

June 22, 2018

Resolution Number 2018-566

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Subject: **Regulating Retail Business Holiday Shopping in the Region of Peel**

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I am writing to advise that Regional Council approved the following resolution and by-law at its meeting held on Thursday, June 14, 2018:

**Resolution 2018-566:**

That the proposed approach to and criteria for regulating retail business holiday shopping in Peel, as outlined in the report of the Commissioner of Public Works titled, "Regulating Retail Business Holiday Shopping in the Region of Peel", be implemented;

And further, that the Region of Peel exempt itself from the *Retail Business Holidays Act* statutory holiday closure scheme by enactment of a by-law pursuant to Section 1.2 of the *Retail Business Holidays Act*,

And further, that By-law 18-1999 be repealed;

And further, that the new Region of Peel by-law be presented for enactment to regulate retail holiday shopping in the Region of Peel, in accordance with Section 148 of the *Municipal Act, 2001, as amended*, which by-law shall be effective on the date of enactment, with the exception of the Set Fines in Schedule 'B' which shall not be effective until approval by the Regional Senior Justice of the Ontario Court of Justice;

And further, that staff submit the proposed Set Fines to the Regional Senior Justice of the Ontario Court of Justice for approval;

And further, that the Regional Solicitor be authorized to approve and implement any minor changes required by the Regional Senior Justice of the Ontario Court of Justice to the Set Fines;

And further, that a copy of the subject report be circulated to the City of Mississauga, City of Brampton, and Town of Caledon, for information.

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**By-law 34-2018:**

A by-law passed under Section 1.2 of the *Retail Business Holidays Act* providing that the Act does not apply to The Regional Municipality of Peel and as per Section 148 of the *Municipal Act*, to regulate closing of business establishments within The Regional Municipality of Peel and to establish procedures for implementing exemptions to the holiday closure requirements; and to repeal By-law 18-1999.

A copy of the subject report and By-law 34-2018 are provided for your information.



Stephanie Jurrius  
Legislative Specialist

cc: Adrian Smith, Acting Director, Integrated Planning, Public Works, Region of Peel

DATE: June 7, 2018

REPORT TITLE: **REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL**

FROM: Janette Smith, Commissioner of Public Works

### RECOMMENDATION

That the proposed approach to and criteria for regulating retail business holiday shopping in Peel, as outlined in the report of the Commissioner of Public Works titled, “Regulating Retail Business Holiday Shopping in the Region of Peel”, be implemented;

And further, that the Region of Peel exempt itself from the *Retail Business Holidays Act* statutory holiday closure scheme by enactment of a by-law pursuant to Section 1.2 of the *Retail Business Holidays Act*;

And further, that By-law 18-1999 be repealed;

And further, that the new Region of Peel by-law be presented for enactment to regulate retail holiday shopping in the Region of Peel, in accordance with Section 148 of the *Municipal Act, 2001, as amended*, which by-law shall be effective on the date of enactment, with the exception of the Set Fines in Schedule ‘B’ which shall not be effective until approval by the Regional Senior Justice of the Ontario Court of Justice;

And further, that staff submit the proposed Set Fines to the Regional Senior Justice of the Ontario Court of Justice for approval;

And further, that the Regional Solicitor be authorized to approve and implement any minor changes required by the Regional Senior Justice of the Ontario Court of Justice to the Set Fines;

And further, that a copy of the subject report be circulated to the City of Mississauga, City of Brampton, and Town of Caledon, for information.

### REPORT HIGHLIGHTS

- On June 8, 2017, Peel Region Council directed staff to undertake an analysis and conduct public consultation to inform the potential development of a draft Regional Retail Business Holiday By-law under Section 148 of the *Municipal Act*.
- Consultation was undertaken with an online survey and public workshops, including focused workshops targeted at retail workers and merchants.

## REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

- Approximately 4000 Region of Peel residents and business owners were engaged in the consultation process.
- It is recommended that the proposed by-law continue to maintain the principles and intended nature of the *Retail Business Holidays Act*, based on support for the common pause day principle, and introduce new criteria for tourism exemptions.

### DISCUSSION

#### 1. Purpose and Regional Council Direction

This report responds to Council direction to review the Region of Peel's approach to retail business holiday closures for the nine recognized statutory holidays due to concerns with the current exemption process and to implement recent changes to the *Retail Business Holidays Act* (the Act).

The report outlines the results of the consultation, analysis undertaken and staff recommendations including the associated by-law. It further recommends an approach that works towards achieving a balance that provides appropriate opportunities for consumers, considers exemptions for tourism purposes, and recognizes the importance of common pause days.

#### 2. Background

On June 25, 2015, Regional Council directed staff to review applicable Regional policies and processes for the evaluation of applications for a tourism exemption under the Act.

On December 31, 2016, the Province of Ontario proclaimed Section 1.2 of the Act giving upper and single tier Ontario municipalities the option to exempt themselves from the requirements of the Act by substituting with their own municipal by-laws regulating retail business holiday closures and classes of retail businesses.

On June 8, 2017, staff brought forward a second report recommending that consultation with the public, retail stakeholders, and local municipal staff be undertaken to inform the development of a future Regional Retail Business Holidays By-law. In August 2017, staff released a Request for Quote tender document to secure a vendor to assist with the consultation work. The successful vendor was urbanMetrics.

Staff utilized the consultation results, literature review, and environmental scan to prepare their recommendations.

In May, 2018, Regional staff consulted with the Economic Development Offices of all three local municipalities. Staff from the City of Mississauga, City of Brampton, and Town of Caledon indicated support for the direction proposed by Regional staff.

In a related matter, on May 7, 2018, the Province announced it was conducting a review of the public holiday system under the *Employment Standards Act* following feedback and discussions with stakeholders. The review will be conducted in 2018 by the Ministry of Labour and was announced to form part of the Ontario government's response to the Changing Workplaces Review which found that public holiday rules were the source of the most complaints under the *Employment Standards Act* and needed to be simplified. These

## REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

findings are similar to what Regional staff have heard in the consultation process. Staff are not recommending changing course in light of this recent announcement.

### 3. Consultation and Engagement Process

A comprehensive two-tiered consultation approach was used to gather resident and stakeholder input. The first tier consisted of online surveys and the second tier consisted of focused workshops.

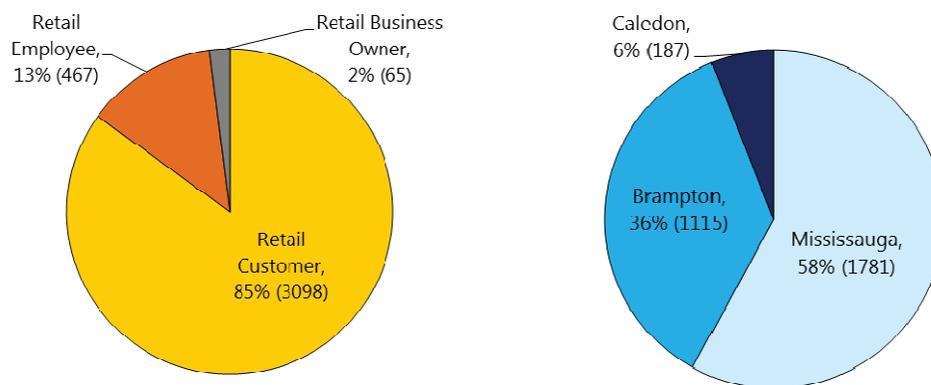
#### Online Survey

The online survey was promoted through the Regional website, social media, newspaper notices of public workshops and distributed via email to Peel Region Councillors, resident emails subscribing to the Peel Newsletter, and list of industry stakeholders. The survey was developed to gauge general attitudes about the need and opportunity for modifying existing policies as they relate to holiday shopping. After the first set of introductory questions, the survey splits into three distinct surveys, each with different questions meant for three targeted audiences: residents, retail workers, and retail stakeholders within the Region of Peel. The survey was made available from January 15, 2018 to February 28, 2018 and gathered a total of 3620 complete responses.

Of these interactions, 85 percent identified as Peel residents (i.e. consumers), 13 percent identified as retail workers, and 2 percent identified as merchants.

Of these interactions, 58 percent identified as either living or working in Mississauga, 36 percent identified as either living or working in Brampton, and 6 percent identified as either living or working in Caledon.

*Figure 1. Detailed Statistics of Survey Audience*



#### Public and Stakeholder Workshop Meetings

In the second tier of consultation, a total of seven workshops were conducted between February 21, 2018 and February 27, 2018. These meetings consisted of Peel residents/consumers, Business Improvement Areas, Chambers of Commerce, Boards of Trade, Retail Council of Canada, large retailers, shopping centres, unions and organized labour groups, and non-unionized retail workers.

## 8.1-4

### REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

Three public workshops were hosted in Mississauga, Brampton, and Caledon. Invitations were communicated through social media, the Regional website, project webpage, newspaper advertisements, and emails attained from the survey process.

Three retail worker workshops were hosted in Mississauga, Brampton, and Caledon. These workshops were strategically structured to provide a balance of opinions representing employees that work in locations both with and without holiday Tourist Area Exemptions. Invitations to the retail worker workshops were communicated through workplace posters at retail stores in Erin Mills Town Centre and Bramalea City Centre, retail business email list, and emails collected through the survey process.

One targeted stakeholder workshop was hosted at a central location in Brampton aimed at merchants and business owners within the Peel retail community. Stakeholder workshop notices were disseminated through a Peel-focused industry email list (i.e. Chambers of Commerce, Business Improvement Associations) and emails received from the online survey.

#### 4. Key Themes Identified in Consultation

Through the survey and public engagement process, hundreds of comments were received from Peel residents, retail workers and merchants. Based on the review of these comments and feedback, a set of common themes have emerged. These themes are discussed below and further recorded in a comprehensive Comment Summary Table, which is available on the project webpage at [peelregion.ca/planning/about/regulating-retail-holiday-openings.htm](http://peelregion.ca/planning/about/regulating-retail-holiday-openings.htm). Through the consultation and engagement process, the following key themes were identified:

Current protections for retail workers do not work for them in practice.	Time off is generally seen as a social good and consistent with progressive practices.	Concern that if one municipality opens up, the rest of GTA will follow suit.
Current process is confusing and unfair for retail business owners.	Balance of commercial opportunity and convenience to shoppers versus general social good for all.	Nature of shopping is transforming (i.e. E-Commerce).

#### Key Findings from Consultation and Engagement with Consumers (Peel residents)

The resident survey revealed an approximate 50/50 split between preference for a much more permissive approach to holiday shopping and maintenance of the current more restrictive approach. In the consultation sessions, the desire to maintain the status quo was further amplified. Some residents who responded to the survey wanted the ability to exercise their freedom of choice and access to shopping opportunities. However, many preferred to keep the status quo, whereby holiday shopping is not permitted.

During the past 12 months, 36 percent of the resident survey respondents made a purchase on a statutory holiday at a retail store in Peel Region. The top five purchase types made on statutory holidays were at: grocery stores, gas stations, restaurants, pharmacies, and clothing/footwear. Of these top five purchases, three are already permitted under the Act.

## REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

Grocery purchases would most likely occur in the grocery stores that are already permitted to operate under the exemption for small-scale shops that sell food items. Also, shopping for clothing/footwear would typically only occur in locations within existing tourism exemptions such as Bramalea City Centre and Mississauga Square One. The remaining 64 percent of resident surveys indicated that they did not shop on a statutory holiday. Overall, the consultations indicated there was no compelling push for a change to the status quo.

### **Key Findings from Consultation and Engagement with Workers**

The survey and workshop consultations engaged both union and non-union workers. Both groups communicated on the same issues. According to the survey, 56 percent of retail workers responded that store owners should not have the flexibility to choose whether to open or close on a statutory holiday. The level of support for holiday retail operation among younger workers was 58 percent whereas the level of support among older employees dropped significantly, to 24 percent. It appears that the younger age groups prefer the opportunity to make compensated pay, whereas the older age groups were more concerned about the preservation of family time provided by the common pause day. A number of concerns and impacts were identified, particularly regarding worker's rights, loss of family time, and lack of supplemental resources, such as daycare and transportation options.

In the current Ontario labour laws, employees are to be provided protection, as it relates to working on statutory holidays. As per the *Employment Standards Act*, the choice to work on a holiday must be voluntary. Through consultation, it became evident that some employees feel coerced into working. Some employees reported that if they request not to work on a statutory holiday, they can be impacted in the long-term with shortened shifts or difficult work hours. Many workers advised that, if given the option, they would rather have the day off instead of receiving the compensated increased public holiday pay. However, given the precarious nature of retail work, some employees indicate they do not have the option to quit, and therefore agree to work holiday shifts.

Retail workers explained that they too would like time off with their families on statutory holidays. Many retail workers report that they miss Fridays and Saturdays with their children and aging parents. During the Christmas period for example, many have mentioned that they only have one day off, while almost all other job sectors have a minimum of two or three days and up to two weeks. Losing holidays further burdens their opportunity to engage with their family or plan family occasions ahead of time and benefit from the principle of a common pause day.

Through the stakeholder workshops, it became apparent that retail workers depend on supplemental resources that are not available on public holidays. Transit, for example, operates on public holiday hours, and child care services are much less available. Retail workers report that if they work statutory holidays, the services on which they rely do not.

Overall, there was a strong desire to maintain the status quo regulations which predominantly prohibit statutory holiday shopping.

### **Key Findings from Consultation and Engagement with Retailer Owners**

Local business owners and large-scale corporate business owners were engaged throughout both tiers of consultation. There is some difference of opinions within the business community on how retail holiday shopping should be regulated. Based on the

**REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL**

survey, approximately 63 percent responded that retail owners should be given the flexibility to open at their discretion, but approximately 80 percent of retail owner survey respondents in Peel stated that they would prefer not to operate on a statutory holiday if given the choice. When they were asked why, the top three reasons were: loss of family time, allowing time off for their employees, and insufficient volume of customers. Local retail owners found that business was slower on statutory holidays and therefore did not find that it was worthwhile in comparison to the net profits made that day. Meanwhile, large-scale retail owners explained that some of their largest volume of sales occurs on holidays.

Corporate retail owners preferred deregulation as they found the existing legislation to be confusing and unfair. Some large retailers want consistency for the retail industry as a whole, regardless of store type or size. They further stated that the larger malls promoted family time shopping as a form of family entertainment. However, one large retailer noted that the family's choice to shop depends on the physical makeup of the mall. Not all malls have physical attractions or popular shops. People may still use the quasi-public areas around the mall even when it is closed.

**5. Consultant Analysis**

The urbanMetrics Analysis report is available on the project website at [peelregion.ca/planning/about/regulating-retail-holiday-openings.htm](http://peelregion.ca/planning/about/regulating-retail-holiday-openings.htm) or a copy is available from the Office of the Regional Clerk for viewing.

As part of their review, urbanMetrics (the Consultant) considered policy directions through the lens of the following eight key principles:

1. Progressive in terms of supporting enterprise and job creation.
2. Fairly and consistently applied across the municipality.
3. Simple and easily understood by businesses, workers, and the public.
4. Representative of prevailing and future business and technology changes in retail.
5. Focused on the needs of local area residents, not tourists.
6. Non-punitive.
7. Respectful of the importance of common pause days for workers.
8. Flexible to allow periodic review and refinements.

The Consultant recognized that Peel residents, retail workers, and businesses are generally split on the issue of changing the status quo. Based on the unweighted metrics used in their evaluation, the Consultant suggest the “status quo” compared to other options is somewhat less supportive of desired outcomes.

**6. Regional Analysis**

In addition to the key principles and findings provided by the consultant, Regional staff identified the following additional matters to explore further in making a final recommendation to Council:

- The surrounding context
  - There is a clear divide between the west and east sides of Canada in their individual Provincial approaches to holiday shopping. In western Canada,

## 8.1-7

### REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

retail businesses are generally permitted to open on a statutory holiday at the discretion of the owner or manager. In central and eastern Canada, retail businesses are generally required to close on statutory holidays. Ontario is the only Province that has attempted to strike a balance and permit exemptions to be considered for certain retail stores and/or categories on the basis of tourism or economic development.

- In sampling the single and upper-tier municipalities of the Greater Toronto Area (GTA), most single and upper-tier municipalities in the GTA apply a strict interpretation of the *Retail Business Holidays Act*. The Region of Peel and City of Toronto together, make up 64 percent of the GTA population. Maintaining the common pause day as Toronto did will promote consistency throughout the GTA and will ensure that the businesses in the Regions of Halton and Durham do not feel the pressure to compete. These regions already apply a strict interpretation to the Act. Meanwhile, York Region has taken a different approach to retail holiday exemptions. In the past, York has exempted over 26 retail business establishments and areas under the *Retail Business Holidays Act*. More recently, York Region has exempted themselves from the Act and permitted retail establishments to operate on all holidays except Christmas Day, at the discretion of the retail owner. Staff understand that York Region Council may consider revisiting this decision.
- Quality of life and jobs
  - It is important to strike a work-life balance because enhancement of long-term worker productivity and performance stems from job satisfaction.
  - Based on the literary research, other highly productive countries, such as Denmark, Norway, Germany, Austria or Switzerland illustrate that paid days off do not necessarily correlate to poorer economic outcomes.
  - The Region of Peel is home to 141,324 full-time, part-time, and contract retail jobs (71,793 in Mississauga, 39,380 in Brampton, and 29,551 in Caledon). Maintenance of the quality of these jobs is significant, especially as it is congruent to the principles of the 'Living' focus area of the Region of Peel Strategic Plan vision on Community for Life.
- Balancing competition, fairness and consistency
  - Mississauga's Square One is Ontario's largest mall in square footage and has the second highest number of annual visitors at 24 million, after the Toronto Eaton Centre at 50 million. Bramalea City Centre in Brampton has a higher number of annual visitors at 16 million than some major York Region malls such as Vaughan Mills Mall 12.9 million. Both Square One and Bramalea City Centre have already been granted exemptions to operate on most statutory holidays.
  - Other site specific tourism exemptions have been granted for the Mississauga Chinese Centre and Garden Foods in Bolton.
  - The recommendation is to continue the mall exemption approved by Council by grandfathering them into the new by-law to continue to operate. Therefore, they are still able to compete with other major malls in Toronto, York Region, and Halton Region, provide a tourism destination for the

## REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

western part of the GTA and offer family shopping opportunities in Peel on most statutory holidays.

- Existing Peel specialty food store exemptions
  - In addition to the mall based tourism exemptions above, Peel has granted three tourism exemptions for specialty food stores since 2015 (T and T Supermarket, Yuan Ming Supermarket, and P.A.T Oriental Food Market) through applications made under the tourism exemption criteria in the *Retail Business Holidays Act* and the Region's current by-law. There is also an existing application currently being processed for Seafood City in Mississauga.
  - Staff recommend that these existing exemptions also be continued. However, staff have not recommended providing a specific mechanism for considering further specialty food stores or other specialty store exemptions given that nothing in the consultation results showed a compelling desire to have specialty food stores opened on holidays.
  - The recent trend in applications for exemption from specialty food stores is not a compelling reason to allow further exemptions given the results of the survey regarding support for a common pause day. What has been a relatively small number of applications to date could become much larger.
  - Although only specialty food stores have applied for exemptions in recent years, nothing inherent in cultural specific or internationally sourced goods is unique to food goods or suggests that this particular type of specialty store (off-shore sourced food) is different from any other specialty store (i.e. shoes, electronics, sunglasses, furniture, etc.).
- Tourism Area Exemptions
  - The *Retail Business Holidays Act* also provides for tourism exemptions to be granted on an area basis. Throughout the GTA, area exemptions have been provided for destinations such as downtowns and Business Improvement Areas (i.e. Port Credit, Downtown Oakville, Unionville Village, Downtown Burlington, Kleinberg, Bronte Business Improvement Area, etc.).
  - Staff recommend providing a mechanism to recognize specifically defined areas identified in a Local Municipal Council approved Tourism Strategy as an area where retail holiday shopping is proposed to be permitted on statutory holidays in accordance with the strategy.
- Consideration of increased annual retail revenue due to operation on holidays
  - Staff were asked to consider potential increased annual retail revenue due to operation on holidays. To date, staff have not identified reliable sources to evaluate the legitimacy of financial returns of retail stores operating on a holiday.
  - In the retail owners stakeholder consultation, it was noted that Square One received 60,000 shoppers on Thanksgiving in 2017. This was one of the quieter of statutory holidays, which had a turnout no larger than on a regular Monday. While mall retailers may receive a significant gross return on the

## REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

holiday, this does not necessarily equate to the mall receiving more revenue overall.

- o Another retail mall owner at the consultation suggested that the profitability of a mall depends on the makeup of the mall, not whether it is open on a statutory holiday or not.

### 7. Proposed Update to Regional By-law Regulating Retail Holiday Shopping

As a result of the consultation and research, staff recommend an approach that aims to achieve a balance to retail business holiday closures; an approach that provides appropriate opportunities for consumer shopping convenience while recognizing the important community principle and benefit of common pause days.

The recommended approach to retail business holiday closures is contained in a draft Peel Retail Business Holiday Shopping By-law that would repeal the existing by-law, and replace the *Retail Business Holidays Act* provisions including the tourism exemption application process, with Peel specific requirements and exemptions. Proposed exemptions are contained within the definitions provided in Schedule A of the by-law and listed in Section 4. Exemptions would include the status quo exemptions from the Act, grandfathered previous exemptions, and local tourism strategy exemptions. In keeping with the discussion above, no definition or exemption for specialty food stores has been provided in the draft by-law.

Unlike the existing by-law, no application process is provided for further exemptions of specific retail establishments. However, further tourism exemptions for specifically defined areas could occur if they are specifically identified in a Local Council approved Tourism Strategy. This is in keeping with the principle of tourism area exemptions provided in the Act and common practice throughout the GTA for area exemptions associated with special tourism destinations such as downtown's and Business Improvement Areas.

The proposed exemptions listed in the draft By-law are described in more detail below:

#### Status Quo Exemptions

Proposed by-law: Section 4(1) to 4(7), inclusive

Retail establishments that meet the existing exemption criteria under the original *Retail Business Holidays Act* and the associated Ontario Regulation 711/91 are permitted to continue to operate on statutory holidays, at the discretion of the business owner. The status quo exemptions include essential services and tourism-based businesses. These will continue to exist in the proposed by-law:

- Small stores (i.e. convenience stores less than 3,000 square feet and no more than 3 persons engaged in service to the public)
- Pharmacies
- Special Services (i.e. gas stations, nursery/garden centres, book stores)
- Art Galleries
- Education, Recreation, Amusement purposes
- Liquor stores (i.e. independently operated rural general stores/LCBO Agency Store, on-site winery retail)
- Tourist establishments

## REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

Very minor adjustments to definitions from the Act have been made for ease of interpretation.

### Retail Establishments or Areas in a Local Tourism Strategy

Proposed by-law: Sections 1(7) and 4(8)

The proposed tourism criteria would only have one requirement defined in the proposed by-law, which is alignment with the Tourism Strategy of the local municipality. In order for a retail establishment not covered by the Status Quo or Grandfathered provisions of the by-law to open on a statutory holiday, the local municipal Tourism Strategy must explicitly delineate a geographic area and state through a policy clause that the subject area(s) are intended to be exempt from statutory holiday regulation requirements. This new criteria will ensure appropriate alignment with the actual local municipal tourism intentions. This component of the by-law and process provides a mechanism for implementing tourism areas similar to the Port Credit Business Improvement Area, which is currently exempt.

The City of Mississauga and Town of Caledon both have a completed Tourism Strategy. The City of Brampton is currently creating a Cultural Master Plan and will be undertaking a Tourism Strategy. None of these documents currently specifically deal with holiday retail closures. However, staff at the local municipalities have advised that there would be opportunity to have the Tourism Strategy address geographic area of retail establishments and associated tourism exemptions to operate on statutory holidays, should that be something Local Councils wish to explore as part of a comprehensive Tourism Strategy. Retail businesses in the future Inspiration Lakeview area of Mississauga or Brampton's Downtown are examples of potential tourism areas that could in the future be considered for retail holiday closure exemption.

Updates to the Tourism Strategy with holiday shopping policies and associated delineated mapping may be done through a resolution or amending by-law passed by a Local Council.

### Grandfathered Exemptions

Proposed by-law: Section 4(9)

Retail establishments and areas that have received exemption from Regional Council in the past under the *Retail Business Holidays Act* are proposed to be permitted to continue to operate on statutory holidays. The grandfathered exemption would apply to the retail establishment that received the exemption. If a transfer of ownership occurs, the grandfathered exemption to operate on statutory holidays would still exist, provided the operation remains as outlined in the applicable grandfathered by-law. The following businesses may remain open on the days and times that were granted to them as per the following enacted by-laws:

- Mississauga Chinese Centre (By-law 40-98)
- Port Credit Business Improvement Area (By-law 78-2012)
- Mississauga Square One (By-law 105-2009, amended by By-law 33-2010)
- Bramalea City Centre (By-law 97-2011, amended by By-law 18-2013)
- Garden Foods Bolton Ltd. (By-law 24-2013)
- T&T Supermarket (By-law 34-2015)
- Yuan Ming Supermarket Ltd. (By-law 44-2016)
- P.A.T Oriental Food Market (By-law 29-2017)

**REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL**

Peel Region Retail Holiday Shopping By-law Implementation

*Enforcement through Set Fines*

Implementation and enforcement of the by-law would occur through use of the *Provincial Offences Act*, Parts 1 and 3, which are used to enforce other Regional by-law provisions. Staff recommends the seeking of approval to use the set fine process in Part 1 of the *Provincial Offences Act*. This would provide clear authority for Peel Police or Ontario Provincial Police to lay charges and prosecute non-compliance with the provisions of the by-law based on the definitions in the by-law and allow for the summary method of charging available through short form Set Fines.

The Set Fines are specified in Schedule 'B' of the by-law. In order to use the Set Fine process, the offences and fines must be approved by the Regional Senior Justice of the Ontario Court of Justice. The Regional Solicitor has made applications for Set Fines on other by-laws such as the Waste Collection By-law 35-2015. The fines cannot be used until such approval, so it is proposed that the Retail Holiday Shopping By-law be in force as of enactment, with the availability, immediately, for officers to lay informations and make charges under the longer form Part 3 process. The Set Fine would become active upon approval by the Regional Senior Justice according to that approval process. On occasion, the Regional Senior Justice makes adjustments to the proposed fines and in order to prevent having to return for Council approval of a minor change to the Set Fine schedule, delegation of authority to implement such minor changes is requested to be made to the Regional Solicitor. It typically requires a few months to complete the fines application process.

*Future exemptions*

No new exemptions would be available except through the Local Tourism Strategy approved by a Local Municipal Council as described above. There is one current application submitted to the Region of Peel by Seafood City, a specialty food store located in Mississauga. A transition clause is provided in the proposed by-law that would recognize applications submitted prior to May 31, 2018, and allow for the process already underway to proceed in accordance with existing By-law 18-1999 Procedures for Processing of Applications for By-laws under Subsection Section 4 (1) of the *Retail Business Holidays Act*.

*Communications*

Once enacted, the Peel Regional Retail Holiday Shopping By-law will be circulated to the individuals on the notification list, which includes approximately 850 contacts gathered from the consultation process. A communication strategy will be developed and implemented to ensure Peel residents, business owners and retail workers are aware of and can find information regarding the Region's retail holiday shopping requirements. This would include information to be made available on the Regions web site, a social media campaign, and other tactics.

**REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL**

**CONCLUSION AND RECOMMENDATION**

The issue of retail holiday shopping can be seen as balancing common pause day protection with commercial opportunity and convenience for shoppers. The opportunity for increased commerce convenience for some must be weighed against the potential impact to the general social good of having common time off. While benefits may accrue to some, common time off is more about the preservation of a common social good consistently among all people, than about retail competition or provision of leisure activities. Common pause days, or public holidays, have sought to strike a balance between these three not only in Ontario, but across Canada and across many other countries.

A comprehensive engagement was undertaken with nearly 4000 responses. Through this process a clear demand for permitting additional retail business openings on holidays was not identified. However, the need for a clear and consistent exemptions policy was reinforced. In order for retail holiday shopping to work, there are three key stakeholders that need to work cohesively together. As discussed in Section 4 above, the majority amongst the three key stakeholders (residents/consumers, retail employees, and retail businesses) prefer not to operate on statutory holidays.

As a result, it is recommended that Council endorse the proposed approach to retail holiday closures in the Region of Peel and enact the associated by-law which includes:

- Protection of the common pause day principle and maintenance of the existing exemptions from the *Retail Business Holidays Act* for “essential” services and tourism-related businesses such as convenience stores, pharmacies, nurseries, gas stations, art galleries, and education/recreation/amusement uses;
- Maintenance of previously approved exemption applications through a grandfathering clause; and
- Introduction of new and more stringent tourism criteria that require a retail establishment to align directly with the local municipal tourism strategy in order to operate on statutory holidays.



Janette Smith, Commissioner of Public Works

**Approved for Submission:**



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D. Swarc, Chief Administrative Officer

**APPENDICES**

Appendix I – Proposed Retail Business Exemptions for Operation on Statutory Holidays

## 8.1-13

### REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

*For further information regarding this report, please contact Adrian Smith, RPP, MCIP  
Acting Director, Integrated Planning (905) 791-7800 x4251, [adrian.smith@peelregion.ca](mailto:adrian.smith@peelregion.ca).*

*Authored By: Deepiga Vigneswaran, Planner*

*Reviewed in workflow by*

Legal Services

## REGULATING RETAIL BUSINESS HOLIDAY SHOPPING IN THE REGION OF PEEL

## Proposed Retail Business Exemptions for Operation on Statutory Holidays

Proposed Retail Exemptions		
Source of Exemption	List of Exemptions	Details of Exemption
<i>Retail Business Holiday Act</i>	Small stores that sell: Foodstuffs; Tobacco; Antiques; Handicrafts. Not to exceed 3 persons engaged in the service of the public and 3,000 square feet.	Permitted to open on all statutory holidays.
	Pharmacies Principle business must be the sale of goods of a pharmaceutical or therapeutic nature or for hygienic or cosmetic goods.	
	Special Services: Gas stations/Motor vehicle shop; Nursery/Garden shops; Fresh fruit or vegetables (i.e. farm); Book stores.	
	Art Galleries	
	Education, Recreation, Amusement purposes	
	Liquor stores (i.e. rural general stores, on-site winery retail)	
	Tourist establishments	
Grandfathered Exemptions	Mississauga Chinese Centre (By-law 40-98)	Permitted to open on all statutory holidays.
	Port Credit Business Improvement Area (By-law 78-2012)	Permitted to open on New Year's Day, Victoria Day, Canada Day, Labour Day, Thanksgiving Day from 10:00 am to 11:59 pm
	Mississauga Square One (By-law 105-2009, as amended by By-law 33-2010)	Permitted to open on New Year's Day, Family Day, Victoria Day, Canada Day, Labour Day, Thanksgiving Day from 11:00 am and 6:00 pm
	Bramalea City Centre (By-law 97-2011, as amended by By-law 18-2013)	Permitted to open on New Year's Day, Family Day, Victoria Day, Canada Day, Labour Day, Thanksgiving Day from 11:00 am and 6:00 pm
	Garden Foods Bolton Ltd. (By-law 24-2013)	Permitted to open on Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day from 8:00 am and 6:00 pm
	T&T Supermarket (By-law 34-2015)	Permitted to open on all holidays, except Family Day or Christmas Day from 9:00 am and 10:00 pm
	Yuan Ming Supermarket Ltd. (By-law 44-2016)	Permitted to open on all holidays, except Family Day or Christmas Day from 9:00 am and 9:00 pm
Proposed New Exemptions	P.A.T Oriental Food Market (By-law 29-2017)	Permitted to open on all holidays, except Family Day or Christmas Day from 9:00 am and 10:00 pm
	Retail Establishments and Areas in a Local Tourism Strategy: A Retail Business Establishment within an area specifically identified for retail holiday opening in a Local Council approved Tourism Strategy.	Permitted to open on all holidays, except Family Day or Christmas Day from 9:00 am and 10:00 pm

THE REGIONAL MUNICIPALITY OF PEEL

BY-LAW NUMBER 34-2018

**A by-law passed under Section 1.2 of the *Retail Business Holidays Act* providing that the Act does not apply to The Regional Municipality of Peel and under Section 148 of the *Municipal Act, 2001* to regulate closing of business establishments within The Regional Municipality of Peel on a holiday; and to repeal By-law 18-1999.**

WHEREAS, section 1.2 of the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30 as amended (the "Act") provides that the Act does not apply to a municipality and does not apply in respect of any by-law of the municipality or any retail business establishment located in the municipality if there is in effect a by-law passed by the municipality providing that the Act does not apply to it;

AND WHEREAS, Regional Council has by adopting this by-law, passed a by-law under section 1.2 of the *Retail Business Holidays Act* providing that the Act does not apply to The Regional Municipality of Peel (the "Region"), any by-law of the Region, or any retail business establishment located in the Region;

AND WHEREAS, Section 148 of the *Municipal Act, 2001* provides that a Regional Municipality having passed a by-law under section 1.2 of the *Retail Business Holidays Act* may require that retail business establishments be closed to the public on a holiday;

AND WHEREAS, the Council of the Regional Corporation on the 11<sup>th</sup> day of March, 1999, enacted By-law 18-1999 to establish a procedure to be followed by applicants for a tourism exemption to the holiday closure requirements of the *Retail Business Holidays Act*;

AND WHEREAS, the Council of the Regional Corporation has by resolution adopted on the 14<sup>th</sup> day of June 2018, authorized the enactment of this by-law under section 1.2 of the *Retail Business Holidays Act* and under section 148 of the *Municipal Act, 2001* and the repeal of By-law 18-1999;

NOW THEREFORE, the Council of the Regional Corporation enacts as follows:

1. That the *Retail Business Holidays Act* does not apply to The Regional Municipality of Peel and does not apply in respect of any by-law of The Regional Municipality of Peel or any retail business establishment located in The Regional Municipality of Peel;
2. That By-law Number 18-1999 is repealed;
3. That this By-law comes into force on the day of its enactment, with the exception of Schedule "B", which shall come into force on the day the set fines for which it provides are approved or specified by the Regional Senior Justice of the Ontario Court of Justice pursuant to the *Provincial Offences Act* R.S.O. 1990 Ch. P. 33;
4. Schedule "A" and Schedule "B" attached hereto are enacted and form part of this By-law;
5. The set fines for an offence under this by-law are established in Schedule "B" to this By-law or as otherwise specified by the Regional Senior Justice of the Ontario Court of Justice pursuant to the *Provincial Offences Act*;
6. Notwithstanding the repeal of By-law 18-1999 and the enactment of this by-law, applications submitted prior to May 31, 2018, in accordance with By-law 18-1999 Schedule "A" Procedures for Processing of Applications for By-laws under Subsection 4 (1) of the *Retail Business Holidays Act*, shall be processed and considered by Regional Council in accordance with the provisions of By-law 18-1999 and of the *Retail Business Holidays Act* as though they continued to apply as they did prior to the enactment of this by-law. Should such an application be approved by a resolution of the Regional Council any retail business establishment or area thereby approved for exemption from retail business establishment holiday closing requirements shall be deemed to be a grandfathered exemption for the purposes of subsection 4(9) of Schedule "A" to this by-law without need for the enactment of any by-law, including the enactment of an amendment to this by-law.

READ THREE TIMES AND PASSED IN OPEN COUNCIL this 14<sup>th</sup> day of June, 2018.



Regional Clerk



Regional Chair

## **Schedule "A" to By-law 34-2018**

### **1. DEFINITIONS**

- (1) "Holiday" means New Year's Day, Family Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, and any other public holiday declared by proclamation of the Lieutenant Governor of the Province of Ontario to be a holiday.
- (2) "Local Municipality" means the lower-tier municipalities within The Regional Municipality of Peel, namely The Corporation of the City of Mississauga, The Corporation of the City of Brampton, and The Corporation of the Town of Caledon.
- (3) "Officer" means a police officer of the Peel Regional Police or Ontario Provincial Police.
- (4) "Retail Business" means the selling or offering for sale of goods or services by retail.
- (5) "Retail Business Establishment" means the premises where goods or services are sold or offered for sale by retail.
- (6) "Tourist Establishment" means any premises designed for the traveling or vacationing public and that has facilities for sleeping or living accommodation and may serve meals or provide kitchen facilities as part of a restaurant and may furnish equipment, supplies or services to persons for recreational purposes, but does not include a tourist camp or park.
- (7) "Tourism Strategy" means any policy adopted by a resolution or by-law of the Council of a Local Municipality which sets out geographic areas within the boundaries of the Local Municipality in which tourism is being promoted according to its vision and goals.

### **2. HOLIDAY CLOSURES**

No person carrying on a Retail Business in a Retail Business Establishment shall:

- (1) Sell or offer any goods or services for sale on a Holiday.
- (2) Admit members of the public to the Retail Business Establishment on a Holiday.

### **3. EMPLOYEES**

No person employed by or acting on behalf of a person carrying on a Retail Business shall:

- (1) Sell or offer for sale any goods or services on a Holiday.
- (2) Admit members of the public to the Retail Business Establishment on a Holiday.

#### 4. EXEMPTIONS

##### Small stores

- (1) Sections 2 and 3 do not apply in respect of the carrying on of a Retail Business on a Holiday where on that day the only goods available for sale by retail are:
  - (a) Foodstuffs;
  - (b) Tobacco or articles required for the use of tobacco;
  - (c) Antiques;
  - (d) Handicrafts; or
  - (e) Any combination of the goods in subclauses (a), (b), (c) and (d), or where the principal business is the sale of goods referred to in subclauses (a) to (d), or any of them, by retail and no other goods are available for sale except as sundries; and,
  - (f) The number of persons engaged in the service of the public in the establishment does not at any time exceed three; and,
  - (g) The total area used for serving the public or for selling or displaying to the public in the establishment is less than 3,000 square feet.

##### Pharmacies

- (2) Sections 2 and 3 do not apply in respect of the carrying on of a Retail Business on a Holiday in a pharmacy accredited under the *Drug and Pharmacies Regulation Act*, where on that day:
  - (a) the dispensing of drugs upon prescription is available to the public during business hours; and
  - (b) the principal business of the pharmacy is the sale of goods of a pharmaceutical or therapeutic nature or for hygienic or cosmetic purposes.

##### Special Services

- (3) Sections 2 and 3 do not apply in respect of the carrying on of a Retail Business in a Retail Business Establishment on a Holiday where on that day the only goods available for sale by retail in the establishment are:
  - (a) gasoline and motor oil and, in conjunction therewith, other goods for consumption in the operation of a motor vehicle; or
  - (b) nursery stock or flowers, and in conjunction therewith, accessory gardening supplies; or
  - (c) fresh fruit or vegetables in respect of Holidays falling between the 1<sup>st</sup> day of April and the 30<sup>th</sup> day of November of the same year; or
  - (d) books, newspapers or periodicals provided that no other goods are available for sale except as sundries, and the number of persons engaged in the service of the public in the establishment does not at any time exceed three.

**Art Galleries**

- (4) Sections 2 and 3 do not apply in respect of the carrying on of the retail business of an art gallery on a Holiday, where on that day the number of persons engaged in the service of the public does not at any time exceed three.

**Education, Recreation, Amusement**

- (5) Sections 2 and 3 do not apply in respect of the admission of the public to premises for educational, recreational or amusement purposes or in respect of the sale or offering for sale of goods or services incidental thereto.

**Liquor**

- (6) Sections 2 and 3 do not apply in respect of the sale or offering for sale by retail of liquor under the authority of a licence or permit issued under the *Liquor Licence Act*.

**Tourist Establishments**

- (7) Sections 2 and 3 do not apply in respect of the sale or offering for sale of retail goods or services by Tourist Establishments.

**Retail Establishments and Areas in the Local Municipal Tourism Strategy**

- (8) Sections 2 and 3 do not apply in respect of the sale or offering for sale of retail goods or services on a Holiday by any Retail Business Establishment that is within an area specifically geographically delineated and identified for retail holiday opening in a Tourism Strategy adopted by the Council of any Local Municipality, as such Tourist Strategy may be amended from time to time by the Council of the Local Municipality, save and except that no Retail Business Establishment within such Tourism Strategy area shall open on Family Day or Christmas Day and sections 2 and 3 continue to apply to them on those days.

**Grandfathered Exemptions**

- (9) Sections 2 and 3 do not apply in respect of any retail business establishments or areas that have received exemption from the Council of The Regional Municipality of Peel under the *Retail Business Holidays Act* and which are permitted to remain open on specified Holidays at the times and on the Holidays for which they were granted exemption under the following enacted by-laws or adopted measures:
- (a) By-law 40-98 (Mississauga Chinese Centre)
  - (b) By-law 105-2009, amended by By-law 33-2010 (Mississauga Square One)
  - (c) By-law 97-2011, amended by By-law 18-2013 (Bramalea City Centre)
  - (d) By-law 78-2012 (Port Credit Business Improvement Area)
  - (e) By-law 24-2013 (Garden Foods Bolton Ltd.)
  - (f) By-law 34-2015 (T&T Supermarket)
  - (g) By-law 44-2016 (Yuan Ming Supermarket Ltd.)
  - (h) By-law 29-2017 (P.A.T Oriental Food Market)
  - (i) An approval to which section 6 of the enacting portion of this by-law (not forming part of the Schedules to this by-law) applies

**5. INSPECTION**

1. Any Officer, for the purpose of determining compliance with this by-law, may enter a Retail Business Establishment to carry out an inspection and may;
  - (a) Require the production for inspection of documents or things relevant to the inspection;
  - (b) Inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts; and,
  - (c) Take photographs necessary for the purpose of the inspection.
2. Any person in or related to a Retail Business Establishment shall cooperate with any Officer conducting an inspection under this section.

**6. OFFENCE AND MINIMUM PENALTY**

Every person who contravenes section 2 or 3 is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Other than a Part 1 Set Fine as provided for under Schedule 'B' or a set fine as otherwise specified by the Regional Senior Justice of the Ontario Court of Justice pursuant to the *Provincial Offences Act*, the minimum fine for an offence under this by-law is \$500.

**Schedule "B" to By-law 34-2018**

REGION OF PEEL RETAIL BUSINESS HOLIDAY OPENINGS BY-LAW 34-2018

PART 1 *Provincial Offences Act*

Short Form Offences and Set Fines

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1.	Owner/operator conduct or offer sales in Retail Business Establishment on a Holiday without exemption to do so	S. 2(1)	\$500
2.	Owner/operator admit public to Retail Business Establishment on a Holiday without exemption to do so	S. 2(2)	\$500
3.	Employee conduct or offer sales in Retail Business Establishment on a Holiday without exemption to do so	S. 3(1)	\$500
4.	Employee admit public to Retail Business Establishment on a Holiday without exemption to do so	S. 3(2)	\$500
5.	Not cooperate with Officer for inspection	S. 5(2)	\$500