

ITEM SUPPLEMENTARY 11
MANAGER'S REPORT NO. 62
COUNCIL MEETING 1980 10 06

RE: HOLIDAY SHOPPING REGULATION ACT

The following report from the Chief Licence Inspector is in response to the letters on the agenda from Beaver Lumber Company Ltd. (Item 5 g) and Lumberland Building Materials Ltd. (Item 5 h).

RECOMMENDATION:

1. THAT the recommendations of the Chief Licence Inspector be adopted.

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TO: MUNICIPAL MANAGER 1980 10 03
FROM: CHIEF LICENCE INSPECTOR
RE: HOLIDAY SHOPPING REGULATION ACT

RECOMMENDATIONS

1. THAT this report be received for information purposes; and
2. THAT a copy of this report is forwarded to Lumberland Building Materials Ltd., and Beaver Lumber Co. Ltd.

REPORT

At the meeting of 1980 September 29, Council requested information on the effects that the Holiday Shopping Regulation Act may have on the operators of local businesses and the options that are available to adopt a by-law under the provisions of the Act.

Appearing on Council's agenda for the meeting of 1980 October 06 are letters from Lumberland Building Materials Ltd. and Beaver Lumber Co. Ltd. regarding provisions of the Act.

Section 2 of the Act provides that no person shall carry on retail business or admit the public to a retail establishment on a holiday except:

- (a) as permitted under Section 11 of the Lord's Day Act (Canada)
- (b) in respect of a scheduled business
- (c) as permitted by the by-law of a municipality adopted in accordance with Section 3, or
- (d) as permitted in an Order of the Lieutenant-Governor in Council under Section 7.

Regarding item (b), the scheduled businesses exempt from the provisions of the Act are:

Schedule A

A retail business which sells or offers for sale only goods or services in one of the following classes:

1. foodstuffs, antiques, newspapers, periodicals, handicrafts and sundries in a total sales and display area open to the public of less than 225 m² and employing no more than 4 persons to serve the public in the retail establishment;
2. fresh fruits and vegetables;

Schedule A (Cont'd)

3. hygienic, cosmetic, pharmaceutical or therapeutic goods and sundries only during those hours when prescription drugs are dispensed to the public;
4. nursery stock, flowers and horticultural and gardening supplies;
5. rental, servicing and repair of, and the sale or offering for sale of fuel, lubricants and accessories for, motor vehicles, boats and aircraft;
6. rental of goods and equipment for sports, recreation and use about the home and garden;
7. prepared meals;
8. living accommodation;
9. self-service laundries and other coin-operated services;
10. live and cinematic productions, displays, exhibits and facilities for educational, recreational, cultural or amusement purposes and the sale or offering for sale of goods and services incidental to those purposes.

It appears that it is not possible to combine two or more of the classes of business that are exempt under this section.

Under the Act, holidays are defined:

"Holiday" means Sunday, New Year's Day, Good Friday, Victoria Day, Dominion Day, British Columbia Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, December 26, and a day designated for special observance within the terms of Section 7.

Retail business and retail establishments are defined:

"Retail business" means the selling or offering for sale of goods or services for consumption or use and not for resale and includes:

- (a) the selling or offering for sale of goods and services by hawkers and peddlers, and;
- (b) charging the public for admission to a place or facility for educational, recreational, cultural or amusement purposes.

"Retail establishment" means any place where retail business is carried on.

Section 3 of the Act enables Council to consider various options affecting retail businesses. They may, with the assent of electors, enact a by-law to classify retail businesses by type, size, location or number of persons employed, and provide:

1. that all classes of retail businesses are permitted to remain open on holidays during specified hours or for unspecified hours; or
2. that specified classes of businesses or specified classes of goods or services in retail establishments other than businesses listed under Schedule A, are permitted to remain open on holidays during specified hours or for unspecified hours.

The by-law must relate to all holidays. However, the permitted hours of businesses need not be the same for each holiday, and could differ between classes of business, location of business, or period of the year.

As an example, a retail building supply and home improvement business could be permitted to be open on all holidays during the hours that they may choose, or for specified hours; or it could be permitted that such businesses could be open on Sunday during specified or unspecified hours and be required to close on statutory holidays, or it could be permitted that they may be seasonally open on holidays, i.e. open May 01 to September 30, closed October 01 to April 30.

The provisions of the Municipal Act regarding the assent of electors shall govern the procedure of submitting a by-law to the electors.

The Municipal Solicitor advises that a ballot submitted to the electors to vote on a by-law that would regulate shopping hours on holidays shall set out the provisions of the proposed by-law. It cannot be a question only such as, "Are you in favour of retail businesses being open to serve the public on holidays?"

The Municipal Clerk advises that Section 302 of the Municipal Act requires that a by-law shall receive third reading by Council prior to submission to the electors. Polling for such a by-law shall be not less than ten days and not more than one month after third reading.

Section 305 provides that a vote on a by-law shall be by ballot, in a form that a voter may indicate assent or dissent by marking the words "Yes" or "No". Therefore, it would be necessary to combine the provisions of the proposed by-law with the appropriate designation for such response.

The estimated cost of conducting a vote on a by-law only is \$35,000. Preparation time to arrange the poll is estimated at approximately two months.

If a by-law is not submitted to the electors, or they do not assent to a by-law, the provisions of the Holiday Shopping Regulation Act shall come into effect on 1981 January 01. In that event, all retail businesses except those exempt under Schedule A will be required to be closed on holidays.

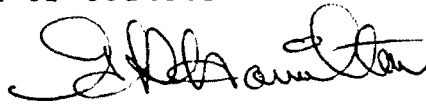
There is no provision in the Act that prohibits the submission of a by-law to the electors at some time after 1981 January 01.

The act further provides a procedure for a public hearing to amend or repeal an adopted by-law. Such action requires a 2/3 majority of the members of Council present, but does not require the assent of the electors. The Act or a by-law under the Act shall prevail where there is conflict with a by-law made under the Municipal Act.

A survey of neighbouring districts' action regarding the Act revealed:

- City of Vancouver: Staff report submitted to Mayor for consideration.
- City of New Westminster: Council resolved not to take action at this time.
- District of Coquitlam: Provisions of the Act currently being studied by staff.
- District of Surrey: By-law providing open shopping hours on holidays has received third reading for proposed submission to electors on 1980 November 15.

Submitted for the information of Council.


 P. Kenzie
 CHIEF LICENCE INSPECTOR

PK:jh

cc: Municipal Treasurer
 Municipal Solicitor

