

NEWBERRY TOWNSHIP
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 296

AN ORDINANCE OF NEWBERRY TOWNSHIP, YORK COUNTY, PENNSYLVANIA, REGULATING THE OPERATION OF RACETRACKS AND SPEEDWAYS IN NEWBERRY TOWNSHIP; DECLARING LEGISLATIVE FINDINGS REGARDING RACETRACKS AND SPEEDWAYS; DEFINING CERTAIN TERMS AS USED IN THE ORDINANCE; REQUIRING THE LICENSING OF RACETRACKS AND SPEEDWAYS WITHIN THE CONFINES OF NEWBERRY TOWNSHIP; IMPOSING RULES AND REGULATIONS FOR THE OPERATION OF RACETRACKS AND SPEEDWAYS IN NEWBERRY TOWNSHIP; PROVIDING FOR WAIVER OF THE REGULATIONS BY THE BOARD OF SUPERVISORS; SETTING FORTH ENFORCEMENT PROCEDURES; AND IMPOSING PENALTIES FOR VIOLATION OF THE ORDINANCE.

WHEREAS, Newberry Township has received numerous complaints regarding the use and operation of racetracks and speedways in Newberry Township; and

WHEREAS, the Board of Supervisors of Newberry Township finds that it is necessary and appropriate to regulate the operation of racetracks and speedways in Newberry Township in order to protect the health, safety and welfare of the residents of Newberry Township.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby enacted and ordained by the Board of Supervisors of Newberry Township, York County, Pennsylvania, as follows:

Section 1. Title. This Ordinance shall be known as the Newberry Township Racetrack and Speedway Ordinance.

Section 2. Authority. This Ordinance is enacted pursuant to the provisions

of the Second Class Township Code.

Section 3. Purpose. The purpose of this ordinance is to ensure that public health safety and welfare shall not be abridged by the utilization of any parcel of property within the Township for the purposes of conducting, operating, or supervising what is commonly called drag-strip racing, hot-rod racing, automobile racing, motor driven go-cart or quarter midget racing, motorcycle racing, motor-bikes, mini-bikes, trail bikes, motor scooters, and all terrain vehicles or any other manner of motorized vehicle or conveyance, for racing or timing contests without first having complied with the provisions of this Ordinance and to establish rules and regulations governing the operation of such facilities and to prescribe penalties for the violation of the same and ordaining provisions for the carrying the terms hereof into effect. These regulations being intended to protect the physical, mental and social well-being of the residents of Newberry Township.

Section 4. Legislative Findings. The Board of Supervisors finds that the failure of individuals and businesses operating racetracks and motor speedways as defined hereinbelow to reasonably regulate their activities as well as the activities of participants and spectators during racing events constitutes an infringement upon the peaceful use and enjoyment of the residents of Newberry Township of their homes and property and constitutes a public nuisance. Specifically, such failure to control the use of amplified sound equipment, excessive particulate matter and dust created by the racing, the deposit of mud on public roadways, ending times for

racing, the number of races per week and the time period for the racing season, as well as failure to comply with Township codes, regulations and zoning ordinances:

- a) Creates a public nuisance in that residents are deprived of the enjoyment of their homes, disturbed in their sleep, and otherwise prevented from the quiet enjoyment of their residential premises;
- b) Affects the property values of residences in the Township;
- c) Affects the public welfare by reflecting negatively on the quality of life in residential areas of the Township;
- d) Creates noise pollution; and
- e) Creates air pollution from dust and other particulate matter generated by the racing.

Section 5. Definitions. The following words and phrases, when used in this Ordinance, shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section.

- a) **FIREWORKS** – Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration, or detonation that meets the definition of 1.4G fireworks or 1.3G fireworks as set forth herein.
- b) **FIREWORKS, 1.4G** – Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G fireworks which comply with the

construction, chemical composition, and labeling regulations of the United States DOT for Fireworks, UN0336, and the U.S. Consumer Product Safety Commission as set forth in the CPSC 16 CFR: Parts 1500 and 1507, are not explosive material for the purpose of this Chapter.

c) **FIREWORKS, 1.4S** - Any small fireworks devices that produce a visible or audible effect by combustion or deflagration and that meet the requirements of the Consumer Product Safety Commission for the quantity of internal composition, construction, size and labeling for sale to and use by the general public. They are typically classified as UN0336 Fireworks or 1.4S by the United States DOT and are typically referred to as "Consumer Fireworks."

d) **FIREWORKS, 1.3G** – Large fireworks devices, which are explosive material intended for use in fireworks displays and designed to produce audible or visible effect by combustion, deflagration, or detonation. Such 1.3G fireworks include, but are not limited to, firecrackers that contain more than 130 milligrams of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition and other display pieces which exceed the limit for classification as 1.4G fireworks. The United States DOT also describes such 1.3G fireworks as Fireworks, UN0335.

e) **FIREWORKS DISPLAY** – A presentation of fireworks for a public or private gathering.

f) **NFPA 1123** – The National Fire Protection Association standard

on *Fireworks Displays, 2000 Edition*.

g) **NFPA 1126** – The National Fire Protection Association standard on the *Use of Pyrotechnics Before a Proximate Audience, 2001 Edition*.

h) **PERSON** - Includes any individual, firm, association, organization, partnership, trust, company, corporation or any other similar entity.

i) **RACE DAY** - The day on which a race or timed event is scheduled to take place.

j) **RACE SEASON** - The race season shall be limited to that period of time beginning April 1st and ending October 31st of each calendar year.

k) **RACETRACK / SPEEDWAY** - the utilization of any parcel of property within the Township for the purposes of conducting, operating, or supervising what is commonly called drag-strip racing, hot-rod racing, automobile racing, motor driven go-cart or quarter midget racing, motorcycle racing, motor-bikes, mini-bikes, trail bikes, motor scooters, and all terrain vehicles or any other manner of motorized vehicle or conveyance, for racing or timing contests

l) **SOUND AMPLIFICATION EQUIPMENT** - Any device whether powered electrically or through natural means, including but not limited to, sound systems, public address systems, stereo systems, loudspeakers, bullhorns, megaphones, microphones, and sirens, which amplifies or otherwise increases the natural output of sound generated by a person or object.

m) **VEHICLE** - Any device, or combination of devices, used for or

capable of being used for transporting persons or property. Vehicles include, but are not limited to the following: automobiles, trucks, sport utility vehicles, buses, motorcycles, motorized bicycles, snowmobiles, scooters, all-terrain vehicles, go-carts, racers, and life devices, farm machinery, industrial machinery, highway graders, trailers, graders and semi-trailers.

n) TOWNSHIP - Newberry Township, York County, Pennsylvania.

Section 6. Licensing. Any person wishing to operate a racetrack or speedway within the Township shall make application to the Township no later than the first day of March in the calendar year for which the license is sought and pay a filing fee as established by resolution of the Board of Supervisors of Newberry Township for said license. The proposed racetrack or speedway will then be inspected by a code enforcement officer or other person duly authorized by the Board of Supervisors to ensure that the said premises complies with all of the requirements of the Township Code, regulations, and zoning ordinances. In the event that said premises does not comply with the requirements of the Township code, regulations and ordinances, then the person making the application will have any opportunity to correct any deficiencies within thirty (30) days and request a re-inspection. If the person making the application does not correct the cited deficiencies within thirty (30) days, the Township will not issue a license and the person making application will be deemed to have forfeited his application fee. Any person found to be operating a racetrack or speedway without the appropriate

license will be subject to the penalties set forth herein.

Section 7. Regulations. Any person operating a racetrack or speedway shall be subject to the following regulations governing the operation of the racetrack or speedway:

a) The race season shall be limited to that period of time beginning April 1st and ending October 31st of each calendar year, and no races shall be held outside of this time period without special application to the Board of Supervisors.

b) There shall be no more than two (2) race days per seven (7) calendar days; provided, however, when a holiday occurs during a seven (7) calendar day period, the actual holiday may serve as a third race day during the seven (7) calendar day period. The seven (7) calendar day period shall commence each Tuesday at 12:01 a.m. and end the following Monday at 12:00 midnight.

c) All race related activities must cease no later than 11:00 p.m. and the premises must be vacated no later than midnight of the race day.

d) The use of sound amplification is prohibited except during the race program itself.

e) The racetrack or speedway shall comply at all time with the provisions of the Township code, regulations and zoning ordinances.

f) Sufficient sanitary facilities must be provided for patrons of the racetrack or speedway and must be maintained in such manner as will not violate Township Ordinances, rules or regulations and those of the Pennsylvania

Department of Environmental Protection.

g) Any preparation of the premises for racing must be completed during the hours of 9:00 a.m. to 9:00 p.m.

h) The owner of the premises will be responsible for any violation of these regulations or any other applicable code, ordinance or statute perpetrated by a third party to whom the premises has been rented or otherwise leased.

i) The owner of the premises shall ensure that the pit areas are properly maintained. The owner of the premises shall ensure that no runoff or discharge from the pit areas violate any regulations promulgated by the Department of Environmental Protection or the United States Environmental Protection Agency.

j) If the racetrack or speedway is not made of blacktop, macadam, or similar hard surface, then the track areas shall be watered or otherwise maintained to ensure that the amount of dust and particulate matter generated by the racing on the track is reduced and does not violate any regulations as promulgated by the Pennsylvania Department of Environmental Protection or the United States Environmental Protection Agency.

k) If the premises is not zoned for camping, no camping or sleeping in vehicles on the premises shall be permitted. If the premises is zoned for camping, the owner shall comply with all Township Ordinances, rules and regulations governing campgrounds.

l) Unless specifically authorized by the license issued by the

Township, overnight parking of motor vehicles on the premises of the racetrack or speedway shall be prohibited.

m) Any practice on the racetrack to be conducted by either the racers or the owner of the premises shall be completed during normal business hours of 9:00 a.m. to 5:00 p.m. and shall be limited to the race day. Practices may not be held on any day other than race day and must comply with the provisions of Section 7.b) set forth hereinabove.

n) If the owner of the premises wishes to have a fireworks display, such display shall be limited as follows:

1) Said fireworks display shall be limited to race day and must comply with all time restrictions set forth hereinabove.

2) The display of fireworks shall comply with NFPA 1123 or NFPA 1126.

3) In order to have or hold a display of fireworks or pyrotechnics shows, the owner of the premises must secure a "Special Fireworks Permit."

4) Applications for a "Special Fireworks Permit" shall be made in writing on forms provided by the Township at least forty-five (45) days in advance of the proposed date for aerial display. The fee for application shall be One Hundred (\$100.00) Dollars and paid at the time of application. The application fee is non-refundable. Any permit is non-transferable. The final decision regarding the

issuance or denial of the "Special Fireworks Permit" shall be made within thirty-five (35) days of application.

5) Prior to issuing permits for fireworks or pyrotechnic displays, plans for the display, inspections of the display site and demonstrations of the display operations shall be approved by the Code Official.

6) The Code Official is authorized to limit the quantity and/or type of fireworks or pyrotechnic materials permitted at any location.

7) Permit applications for outdoor fireworks displays using Division 1.3G fireworks shall include a diagram of the location at which the display will be conducted, including the site from which the fireworks will be discharged, the location of all buildings, highways, overhead obstructions and utilities and the lines behind which the audience will be restrained.

8) Where the separation distances required by NFPA 1123 are unavailable or cannot be secured, only proximate audience displays conducted in accordance with NFPA 1126 shall be permitted. Applications for proximate audience displays shall include plans indicating the required clearances for spectators and combustibles, crowd control measures, smoke control measures and requirements for standby personnel and equipment when the Code Official requires provision of such personnel or equipment.

9) Liability Insurance. All applications shall include proof of insurance. Every applicant shall possess liability insurance in the amount of not

less than One Million (\$1,000,000.00) Dollars. Such insurance policy shall name Newberry Township and its agents as additional insured. An original copy of the "Certificate of Insurance" shall be received prior to the issuance of a "Special Fireworks Permit."

10) **Approved Displays.** Approved displays shall include only the approved Division 1.3G, Division 1.4G, and Division 1.4S fireworks, shall be handled by an approved competent operator, and the fireworks shall be arranged, located, discharged and fired in a manner that will not pose a hazard to property or endanger any person.

11) **Qualifications of Operators.** Every such aerial fireworks or pyrotechnic display shall be supervised and operated by a competent operator as approved by the Board of Supervisors. Each operator shall provide evidence of competency at the time of application for the "Special Fireworks Permit." The Code Official shall reserve the right to request additional information to support the credentials of any operator. Persons involved in fireworks displays or pyrotechnic special effect operations shall not be under the influence of alcohol or drugs which impair sensory or motor skills, shall be at least twenty-one (21) years of age, and shall demonstrate knowledge of all safety precautions related to the storage, handling and use of fireworks.

o) The owner of the premises shall ensure that emergency medical services are present at the premises at all times the racetrack/speedway is being

used for racing, practice or other race-related activities. Emergency medical services shall include, but shall not be limited to, an ambulance present on the premises at all times and the presence on the premises of at least two (2) certified emergency medical technicians.

Section 8. Special Waivers. A temporary waiver from strict compliance with the provisions of this Ordinance may with good cause be granted by the Board of Supervisors.

Section 9. Policy. In adopting this Ordinance, it is not the policy of the Board of Supervisors of Newberry Township to prohibit the operation of racetracks or speedways within Newberry Township. It is the policy of the Board of Supervisors of Newberry Township to encourage and cooperate with any person operating a racetrack or speedway within the confines of Newberry Township to operate that racetrack or speedway in compliance with the provisions of this Ordinance.

Section 10. Enforcement Officers. This Ordinance may be enforced by any police officer, code enforcement officer or other duly authorized person appointed by the Board of Supervisors of Newberry Township.

Section 11. Enforcement Procedures. The following procedures and penalties are prescribed for enforcement of this ordinance:

a) **Warnings -** With the exception of the provisions of Section 6 of this Ordinance, if it is determined that a person is in violation of any other provisions

of this Ordinance, the Township shall issue a warning. In the event of a violation of Section 6 of this Ordinance, no warning shall be issued and said violation shall be considered an offense as more fully described hereinbelow.

b) **Offenses** - If after having received a warning regarding a violation of the provisions of this Ordinance or in the event of a violation of Section 6 of this Ordinance, the enforcement officer shall have the authority to prosecute such person allowing or causing the violation of the Ordinance.

c) **Injunctions** - This Ordinance in no way limits or precludes private individuals or the Township from filing a legal or equitable action in court to abate or enjoin violations of this Ordinance.

d) **Public Nuisance** - Any continuing violation of the provisions of this Ordinance is hereby declared to be a public nuisance and may be abated by administrative or judicial proceedings, fines and penalties as provided herein.

e) **Other Remedies** - Nothing in this Ordinance shall be construed to impair any cause of action or legal remedy thereof, of any person or the public for injury or damage arising from a violation of the provisions of this Ordinance.

Section 12. Relationship with Other Restrictions. The provisions of this Ordinance are not intended to interfere with, abrogate or annul other rules, regulations or ordinances, including the Pennsylvania Consolidated Statutes. If more stringent requirements concerning any of the provisions contained herein are contained in other statutes, rules, regulations, or ordinances, the more stringent

regulation shall apply.

Section 13. Penalties. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, as a summary offense, be sentenced to pay a fine of not more than One Thousand (\$1,000.00) Dollars; and in default of payment, to imprisonment for a term of not to exceed thirty (30) days. Every day that a violation of this Ordinance continues shall constitute a separate offense.

Section 14. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intention of the Board of Supervisors that this Ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

Section 15. Effective Date. This Ordinance shall take effect five (5) days from the date of adoption.

ENACTED AND ORDAINED by the Board of Supervisors of Newberry Township
this 9th day of December, 2003.

BOARD OF SUPERVISORS OF
NEWBERRY TOWNSHIP

BY:

George H. Kuppel
Vice-Chairman

ATTEST:

Laurel G. Wilson
Secretary

NEWBERRY TOWNSHIP
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 318

AN ORDINANCE OF NEWBERRY TOWNSHIP, YORK COUNTY, PENNSYLVANIA, AMENDING NEWBERRY TOWNSHIP ORDINANCE NO. 296, WHICH ORDINANCE REGULATES THE OPERATION OF RACETRACKS AND SPEEDWAYS IN NEWBERRY TOWNSHIP, TO CHANGE THE DEFINITION OF "RACE SEASON" AND "VEHICLES;" EXTENDING THE TIME OF THE RACE SEASON; PROVIDING THAT ALL ACTIVITIES MUST CEASE NO LATER THAN 12 MIDNIGHT; AMENDING PROVISIONS RELATING TO SOUND AMPLIFICATION; AMENDING THE PROVISION DEALING WITH PREPARATION OF THE PREMISES; ALLOWING CAMPING ON THE PREMISES FOR UP TO 72 HOURS; ALLOWING SPEEDWAY-OWNED VEHICLES TO BE PARKED ON THE PREMISES; AND AMENDING THE TIME FOR PRACTICE.

WHEREAS, Newberry Township has previously adopted Ordinance No. 296, which Ordinance regulates the operation of racetracks and speedways in Newberry Township; and

WHEREAS, the Board of Supervisors of Newberry Township wishes to amend certain provisions of Ordinance No. 296.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby enacted and ordained by the Board of Supervisors of Newberry Township, York County, Pennsylvania, as follows:

1) Section 5 of Ordinance No. 296, entitled "Definitions," is amended to change the definition of "RACE SEASON" (subsection j) and the definition of

"VEHICLES" (subsection m) as follows:

j) RACE SEASON - The race season shall be limited to that period of time beginning March 1st and ending November 30th of each calendar year.

m) VEHICLE - Any device, or combination of devices, used for or capable of being used for transporting persons or property. Vehicles include, but are not limited to the following: automobiles, trucks, sport utility vehicles, motorcycles and motorized bicycles.

2) Section 7, entitled "Regulations," is hereby amended to revise subparagraph a) to read as follows:

a) The race season shall be limited to that period of time beginning March 1st and ending November 30th of each calendar year, and no races shall be held outside of this time period without special application to the Board of Supervisors.

3) Section 7, entitled "Regulations," is hereby amended to revise subparagraph c) to read as follows:

c) No race event may begin after 11:30 p.m., and all race related activities must cease no later than 12:00 midnight.

4) Section 7, entitled "Regulations," is hereby amended to revise subparagraph d) to read as follows:

d) The use of sound amplification is prohibited except during the race program and during the testing and tuning of the sound amplification system.

5) Section 7, entitled "Regulations," is hereby amended to revise subparagraph g) to read as follows:

g) Any on-track preparation of the premises for racing must be completed during the hours of 9:00 a.m. to 9:00 p.m.

6) Section 7, entitled "Regulations," is hereby amended to revise subparagraph k) to read as follows:

k) If the premises is not zoned for camping, camping maybe permitted on the premises for a period not to exceed seventy-two (72) hours if Newberry Township grants permission for camping on the premises. If the premises is zoned for camping, the owner shall comply with all Township Ordinances, rules and regulations governing campgrounds.

7) Section 7, entitled "Regulations," is hereby amended to revise subparagraph l) to read as follows:

l) Unless specifically authorized by the license issued by the Township, overnight parking of motor vehicles on the premises of the racetrack or speedway shall be prohibited. This prohibition regarding overnight parking of motor vehicles shall not apply to vehicles owned by the racetrack operator and vehicles used for the preparation of the racetrack premises.

8) Section 7, entitled "Regulations," is hereby amended to revise subparagraph m) to read as follows:

m) Any practice on the racetrack to be conducted by either the racers

or the owner of the premises shall be completed during normal business hours of 9:00 a.m. to 9:00 p.m. Practice may be held on days other than race.

9) This Ordinance shall take effect five (5) days from the date of adoption.

ENACTED AND ORDAINED by the Board of Supervisors of Newberry Township
this 22ND day of MARCH, 2005.

BOARD OF SUPERVISORS OF
NEWBERRY TOWNSHIP

BY: Thomas A. Deje
Vll - Chairman

ATTEST:

Laurel A. Skelton
Secretary

**NEWBERRY TOWNSHIP
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 337

**AN ORDINANCE OF NEWBERRY TOWNSHIP, YORK COUNTY,
PENNSYLVANIA, AMENDING NEWBERRY TOWNSHIP
ORDINANCE NO. 296, WHICH ORDINANCE REGULATES THE
OPERATION OF RACETRACKS AND SPEEDWAYS IN NEWBERRY
TOWNSHIP, TO AMEND SECTION 7(b) TO ALLOW A THIRD
RACE DAY DURING A PERIOD IN WHICH A HOLIDAY OCCURS
AND TO DESIGNATE THE FEDERAL HOLIDAYS AS THE
HOLIDAY REFERRED TO IN THE ORDINANCE.**

**WHEREAS, Newberry Township has previously adopted Ordinance No. 296,
which Ordinance regulates the operation of racetracks and speedways in Newberry
Township; and**

**WHEREAS, the Board of Supervisors of Newberry Township has previously
amended Ordinance No. 296 by enacting Ordinance No. 318 on March 22, 2005; and**

**WHEREAS, the Board of Supervisors of Newberry Township wishes to amend
Section 7(b) of Ordinance No. 296.**

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby enacted
and ordained by the Board of Supervisors of Newberry Township, York County,
Pennsylvania, as follows:**

**1) Section 7 of Ordinance No. 296, entitled "Regulations," is hereby
amended to revise subparagraph b) to read as follows:**

b) There shall be no more than two (2) race days per seven (7)

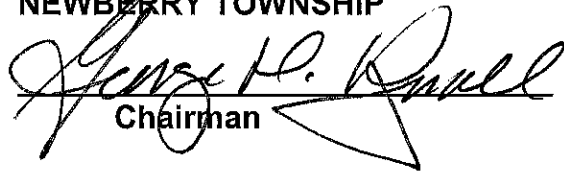
calendar days; provided, however, when a holiday occurs during a seven (7) day calendar period, three (3) race days are permitted during the seven (7) day calendar period in which the holiday occurs. The seven (7) day calendar period shall commence each Tuesday at 12:01 a.m. and end the following Monday at 12:00 midnight. For the purposes of this Ordinance, a holiday shall be a public holiday established by federal law for federal employees.

2) This Ordinance shall take effect five (5) days from the date of adoption.

ENACTED AND ORDAINED by the Board of Supervisors of Newberry Township
this 10TH day of APRIL, 2007.

BOARD OF SUPERVISORS OF
NEWBERRY TOWNSHIP

BY:


Chairman

ATTEST:


Secretary