

Holiday Shopping Update Report

Date:	August 30, 2011
To:	Economic Development Committee
From:	General Manager, Economic Development & Culture
Wards:	All
Reference Number:	P:/2011/Cluster A/EDC/ECON DEV/September/ed1109-28

SUMMARY

At its meeting on May 11, 2010 City Council received a report regarding Holiday Shopping regulations for retailers throughout Toronto. That report recommended that City Council allow all retail stores to open or close on Public Holidays including: New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, Easter Sunday and Family Day at the discretion of the owner and/or manager.

City Council referred this item back to the General Manager, Economic Development and Culture with a request to conduct further public consultation and report back in the next term of Council.

As requested by Council, this report recommends a public consultation process to be conducted this fall and identifies possible options for consideration.

RECOMMENDATIONS

The General Manager, Economic Development and Culture recommends that Economic Development Committee:

1. Adopt the public consultation process outlined in this report, and
2. Request the General Manager, Economic Development & Culture to report back to the Economic Development Committee on the results of the consultations with a recommended course of action early in 2012.

Financial Impact

There are no financial impacts resulting from the adoption of this report.

DECISION HISTORY

The enactment of the City of Toronto Act (COTA) in 2006 meant that the (Ontario) Retail Business Holidays Act (RBHA) which regulates the operation of retail stores on Public Holidays would no longer apply within the City of Toronto. Consequently, as a temporary measure, City Council adopted a by-law to in essence maintain the status quo until a review of holiday shopping practices in Toronto could be completed.

<http://www.toronto.ca/legdocs/2007/cc/bgrd/20061205-cc1.3.pdf>

In 2007, extensive research and consultation was completed and a staff report was submitted to City Council for consideration at its meeting on March 3, 2008. City Council voted to receive the item for information only.

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-03-03-cc17-dd.pdf>

In 2010 a subsequent staff report was submitted recommending that City Council allow all retail stores to open or close on Public Holidays including: New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, Easter Sunday and Family Day at the discretion of the owner and/or manager.

<http://www.toronto.ca/legdocs/mmis/2010/ed/bgrd/backgroundfile-29167.pdf>

ISSUE BACKGROUND

The Ontario Retail Business Holidays Act (RBHA), 1991 requires retail stores to be closed on designated Public Holidays. The Act applies only to retail stores. All other businesses are governed by the Ontario Employment Standards Act and can open on Public Holidays. Following enactment of COTA in 2006, which exempted the City from the provisions of the RBHA, as an interim measure Council passed By-law 8-2007 on December 6, 2006 (Municipal Code, Chapter 510) which effectively maintains the requirement for retail stores to close on statutory holidays.

Prior to adoption of Municipal Code Chapter 510 the following areas within the City of Toronto had applied for and were granted tourist area exemptions: Eaton Centre and Bay Queen Street Store, Downtown Yonge BIA, Bloor-Yorkville, Queen's Quay Terminal, and The Distillery Historic District. These exemptions were grandfathered into Chapter 510. Attachment 1 provides a brief chronology.

The Provincial Act and Chapter 510 of the City's Municipal Code provide for a number of exemptions to permit retailers to be open on Public Holidays including stores selling foodstuffs, tobacco, antiques, handicrafts, gasoline/motor oil, nursery stock, flowers, fresh fruit, books, newspapers, periodicals and art galleries, of less than 2,400 square feet

and employing less than four persons; and pharmacies less than 7,500 square feet. Also, stores licensed to sell liquor under the Liquor Licence Act or to sell goods and services under the Tourism Act are also exempted from the requirement to close on Public Holidays including, restaurants, hotels, laundromats and other coin-operated services, automobile and boat rental establishments and service/repair facilities. Movie theatres, casinos, attractions and places of entertainment are not covered and therefore are also permitted to be legally open on all Public Holidays.

Several municipalities across Ontario have also provided exemptions for retail stores ranging from city-wide exemptions (Sarnia, Windsor) to designated area exemptions (e.g. Square One, Vaughan Mills, Pacific Mall).

The wide variety of exemptions within the city and with retailers in nearby jurisdictions has created concerns about the need for a level playing field. Concerns have also been raised about ensuring the rights of employees to refuse to work on designated Public Holidays if they so wish.

COMMENTS

As directed by Council, the public consultation process will include small group meetings to clarify concerns, opportunities and common ground with representatives from:

- Retail Owners/Managers
- Business Improvement Areas (BIA's)
- Shopping Centres
- Community Groups, including multi-faith organizations
- Workers Action Centre
- Legal Clinics
- Labour
- Retail Council of Canada
- City Councillors

Options to be considered will include:

- 1) Status quo. Maintain requirements for retail stores to close on Public Holidays with exemptions as currently permitted.
- 2) Remove restrictions and permit stores to be open on Public Holidays at the discretion of the owner/manager.
- 3) Identify specific geographic areas of the city to be exempted from Municipal Code Chapter 510
- 4) Amend Municipal Code, Chapter 510 to permit retail areas to apply to the City for exemption.

These options could be applied to all or some of the current nine designated Public Holidays.

A website with background information about Holiday Shopping will also be established to solicit online feedback and input.

Staff will report back to the Economic Development Committee on results of these consultations with a recommended course of action in early 2012. All interested parties will have an opportunity to depute at that meeting.

CONTACT

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SIGNATURE

Michael H. Williams, General Manager
Economic Development and Culture

ATTACHMENTS

Attachment 1 – Holiday Shopping Brief Chronology

Attachment 1

Holiday Shopping Brief Chronology

- 1991 The Retail Businesses Holiday Act
 - Province amended law to allow municipalities the right to allow retailers to open providing they meet Tourism criteria set by the Province.
- 1994 Queens Quay West
 - Designated a tourist area and given an exemption
- 1995 Eaton Centre and the Hudson's Bay Company
 - Designated a tourist area and given an exemption
- 2002 Downtown Yonge Street Business Improvement Area
 - Designated a tourist area and given an exemption
- 2004 Bloor –Yorkville Business Improvement Area
 - Designated a tourist area and given an exemption
- 2005 Distillery Historic District
 - Designated a tourist area and given an exemption

2006 Regulation of Holiday Shopping Upon Proclamation of City of Toronto Act, Staff Report

- Retained Retail Business Holiday Act in substantially the same manner as 1991.
- Maintained tourist area exemptions previously approved by Council.
- Did not put in place a new process for businesses or groups of businesses to apply for a Tourism Designation Area Exemption.
- Asked to undertake consultation process seeking input from:
 - The general public;
 - Retail industry;
 - Retail sector employees;
 - Small business interest;
 - BIAs; and
 - Tourism Industry.

2006 Environics Research Group Poll

- Random survey.
- Majority of respondents felt that individual storeowners should decide whether to open or not on designated holidays.

2007 The Premier Ranked Tourist Destination Framework Audit Questionnaire

- The Premier Ranked Tourism Destination Framework Audit added a holiday shopping question in a larger poll of the tourism industry.
- Revealed that 60% of businesses with an opinion about the legislation governing store openings on holidays felt that changes should be made.
- 88% of these businesses felt that more stores should be permitted to open on holidays.

2007 Policy Options Direct Email

- Direct email to over 350 stakeholders (including organizations with expanded membership).
- Included were TABIA, The Retail Council of Canada, The Canadian Council of Grocery Distributors, Unite HERE, Labour Council of Canada, and UFCW.

2007 Information on City of Toronto Website

- Invitation to people to provide input on policy options.

2007 October, and 2008 January, Media Advisories

- Media advisory picked up by a number of Toronto Media outlets, Star, Financial Post, 680 News, City TV – City Pulse News, CP 24, and CBC.

2008 January Public Consultation

- One public consultation at Toronto City Hall on January 17, 2008.

2008 Regulation of Holiday Shopping Staff Report

- Recommendation to permit all retail operations to open on designated holidays, except for Christmas, between the hours of 11:00 am to 6:00 pm if they wish.
- Report received for information only.

2008 Harmonization of Holiday Shopping Days in the Eaton Centre and The Hudson Bay Company Queen Store

- Council added Good Friday and Easter Sunday to the days that the Eaton Centre and the Hudson Bay Company Store at Yonge and Queen are permitted to open so that they have the same holiday shopping provisions as the Downtown Yonge Street Business Improvement Area.

2008 Included Family Day

- Council amended the By-law to add Family Day to the definition of "Holiday" to Tourism Destination Areas that are exempt.

2010 Holiday Shopping Staff Report

- Recommendation to allow all stores to open or close on Public Holidays at the discretion of the owner and/or manager.
- Report referred back to the General Manager with a request to conduct further public consultations with all stakeholders including:
 - Business Improvement Areas;
 - Existing Community Groups;
 - Workers Action Centre;
 - Legal Clinics;
 - Representative of Employees; and
 - Members of Council.

Other Selected Ontario Jurisdictions that have established Tourist Designation Areas:

- Burlington Downtown Business Improvement Area, Halton Region
- Downtown Oakville Business Improvement Area, Halton Region
- Square One Shopping Centre, Mississauga, Peel Region
- City of Ottawa: ByWard Market BIA, Rideau Area Improvement Area, Rideau Centre, Sparks Street Mall, and Loblaws Supermarket at 363 Rideau Street
- Sarnia and Windsor, City Council designated the entire city as a Tourist Area
- City of Stratford allows small tourism related businesses to be open during Stratford's Tourism Designated season which is May 1 to November 12.
- Vaughan Mills, Vaughan, York Region
- Pacific Mall, Markham, York Region
- Kennedy & Denison Shopping Centre, Markham, York Region
- Olde Hide House, Flight-Line & Leathertowne West Warehouse - Acton, Halton Region
- Bronte Business Improvement Area - Oakville, Halton Region
- Tannery Run - Acton, Halton Region
- Village Square - Burlington, Halton Region

The following Canadian provinces and territories allow retailers to open on Public Holidays:

- British Columbia
- Alberta
- Saskatchewan
- Yukon Territories
- Nunavut
- Northwest Territories

United States of America

- Almost all U.S. states permit retail stores to open on public holidays as they do not have legislation mandating closures.