

THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

BY-LAW NUMBER 2018-41

BEING A BY-LAW TO PROVIDE FOR CERTAIN CLASSES OF BUSINESSES TO CLOSE DURING CERTAIN HOURS OF CERTAIN DAYS AND DURING CERTAIN HOLIDAYS, AND TO EXEMPT CERTAIN CLASSES OF BUSINESSES THEREFROM.

WHEREAS section 148 of the *Municipal Act, 2001, as amended* provides that a local municipality may require that retail business establishments be closed to the public at any time;

AND WHEREAS section 1.2 (1) of the *Retail Business Holidays Act, R.S.O. 1990*, provides that the *Retail Business Holidays Act* does not apply to a municipality and does not apply in respect of any by-law of the municipality or any retail business establishment located in the municipality if there is in effect a by-law passed by the municipality providing that the *Act* does not apply to it;

AND WHEREAS section 1.2 (2) of the *Retail Business Holidays Act, R.S.O. 1990*, provides that a by-law passed under section 1.2 (1) of the *Retail Business Holidays Act* does not take effect until the municipality passes a by-law under section 148 of the *Municipal Act, 2001* requiring that one or more classes of retail business establishments be closed on a holiday;

AND WHEREAS the Council of the Corporation of Clarence-Rockland deems it expedient to adopt a by-law to regulate and govern the closing hours and the opening hours on statutory holidays of certain retail business establishment;

NOW THEREFORE the Council of the Corporation of the City of Clarence-Rockland enacts as follows:

DEFINITIONS

1. In this by-law:
 - (a) **“Closed”** means not open for the serving of any customer;
 - (b) **“Corporation”** means the Corporation of the City of Clarence-Rockland;
 - (c) **“Council”** means the Council of the Corporation of the City of Clarence-Rockland;
 - (d) **“Holiday”** means (a) New Year’s Day, (b) Family Day (c) Good Friday, (d) Victoria Day, (e) Canada Day, (f) Labour Day, (g) Thanksgiving Day, (h) Christmas Day, (i) Easter Sunday, and (j) any other public holiday declared by proclamation of the Lieutenant Governor of the Province of Ontario to be a holiday as defined in the *Retail Business Holiday Act*;

- (e) **“Owner”** means any person, persons or corporation who owns or manages a retail business establishment;
- (f) **“Person”** means an individual, a partnership, a body corporate and any association, and the heirs, executors, administrators, successors and assigns or other legal representatives thereof to whom the context means a human being;
- (g) **“Retail business”** means the selling or offering for sale goods or services by retail;
- (h) **“Retail business establishment”** means the premise where goods and services are sold or offered for sale by retail;
- (i) **“Shop”** means a premise with less than 2,400 sq. feet where goods and services are sold or offered for sale by retail.

RETAIL BUSINESS HOLIDAY ACT DOES NOT APPLY

- 2. The *Retail Business Holiday Act* does not apply to the City of Clarence-Rockland;
- 3. All retail business establishments in the City of Clarence-Rockland may remain open on a holiday unless prohibited to do so under this by-law.

RETAIL BUSINESS HOURS

- 4. Every retail business establishment within the City shall, during the whole of each year, be closed and remain closed on:
 - a) Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of every week during the hours of ten (10) o'clock in the afternoon and seven (7) o'clock in the forenoon of the following day unless otherwise permitted herein; and
 - b) Sunday of every week during the hours of nine (9) o'clock in the afternoon and seven (7) o'clock in the forenoon of the following business day as permitted by statute unless otherwise permitted herein.
- 5. Every retail business establishment owner shall ensure that the retail business establishment be closed and remain closed in accordance with the provisions of this by-law.

HOLIDAYS

- 6. Every retail business establishment within the City shall remain closed on :
 - a) New Years' Day
 - b) Good Friday

- c) Easter Sunday
- d) Canada Day
- e) Labour Day
- f) Thanksgiving Day
- g) Christmas Day

PROHIBITION

- 7. No person carrying on a retail business establishment shall:
 - a) allow any customer to enter the retail business establishment after the appointed closing hour to make a purchase by retail;
 - b) allow any customer to enter the retail business establishment on Christmas Day to make a purchase by retail;
- 8. No person employed by or acting on behalf of a person carrying on a retail business in a retail business establishment shall engage in any prohibited activity listed in section 7.
- 9. Nothing in this by-law renders unlawful the continuance in a retail business after the appointed hour for closing thereof to any customers who were in the retail business establishment immediately before that hour or the serving of such customers during their continuance therein.

EXTENDED HOURS

- 7. Notwithstanding the provisions of Section 4 of this by-law, all classes of retail business establishments may open at seven (7) o'clock in the forenoon and close at eleven (11) o'clock in the afternoon commencing on the 1st day of December and terminating on the 31st day of December of each year unless otherwise permitted herein:
 - a) All classes of retail business establishment may exercise the right to open at six (6) o'clock in the forenoon and close at eleven (11) o'clock in the afternoon the last Friday of November of each year;
 - b) All classes of retail business establishment may exercise the right to open at six (6) o'clock in the forenoon on the 26th day of December of each year.

EXEMPTIONS/EXCEPTIONS

- 9. The following classes of business are exempt from any provisions of this by-law:
 - a) 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:
- foodstuffs,
 - tobacco or articles required for use of tobacco;
 - antiques;
 - handicrafts;
 - books
- b) gasoline and motor oil service stations;
- c) nurseries
- d) flower shops
- e) gardening centres
- f) confectionery shops;
- g) shops for retail sale of only fresh fruits and fresh vegetables or either of them;
- h) shops for the retail sale of dairy products;
- i) video rental shops;
- j) pharmacies accredited under the *Drug and Pharmacies Regulation Act*, provided that the principal business of the retail business establishment is the sale of goods of a pharmaceutical or therapeutic nature or for hygienic or cosmetic purpose.

DAYLIGHT SAVINGS

10. For the purposes of this by-law, so long as the time commonly observed in the City is one hour in advance of standard time, the times mentioned in this by-law shall be considered in accordance with the time so commonly observed and not standard time.

PENALTIES

11. Every person being a shopkeeper who contravenes any provisions of this by-law is guilty of an offence and is subject to the provisions of the Provincial Offences Act, as amended.

PROHIBITING ORDER

12. Any court of competent jurisdiction may, in addition to any other penalty, impose on the person convicted an order prohibiting the continuation or repetition of the offence or the doing of any act or thing by the person convicted directed towards the continuation or repetition of the offence.

SEVERABILITY

13. If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part thereof shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in force.

BY-LAW REPEALED

14. By-Law Number 2007-123 and amendments hereto are hereby repealed.

15. This by-law shall take force on the day it is adopted by Council.

READ AND PASSED IN OPEN COUNCIL ON THIS 17th DAY OF APRIL 2018.

Guy Desjardins, Mayor

Monique Ouellet, Clerk