

Tamworth Race Track Ordinance

In accordance with the provisions of New Hampshire RSA 31:41-a and RSA 31:42 this ordinance is adopted on an interim basis by the Board of Selectmen of the Town of Tamworth to regulate motor vehicle race tracks within the Town of Tamworth.

Purpose: The purpose of this ordinance is to protect the public health, safety and welfare of the citizens of Tamworth, to prevent the degradation of the environment, the diminution of property values and generally to protect the quality of life in the Town of Tamworth by insuring that provisions are made for safety, control of dust, noise and glare, to insure that adequate and appropriate facilities are provided on the property to service the particular operational features of each race track licensed under this ordinance, and to insure that the operation of the race track will not be injurious, noxious or offensive to the community.

Section 1: Definitions

Board: Board of Selectmen

Licensee: An operator who has been issued a license under this ordinance to construct, operate or maintain a Motorsport Park.

Motorsport Park: Any facility containing a "Race track" as defined below.

Motor Vehicle: Any self-propelled vehicle, except tractors, activated by an internal combustion engine and not operated exclusively on stationary tracks.

Race track: A roadway within a Motorsport Park upon which Motor Vehicles can be raced, tested and otherwise operated at high speeds.

Operator: One or more individuals or entities who own, manage or otherwise control a Motorsport Park subject to this ordinance.

Spectator Facility: A Motorsport Park at which amateur or professional Motor Vehicle races are conducted for the entertainment of the general public and where spectators are charged an admission fee.

Non-Spectator Facility: Any Motorsport Park other than a Spectator Facility.

Town: The Town of Tamworth, New Hampshire.

Tamworth Race Track Ordinance

Section 2: License Required; Criteria

- A. No Motorsport Park shall be constructed, operated or maintained within the Town of Tamworth unless the operator shall have first obtained a license under this ordinance for such a facility from the Board of Selectmen following at least one public hearing noticed and held pursuant to paragraph E of this section. The term of every such license shall be one year. The license is personal to the operator/applicant and is not assignable or transferable without the written approval of the Board following a public hearing. Annual application for a license shall be made on form(s) approved by the Board. Licenses shall be renewed annually upon the payment of the annual license fee without a hearing, unless the Board in the exercise of its sole discretion determines that there have been significant changes to the facility or its operations since the last license issuance, or otherwise determines to hold a hearing.
- B. An applicant for a license under this ordinance has the burden to show:
 - 1. That the proposed facility will be operated in accordance with the terms of this ordinance;
 - 2. That all terms and conditions of this ordinance will be satisfied;
 - 3. That the proposed facility will not pose an undue risk of harm to the public health, safety or welfare of the citizens of Tamworth;
 - 4. That adequate provisions will be made to control dust, noise and glare;
 - 5. That adequate and appropriate facilities are provided on the property to service the particular operational features of each race track and the reasonable needs of the people who will be present;
 - 6. That the proposed facility will not pose an undue risk to life and property;
 - 7. That the proposed facility will not be injurious, noxious or offensive to the community;
 - 8. That the proposed facility will not cause undue diminution of the surrounding property values.
- C. The Board may require that the applicant supply such additional data, information or studies that it deems necessary to assure that the facility shall be constructed and operated in compliance with this ordinance. Such additional information and studies include, but are not limited to, traffic counts, impact studies, noise monitoring and noise abatement studies.
- D. The Board shall issue a final written decision which either approves or disapproves an application under this ordinance. If the application is not approved, the Board shall provide the applicant with written reasons for the disapproval.

Tamworth Race Track Ordinance

- E. Public notice of hearings under this ordinance shall be given by certified mail sent to all abutters and by posting the notice at the town offices and in such other public locations in the town as are calculated to be widely seen. Such notice shall include the date, time and location of the public hearing and shall be posted and mailed no later than ten (10) days prior to the date of the public hearing.

Section 3: Uses Prohibited

- A. Only Non-Spectator Facilities as defined in this ordinance shall be eligible to be licensed by the Board; Spectator Facilities and all other race tracks are hereby prohibited.
- B. Any Non-Spectator Facility licensed under this ordinance shall be limited to racing by motor vehicles other than:
 - 1. tractors, trailers and semi-trailers;
 - 2. "off highway recreational vehicles" as defined by RSA 215-A:1, VI excluding, however, from this prohibition "snow traveling vehicles" as defined by RSA 215-A:1, XIII;
 - 3. race cars used for professional, for-profit racing.

Section 4: Fees

- A. A non-refundable annual license fee in the amount of one hundred dollars (\$100.00) shall be payable to the Town of Tamworth at the time of application.
- B. In addition to the annual license fee, the Board may impose reasonable fees upon an applicant to cover the costs of notice of public hearings, reasonable administrative expenses, legal assistance and review of documents and the expense of consultant services and special investigative studies.

Section 5: Administration and Enforcement

- A. The Board or its designee shall be responsible for the administration and enforcement of this ordinance.

Tamworth Race Track Ordinance

- B. The Board may charge an individual of their choosing with the authority to conduct inspections or perform other tasks to assist the Board to administer and enforce this ordinance.
- C. In any case involving a risk of immediate harm to the public or for other good cause shown, the Board may seek an order from a court of appropriate jurisdiction restraining the continued operation of any Motorsport Park.
- D. At the written request of an applicant or licensee and for good cause shown after public hearing, the Board may, in writing, waive any provision of this ordinance where, in the opinion of the Board, strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the ordinance. The bases on which the Board has found hardship and consistency with the spirit and intent of the ordinance shall be stated in any written grant of a waiver.
- E. The Board, upon notice to the operator and after an opportunity for a hearing before the Board, may suspend or revoke a license if the Board finds that the operator has violated any provision of this ordinance or any condition of approval attached to the issuance of the license. In the event an operator whose license has been suspended or revoked seeks reinstatement of the license, the Board shall hold a public hearing thereon and shall impose such conditions upon any reinstatement of the license as the Board deems necessary or convenient to insure the applicant's compliance with the provisions of this ordinance.

Section 6: Inspections

Any licensee shall be deemed to have consented to administrative inspections of the facility by authorized agents or representatives of the Board at reasonable times to ensure the licensee is in compliance with the provisions of this ordinance and any conditions of approval that have been attached to the license. It shall be the duty of the licensee to cooperate with such agents or representatives and permit access to all or any portion of said facility at their request. Failure or refusal to allow such reasonable administrative inspections shall be grounds for revocation or suspension of the license.

Tamworth Race Track Ordinance

Section 7: Hours of Operation

A race track shall operate only between the hours of 8:00 AM to 6:00 PM Monday through Saturday and between 12:00 PM to 6:00 PM on Sundays.

Section 8: Abandonment; Security

Before a license shall become effective, the operator shall post a performance bond, irrevocable letter of credit or other type or types of security to secure to the town such work as in the Board's opinion may be necessary to render the race track safe and unusable in the event the race track is abandoned, to prevent the race track from constituting a risk to health or safety. The Board shall have the discretion to prescribe the type and amount of the bond or other security, and to require satisfactory evidence of the financial ability of any surety or financial institution to pay such bond or other type of security. The town shall have the power to enforce such bond or other security by all appropriate legal and equitable remedies.

Section 9: Noise

- A. Sound generated by the race track of a Motorsport Park shall not exceed a maximum value of 69 dBA at any point on the property line of the Motorsport Park. A maximum value is an instantaneous maximum as measured with sound level meter slow response.
- B. During operation of the race track of a Motorsport Park the operator shall monitor the sound level to insure compliance with this ordinance. Sound monitoring shall be performed in a manner consistent with then current professional measurement standards, methods and procedures. All data from such monitoring shall be made available to the town promptly upon request of the Board.
- C. The town, acting through its Board of Selectmen or designee, shall have the right to monitor sound levels generated by the race track at any point on the property line of the race track. Sound monitoring shall be performed in a manner consistent with then current professional measurement standards, methods and procedures.

Section 10: Lighting

- A. Lighting in a Motorsport Park:
 - 1. shall be adequate for safety purposes;

Tamworth Race Track Ordinance

2. shall not leave the site and create glare on adjacent properties;
 3. shall be directed to the ground and be equipped with shields and reflectors so that it does not spread excessively; and
 4. shall consist of white non-sodium lighting.
- B. The race track contained within a Motorsport Park shall have lighting for safety and security purposes only and shall not be lighted for the purpose of allowing use between sundown and sunrise.

Section 11: Junk, Trash and Garbage

The operator shall not permit the accumulation of junk on the property, including, but not limited to tires, motor vehicle parts, barrels, drums or used equipment, and shall collect, contain and promptly and properly dispose of all trash, garbage and junk originating on the site.

Section 12: Emergency Services

- A. At all times when a race track is in use, the licensee shall have a fully equipped and manned ambulance on the site. The operators of such ambulance shall be appropriately licensed under the laws of the State of New Hampshire.
- B. The Board may adopt and publish standards for other on-site fire, emergency rescue and traffic control facilities and services to be maintained at a Motorsport Park. These standards shall differentiate between times when the race track is in use and times when the race track is not in use. Any such duly adopted and published standards shall immediately apply to all licensed Motorsport Parks and operators and shall be enforceable conditions of each license issued under this ordinance.

Section 13: Security

- A. Whenever a race track contained within a Motorsport Park is not in use, it shall be secured in such a manner as to prevent its unauthorized use.
- B. Any race track contained within a Motorsport Park shall be enclosed by a fence of a height and construction sufficient to preclude wildlife and unauthorized persons from gaining access to the race track.

Section 14: Insurance

The operator shall at all times maintain general accident and public liability insurance coverage against all claims for bodily injury, death or property damage occurring

Tamworth Race Track Ordinance

upon, in or about its facilities in an amount not less than \$5,000,000. All such insurance shall be evidenced by valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of New Hampshire. Certificates evidencing such policies shall be submitted to the Board prior to the issuance of any license or annual renewal thereof.

Section 15: Compliance with All Laws

- A. The operator of a Motorsport Park licensed hereunder shall operate such facility in compliance with all applicable laws, ordinances and rules including, but not limited to, Best Management Practices regarding the storage and handling of petroleum products, the directions of government authorities having jurisdiction over its facility and operations and the requirements of all policies of insurance providing coverage of its operations and of the National or Local Boards of Fire Underwriters.
- B. The operator of a Motorsport Park licensed hereunder shall also procure and maintain all permits, licenses and other authorizations needed for the operation of its facility, and no license or annual renewal issued under this ordinance shall be deemed effective until the operator has also received all other federal, state and local permits and licenses required by law.

Section 16: Savings Clause

The invalidity of any section of this ordinance shall not affect the validity of any other section of this ordinance.

Section 17: Conflict of Laws

- A. In the event a provision of this ordinance conflicts with any other applicable law or regulation, the provision which imposes the greater restriction or higher standard shall be controlling.

Section 18: Violations

- A. Each violation of this ordinance shall be punishable by a civil penalty of \$1,000. Each day or fraction thereof of any violation of a provision of this ordinance shall constitute a separate offense.

Tamworth Race Track Ordinance

IN WITNESS WHEREOF, the Board of Selectmen of the Town of Tamworth have hereunder set their hands this first day of October, 2003 which shall be the effective date of this ordinance.

Lanette Goodson, Chairperson

Matthew Weegar

Mariette Ross