

Clause 3 in Report No. 11 of Committee of the Whole was adopted by the Council of The Regional Municipality of York at its meeting held on June 29, 2017 with the following amendment to recommendation 1:

1. Staff consult with local municipalities and other stakeholders and report back to Council *in October 2017* with options to govern retail business openings on statutory holidays.

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Retail Business Holidays Act Applications

Committee of the Whole recommends adoption of the following recommendations contained in the report dated June 9, 2017 from the Commissioner of Corporate Services, Chief Planner and Regional Solicitor:

1. Staff consult with local municipalities and other stakeholders and report back to Council with options to govern retail business openings on statutory holidays.
 2. Council suspend consideration of all RBHA exemption applications, until staff has reported back to Council.
 3. The Regional Clerk circulate this report to the Clerks of the local municipalities for information.
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Report dated June 9, 2017 from the Commissioner of Corporate Services and Chief Planner and Regional Solicitor now follows:

1. Recommendations

It is recommended that:

1. Staff consult with local municipalities and other stakeholders and report back to Council with options to govern retail business openings on statutory holidays.
2. Council suspend consideration of all RBHA exemption applications, until staff has reported back to Council.
3. The Regional Clerk circulate this report to the Clerks of the local municipalities for information.

Retail Business Holidays Act Applications

2. Purpose

This report recommends the suspension of consideration of RBHA exemption applications pending consultation with local municipalities and other stakeholders on the existing RBHA application process and options resulting from the recent changes of legislation, Section 1.2, and a report back to Council.

3. Background

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

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

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

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

Between 1995 and December 31, 2016, Council approved 31 exemptions to the RBHA covering all 9 statutory holidays

Under the RBHA, retail businesses may apply for an exemption to allow the business to open on any or all of the statutory holidays. To date Council has approved 31 exemptions to the RBHA, for a range of businesses across the Region. The requested holiday exemptions have varied with each application. As a result, there are retail businesses across the Region that are permitted to open on most or all nine statutory holidays. Three municipalities have received exemptions for the entire municipality. All retail businesses in the Town of Georgina are exempt except for Christmas Day and New Year's Day in King Township the retail businesses are exempt except for Christmas Day and Easter

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Sunday while the businesses in the Town of Whitchurch-Stouffville are exempt only on Canada Day, except the wineries which are exempt on four other holidays.

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

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

For this exemption to take effect the municipality must first enact a bylaw under section 148 of the *Municipal Act, 2001* to establish its own requirements for retail holiday closings.

As a result of the proclamation of Section 1.2, Council may now enact a bylaw to exempt York Region from the RBHA. However, to do so, Council would first have to enact a bylaw under the *Municipal Act, 2001* to govern retail business closings on statutory holidays.

4. Analysis and Implications

Implementing the provisions of Section 1.2 of the RBHA at the Regional level would have implications for businesses and municipalities with current exemptions

Section 148(3) of the *Municipal Act, 2001* allows the Region to designate specific closure dates that would take precedence over previous exemptions and establish uniform exemptions across all municipalities.

For a Section 1.2 bylaw to take effect Council must first establish and pass a bylaw under section 148 of the *Municipal Act, 2001* which may require retail businesses to be closed on a statutory holiday. Retail operations, exempted municipalities and areas that have been granted exemptions on all statutory holidays would have to comply with the new regional bylaw.

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A review of the existing exemption process and the implications of implementing Section 1.2 of the RBHA is required prior to recommending an approach

In a two-tier municipality, only the upper-tier has authority to determine retail business openings on statutory holidays. As a result, the Region may exercise the option to implement Section 1.2 and exempt York Region from the RBHA.

The Region is not required to implement Section 1.2 of the RBHA and there are several options now available to Council. Staff recommends consultation with local municipalities and other stakeholders to consider the following options:

1. Continuing the current process under the RBHA, where the Region receives and hears exemption applications twice a year and applicants request the statutory holidays they seek to be open; or
2. Enacting a bylaw under Section 1.2 to exempt the Region from the RBHA with no application process and enact a bylaw under the *Municipal Act, 2001* to:
 - i. Allow all retail businesses to open on any public holiday except those prohibited by Council; or
 - ii. Provide each local municipality increased decision making to determine holiday openings at the local level for inclusion in a new regional bylaw; or
 - iii. Adopt a no exemption policy, such as in the City of Toronto, where holiday closures are in force, with no consideration for exemption.

Staff propose to consult with local municipalities, community stakeholders and parties previously granted exemptions to determine a recommended appropriate approach for Council's consideration. Staff will also consult with neighbouring regions.

Staff recommend suspending consideration of RBHA applications while a review is underway

Under the Region's RBHA application process, applications for exemptions are considered in September and April. The deadline for applications to be considered in September 2017 was June 1, 2017. To date one application has been received. Staff recommend that this application be held in abeyance pending a report back to Council following consultation and review as outlined in this report.

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5. Financial Considerations

There are no financial impacts directly associated with this report.

6. Local Municipal Impact

Local municipalities will be consulted as part of the exemption application review process. Options to be considered in this consultation will include those that could give local municipalities a role in determining the application of rules for retail business openings within their municipality.

7. Conclusion

Section 1.2 of the RBHA was proclaimed into force on December 30, 2016. It provides municipalities with the opportunity to be exempt from the RBHA.

Council has approved 31 exemptions to the RBHA since 1995, representing various businesses and a few local municipalities, all with different holiday exemptions. Consideration of the new provisions under Section 1.2 of the RBHA would require a review to determine the potential impact on businesses and municipalities with existing exemptions. The review would consider a range of options and result in a recommended approach, all in consultation with municipalities and other stakeholders.

Suspending RBHA exemption application hearings will allow Regional staff the time to undertake a review and develop a recommended approach for Council's consideration. At this time there is one applicant within York Region seeking a fall hearing for exemption. Council previously deferred hearing received applications in 2012 and 2014.

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

The Senior Management Group has reviewed this report.

June 9, 2017

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