

Region of Peel

Retail Business Holiday Act

Orientation

1. Introduction

The Retail Business Holiday Act defines ‘holiday’ and ‘retail business’ and requires that retail businesses remain closed for statutory holidays. (See Appendix A for a summary of the Act.) Exemptions for ‘essential business services are granted by the Act. The Act also grants Regional Council to provide additional exemptions in order to support the tourism industry provided certain criteria approved by Provincial Regulation 711/91, are satisfied. (See Appendix B.) As some applications are made by businesses which claim to be ‘tourist attractions’, a definition of ‘tourism attractions is included as Appendix C.

2. Exemptions

Applications for exemptions are to be processed in accordance with a procedure approved by Regional Council through By-law 18-1999 (which replaced the original By-law 58-92). (See Appendix D for a summary of the By-law). Exemption Applications are to be submitted to the Commissioner of Planning.

3. Application Requirements

Applicants are required by By-law to complete a request in a format illustrated in Appendix E (E1 for an individual establishment or an area and D2 for a special event) and must submit a Fee, established in the Fees By-law. Fees for 205 are \$3,200 for Brampton and Mississauga and \$2,575 in Caledon. (A refund of \$2,700 in Mississauga and Brampton and \$1,075 is returned to the applicant if Regional Council decides not to proceed to a Public Meeting.

4. Process

The Development Planning Services Section (DPS) will circulate the proposal to prescribed and discretionary persons and agencies and prepare a report to Regional Council as to whether the proposal satisfies Provincial Criteria and whether a Public Meeting should be held. If a Public Meeting is requested by Council, DPS will prepare a draft implementing By-law and cause notice to prescribed persons and agencies.

5. Duration

The process will take 120 days as there are statutory notice periods.

6. Appeals

The Retail Holiday Business Act, allows any person to object to Council's By-law to exempt a business, area or special event, by filing a notice of appeal to the Board within 30 days of the By-law's approval, and reasons in support of the objection. The Region's By-law specifically states that Regional Staff will not participate in any Hearing to resolve the objection. There have been objections to exemption by-laws passed by Regional Council.

Appendix A

Retail Business Holidays Act

Summary

1. A 'Holiday' means: New Years Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, and any special day declared by the Lieutenant Governor.
2. 'Retail Business' is where goods or services are offered for sale at retail. The Owner or an employee is responsible for compliance.
3. Retail Businesses must be closed during holidays except for:
 - a) where three or less employees, in 2,400 square feet or less offer only:
 - i) foodstuffs
 - ii) tobacco
 - iii) antiques
 - iv) handicrafts
 - v) art
 - vi) books, newspapers or periodicals
 - b) pharmacies licenced under the Drug and Pharmacies Regulation Act that are less than 7,500 square feet in area;
 - c) vendors of:
 - i) gasoline
 - ii) nursery stock and flowers
 - iii) fresh fruit and vegetables between April 1 and November 30.
 - d) businesses licenced under the Licquor License Act or Tourism Act.
 - e) businesses offering admission to educational, recreational or amusement services;
 - f) businesses offering:
 - i) prepared meals
 - ii) living accommodation
 - iii) laundramats
 - iv) vehicle rental or repair (including boats).
4. A Regional municipality may grant exemptions to the Act in order to enhance tourism related businesses. An application may be made by an individual business, group of businesses or a municipality. Regional Council must hold a Public Meeting and must take tourism criteria, issued by the Lieutenant Governor

into account and may approve or deny the application, even if the proposal meets the criteria. The criteria mentioned above is set out in Ontario Regulation 711/91. An implementing By-law must be approved a minimum of 30 days prior to its effective date and the applicant may appeal the decision to the Ontario Municipal Board.

The Council may establish procedures and set a fee (within the scope of regulations) for processing applications. An exemption by-law may effect one or more businesses or class of businesses, effect only portions of the municipality, effect one or more or different holidays or times of the year and may limit the number of hours the business may be allowed to be open.

5. There is provisions for “Religious” concerns allowing a business to be open on a Sunday or holiday, if it regularly closes another day.
6. Provisions of a lease that require a business to be open on a Sunday or December 26 is of no effect.
7. The Retail Holiday Business Act, allows any person to object to Council’s By-law to exempt a business, area or special event, by filing a notice of appeal to the Board within 30 days of the By-law’s approval, and reasons in support of the objection
8. Minimum Fines are \$500 for a first offence, \$2,000 for a second offence and \$5,000 for third or subsequent offence and the maximum fine is \$50,000 or the gross sales for the day.
9. The Act is administered by the Ministry of Consumer and Business Services and Regulations must be issued by the Lieutenant Governor.
10. The Act is enforced by the Policing Authority having jurisdiction in the area and the Provincial Offences Act prevails.
11. This summary is for the convenience of the reader. Please refer to the Act for a detailed understanding of the effect of the Act.

Appendix B

Tourism Criteria

Regulation 711/91 made under the Retail Business Holidays Act

1. This Regulation sets out the tourism criteria that must be met before a municipality may pass an exempting by-law under subsection 4(1) of the Act.
- 2.(1) A retail business establishment may be exempted if,
 - (a) it is located within two kilometres of a tourist attraction; and
 - (b) it is directly associated with the tourist attraction or relies on tourists visiting the attraction for business on a holiday.
- (2) An exemption granted on an area basis may only be given if,
 - (a) all of the retail business establishments in the area are within two kilometres of the tourist attraction;
 - (b) the area does not exceed that necessary to encompass all of the retail business establishments for which an exemption is sought; and
 - (c) at least 25 per cent of the retail business establishments in the area are directly associated with the tourist attraction or rely on tourists visiting the attraction for business on a holiday.
- (3) For the purposes of this section a tourist attraction is limited to,
 - (a) natural attractions or outdoor recreational attractions;
 - (b) historical attractions; and
 - (c) cultural, multi-cultural or educational attractions.
3. Each 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 must, in addition to meeting the tourism criteria set out in subsection 2(1), provide goods or services on holidays primarily to tourists.
4. The two kilometre restriction set out in subsections 2 (1) and (2) does not apply to a retail business establishment located in a local municipality, including a local municipality located in a district or regional municipality or the County of Oxford, having a population of less than 50,000.

5.(1) Despite any other provision of this Regulation, retail business establishments in a municipality may be exempted for up to five holidays a year during which a fair, festival or other special event is being held in that municipality.

(2) Subsection (1) does not apply to parades.

6.(1) An application for an exemption under subsection 4(3) of the Act shall contain the following:

1. A description of the area or the retail business establishment for which the exemption is sought.

2. The justification, in relation to the seasonal nature, if any, of the tourist attraction, for the time period sought in the exemption.

3. Information establishing that the tourism criteria set out in this Regulation are met.

(2) An application in respect of a retail business establishment described in section 3 shall be made only by that retail business establishment.

7. This Regulation comes into force on the day that subsection 1(1) of the *Retail Business Establishments Statute Law Amendment Act, 1991* is proclaimed in force.

Appendix C

DEFINITIONS OF TOURISM ATTRACTIONS AS IDENTIFIED IN THE TOURISM EXEMPTION REGULATION UNDER THE RETAIL BUSINESS HOLIDAYS ACT

NATURAL ATTRACTIONS

Natural Attractions draw visitors to the area to observe and focus on a unique feature or features.

Key Features of Natural Attractions:

- Natural attractions are based on unique features of the geological formation, climate, scenery or wildlife.
- Natural attractions may incorporate support services, such as:
 - hospitality services
 - guides, instructors
 - parking and transportation
 - marinas, docking facilities
 - sanitary facilities
 - signage
 - equipment supply
 - trails
 - interpretive facilities

Other Features of Natural Attractions:

- Natural attractions may be located in provincial or national parks.

OUTDOOR RECREATIONAL ATTRACTIONS

Outdoor recreational attractions provide visitors with opportunities to engage in leisure activities or outdoor recreational pursuits which are directly associated with the natural resources of a given area.

Key Features of Outdoor Recreational Pursuits:

- Outdoor recreational pursuits are closely linked with natural assets that create an attractive environment for the activity.
- Outdoor recreational pursuits should be supported through basic services or amenities which facilitate public participation in the activity or activities.

Examples of Outdoor Recreational pursuits:

- Outdoor recreational pursuits include:

- hiking
- boating
- camping
- fishing
- water-skiing
- skiing
- nature photography
- biking
- golfing
- birdwatching
- snowmobiling
- swimming

HISTORICAL ATTRACTIONS

Historical attractions portray the lifestyle, activities or events of a bygone era. They are preserved, developed and promoted to commemorate, re-create, and enhance understanding of the past.

Key Features of Historical Attractions:

- Historical attractions are attractions that have a historical association with people, lifestyles, activities or events in the past that affected a community of geographic area.
- Historical attractions should authentically reflect or portray the people, lifestyles, activities or events that are being commemorated.
- Historical attractions should have a permanent location.

Appendix D

By-Law 18-99

By-law to establish process to consider Exemptions to the

Retail Business Holiday Act

Summary

1. By-law is enabled under Section 4(9) of the Retail Business Holiday Act, RSO 1990. Procedure is established by Policy No. P00-01 of the Region of Peel Corporate Policy Manual.
2. Applications for exemption to the Act must be made as follows:
 - a) Six Signed copies of the prescribed Form;
 - b) Six sets of supporting information;
 - c) Submitted to the Planning Department prior to four annual deadline dates: January 15, April 15, July 15 and Oct 15;
 - d) Payment of Fee as established by User Fees and Charges By-law (\$3,200 for Brampton and Mississauga, \$2,575 for Caledon (2005 rates).
3. Supporting documentation must be prepared by qualified person and include: qualifications of the author, methodology used, sufficient data, information and facts, reasons for conclusions, opinion on satisfaction of criteria established by Provincial Regulations.
4. A separate application and fee is required for each business, unless application is for a Special Event or a Specified Area.
5. Note that a Public Meeting is required and minimum notice is 30 days and if the application is approved a minimum wait period of 30 days is required before implementing By-law becomes into effect. In addition, staff will circulate the application to effected municipalities, agencies, persons and internal departments for comment. Allow a minimum of 120 days prior to the holiday or event date.
6. Note that Regional Council is not obliged to approve the application, even if all of the Provincial criteria is satisfied.
7. If application is denied prior to giving notice of a Public Meeting, a refund of the application fee in the amount set out in the User Fees and Charges By-law (\$2,700 in Brampton and Mississauga and \$1,075 in Caledon would be paid to the applicant.

8. If Council denies the application, the proponent may appeal the decision to the Ontario Municipal Board. Any person may appeal the By-law directly to the OMB within 30 days of Council's approval.
9. The By-law specifically states that Regional Staff will not participate in any Hearing to resolve the objection. There have been objections to exemption by-laws passed by Regional Council.

**THE RETAIL BUSINESS HOLIDAYS ACT S(4).
ESTABLISHMENT OR AREA EXEMPTION
APPLICATION**

To be completed by all applicants applying for an establishment or an area exemption.

NOTE: Applicants applying for exemption for up to five holidays a year, during which a fair, festival, or other event is being held, use the separate application entitled "SPECIAL EVENT APPLICATION"

APPLICANT INFORMATION

1. Type of Exemption Application:

An applicant may apply for a by-law to permit one or more Retail Business Establishments to open on a holiday for the maintenance and development of tourism (an "exemption"). Except where an application is made on an area basis, a separate application and fee must be submitted for each retail business establishment for which an exemption is sought. Check one and complete the designated Sections.

- Establishment** Applicant applying for exemption for an individual retail business establishment. **Complete Sections I, III, IV and Appendix 1.**

- Area** Applicants applying for exemption on an area-wide basis. **Complete Sections I, II, IV and Appendix 1.**

If this is an **Application for Renewal**, provide previous exempting By-law Number 58-92 or 18-1999.

2. Municipality: In which municipality in the Region of Peel is the retail business establishment or exemption area located:

- Mississauga Brampton Caledon

Indicate whether any of the following municipalities are located within one kilometre of the subject retail business establishment or area:

Mississauga Brampton Caledon

3. Applicant Classification:

"Applicant" means: (please check **one** and provide information)

- i. person or persons, including a corporation, and a partnership carrying on a retail business in a retail business establishment in the Region of Peel. Provide name and address of such retail business establishment.

Retail Business Establishment: _____

Address: _____

- ii. an association whether or not incorporated representing retailers carrying on business in the Region of Peel.

Name of Association: _____

- iii. council of a local municipality (attach authorizing resolution).

4. Applicant Names:

a) *List the name and address of each retail business establishment seeking exemption, or if the applicant is an association or council of a local municipality, list the name(s) and address(es) of each retail business establishment seeking an exemption which is represented by the association or council.*

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

b) *Provide name and address of the principle contact person, legal counsel, or authorized agent (if any) representing the applicant(s) to whom all correspondence will be addressed:*

Name of Firm: _____

Contact Person: _____

Address: _____

Business Tel.: () _____ Fax: () _____

5. Proposed Holiday Operations

a) *Which Holidays?*

All Holidays Sundays Only

Specific Holiday(s) Seasonal, Specify

_____	_____
_____	_____
_____	_____
_____	_____

b) *Proposed Hours of Operation* _____

6. Provide a **Key Plan** showing the retail business establishment or area for which the exemption is sought and the location of the qualifying tourist attraction(s). Include the scale of the plan.

7. Provide a **Study** establishing that the exemption requested will comply with the relevant criteria under the Act and Regulation and elaborating upon responses requested in this application form. The Study, prepared by a qualified person, must set out the qualifications of such person, the methodology employed, the relevant facts, reasons for conclusions drawn and describe how passing of a tourism exemption by-law will contribute to the maintenance or development of tourism. Provide any other information to establish that the requirements of Regional By-law Number 18-1999 are met. The Regional Municipality of Peel may require such further information as it deems necessary in order to assess this application. (Guidelines are available from the Region of Peel Clerk's office).

SECTION I TOURIST ATTRACTIONS

To be completed by **all applicants**.

1. a) *Identify and briefly describe the tourist attraction(s) which is/are relied upon. [Where the retail business establishment(s) are located in the City of Mississauga or the City of Brampton the tourist attraction(s) must be located within two kilometres of the retail business establishment(s)].*

- b) *Is the Tourist Attraction seasonal in nature?*

No Yes

If Yes, explain the **Seasonal Nature** of the tourist attraction and the justification in relation to the seasonal nature for the time period for which the exemption is sought.

2. **Under which category does the tourist attraction(s) fall?**

- Natural Attractions**, including those which draw visitors to the area to observe and focus on a unique natural feature or features.
- Outdoor Recreational Attractions**, including those which provide visitors with opportunities to engage in leisure activities or outdoor recreational pursuits which are directly associated with the natural resources of a given area.
- Historical Attractions**, including those which portray the lifestyle, activities or events of a bygone era. These may be preserved, developed, and promoted to commemorate, re-create and enhance understanding of the past.
- Cultural Attractions**, including those which draw visitors wishing to experience the fine arts or performing arts associated with local artists or with those of national or international prominence. **Multi-Cultural Attractions**, including those which feature displays or exhibits promoting

an understanding of an appreciation of other traditions and cultures.
Educational Attractions, including those which are an implicit or explicit part of all cultural and multi-cultural attractions.

SECTION II AREA APPLICATION

To be completed by **all applicants applying for exemption on an area wide basis.**

Note: Any retail business establishment which on days other than holidays normally uses 2,400 square feet or more for serving the public or normally has four or more employees serving the public must itself make a separate establishment application for exemption.

1. Using Appendix 1, list **all** the retail establishments falling within the area proposed for exemption regardless of whether or not the retail business establishment is one for which application is made, and provide the information requested. (If extra space is required on Appendix 1, make blank photocopies of the form).

2. Using the information provided in Appendix 1, what percentage of the retail business establishments in the area are directly associated with the tourist attraction or rely on tourists visiting the attraction for business on a holiday? _____%

SECTION III ESTABLISHMENT APPLICATION

To be completed by **the applicant making an establishment application.**

Note: Any retail business establishment which on days other than holidays normally uses 2,400 square feet or more for serving the public or normally has four or more employees serving the public must itself make a separate establishment application for exemption.

1. Complete Appendix 1, for the retail business establishment for which the application is made and provide the information requested. (If extra space is required on Appendix 1, make blank photocopies of the form).

**THE RETAIL BUSINESS HOLIDAYS ACT S(4)
SPECIAL EVENT APPLICATION**

To be completed by applicants applying for exemption for up to five holidays a year, during which a fair, festival, or other event is being held in their local municipality (excluding parades).

1. Municipality: In which municipality in the Region of Peel is the retail business establishment(s) or exemption area located:

Mississauga Brampton Caledon

Indicate whether any of the following municipalities are located within one kilometre of the subject retail business establishment(s) or area:

Mississauga Brampton Caledon

2. Applicant Classification:

"Applicant" means: (please check one and provide information)

- i. Person or persons, including a corporation, and a partnership carrying on a retail business in a retail business establishment in the Region of Peel. Provide name and location of such retail business establishment.

Retail Business Establishment: _____

Address: _____

- ii. An association, whether or not incorporated, representing retailers carrying on business in the Region of Peel.

Name of Association: _____

- iii. A council of a local municipality (attach authorizing resolution).

3. Applicant Names:

a) *List the **name and address** of each retail business establishment seeking exemption, or if the applicant is an association or council of a local municipality, list the **name(s) and address(es)** of each retail business establishment seeking an exemption which is represented by the association or council. Also include the mailing address for each applicant if different from the retail business establishment(s) address.*

b) Provide name and address of the principle contact person, legal counsel, or authorized agent (if any) representing the applicants to whom all correspondence will be addressed:

Name of Firm: _____

Contact Person: _____

Address: _____

Business Tel.: () _____ Fax: () _____

4. Which of the following special events apply?

a) *Event*

Fair Festival Other

b) *Description, Location and Date(s)*

c) *Proposed Hours of Operation* _____

5. **Have you ever applied for or have you been granted exemption for a special event during this calendar year?**

Yes

No

If Yes, specify: _____

6. **Describe how passing of a special event by-law will contribute to the maintenance or development of tourism. (Attach a separate sheet if necessary).**

7. Provide a **key plan** showing the location of the retail business establishment(s) applying for exemption and the location of the Special Event. Include the scale of the plan.

8. Declaration

I, _____ of the _____ of _____
Name e.g. City e.g. Mississauga
in the _____ of _____, hereby confirm that
e.g. Region e.g. Peel
the statements contained in this application and in any material submitted in support of this application are correct.

Date

Signature of Applicant

Position

Note: The Retail Business Holidays Act provides that the Council is not required to pass an exempting by-law even if the tourism criteria set out in the Act or any other regulation are met.

Appendix G

Notice Requirements

The *Retail Business Holidays Act* Tourism Exemption By-laws

NOTICE OF PUBLIC MEETING

- (1) Notice under subsection 4(6) of the *Retail Business Holidays Act*, R.S.O. 1990, chapter R.30 as amended, of a public meeting for the purpose of informing the public in respect of a proposed by-law shall be given by the Region in accordance with subsection (2) of these Notice Requirements.
- (2) Notice under subsection (1), in a form similar to Appendix 2, attached hereto, shall be given by:
 - (a) posting in the retail business establishments proposed to be exempted at least twenty days in advance of the proposed public meeting. Such notice shall be clearly visible and legible from a public place adjacent to each store and also in each store for the information of shoppers;
 - (b) publication in at least one newspaper which has general circulation in the Region, at least 30 days before the meeting is to be held;
 - (c) prepaid first class mail to the applicant;
 - (d) prepaid first class mail to every person and agency that has given the Clerk of the Region a written request for such notice in respect of the proposed by-law, provided that such request shows the person's or agency's address;
 - (e) prepaid first class mail to the clerk of each area municipality within the Region of Peel any part of which is within one kilometre of the area to which the proposed by-law applies;
 - (f) prepaid first class mail to the policing authority having jurisdiction in the area to which the proposed by-law applies.