

Office Consolidation of By-Law 2014-020



The Corporation of the
Municipality of Clarington
By-Law 2014-020

Being a By-law to regulate special events on private property within the Municipality of Clarington.

Passed, by Council, on: March 6, 2014

Consolidated as of: November 16, 2016

Amendments:

Amending By-Law	Date	Amendment Details
2015-017	February 9, 2015	Section 2.14 was amended by deleting the phrase "peddlers (By-law 2005-206)".
2014-093	September 15, 2014	Amended to add the definition of "filming" to Section 1.1, and to change the wording to the definition of "special event" in Section 1.1.

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The Corporation of the Municipality of Clarington

By-Law 2014-020

A by-law regulating special events on private property

WHEREAS section 126 of the *Municipal Act, 2001*, S.O. 2001, c.25 authorizes a municipality to (a) regulate cultural, recreational and educational events including public fairs; (b) issue permits for such events; and (c) impose conditions for obtaining, continuing to hold and renewing such permits; and

WHEREAS the Municipality wishes to ensure cooperation among the various agencies involved in and affected by special events in order to (a) enhance the quality of life for residents; (b) further tourism and economic development; (c) protect public health and safety; and (d) avoid unnecessary disruptions in the community; and

WHEREAS the Municipality wishes to regulate the special events held on private property.

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, unless otherwise specified,

“amusement device” has the same meaning as in subsection 1(1) of O. Reg. 221/01 passed under the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16;

“applicable laws” means all federal, provincial and municipal laws, by-laws, rules, regulations, orders, approvals, permits, standards, and all other governmental requirements applicable to a special event;

“applicant” means a person applying for a permit;

“application” means an application for a permit;

“Chief of Police” means the Chief of Police of the Durham Regional Police Service or a designate;

“Clerk” means the Municipal Clerk or a designate;

“filming” means filming, videotaping, photographing or any other type of video recording for a feature film, television film, television program, documentary, commercial, music video, educational film or other similar purpose, but does not include interviews, newscasts, press releases or visual recordings for personal purposes.

“highway” has the same meaning as in subsection 1(1) of the *Municipal Act, 2001*, S.O. 2001, c.25;

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

“permit” means a permit for a special event issued under this by-law;

“person” includes an individual, association, firm, partnership, corporation, trust, organization, trustee, or agent, and their heirs, executors or legal representatives;

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“private property” means real property that is not owned or controlled by the Municipality;

“Region” means the Corporation of the Regional Municipality of Durham; and

“special event” means a cultural, recreational, educational or similar event including fairs, festivals and carnivals, that has an expected daily attendance of at least 500 persons at any time during the event, and also includes filming events irrespective of the number of participants”.

References

- 1.2 In this by-law, reference to any Act, By-law or Policy is reference to that Act, By-law or Policy as it is amended or re-enacted from time to time.
- 1.3 Unless otherwise specified, references in this by-law to Parts, sections or clauses are references to Parts, sections or clauses in this by-law.
- 1.4 Reference to a Director is reference to the Director of the specified Municipal Department or a designate.

Word Usage

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

Severability

- 1.7 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.

Application

- 1.8 This by-law applies to all special events held outdoors on private property.
- 1.9 This by-law does not apply to special events held indoors or outdoors on Municipal property including Municipal highways.

Part 2 – Special Event Permits

Permit Required

- 2.1 No person shall hold or carry on, or permit to be held or carried on, a special event outdoors on private property without a permit.

Exemptions

- 2.2 No permit shall be required for special events held on or at,
 - (a) the Orono Fairgrounds;
 - (b) the Bowmanville Zoo;
 - (c) property owned by a conservation authority, school (whether public or private), university, college or church; or
 - (d) property owned by the Region.

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- 2.3 Provided the use is permitted in the Municipality's zoning by-laws or has otherwise been authorized by the Municipality, no permit shall be required for,
- (a) sporting events including golf tournaments; or
 - (b) motor vehicle racing.
- 2.4 No permit shall be required for the CP Holiday Train.
- 2.5 For clarity, special events described or listed in sections 2.2, 2.3 or 2.4 may require permits, licenses, approvals or authorizations under other Municipal by-laws or other applicable laws.

Application – Minimum Requirements

- 2.6 Every application shall be completed and submitted on forms prescribed by the Clerk.
- 2.7 Every application shall include,
- (a) a site plan showing,
 - (i) the boundaries of the property on which the special event will be held;
 - (ii) the location of all existing and proposed buildings or structures to be used in connection with the special event and any residential buildings on adjacent properties;
 - (iii) all areas to be designated for food and beverage sales or consumption;
 - (iv) all areas to be designated for vehicle parking and camping; and
 - (v) all proposed access locations around the property's perimeter;
 - (b) details of the special event including a description of any proposed,
 - (i) fireworks;
 - (ii) amusement devices;
 - (iii) food sales or service;
 - (iv) alcohol sales or service;
 - (v) sound equipment;
 - (vi) generators, propane appliances and any other specialized equipment to be used during the special event, including the type of fuel used to operate the equipment;
 - (vii) vendors of any type;
 - (viii) vehicles that exceed the load or dimension limits set out in Parts VII and VIII of the *Highway Traffic Act*, R.S.O. 1990, c. H.8, helicopters, hot air balloons, aircraft, trains or watercraft;
 - (ix) use of exotic pets;
 - (x) signage;
 - (xi) temporary structures such as tents larger than 30 m² or 323 ft² (Fire Code) or 60 m² or 646 ft² (Building Code); and
 - (xii) temporary closure of a highway;

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- (c) a daily estimate of the number of persons expected to attend the special event;
- (d) the date(s) and time(s) of the special event, including set up and disassembling/clean up dates and times;
- (e) where the applicant is not the owner of the property on which the special event is to be held, written proof that the owner consents to the special event;
- (f) satisfactory proof that the applicant is at least 18 years of age or, if the applicant is a corporation, copies of the letters of incorporation or other incorporating documents that have been duly certified by the proper authorities and that show the full corporate name, officers and directors of the applicant;
- (g) contact information for the applicant;
- (h) proof that all property owners within 120 metres of the proposed location(s) have been notified of the proposed special event;
- (i) an application review fee of \$500.00 payable at the time of submission; and
- (j) any other information or documentation that the Clerk deems necessary.

Application – Additional Requirements

2.8 Without limiting the generality of clause 2.7(j), the Clerk may require an applicant to submit as part of an application,

- (a) an emergency plan that provides procedures to follow in the event of fire, extreme weather, criminal acts, personal injuries, medical or other emergencies, a description of all first aid services to be provided, a communication protocol, decision-making authority, evacuation procedures, the name(s) and contact information for all emergency personnel, and any other emergency preparedness information that the Director of Emergency and Fire Services may require;
- (b) a fire safety plan consistent with the provisions of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4 and the Ontario Fire Code, O. Reg. 213/07 to the satisfaction of the Director of Emergency and Fire Services;
- (c) a security plan that provides information respecting all security services dedicated to the special event, the roles and responsibilities of all security personnel, a communication protocol, decision-making authority, restricted areas, and any other security information that the Chief of Police and/or the Director of Emergency and Fire Services may require;
- (d) a traffic safety plan providing for the control of traffic and parking, including all vehicular, pedestrian and cyclist movements to, from and within the special event site and, where applicable,
 - (i) detours of public transit routes and highways;
 - (ii) emergency vehicle access and egress;
 - (iii) public access and separation from hazardous areas;
 - (iv) temporary barriers and devices necessary for traffic control or parking;
 - (v) designated accessible pick-up and drop-off locations for persons with disabilities;

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- (vi) the pick-up and drop-off locations for buses, taxis and limousines;
 - (vii) vehicles that exceed the load or dimension limits set out in Parts VII and VIII of the *Highway Traffic Act*, R.S.O. 1990, c. H.8; and
 - (viii) such other traffic and parking information as the Director of Engineering Services may require; and/or
- (e) a waste management (including recycling) plan.
- 2.9 It is the applicant's sole responsibility to obtain and pay for all of the information and documentation required under sections 2.7 and 2.8.
- 2.10 The deadline for submitting the information and documentation required by sections 2.7 and 2.8 is 90 days prior to the special event.

Review

- 2.11 The Clerk is authorized to receive and consider all applications, and to conduct all investigations necessary to determine whether a permit should be issued.
- 2.12 The Clerk may issue or refuse to issue any permit, and may include any conditions in a permit that she deems appropriate.
- 2.13 Prior to making a decision on any application, the Clerk shall consult with such Municipal Departments and other persons or agencies as she considers necessary.

Additional Approvals

- 2.14 Prior to the proposed special event, the applicant shall ensure that all permits, licenses, approvals or other authorizations required under Municipal by-laws in relation to the special event have been obtained, including (if applicable) those relating to noise (By-law No. 2007-071), refreshment vehicles (By-law No. 2004-114), exotic pets (By-law No. 2012-045), signs (By-law No. 2009-0123), fireworks (By-law No. 92-160), and special events on municipal highways (By-law No. 2014-021).
- 2.15 Prior to the proposed special event, the applicant shall provide (if required by the Clerk) written confirmation that,
- (a) the emergency plan is satisfactory to the Director of Emergency and Fire Services;
 - (b) the fire safety plan is satisfactory to the Director of Emergency and Fire Services;
 - (c) the security plan is satisfactory to the the Director of Emergency and Fire Services;
 - (d) the traffic safety plan is satisfactory to the Director of Engineering Services;
 - (e) the waste management plan is satisfactory to the Region's Health Department;
 - (f) arrangements have been made to provide adequate police protection to the satisfaction of the Chief of Police;
 - (g) all requirements of the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7 have been met to the satisfaction of the Region's Health Department;

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- (h) appropriate arrangements for the provision of medical services or medical transport or the provision of first aid services by non-paramedic staff have been made to the satisfaction of Durham Emergency Medical Services;
- (i) the Region's Works Department has issued any water hydrant, sign or road occupancy permits in relation to highways under its jurisdiction;
- (j) the Alcohol and Gaming Commission of Ontario has issued all required licenses and permits relating to the serving or sale of alcohol;
- (k) the Municipality's Chief Building Official or a designate has issued all permits required under the *Building Code Act, 1992*, S.O. 1992, c. 23;
- (l) the Director of Finance has received all of the insurance, fees and security deposit required under Part 3;
- (m) the Technical Standards and Safety Association has issued all required licenses and permits for amusement devices, vessels, fuels or other matters regulated under the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16; and
- (n) the Electrical Safety Authority has issued all approvals required under the Ontario Electrical Safety Code, O. Reg. 164/99 relating to any electrical work.

Large Events

- 2.16 If a special event has an expected daily attendance of more than 10,000 persons,
- (a) the requirements of section 2.8 (Application - Additional Requirements) shall be mandatory;
 - (b) the insurance required by section 3.1 shall be subject to limits of not less than \$10 million; and
 - (c) the Municipality's Chief Administrative Officer or a designate may coordinate and attempt to ensure the timely preparation and delivery of applicable agency comments under sections 2.14 and 2.15.

Conditions

- 2.17 In addition to any other conditions that the Clerk may deem appropriate, every permit shall be subject to the following conditions:
- (a) The permit holder shall comply with all applicable laws.
 - (b) The permit holder shall comply with all approved emergency, fire safety, security and traffic safety plans.
 - (c) The permit holder shall ensure that all equipment and structures used for the special event are properly and lawfully installed, inspected, operated, used and dismantled.
 - (d) The permit holder shall indemnify and save harmless the Municipality, its officers, employees and agents from and against all manner of actions, causes of action, claims, demands, losses and costs (collectively, "Claims") that may arise, be sustained, or prosecuted against the Municipality for or by reason of the granting of the permit or the performance of the permit holder under the permit (save and except Claims relating to Municipal negligence).
 - (e) The permit holder shall maintain the special event site in a clean and sanitary condition for the duration of the special event.
 - (f) The permit holder shall remove all debris from the special event site and,

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where required, adjacent properties within 72 hours of the conclusion of the special event.

- (g) The permit holder shall not use Clarington's corporate logos in any material advertising the special event without prior approval of Council.

Amusement Devices

2.18 (1) In this section, "attendant" and "operator" have the same meanings as in subsection 1(1) of O. Reg. 221/01 passed under the *Technical Standards and Safety Act, 2000*, S.O. 2000, c.16.

(2) Where amusement devices are part of a special event, the Clerk may require as a condition of a permit that the operator provide current (not older than 6 months) criminal record checks (including a vulnerable sector search) for all attendants and may prohibit attendants from operating any amusement device unless a satisfactory criminal record check has been provided.

Concerts

2.19 In the case of a special event that is a concert, the maximum level of audible sound measured at points of reception (at least 4) selected by the Manager of Municipal Law Enforcement near the boundaries of the property on which the special event will take place shall be as follows:

<u>Time</u>	<u>Maximum Level of Audible Sound</u>
From 2:01 AM to 9:59 AM	45 dBA
From 10:00 AM to 2:00 AM	60 dBA

Refusal

2.20 Without limiting the generality of section 2.12, the Clerk may refuse to issue a permit if,

- (a) the applicant has not provided information or documentation required under sections 2.7 and 2.8 or did not provide such information or documentation within the time frame set out in section 2.10;
- (b) the applicant has not satisfied the requirements of section 2.14 or 2.15;
- (c) the applicant has knowingly submitted false, mistaken, incorrect or misleading information in support of the application;
- (d) the applicant or any principal, director or officer of the applicant has an outstanding debt to the Municipality relating to a special event;
- (e) there is reason to believe that the carrying on of the special event may result in a breach of any applicable law;
- (f) there are property taxes owing to the Municipality for the property on which the special event is to be held; or
- (g) the special event poses an unacceptable risk to the health and safety of any person or damage to property.

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Revocation

- 2.21 The Clerk may revoke a permit at any time without prior notice to the permit holder if,
- (a) it was issued in error;
 - (b) it was issued as a result of false, mistaken, incorrect or misleading information that was knowingly submitted by the applicant;
 - (c) there are reasonable grounds to believe that the holding or continuation of the special event poses an unacceptable risk to the health and safety of any person or damage to property;
 - (d) the permit holder is not in compliance with any license, permit, approval or authorization required under section 2.14 or 2.15; or
 - (e) the permit holder is not in compliance with any permit condition.
- 2.22 The Clerk shall immediately inform the permit holder of a revocation and the reasons for it by means of contacting the permit holder at the address or at the coordinates provided in the application. The Clerk shall also inform all affected agencies.

General

- 2.23 Every permit shall specify the name of the permit holder and the nature, location, date(s) and time(s) of the special event.
- 2.24 The issuance of a permit does not represent a commitment by the Municipality or the Clerk to issue a permit for any subsequent, continuing or similar event.
- 2.25 Permits are not transferrable.
- 2.26 No amendment shall be made to a permit without prior authorization by the Clerk.
- 2.27 The Clerk shall notify Council of all permits prior to the date of the special event.

Part 3 – Financial

Insurance

- 3.1 Every applicant shall provide proof of commercial general liability insurance acceptable to the Director of Finance 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.
- 3.2 If deemed necessary by the Director of Finance, the applicant shall provide liability insurance in respect of licensed, owned or leased motor vehicles subject to a limit of not less than 2 million dollars inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof.
- 3.3 If deemed necessary by the Director of Finance, the insurance shall include coverage for premises and operations liability, products and completed operations liability, cross liability, severability of interest clause, employees as additional insured, contingent employer's liability, personal injury liability, incidental medical malpractice, owners and contractors malpractice, blanket contractual liability, and non-owned automobile liability.
- 3.4 All insurance shall be in the name of the permit holder and name the Municipality as an additional insured. This insurance shall be non-contributing with, and apply as primary and not as excess of, any insurance available to the Municipality.

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- 3.5 All insurance shall contain the endorsement to provide the Municipality with 30 days prior written notice of any cancellation or change.
- 3.6 The Director of Finance may vary the monetary limits set out in section 3.1 or 3.2

Fees

- 3.7 No later than 20 calendar days after the receipt of a complete application, the Director of Finance shall issue an invoice to the applicant requesting payment for,
- (a) fire resources to be provided by the Department of Emergency and Fire Services;
 - (b) noise monitoring and parking enforcement services to be provided by the Municipal Law Enforcement Division; and
 - (c) any other services to be provided by the Municipality in relation to the special event.

Security Deposit

- 3.8 The permit holder shall provide either cash or a letter of credit in a form acceptable to the Director of Finance as security for possible damage to Municipal property (including highways) or equipment, possible damage to adjacent private property, and for all of the permit holder's obligations under this by-law and the permit. The amount of the security shall be determined by the Director of Finance, but shall not exceed \$30,000.

Exemption

- 3.9 Clause 2.7(i) (application review fee), section 3.7 (fees) and section 3.8 (security deposit) shall not apply if the special event is for the sole benefit of a registered charitable or a registered not-for-profit organization that operates solely for cultural, educational, or religious goals, social welfare, recreation, amateur sport or any other similar community initiative for any purpose except profit.

Part 4 - Enforcement

Applicants

- 4.1 No applicant shall give false or misleading information for the purpose of obtaining a permit.
- 4.2 Every applicant shall notify the Clerk in writing of any change in any of the information contained in an application within two days of the change.

Permit Holders

- 4.3 A permit holder shall comply with all permit conditions.

Officers

- 4.4 This by-law may be enforced by a police officer, a municipal law enforcement officer, the Clerk or the Director of Emergency and Fire Services.

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Inspections

- 4.5 A police officer, a municipal law enforcement officer, the Clerk or the Director of Emergency and Fire Services may,
- (a) enter upon any property (other than a dwelling unit) for the purpose of carrying out an inspection of a special event during its' set-up, occurrence or dismantling in order to determine whether the provisions of this by-law have been complied with;
 - (b) require the production for inspection of any document or thing relevant to the inspection;
 - (c) require the production of information relevant to the inspection; and
 - (d) make examinations or take tests, samples or photographs necessary for the inspection.
- 4.6 No person shall prevent, hinder or interfere or attempt to prevent, hinder or interfere with an inspection undertaken in accordance with this by-law.

Offences and Penalties

- 4.7 Every person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c. P.33.
- 4.8 When a person has been convicted of an offence under this by-law, the Ontario Court of Justice or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.

Part 5 - General

Short Title

- 5.1 The short title of this by-law shall be the "Special Events on Private Property By-law".

Repeal

- 5.2 By-Law No. 91-56 (as amended) and By-Law No. 78-50 (as amended) are repealed.

Effective Date

- 5.3 This by-law shall be effective on the date that it is passed.

By-law passed this 6th day of March, 2014.