



## Staff Report

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<b>Report To:</b>	<b>General Government Committee</b>	
<b>Date of Meeting:</b>	April 19, 2021	<b>Report Number:</b> LGS-016-21
<b>Submitted By:</b>	Rob Maciver, Director of Legislative Services	
<b>Reviewed By:</b>	Andrew C. Allison, CAO	<b>By-law Number:</b>
<b>File Number:</b>	L1000-47	<b>Resolution#:</b> C-111-21,GG-288-21
<b>Report Subject:</b>	On-Farm Special Event Licensing By-law	

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### Recommendation:

1. That Report LGS-016-21 be received for information

## **Report Overview**

This Report presents the details of a draft On-Farm Special Event Licensing By-law that was requested by Council on March 22, 2021.

## **1. Background**

- 1.1 At the Council meeting of March 22, 2021, Resolution #C-111-21 was passed which provided in part:  
  
“That Attachment 2 to Report LGS-012-21, to proceed with a licensing regime for on-farm special events, be endorsed”.
- 1.2 The draft licensing by-law is found at Attachment 1 of this Report.
- 1.3 There remains considerable disagreement between the interested parties regarding the regulations contained in the draft by-law. The most controversial provisions of the draft by-law are briefly summarized in Section 2 of this Report. These provisions have also been highlighted in the draft by-law for ease of reference.
- 1.4 Members of Council will recall that the Staff recommendation was to forego the licensing by-law in favour of site-specific regulations to be established at the time of approval of a zoning by-law amendment and site plan. As another alternative, the draft by-law could be reformulated such that the specific operational regulations would be included as conditions of each individual by-law. This would achieve Council’s objective of providing for a system of licenses, while also affording the opportunity to tailor regulations to each unique farm property.

## **2. By-law Provisions**

### **Hours of Operation / Seasonality**

- 2.1 Section 2.6 of the draft by-law prohibits on-farm special events from occurring between 11:00 p.m. and 10:00 a.m. and establishes that events may only be held from May 1 to October 1.
- 2.2 Aspiring operators of on-farm special events and their supporters generally viewed these operational parameters as too restrictive. A specific request was made to allow for events to cease at 12 midnight, with sound amplification equipment to be turned off at 11:00 p.m.
- 2.3 Another specific request was submitted to permit events during the Christmas season in addition to the period of May to October.

### **Frequency**

- 2.4 Sections 2.7 and 2.8 of the draft by-law provide that no more than one event may be held in any consecutive three-day interval, and no more than two events in any seven-day interval.
- 2.5 This essentially limits the number of events to one per weekend and two per week during the event season.
- 2.6 Operators again view these limitations as overly restrictive. The submission was made that permission for two wedding events on a long weekend would be more reasonable. A further submission was made that the restriction on the frequency of events should apply only to events that occur after daylight hours, and the daytime events should be counted separately.
- 2.7 Others were vigorously opposed to more than one event per weekend.

### **Maximum Attendance**

- 2.8 Section 2.9 of the draft by-law establishes the maximum attendance for an on-farm special event of the capacity determined as part of the site plan approval, or 300 persons, whichever is less.
- 2.9 Some individuals were concerned that a 300-person maximum attendance was too high.

### **Annual Licensing Fee**

- 2.10 Section 3.2 of the draft by-law would establish an annual licensing fee of \$500. This amount is in line with the permit fee for a larger scale special event of over 500 attendees (e.g. Boots and Hearts) but is higher than the annual fee under the Kennel By-law or the Refreshment Vehicle By-law (both \$200).
- 2.11 In order to remain competitive, some operators expressed a preference for a lower fee of perhaps \$250.

### **License Term**

- 2.12 Section 3.12 of the draft by-law requires that a license be obtained annually. A specific request was submitted to see this licensing term extended to a three-year term to provide for more certainty when booking events more than one year in advance.

### **Set Fines**

- 2.13 A set fine schedule is provided with the by-law to provide for simplified enforcement of minor by-law infractions.
- 2.14 Set fines are subject to approval by the Ontario Ministry of the Attorney General. It is unusual for approval to be obtained for set fine amounts in excess of approximately \$500, and Ministry staff review the proposed fines to determine reasonableness and proportionality.
- 2.15 Nevertheless, some individuals were concerned that the proposed set fine amounts would not be adequate to deter contraventions of the draft by-law.

### **3. Concurrence**

Not Applicable.

### **4. Conclusion**

This report summarizes the contents of the draft licensing by-law and provides some commentary on some of its controversial aspects. While not mandatory, Council may choose to enact the draft by-law, or to make amendments to the by-law based on submissions received from the public.

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Attachments:

Attachment 1 – Draft On-Farm Special Event Licensing By-law

Interested Parties:

List of Interested Parties available from the Legislative Services Department.

THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON  
BY-LAW 2021-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 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 an event or activity that is not permitted as-of-right as an on-farm diversified use, on lands specifically 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) proof of a valid Ontario farm business registration number for the property, or proof of exemption from the registration requirements;

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

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 all On-Farm Special Event activity during the period of the License, 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.

## **PART 6- GENERAL**

### **Severability**

- 6.1 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.

### **Conflict**

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

### **Schedules**

- 6.3 The following Schedules are attached to and form an integral part of this by-law:

**Schedule "A" – Set Fines**

### **Short Title**

- 6.4 The short title of this By-law shall be the "On-Farm Special Event Licensing By-law".

### **Effective Date**

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

By-law passed this XX day of XX, 2021

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Adrian Foster, Mayor

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June Gallagher, Municipal Clerk

**Schedule “A”**

**MUNICIPALITY OF CLARINGTON**

**PART I Provincial Offences Act**

**By-law #2021-XXX: On-Farm Special Event Licensing By-law**

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provision creating or defining offence</b>	<b>COLUMN 3 Set Fine</b>
<b>1</b>	Conduct an On-Farm Special Event without a valid Licence	s. 2.1	\$500.00
<b>2</b>	Contravene a condition of site plan approval	s. 2.3	\$300.00
<b>3</b>	Conduct an On-Farm Special Event during prohibited hours	2.6(a)	\$300.00
<b>4</b>	Conduct an On-Farm Special Event during prohibited date range	2.6(b)	\$300.00
<b>5</b>	Conduct more than one On-Farm Special Event in three-day interval	2.7	\$300.00
<b>6</b>	Conduct more than one On-Farm Special Event in seven-day interval	2.8	\$300.00
<b>7</b>	Exceed maximum permitted attendance	2.9	\$300.00
<b>8</b>	Failure to display License in a conspicuous location	3.3	\$50.00
<b>9</b>	Failure to comply with conditions of a Licence	3.4	\$300.00

“NOTE: The penalty provision for the offences indicated above is section 5.11 of by-law no. 2021-XXX, a certified copy of which has been filed”.