

TOWN OF RUTLAND  
ORDINANCE NO. 2019-04-01

AN ORDINANCE RELATING TO THE REGULATION OF MOTOR VEHICLE RACING AND  
RACE TRACKS WITHIN THE TOWN OF RUTLAND

Ordinance No. 87-06-01 is hereby repealed and recreated to read as follows:

1.01 PURPOSE. The purpose of this ordinance is to regulate motor vehicle racing and race track contests In the Town of Rutland for the preservation of public peace and order and the protection of safety, health and welfare of the public and persons attending motor vehicle races within the Town of Rutland. This ordinance is enacted in the public interest and pursuant to the powers granted towns and Town Boards. by the State of Wisconsin as well as the powers conferred on Town Boards exercising village board powers under state law.

1.02 APPLICABILITY. This ordinance is applicable to all existing, proposed or future motor vehicle race tracks at which racing activity takes place on more than three days in a calendar year.

1.03 DEFINITIONS. As used in this ordinance:

- (1) "Ambulance" means any privately or publicly owned motor vehicle that is specifically designed, constructed, equipped, maintained, and operated by licensed ambulance service providers and ambulance attendants within the meaning of section 146.50, Stats. (or any amendment thereto) for the transportation of sick or injured persons.
- (2) "Clerk" shall mean the Clerk of the Town of Rutland, Dane County, Wisconsin.
- (3) "Motor vehicle" means any self-propelled or motor driven device by which, any person or property may be transported upon the ground, including but not limited to automobiles, tractors, trucks, motorcycles, snowmobiles, all-terrain vehicles and every other motor vehicle of any type.
- (4) "Motor vehicle race track" means any place, whether on land or ice bound waters, upon which motor vehicle races of any and all types are held.
- (5) "Person" shall mean an Individual, partnership, firm, company, corporation or other entity, or any agent, successor or assign.
- (6) "Racing activity" means any speed, stunt, skill, demolition, pushing or pulling contest over a designated course involving one or more motor vehicles. By way of enumeration and not limitation, all time trials, qualifying laps, practice runs speed contests, tractor and truck pulls, demolition derbies and stunt or skill driving contests of any kind are considered to be racing activity for purposes of this ordinance.

(7) "Town " shall mean the Town of Rutland, Dane County, Wisconsin.

(8) "Town Board" shall mean the Town Board of the Town of Rutland, Dane County, Wisconsin.

1.04 ANNUAL LICENSE REQUIRED FOR RACE TRACK. Except as provided in section 1.10, no person shall use, allow, lease, let or permit any property situated in the Town of Rutland, Dane County, Wisconsin to be used for motor vehicle racing activity without first obtaining an annual license from the Town Board. The owner(s) of the real estate upon which the motor vehicle race track is located shall obtain and hold the annual license. An annual license is required for each motor vehicle race track location and is not transferrable or assignable to another person, nor another location without approval of the Town Board.

1.05 APPLICATION FOR ANNUAL LICENSE. Except as provided in section 1.10, a completed application for a motor vehicle race track license shall be filed with the Clerk at least 45 days prior to the date of the first racing activity of the year. The application shall be in writing and shall be dated and signed by all the owners of the premises where the racing activity is to be held. In order to be deemed complete the application must contain all the requested information and address all of the standards set forth in section 1.11 below. Where it is contemplated that more than three (3) days of racing activity will occur in a calendar year, then the license shall be obtained before any racing activity occurs in the year. In no event shall any further racing activity occur beyond three (3) days in a calendar year unless a license is issued by the Town.

1.06 LICENSE FEES. An annual license fee shall be submitted with the license application. The fee shall be \$500. The application will not be reviewed unless the fee, is paid. If the Board does not issue a license, one half of the license fee shall be returned to the applicant and the other half shall be retained by the Town to cover preliminary administrative expenses.

1.07 GRANT OR DENIAL OF TRACK LICENSE. The Town Clerk shall promptly deliver a completed license application to the Town Board. The Clerk may reject any application not deemed complete. Within 30 days after receipt of a completed application and after public hearing the Town Board shall grant, deny or conditionally grant the license. The Town Board's action shall be in writing. The Town Board may deny the license if the application does not materially comply with one or more of the provisions of this ordinance, if the applicant has violated or is violating or does not meet any of the standards in section 1.11 of this ordinance, if the applicant fails to pay license fees, is delinquent of any local tax, assessment, charge, fee or judgement owed to the Town, or is not in compliance with other town ordinances or any other agreement previously entered into with the Town Board.

1.08 SUSPENSION, REVOCATION OR NONRENEWAL OF LICENSE.

a) Hearing. At any time there is reason to believe that the public peace, health, safety or welfare is or is likely to be threatened by continuation of a motor vehicle contest race track license, there have been allegations of material violations of the license terms and conditions, or there may have been material misrepresentations made at the time of application for the track license, the Town Board may commence proceedings to suspend and/or revoke the track license. By personal service, or by

certified or registered mail, the licensee shall be notified to appear at a public hearing in front of the Town Board and show cause why the track license should not be suspended or revoked. The hearing must be held not less than 3 days nor more than 10 days after the licensee is notified of the proceeding unless another date is mutually selected. At the hearing, the licensee will be given an opportunity to meet the charges that are being made.

b) Decision. If, after the hearing, the Town Board believes that the public peace, safety, health or welfare is or is likely to be threatened, there have been material violations of the license terms and conditions, or that material misrepresentations were made at the time of application for the track license, then the board, upon a majority vote of its members, may either temporarily suspend the race track license or revoke the license for the remainder of the license's term. A temporary suspension may, be for a period of not less than 5 nor more than 45 days. The board's decision shall be in writing, shall state the reasons for the action taken and shall be provided to the Licensee by personal service or by certified or registered mailing within 20 days after the decision is reached.

c) Effect of Revocation. When a race track license is revoked, no new license may be issued within 6 months of the revocation decision to the person(s) or any agent of the person (s) whose license was revoked.

(2) Nonrenewal of Race Track License. The Town Board may refuse to reissue or renew a track license for any of the reasons provided in subsection (1) above. The requirements and procedures regarding hearing and decision of subsection (1) above shall also apply to nonrenewal. When a decision to not renew a race track license has been made, no license may be issued within 6 months of the nonrenewal decision to the person(s) whose license was not renewed.

1.09 APPEAL. Any applicant, licensee (or former licensee) may have a determination to deny an application or to suspend, revoke or not renew a track license reviewed by filing a written request for review with the Town Clerk, within 30 days of the board's determination which is being appealed. The request for review shall state the ground or grounds upon which the licensee contends the board's decision should be modified or reversed. If a timely request for review is filed, the Town Board shall schedule a review hearing during which the licensee and the town may be represented by legal counsel and present evidence. The review hearing will be held within 15 days after receipt of the written request for review unless the time is extended by agreement. The licensee must be notified of the hearing date at least 10 days in advance. Oral notification or mailing by registered or certified mail at least 10 days in advance of the hearing is adequate notice. The Town Board may affirm, reverse or modify its earlier determination. The board's decision shall be in writing and shall state the reasons for the action taken. The appeal decision will be mailed or delivered to the Licensee within 20 days after the decision is reached. Unless otherwise agreed by the Town Board, its initial determination remains in effect and is not stayed pending appeal.

1.10 EXCEPTION. The requirements of this ordinance shall not apply to a motor vehicle race track upon which racing activity occurs on three days or less during a calendar year.

However, this exception does not relieve any person from complying with all other applicable federal, state or local laws, nor does it prevent the Town or anyone else from pursuing other legal action relating to any racing activity within the Town which may be in violation of other applicable laws or may be a public nuisance.

1.11 STANDARDS FOR ISSUANCE OR RENEWAL OF A MOTOR VEHICLE RACE TRACK LICENSE. The license applicant shall state and the Town Board shall agree, that following standards are met prior to granting or renewing a license.

(1) The applicant shall have provided the Town Board with the following: The names, telephone numbers and addresses of the person, firm, association, corporation, or group desiring to conduct or hold the motor vehicle races. The dates of the proposed motor vehicle racing activity, a precise description of the type(s) of racing activity contemplated, the times racing activity will occur and the hours the track will be open for access by participants and/or spectators. An estimate of the number of persons (spectators, participants or employees) and motor vehicles expected to be on the race track premises on each date of a motor vehicle race.

A statement of the security to be provided for the motor vehicle racing activity on each race date including, but not limited to, the number of security guards and their credentials .

The number of employees or agents of the applicant expected to be in the motor vehicle race track area at any time between 12:00 midnight and 7:00 a.m. prior to or after the racing activity and a statement explaining why these persons are needed at the track during these hours.

Certification by the applicant that the Dane County Sheriff, the Town Constable, local fire departments and EMS district will be notified of the race dates, times and the expected number of persons in attendance at least 5 days before the date of the racing activity.

(2) The motor vehicle race track and surrounding grounds shall be in compliance with all applicable town, county and state zoning regulations, including but not limited to the terms of any conditional use permit.

(3) Adequate parking space and arrangements shall be provided for all motor vehicles (spectator, participant, employee, etc.) and all motor vehicles shall be parked on the grounds of the motor vehicle race track, and not on adjacent public rights of way.

(4) All buildings and other structures erected on the race track premises shall be constructed and maintained in accordance with all applicable local and state building regulations and laws.

(5) Drinking water shall be provided on the race track grounds that is certified as meeting all State requirements for human consumption.

(6) There shall be separate, enclosed toilets for males and females that are certified as meeting all state and local laws and regulations. The toilets shall be conveniently located throughout the grounds and in sufficient numbers to provide facilities for the anticipated

attendance. All plumbing and sanitation facilities shall be certified as complying with all applicable local and state public health regulations and laws.

(7) If requested by the Town Board, the motor vehicle race track shall have perimeter fencing in order to protect adjacent property from encroachment or trespass by the persons attending the motor vehicle races.

(8) The motor vehicle race track shall have a guard rail between the track area and the spectator area which is certified as adequate to protect the safety of spectators attending the motor vehicle races.

(9) The motor vehicle race track shall have facilities for the safe storage and use of gasoline and other flammable materials in which are certified as being in compliance with all federal, state and local laws and regulations.

(10) The motor vehicle race track premises shall be kept reasonably clear of litter and other accumulated trash items and solid waste shall be disposed of in compliance with state and local laws and regulations.

(11) If attendance limits are adopted by the Town Board, certification that those limits will be complied with at all events.

(12) No part of any motor vehicle racing activity shall occur except between the hours of noon and 11 p.m. on any day.

(13) No person, other than the minimum number (not more than 20) of applicant's employees or agents needed for reasonable maintenance, cleaning or security shall be on the motor vehicle race track or on the surrounding grounds or premises at any time between the hours of 12 midnight and 7:00 a.m. It shall not be a violation of this provision for racers and crews to remain in the pit area between the hours of 12 midnight and 7:00 a.m. on the day of a scheduled race for the purpose of providing security to the racers racing accessory equipment provided that the license numbers and state of each vehicle so remaining are provided to the Town Board or its duly authorized representative in advance of the time said persons will be occupying the pit area.

The motor vehicle race track shall have at least one ambulance and attendant medical personnel present at all times during any motor vehicle race.

The motor vehicle race track shall provide at least one uniformed security guard, licensed and/or permitted under state law, for every 750 people present at a race. The provision may be enforced only through section 1.14 until January 1, 1988.

The motor vehicle race track shall be certified as meeting all state and local laws and regulations relating to fire protection and shall at all times maintain fire lanes to provide ready emergency access to the track and spectator areas.

The applicant shall provide written evidence of a commitment for public liability insurance covering all motor vehicle racing activities and related uses of the premises in the amount of at least \$3 million and naming the Town as an additional insured. Nothing in this ordinance or in the insurance policy shall be construed as a waiver by the Town of any limitation of

liability available to the Town under Wisconsin law. The applicant shall certify that the policy contains no language which can be construed as a waiver of any such limitation. A copy of the actual policy shall be provided to the Clerk by the applicant within 30 days after a license is issued. The applicant will notify the Town Clerk in writing at least 10 days prior to any cancellations change or nonrenewal of the policy.

No alcoholic beverages of any kind shall be sold, possessed, or consumed by anyone in the pit or infield area of the track during any racing activity.

The applicant and/or its insurer agrees to defend, hold harmless and fully indemnify the Town and its officers, agents, and employees from any claims, costs, losses or damages alleged or incurred by any person relating in any way to the applicant's race activities. This indemnification shall include judgments, settlements of controversies, court costs, attorney fees and any other expense.

1.12 PROHIBITED ACTS. It shall be unlawful and a violation of this ordinance for any person to do or cause or permit to be done any of the following:

- (1) To hold or conduct or permit their land to be used for motor vehicle racing activity on a motor vehicle race track which is not validly licensed as required by this ordinance.
- (2) To knowingly participate in any motor vehicle racing activity which is in violation of this ordinance.
- (3) To falsify or materially misstate or misrepresent any information contained in any application for a license under this ordinance.
- (4) To fail to promptly notify the Town board of any change, modification or alteration of the motor vehicle race track or motor vehicle racing activities which renders the information in the license application false, misleading, or incomplete.
- (5) To violate any of the standards set forth in section 1.11 of this ordinance or to fail to comply with any terms or conditions of the license, or other agreement with the Town Board.
- (6) To fail to comply with any lawful order issued by a court of competent jurisdiction which arises from operation from a race track licensed under this ordinance.

1.13 INJUNCTIVE RELIEF. The Town Board or the Town may maintain and prosecute an action in any court of competent jurisdiction to compel compliance with this ordinance or enjoin motor vehicle racing activity within the Town held in violation of this ordinance.

1.14 PENALTIES. Any person found to be in violation of any provision of this ordinance shall forfeit a sum not less than \$50 nor more than \$500 per offense. Each day a violation continues shall constitute a separate offense.

1.15 WAIVER OF PROVISIONS. The Town Board, in its sole discretion, may waive compliance with any provision of this ordinance for good cause.

1.16 OTHER ACTIONS RESERVED. Adoption of this ordinance does not preclude the Town or any other Interested party from pursuing any other legal remedies available to

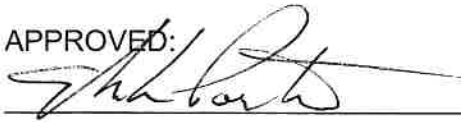
them in relation to racing activity within the Town such as, for example, an action to abate a nuisance.

1.17 SEVERABILITY. Any provision of this ordinance judged by the courts to be invalid or unconstitutional shall not affect the validity of the other provisions.

1.18 EFFECTIVE DATE. This ordinance shall be effective from the date of its adoption and publication or posting in accordance with the laws of the State of Wisconsin, and all motor vehicle racing activity within the Town after the effective date shall comply with the terms and requirements of this ordinance.

The above and foregoing Ordinance was duly adopted by the Town Board of the Town of Rutland at a meeting held April 3, 2019.

APPROVED:



Mark Porter, Town Chairman

ATTEST:



Dawn George, Town Clerk