

# THE CORPORATION OF HALDIMAND COUNTY

## By-law No.1360/13

### Being a by-law to licence motor vehicle racing businesses and to repeal By-law 519-04

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**WHEREAS** s. 151(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a local municipality may provide for a system of licences with respect to a business and may impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;

**AND WHEREAS** s. 165 of the said *Municipal Act* provides that a local municipality may prohibit or licence, regulate and govern the racing of motor vehicles and the holding of motor vehicle races;

**AND WHEREAS** the municipality has considered that there are unique noise issues related to the operation of a Formula Track at 1040 Kohler Road, Cayuga, Ontario, as dealt with in the form of noise related conditions outlined in a decision of the Ontario Municipal Board, dated September 1, 2005;

**NOW THEREFORE, the Council of the Corporation of Haldimand County enacts as follows:**

#### **PART I – DEFINITIONS**

1. In this by-law,
  - (a) “*Applicant*” means a person who is required to be licenced pursuant to this by-law, who has made an application for a licence to the Issuer;
  - (b) “*Application*” means an application for a licence under this by-law;
  - (c) “*Clerk*” means the Clerk of the Corporation of Haldimand County;
  - (d) “*Council*” means the municipal Council of the Corporation of Haldimand County;
  - (e) “*Fire Chief*” means the Fire Chief of the Corporation of Haldimand County or someone designated to act on his or her behalf;
  - (f) “*Formula Track*” means a closed course containing both left and right hand turns;
  - (g) “*Issuer*” means the Issuer of Licences appointed by Haldimand County;
  - (h) “*Licence*” means a licence issued pursuant to the provisions of this by-law;

- (i) *“Licencee”* means a person issued a licence pursuant to the provisions of this by-law;
- (j) *“Manager of Building and By-law Enforcement”* means the Manager of Building and By-law Enforcement for the Corporation of Haldimand County or in the alternative, someone designated to act on his or her behalf;
- (k) *“Manager of Emergency Services”* means the Manager of Emergency Services for the Corporation of Haldimand County or in the alternative, someone designated to act on his or her behalf;
- (l) *“Motor Vehicle”* includes an automobile, truck, motorcycle, snowmobile and any other vehicle propelled or driven otherwise than by muscular power;
- (m) *“Motor Vehicle Racing”* means the operation of a Motor Vehicle over a set course, including a Straight Line Track, an Oval Track, and a Formula Track, whether in competition with other vehicles, for training, lapping, testing or instructional purposes, for recreational purposes, or for any other purpose, and includes any warm up or testing done on the premises in preparation for such operation of a Motor Vehicle;
- (n) *“Motor Vehicle Racing Business”* means a business operated on a premises, or any part thereof, which permits or encourages Motor Vehicle Racing;
- (o) *“Municipal Law Enforcement Officer”* means a By-law Enforcement Officer appointed by Council;
- (p) *“Municipality”* means the Corporation of Haldimand County;
- (q) *“Oval Track”* means a closed course containing only left hand or only right hand returns for vehicles travelling in the same direction;
- (r) *“Owner”* means a person who has any proprietary interest in a Motor Vehicle Racing Business, including but not limited to partners in a partnership and shareholders in a corporation;
- (s) *“Person”* shall include an individual, association, charter association, firm partnership, corporation or other entity;
- (t) *“Straight Line Track”* means a course without turns.

**PART II – LICENCES**

1. Every owner of a Motor Vehicle Racing Business within Haldimand County shall procure and maintain in good standing a Licence from the Municipality in accordance with the provisions of this by-law.
2. No Person shall carry on the business of Owner of a Motor Vehicle Racing Business unless that person has procured and maintained in good standing a Licence from Council permitting the Person to do so;
3. The licencing requirements of this by-law are in addition to, and not in substitution for, any of the requirements to obtain a licence or licences or other approvals, under any federal or provincial legislation or regulation, or under any municipal by-law.
4. An Owner's licence issued under this by-law is transferable subject to the transferee filing an application for transfer, payment of a transfer fee of \$100.00 and Council ratification.

**PART III – INITIAL APPLICATION FOR LICENCE**

5. Every Person wishing to make an Application for an Owner's Licence under this by-law, shall file with the Issuer the following documents:
  - (a) a completed Application in the form provided by the County;
  - (b) an approved site plan under Section 41 of the *Planning Act* in respect of the premises, if applicable and if required by the County;
  - (c) written approval from:
    - (i) the Haldimand County Emergency Services Division;
    - (ii) the Haldimand County Planning Division;
    - (iii) the Haldimand County Building and By-law Enforcement Division;
    - (iv) the Haldimand-Norfolk Health Unit;
    - (v) the Haldimand County Roads Division.
  - (d) an annual schedule of events and activities to be conducted by the Applicant during the season on or before March 31<sup>st</sup> of each year,

- (e) a Commercial General Liability Policy of insurance with an insurer licensed to do business in the Province of Ontario and acceptable to the Issuer. Such policy shall provide coverage for bodily injury and property damage in an amount not less than \$2,000,000.00 per occurrence or such greater amount as the Issuer may determine, and shall name Haldimand County as an additional insured. The coverage shall be written on an occurrence basis, contain a cross liability/severability of interest clause and shall provide for 30 days written notice of cancellation;
  - (f) the fee prescribed by the User Fees and Charges By-law;
  - (g) in the event that an Agent for the Applicant makes application for the owner of the premises, a written letter of authorization from the owner;
  - (h) The documentation listed under Section 5 (b) shall not be required in the case where an application for renewal is made and there is no material change in circumstances of the licensee which would affect any of the conditions of the licence imposed pursuant to section 13 through 16 below,
6. The Issuer shall not issue a Licence until the Applicant has complied with all of the requirements of Section 5 above; and
- (a) Without limiting the generality of Section 5, the Issuer shall not issue a Licence to an Applicant unless the premises upon which the Motor Vehicle Racing Business is intended to operate, are zoned to permit the proposed use of motor vehicle racing.
  - (b) The Issuer shall not issue a Licence for any purpose which is contrary to any federal or provincial statute or regulation, or to any municipal by-law.
  - (c) Prior to the issuance of any licence under this by-law, any outstanding fines owing to the County that have been imposed pursuant to this by-law must be satisfied.
7. Upon receipt of the completed application referenced above, the Issuer shall make a report to Council with respect to the application for an initial licence or a renewal application with material changes. This report shall contain a recommendation to issue or refuse the licence.
8. The following provisions apply when the Issuer reports to Council:
- (a) Upon receipt of the recommendation of the Issuer to grant a licence, the Clerk shall place the matter before Council for ratification in accordance with Council procedures;
  - (b) Upon receipt of the recommendation of the Issuer to refuse a licence, or refuse to renew a licence, the Clerk shall place the matter before Council for hearing in

accordance with Council procedures and the applicant shall be given notice and shall be entitled to attend the hearing and make submissions either personally or through a representative, unless the grounds for refusal are because of non-compliance with the Municipality's Zoning By-law.

- (c) Council shall hear and consider the recommendation of the Issuer and the evidence provided in support thereof and shall hear and consider the evidence from the applicant in the event that the applicant or his or her representatives attends. Council, after consideration of the evidence provided and all submissions made at the hearing, shall make a decision to grant the Licence to the applicant or to refuse the Licence to the applicant and the Clerk shall provide written notice and reasons for Council's decision.
9. In considering an Application for a Licence, Council shall consider the provisions of this by-law, and the following factors:
- (a) whether or not the Applicant, the premises and the proposed use of the premises are in compliance with all requirements of this by-law and other applicable laws;
  - (b) whether or not the Applicant has breached any provision of this by-law, or any condition of a licence issued under this by-law, and has failed to remedy the breach;
  - (c) whether or not the Applicant has outstanding fines in respect of this by-law;
  - (d) whether or not the information contained in the Application is complete and accurate.
10. Council's decision with respect to approval of the licence will be based in the factors set out in section 9. Council shall provide reasons for any refusal with reference to the factors set out in section 9.
11. Every Licence issued under this by-law shall expire on March 31<sup>st</sup> of each year.

#### **PART IV – CONDITIONS OF LICENCE**

12. This by-law relates to three types of courses for motor vehicle racing, namely Formula Track, Oval Track and Straight Line Track.
13. All Licences issued to Motor Vehicle Racing Businesses pursuant to this by-law shall be subject to the following conditions:
- (a) the Licencee shall maintain, or cause to be maintained, a log of all racing activities conducted on the premises disclosing the time and date of the activities, weather conditions, the number and type of vehicles involved in the activities, the

- number of attendees and participants on the site during the activities, the noise levels of the vehicles and shall provide a copy of the log to the County upon request;
- (b) the Licencee shall provide to the Issuer amendments to the annual schedules of activities, as required in this by-law;
  - (c) the Licencee shall provide fire services as are required by the Licencee's insurers;
  - (d) the Licencee shall provide on-site parking for Persons attending events or activities on the premises;
  - (e) every Licencee shall permit that a Municipal Law Enforcement Officer, the Manager of Building and By-law Enforcement, the Fire Chief, or any other Haldimand County employee authorized by the Chief Administrative Officer of the County may at all reasonable times, attend on the premises for the purpose of inspecting the premises and investigating any matter relating to this by-law;
  - (f) the Licencee shall file with the Issuer any approved amendments to the site plan filed with the Application, if such site plan under section 41 of the *Planning Act* is applicable and required by the County;
  - (g) the Licencee shall ensure that all schedules of events, including all amendments to such schedules, are posted on the website of the business, immediately upon such schedules being set or amended;
  - (h) the Licencee shall include in all their promotional material, a caution for people to respect the community and drive with courtesy when en route to and from the premises.
14. In addition to the conditions listed under section 13, any licence issued to operate a Formula Track at 1040 Kohler Road, Cayuga, Ontario, shall be subject to the following conditions, as outlined in a decision of the Ontario Municipal Board, dated September 1, 2005:
- (a) with respect to the days of operation, the Licencee shall observe one race free day per week, being Tuesday;
  - (b) with respect to hours of operation, the Licencee shall be licensed to race beginning at 9:00 a.m. to a maximum of 11:00 p.m.;
  - (c) the Licencee shall ensure that no drifting events are conducted;
  - (d) the Licencee shall ensure that all vehicles be pre tested and screened prior to use of the formula track;

- (e) the Licencee shall ensure that the required sound meter has been calibrated prior to the issuance of this licence and that it be calibrated on a daily basis;
- (f) the Licencee shall ensure that two-stroke engines are not allowed to operate; and
- (g) notwithstanding any other municipal by-law, the Licencee shall ensure that the number and type of vehicles permitted on the formula track up to 7 p.m. and from 7 p.m. onwards in accordance with condition b), regarding hours of operation, are as follows:

**Screening Levels**

<b>Vehicle Category</b>	<b>Lmax levels @ 15 m</b>	<b>Number of Vehicles on the Formula Track up to 7 p.m. *2</b>	<b>Number of Vehicles on Formula Track from 7 p.m. onwards *3</b>
Regular (un-modified) Street Cars	83 dBA	14	4
Street Legal Motorcycles or 4-stroke silenced Go Karts	87 dBA	6	2
High Performance Street Cars	88 dBA	5	1
Racing Motorcycles including Street Legal Motorcycles *1	89 dBA	4	1
Reasonably Muffled Racing Vehicles	95 dBA	1	0
F-2000 Racing Cars (<200 ho)	89 dBA	4	1

15. In addition to the conditions listed under section 13, any licence issued to operate a Straight Track at 1040 Kohler Road, Cayuga, Ontario, shall be subject to the following conditions:
- (a) the Licencee shall ensure that adequate blockades are in place at the end of the straight track at the northerly point where the track and return road meet, to prevent trespass onto the track when the track is not in use; however, that this secondary access shall remain open during racing events for emergency purposes;

- (b) the Licencee shall confirm that the loud speakers have been positioned and aimed downwards to minimize sound and that such written confirmation be provided to the Issuer by a sound system contractor prior to the issuance of the licence;
  - (c) the Licencee shall limit the volume of the loud speakers by installing a sound limiter and zoning of speakers, and written confirmation of these adjustments be provided to the Issuer by a sound system contractor prior to issuance of the licence;
  - (d) with respect to the days of operation, the Licencee shall be required to observe one race free day on the straight track per week, being Tuesday, save and except for 4 events to be determined by the Licencee to allow for weather cancellations the previous day. Such exceptions to be provided to the County in writing and posted on the Licencee's business website;
  - (e) with respect to hours of operation, the Licencee shall be licensed to race on the straight track, beginning at 9:00 a.m. to a maximum of 11:00 p.m.
16. In addition to the conditions listed under section 13, all licences issued to a motor vehicle racing business operating a racing track, at a location other than 1040 Kohler Road, Cayuga, Ontario, shall be subject to the following conditions unless otherwise required by law:
- (a) with respect to hours and days of operation, the Licencee shall be licensed to race seven (7) days per week from 9:00 a.m. until midnight;
  - (b) the Licencee shall ensure that the interior of an oval track be modified where required with physical barricades to prevent the track from being used as a formula track

#### **PART V – LICENCE RENEWALS**

17. Any Licencee wishing to renew a Licence for a Motor Vehicle Racing Business consisting of one or more racing tracks shall make application for such renewal at least fifteen (15) days prior to the March 31<sup>st</sup> expiration date of the existing Licence.
18. The application for renewal shall be in the form provided by the Issuer, including the approvals listed in Subsections 5 (c) (i) through (v), and the application shall be deemed to be received by the County on the date that a complete application is filed.
19. If the completed renewal application is filed later than the time specified in paragraph 17 above, the Licence shall expire effective April 1<sup>st</sup> of that year until such time as the Licence is renewed.



20. If a renewal application is not filed within 60 days of expiry of the previous licence, it shall be considered lapsed with no option of renewal. Any subsequent application will be considered under Part III – Initial Application for Licence.
21. Upon receipt of an Application for Renewal, the Issuer shall:
  - (a) In the event that there is no material change in the circumstances of the Licencee which would affect any of the conditions of the Licence imposed pursuant to Sections 13 through 16 above, renew the Licence on the same terms and conditions as were contained in the existing Licence, or
  - (b) In the event that there is a material change in the circumstances of the Licencee which affects any of the conditions of the Licence imposed pursuant to Sections 13 through 16 above, recommend to Council that the Licence be renewed with conditions, or that the Licence not be renewed.

#### **PART VI – SUSPENSION AND REVOCATION OF LICENCES**

22. The Issuer may make a recommendation to Council that the licence be revoked if, during the term of a Licence:
  - (a) a Licencee is convicted for contravening any provisions of this by-law within a twelve (12) month period;
  - (b) a Licencee breaches or is in breach of a condition imposed on a Licence under the provisions of this by-law;
  - (c) there are reasonable grounds for belief that any Application or other document or information provided by or on behalf of a Licencee contains a false statement or provides false information;
  - (d) information contained in the original application form or any other information provided to the Issuer by or on behalf of the Applicant, has ceased to be accurate and the Licencee has not provided up-to-date accurate information to the Issuer to allow the Issuer to conclude that the Licence should be maintained as valid;
  - (e) the Issuer becomes aware of any fact or facts which, if known at the time of the Application, may have resulted in the Issuer refusing the Licence;
23. In the event that the Issuer recommends to Council that a Licence be revoked, the provisions of Section 8 (a) to (c) apply with the necessary modifications.
24. Where the Issuer intends to recommend to Council that a Licence issued under this by-law be revoked for reasons related to public health and/or safety issues, the Licence shall automatically be suspended until such time as a determination on the issue has been made by Council.

25. In the event that a Licence is revoked, the Licencee shall not be entitled to a refund of any fees paid in respect of the said Licence.

**PART VII – GENERAL REQUIREMENTS**

26. A Licencee shall post the Licence in a conspicuous place on the premises.
27. Every Owner of a Motor Vehicle Racing Business shall ensure that all persons using the premises for purposes related to Motor Vehicle Racing comply with the provisions of this By-law.
28. Every Owner of a Motor Vehicle Racing Business shall ensure that all schedules of events, including all amendments to those schedules, are posted on the web site of the Motor Vehicle Racing Business immediately upon such schedules being set.
29. Any notice required to be given to a Licencee may be given by mailing such notice by ordinary mail to the municipal address of the premises, or by facsimile transmission to the business office of the owner.
30. Any notice required to be given by a Licencee to the Municipality may be given by mailing such notice by ordinary mail to the Clerk of the Municipality, 45 Munsee Street North, Box 400, Cayuga, Ontario N0A 1E0, or by facsimile transmission to the municipality.

**PART VIII – OFFENCES AND PENALTY**

31. (a) Every person who contravenes any of the provisions of this by-law and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable,
- (i) On a first conviction to a fine of not more than \$25,000; and
  - (ii) On a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.
- (b) If the person referenced in subsection 31(a) is a corporation, the maximum penalty that may be imposed is,
- (i) On a first conviction a fine of not more than \$50,000; and
  - (ii) On a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted, and not as provided in subsection 31(a).

**PART IX – SEVERABILITY**

32. If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law will be considered to be severed from the balance of the by-law, which will continue to operate in full force.

**PART X – ENACTMENT**

33. This by-law comes into force and effect on the date of passing.

34. By-law 519-04 is hereby repealed.

35. The short title of this By-law is the Motor Vehicle Racing By-law.

READ a first and second time this 29<sup>th</sup> day of April, 2013.

Read a third time and finally passed this 29<sup>th</sup> day of April, 2013.

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Mayor

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Clerk