

BY-LAW NO. 6728-92

A BY-LAW TO ESTABLISH PROCEDURES AND
FEES FOR PROCESSING APPLICATIONS FOR
HOLIDAY OPENINGS FOR TOURISM UNDER THE
RETAIL BUSINESS HOLIDAYS ACT

WHEREAS pursuant to section 4(1) of the Retail Business Holidays Act, R.S.O. 1990, Chapter R.30, as amended, the council of a municipality may by by-law permit retail business establishments to be open on holidays for the maintenance or development of tourism;

AND WHEREAS pursuant to section 4(9)(a) of the said Act, the council may establish procedures and fees for the processing of applications;


AND WHEREAS Regional Council deems it expedient to establish procedures and fees for the processing of applications for holiday openings for the maintenance or development of tourism under the said Act;

THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

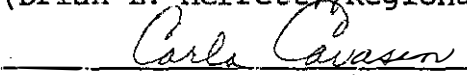
1. That a fee of \$750.00 shall be charged for the processing of each application.
2. That if an application is made by an association representing persons carrying on retail business, or by a local municipality, and if any retail business establishment that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public or normally has four or more employees serving the public, makes an application in conjunction with and together with that application, then an additional fee of \$100.00 shall be charged for each such retail business establishment.
3. That the application fee shall be submitted with the application and shall be non-refundable, except for the costs of publishing notice of a public meeting, which costs may be refunded if the application is withdrawn prior to these costs being incurred.
4. That advertisements shall be placed in the local newspapers to advise persons carrying on retail business in the municipality of the procedures and fees approved for holiday openings for applications for tourism, and to establish deadlines for the receipt of applications.
5. That the procedures for processing applications shall be as set out in Schedule "A" hereto.

6. That this by-law shall come into force and take effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA



(Brian E. Merrett, Regional Chair)



(Carla Cavasin, Regional Clerk)

Passed: May 7, 1992

SCHEDULE "A"

Bill 6715

PROCEDURES

A. Instructions to Applicants

Upon receipt of a telephone or written enquiry, applicants will be sent an information package which will include the following:

- Bill 115
- Ontario Regulation 711/91 - Tourism Criteria
- Background information provided by Ontario Ministry of Tourism and Recreation and Ministry of the Solicitor General i.e. summary of the Act, definitions of tourism attractions, telephone numbers to call for further information on common pause day legislation
- Application form (See Appendix A)

Applicants will be advised:

1. A non-refundable fee is required upon submission of an application.
2. The application will be scheduled on the next available public meeting date, if:
 - the applicant has completed their application providing all supporting material and documentation.
3. The area municipality in which the business establishment is located will be notified and asked for comment for inclusion at the respective public hearing.

B. Processing of Applications

1. An applicant seeking permission for a retail business establishment to be open on any holiday pursuant to the Act shall submit to the Regional Clerk a duly executed application form, accompanied by a non-refundable fee and supporting documentation.
2. The Regional Clerk shall forward a copy of the application to the Solicitor for review and comment prior to the scheduling of a public meeting relating to the application.

3. The Regional Clerk shall forward a copy of the application to the Clerk of the area municipality to which the application applies with a request to forward their comments on to the Region for inclusion at the public meeting being a special meeting of Regional Council.
4. Staff will prepare the necessary by-law and given notification of the public meeting and such notice shall be at least thirty days prior to the meeting.
5. This special meeting of Council will be held to allow any person who attends the opportunity to make representations in respect of the proposed by-law and to allow Council to consider the approval or denial of the by-law.

Section 4.7 provides that Council is not required to pass the by-law even if the tourism criteria are met.

6. The by-law, if passed, will come into force 31 days after it is passed and not appealed.

THE REGIONAL MUNICIPALITY OF NIAGARA

APPLICATION FOR TOURISM EXEMPTION

RE HOLIDAY OPENINGS

The undersigned hereby applies to the Council of the Regional Municipality of Niagara for an exempting by-law under subsection 4(1) of the Retail Business Holidays Act, R.S.O. 1990, Chapter R.30

If more than one person carrying on retail business is represented in this application, please list information for each on a separate page and attach to form.

Pursuant to the Regulations under the Act, an application relating to a retail business establishment that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public or normally has four or more employees serving the public shall be made only by that retail business establishment.

(PLEASE PRINT OR TYPE AND ADD EXTRA PAGES, IF NECESSARY)

PART I - APPLICANT INFORMATION

1 Type of applicant (please check one):

_____ one or more persons carrying on retail business in the Regional Municipality of Niagara

_____ an association, whether or not incorporated, representing persons carrying on retail business in the Regional Municipality of Niagara

_____ a council of a local municipality

2 Name of Applicant: _____

Mailing Address of Applicant: _____

Telephone No. of Applicant: _____ Fax No.: _____

3 Applicant's Authorized Agent (to whom all correspondence will be sent): _____

Mailing Address: _____

Telephone No.: _____ Fax No.: _____

4 Location of Retail Business Establishment

Municipal Address _____
Street Number, Municipality _____

5 If you wish the exemption to apply to one or more classes of retail business establishments, please define and specify the classes:

Total No of Sq. Ft normally used for serving the public: _____

Total No of Employees normally serving the public: _____

PART II - TOURISM CRITERIA

Tourist attractions are limited to:

- a) natural attractions or outdoor recreational attractions;
- b) historical attractions; and
- c) cultural, multi-cultural or educational attractions

The two (2) kilometre restriction set out in the Regulations to the Act does not apply to a retail business establishment located in a local municipality within the Region of Niagara, having a population of less than 50,000

1. Is business located within two kilometres of a tourist attraction?

If yes, describe the nature of tourist attraction:

2 Describe nature of direct association with the tourist attraction or reliance on tourists visiting the attraction for business on a holiday

3. Where the application involves a business that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public, or normally has four or more employees serving the public, please outline the goods or services provided primarily to tourists.

4 Is request related to a special event? Yes _____ No _____

(NOTE: A retail business establishment may be exempted for up to five holidays a year during which a fair, festival or other special event (but not solely a parade) is being held in that municipality.

For what holidays is exemption being sought? _____

Describe special event, duration and time of year

5 Indicate how the exemption would, if granted, be for the maintenance or development of tourism and briefly identify other material submitted with this application that supports this conclusion:

6. What justification is there for the opening of the retail business establishment(s) on holidays in light of the principle, stated in the Retail Business Holidays Act, that holidays should be maintained as common pause days?

EXECUTION BY APPLICANT

I, _____ of the _____ of
_____ in the _____

of _____ do solemnly declare that all of
the statements contained in this application are true and I make this
solemn declaration conscientiously, believing it to be true and knowing
that it is of the same force and effect as if made under oath and by
virtue of the Canada Evidence Act.

Declared before me at the _____)
of _____, in the _____)
_____)
of _____ this _____) (Applicant)
day of _____, 19____)

A Commissioner, etc.

APPOINTMENT OF AUTHORIZED AGENT

I/we, _____ hereby appoint _____
of _____ to act as my/our authorized agent in this
application.

Witness: _____ Signed _____
_____ (Applicant)

Date: _____

NOTES:

- 1. It is required that the original application be filed with the
Regional Clerk, together with appropriate documentation,
accompanied by a cheque in the amount of \$750, made payable to:

THE REGIONAL MUNICIPALITY OF NIAGARA

This fee will cover the following:

- publication costs
 - legal costs to review applications
 - administrative costs i.e. printing, mailing
- 2 Applications are to be filed at the Clerk's Department, the
Regional Municipality of Niagara, 2201 St David's Road, Thorold,
Ontario, L2V 4T7 to the attention of the Regional Clerk (685-1571).
 - 3 This application and any by-law passed by the Region are
subject to the provisions of the Retail Business Holidays Act.
It is strongly suggested that Applicants contact their
solicitor with respect to the provisions of the Act.
 - 4 It is preferred where possible that applicants submit a proposed
exemption by-law with their applications.
 - 5 Each application must be accompanied by a scaled plan or map of the
area covered by the proposed by-law showing:
 - (a) the retail business establishment(s);
 - (b) the tourist attraction; and
 - (c) the scale of the plan or map enabling the distances to be
measured

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 19-2010

A BY-LAW TO AMEND BY-LAW NO. 6728-92
A BY-LAW TO ESTABLISH PROCEDURES AND FEES FOR
PROCESSING APPLICATIONS FOR HOLIDAY OPENINGS
FOR TOURISM UNDER THE *RETAIL BUSINESS HOLIDAYS ACT*

WHEREAS pursuant to section 4(1) of the *Retail Business Holidays Act*, R.S.O. 1990, Chapter R.30, as amended, the Council of a municipality may by by-law permit retail business establishments to be open on holidays for the maintenance or development of tourism; and

WHEREAS pursuant to section 4(9)(a) of the said Act, the council may establish procedures and fees for the processing of applications; and

WHEREAS Regional Council deems it expedient to establish procedures and fees for the processing of applications for holiday opening for the maintenance or development of tourism under the said Act; and

WHEREAS Regional Council deems it advisable to amend the aforesaid By-law to designate the Integrated Community Planning Committee as the body to hold the public hearing required with respect to the processing of applications for holiday openings for tourism under the *Retail Business Holidays Act*;

THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

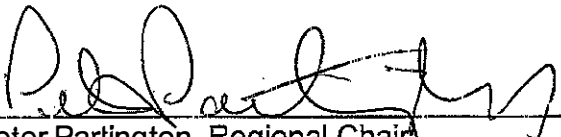
1. That Schedule "A" of By-law 6728-92 be ***amended*** to read as follows:

B. Processing of Applications

1. An applicant seeking permission for a retail business establishment to be open on any holiday pursuant to the Act shall submit to the Regional Clerk a duly executed application form, accompanied by a non-refundable fee and supporting documentation
2. The Regional Clerk shall forward a copy of the application to the Solicitor for review and comment prior to
3. The Regional Clerk shall forward a copy of the application to the Clerk of the area municipality to which the application applies with a request to forward their comments on to the Region for inclusion at the public meeting to be held before the ***Integrated Community Planning Committee***.

4. Staff will prepare the necessary by-law and given notification of the public meeting and such notice shall be at least thirty days prior to the meeting.
 5. The public meeting before the ***Integrated Community Planning Committee (ICPC)*** will be held to allow any person who attends the opportunity to make representations in respect of the proposed by-law and to allow the ***ICPC to make a recommendation to Regional Council with respect to the proposed by-law.***
 6. The by-law, if passed, will come into force 31 days after it is passed and not appealed.
2. That By-law No 6728-92 is hereby amended.
 3. That this By-law shall come into force and take effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA



(Peter Partington, Regional Chair)



(Kevin Bain, Regional Clerk)

Passed: February 11, 2010