

THE REGIONAL MUNICIPALITY OF NIAGARA

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) 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except for the costs of publishing notice of a public meeting, which costs may be refunded if the application is withdrawn prior to these costs being incurred.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.

Bill 6715, *as amended by By-law No. 19-2010.*

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

*Original Signed By:*

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Regional Chair, Brian E. Merrett

*Original Signed By:*

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Regional Clerk, Carla Cavasin

Passed: May 7, 1992

**SCHEDULE "A"**

**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 (*as amended by By-law No. 19-2010*)

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 ***to be held before the Integrated Community Planning Committee.***

Bill 6715, *as amended by By-law No. 19-2010.*

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.

THE REGIONAL MUNICIPALITY OF NIAGARA  
APPLICATION FOR TOURISM EXEMPTION  
RE HOLIDAY OPENINGS

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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 business establishment.

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

**PART 1 – APPLICANT INFORMATION**

1. Type of applicant (please check one):

- one or more person 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.: \_\_\_\_\_

Email Address of Applicant \_\_\_\_\_

Bill 6715, *as amended by By-law No. 19-2010.*

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

\_\_\_\_\_

Mailing Address of Applicant:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. of Applicant:

\_\_\_\_\_

Fax No.:

\_\_\_\_\_

Email Address of Applicant

\_\_\_\_\_

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 Regional of Niagara, having a population of less than 50,000

1. Is business located within two kilometres of a tourist attraction?      Yes      No

If yes, describe the nature of tourist attraction:

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

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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.

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This section relates only to applications to grant exemptions on an area basis.

4. a) In what local municipality is it located?

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b) Describe subject area (in words):

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(Please attach a map or sketch)

c) How many businesses are included in this application?

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d) Are all the retail business establishments in the described area within two kilometres of the tourist attraction?

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e) Does the area exceed that necessary to encompass all of the retail business establishments for which an exemption is sought?

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If not, explain how it does not:

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f) How many of the businesses are directly associated with the tourist attraction or rely on tourists visiting the tourist attraction for business on a holiday? (Regulations to the Act require at least 25% of the businesses)

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- g) If application is submitted by an association, describe briefly the purpose of the association, the area and type of businesses it represents.

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**PART III - GENERAL**

1. Indicate which holidays, and which specific times or specific number of hours you wish to be open on those holidays:

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2. Is request seasonal in nature, e.g. summer months only? \_\_\_\_\_  
If yes, what time period is sought?

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3. What is the justification in relation to the seasonal nature, if any, of the tourist attraction, for the time period sought in the exemption?

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4. Is request related to a special event? \_\_\_\_\_

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?

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Describe special event, duration and time of year

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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:

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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?

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**EXECUTION BY APPLICANT**

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_ in the  
(Name of Applicant) (City, Town, or Township) (Name of Municipality)  
\_\_\_\_\_ do solemnly declare that all of the statements contained in this  
(Region, County, District, Single Tier)  
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

\_\_\_\_\_  
(city, town, or municipality)

of

\_\_\_\_\_

in the Province of Ontario,

}  
\_\_\_\_\_  
(Applicant)

this \_\_\_\_\_ day of

\_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
A Commissioner, etc.

**APPOINTMENT OF AUTHORIZED AGENT**

I/We, [Click here to enter text.](#) hereby appoint [Click here to enter text.](#) of [Click here to enter text.](#) to act as my/our authorized agent in this application.

Witness: \_\_\_\_\_ Signed: \_\_\_\_\_  
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.