 of that subsection or, if applicable, the alternative information set out in subsection (3) is displayed on every menu in the premise according to the following rules:

1. Where a menu is composed of multiple pages, the information must appear on every page of the menu that lists standard food items.
2. The information must appear in a place on the menu or page of the menu that is in close proximity to the standard food items listed on the menu or page.
3. The information must appear in the same font and format as, and in at least the same size and prominence as, the name or price of the menu item it refers to.

(3) Where a menu or part of a menu is only targeted at children, the following alternative information may appear in place of the information listed in paragraph 2 of subsection (1):

“The average child aged 4 to 9 years old requires approximately 1,200 to 2,000 calories per day, and the average child aged 10 to 13 years old requires approximately 1,500 to 2,600 calories per day; however, individual needs may vary”.

### **Determination of number of calories**

**10.** For the purposes of subsection 2 (8) of the Act, the number of calories in a standard food item may be determined by either,

- (a) testing by a laboratory that the person who owns or operates the regulated food service premise reasonably believes will provide accurate results; or

- (b) a nutrient analysis method that the person who owns or operates the regulated food service premise reasonably believes will accurately estimate the number of calories in a standard food item.

**Commencement**

**11. [commencement].**