

## Chapter 107 RACETRACKS

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**[HISTORY: Adopted by the Town Board of the Town of Rochester 1-29-1987 by L.L. No. 3-1987. Amendments noted where applicable.]**

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### § 107-1. Purpose. [Amended 7-2-1998 by L.L. No. 2-1998]

By the enactment of this chapter, the Town Board of the Town of Rochester hereby declares that it is in the interest of the health, safety and welfare of the residents of the town to regulate the operation of motor vehicle racetracks. This chapter is adopted pursuant to the provisions of the Municipal Home Rule Law and applicable provisions of the Town Law. In so enacting this chapter, the Town Board takes notice of the impact that racetracks have on this rural community with respect to such matters as number of days and permitted hours of racing, emergency preparedness and coordination with public safety agencies, lighting, mufflers, proper food handling in concession areas, noise, adequate lavatory and septic facilities, dirt and dust, and liability insurance.

### § 107-2. Definitions. [Amended 7-2-1998 by L.L. No. 2-1998]

As used in this chapter, the following terms shall have the meanings indicated:

**A-WEIGHTED SCALE** — The sound pressure level measured by the use of an instrument with the metering characteristics and A-weighting frequency response prescribed for sound-level meters.

**dBA** — Decibels measured on an A-weighted scale.

**DECIBEL** — The unit of measurement commonly used to measure the sound pressure level as a means of describing the intensity and level of sound, as measured on a sound measuring device known as a sound-level meter, which meter shall meet the following internationally approved standards: IEC 123, DIN 45634 and ANSI S1.4-1971, Type 2.

**Leq** — The sound pressure level averaged over a specific time period.

**MOTOR VEHICLE** — Any vehicle propelled by mechanical means, including but not limited to automobiles, stock cars, snowmobiles, motorcycles and go-carts.

**PERSON** — Any individual, association, partnership, corporation or other body, group or unit or combination thereof.

RACETRACK — Any ground, area or track upon which races, contests or demonstrations of skill or stunts involving motor vehicles are conducted, except for one-day tractor and truck pulls.

**§ 107-3. Permit required.**

No person shall operate any racetrack, as defined herein, without possessing a permit to operate the same as hereinafter provided.

**§ 107-4. Application for permit. [Amended 7-2-1998 by L.L. No. 2-1998]**

- A. Application to Town Clerk. Any person desiring to operate a racetrack as defined herein may apply to the Town Clerk for a permit therefor. Such application must be preceded by the obtaining of a special permit approval from the Town Planning Board pursuant to the requirements of Article VII of Chapter 140, Zoning, of the Code of the Town of Rochester. Each applicant shall execute under oath an application for such permit, to be supplied to said applicant by the Town Clerk, containing the following information:
- (1) That said applicant is a citizen of the United States;
  - (2) That said applicant is over the age of 21 years of age;
  - (3) Whether or not said applicant has ever been convicted of a felony or misdemeanor;
  - (4) Whether said applicant has had any previous experience in the operation of racetracks as defined herein;
  - (5) A copy of the schedule of races, including potential rain dates, for the period to be covered by such permit if granted;
  - (6) Such other facts or evidence deemed necessary to establish that said applicant is a person fit, qualified and capable of operating a racetrack as herein defined so as to protect the safety, health, morals and welfare of the town and its inhabitants;
  - (7) A description of the type of racetrack to be operated by the applicant;
  - (8) The number of employees to be employed;
  - (9) The name and address of the owner(s) of the land and the nature of said owner(s) right of occupancy;
  - (10) A statement that, if the permit applied for is granted, the applicant will operate the racetrack pursuant to the regulations hereinafter set forth, and a statement that, upon failure to comply with such regulations, said permit may be revoked forthwith; and
  - (11) A copy of the special permit approval of the Town Planning Board.
- B. Approval of Town Board. Upon receipt of a completed permit application on the form prescribed by the Town Board as herein set forth, the Town Clerk shall cause the same to be forwarded to the Town Board, which shall hold a public hearing on the matter within 30 days upon receipt of the completed application. If the Town Board, following its

investigation into the fitness of the applicant finds it in the best interest of the town to issue said permit, it may do so.

C. Renewal of permit.

- (1) Upon the permittee's payment of the appropriate fee in accordance with § 107-5 of this chapter, the Town Clerk is authorized to issue a renewal of an expiring permit or an expired permit, provided that:
  - (a) Such permit is valid and in effect or was valid and in effect on December 31 of the preceding year. However, the Town Clerk shall not issue a renewal for any permit h has expired more than 90 days from the submission of the appropriate fee for renewal;
  - (b) There are no outstanding notices of violation issued by the town;
  - (c) The Town Board has adopted a resolution approving the schedule of race dates and rain dates for the upcoming year; and
  - (d) The special permit approval by the Town Planning Board is valid and in effect.
- (2) If the permittee proposes any modification to the operation of the racetrack other than to the schedule of race dates, the permittee must apply for a new permit in accordance with the requirements of Subsection A or B of this section and any other requirements of the town which apply. This provision shall not apply to the addition of nonracing use(s) on the site as otherwise regulated by Chapter 140, Zoning, of the Code of the Town of Rochester.

**§ 107-5. Permit fees and revocation. [Amended 7-2-1998 by L.L. No. 2-1998]**

The applicant's fee for the permit to operate a racetrack and renewal thereof as defined herein shall be fixed by Town Board resolution, as such may be modified, from time to time. Annual permitting shall be subject to the following limitations:

- A. Such permit shall be effective from the date of its issuance until the 31st day of December of the year of its issuance, after or during which an application for renewal must be made pursuant to the requirements of § 107-4C of this chapter, if the permittee desires to continue to operate the racetrack.
- B. Such permit may not be sold, assigned, transferred or otherwise disposed of.
- C. If the permittee is convicted of the violation of any of the terms of this chapter, the permit granted under this chapter may be revoked by the Town Board after a public hearing thereon at which the permittee shall have an opportunity to be heard. Upon the revocation of such permit, the permittee shall desist the operation of the racetrack for which the permit was issued.
- D. Nothing in this section shall prohibit the permittee from applying for a new permit after the event of revocation.

**§ 107-6. Regulations.**

- A. Number of racing days. There shall be no more than 40 race days in any one calendar year.
- B. Permitted hours of racing.
- (1) On Friday nights no race shall begin after 11:30 p.m.
  - (2) On Saturday nights no race shall begin after 11:00 p.m.
  - (3) On any other day, except those days immediately preceding a legal holiday, no race shall begin after 10:30 p.m.
  - (4) On weekdays preceding a legal holiday, no race shall begin after 11:30 p.m. In any given calendar year, racing may take place until 11:30 p.m. on only three weekdays preceding a holiday. **[Amended 7-2-1998 by L.L. No. 2-1998]**
  - (5) In the event that the designated hour as set forth above occurs while a race is in progress, that race must end within 15 minutes of the hour beyond which the race could not have begun. There may be no restarts following a caution flag after the curfew of the start of a race.
  - (6) Racing shall never take place on more than two consecutive race days.
  - (7) A "race day" shall be considered any day where the first race has begun, but in no event shall a race day exceed five hours of racing plus one hour for warm-up/practice time. **[Amended 7-2-1998 by L.L. No. 2-1998]**
  - (8) Sunday racing is hereby prohibited.
  - (9) Monday through Thursday racing while public school is in session shall be limited to no more than three days per year. However, in no event shall more than one Monday-through-Thursday race date occur within one week while public school is in session. **[Added 7-2-1998 by L.L. No. 2-1998]**
- C. Emergency preparedness.
- (1) There shall be at least one separate entrance and exit to be used for emergency use only. The operator of the racetrack shall identify an individual who is an employee or officer of the entity operating said racetrack as responsible for making such additional, access passable at all times.
  - (2) There shall be an ambulance on the premises at all times during racing events.
- D. Lighting. All parking, spectator, pits, racetrack and refreshment areas shall be adequately lighted so as to ensure the safety of all participants.
- E. Mufflers. All racing vehicles must be fitted and must be operated with a working muffler.
- F. Health Department permit.
- (1) Each year an Ulster County Health Department permit shall be required for all food concessions on the racetrack premises as a condition precedent to obtaining a permit from the town to operate said racetrack. **[Amended 7-2-1998 by L.L. No. 2-1998]**

- (2) The applicant shall provide proof of compliance with Ulster County Health Department regulations as they pertain to lavatories and septic facilities as a condition precedent to obtaining a permit from the town to operate said racetrack. **[Amended 7-2-1998 by L.L. No. 2-1998]**
  - (3) The number of lavatories, permanent or portable, shall be one unit per 300 participants and/or spectators. Said number shall be determined by the maximum seating and participant capacity of the racetrack.
- G. Dirt and dust. All racetracks shall take measures to control the dissemination of dirt and dust consist with the legitimate safety needs of the race drivers. Each permit application shall contain a description of the method proposed for controlling said dirt and dust.
- H. Cooperation with public safety agencies. Before any permit will be issued, the applicant must submit an emergency plan with respect to fire, police and rescue squad matters, and said plan is subject to the approval of the Town Board. **[Amended 7-2-1998 by L.L. No. 2-1998]**
- I. **[Amended 7-2-1998 by L.L. No. 2-1998]** Noise suppression. Noise limits at the property line shall not exceed 79 dBA (decibels measured on an A-weighted scale) using Leq time averaged over a one-half-hour period.
- (1) All public-address systems in any racetrack shall be shielded in such a way that only the announcer's voice shall be transmitted over the address system, it being the intent of this section to reduce extraneous noise over such public address system to the absolute minimum possible.
  - (2) The permit holder shall deposit with the Town Clerk an amount to be determined by Town Board resolution for the Town Code Enforcement Officer's use in hiring an independent sound expert to perform sound measurements and issue report(s) to the Town Board and the Code Enforcement Officer with respect to the permit holder's compliance with the noise requirements of this chapter. Said measurements may be taken two times during the racing season at the sole expense of the permit holder. Additional measurements obtained by the town during the racing season shall be at the sole expense of the town.
- J. Liability insurance. The permittee shall at all times maintain in full force and effect a public liability insurance policy in amounts not less than \$1,000,000 for damages in which one person is killed or injured per occurrence and not less than \$2,000,000 for damages in which more than one person is killed or injured per occurrence. A certificate of insurance naming the Town of Rochester as an additional insured must be filed with the Town Clerk at least five days prior to the first date of racetrack usage specified in the permit. Said certificate shall bear the, name of the insurance company, the policy number, the term of the policy, the above-specified amounts and the name and address of the permittee's insurance agent. **[Amended 7-2-1998 by L.L. No. 2-1998]**

**§ 107-7. Exemptions. [Amended 7-2-1998 by L.L. No. 2-1998]**

The Town Board, after holding a public hearing, shall have the power to grant exemptions from the specific performance standards herein set forth. Such request for exemption of the

regulations shall be submitted with the permit application. The applicant shall specify said exemption requested and the reason therefor.

**§ 107-8. Penalties for offenses.**

- A. Violations and offenses. Any person who operates a racetrack in the town without having applied for and been granted a permit to operate the same and any person granted a permit hereunder who commits or allows any act in violation of the provisions of this chapter shall be determined to have committed an offense and shall be liable for said violation and the penalty therefor.
- B. Penalty and/or fines. For every violation of any provisions of this chapter, the person(s) so convicted, shall be, subject to a minimum fine of \$200 and a maximum fine of \$1,000 or imprisonment not to exceed 30 days, or both.
- C. Civil penalty. Any person violating this chapter shall be subject to a civil penalty, enforceable and collectible by the town, in the amount of \$100 for each such offense for each day that the offense is permitted to continue. Such penalty shall be collectible in the name of the Town of Rochester.
- D. Violation compliance. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.