

October 20, 2017

Ms. Kimberley Kitteringham  
City Clerk  
City of Markham  
101 Town Centre Boulevard  
Markham, ON L3R 9W3

Dear Ms. Kitteringham:

**Re: Holiday Shopping Bylaw**

Regional Council, at its meeting held on October 19, 2017, adopted the recommendation of Committee of the Whole that consideration of the following items be **deferred** to the November 9, 2017 Committee of the Whole meeting:

1. Presentation from Joy Hulton, Regional Solicitor.
2. Communication from John Espinosa, Town Clerk, Town of Georgina, dated July 21, 2017 regarding "Retail Business Holiday Act Applications."
3. The report dated September 29, 2017 from Commissioner of Corporate Services and Chief Planner and Regional Solicitor with the following recommendations:
  1. Council exempt the Region from the Retail Business Holidays Act (RBHA), by enacting the proposed Holiday Shopping Bylaw with one mandatory closure date to be effective January 1, 2018.
  2. Council repeal the current Bylaw No. LI-8-95-76 being a Bylaw to permit certain retail establishments to be open on holidays and all amendments effective December 31, 2017.
3. The Regional Clerk circulate this report to:
  - i. the Clerks of the local municipalities; and
  - ii. York Regional Police;
4. The Regional Solicitor prepare the necessary bylaw for consideration by Council in November.

A copy of Clause 5 of Committee of the Whole Report No. 14 is enclosed for your information.

Sincerely,

Christopher Raynor  
Regional Clerk

/S. Dumont  
Attachments

Clause 5 in Report No. 14 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on October 19, 2017.

## **5**

### **Holiday Shopping Bylaw**

Committee of the Whole recommends that consideration of the following items be deferred to the November 9, 2017 Committee of the Whole meeting to provide an opportunity for all members of Council to participate in the discussion on this matter:

1. Presentation from Joy Hulton, Regional Solicitor.
2. Communication from John Espinosa, Town Clerk, Town of Georgina, dated July 21, 2017 regarding "Retail Business Holiday Act Applications."
3. The report dated September 29, 2017 from Commissioner of Corporate Services and Chief Planner and Regional Solicitor with the following recommendations:
  1. Council exempt the Region from the Retail Business Holidays Act (RBHA), by enacting the proposed Holiday Shopping Bylaw with one mandatory closure date to be effective January 1, 2018.
  2. Council repeal the current Bylaw No. LI-8-95-76 being a Bylaw to permit certain retail establishments to be open on holidays and all amendments effective December 31, 2017.
3. The Regional Clerk circulate this report to:
  - i. the Clerks of the local municipalities; and
  - ii. York Regional Police;
4. The Regional Solicitor prepare the necessary bylaw for consideration by Council in November.

Note:

Regional Councillor Heath gave notice at the June 29, 2017 Council meeting of his intention to bring forward the following motion on this item:

"WHEREAS on December 30, 2016 the Province proclaimed into force Section 1.2 of the Retail Business Holidays Act (RBHA) allowing municipalities to choose to be exempt from the application of the RBHA; and,

## **Holiday Shopping Bylaw**

WHEREAS Council may exempt The Regional Municipality of York (the Region) from the requirements of the RBHA by implementing the provisions of Section 1.2 by bylaw; and,

WHEREAS Section 1.2 of the RBHA requires that Council must first enact a bylaw under Section 148(3) of the Municipal Act, 2001 establishing its own criteria governing retail business closings on statutory holidays including the designation of specific closure dates; and,

WHEREAS implementation of the provisions of Section 1.2 of the RBHA would allow Council to establish common criteria, beyond tourism, to govern retail business closing on statutory holidays; and,

WHEREAS Council has approved 31 exemptions under the RBHA for a variety of holidays which has created inconsistency in retail business openings in the Region; and,

WHEREAS three lower-tier municipalities in the Region have exemptions covering their entire municipalities;

THEREFORE BE IT RESOLVED that a bylaw be enacted pursuant to section 1.2 of the RBHA to exempt the Region from the RBHA; and,

BE IT FURTHER RESOLVED that a bylaw be enacted pursuant to section 148(3) of the Municipal Act, 2001 to establish requirements for retail holiday closings in the Region; and,

BE IT FINALLY RESOLVED that the bylaw provide that all businesses in the Region, for which closing under the RBHA is applicable, be required to close on Christmas and Easter Sunday only."

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Report dated September 29, 2017 from the Commissioner of Corporate Services and Chief Planner and Regional Solicitor now follows:

### **1. Recommendations**

It is recommended that:

1. Council exempt the Region from the *Retail Business Holidays Act* (RBHA), by enacting the proposed Holiday Shopping Bylaw with one mandatory closure date to be effective January 1, 2018.

## **Holiday Shopping Bylaw**

2. Council repeal the current Bylaw No. LI-8-95-76 being a Bylaw to permit certain retail establishments to be open on holidays and all amendments effective December 31, 2017.
3. The Regional Clerk circulate this report to:
  - a. the Clerks of the local municipalities; and
  - b. York Regional Police;
4. The Regional Solicitor prepare the necessary bylaw for consideration by Council in November.

## **2. Purpose**

This report provides Council with the results of staff's review of the RBHA and the consultation conducted by staff regarding options for governing retail business openings on statutory holidays. Staff recommend that Council exempt the Region from the RBHA and enact a new Holiday Shopping Bylaw across the Region.

## **3. Background**

### **The *Retail Business Holidays Act* requires retail businesses to be closed on certain statutory holidays**

The RBHA was enacted in 1991, and requires retail businesses to be closed on statutory holidays unless they are exempted. The holidays to which the RBHA applies are:

- New Year's Day
- Family Day
- Good Friday
- Easter Sunday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day

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The RBHA sets out statutory exemptions for certain types of businesses and also provides that Council may permit businesses to remain open for the maintenance or development of tourism.

Under the RBHA, retail businesses may apply for an exemption to allow a business to open on any or all of the statutory holidays. Between 1995 and December 31, 2016, Council approved 31 exemptions to the RBHA covering all 9 statutory holidays.

### **On December 30, 2016 the Province proclaimed into force section 1.2 of the RBHA allowing municipalities to choose to be exempt from application of the RBHA**

In 2006, the Province enacted the *Municipal Statute Law Amendment Act, 2006*. At that time, the *Municipal Statute Law Amendment Act* included an amendment to add Section 1.2 to the RBHA. Section 1.2 allows a municipal council to enact a bylaw exempting an entire municipality from the RBHA.

Section 148 of the *Municipal Act, 2001* requires that retail business establishments be closed on at least one public holiday. For an exemption, from the RBHA, to take effect the municipality must first enact a bylaw under section 148 of the *Municipal Act, 2001* to establish its own requirements for retail holiday closings.

### **On June 29, 2017 Council suspended the application process and directed staff to consult with municipalities and businesses on options for governing retail business openings on public holidays**

During consideration of the June 2017 report Council was made aware of the receipt of one exemption application for September 2017. This application was deferred to allow staff to review, consult and report back to Council. The applicant did provide a deputation asking that Council consider the exemption application in October 2017.

If Council chooses to enact the Holiday Shopping Bylaw the applicant would be required to comply with the new bylaw negating the need for notice or a public meeting.

### **4. Analysis and Implications**

#### **A staff review of the existing RBHA bylaw revealed non-uniform exemptions across the Region**

To date Council has approved 31 exemptions to the RBHA across the Region. The requested holiday exemptions have varied with each application. As a result, there are retail businesses, business areas and municipalities across the Region that are permitted to open on most or all nine statutory holidays.

The current process has resulted in different exemptions across the Region. Section 1.2 of the RBHA now allows Council to exempt the Region and create uniformity within its boundaries.

Three municipalities have obtained exemptions for all retail businesses within the municipality. In the Town of Georgina all retail businesses are closed on Christmas Day and New Year's Day. In King Township retail businesses are closed on Christmas Day and Easter Sunday. In the Town of Whitchurch-Stouffville all retail businesses are open only on Canada Day, except the wineries which are allowed to open on four other holidays.

Attachment 1 provides a summary of the existing RBHA exemptions within York Region. The X in the table indicates days on which retail businesses must be closed.

#### **The goal of the staff review and consultation was to establish a consistent regulatory approach on all public holidays to retail businesses throughout the Region**

Staff consulted with the Economic Development Officers of the Local Municipalities, and the Chambers of Commerce and Business Improvements Associations to solicit feedback on governing holiday shopping in York Region.

The feedback from eight of the nine municipalities was supportive of allowing retail businesses to open on any public holiday except those prohibited by Council or retaining the current process. At the writing of this report Vaughan was unable to provide feedback as the matter requires the direction of senior management or municipal council. The business community feedback mirrored the feedback of the local municipalities.

## **Holiday Shopping Bylaw**

**Based on the feedback received from the local Municipalities and other stakeholders, the preferred solution for governing holiday shopping is to have Council establish the closure dates**

Included in the feedback from the municipalities, Business Improvement Associations and Chambers of Commerce revealed interest in a consistent approach across the Region with the Region taking the lead. Municipalities wanted to ensure that current holiday exemptions granted to a local Municipality would not be lost. The business community was also concerned that current exemptions would not become further restrictive as a part of this process.

Staff made inquiries to neighbouring Regions and learned that both Peel Region and Durham Region are still evaluating the best course of action.

**The most common closure date among the 31 exemptions in the Region is Christmas Day and staff propose that this be the day of closure across the Region**

The analysis of the existing RBHA exemptions reveal that Christmas Day is the most common closure day across the Region. Of the 31 exemption requests, 28 (90 per cent) did not apply to be open on Christmas Day. The Pacific Mall campus in Markham applied and received an exemption to be open on Christmas Day in 2000.

Easter Sunday is the second most common closure date among the current exemptions with 18 (58 per cent) choosing to remain closed. Half of the 13 exemptions for Easter Sunday openings were received from local municipalities for the whole municipality or specific areas such as historic main streets.

Staff has recommended that Christmas Day be the only day of required closure. This aligns with the common closure date of the majority of retailers and would honour the existing exemptions previously obtained by the local municipalities.

Establishing a single closure date provides consistent application of the Holiday Shopping Bylaw across the Region and ensures retail businesses within the Region the will have the choice of the 8 remaining public holidays to determine whether or not to be open for business.

**There are a number of exemptions within the proposed Holiday Shopping Bylaw which are carried over from the RBHA or are mandatory**

The proposed Holiday Shopping Bylaw will contain several exemptions carried forward from the exemptions that exist under the RBHA. The exemptions will also



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be broadened to include multi-cultural attractions under the tourism exemption and larger pharmacies to have the option to remain open on all days of the year.

The *Municipal Act, 2001* has two mandatory exemptions for a holiday shopping bylaw. These are the sale or offering for sale by retail of “goods or services in the form of or in connection with prepared meals or living accommodation” and “liquor under the authority of a licence or permit issued under the *Liquor Licence Act*” (the “Mandatory Exemptions”). The Mandatory Exemptions will be incorporated into the proposed Holiday Shopping Bylaw.

The below list of retail businesses will have the choice to open on any day of the year:

- small stores
- gas stations
- nurseries
- small book stores and newspaper stands
- small art galleries
- prepared meals
- living accommodations
- liquor
- pharmacies
- laundromats
- vehicle and boat rentals and servicing
- tourist establishments and multi-cultural attractions
- education, recreation and amusement facilities

### **Retail businesses and municipalities with current exemptions will be notified of the changes to retail business openings**

Bylaw No. LI-8-95-76 will be repealed effective December 31, 2017 ensuring that existing exemptions will remain in effect to the end of the calendar year. This repeal will not apply to any offence that took place before January 1, 2018 to ensure any charges laid, before the enactment of the proposed Holiday Shopping Bylaw, will continue through the current provincial offences process.

All currently exempted businesses, business areas and municipalities will be notified of the changes and will be required to comply with the new Holiday Shopping Bylaw which will take effect on January 1, 2018.

On the morning of January 1, 2018 all retail businesses will have the choice of choosing to conduct business on New Year's Day and each public holiday except for Christmas Day.

## **Holiday Shopping Bylaw**

The applicant with the pending application will be notified that they will not be allowed to open on any of the statutory holidays in 2017. However beginning January 1, 2018 they will have to follow the new Holiday Shopping Bylaw.

Businesses that choose to be open on the public holidays are still subject to any federal and provincial legislation governing labour and employment.

### **5. Financial Considerations**

There are no financial impacts directly associated with this report.

### **6. Local Municipal Impact**

By enacting the Holiday Shopping Bylaw Council will exempt the Region from the RBHA. All current exemptions granted by the Council under the RBHA will be repealed and the Holiday Shopping Bylaw will govern retail business openings on public holidays. This will establish a regulatory regime that can be consistently applied to all retail businesses within the Region.

### **7. Conclusion**

Section 1.2 of the RBHA was proclaimed into force by the Province on December 30, 2016. It provides municipalities with the opportunity to be exempt from the RBHA. Since 1995 there have been 31 Council approved exemptions to the RBHA, representing various businesses and a few local municipalities and business areas.

The exemptions were not consistent across the Region and did not provide a level playing field for retail businesses. The new Holiday Shopping Bylaw will provide businesses across York Region with the flexibility to choose when to conduct business on all statutory holidays except Christmas Day unless they are regarded as a tourist attraction or otherwise exempted.

For more information on this report, please contact Doug Lindeblom, Director, Economic Strategy, at 1-877-464-9675 ext. 71503.

## **Holiday Shopping Bylaw**

The Senior Management Group has reviewed this report.

September 29, 2017

Attachments (1)

#7897138

Accessible formats or communication supports are available upon request

## Summary of Existing Retail Business Holiday Act Exemptions

Municipality	Business	New Year's Day	Family Day	Good Friday	Easter Sunday	Victoria Day	Canada Day	Labour Day	Thanksgiving Day	Christmas Day
Aurora	NO EXEMPTIONS	X	X	X	X	X	X	X	X	X
East Gwillimbury	Brice Sports									X
	Vinces's Sharon	X								X
	Old McDonald's	X								X
	Queensville Antiques	X								X
Georgina	Town wide	X								X
King	Town wide			X						X
Markham	Old Town Markham Centre									X
	Unionville Core									X
	Pacific Mall Heritage Town									
	Market Village Markham									
	Pacific Mall									
	Kennedy & Denison Centre			X						X
	Foody Mart			X						X
	T&T Kennedy			X						X
	T&T Warden			X						X
	First Choice Supermarket			X						X
	Sunny Foodmart			X						X
	Markville Shopping Centre			X						X
	Seasons Foodmart			X						X
Newmarket	Newmarket Downtown	X	X							X
	Upper Canada Mall			X						X
Richmond Hill	Oak Ridges Food Mart	X	X	X				X		X
	Hillcrest Mall			X						X
Vaughan	Kleinburg Core									X
	Vaughan Mills Campus		X	X						X
	Promenade			X						X
	Thornhill Area	X	X		X	X	X	X		X
	Coppa's Fresh Market			X						X
	Winners			X						X
Whitchurch-Stouffville	Town wide	X	X	X	X		X	X		X
	All wineries & vineyards	X	X	X						X

X - Days when businesses must close