

Mayor Lehman and Barrie City Council,

I am writing today to recommend the creation of a by-law that allows for an exemption to retail businesses that wish to remain open during statutory holidays.

The *Retail Holiday Business Act* (1991) contains a tourism exemption that reads, “Despite Section 2 (which prohibits retail businesses from operating on a statutory holiday), the council of a municipality may by by-law permit retail business establishments in the municipality to be open on holidays for the maintenance or development of tourism.” (1991, c. 43, s1). Under this exemption, businesses operating in a tourism capacity can apply for a holiday opening exemption directly from their municipality.

Following the example set by other municipalities, the City of Barrie would have the option to declare itself a year-round tourism attraction, allowing for some or all statutory holidays to be covered under the exemptions presented by the Retail Holiday Business Act

It is therefore my suggestion to council that they consider:

- A) Declare the City of Barrie to be a year-round tourism destination
- B) Adopt a Retail Holiday Business Act bylaw, which allows business to apply for statutory holiday exemptions.

The adoption of this new by-law would allow for all retail businesses to apply for the opportunity to capitalize on the tourist trade that makes up a crucial part of Barrie’s economy. I have attached a local Simcoe County example for your review.

Should you have any questions regarding this proposed by-law, please do not hesitate to contact my office 705-726-5538 or at [Doug.Downey@pc.ola.org](mailto:Doug.Downey@pc.ola.org).

Sincerely,



Doug Downey, MPP  
Barrie-Springwater-Oro-Medonte

# City of



# Orillia

ORILLIA CITY CENTRE  
50 ANDREW ST. S., SUITE 300  
ORILLIA, ON L3V 7T5

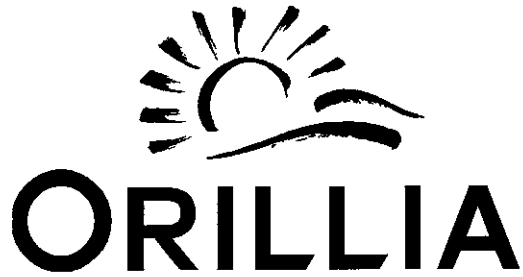
TELEPHONE  
(705) 325-1311  
FACSIMILE  
(705) 325-5178

## Application for a Holiday Opening Exemption

1. Original application form must be filed with the Clerk's Office along with the \$85 application fee.
2. This application and any by-law passed by the City of Orillia 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.
3. The application form will be placed on the next Consent Agenda for a resolution to be passed by Council instructing the Clerk to publish a "Notice of Public Meeting" in the City's Bulletin Board and on the City's website.
4. The Public Meeting will be held at least 30 days after the notice is published. At the Public Meeting, Council will decide if it wishes to consider an exemption by-law.

Before considering an exemption by-law, the *Retail Business Holidays Act* requires Council to take the following into account:

- the principle that holidays should be maintained as common pause days
  - that the tourism criteria set out in the Regulations are complied with (See *Part 2 - Tourism Criteria*)
  - that Council is not required to pass a by-law even if the tourism criteria is met
5. If Council wishes to proceed with exempting the business that has applied, a by-law will be passed.
  6. After the by-law is passed, it may be appealed to the Ontario Municipal Board (OMB) within 30 days from the date of the Public Meeting.
  7. If no appeal(s) has been received by the OMB within the 30 day appeal period, the by-law will be in effect.
  8. If an appeal(s) has been filed with the OMB, a hearing will be set and the applicant will be notified.



## Retail Business Holidays Act

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### Contact(s)

#### **Clerk's Department**

50 Andrew Street South, Suite 300,

Orillia, ON L3V 7T5

T. [705-325-1311](tel:705-325-1311)

F. [705-325-5178](tel:705-325-5178)

Email: [Email Contact](#)

[Map to this Location](#)

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Pursuant to the *Retail Business Holidays Act* (<https://www.ontario.ca/laws/statute/90r30>), the City of Orillia has a by-law that permits smaller businesses (less than 2,400 square feet and three or less employees) to be open on all statutory holidays except for:

- Christmas Day
- New Year's Day
- Good Friday
- Easter Sunday

Larger businesses with 2,400 square feet of retail space or more and four or more employees are not included in the general by-law and must make a separate application to the City.

The entire process takes a minimum of 60 days and includes submitting an application to Council, with a **\$87.00** fee, a Public Meeting with 30 days public notice, the consideration of a by-law and, if passed, a 30-day appeal period before the by-law becomes effective if no appeals are received.

If you are the owner or operator of a larger business as noted above and have questions regarding eligibility, please have your legal counsel review the provincial legislation prior to submitting an application.

If you have any questions regarding the application process, please contact the Deputy City Clerk ([javascript:emailContactV2\('a22tbx15kvIHTnsdIpWAPIUsAeQuAleQuAl'\)&&false](mailto:javascript:emailContactV2('a22tbx15kvIHTnsdIpWAPIUsAeQuAleQuAl')&&false)).

[Retail Business Holiday Act Application Instructions \(/en/city-hall/resources/Clerks/Retail\\_Business\\_Holiday\\_Act/Application-Instructions-WEB.pdf\)](#)

[Retail Business Holiday Act Application Form \(/en/city-hall/resources/Clerks/Retail\\_Business\\_Holiday\\_Act/Application-Form-WEB.pdf\)](#)

[Retail Business Holiday Act Application - Appendix A \(/en/city-hall/resources/Clerks/Retail\\_Business\\_Holiday\\_Act/Appendix\\_A\\_Tourism\\_Criteria\\_WEB.pdf\)](#)

[Retail Business Holiday Act Application - Appendix B \(/en/city-hall/resources/Clerks/Retail\\_Business\\_Holiday\\_Act/Appendix\\_B\\_Definitions\\_WEB.pdf\)](#)

[Retail Business Holiday Act Application Process Chart \(/en/city-hall/resources/Clerks/Retail\\_Business\\_Holiday\\_Act/Procedure\\_Chart\\_WEB.pdf\)](#)

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© City of Orillia, 50 Andrew Street South, Suite 300, Orillia, Ontario, L3V 7T5,  
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Designed by eSolutionsGroup



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## APPLICATION FOR HOLIDAY OPENING EXEMPTION *under the RETAIL BUSINESS HOLIDAYS ACT*

The undersigned hereby applies to the Council of the City of Orillia for an exempting by-law under subsection 4(1) of the *Retail Business Holidays Act*, R.S.O. 1990, Chapter R.30.

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.

### PART 1 - APPLICANT INFORMATION

1. Name of Retail Business Establishment:

\_\_\_\_\_

Municipal Address: \_\_\_\_\_

2. Name of Applicant: \_\_\_\_\_

Title/Position: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

3. Total Square Feet normally used for serving the public: \_\_\_\_\_

Total # of Employees normally serving the public: \_\_\_\_\_

4. If you wish the exemption to apply to one or more classes of retail business establishments, please define and specify the classes, i.e. supermarket, convenience, discount, specialty, etc.

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**PART 2 - TOURISM CRITERIA**

As set out in Ontario Regulation 711/91 s. 2(3) of the Act, tourist attractions are limited to:

- a) Natural attractions or outdoor recreational attractions;
- b) Historical attractions; and
- c) Cultural, multi-cultural or educational attractions.

**Note: See Appendixes "A" and "B" attached.**

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1. Describe the area or the retail business establishment for which the exemption is sought.

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2. Describe the nature or 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, outline the goods or services provided primarily to tourists.

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**PERSONAL INFORMATION REQUIRED ON THIS APPLICATION IS COLLECTED UNDER THE AUTHORITY OF THE RETAIL BUSINESS HOLIDAYS ACT, R.S.O. 1990, c. R. 30, AS AMENDED. THE PERSONAL INFORMATION REQUIRED ON THE APPLICATION WILL BE USED FOR THE PROCESSING OF THIS APPLICATION AND FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS EXEMPTION. THE NAME, BUSINESS NAME, BUSINESS ADDRESS AND THE EXEMPTION STATUS WILL BE MADE AVAILABLE TO THE GENERAL PUBLIC. QUESTIONS ABOUT THIS COLLECTION SHOULD BE DIRECTED TO THE FREEDOM OF INFORMATION CO-ORDINATOR, 50 ANDREW ST. S., SUITE 300, ORILLIA, ON L3V 7T5, (705) 329-7234.**

**EXECUTION BY APPLICANT**

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_

do solemnly declare that all of the statements contained in this 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 of Orillia in the Province of Ontario, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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

\_\_\_\_\_  
Applicant's Signature



## **APPENDIX "B"**

### **Pursuant to the Definitions of Tourism Attractions as Identified in the Tourism Exemption Regulations under the *Retail Business Holidays Act***

The City of Orillia is deemed to be a year-round tourism attraction.

Natural and outdoor attractions include the City's waterfront, including Couchiching Beach, Centennial and Tudhope Parks, the Port of Orillia, the Lightfoot and Millennium trails and the Heritage Downtown Improvement Area.

Historical attractions include the Champlain Monument, the many historical buildings designated under the *Ontario Heritage Act* and included in a Historical Walking Tour.

Cultural attractions include the Orillia Opera House, the Leacock Museum and the Orillia Museum of Art and History.

Community events and festivals include the Orillia Winter Carnival (winter), the Orillia Perch Festival (spring), the Mariposa Folk Festival (summer) and the Orillia Jazz Festival (fall).

[Business and economy \(https://www.ontario.ca/businessandeconomy\)](https://www.ontario.ca/businessandeconomy) →

## **Retail business holidays**

Learn which nine holidays retail businesses must be closed each year, when exceptions may apply and how closures are enforced.

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### **Mandatory retail business closures on holidays**

The *Retail Business Holidays Act* (<https://www.ontario.ca/laws/statute/90r30>) says retail businesses in Ontario must be closed on the following nine 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 the following Monday)
7. Labour Day (the first Monday in September)
8. Thanksgiving Day (the second Monday in October)
9. Christmas Day (December 25)

### **Exceptions – municipalities**

These mandatory closures do not apply to municipalities if they have passed a by-law stating the act does not apply and have also passed a by-law requiring certain retail businesses to be closed on a holiday. Please check with your municipality to verify whether it has its own holiday closing requirements for retail businesses.

Under section 1.1 of the act (<https://www.ontario.ca/laws/statute/90r30#s1s1>), these mandatory closures do not apply to the City of Toronto.

## Exceptions – business types

For the rest of the province, the act allows for some limited exceptions to the holiday closures, including some:

- 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:
  - tobacco or articles required for the use of tobacco
  - antiques
  - handicrafts
  - books
- nurseries
- flower shops
- gardening centres
- gas stations
- tourist areas, as specified in municipal by-laws

See [section 3 \(https://www.ontario.ca/laws/statute/90r30#s3s1\)](https://www.ontario.ca/laws/statute/90r30#s3s1) of the act for the full list of exceptions and their parameters.

## Enforcement

The local municipality enforces the act. Minimum fines for retailers who open businesses on prohibited days are:

- \$500 for the first offence
- \$2,000 for a second offence
- \$5,000 for a third or subsequent offence

Retail outlets may be fined up to \$50,000 or the total amount of gross sales for the holiday, whichever is greater.

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## Frequently asked questions

[Next](#)

Updated: April 5, 2019

Published: December 30, 2016

### Related

[Consumer Protection Ontario \(https://www.ontario.ca/page/consumer-protection-ontario\)](https://www.ontario.ca/page/consumer-protection-ontario)

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Regulation



[Français](#)

**Retail Business Holidays Act**

**ONTARIO REGULATION 711/91**

**TOURISM CRITERIA**

**Consolidation Period:** From November 5, 2015 to the [e-Laws currency date](#).

Last amendment: [321/15](#).

Legislative History: [ + ]

***This is the English version of a bilingual regulation.***

**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. O. Reg. 711/91, s. 1.

**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.
- O. Reg. 711/91, s. 2 (1).

(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. O. Reg. 711/91, s. 2 (2).

(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. O. Reg. 711/91, s. 2 (3).

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. O. Reg. 711/91, s. 3.

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. O. Reg. 711/91, s. 4.

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. O. Reg. 711/91, s. 5 (1).

(2) Subsection (1) does not apply to parades. O. Reg. 711/91, s. 5 (2).

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. O. Reg. 711/91, s. 6 (1).

(2) An application in respect of a retail business establishment described in section 3 shall be made only by that retail business establishment. O. Reg. 711/91, s. 6 (2).

Français