

CHAPTER 9

AN ACT concerning special occasion events on preserved farmland and supplementing Title 4 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.4:1C-32.15 Findings, declarations.

1. The Legislature finds and declares that:
 - a. Over 2,800 farms comprising over 247,000 acres of farmland have been preserved in New Jersey since the inception of the State's farmland preservation program;
 - b. The original intent of the farmland preservation program was to prevent suburban sprawl and the conversion of agriculturally suitable land to other purposes, and to keep agriculture as an economically viable industry within the State;
 - c. Keeping agriculture as a sustainable industry in the State ensures residents have continued access to fresh food with low environmental impact;
 - d. The growing interest in agritourism, i.e., activities that attract the public to working farms for enjoyment or education of visitors and generate supplementary income for the farmer, has provided farmers with supplemental revenue and enhanced opportunities to market the State's agricultural and horticultural products; and
 - e. With proper oversight, special occasion events on preserved farmland can have minimal impact on land's viability for farming and provide for new business opportunities for farmers in the State without displacing agricultural or horticultural production as the first priority use of preserved farmland or disrupting neighborhoods that surround preserved farms.

C.4:1C-32.16 Definitions.

2. As used in P.L.2023, c.9 (C.4:1C-32.15 et seq.):

"Applicant" means the owner, and in cases where the owner is not also the operator of the farm and the operator is the person seeking to hold the special occasion event, then the operator of the commercial farm who applies pursuant to subsection c. of section 3 of this act for approval to hold a special occasion event.

"Board" means a county agriculture development board established pursuant to section 7 of P.L.1983, c.32 (C.4:1C-14).

"Commercial farm" means the same as that term is defined in section 3 of P.L.1983, c.31 (C.4:1C-3), except that "commercial farm" shall not include a farm that qualifies for farmland assessment pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), based entirely on a woodland management plan or a forest stewardship plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3).

"Committee" means the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4).

"Exception area" means a portion of the applicant's landholdings that is excluded from the premises and, although identified in the deed of easement, is unencumbered by the farmland preservation deed restrictions set forth in the deed of easement.

"Grantee" means the entity to which the development rights of a preserved farm were conveyed pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes. "Grantee" shall include all entities which lawfully succeed to the rights and responsibilities of a grantee, including, but not limited to, the grantee's successors and assigns.

“Nonprofit entity” means a corporation organized pursuant to the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq. or a corporation organized pursuant to Title 16 of the Revised Statutes.

“Occupied area” means any area supporting the activities and infrastructure associated with a special occasion event including, but not limited to: an area for parking, vendors, tables, equipment, infrastructure, or sanitary facilities; an existing building; or a temporary or portable structure.

“Owner” means the record owner of the preserved farmland.

“Permittee” means the owner, and if applicable, the operator of the commercial farm to whom permission to hold special occasion events has been issued by the grantee.

“Preserved farmland” means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, a county, a municipality, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

“Special occasion event” means a wedding, lifetime milestone event, or other cultural or social event conducted, in whole or in part, on preserved farmland on a commercial farm. "Special occasion event" shall not include:

(1) an activity which is eligible to receive right to farm benefits pursuant to the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.);

(2) a recreational use permitted pursuant to a farmland preservation deed of easement; or

(3) a wedding held for:

(a) a spouse, parent, child, grandparent, grandchild, sibling, niece, nephew, or cousin of the owner of the commercial farm; or

(b) the owner, operator, or an employee of the commercial farm.

"Winery" means a commercial farm where the owner or operator of the commercial farm has been issued and is operating in compliance with a plenary winery license or farm winery license pursuant to R.S.33:1-10.

C.4:1C-32.17 Special occasion event, preserved farmland, compliance, Farmland Preservation Program.

3. a. Notwithstanding any law, or any rule or regulation adopted pursuant thereto, to the contrary, a person may hold a special occasion event on preserved farmland, provided that the grantee determines the preserved farm complies with the terms of the Farmland Preservation Program deed of easement recorded against the preserved farmland, the person complies with the requirements set forth in P.L.2023, c.9 (C.4:1C-32.15 et seq.), and the special occasion event is held in compliance with the requirements of this section and the rules and regulations adopted by the committee pursuant to section 6 of P.L.2023, c.9 (C.4:1C-32.20).

b. The owner or operator of a commercial farm located on preserved farmland that produces agricultural or horticultural products worth \$10,000 or more annually may hold special occasion events on the farm. The special occasion event shall comply with the following requirements:

(1) A special occasion event shall have a maximum duration of two consecutive calendar days if the event is marketed as a single event. An event shall be considered a single special occasion event, even if the event lasts for more than one day, if the event:

(a) is marketed as a single event;

(b) occurs only on consecutive days; and

(c) does not last for more than two days.

(2) A special occasion event shall not interfere with the use of the preserved farmland for agricultural or horticultural production. The special occasion event shall have minimal effects on the occupied area and shall be designed to protect the agricultural resources of the land and ensure that the land can be readily returned to productive agricultural or horticultural use after the event.

(3) A special occasion event that involves the service of alcoholic beverages shall comply with all applicable State and local laws, regulations, resolutions, and ordinances.

(4) (a) All applicable State and local laws, regulations, resolutions, and ordinances including, but not limited to, those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety shall apply to the special occasion event and all activities related thereto. To comply with local laws, regulations, resolutions, and ordinances, the municipality may require that an owner or operator of a commercial farm located on preserved farmland submit an application to the municipality for approval and may designate an office or agency of the municipality to review municipal applications for conducting special occasion events. A municipality may require a municipal application if the special occasion event would:

(i) generate a parking or traffic flow situation that could unreasonably interfere with the movement of normal traffic or emergency vehicles or other organized group sharing similar common purposes or goals proceeding in or upon any street, park, or other public place within the municipality; or

(ii) require the expenditure of municipal resources or inspections from agencies or authorities of the municipality.

(b) For a municipal application submitted in accordance with subparagraph (a) of this paragraph, the municipality shall not charge an application fee of more than \$50. The municipal application shall not require more information than an identification of locations of where tents and other temporary structures, sanitary facilities, parking, and access and egress will be located for each event, where music will be played, the number of expected guests, and other information that may be of public concern and would be required of a similar event when conducted at a public park or another public venue.

(5) (a) No new permanent structures shall be constructed or erected on preserved farmland for the purpose of holding a special occasion event, and improvements to existing structures shall be limited to the minimum required for the protection of health and safety.

(b) No permanent structure constructed fewer than five years prior to the date of application to the grantee to hold a special occasion event pursuant to subsection c. of this section shall be used for the purpose of holding the special occasion event.

(c) The installation and use of tents, canopies, umbrellas, tables, chairs, and other temporary structures on preserved farmland for the purpose of holding special occasion events shall be a permitted use provided that the tent, canopy, umbrella, table, chairs, or other temporary structure conforms to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code, which have been adopted by the Commissioner of Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively. The permitted use of tents, canopies, umbrellas, tables, chairs, and other temporary structures allowed by this subparagraph shall be limited to the timeframe encompassing the first day of April through November 30 of each year.

(d) No public utilities, including gas or sewer lines, shall be extended to the preserved farmland for the purpose of holding special occasion events, except that electric and water service may be extended to preserved farmland for the purpose of holding special occasion events.

(6) Parking at a special occasion event shall be provided through the use of existing parking areas on the farm and curtilage surrounding existing buildings to the extent possible. Additional on-site areas required to provide temporary parking shall comply with the standards for on-farm direct marketing facilities, activities, and events adopted by the committee pursuant to the “Right to Farm Act,” P.L.1983, c.31 (C.4:1C-1 et seq.).

(7) The occupied area associated with a special occasion event shall be no more than the lesser of 10 acres or 10 percent of the preserved farmland.

c. A special occasion event shall not be held on preserved farmland unless the applicant obtains approval to hold special occasion events, in writing from the grantee, prior to holding a special occasion event. If the applicant is the operator, but not the owner, of the farm, then the operator shall submit to the grantee a notarized affidavit from the owner authorizing the application. Once approval is obtained from the grantee, a permittee shall be required to submit an application pursuant to this subsection not more than once annually, and an individual application shall not be required for each special occasion event.

(1) A grantee whose approval is required for a special occasion event to be held on preserved farmland shall develop an application process by which an owner or operator of a commercial farm located on preserved farmland may apply for approval. The application shall, at a minimum, allow the grantee to determine:

(a) that the commercial farm located on the preserved farmland produces agricultural or horticultural products worth \$10,000 or more annually, and this may include an attestation that the commercial farm located on the preserved farmland produces agricultural or horticultural products worth \$10,000 or more annually;

(b) the number of special occasion events to be held on the commercial farm during the calendar year;

(c) the maximum attendance of the special occasion events;

(d) the acreage of the occupied area, as delineated on a map or aerial photograph, to be used for the special occasion event; and

(e) whether the farm is in compliance with its farmland preservation deed of easement.

(2) The grantee shall approve an application made pursuant to this section upon a finding that the special occasion events on the preserved farmland that are the subject of the application comply with the requirements of this act and any rules and regulations adopted by the committee to implement this act. The grantee shall forward a copy of its approval to the committee and to the board in the county in which the preserved farmland is located.

(a) If the grantee is a qualifying tax exempt nonprofit organization as defined pursuant to P.L.1999, c.152 (C.13:8C-3), the grantee may approve, approve with conditions, or deny the application submitted pursuant to this section.

(b) If the grantee does not respond to a written request to hold special occasion events within 90 days following receipt of a request, then the request shall be deemed approved.

(c) If the grantee denies an application made pursuant to this section, the grantee shall provide a reason for the denial and an opportunity for the applicant to reapply with an amended application.

(3) An applicant shall annually certify to the grantee, in a form and manner to be prescribed by the grantee, information about the special occasion events held in the prior calendar year that were approved pursuant to this section, including, but not limited to, the date, occasion, and approximate number of attendees of each event. The grantee shall forward a copy of the certification to the committee.

d. A commercial farm shall not hold more than one special occasion event with over 100 guests per calendar day. A commercial farm may hold 26 special occasion events each

calendar year, of which only six special occasion events may have 250 guests or more in attendance at any time during the event. A special occasion event held by or for a nonprofit entity shall not count against the limitations on events provided by this subsection if the event has fewer than 100 guests and the permittee does not charge for, and receives no fees or compensation for hosting the event, other than for reimbursement of out-of-pocket expenses. The maximum reimbursement to the permittee shall not exceed \$1,000.

e. A retail food establishment other than a temporary retail food establishment, as those terms are defined in the State Sanitary Code adopted pursuant to section 7 of P.L.1947, c.177 (C.26:1A-7), shall not operate on a commercial farm in support of a special occasion event. The limitations of this subsection on the use of a retail food establishment shall not apply to a retail food establishment based at the commercial farm.

f. Nothing in P.L.2023, c.9 (C.4:1C-32.15 et seq.), or the rules and regulations adopted by the committee pursuant to section 6 of P.L.2023, c.9 (C.4:1C-32.20), shall apply to any special occasion event that is not held, in whole or in part, on preserved farmland on a commercial farm, including, but not limited to, exception areas.

C.4:1C-32.18 Inspection, preserved farm, grantee, committee, compliance determination, appropriate credentials, rights, limitations.

4. a. The grantee and the committee shall have the right, without advance notice, to inspect a preserved farm on which special occasion events are held, upon presentation of appropriate credentials during normal business hours or during a special occasion event, in order to determine compliance with the provisions of P.L.2023, c.9 (C.4:1C-32.15 et seq.).

b. A permittee engaged in conducting special occasion events on preserved farmland shall not be subjected to an inspection for any particular type of event authorized pursuant to P.L.2023, c.9 (C.4:1C-32.15 et seq.) more than once per year without good cause demonstrated by the grantee or committee.

C.4:1C-32.19 Violations, penalties; notification, hearing, rights.

5. a. A permittee who violates the provisions of this act shall be liable to a civil administrative penalty of up to \$1,000 for the first offense, up to \$2,500 for the second offense, or up to \$5,000 for a third and subsequent offense. Each day in which a violation occurs shall be considered a separate offense.

b. In addition to the penalties established pursuant to subsection a. of this section:

(1) for a second offense, the committee shall suspend the permittee from holding special occasion events for a period of up to six months;

(2) for a third offense, the committee shall suspend the permittee from holding special occasion events for a period of six months up to one year; and

(3) for a fourth or subsequent offense, the committee shall suspend the permittee from holding special occasion events for a period of at least one year, or permanently suspend the owner or operator of the commercial farm from holding special occasion events.

c. No civil administrative penalty pursuant to subsection a. of this section or penalty established in subsection b. of this section shall be imposed pursuant to this section until after the permittee has been notified of the alleged violation by certified mail or personal service. The notice shall include:

(1) a reference to the section of the statute, regulation, order, or condition alleged to have been violated;

(2) a concise statement of the facts alleged to constitute a violation;

(3) a statement of the amount of the civil administrative penalty that may be imposed and the duration of the suspension that may be imposed, if any; and

(4) a statement of the right of the permittee to a hearing.

d. The permittee served with notice pursuant to subsection c. of this section shall have 20 days after the receipt of the notice to request in writing a hearing before the committee. The committee may retain the matter for a hearing before the committee or transmit the matter to the Office of Administrative Law in accordance with the provisions of the “Administrative Procedure Act”, P.L.1968, c.410 (C.52:14B-1 et seq.).

(1) If the hearing is conducted by the committee, the hearing shall be conducted in accordance with relevant provisions of the “Administrative Procedure Act”, P.L.1968, c.410 (C.52:14B-1 et seq.) and regulations adopted pursuant thereto, and shall provide opportunity for testimony from the municipality in which the preserved farmland is located. After the hearing, if the committee finds that a violation has occurred, the committee may issue a final order assessing the amount of the civil administrative penalty set forth in the notice and imposing the suspension, if any.

(2) If no hearing is requested, then the notice shall become a final order 20 days after the date upon which the notice was served. Payment of the civil administrative penalty shall be due, and duration of the suspension, if any, shall begin, on the date when a final order is issued or the notice becomes a final order.

e. The committee shall notify, in writing, the grantee and the board in the county in which the preserved farmland is located when it suspends a permittee from holding special occasion events pursuant to subsection b. of this section.

C.4:1C-32.20 Rules, regulations.

6. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the committee may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the committee deems necessary to implement the applicable provisions of this act, which shall be effective for a period not to exceed 12 months. The committee shall thereafter adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to implement P.L.2023, c.9 (C.4:1C-32.15 et seq.), including any rules and regulations necessary to determine compliance with the requirements of section 3 of P.L.2023, c.9 (C.4:1C-32.17). The rules and regulations adopted pursuant to this section shall provide forms, processes, and procedures that are the least burdensome as feasible and which are necessary to implement P.L.2023, c.9 (C.4:1C-32.15 et seq.). A grantee may accept applications pursuant to this act and approve applications for special occasion events that comply with the provisions of this act prior to the adoption of the rules required under this section. Upon adoption of rules and regulations pursuant to this section, all approvals pursuant to this act shall comply with the rules and regulations adopted by the committee.

C.4:1C-32.21 Report to Governor, Legislature.

7. a. The committee shall report on special occasion events as authorized by P.L.2023, c.9 (C.4:1C-32.15 et seq.). All grantees shall provide the committee with data requested in relation to the report. The report shall include, but shall not be limited to, an exploration of the following:

- (1) the number of commercial farms on which special occasion events are held;
- (2) the number of guests, type, and frequency of events;

(3) the extent to which disputes are reported between: commercial farms and neighboring properties, commercial farms and municipalities, and commercial farms and the grantee or committee;

(4) the frequency of violations of P.L.2023, c.9 (C.4:1C-32.15 et seq.); and

(5) the frequency of unintended undesirable consequences of special occasion events, such as possible instances of the removal of land from active agricultural or horticultural production to host events.

b. The committee shall submit the initial report conducted pursuant to this section to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on or before the first day of the 18th month next following the effective date of P.L.2023, c.9 (C.4:1C-32.15 et seq.). Following submission of this initial report, the committee shall submit to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1):

(1) an update of the report on an annual basis; and

(2) a revised report, once every four years beginning after submission of the initial report, summarizing the successes and drawbacks of special occasion events, and recommending any administrative and legislative changes.

8. This act shall take effect immediately, except the authority of a municipality to require an application by a winery pursuant to paragraph (4) of subsection b. of section 3 of this act shall take effect on January 1, 2023.

Approved February 3, 2023.