



Staff Report

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Report To:	General Government Committee	
Date of Meeting:	March 8, 2021	Report Number: LGS-012-21
Submitted By:	Rob Maciver, Director of Legislative Services	
Reviewed By:	Andrew C. Allison, CAO	By-law Number:
File Number:	L1000-47	Resolution#: C-142-19, GG-223-21, C-111-21
Report Subject:	Regulation of On-Farm Special Events	

Recommendations:

1. That Report LGS-012-21 be received for information; and
2. That all interested parties listed in Report LGS-012-21 and any delegations be advised of Council's decision.

Report Overview

Extensive public consultation has occurred on the issue of on-farm special events. After considerable debate, several possible approaches to regulation have emerged. The primary method of regulation is through the zoning by-law and site plan approval process. Supplementary methods, including additional regulatory/licensing by-laws or “good neighbour agreements” may be used if Council has concerns that zoning and site plan alone are insufficient to address potential impacts. By-laws of general application tend to obscure the unique features of each individual farm property, and each situation may benefit from a property-specific approach. There are presently no active applications for on-farm special events. For these reasons it may be advisable for Council to await a concrete set of facts associated with a specific property before venturing further into a regulatory response.

1. Introduction

- 1.1 The subject of the municipal regulation of on-farm special events, specifically on-farm wedding events, within Clarington has become very convoluted. What started out as an application by an individual farm owner for a zoning by-law amendment to permit weddings and other special events has broadened into a much wider discussion involving farm owners, business owners, the Agricultural Advisory Committee of Clarington, and residents from across the rural areas of Clarington.
- 1.2 At the risk of oversimplification, at the core of the problem is two competing interests: the interests of some farm owners that would like to diversify their farm operations to include special events such as weddings, versus the interests of some of the neighbouring residents in the rural area who oppose these events on the grounds that they will be a source of disturbance that they should not be forced to tolerate.

2. Background

Re-zoning Application for 3582 Morgans Road

- 2.1 Situated at 3582 Morgans Road is a 40-acre farm, known as Graham Creek Farm, that produces grass-fed beef, lamb, and goat meat. In 2015, the owners of Graham Creek Farm applied to the Municipality for a zoning by-law amendment to permit agri-tourism special events (e.g. weddings) as an on-farm diversified use.
- 2.2 In January of 2017, Clarington Council refused the Graham Creek Farm application, despite that the Director of Planning at the time had made a recommendation for approval.
- 2.3 The owners of Graham Creek Farm appealed Council’s refusal to the LPAT. The only parties to the appeal were the owners of Graham Creek Farm and the Municipality. Several of the residents of Morgans Road who were in opposition to the application attended the hearing and some of them provided the tribunal with participant

statements. The Region of Durham did not appear at the hearing but had indicated to staff that it had no objection to the proposed special event use. Likewise, the Provincial agencies declined to take a position on the application.

- 2.4 In its decision, the LPAT affirmed that weddings and other special events should be permitted as an on-farm diversified use, however it declined to approve the specific zoning by-law amendment for 3582 Morgans Road. In the opinion of the LPAT, the proposed by-law amendment was not acceptable because of its failure to adequately protect the integrity of the principal farm use. Specifically, the tribunal member expressed concern that the proposed by-law failed to adequately regulate with respect to seasonality, maximum number of permitted guests, and maximum frequency of events.
- 2.5 Included in the decision is the following guidance for any future attempts to regulate on-farm special events:

“... an applicant or a municipality might benefit from approaching a matter such as this with a chart that identifies the manner in which an event venue on a farm is to be collectively defined, regulated and scoped by: 1) provisions in a zoning by-law; 2) provisions in a typical site plan agreement and/or other agreement that is mutually negotiated, enforceable and which extends beyond the items in a typical site plan agreement; and 3) provisions in existing or proposed general municipal by-laws which deal with such issues as noise, licensing, hours of operation, etc.”
- 2.6 Rather than provide a final determination of the issues, the LPAT decision sent the parties “back to the drawing board” to work out a solution that would permit the use of farms for special events in a manner that would represent a better balance of priorities in the rural area. Although there has been some indication that the owners of Graham Creek Farm may want to resubmit their application to permit on-farm special events, no further application has yet been received.
- 2.7 Council and staff continued to wrestle with the issue of on-farm special events for several months following the release of the LPAT decision. These discussions culminated in Council Resolution #C-142-19, which directed staff to work in consultation with all stakeholders and to report back to Council with proposals to regulate on-farm special events.

Stakeholder Consultation

- 2.8 Staff in the Planning and Development Services Department have had ongoing discussions with representatives from the Ontario Ministry of Agriculture, Food and Rural Affairs (“OMAFRA”) to better understand Provincial policy with respect to on-farm special events.
- 2.9 Based on the guidance found in the LPAT decision and the subsequent discussions with Council, the former Municipal Clerk collaborated with the Municipal Solicitor and staff from the Planning and Development Services Department to identify the constituent elements of a regulatory scheme for on-farm special events. Those components included a zoning by-law amendment, site plan approval, existing regulatory by-laws (e.g. the Noise By-law 2007-071), and the possibility of a by-law exclusively devoted to the regulation of on-farm special events.
- 2.10 A public open house was convened at the Newcastle library on February 19, 2020 to present various aspects of regulation, and to seek public input. Prior to the meeting, a draft regulatory by-law was circulated. The meeting began with presentations from staff, and the key provisions of the draft regulatory by-law were also discussed. Following this introduction by staff, the stakeholders in attendance were given the opportunity to ask questions and to make comments. Participants were also encouraged to submit their written comments to staff.
- 2.11 Contemporaneously with the public open house, an online feedback module was implemented on the Clarington website to seek additional input from the public.
- 2.12 In addition to the verbal comments and input provided at the open house, 26 written comments were received. Attachment 1 to this Report is an anonymized list of the written comments received from the public.
- 2.13 A review of the written submissions reinforces the perception that opinions about on-farm special events are polarized. One faction of stakeholders emphasizes farm diversification, farmer livelihood, farm innovation, economic development, and the liberty to use and enjoy their property. For this group, fewer regulations means easier access to the economic potential of on-farm special events. Another faction emphasizes the potential for nuisance, the need to protect agricultural production, enforcement challenges, and fears about depreciating property values. This group would prefer further limits and regulations associated with on-farm special events. If individuals from these factions agree about one thing, it is the universal dissatisfaction with the draft regulatory by-law that was presented at the open house.
- 2.14 Following the open house, the topic was presented to the Agricultural Advisory Committee of Clarington at their March 12, 2020 meeting. A sub-committee was then created to consider the concerns that had been raised by the public.

- 2.15 The sub-committee was comprised of members of the Agricultural Advisory Committee, additional local farmers, and representation from CBOT and the Regional Economic Development office. The sub-committee reviewed the draft regulatory by-law together with the comments from the public and made several valuable recommendations for a proposed regulatory scheme.
- 2.16 Several meetings were convened with the sub-committee to present proposals and to discuss revisions to the by-law. Ultimately, two alternative by-laws were prepared; one by-law that would require farm owners to obtain a licence to operate on-farm special events, and another by-law that regulates on-farm special events but that does not include a licensing component. These two alternative drafts are included with this report as Attachment 2 and Attachment 3, respectively.
- 2.17 Both draft by-laws attached to this report would create additional regulations for on-farm special events, specifically with respect to maximum attendance, frequency of events, and hours of operation. The licensing version of the by-law imposes the additional requirement to obtain a business license from the Municipality, which would represent an additional annual cost to farmers, and which has the potential to be revoked for non-compliance with its conditions.

Regulation in Other Municipalities

- 2.18 In the preparation of this report, staff also performed an environmental scan of other Ontario municipalities to determine whether there are any other methods in use to regulate on-farm special events. Of the municipalities surveyed, only Norfolk County and Concord (part of the City of Vaughan) were found to have regulations specific to on-farm special events, and in both instances these regulations were implemented as part of the local zoning by-laws. Excerpts from the zoning by-laws for these two municipalities are provided below:

Norfolk County	<p>Zoning By-law 1-Z-2014</p> <p>14.471 In addition to the uses permitted in the A Zone, the follow uses shall be permitted,</p> <p>.....</p> <p>e) wedding ceremonies to a maximum of one hundred (100) people.</p>
Concord (City of Vaughan)	<p>Section 46.2 Permitted Uses, Agricultural Commercial (AGC) Zone</p> <p>1) AGC1 the following uses are permitted uses in the AGC1 Zone variation.....</p> <p>f) Assembly hall</p>

- 2.19 Additionally, in Grey County, it is simply acknowledged that events and weddings qualify as permitted on-farm diversified uses, with no special by-law provisions in effect to regulate on-farm special events.
- 2.20 At some point the assertion was made that a by-law had been enacted in the Township of Wilmot to regulate on-farm special events, however this could not be substantiated.

3. Analysis

- 3.1 The starting point for discussion about on-farm special events is the need to obtain a zoning by-law amendment. On-farm special events are currently only permitted in Clarington through an exception to the zoning by-law that requires an application for a zoning by-law amendment. As with all zoning by-law amendments, the application is a public process and is subject to Council approval, and appeal rights.
- 3.2 Presently, there are a total of two agriculturally zoned properties in Clarington that have obtained the required zoning approval to permit on-farm special events. Both properties are situated in Ward 4.
- 3.3 There are currently no active applications for a zoning by-law amendment to permit on-farm special events.
- 3.4 In addition to a zoning by-law amendment, any buildings, parking areas, or other development in conjunction with on-farm special events would be subject to site plan approval.
- 3.5 Applications for a zoning by-law amendment and site plan approval would be evaluated with reference to the OMAFRA Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas.
- 3.6 The required zoning by-law amendment and site plan approval together represent the existing regulatory framework in which to evaluate requests by farmers to use their properties as a venue for on-farm special events.
- 3.7 It is only if Council determines that zoning and site plan regulations are not adequate to address potential impacts that there would be a potential need for additional municipal regulation. For example, if Council was not satisfied that the seasonality of events, maximum number of events, hours of operation, maximum number of event attendees, or noise emanating from on-farm special events were sufficiently regulated by zoning and site plan requirements, or other methods proposed by an applicant, this might raise the prospect of additional regulation.

- 3.8 Whether, in fact, such impacts would be actualized is an open question. The almost total absence of by-law complaints in connection with the two farm properties where on-farm special events are already permitted suggests that the impacts of these events are manageable. However, these two locations may not reflect conditions elsewhere in the Municipality.
- 3.9 Agricultural properties are highly variable in terms of size, topography, orientation, means of access, proximity to neighbours and a variety of other features. This disparity in features may result in a disparity of the impacts experienced at each farm location. For this reason, it is extremely difficult to generalize about the impacts that would be associated with on-farm special events.
- 3.10 This overgeneralization represents a disadvantage associated with the proposed by-laws attached to this report. For this reason, Council may want to dispense with the notion of additional by-laws in favour of a more site-specific approach to regulation. Alternatively, Council may simply wish to defer consideration of additional by-laws at this time. Council retains the discretion to revisit the need to enact additional regulations at any point in time when it becomes evident that impacts associated with all on-farm special events require such regulation.
- 3.11 An additional regulatory option available to Council is the temporary use provisions under section 39 of the *Planning Act*. These provisions authorize Council to impose a time limit of up to three years on a zoning by-law amendment. The legislation also provides that the time limit can be extended by Council for any number of further periods of up to three years. The inclusion of a temporary use provision in a zoning by-law amendment would allow Council to impose a probationary period so that impacts can be reviewed before a final decision is made about whether to permit on-farm special events at the property location in question. While this represents a possible avenue of compromise, the cost to applicants of this process could represent a barrier, and farmers may be reluctant to invest in improvements to their farms if they face uncertainty about whether their approvals for on-farm special events will become permanent. For these and other reasons, the Director of Planning and Development Services does not tend to favour temporary use provisions as an option for on-farm special events.
- 3.12 Another approach that seems to have been used to some positive effect in another Canadian jurisdiction is to require farmers to enter into a “good neighbour agreement” with the Municipality in relation to their on-farm special events. Under such an agreement, the farmer would make certain representations to the Municipality about how it will conduct its on-farm special events, and what process the farmer would agree to submit to in the event of a dispute with neighbours concerning noise or other impacts. While a good neighbour agreement is not a legally enforceable contract, it nevertheless could serve as a useful framework to establish mutual expectations and to avoid or effectively manage any conflict, should it arise.

4. Concurrence

This report has been reviewed by the Director of Planning and Development Services who concurs with the recommendation.

5. Conclusion

The regulation of on-farm special events has been a source for controversy in Clarington. Municipal approval of a zoning by-law amendment and site plan approval are strict prerequisites to engaging in these events. Supplemental regulatory by-laws are another possible approach, however none of the interested parties that were consulted could agree on acceptable contents for such a by-law. Council can choose to await a property-specific application before making any further determinations.

Staff Contact: Robert Maciver, Director of Legislative Services/Municipal Solicitor, 905-623-3379 ext. 2013 or rmaciver@clarington.net.

Attachments:

Attachment 1 – Summary of Written Submissions

Attachment 2 – Draft By-law – Business Licensing

Attachment 3 – Draft By-law – Regulatory

Interested Parties:

List of Interested Parties available from the Legislative Services Department.

Public Consultation - Summary of Written Submissions

Type of Concern	Specific Comments	Concerns	Suggestions
Time Restriction	Resident it concerned at the 11pm time restriction.		Reconsider the proposal.
Zoning	The farms existed before subdivisions, resident it worried the town is trying to change them.	Resident believes it is discrimination and does not benefit from the comments.	Stop selling farm lands to developers.
Zoning	There is a need for more barn weddings and more farmers. Farmers have the space and could provide an easy solution.	Not sure	Resident believes it is a great idea to let farmers farm and deal with their own property. Everyone looks forward to farm events and the community thrives from thriving farmers.
Zoning	Allow the farmers more room to have events with less barriers and more freedom.	None	Allow any agricultural zoned area who farm at any capacity the ability to make money. Don't make it hard for them.
Regulations/Zoning	There should be more opportunity for people to generate income while creating experiences for others. Perhaps it can be agreed upon with direct neighbours of a short distance. If there are more specific areas, instead of red-tape, set limits. These limits may include how many people are allowed or how many events in a week/month. Farmers are important to the community. Don't make them jump hoops and spend money to be able to hold an event. Let's find solutions.	None	Please allow farmers to utilize their space, generate income and create a better community.

Type of Concern	Specific Comments	Concerns	Suggestions
Noise, Enforcement and Zoning	<p>-When dealing with rural event/wedding businesses, minimum separation distances need to be established. MDS guidelines are necessary to protect neighbouring households from undesirable or unwanted noise.</p> <p>-Studies in Europe show that commercial agritourism can influence agricultural marginalization through the changing of the farmer into a businessman. Therefore it is necessary that all stakeholders are included and involved at every level of any commercial On-Farm Special Event.</p>	<p>-The lack of by-law enforcement is a problem. Were told that enforcement of these types of events would be very difficult. If the Municipality approves these businesses, it then must provide actual enforcement. The neighbouring households must have confidence that the Town has and will use various means in place to deal effectively with any problems that may arise.</p> <p>-Noise is just one issue of many.</p>	<p>-Permits have been suggested as means of control and enforcement. This should be looked at more closely.</p> <p>-Regulations and standards should be designed to protect agriculture, and rural neighbourhoods.</p> <p>-have planning staff and Council use and be assisted by Ag. Advisory Group and/or other non-invested individuals/groups to thoroughly investigate primary agricultural activity basis claims for each application.</p> <p>-Set FIRM rules.</p>

Type of Concern	Specific Comments	Concerns	Suggestions
Enforcement	<p>-Resident agrees that the 10am and 11am times are acceptable, however would like to know if that includes set up/take down. If not, the neighbours will have traffic concerns.</p> <p>-Resident also has questions about the frequency of events. Whether it is all year or only on specific months.</p> <p>-Resident also agrees that 150 attendees is a very fair number to work with.</p> <p>-OMB decision PL170178 - resident believes that staff should go through this information as it contains excellent information and direction.</p> <p>-This is more than a noise by-law and should be treated as such.</p> <p>-Fireworks should be not allowed.</p>	<p>-A lot of concerns are around enforcement. If the Municipality issues a permit, they are to be responsible for ensuring that the bylaws are being followed. A permitting scheme should be used rather than a zoning change.</p> <p>-Trespassing - Neighbours would not be able to issue concerns about number of attendees without trespassing.</p> <p>-Bylaw is not available on the weekend to call if they are needed. One way to handle this is to have the operator be required to have personal security company at their expense.</p> <p>-Clarington has a record of not following through with enforcing penalties when warranted. There was no mention of fines for infractions, but there was some verbal indication that they may not be used.</p>	<p>-There needs to be some consideration as to distance from neighbouring homes in relation to the events.</p> <p>-No farm should be created for the purpose of special events</p> <p>-There was a resolution (#C-142-19) passed were staff were to work in consultation with all stakeholders - this should be done.</p> <p>- For future meetings it should be held at the Diane Hamre complex, as the microphone would be a great addition.</p> <p>- All of the resources from previous hearings, such as OMB, Ag. Committee and OMFRA should be used.</p>
Zoning	It is very difficult to make a living on agricultural land. Innovative activity should definitely be permitted.	There should not be too many regulations.	The resident wants to move forward with the proposal.

Type of Concern	Specific Comments	Concerns	Suggestions
Enforcement	<ul style="list-style-type: none"> -Events should not be allowed in residential rural neighbourhoods. - Neighbours should not be the ones to ensure compliance with the noise restrictions or other issues. 		<ul style="list-style-type: none"> -Ensure the property to be considered for event is actually an agricultural operation as the primary use.
Noise	<p>Resident is very concerned with the evening parties. Those speaking were very passionate about making it happen, but there was nothing said about working with their neighbours. There was no concern about the noise restrictions.</p>	<p>There is no consequence for not following the 11pm limit.</p>	<p>There aren't any benefits to the taxpayers for this. The value of properties will be reduced when they go to sell, but MPAC won't adjust the value for taxes. There needs to be accountability.</p>
Regulations	<ul style="list-style-type: none"> -The notification to neighbouring properties should be expanded from 300m to 1km -There should be a maximum of 300m setback from the event to neighbouring properties -The maximum attendees should be increased from 150 to 500 -The noise should be contained to the property -Open houses/u-pick that host school trips should be exempt. 		<ul style="list-style-type: none"> -The notification to neighbouring properties should be expanded from 300m to 1km -There should be a maximum of 300m setback from the event to neighbouring properties -The maximum attendees should be increased from 150 to 500 -The noise should be contained to the property -Open houses/u-pick that host school trips should be exempt.

Type of Concern	Specific Comments	Concerns	Suggestions
Zoning	It is a large commitment for 2 farms with approved special events. The resident also has difficulty with the proposed regulations where those 2 farms have gone through extensive design and approval to establish appropriate hours of operation, frequency of events and numbers of attendees. Resident believes it would make sense to reference the zone regulations and site plan agreements.	The resident is concerned that the proposed bylaw set up potentially conflicts with regulations between zoning, site plans and the proposed bylaws.	The resident would suggest that the bylaws address the zoning regulations and site plan agreements.
	2% maximum is a barrier for smaller farms, 150 people is too limiting, more flexibility with noise curfews.	Overall to restrictive. Too hard and long of a process for new businesses to get started. People will see a business opportunity and buy up prime farm land for events instead of for normal farm practices.	Less restrictive and equal opportunity for both small and large farms.
Regulations	The resident states that there are already bylaws and systems in place to enforce, and that this proposal only serves to hinder people from business opportunities.	The resident has concerns with the 'extra layer' being added to potential business opportunities. Concerns over how the Municipality came up with the number of attendees or times. There are already events with earlier and later times. Are they to change that?	Resident wants Clarington to start changing its focus to encouraging business opportunities.
Regulations	What methodology was used to determine hours of operation, frequency, numbers, etc? Wants definition of Special Event.	Excessive Regulations. Wants the background information used to arrive at support the proposals. Wants rules to apply for all rural and not just farms. No grandfathering of current sites. Fines are too excessive.	Wants approval at the site plan approval process with guidelines to assist staff through the application and approval process.

Type of Concern	Specific Comments	Concerns	Suggestions
Enforcement	<p>Resident is very glad that the venue will be limited to 150 guests and only one event per weekend. This will still allow venues to host events for 30 weekends from April to October.</p> <p>Resident is also pleased to note that the 11am curfew is in concordance with the Municipal Bylaw. For those wanting a rural experience, the 11pm curfew is reflective of the landscape.</p>	Resident does not believe that these regulations could be enforced. Bloomfield currently and responsibly hired security to ensure guests vacate the property at a reasonable time and protects well being of guests and community. But even the security company may have difficulties enforcing. Perhaps it could be suggested that the site assessment/planning piece include security.	<p>Resident hopes that staff involved with the decision making of the special events read the PPS 2014 and understand that Clarington must make decisions "consistent with the intent of the PPS".</p> <p>It is encouraging to note that the proposed by-laws are reflecting the guidelines that dictate special events must be spatially and temporary to a farm operation.</p>
Zoning	Resident believes that instead of having to apply for permission, that the zoning for agri-tourism should be in allowance for agri zoned properties.		Resident thinks that people in Clarington are looking to host more on-farm events. There should be more allowances in general. Not just with special event permissions.
Enforcement	Resident questions why a zoning change was presented when changes could have been regulated through licensing.	Concern with who was notified, number of people were reportedly not consulted. No minimum fine presented and concern there will be a reluctance to charge violators.	Resident wants violators to be held responsible and the changes enforceable.
Zoning	Bloom Field is not interested in rezoning		
Zoning/Enforcement	Concern with how the Municipality handles noise complaints and the lack of enforcement. Concerned with the proposed zoning change thinks that the events should be applying for permit instead.	Concern with limited enforcement to handle noise related issues and the effects events will have on existing rural communities	On-site sound tests. Consultations with other Municipalities who have gone through similar experiences.
Time Restriction	11:00 PM - too early. Number of people should be increased to at least 180		

Type of Concern	Specific Comments	Concerns	Suggestions
Enforcement	Concern with heavy fines that could be imposed. Resident would like to build relationships and not feel attacked by Municipality		Work with farmers as partners.
Enforcement	Concern with 11:00PM shut down time.		
Zoning	Lack of knowledge by the Municipality understanding agriculture and agricultural special events. Municipality unable to identify the difference between primary, secondary, and diversified agricultural uses. Definition of on-farm event is too vague, concerns it may not follow provincial guidelines, number of people permitted was not well researched,	The people creating this bylaw don't understand the agriculture industry. Timeline is too tight and doesn't allow for thoughtful conversations.	Look into examples of how other successful businesses are growing such as Springdale Farm, Downey's Farm, Chudleigh's Farm, Brooks Farm, and Saunders Farm.
Zoning	Inconsistencies between what the Municipality is doing and the goal of the Region of Durham. The regulations imposed are potentially limiting agritourism opportunities. Limitations on time should be reconsidered.	The proposed changes would limit the opportunities for economic success. Why limit the number of people when the current special event bylaw is for 500+ people.	Resident would like this proposed bylaw to be rejected.

THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON
BY-LAW 2020-XXX

Being a by-law to license On-Farm Special Events

WHEREAS subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes the Municipality to pass by-laws respecting the health, safety and well-being of persons;

WHEREAS under Subsection 8(3) of the *Municipal Act, 2001*, a by-law respecting a matter may (a) regulate or prohibit the matter; (b) require persons to do things respecting the matter; and (c) provide for a system of licences respecting the matter;

WHEREAS under Sections 150 and 151 of the *Municipal Act, 2001*, a municipality may provide for a system of licences with respect to any business wholly or partly carried on within the municipality, including the sale or hire of goods or services on an intermittent or one-time basis; and

AND WHEREAS subsection 128(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

NOW THEREFORE the Council of The Corporation of the Municipality of Clarington hereby enacts as follows:

PART 1 - INTERPRETATION

Definitions

1.1 In this By-law,

“**Applicant**” means a person seeking a licence pursuant to this By-law;

“**Enforcement Officer**” means a Municipal Law Enforcement Officer whose duties include the enforcement of this By-law;

“**Licence**” means a licence issued pursuant to this By-law;

“**Licensee**” means a person to whom a Licence has been issued in accordance with this By-law;

“**Municipal Clerk**” means Clerk of the Municipality or a designate;

“**Municipality**” means The Corporation of the Municipality of Clarington or the geographic area of Clarington, as the context requires;

“On-Farm Special Event” means a social gathering outside of normal farm practices on lands zoned to permit special events as a use that is secondary to the agricultural farming operations;

“Owner” means the registered or beneficial owner of farm property;

“Person” means an individual or a corporation, and “Persons” has a corresponding meaning; and

“Zoning By-law” means a by-law passed by the Municipality pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13 and includes Zoning By-law 84-63 and Oak Ridges Moraine Zoning By-law 2005-109, or their successors.

References

- 1.2 In this By-law, reference to any Act or by-law is reference to that Act or by-law as it is amended or re-enacted from time to time.
- 1.3 Unless otherwise specified, references in this By-law to Parts and sections are references to Parts and sections in this By-law.

Word Usage

- 1.4 This By-law shall be read with all changes in gender or number as the context requires.
- 1.5 In this By-law, a grammatical variation of a word or expression defined has a corresponding meaning.

Application

- 1.6 This By-law applies to all On-Farm Special Events in the Municipality unless otherwise specified.

PART 2 – PROHIBITIONS

Operation

- 2.1 No person shall conduct an On-Farm Special Event without a Licence.
- 2.2 The Owner or designate must be on scene during the On-Farm Special Event.
- 2.3 No Person shall contravene any condition of site plan approval, or any provision within a site plan agreement made pursuant to section 41 of the Planning Act, R.S.O. 1990, c. P.13, that is applicable to land that is subject to this By-law.
- 2.4 No Owner shall permit any activity on their property within the Municipality that is prohibited by this By-law.

- 2.5 Nothing in this By-law exempts an Owner of a farm property from any requirement in any Zoning By-law, or in any way changes the land uses permitted for a farm property pursuant to any Zoning By-law.

Hours of Operation / Seasonality

- 2.6 No person shall conduct an On-Farm Special Event,
- a. between the hours of 11:00 PM and 10:00 AM; or
 - b. on a date outside the range of May 1 to October 31.

Frequency

- 2.7 No Person shall host more than one On-Farm Special Event on the same property within the Municipality in any consecutive three-day interval.
- 2.8 No Person shall host more than two On-Farm Special Events within the Municipality on the same property in any consecutive seven-day interval.

Attendance

- 2.9 Maximum attendance at an On-Farm Special Event shall be the lesser of the capacity determined through the approved Site Plan Agreement, or 300 people.
- 2.10 No person conducting an On-Farm Special Event shall permit more than the maximum number of attendees as stated in the On-Farm Special Event Licence to attend the event, including persons participating in or working at the event.

PART 3 – LICENSING

Applications

- 3.1 Every application for a Licence shall be completed and submitted on forms prescribed by the Municipal Clerk.
- 3.2 Every application for a Licence shall include,
- (a) An annual licensing fee of \$500.00;
 - (b) The address of the property proposed to be used for On-Farm Special Events;
 - (c) written proof, satisfactory to the Municipal Clerk, that the Applicant is the Owner;
 - (d) A valid farm corporation number for the property;

- (e) Confirmation of a Municipally approved site plan; and
- (f) Proof of commercial general liability insurance acceptable to the Director of Finance Services and subject to limits of not less than 2 million dollars inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof, for the duration of the special event.

3.3 Every Licence shall be posted in a conspicuous location on the premises of the On-Farm Special Event.

3.4 A Licensee shall comply with all conditions of a Licence.

Review

3.5 The Municipal Clerk is authorized to receive and consider all applications.

3.6 The Municipal Clerk is authorized to issue or refuse to issue any Licence, either with or without conditions.

3.7 As a condition of a Licence, the Municipal Clerk may require that a Licensee enter into an agreement to limit or mitigate the impacts to the occupants of neighbouring properties.

3.8 In addition to any other condition or requirement of this By-law, every Licence issued shall be subject to the condition that compliance with all applicable Federal, Provincial and Municipal laws, by-laws, rules, regulations, orders, approvals, permits, standards, and all other governmental requirements is required.

Refusal

3.9 The Municipal Clerk shall refuse to issue or renew a Licence if,

- (a) the Applicant is not the Owner of the subject property;
- (b) the Applicant is not at least 18 years of age;
- (c) the application is incomplete;
- (d) the prescribed Licence fee has not been paid;
- (e) the Applicant submits false, mistaken, incorrect or misleading information in support of the application;
- (f) an Enforcement Officer, by way of inspection, has determined that the property is not in compliance with the approved Site Plan Agreement; or
- (g) There is reason to believe that the carrying on of the On-Farm Special Event(s) at the property would contravene any applicable condition, rule, or law.

General

- 3.10 Licences are not transferrable.
- 3.11 The issuance of a License does not represent a commitment by the Municipality or the Municipal Clerk to issue a Licence in a subsequent year.

Term

- 3.12 Licences are valid from the date of issuance and expire on November 1 in the calendar year in which they are issued, unless revoked or suspended at an earlier date.

PART 4 – MANAGEMENT AND RECORDS

- 4.1 Every Licensee shall retain records of any On-Farm Event activity for the period of six months following the end of the term of the Licence.

PART 5 – ENFORCEMENT

- 5.1 Where any Person contravenes any provision of this By-law, an Enforcement Officer may direct such Person to comply with this By-law. Every Person so directed shall comply with such direction without delay.

Powers of Entry

- 5.2 An Enforcement Officer, whether alone or accompanied by an individual possessing special or expert knowledge or skills, may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this By-law;
 - (b) a direction or order of the Municipality made under the *Municipal Act, 2001*, S.O. 2001, c. 25 or this By-law; or
 - (c) an order made under section 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25.
- 5.3 For the purposes of an inspection under this By-law, an Enforcement Officer may:
- (a) require the production for inspection of documents or things relevant to the inspection;

- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to the inspection; and
- (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

5.4 In addition to any other provision of this By-law, and subject to the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25, a provincial judge or justice of the peace may issue an order authorizing the Municipality to enter on land, including a room or place actually being used as a dwelling, for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

- (a) this By-law;
- (b) a direction or order of the Municipality made under the *Municipal Act, 2001*, S.O. 2001, c. 25 or this By-law; or
- (c) an order made under section 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25.

OBSTRUCTION

5.5 No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Enforcement Officer from lawfully carrying out a power, duty or direction under this By-law.

Suspension of Licence

5.6 The Municipal Clerk may suspend a Licence if the Licensee fails to comply with any provision of this By-law and such non-compliance is not remedied within 7 days, or other time period as deemed appropriate by the Municipal Clerk, following notice from the Municipality specifying the particulars of the non-compliance.

Revocation of Licence

5.7 The Municipal Clerk may revoke a Licence if,

- (a) it was issued in error;
- (b) it was suspended in accordance with the provisions of this By-law and no satisfactory evidence of compliance has been filed with the Municipality within 60 days from the date of suspension;

- (c) it was issued as a result of false, mistaken, incorrect, or misleading statements, information or undertakings contained in the application or any supporting materials;
- (d) the Licensee is not in compliance with any Licence condition; or
- (e) upon the request of the Licensee.

5.8 The Municipal Clerk shall immediately inform the Licensee of a revocation and the reasons for it by means of contacting the Licensee at the address provided in the application. The Municipal Clerk shall also notify all affected agencies.

Offences and Penalties

- 5.9 Every Person, other than a corporation who contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every occurrence, day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first offence; and not more than \$25,000 for any subsequent conviction.
- 5.10 Every corporation which contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every occurrence, day or part thereof upon which such offence occurs or continues, to a fine of not more than \$50,000 for a first offence, and not more than \$100,000 for any subsequent conviction.
- 5.11 Without limiting any other section of this By-law, every Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the Provincial Offences Act, R.S.O. 1990, c. P.33.
- 5.12 If any Person is in contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
- 5.13 Where any Person contravenes any provision of this By-law, such Person shall be responsible for all costs incurred by the Municipality directly related to the contravention.

Severability

- 5.14 Each section of this By-law is an independent section, and the holding of any section or part of any section of this By-law to be void or ineffective for any reason shall not be deemed to affect the validity of any other sections of this By-law.

PART 6- GENERAL

Short Title

- 6.1 The short title of this By-law shall be the “On-Farm Special Event Licensing By-law”.

Effective Date

- 6.2 This By-law shall be effective on the date that it is passed.

By-law passed this XX day of XX, 2021

Adrian Foster, Mayor

June Gallagher, Municipal Clerk

THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON
BY-LAW 2020-XXX

Being a by-law to regulate On-Farm Special Events

WHEREAS subsection 11(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, authorizes the Municipality to pass by-laws respecting the health, safety and well-being of persons;

AND WHEREAS subsection 128(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

NOW THEREFORE the Council of The Corporation of the Municipality of Clarington hereby enacts as follows:

DEFINITIONS

1. In this by-law,

“Enforcement Officer” means a Provincial Offences Officer as defined under the *Provincial Offences Act*, R.S.O. 1990, c. P.33;

“Municipality” means The Corporation of the Municipality of Clarington or the geographic area of Clarington, as the context requires;

“On-Farm Special Event” means a social gathering outside of normal farm practices on lands zoned to permit special events as a use that is secondary to the agricultural farming operations;

“Owner” means the registered or beneficial owner of farm property;

“Person” means an individual or a corporation, and “Persons” has a corresponding meaning;

“Zoning By-law” means a by-law passed by the Municipality pursuant to section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, and includes Zoning By-law 84-63 and Oak Ridges Moraine Zoning By-law 2005-109, or their successors.

References

2. In this By-law, reference to any Act or by-law is reference to that Act or by-law as it is amended or re-enacted from time to time.
3. Unless otherwise specified, references in this By-law to Parts and sections are references to Parts and sections in this By-law.

Word Usage

4. This By-law shall be read with all changes in gender or number as the context requires.
5. In this By-law, a grammatical variation of a word or expression defined has a corresponding meaning.

Application

6. This By-law applies to all On-Farm Special Events in the Municipality unless otherwise specified.

Prohibitions

7. The Owner or designate must be on scene during the On-Farm Special Event.
8. No Person shall contravene any condition of site plan approval, or any provision within a site plan agreement made pursuant to section 41 of the Planning Act, R.S.O. 1990, c. P.13, that is applicable to land that is subject to this By-law.
9. No Owner shall permit any activity on their property within the Municipality that is prohibited by this By-law.
10. Nothing in this By-law exempts an Owner of a farm property from any requirement in any Zoning By-law, or in any way changes the land uses permitted for a farm property pursuant to any Zoning By-law.
11. No Person shall conduct an On-Farm Special Event,
 - a. between the hours of 11:00 PM and 10:00 AM; or
 - b. on a date outside the range of May 1 to October 31.
12. No Person shall host more than one On-Farm Special Event on the same property within the Municipality in any consecutive three-day interval.
13. No Person shall host more than two On-Farm Special Events within the Municipality on the same property in any consecutive seven-day interval.
14. Maximum attendance at an On-Farm Special Event shall be the lesser of the capacity determined through the approved Site Plan Agreement, or 300 people.
15. No person conducting an On-Farm Special Event shall permit more than the maximum number of attendees as stated in the On-Farm Special Event Licence to attend the event, including persons participating in or working at the event.

ENFORCEMENT

16. Where any Person contravenes any provision of this By-law, an Enforcement Officer may direct such Person to comply with this By-law. Every Person so directed shall comply with such direction without delay.

POWERS OF ENTRY

17. An Enforcement Officer, whether alone or accompanied by an individual possessing special or expert knowledge or skills, may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (a) this By-law;
 - (b) a direction or order of the Municipality made under the *Municipal Act, 2001*, S.O. 2001, c. 25 or this By-law; or
 - (c) an order made under section 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25.
18. For the purposes of an inspection under this By-law, an Enforcement Officer may:
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.
19. In addition to any other provision of this By-law, and subject to the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25, a provincial judge or justice of the peace may issue an order authorizing the Municipality to enter on land, including a room or place actually being used as a dwelling, for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
- (d) this By-law;
 - (e) a direction or order of the Municipality made under the *Municipal Act, 2001*, S.O. 2001, c. 25 or this By-law; or

- (f) an order made under section 431 of the *Municipal Act, 2001*, S.O. 2001, c. 25.

OBSTRUCTION

20. No Person shall hinder or obstruct, or attempt to hinder or obstruct, an Enforcement Officer from lawfully carrying out a power, duty or direction under this By-law.

OFFENCES

21. Every Person, other than a corporation who contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every occurrence, day or part thereof upon which such offence occurs or continues, to a fine of not more than \$10,000 for a first offence; and not more than \$25,000 for any subsequent conviction.
22. Every corporation which contravenes any provision of this By-law, is guilty of an offence and on conviction is liable, for every occurrence, day or part thereof upon which such offence occurs or continues, to a fine of not more than \$50,000 for a first offence, and not more than \$100,000 for any subsequent conviction.
23. Without limiting any other section of this By-law, every Person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine in accordance with the Provincial Offences Act, R.S.O. 1990, c. P.33.
24. If any Person is in contravention of any provision of this By-law, and the contravention has not been corrected, the contravention of the provision shall be deemed to be a continuing offence for each day or part of a day that the contravention remains uncorrected.
25. Where any Person contravenes any provision of this By-law, such Person shall be responsible for all costs incurred by the Municipality directly related to the contravention.

SEVERABILITY

26. If any section or sections of this By-law, or parts thereof are found by any court of competent jurisdiction to be illegal or beyond the power of the Municipality to enact, such section or sections or parts thereof shall be deemed to be severable from this By-law and all remaining sections or parts of this By-law shall be deemed to be separate and independent therefrom and to be properly enacted and to be of full force and effect.

CONFLICT

27. In the event of a conflict between any provision of this By-law and any applicable Act or regulation, the provision that is the most restrictive prevails.

SHORT TITLE

28. The short title of this by-law shall be the “On-Farm Special Event By-Law”.

EFFECTIVE DATE

29. This by-law shall come into force and take effect on the date it is enacted by the Municipality.

By-law passed this XX day of XX, 2021

Adrian Foster, Mayor

June Gallagher, Municipal Clerk