

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

BY-LAW 2004-184

**A BY-LAW TO LICENCE MOTOR VEHICLE RACING AND
MOTOR VEHICLE RACING FACILITIES**

Recitals

1. The *Municipal Act, 2001*, Section 150 permits municipalities to licence, regulate and govern any business wholly or partly carried on within the municipality.
2. The *Municipal Act, 2001*, Section 170 permits municipalities to prohibit, licence, regulate and govern the racing of motor vehicles and the holding of motor vehicle races.
3. The *Municipal Act, 2001*, Section 435 permits municipalities to adopt codes, standards, procedures and regulations, and to require compliance with any code, standard, procedure or regulation so adopted.
4. The *Municipal Act, 2001*, Subsection 150(2) provides that a municipality may only exercise its licensing powers, including imposition of conditions, for one or more of the following purposes:
 - (a) health and safety;
 - (b) nuisance control; and
 - (c) consumer protection.
5. The *Municipal Act, 2001*, Subsection 150(3) requires that a by-law licensing or imposing any condition on any business or class of business shall include an explanation as to the reason why the municipality is licensing it or imposing the conditions and how that reason relates to the purposes under Subsection 150(2) of the Act.
6. Council considers it appropriate to licence, regulate and govern the racing of certain motor vehicles, as hereinafter defined.

Explanation

The racing of motor vehicles at high speeds creates physical hazards, including (but not limited to), fire within the racing vehicles, fires in or about the racing facilities, flying debris and vehicles, explosions and collisions. Thus the racing of motor vehicles, by its nature, represents a significant danger to the health and safety of the participants, those persons involved in the operation of the racing facility, and spectators who attend the race events.

Motor vehicle racing events can draw large crowds of spectators creating increased traffic on roads leading to the race facilities and creating a significant demand for vehicle parking and spectator seating. In addition, the spectators create demand for food and sanitation services. Due to the rural nature of the area in which the City's motor vehicle racing facilities are or may be located, there is generally little existing infrastructure to accommodate the spectators and accordingly the services must be provided at the racing facilities.

Motor vehicle racing, by its nature, creates noise that can impact upon neighbouring properties and property owners. The noise and traffic created by race event spectators can also impact upon neighbouring property owners.

Therefore, for the purpose of ensuring the health and safety of spectators, race facility staff and participants, as contemplated under Subsection 150(2).1 of the *Municipal Act, 2001* and for the purpose of controlling the nuisance effects associated with motor vehicle racing events as contemplated under Subsection 150(2).2 of the Act, Council deems it necessary and appropriate to licence, regulate and govern the racing of motor vehicles as hereinafter set forth.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2004-184.

Article 1.00: Definitions and Interpretation

- 1.01 **Definitions:** Unless otherwise specifically defined in this By-law, wherever a word is used in this By-law with its first letter capitalized, the term is being used as it is defined in this Section 1.01, or, alternatively, in the section of the appropriate Schedule which defines terms. Where any word appears in ordinary case, its regularly applies meaning in the English language is intended.

“Applicant” includes a Person seeking a Licence, or renewal of a Licence or a Person whose Licence is being considered for revocation or suspension.

“By-law” means this By-law, as it may be amended from time to time. The Recitals to, and the Schedules attached to this By-law are considered integral parts of it.

“Chief Building Official” means the Person within the City’s administration who fulfills the function of the Chief Building Official as required by the *Ontario Building Code Act, 1992*, or his or her delegate.

“City” means The Corporation of the City of Kawartha Lakes.

“Clerk” means the person within the administration of the City who fulfills the function of the City Clerk as required by the *Municipal Act, 2001* or his or her delegate.

“Committee” means the Committee of Council to which Council has delegated the responsibility of handling Licensing matters. Where no delegation has been made, the term refers to the Council itself.

“Council” means the elected municipal council for the City.

“Directors” means all of: the Development Services Director, the Community Services Director, the Public Works Director, the Social Services Director, the Emergency Services Director, Finance Director, Human Resources Director, the Chief of Police, or their delegates.

“Fire Chief” means the person within the City’s administration who fulfills the function of the Fire Chief as required by the Fire Protection and Prevention Act, or his or her delegate.

“Health Unit” means the Haliburton, Kawartha, Pine Ridge District Health Unit.

“Highway” means the entire road allowance (including vehicular traveled portions, boulevards and sidewalks) of any open or unopened road allowance under the City’s jurisdiction.

“Licence” means a Licence to operate a Trade issued pursuant to this By-law.

“Licensee” means the Owner of a Licence.

“Licensing Officer” means the municipal Licensing Officer for the City, responsible for the issuing, administration and approval of Licences in accordance with Provincial legislation and City policies and procedures, or his or her delegate.

“Log Book” means a written record to be maintained by an operator with respect to every Motor Vehicle Racing Facility licensed under the provisions of this By-law.

“Motorcycle” means a self-propelled vehicle having a seat or saddle for the use of the driver and deigned to travel on not more than three wheels in contact with the ground, and includes a motor scooter, but does not include a motor assisted bicycle.

“Motor Vehicle” means a motorcycle, motorized snow vehicle, all terrain vehicle, go-cart, and any other vehicle propelled or driven otherwise than by muscular power, but does not include an automobile, truck, street car or other motor vehicles running only upon rails, or a traction engine, farm tractor, self-propelled implement of husbandry or road building machine, all within the meaning of the *Highway Traffic Act, R.S.O. 1990, c.H.8*, as amended.

“Motor Vehicle Racing Facility” means any lands, buildings, or structures designed, intended for use, or used for the racing of motor vehicles on a temporary or permanent basis.

“Municipal Act” means the *Municipal Act, 2001*.

A **“Municipal Law Enforcement Officer”** is a person duly appointed within the City’s administration to enforce the By-laws of the City, and includes the Licensing Officer.

“Officer” means a sworn member of the Kawartha Lakes Police Service, The Ontario Provincial Police, a Municipal Law Enforcement Officer, A By-Law Enforcement Officer or any other Provincial Offences Officer appointed by Council to enforce the provisions of this or any other By-law.

An “**Operator**” is a Person with care and control of a Motor Vehicle Racing Facility at any given point in time, with authorization of the Owner of the Facility. The terms “Operate”, “Operation” and words of like import or intent have corresponding meanings.

An “**Owner**” is the Person with legal title to a Motor Vehicle Racing Facility. The terms “Own”, “Ownership”, and words of like import or intent have corresponding meanings.

“**Person**” includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a body corporate and a natural Person.

“**Police**” means the Chief of Police or other designated officer in charge of a police service within the jurisdiction in the relevant geographic area of Kawartha Lakes, including but not limited to the Kawartha Lakes Police Service and the Ontario Provincial Police, or his or her delegate.

“**Schedule**” means a schedule to this By-law.

“**Washroom Facilities**” means facilities which include at least toilets and wash basins.

1.02 **Interpretation Rules:**

- (a) Wherever this By-law refers to a Person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.
- (b) References to items in the plural include the singular, as applicable.
- (c) The word “include” is not to be read as limiting the phrases or descriptions that precede it.

1.03 **Statutes:** Specific references to laws in this By-law are printed in italic font and are meant to refer to the current laws applicable within the province of Ontario as at the time the By-law was enacted. For provincial laws, the reference is to the relevant chapter of the R.S.O. 1990 edition, as amended from time to time. References to By-laws are references to the Municipal By-laws of the City in force from time to time.

1.04 **Severability:** 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 and effect.

Article 2.00: Licensing Requirements

2.01 **Licensing:** No Person shall operate a Motor Vehicle Racing Facility, or permit motor vehicle racing on lands within the corporate limits of the City at any time unless such Person holds a valid licence issued by the City pursuant to the provisions of this By-law.

2.02 **Compliance with Applicable Laws:** No Licence shall be issued for a Motor Vehicle Racing Facility where the applicant for a Licence or the property upon which the Motor Vehicle Racing Facility is to be located, contravene this By-law or any other By-law of the City. The issuance or renewal of a Licence is not intended and shall not be construed as permission or consent by the City for the holder of the Licence to contravene or fail to observe or comply with any law of Canada, Ontario, or any By-law of the City.

2.03 **Class of Licence:** Two classes of Licences for Motor Vehicle Racing Facilities may be issued pursuant to the provisions of this By-law, as follows:

- (a) Permanent Motor Vehicle Racing Facility Licence: to permit a Person to operate a Motor Vehicle Racing Facility that is designed and intended for use on a full time basis.
- (b) Temporary Motor Vehicle Racing Facility Licence: to permit a Person to conduct a single race event on lands not designed or intended for use as a permanent Motor Vehicle Racing Facility.

Article 3.00: Administration

- 3.01 **Administration of By-law:** Unless otherwise indicated in this By-law, the administration of this By-law is assigned to the City Clerk, who may delegate the performance of any of the City Clerk's functions under this By-law from time to time as occasion requires.
- 3.02 **Enforcement of By-law:** The enforcement of this By-law is assigned to the Municipal Law Enforcement Officer.
- 3.03 **Exemptions** The provisions of this By-law do not apply to a go-cart facility used solely for the purposes of amusement.

Article 4:00 Licensing Procedures

- 4.01 **Application:** An application for a Licence or renewal of a Licence may be made at the main Licensing Office of the City, or at any of the City's Municipal Service Centers, in the City's approved form as amended from time to time. Where the service is available, applications may be made on the City's website at www.city.kawarthalakes.on.ca.
- 4.02 **Application Requirements and Documentation:** Every Applicant for Licence or renewal of a Licence shall submit the following information and documentation to the Licensing Officer:
- (a) a completed application in the City's approved form;
 - (b) payment of the applicable fee set out in Schedule "A" attached hereto;
 - (c) a site plan containing information and details required pursuant to Section 4.03;
 - (d) documentation from the Chief Building Official confirming that all buildings, structures and facilities, on site, or the plans for same, are or will be in compliance with the requirements of this By-law and any building permits issued by the City;
 - (e) documentation from the Fire Chief confirming that all buildings, structures and facilities, or the plan for same, are in compliance with applicable fire safety regulations;
 - (f) documentation from the Health Unit and/or the alternate approval authority confirming that all water supply facilities and sewage disposal facilities, or the plans and documentation for same, are in compliance with applicable potable water supply and sewage treatment regulations and guidelines;
 - (g) documentation, satisfactory to the Licensing Officer, confirming that the Applicant is the Owner of the property to be licensed or, alternatively, that the Applicant has the written authority of the Owner to make application for a Licence and to operate a Motor Vehicle Racing Facility from the property;
 - (h) documentation from the Development Services Director of the City confirming that the property to be licensed is appropriately zoned for the proposed use;
 - (i) documentation satisfactory to the Licensing Officer, confirming that the Applicant has the required insurance coverage as defined in Article 6.01(a); and
 - (j) clearance letters from:
 - i) the Directors, as applicable;
 - ii) the Police;
 - i) Kawartha Conservation, if applicable;
 - ii) the Technical Safety Standards Authority; and
 - iii) the Liquor Licence Board of Ontario, if applicable.
- 4.03 **Site Plan Requirement:** No Licence or renewal of Licence shall be issued for a Motor Vehicle Racing Facility until the Applicant has filed with the Licensing Officer a site plan for the property to be licensed which shall include all such information and detail as may be required by the Licensing Officer including but not limited to the location, design and

specifications for the following:

- (a) the race track or race tracks, staging areas and pits;
- (b) permanent and temporary spectator grandstands and seating;
- (c) all pedestrian and vehicular entranceways and exits for the property, including all connections to highways;
- (d) permanent and temporary parking areas for spectators, participants, employees and other personnel;
- (e) all permanent or temporary structures or any kind whatsoever;
- (f) vehicle storage areas;
- (g) garbage disposal and storage areas;
- (h) permanent or temporary food services;
- (i) emergency facilities and access routes;
- (j) fuel storage and handling areas;
- (k) sanitation services, including Washroom Facilities;
- (l) permanent or temporary fencing, screening and barriers.

Article 5.00: Expiry and Renewal of Licences
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- 5.01 **Term of Licence:** No Licence shall be issued for a period in excess of one year, and each Licence issued pursuant to this By-law shall come into effect on the date that it is issued, and expire on the 31st day of December of the calendar year in which the Licence is issued.
- 5.02 **Renewal of Licence:** An application for renewal of a Licence shall be submitted to the Licensing Officer in the Office of the City Clerk not less than sixty (60) days prior to the date for expiry of the current Licence, and shall be accompanied by all documentation and information required pursuant to Section 4.01 above.

Article 6.00: Operating Agreements

- 6.01 **Requirement for Operating Agreement:** As a condition prior to the issuance of a Licence, the Owner and Operator of a Motor Vehicle Racing Facility to be licensed shall be required to enter into an Operating Agreement with the City. Issues to be addressed in the Operating Agreement may include, but shall not be limited to, the following:
- (a) a requirement that the Owner and/or Operator maintain in force a policy or policies of insurance throughout the term of the Licence insuring for the joint benefit of the City and the Owner and/or Operator against any liability that may arise of the construction or operation of the Motor Vehicle Racing Facility. Such policy or policies shall carry limits of liability in an amount to be specified by the City, but in no event to be less than five million dollars (\$5,000,000.00) inclusive comprehensive general liability, shall contain a cross-liability clause, and shall include the Corporation of the City of Kawartha Lakes as a named insured;
 - (b) an indemnity from the Owner and/or Operator in favour of the City, its servants and agents from and against any and all actions, suits, claims and demands whatsoever which may arise either directly or indirectly by reason of the construction or operation of the Motor Vehicle Racing Facility to be licensed.
 - (c) a requirement that the Owner and/or Operator post security with the City, in an amount and form satisfactory to the City, to ensure the construction and maintenance of any component or components of the Motor Vehicle Racing Facility as are identified in the site plan for the property to be licensed as submitted to, and accepted by, the City;

- (d) hours of operation;
- (e) noise attenuation;
- (f) public safety and security;
- (g) fire safety and emergency services;
- (h) parking and traffic control, including but not limited to design, construction, use and control of on-site and off-site parking areas, and accesses to highways;
- (i) racing vehicle safety equipment;
- (j) spectator services and amenities; and
- (k) compliance with Federal and Provincial statutes and regulations.

Article 7.00: Refusal of Licence Application and Revocation of Licence
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- 7.01 **Grant of Licence:** Upon receipt of a completed application for a Licence, and provided the Licensing Officer is satisfied that the requirements of this By-law, all other applicable By-laws, and all applicable Federal and Provincial legislation have been met, the Licensing Officer shall send written Notice of Intention to Grant a Licence to the Applicant, which notice shall include the Conditions, if any, upon which the Licence is issued. If within five (5) days following receipt of the written Notice of Intention to Grant Licence, with Conditions as applicable, the Applicant has not filed a written objection to the Licence Conditions, the Licence shall be deemed to be issued on the day of the Notice of Intention to Grant Licence, and subject to the Conditions as set out therein.
- 7.02 **Refusal, Suspension and Revocation of Licences:** The Licensing Officer may refuse to grant a Licence, and may recommend to Council that a Licence be suspended or revoked, if any of the requirements of this By-law, or the Conditions of a Licence, is not met. In such event, the Licensing Officer shall send to the Applicant or Licensee a notice of intention to refuse, suspend or revoke a Licence, which shall set out the reasons for the refusal, suspension or revocation and shall permit the Licensee a period of not less than twenty-one (21) days from the date of the Notice within which to appeal the decision or recommendation of the Licensing Officer to Council. Upon receipt of a written Notice of Appeal from the Applicant or Licensee, the City shall give the Applicant or Licensee not less than two (2) weeks notice of the date of the meeting at which Council will consider the appeal of the Licensing Officer's decision to refuse a Licence or the Licensing Officer's recommendation to suspend or revoke a Licence. An Applicant or Licensee who has filed a written Notice of Appeal shall be permitted an opportunity to address Council before Council renders a decision in relation to the refusal of a Licence, or the recommendation for a suspension or revocation of a Licence, by the Licensing Officer.
- 7.03 **Council Decision:** Council may, in its sole and absolute discretion, grant, grant with Conditions, refuse to grant, or revoke or suspend a Licence. In exercise of its discretion to refuse to grant a Licence, or to revoke or suspend a Licence, Council shall consider:
- (a) whether the Applicant or Licensee has failed to comply with any provision of this By-law, other By-laws, or applicable Federal or Provincial legislation; and
 - (b) whether there are grounds for belief that the Applicant or Licensee will not carry on or engage in the licensed activity in accordance with applicable law, or with honesty and integrity.

Article 8.00 Regulations

- 8.01 **Restricted Time of Operations:** No person shall operate or race a Motor Vehicle or permit the operation or racing of Motor Vehicles at a Motor Vehicle Racing Facility except between the hours of 7:00 a.m. and 7:00 p.m. on any day of the week. An applicant wishing to operate outside of the parameters defined in this Section must submit their request to Council in writing. Council has the authority to exempt or amend

the provisions of this Section by resolution of Council. All exemptions and or amendments must receive the approval of Council prior to the issuance of a Licence.

- 8.02 **Noise Levels:** No person shall operate a Motor Vehicle having a sound emission level of more than 99 dbA at a Motor Vehicle Racing Facility. Sound emission levels for each Motor Vehicle shall be determined in accordance with SAE (The Engineering Society for Advancing Mobility, Land, Sea, Air and Space International) Surface Vehicle Standard SAEJ1287, as amended from time to time.
- 8.03 **Sound Emission Level Testing:** No Owner or Operator of a Motor Vehicle Racing Facility shall permit any Motor Vehicle to be operated at the Motor Vehicle Racing Facility, unless the Motor Vehicle has passed a sound emission level test as contemplated under Section 8.02 of this By-law within thirty (30) days prior to the date of operation of the Motor Vehicle at the Motor Vehicle Racing Facility.
- 8.04 **Log Book:** Every Owner and Operator of a Motor Vehicle Racing Facility licensed under the provisions of this By-law shall maintain a log book containing:
- (a) a description of every Motor Vehicle operated at the Motor Vehicle Racing Facility. The description shall be sufficient to permit the Licensing Officer to identify the Motor Vehicle and its owner, and shall contain at least:
 - (i) the name of the registered owner of the Motor Vehicle;
 - (ii) the make, model and vehicle identification number for each Motor Vehicle;
 - (iii) the engine displacement of each Motor Vehicle.
 - (b) the dates upon which sound emission level testing was carried out on each such Motor Vehicle in accordance with the provisions of this By-law, and the results of those tests.

Article 9.00 Inspection, Enforcement and Penalties
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- 9.01 **Inspections:** The Licensing Officer, a Municipal Law Enforcement Officer and any other person designated by Council to enforce this By-law may, at all reasonable times and upon producing proper identification, enter onto and inspect any lands and buildings which are the subject of an Application for Licence, or any licensed Motor Vehicle Racing Facility and the property upon which it is located.
- 9.02 **No Obstruction:** No person shall obstruct, hinder or in any way interfere with any person designated to enforce this By-law.

Article 10.00 Fines for Contravention

- 10.01 Every person who contravenes this By-law, and every director or officer of a corporation who concurs in the contravention by the Corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$25,000.00. Where a corporation is convicted of an offence under this By-law, the maximum penalty that may be imposed on the Corporation is \$50,000.00.

Article 11.00 Repeals, Effective Date and Transition Provisions

- 11.01 **Repeal:** By-law No. 76-21 for the City of Kawartha Lakes (formerly the Township of Somerville), as amended by By-law 83-10 is hereby repealed.
- 11.01 **Effective Date:** This By-law shall take effect on the date it is finally passed.
- 11.02 **Transition Provisions:** Notwithstanding any provision to the contrary in this By-law, the Owner and Operator of a Motor Vehicle Racing Facility existing on the date of the passing of this By-law shall be permitted until the first anniversary date of the date of enactment of this By-law to comply fully with the requirements of this By-law.

By-law read a first, second and third time, and finally passed, this 20th day of September, 2004.

Mayor

Clerk

This is Schedule "A" to By-law 2004-184 of the Corporation of the City of Kawartha Lakes

Fees	\$1,000.00 per annum
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