



AGENDA

RESCHEDULED - Public Meeting

Proposed Retail Business Holiday Exemption By-Law

Council Chambers / Electronic Participation
Thursday, April 25, 2024 at 4:40 PM

Please visit the [TKL YouTube Channel](#) for the live-stream of the meeting.

1. **Call to Order**
2. **Declaration of Pecuniary Interest**
3. **Summary of Reports**
 - 3.1. Proposed Retail Business Holiday Exemption By-Law
Dan Laverdure, Director of Development and Enterprise Services
4. **Confirmation of Notice**
5. **Correspondence Received**
6. **Comments/Questions from Members of the Public**
7. **Consideration of Proposed By-Law**

Proposed Direction: Council receive the comments/questions from members of the public; and that the draft By-Law to permit retail business establishments to operate on holidays for the maintenance or development of tourism within the geographic limits of the Town of Kirkland Lake, as presented, be brought forward for three (3) readings at the May 9, 2024 Regular Meeting of Council.
8. **Adjournment**

REPORT TO COUNCIL

Meeting Date: 14/03/2024	Report Number: 2024-DEV-009
Presented by: Dan Laverdure Jennifer Montreuil	Department: Development & Enterprise Services

REPORT TITLE

Retail Business Holiday Exemption By-Law

RECOMMENDATION

BE IT RESOLVED THAT Report Number 2024-DEV-009 entitled “**Retail Business Holiday Exemption By-Law**” be received;

AND FINALLY THAT a Public Meeting be held on Tuesday, April 16, 2024 at 4:40 PM to allow for local business retailers to provide comments on the proposed retail business holiday exemption by-law.

INTRODUCTION

Subject to an increase in recent inquiries, Administration seeks Council’s direction in the consideration of a Retail Business Holiday Exemption By-Law which permits retail businesses to operate on holidays, as defined under the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30, as amended, by asserting closures under the Act do not apply within the jurisdiction of municipality. Prior to the passage of such a by-law, a public meeting is being recommended to allow a platform for the business community to weigh in on the proposed exemption.

DISCUSSION

Legislation

The earliest version of the [Retail Business Holidays Act](#), R.S.O. 1990, c. R.30 (the Act), regulates the opening and closing of retail businesses on certain holidays. It specifies which holidays require retail businesses to be closed or restricts the operating hours.

This legislation aims to balance the interests of employees, consumers, and businesses by designating specific holidays where retail businesses must remain closed or operate with limited hours.

Provincial Requirement for Business Closures on Statutory Holidays

Currently in Ontario, retail business establishments must be closed on the following nine (9) holidays each year:

1. New Year's Day (January 1)
2. Family Day (the third Monday of February)
3. Good Friday (the Friday before Easter Sunday – typically in March or April)
4. Easter Sunday (typically in March or April)
5. Victoria Day (the last Monday before or on May 24)
6. Canada Day (July 1 – if July 1 is a Sunday, the mandatory closure moves to Monday)
7. Labour Day (the first Monday in September)
8. Thanksgiving Day (the second Monday in October)
9. Christmas Day (December 25)

Exemptions

However, these mandatory closures do not apply to municipalities if (and only if) they have enacted a by-law stating that the Act does not apply. The Act currently allows for limited exceptions to the holiday closures, including:

- shops under 2,400 square feet and with three or fewer employees where the only goods available for sale on the holiday are in one or more of the following categories:
 - a) tobacco or articles required for the use of tobacco,
 - b) antiques
 - c) handicrafts
 - d) books
- nurseries / flower shops / gardening centres
- gas stations
- tourist areas, as specified in municipal by-laws
- pharmacies
- sale or offering for sale of liquor, other than liquor sold at a retail store as defined in the *Liquor Licence and Control Act, 2019*.
- tourist establishments
- goods or services sold or offered for sale by retail in the form of or in connection with
 - a) prepared meals
 - b) living accommodation
 - c) laundromats and other coin-operated services
 - d) rentals of vehicles or boats
 - e) servicing and repairing vehicles or boats

Recent Public Inquiry

Most recently, a new local business owner (Attachment 1) reached out to the municipality to inquire on the local rules and regulations surrounding retail business hours during statutory holidays.

Local Misinformation of Jurisdiction

Previously, the municipality has received inquiries, however, other business owners were provided with misinformation that the municipality had “no by-laws” restricting them from being able to conduct business during statutory holidays. That is, in fact, false information.

Currently, unless otherwise exempt under the Act, *“no person carrying on a retail business in a retail business establishment shall,*

(a) sell or offer for sale any goods or services therein by retail; or

(b) admit members of the public thereto, on a holiday.”

However, the municipality finds itself in a situation with past requesting business owners being provided with misinformation and given that certain local businesses may be operating unlawfully at no fault of their own. The municipality’s by-law enforcement program does not currently include enforcement of regulations on statutory holidays.

Ultimately, in the absence of any local by-law noting “non-application” of the Act, the regulations contained in the Act prevail. In fact, the municipality is also responsible to enforce the provincial legislation regardless of if it so chooses to be silent on the issue or create policy(ies) surrounding it.

Current By-Law in Place

In 2003, the municipality had received a request from the Kirkland Lake District Chambers of Commerce requesting that retail business be permitted to conduct business for the Canada Day Holiday (July 1st); as such By-Law 03-23 (Attachment 3) was passed.

Historically, previously established Township of Teck, had several business operations by-laws noting various conditions and restrictions on operation types and their hours. Those By-Laws were amended several times and ranged from a period between 1925 and 1931.

Rationale for an Exemption By-Law

Municipalities that rely on a tourist economy may be more inclined to pass a by-law of this nature. The Town of Kirkland Lake has a diverse tourist economy and would be categorize itself as such.

Administration have prepared a draft by-law (Attachment 2) for Council's consideration, however, in accordance with Section 4(4) of the Act, "*council shall consider a by-law of this nature **only on the application of one or more persons** carrying on retail business in the municipality or on the application of an association, whether or not incorporated, representing persons carrying on retail business in the municipality.*"

Administration identify that by granting local retail businesses the flexibility to operate without restrictions under the Act, may promote financial viability by capitalizing on peak periods of retail, specifically, during a holiday period. Locally, retail stores do experience fluctuating levels of business due to holiday traffic from visiting family members, returning students, and tourists, etc.

From a tourism perspective, allowing for a full exemption may enhance the overall visitor experience. Open businesses cater to the diverse needs of tourists and locals. On a community level, allowing retail establishments to remain open may foster a sense of convenience and satisfaction among residents. Of note, other municipalities have successfully implemented, and some have recently considered such a by-law.

Proposed in Effect Date

Section 4.3 of the Act includes a built-in appeal period noting that the by-law could only take effect on the 13th day after it is passed.

Procedurally, once Council hosts the Public Meeting, and should it enact such an Exemption By-Law, the exemption could take effect as early as May 22, 2024, if the by-law is enacted on May 9, 2024, rendering the decision in place before the Victoria Day statutory holiday.

OTHER ALTERNATIVES CONSIDERED

Option 1 Status Quo:

This is not the recommended option. Certain business owners have been improperly educated on the legal requirements of operating their businesses during statutory holidays. In the very least, proper education on the legislative requirements and penance is required.

OTHER ALTERNATIVES CONSIDERED (CONTINUED)

Option 2 Status Quo with Education & Enforcement:

This too is not a recommended option. This Administration has only recently been made aware of its obligation to perform enforcement duties regarding the *Retail Business Holidays Act*. To support by-law enforcement services during statutory holidays would result in an increase of costs to the municipality as currently there is no weekend and holiday enforcement undertaken and/or provided.

Council must decide whether it wishes to consider a full exemption by-law to afford retail business owners the flexibility to make their own business operating decisions, or, investigate the ramifications of enforcing of the current Act during established statutory holidays.

FINANCIAL CONSIDERATIONS

Not Applicable.

ALIGNMENT TO CORPORATE STRATEGIC PLAN

Priorities:

- Service Excellence
- Sustainable Core Services
- Vibrant & Prosperous Community
- Current Council's Operational Aims



Actions:

Service Excellence

- Assess points of contact with residents to identify ways to streamline communications, increase stakeholder engagement, demonstrate user-friendliness, and provide optimal service.

Sustainable Core Services

- Provide clear, fair, and consistent regulations and policies governing municipal operations.

ALIGNMENT TO CORPORATE STRATEGIC PLAN

Actions: (continued)

Vibrant & Prosperous Community

- Prioritize the implementation of the economic development and tourism program to improve the local business climate and foster growth.

Council Operational Aim(s):

Service Excellence

Stakeholder Engagement

- Effective channels for two-way communication with stakeholders to understand their interests and concerns.

Sustainable Core Services

Governance

- Clear, fair, and consistent regulations and policies governing municipal operations.
- Timely reports from staff to Council on all significant projects and initiatives.
- Regular communication with residents to explain governance structures, processes, and decisions.

Vibrant & Prosperous Community

Local Business Climate

- Updated regulations that expedite the permitting process without compromising safety or quality standards.

ACCESSIBILITY CONSIDERATIONS

Not Applicable.

CONCLUSION

For Council to consider the viability of establishing an exemption by-law for retail businesses to operate during Statutory Holidays, a public meeting should take place to allow a forum for comments from local retailers to weigh in on the discussion.

Administration is recommending the Exemption By-Law as a means to allow retail businesses to self-determine their hours of operation.

CONSULTATIONS

Town of Kirkland Lake Senior Management Team

Deputy Clerk/Lottery Licencing Officer

Government of Ontario [Website](#)

ATTACHMENTS

Attachment 1 - Recent Retailer Request

Attachment 2 - Proposed Retail Business Holiday Exemption By-Law

Attachment 3 - By-Law 03-23 Allowing Retail Businesses to Open on July 1 (Canada Day)

From: [Dan Laverdure](#)
To: [Jennifer Montreuil](#)
Subject: Fwd: Aly Johnstone, Canadian Tire.
Date: March 26, 2024 9:04:03 AM

As promised.

Dan

Dan Laverdure

Director of Development and Enterprise Services
The Corporation of The Town of Kirkland Lake
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Kirkland Lake, ON P2N 3P4
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C: 705-570-0423
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Dan.Laverdure@tkl.ca
www.kirklandlake.ca

Sent from my Bell Samsung device over Canada's largest network.

From: Alyssa Johnstone <alyssajohnstone33@gmail.com>
Sent: Monday, March 25, 2024 9:26:30 AM
To: Dan Laverdure <dan.laverdure@tkl.ca>
Subject: Aly Johnstone, Canadian Tire.

Hi Dan,

I am reaching out in regards to the potential bylaw-Affecting our businesses from being open on Statutory holidays.

I would request that as a convenience store, repair facility, and sometimes emergency supply store-That Canadian Tire should be allowed to be open during these statutory holidays, to better service and supply the Kirkland Lake Community.

Thank you for the time, looking forward to hearing from you.

Aly Johnstone
Canadian Tire Dealer
Store #0052
Kirkland Lake, On
1-204-371-2091



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cooperation is appreciated. Please note that any email correspondence with elected officials, employees, or agents of the Town of Kirkland Lake may be subject to disclosure under the provisions of the Municipal Freedom of Information and Protection of Privacy Act.

Bylaw 03-23

**Being a By-law to Allow Retail Businesses
to Open on July 1**

WHEREAS the Corporation of the Town of Kirkland Lake, under the *Retail Business Holidays Act*, Chapter R. 30, Section 4 (1), may by by-law permit retail business establishments in the municipality to be open on holidays for the maintenance or development of tourism; and

WHEREAS the Kirkland Lake and District Chamber of Commerce has requested that Retail establishments in the municipality be allowed to remain open on July 1 for the maintenance and development of tourism; and

WHEREAS the population of the Corporation of the Town of Kirkland Lake is below 50,000, the two-kilometer radius restriction does not apply; and

WHEREAS, at least 25% of the retail business establishments in the municipality are directly associated with the tourist attraction or rely on tourists visiting the attraction for business on a holiday.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF KIRKLAND LAKE ENACTS AS FOLLOWS:

1. That retail businesses may remain open for business on July 1.

Read a first, second and third time enacted and passed this 1st day of April, 2003.

William (Bill) Enouy, Mayor

Don Studholme, Clerk



THE CORPORATION OF THE TOWN OF KIRKLAND LAKE

BY-LAW NUMBER 24-0XX

BEING A BY-LAW TO PERMIT RETAIL BUSINESS ESTABLISHMENTS TO OPERATE ON HOLIDAYS FOR THE MAINTENANCE OR DEVELOPMENT OF TOURISM WITHIN THE GEOGRAPHIC LIMITS OF THE TOWN OF KIRKLAND LAKE

WHEREAS Section 2 of the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30, as amended, (hereinafter referred to as “the Act”) provides that no person carrying on a retail business in a retail business establishment shall sell or offer for sale any goods or services therein by retail or admit members of the public thereto on a Holiday, as defined under the Act;

AND WHEREAS subject to Subsection 4(4) of the Act, Council received an application from one or more persons carrying on retail business in the Town requesting Council to permit retail business establishments to be open on Holidays;

AND WHEREAS Council of The Corporation of the Town of Kirkland Lake (hereinafter referred to as Kirkland Lake) is authorized to pass a by-law permitting retail business establishments to be open on Holidays for the maintenance and development of tourism pursuant to Section 4 of the Act;

AND WHEREAS Council has determined that there exist within the jurisdiction Kirkland Lake:

- i) natural attractions and outdoor recreational attractions; and
- ii) cultural, multi cultural and educational attractions;

AND WHEREAS Council is satisfied that the tourism criteria as set out in Ontario Regulation 711/91 have been met;

AND WHEREAS Council acknowledges that although Holidays are intended as a day of pause, it has determined it to be in the public interest to permit all retail business establishments to be open on Holidays for the purpose of maintaining and developing tourism within the Township;

AND WHEREAS on _____, and in accordance with the Town’s Notice Policy (By-Law 22-047), a Public Meeting was held to allow for comments and to allow local retail business owners the official forum to make representations in respect of the proposed Retail Business Holiday Exemption By-Law;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF KIRKLAND LAKE HEREBY ENACTS AS FOLLOWS:

1 DEFINITIONS

- i) **THAT** for the purposes of this By-Law,
 - a) **Council** means the Council of The Corporation of the Township of Kirkland Lake;
 - b) **Holiday** shall have the meaning ascribed to it in the Act;
 - c) **Retail Business** shall have the meaning ascribed to it in the Act;
 - d) **Retail Business Establishment** shall have the meaning ascribed to it in the Act; and
 - e) **Town** means the land within the geographic limit of The Corporation of the Town of Kirkland Lake.

2 THAT all Retail Business Establishments within the Town may be open on a Holiday.

3 THAT this By-Law shall be known as the “Retail Business Holiday Exemption By-Law”.

4 THAT should any section, clause or provision of this By-Law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-Law as a whole or any part thereof, other than the part which was declared to be invalid.

5 THAT this By-Law shall come into full force and effect, subject to an appeal period under Section 4.3 of the Act, on the thirtieth (13th) day after it is passed, being May 22, 2024.

6 THAT By-Law 03-23 and any other inherent municipal by-laws or policies surrounding Retail Business Holidays are hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS _____ DAY OF MAY, 2024.

Stacy Wight, Mayor

Jennifer Montreuil, Municipal Clerk