

19. Re: Shops Closing Bylaw

On 6th August, 1973 Council directed that the Shops Closing Bylaw be amended to permit stores to remain open (later than 6 p.m.) for the 14 days immediately preceding Christmas on the same basis as is currently allowed for seven days preceding Christmas.

The Municipal Solicitor has looked into this matter and reports as follows:

"Apparently a by-law amendment is required to permit shops to remain open until 9:00 p.m. for the serving of customers during the fourteen days immediately preceding Christmas Day. Section 862 of the Municipal Act presently provides for shops to remain open for the seven business days immediately preceding Christmas Day. Section 861(1) provides that Council may by by-law completely exempt from the shops closing provisions of the Act any defined class or classes of shops. I do not believe this section can be used to permit the enactment of the amendment sought by Council. The power is to exempt completely and the purpose of the amendment is not to exempt completely. Further, this section requires that classes of shops be defined, and I have had no instructions about the classification of shops. Section 865(1) provides that the provision of a by-law adopted under section 861(1) may be made applicable to one or more months of the year as specified in the by-law. This section indicates to me that a by-law under section 861(1) can be applied to one month of the year but not part of a month. Therefore, I doubt if the amending by-law sought by Council would be valid. Whether it would be challenged or not, if enacted, is of course another matter."

It is quite apparent that Council has only two options open to them:

- (1) to permit shops to remain open seven days preceding Christmas as at present;
- (2) to permit shops to remain open later than 6 p.m. for the whole month of December.

RECOMMENDATION:

THAT Council reconsider its motion of 6th August in this matter.