



**APPLICATION FOR LICENSE TO
CONDUCT A HORSE RACING MEET**



NEW MEXICO RACING COMMISSION

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Director

APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEET

The New Mexico Racing Commission will begin accepting applications for an additional license to conduct a race meet. This application, including fingerprint impressions, must be completed in accordance with the New Mexico Horse Racing Act and Regulations of the New Mexico Racing Commission (Commission). A copy of the relevant law is attached to this information. If you have any questions regarding the application procedure, you may contact us at 505-222-0704. Please note that with submission of two original notarized application packets, you must also submit a USB flash drive with all application material, as well as the requisite application and background fees. The Commission may request further information from the applicant to clarify or supplement the information provided by the applicant. The Commission may then schedule a date for a hearing on the application to determine the eligibility of the applicant pursuant to the Horse Racing Act.

Pursuant to NMSA 1978, Section 60-1A-11 (F), the burden of proving the qualifications of an applicant or licensee to be issued shall be on the applicant.

You are also advised that upon submission of your application, you should immediately begin the corresponding application procedure required by the New Mexico Gaming Control Board. Information regarding their application is attached to this information, and can also be obtained at www.nmgcb.org. You may also contact New Mexico Gaming Control Board Interim Director, Donovan Lieurance at 505-841-9700.

4900 Alameda NE – Suite A
Albuquerque, NM 87113 • (505) 222-0700 • FAX (505) 222-0713
Web • www.nmrc.state.nm.us

I. APPLICANT INFORMATION

Section 60-1A-4 (B)(2), NMSA 1978

1. State the full name, address and contact information of the applicant.
2. If the applicant is an organization other than an individual, provide the following:
 - a. Type of legal entity: (Examples: corporation, partnership, association, limited liability company);
 - b. Principle place of business for legal service of process;
 - c. Provide the name, address and contact information of the natural person who is authorized to accept service of process on behalf of the applicant;
 - d. Name of the State where legal entity is organized;
 - e. Date legal entity organized;
 - f. Provide the names, addresses and contact information of officers, members of board of directors, partners, managers of the applicant, if any;
 - g. Provide a copy of the applicant's organizational chart; and
 - h. Provide the New Mexico Taxation and Revenue Department tax identification number.
3. Describe any pending legal proceedings to which the applicant or any of its subsidiaries or parent corporations is involved, or of which any of their property is the subject. Include the name of the action; the court file number or identifying information; court or agency in which the proceedings are pending; the date instituted and the principal parties thereto.
4. **The fee for a racing license application is \$5,000, paid directly to the Commission.**

II. SECONDARY LICENSES

Section 60-1A-7, NMSA 1978

1. A person who is actively and directly engaged in the administration of a horse racetrack, whether in a financial, administrative, policymaking or supervisory capacity, shall apply for secondary license issued by the Commission.
2. If an applicant for a racetrack license is a corporation, all officers, directors, lenders or holders of evidence of indebtedness of the corporation and all persons who participate in

any manner in a financial, administrative, policymaking or supervisory capacity are required to apply for a secondary license issued by the Commission.

3. A person who owns or holds, directly, indirectly or beneficially, ten percent or more of the total authorized, issued and outstanding shares of a corporation or other legal entity that is a racetrack licensee is required to apply for a secondary license issued by the Commission.
4. If the applicant for a secondary license is not an individual but is another legal entity, each director; officer; partner; stockholder owning directly, independently or beneficially 10% or more of the stock of a corporate applicant; or policy-making employee of that legal entity must also apply for a secondary license.
5. If a stockholder requiring a secondary license is a corporation, then each stockholder owning directly, independently or beneficially 10% or more of the stock of that corporation must apply for a secondary license.
6. **The fee for a secondary license application is \$500 per person, paid directly to the Commission.**

Identification of Applicants for Secondary License

Primary applicant shall list all persons who will be required to hold a secondary license under this application, and for each person listed, provide full name and all contact information, including addresses, telephone numbers, email addresses.

III. FINANCIAL AND CRIMINAL BACKGROUND INVESTIGATION

Section 60-1A-7, NMSA 1978

1. All applicants (primary license holders and secondary license holders) shall submit to a background investigation.
2. Applicant shall submit **two** fingerprint cards to the Commission for **each applicant**, with one card to be submitted to the New Mexico Gaming Control Board (GCB) for a statewide check and the other card to be submitted to the federal bureau of investigation for a nationwide check.
3. **The cost of the federal background investigation shall be paid by the applicant, directly to the Commission in the amount of \$44 per person.**
4. The cost of the statewide background investigation shall be paid by the applicant, **directly to the GCB. Please review the Business Gaming Application material attached.** Amounts for the license, application and background fees are as follows: \$25,000 non-refundable license fee and a \$25,000 background deposit.

5. The applicant must also complete the GCB Corporate Application of Suitability or, if the applicant is an individual, the GCB Key and Affiliated Person Application. Please review the Business Gaming Application material attached.

IV. FINANCING OF PROPOSED RACING FACILITY

1. Describe how the applicant will finance the construction and operation of the proposed racing facilities.
2. Include the name of any bank, financial institution, individual or third party who is providing funding for any part of the proposed racing facility.
3. Commission staff may request further details of any financing arrangements, depending on the response to this question.

V. INFORMATION RELATED TO PROPOSED HORSE RACE MEET LICENSE

Location of Proposed Racing Facilities

1. Provide a legal description of the proposed site for racing facilities, names and addresses of the titleholders to the real property and names and addresses of all personal holding mortgages or other security interests in the property.
2. If leased, the name and residence of the fee owner of the land or, if the owner is a corporation, the names of the directors and stockholders.

Description of Racing Facilities

3. State the exact dimensions of the track proposed. Submit at least one copy of the architect's drawings showing detail of the proposed construction. If a grandstand is in existence, describe the size and type of construction.
4. State the parking lot capacity and describe the construction and type of parking facilities.
5. State the number and type of construction of stables, other barn areas, forecourt and paddock areas, indicating capacities and fire prevention facilities for all areas.
6. Describe the facilities for owners, trainers, jockeys, grooms and other racing personnel.
7. State the proposal for food and drink concessions.
8. Describe any concessions, clubs or other special facilities, existing or proposed, for patrons.
9. Describe the schedule for completion of the proposed racing facilities and describe the feasibility of meeting that schedule.

Race Meet Information

10. Describe the kind of racing to be conducted.
11. State the beginning and ending dates desired for the race meet and the days during that time period when horse races are to be scheduled.
12. Describe climatic conditions prevalent during the proposed racing season.
13. Describe the proposed pari mutuel operation in general and indicate in particular the terms of the pari mutuel ticket sales.

Public Safety Information

14. Describe the efforts to be made to insure the security safety and comfort of patrons and license holders.
15. State the availability of fire protection and adequacy of law enforcement and police protection.
16. Describe how the proposed racing facility will impact local traffic flows and provide (a) any traffic flow studies done to date or, (b) approvals by any state or local governmental entity approving a proposed traffic flow plan.

The Local Community

17. State the number of miles from the nearest population center, and describe briefly the transportation facilities serving that population center.
18. Indicate the population of the local area, and the growth trend. Indicate the potential market including tourists, transients and patrons from neighboring areas.
19. Indicate the principal sources of local income, showing the percentage from farming and ranching, industrial, professional services, military and other governmental sources.
20. Describe the effect of competition with other racetracks in and out of the state and with other sports or recreational facilities in the area.
21. Indicate what effect opposition from area residents may have on the economic outlook for the proposed track.

VI. AUTHORITY FOR RELEASE OF INFORMATION

By submitting this application, the applicant hereby authorizes any and all persons or entities, including the New Mexico Gaming Control Board, having information concerning the applicant or this application, either of public record or otherwise, to furnish it to a duly authorized agent of the Commission or to allow the authorized agent of the Commission to view the information. The authorized agent of the Commission shall determine if the information shall be furnished or viewed. The applicant understands that the information released is for official use by the New Mexico Racing Commission and may be disclosed to such third parties as necessary in the fulfillment of official responsibilities. The application for a license is a matter of public record and the applicant may be asked to answer questions in open public meetings of the Commission. I hereby expressly waive, release and forever discharge the State of New Mexico, and its agents, from any and all manner of action and causes of action whatsoever against the State of New Mexico, or its agents, as a result of filing this application for a racing license.

Please note that pursuant to the latest provisions of the gaming compacts between the State of New Mexico and the various New Mexico Indian Tribes and Pueblos, notice shall be given upon the completed submission of an application for a gaming horse racetrack, other than those in existence as of January 1, 2007.

VII. PARENTAL RESPONSIBILITY ACT

Section 40-5A-4, NMSA 1978

A person who submits an application for a license issued by the Commission is not eligible for issuance of the license if they are not in compliance with a judgment and order for support or subpoenas or warrants relating to paternity or child support proceedings. The denial of the application on these grounds may entitle the applicant to a hearing.

**VIII. STATEMENT UNDER OATH BY APPLICANT THAT THE INFORMATION ON
THE APPLICATION IS TRUE**

Section 60-1A-4 (B)(3), NMSA 1978

Section 60-1A-8 (C)

Applicant shall complete a statement under oath, verifying the contents within the application. A sample verification is provided below:

State of New Mexico

County of _____

I, _____, under the penalty of perjury being duly sworn, deposes and says that the above statements are true and correct to the best of my knowledge and belief and that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for the refusal to issue or revocation of a state horse racing license and criminal prosecution.

Applicant

Subscribed and sworn to before me this _____ *day of* _____, 20 _____.

Notary Public

My Commission Expires: _____



STATE OF NEW MEXICO RACING COMMISSION

APPLICATION FOR RENEWAL OF LICENSE TO CONDUCT A HORSERACE MEET

Notes: Pursuant to NMSA 1978, Section 60-1A-4(A)(1), the NMRC is legislatively authorized to grant, deny, suspend or revoke racetrack licenses. An original application, six (6) copies of this application, and a thumb drive with the complete application must be submitted to the NMRC. See, R. 15.2.1.8(J)(6) NMAC.

When additional sheets are used to provide information, please identify at the top of the additional sheet(s) what section(s) of the Application and question(s) to which the additional sheet(s) apply. An example of the form of an additional sheet is included in this Application on the final page. If information or documentation related to this application is on file with the Gaming Control Board, advise of that as your response and affirmatively provide the NMRC authority to review that material. Pursuant to NMSA Section 60-1A-8(D), renewal applications are to be filed with the NMRC no later than June 1st of each year unless an extension of time is granted by the NMRC.

Information on Who is Completing this Application and Certifying its Validity

Note: Pursuant to NMSA 1978, Sections 60-1A-4(B)(3) and 60-1A-8(B), the application packet must contain a notarized statement under oath attesting the information on the application is true and accurate.

Name: _____

Job Title: _____

Phone Number: _____

Email Address: _____

General Information About Applicant Racetrack

1. Applicant racetrack's Official Name: _____

2. Physical Address: _____

3. Mailing Address: _____

4. Provide complete list of all names under which Applicant racetrack conducts business: _____

5. Name and address of Applicant racetrack's Registered Agent: _____

6. Applicant racetrack is structured as:

- _____ an individual
_____ a firm
_____ a corporation
_____ a partnership
_____ an association
_____ a limited liability company (LLC)
_____ other legal entity (please provide details)

7. If a corporation, specify its form of organization: _____

8. If a corporation, is Applicant racetrack either a parent or subsidiary of another corporation?

Parent _____ Subsidiary _____ Neither _____

If "yes" provide the following information for each entity. *See, R. 15.2.1.8(J)(6)(c)(i)-(vi):*

- Year in which corporation was organized, its form of organization and the name of the state under the laws of which it was organized;
- The classes of capital stock authorized, the amount authorized, and the amount of outstanding as of the date not less than 15 days prior to the filing of this Application;
- Briefly outline dividend rights, voting rights, liquidation rights, preemptive rights, conversion rights, and redemption provisions;
- State whether the rights of holders of stock may be modified other than by a vote of a majority or more of the shares outstanding, voting as a class. If "yes" briefly explain;
- If organized as a corporation, provide names of promoters and amount of any assets.

9. Is Applicant racetrack in good standing with the state where it was formed? _____

- If "yes," attach proof of good standing which is issued by the state of formation.
- If "no," specifically detail why not: _____

10. Applicant racetrack's NM Taxation and Revenue tax identification number: _____

11. If Applicant racetrack is a corporation, limited liability company, or partnership, attach certified copies of:

- Articles of Incorporation;
- By-Laws;

- Partnership Agreement(s);
 - Articles of organization;
 - Operating agreements;
 - Other organizing documents, and;
 - All amendments, if any, to those documents.
12. Identify any individuals, groups, lobbyists, CPAs, consultants, attorneys, or managerial agents of any kind retained or employed by Applicant racetrack to represent the Applicant and/or its regulatory interests in New Mexico, both currently and for the last five (5) years: _____
-

Ownership Interests in Applicant Racetrack

13. Is Applicant racetrack owned or leased?
- Owned _____ Leased _____
- If leased, provide name and residence of the fee owner(s) of the land: _____
 - If leased, provide a copy of the lease agreement in effect and any and all modifications or updates to the lease agreement.
14. If Applicant racetrack is a corporation, do any stockholder(s) own 10% or more of stock?
- Yes _____ No _____
- If “yes” provide details on the person’s identity and percentage of stock owned.
15. List and detail all changes in ownership which have taken place with Applicant racetrack and/or its parent company since its last application to conduct a race meet: _____
-
16. List all organizational or personal bankruptcies filed in the United States by Applicant racetrack or its investors, parent organization, subsidiary, or affiliate, or any principal: _____
-

Specific Information on Racetrack Applicant Governing Board and Management Team

17. Identify all persons who perform policymaking or managerial functions for applicant racetrack, including but not limited to, the following positions listed below, and whether they have a valid, active NMRC Secondary License, *see, NMSA 1978, Section 60-1A-9*, or will be submitting such application if necessary:
- General Manager: _____
- CFO: _____
- Director of Racing: _____

Other (list job titles and persons' names): _____

18. If Applicant racetrack is a corporation, list the names, addresses and contact information of:

- Officers
- Board of Directors members
- Secondary lender affiliates

19. For all Applicant racetracks other than corporations:

- affirmatively state whether any director, executive officer, manager, or stockholder have ever been convicted of any crime and, if so, describe the circumstances of the conviction(s).

Financial Information of Applicant Racetrack

By submitting this application, the applicant hereby authorizes any and all persons or entities, including the New Mexico Gaming Control Board, having information concerning the applicant or this application, either of public record or otherwise, to furnish it to a duly authorized agent of the Commission or to allow the authorized agent of the Commission to view the information. The authorized agent of the Commission shall determine if the information shall be furnished or viewed. The applicant understands that the information released is for official use by the New Mexico Racing Commission and may be disclosed to such third parties as necessary in the fulfillment of official responsibilities. The application for a license is a matter of public record and the applicant may be asked to answer questions in open public meetings of the Commission. Applicant racetrack hereby expressly waives, releases and forever discharges the State of New Mexico, and its agents, from any and all manner of action and causes of action whatsoever against the State of New Mexico, or its agents, as a result of filing this renewal application for a racing license.

20. List the names and addresses of any and all entities, organizations or individuals that have or will loan or advance money to Applicant racetrack to finance its race meets, including the amount of advance for a loan and the security for advance of a loan. Attach a copy of all such security agreements:

- List all primary lenders of Applicant racetrack to whom it currently owes money, and provide a letter of good standing from each lender to include:
 - Bank or business name
 - Band or business name address and phone number
 - Type(s)/amount(s) of account(s)

21. Is a substantial portion of Applicant racetrack's assets or of the capital stock encumbered by any short-term or long-term debt?

Yes _____ No _____

- If “yes” explain in full and state the names and addresses of parties holding security interests or promissory notes from Applicant racetrack and the stockholders, where the stock is pledged as security, and outline the terms of and submit copies of the agreements creating the security interests.

22. Is Applicant racetrack current or delinquent in any federal, state, or local taxes?

Federal: Current _____ Delinquent _____

State: Current _____ Delinquent _____

Local: Current _____ Delinquent _____

- If delinquent, provide specifics on what type of tax, the amount of delinquency and the current status of delinquency.

Liability Matters, Liability Protection of Applicant Racetrack, Protection of Patrons and Licensees

23. Describe any pending legal proceedings in which Applicant racetrack or any of its subsidiaries and/or parent corporation is involved, or of which any of their property as the subject. Specify the name of the court or agency in which the matters are pending, the date instituted, and the principal parties involved.

24. List all instances in the last five (5) years where Applicant racetrack, or any parent organization, subsidiary or affiliate, or any principal has/have been a party in a court action regarding activities associated with their duties with Applicant racetrack with respect to racing or that call into question for integrity of Applicant racetrack, including:

- Every instance where Applicant, or any parent organization, subsidiary or affiliate, or any principal has/have been a party to litigation over business practices, disciplinary actions over a business license, or refusal to renew a license;
- Every instance where Applicant, or any parent organization, subsidiary or affiliate, or any principal has/have been a party to proceedings in which unfair labor practices, discrimination, or violation of government regulations pertaining to racing or gaming law was an issue, or bankruptcy proceedings;
- Every instance where Applicant, or any parent organization, subsidiary or affiliate, or any principal has/have failed to satisfy judgments, orders, or decrees; and
- Every instance where Applicant, or any parent organization, subsidiary or affiliate, or any principal has/have been delinquent in filing tax reports or remitting taxes.

25. List all of Applicant racetrack’s insurance policies in force and coverage amounts specific to each one. Provide complete copies of each of the policies which include coverage amounts. *(Note: all policies must be submitted annually.)*

26. Detail Applicant racetrack's strategic plan to be proactive in an effort to prevent contagious equine diseases and biosecurity measures to be put into effect in the event of such an outbreak including permanent quarantine facilities.

27. Does Applicant racetrack have a written policy on how to respond to an active shooter situation?

Yes _____ No _____

- If "yes," provide a copy of that policy.
- If "no," explain why there is no such policy.

28. Does Applicant racetrack have a written policy on how to a natural disaster which addresses lock down of facility and evacuation of facility?

Yes _____ No _____

- If "yes," provide a copy of that policy.
- If "no," explain why there is no such policy.

29. Does Applicant racetrack contract with an outside security firm or hire and employ security personnel?

Contract with Outside Firm _____ Employ Security Personnel _____

- If security is contracted, provide a copy of that agreement/contract.

30. Identify the specific individual(s) in charge of security, their job titles and duties and how long they have worked at Applicant racetrack.

31. Do employees of Applicant racetrack working in security positions undergo training related to their work?

Yes _____ No _____

- If "yes," provide information on what type of training they receive, what entity or person provides such training, what is the duration of the training and how often does it take place.
- If "no," explain why not.

32. Provide specific details about availability of fire protection, law enforcement and police protection services to Applicant racetrack.

33. Provide specific details about procedures in place to ensure the security and safety of patrons and licensees:

Yes _____ No _____

- If "yes" submit a copy of all such policies and procedures.
- If "no," explain why there is no written policies and procedures.

34. Does Applicant racetrack have some type of track warning system which covers the entire racing oval?

Yes _____ No _____

- If “yes” please provide details.
- If “no,” explain why not.

35. Does Applicant racetrack have a written policy and/or specific procedures it follows for excluding licensees from its facilities?

Yes _____ No _____

36. During your last completed race meet, did Applicant racetrack exclude any licensees as permitted by NMSA 1978, Section 60-1A-28.1(B)?

Yes _____ No _____

- If “yes,” provide the total number(s) of licenses excluded and a summary of the reason(s) why.
- If “no,” provide an explanation why not.
- If “yes,” pursuant to 15.2.2.8(V)(2) NMAC, did you provide the NMRC with a copy of the correspondence advising the licensee(s) of their exclusion?

Yes _____ No _____

- If “no” provide an explanation why not.

Information About Applicant Racetrack’s Concessionaries

Note: New Mexico law NMSA Section 60-1A-4 requires all concessionaries and their employees must individually obtain occupational licenses from the New Mexico Racing Commission.

37. Provide the name and contact information for Applicant racetrack’s totalisator system and attach a copy of the contract in place.

38. List the names, addresses, and contact person(s) for all other NON-food and drink concessionaries and detail the types of services provided by them.

Name/Address

Contact Person(s)

Service(s) Provided

39. Provide details of Applicant racetrack’s food and drink concessions, clubs and special facilities or accommodations for patrons:

- List the names and addresses of food and drink concessionaries and the terms of those concession contracts.

Specific Information About Applicant Racetrack's
Most Recent Completed Race Meet

40. How many races in total were run: _____
- Quarterhorse races: _____
 - Thoroughbred races: _____
41. Average field size: _____
- Quarterhorse races: _____
 - Thoroughbred races: _____
42. Average overnight purse per race: _____
- Quarterhorse races: _____
 - Thoroughbred races: _____
43. Total overnight purses paid in previous race meet: _____
- Quarterhorse races: _____
 - Thoroughbred races: _____
44. Total number of starts: _____
- Quarterhorses: _____
 - Thoroughbreds: _____
45. Percentage of catastrophics per 1000 starts: _____
- Quarterhorses: _____
 - Thoroughbreds: _____
46. Total pari-mutuel live handle: _____
- Quarterhorse races: _____
 - Thoroughbred races: _____
47. Average pari-mutuel live handle wagered per race in previous meet: _____
- Quarterhorse races: _____
 - Thoroughbred races: _____
48. Total amount contributed towards the Equine Testing Fund for previous race season: _____
49. Cost of insurance premium for jockey and exercise rider coverage in previous race meet: _____
50. Total amount paid for 20% of net take for purses under NMSA Section 60-2E-47(E)(2) in previous race meet: _____

51. Total amount paid in 10% New Mexico Breed Award money in its prior race meet: _____

52. Total amount of purse money paid in the previous race meet's stakes schedule: _____

Information About Applicant Racetrack's Facility

Note: If there are changes, provide those in detail. Do not leave any questions blank.

53. County of municipality in which racetrack is located: _____

54. Legal description of racetrack location: _____

55. Is land on which Applicant racetrack sits leased? Yes _____ No _____

- If "yes" attach a copy of the current lease.

56. Names and addresses of title holder(s) of real property where racetrack is located: _____

57. Names and addresses of all persons holding mortgages or other security interests in the property: _____

58. Provide details about mortgage and security interests in real property: _____

59. Exact dimensions of Applicant's racetrack: _____

- Include a photograph or schematic of Applicant racetrack.

60. Describe the historic climate conditions prevalent during Applicant racetrack's requested race meet: _____

61. Describe the effects of competition from other racetracks in and outside of New Mexico and with other sports or recreational facilities in the area: _____

62. Provide details about all completed and/or in-progress new construction, remodeling or other updates to Applicant racetrack's facilities and structures which have taken place since its last application: _____

- If improvements were made, from what source(s) did Applicant racetrack receive the capital for the investment in the facility?

- Identify fully each source of funding, including any loans, loan guarantees, or commitment letters from all individuals or entities.
- If Applicant racetrack is investing its own capital, detail how was that capital accumulated.

63. Provide details on the facilities' parking lot capacity: _____

64. Provide details regarding the total number of and type(s) of construction of stables, other barn areas, and paddock areas:

- Specify the available capacities for each of those areas.
- Specify the fire prevention plans and equipment in place for each of those areas.

65. Provide details regarding how stables are assigned: _____

- Are any individuals or groups or classes of individuals given a preference in the assignment of stables? Yes _____ No _____
- If "Yes" describe in detail how those preferences work: _____

66. Provide details on the facilities provided for jockeys, grooms and other racing personnel: _____

67. Provide details regarding Applicant racetrack's pari-mutuel operations, indicating in particular the terms of pari-mutuel ticket sales: _____

Information About Applicant Racetrack's Requested Upcoming Race Meet

68. For the upcoming race meet, Applicant racetrack requests the following race dates:

<u>Month</u>	<u>Days of the Month</u>	<u>Total Days Requested Per Month</u>
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- Number of races each day Applicant racetrack proposes to run:

Sunday: _____

Monday: _____

Tuesday: _____

Wednesday: _____

Thursday: _____

Friday: _____

Saturday: _____

- Total of days requested for upcoming race meet: _____

69. Detail the following:

- The beginning date of the meet: _____
- The end date of the meet: _____
- Date on which live racing will take place: _____
- Dates on which stable areas will be open and closed: _____

70. Provide previous race meet's purse schedule as it was at the end of the previous meet, and what Applicant racetrack proposes for upcoming race meet:

71. Does Applicant racetrack plan on having day or night racing?

Day _____ Night _____

- What is the post time for the first race? _____

72. Submit a schedule of proposed simulcast signals to be sent and received by Applicant racetrack during the calendar year covered by the requested license: _____

Note: Any and all contracts between Applicant racetrack and organization(s) representing the horsemen that will govern simulcasting rights and obligations, and any and all contracts between Applicant racetrack and simulcasting networks shall be made available to the NMRC for inspection upon request.

73. Detail the types and number of exotic wagering and take out rates Applicant racetrack proposes to offer and on which races for each day.

Note: "Exotic wagering" includes the sale of pari-mutuel tickets other than win, place or show tickets.

74. Provide details regarding the denominations of pari-mutuel tickets to be sold for specific types of wagers: _____

75. Detail the methods and equipment used to visually record races, including specifics on the types and quality of recording equipment to be used: _____

ACKNOWLEDGMENT OF RECORD

State of New Mexico

County of _____

This instrument was acknowledged before me on _____ day of _____, 20____ by _____
Name of the person making the acknowledgement
as _____ of _____.
Authorized title *Name of party, company, or other individual, on behalf of whom record was executed*

Signature of notarial officer

Title of notarial officer

(Affix Notary stamp)

My commission expires: _____

Example of Form for Additional Sheets for Answers to Application for Renewal of License to Conduct a Horserace Meet

Note: Please make sure your additional sheets are in the following example form. If a question contains bullet points, start each of those answers with a bullet point.

Applicant Racetrack Name: _____

Question Number: 70._____

(This is where the first answer would go).

- *(This is where the answer to the first bullet point would go).*
- *(This is where the answer to the second bullet point would go).*



***STATUTORY REQUIREMENTS FOR
GRANTING A LICENSE TO OPERATE A
RACE MEET***

**STATUTORY REQUIREMENTS FOR GRANTING A
LICENSE TO OPERATE A RACE MEET**

1. The Commission is authorized to grant a racetrack license. *See* NMSA 60-1A-4 (A).

2. Pursuant to Section 60-1A-7, NMSA 1978:

A. A person applying for a license pursuant to the Horse Racing Act [60-1A-1 NMSA 1978] shall submit to a background investigation to be conducted by the board. The commission and the board shall adopt rules to coordinate the manner in which the background investigations are conducted. The rules shall at minimum require that:

(1) an applicant for a license or license renewal shall submit two fingerprint cards to the commission, with one card to be submitted to the board for a statewide check and the other card to be submitted to the federal bureau of investigation for a nationwide check;

(2) arrest record information from a law enforcement agency or the federal bureau of investigation and information obtained as a result of the background investigation conducted by the board is privileged and shall not be disclosed to persons not directly involved in the decision affecting the specific applicant;

(3) an applicant shall provide all of the information required by the commission; and

(4) the cost of the background investigation shall be paid by the applicant.

B. An applicant for a license who is denied the license by the commission shall have an opportunity to inspect and challenge the validity of the record on which the denial of the license was based.

3. Pursuant to Section 60-1A-7, NMSA 1978:

A person who is actively and directly engaged in the administration of a horse racetrack, whether in a financial, administrative, policymaking or supervisory capacity, shall hold a secondary license issued by the commission.

B. An application for a secondary license shall be submitted in writing on forms designated by the commission. An applicant shall affirm that information contained in the application is true and accurate. The application shall be signed by the applicant or the applicant's agent, and the signature shall be notarized.

C. If an applicant for a racetrack license is a corporation, all officers, directors, lenders or holders of evidence of indebtedness of the corporation and all persons who participate in any manner in a financial, administrative, policymaking or supervisory capacity are required to hold a secondary license issued by the commission.

D. A person who owns or holds, directly, indirectly or beneficially, ten percent or more of the total authorized, issued and outstanding shares of a corporation that is a racetrack licensee is required to hold a secondary license issued by the commission. If the commission finds that a person who owns or holds, directly, indirectly or beneficially, ten percent or more of the total authorized, issued and outstanding shares of a corporation that is a racetrack licensee is unqualified to be issued a secondary license, the commission shall give notice of its finding to the corporation and to the person owning or holding the interest. The ineligible person shall without delay offer the shares to the corporation for purchase. If the corporation does not elect to purchase the shares, the person owning or holding the interest may offer the interest to other purchasers, subject to prior approval of the purchasers by the commission.

E. A secondary license shall be valid for a period not to exceed three years. The commission may renew a secondary license upon expiration of the term of the license.

F. The fee for a secondary license issued pursuant to this section shall not exceed five hundred dollars (\$ 500). (*Five hundred dollar fee must be submitted with application*)

4. Pursuant to Section 60-1A-4 (B)(2), NMSA 1978, the Commission shall require the following information for each applicant on an application for a license:
 - (i) the full name, address and contact information of the applicant, and if the applicant is a corporation, the name of the state of incorporation and the names, addresses and contact information of officers, members of the board of directors and managers of the corporation;
 - (ii) the exact location at which the applicant desires to conduct a horse race or race meet;
 - (iii) whether the horse racetrack is owned or leased, and, if leased, the name and residence of the fee owner of the land or, if the owner is a corporation, the names of the directors and stockholders;
 - (iv) a statement of the assets and liabilities of the person or corporation making the application;
 - (v) the kind of racing to be conducted;

- (vi) the beginning and ending dates desired for the race meet and the days during that time period when horse races are to be scheduled; and
 - (vii) other information determined by the commission to be necessary to assess the potential for success of the applicant.
- 5. The Commission shall require a statement under oath by the applicant that the information on the application is true. *See NMSA 1978, § 60-1A-4 (B)(3).*
- 6. An application for a racetrack license shall be submitted in writing on forms designated by the commission. An applicant shall affirm that information contained in the application is true and accurate. The application shall be signed by the applicant or the applicant's agent, and the signature shall be notarized. *See NMSA 1978, § 60-1A-8 (B).*
- 7. A racetrack license shall be valid for a period not to exceed one year. The commission may renew a racetrack license upon expiration of the term of the license. *See NMSA '978, § 60-1A-8 (C).*
- 8. An application shall specify the dates and days of the week of the race meet that the applicant is requesting the Commission to approve. *See NMSA 1978, § 60-1A-8 (E).*
- 9. The fee for a new racetrack license issued pursuant to this section shall not exceed five thousand dollars (\$5,000). *See NMSA 1978, § 60-1A-8 (G). (Five thousand dollar application fee must be submitted with application)*
- 10. The Commission may schedule a date for a hearing on the application for a new racetrack license to determine the eligibility of the applicant pursuant to the Horse Racing Act or as needed for determining the eligibility for the renewal of a racetrack license. The applicant shall be notified of the hearing at least five days prior to the date of the hearing. The applicant has the right to present testimony in support of the application. Notice shall be mailed to the address of the applicant appearing upon the application for the racetrack license. Notice of the hearing date, time and location shall be postmarked by United States mail five days prior to the date of the hearing. Deposit of the hearing notice in United States mail constitutes notice. *See NMSA 1978, § 60-1A-8 (H).*
- 11. If, after a hearing on the application, the Commission finds the applicant ineligible pursuant to the provisions of the Horse Racing Act or rules adopted by the Commission, the racetrack license shall be denied. *See NMSA 1978, § 60-1A-8 (I).*
- 12. If there is more than one application for a racetrack license pending at the same time, the Commission shall determine the racing days that will be allotted to each

successful applicant. Upon renewal, the Commission shall determine the racing days that will be allotted to each applicant upon terms and conditions established by the Commission. *See* NMSA 1978, § 60-1A-8 (J).

13. A person shall not have a direct, indirect or beneficial interest of any nature, whether or not financial, administrative, policymaking or supervisory, in more than two horse racetracks in New Mexico. For purposes of this subsection, a person shall not be considered to have a direct, indirect or beneficial interest in a horse racetrack if the person owns or holds less than ten percent of the total authorized, issued and outstanding shares of a corporation that is licensed to conduct a race meet in New Mexico, unless the person has some other direct, indirect or beneficial interest of any nature, whether or not financial, administrative, policymaking or supervisory, in more than two licensed horse racetracks. *See* NMSA 1978, § 60-1A-8 (K).
14. A determination made by the Commission of a matter pursuant to this section shall be final and not subject to appeal. *See* NMSA 1978, § 60-1A-8 (N).
15. Pursuant to NMSA 1978, § 60-1A-11 (A), a license shall not be issued or renewed unless the applicant has satisfied the Commission that the applicant:
 - (i) is of good moral character, honesty and integrity;
 - (ii) does not have prior activities, criminal record, reputation, habits or associations that:
 - (iii) pose a threat to the public interest;
 - (iv) pose a threat to the effective regulation and control of horse racing; or
 - (v) create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of horse racing, the business of operating a horse racetrack or the financial activities incidental to operating a horse racetrack;
 - (vi) is qualified to be licensed consistent with the Horse Racing Act
 - (vii) has sufficient business probity, competence and experience in horse racing as determined by the Commission;
 - (viii) has proposed financing that is sufficient for the nature of the license and from a suitable source that meets the criteria set forth in this subsection; and
 - (ix) is sufficiently capitalized pursuant to standards set by the Commission to conduct the business covered by the license.
16. The burden of proving the qualifications of an applicant or licensee to be issued or have a license renewed shall be on the applicant or licensee. *See* NMSA 1978, § 60-1A-11 (F).
17. A determination by the Commission of a matter pursuant to this section shall be final and conclusive and not subject to appeal. *See* NMSA 1978, § 60-1A-11 (G).

18. A New Mexico-licensed horse racetrack that is within a radius of eighty miles of any other New Mexico-licensed horse racetrack with a race meet in progress may only conduct pari-mutuel wagering on imported horse races if there is a written agreement between the two racetrack licensees allowing pari-mutuel wagering on imported horse races during the period of time that the live horse races are taking place. *See* NMSA 1978, § 60-1A-16 (F).
19. Gaming machines on a racetrack gaming operator licensee's premises may be played only on days when the racetrack is either conducting live horse races or simulcasting horse race meets. On days when gaming machines are permitted to be operated, a racetrack gaming operator licensee may offer gaming machines for operation for up to eighteen hours per day; provided that the total number of hours in which gaming machines are operated does not exceed one hundred twelve hours in a one-week period beginning on Tuesday at 8:00 a.m. and ending at 8:00 a.m. on the following Tuesday. A racetrack gaming operator licensee may offer gaming machines for play at any time during a day; provided that the total hours of operation in each day from just after midnight of the previous day until midnight of the current day does not exceed eighteen hours. A racetrack gaming operator licensee shall determine, within the limitations imposed by this subsection, the hours it will offer gaming machines for operation each day and shall notify the Gaming Control Board in writing of those hours. *See* NMSA 1978, § 60-2E-27 (E).

REGULATORY REQUIREMENTS FOR GRANTING A LICENSE TO OPERATE A RACE MEET

20. An association shall apply to the Commission for a license and racing dates not later than June 1st for all proposed racing meets and dates to be run in the succeeding calendar year. Applications shall not be received or amended after this date except by approval of a majority of the Commission. The application must contain the information required by statute and the Commission. After the request is filed, the Commission may require the association to submit additional information. The Commission may limit, condition or otherwise restrict any license to conduct horse racing or a horse race meeting in the state of New Mexico. *See* NMAC 15.2.1.8 (I)(1).
21. The burden of proof is on the association to demonstrate that its receipt of a license to conduct a race meet and the allocation of the race dates will be in the public interest and will achieve the purposes of the Act. *See* NMAC 15.2.1.8 (I)(2).
22. In issuing licenses for race meetings and allocating race dates under this section, the Commission may consider the following factors: public interest, health of the industry, safety and welfare of participants, and the criteria for licensure to conduct a race meet set forth in the act and in these rules. *See* NMAC 15.2.1.8 (I)(3).

23. Pursuant to NMAC 15.2.1.8 (I)(4), prior to approving an application for a new license for a horse racetrack, other than the licenses in existence as of January 1, 2007, or an application by a licensed horse racetrack to move its racing and gaming facilities to a new location, the Commission shall solicit and consider the views on the application by the Indian tribes, nations and pueblos in the following manner:

(i) provide written notice to all federally recognized Indian tribes, nations or pueblos that are authorized by law to enter into a gaming compact with the state of New Mexico under the Indian Gaming Regulatory Act, 25 U.S.C. Section 2701 et seq., ("Indian Tribes") that such an application has been filed with the Commission within fifteen (15) days of such filing and provide a copy of all non-confidential documents submitted by an applicant to an Indian tribe upon request, at the Indian tribe's expense;

(ii) allow Indian tribes forty five (45) days to respond to the application by submitting written comments to the Commission prior to holding any public hearing at which final action on the application may be considered; such comments shall be immediately forwarded to the applicant by the Commission, but no later than fifteen (15) days prior to holding any public hearing at which final action on the application may be considered; the views of the Indian tribes may include, but are not limited to, the following:

(i) potential economic impact of approval of said license on a specific Indian tribe's government or gaming facility, including impact on revenue sharing with the state of New Mexico; the number of miles from the nearest tribal gaming facility; the potential impact on the nearest tribal gaming facility's market share; and the potential impact on the Indian tribe's income from gaming facilities;

(ii) identification of other significant impacts on the Indian tribe;

(iii) any public hearing at which final action on the application may be considered must be at least fifteen (15) days after the forty five (45) day comment period for Indian tribes set forth above;

(iv) the Commission shall consider and evaluate the Indian tribes' views prior to taking any final action on the application; to "consider and evaluate" means to think about carefully and seriously;

- (v) the above procedures for notification to Indian tribes shall not apply to the annual renewal of a horse racetrack license

24. Pursuant to NMAC 15.2.1.8 (I)(6), all applicants for an initial license to conduct horse racing or a horse race meeting in the State of New Mexico shall submit the following information to the Commission in the form of a verified application, including an **original and six (6) copies**.

- (i) The name of the applicant and indicate whether it is an individual, firm, association, partnership, corporation or other legal entity.
- (ii) The names, residences, and nationalities of individual applicants or members of a partnership, association or firm.
- (iii) If the applicant is a corporation, the following information must be furnished, and if the applicant is a parent or subsidiary of another corporation, the following information must be furnished for each entity.
 - (i) The year in which the corporation was organized, its form of organization and the name of the state under the laws of which it was organized. Articles of incorporation and bylaws must also be submitted.
 - (ii) The classes of capital stock authorized, the amount authorized, and the amount outstanding as of the date not less than fifteen (15) days prior to the filing of the application.
- (iv) The name and address of each person who owns of record or is known by the applicant to own beneficially, ten (10) percent or more of any class of capital stock. This can be indicated as name and address; class of stock owned; type of ownership whether of record or beneficial; amount owned; percent of the class of stock.
- (v) Outline briefly the dividend rights, voting rights, liquidation rights, preemptive rights, conversion rights, and redemption provisions. If the rights of holders of such stock may be modified other than by a vote of majority or more of the shares outstanding, voting as a class, so state and explain briefly.
- (vi) If organized as a corporation within the past five (5) years, furnish the names of the promoters, the nature and amount of anything of value received or to be received by each promoter directly or indirectly from the applicant and the nature and amount of any assets, services, or other consideration therefore received or to be received by the applicant.
- (vii) List the names of all directors and executive officers and all persons chosen to become directors or executive officers. Indicate all other positions and offices held by each such person, and the principal

occupation during the past five (5) years of each person to become a director or executive officer. For the purposes of this subparagraph, "executive officer" means the president, vice-president, secretary and treasurer, and any other person who performs policy-making, supervisory, administrative, or financial functions for the applicant.

- (viii) Describe in detail the financial arrangements, which have been made for acquisition and operation of racing facilities, including the nature and source of any funds or other property, real or personal, which may be used in this connection.
- (ix) Identify in detail the source(s) and terms of any loans, loan commitments, lines of credit, pledges, stock subscriptions, and any other source of funds which may be used in the acquisition or operation of racing facilities.
- (x) State in detail the terms of any proposed purchase of stock or assets in a current licensee.
- (xi) State whether a substantial portion of the assets or of the capital stock is encumbered by any short-term or long-term debt. Explain fully and state the names and addresses of parties holding security interests or promissory notes from the applicant and the stockholders, where the stock is pledged as security, and outline the terms of and submit the agreements creating the security interests.
- (xii) Applicants must submit balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year.
- (xiii) Applicant must submit with application a current financial statement for each director, executive officer, manager, and stockholders owning ten (10) percent or more of the outstanding shares in any corporate applicant.
- (xiv) All financial information shall be accompanied by an unqualified opinion of a duly licensed certified public accountant, or if the opinion is given with qualifications, the reasons for the qualifications must be stated.
- (xv) For applicants other than corporation, list the names and addresses of all executive officers and managerial officers. Indicate positions and offices held by each person named and their principal occupation(s) during the past five years.
- (xvi) State whether any director, executive officer, manager, or stockholder has ever been convicted of a crime and describe the circumstances of the convictions.
- (xvii) Describe any pending legal proceedings to which the applicant or any of its subsidiaries or parent corporations is involved, or of which any of their property is the subject. Include the name of the court or

agency in which the proceedings are pending, the date instituted and the principal parties thereto.

- (xviii) State in complete detail whether the applicant, or any director, executive officer, stockholder or manager has owned an interest in or has been employed by any firm, partnership, association or corporation previously licensed to conduct a race meeting in any jurisdiction.
- (xix) State actual legal description of a proposed site for racing facilities, names and addresses of the titleholders to the real property and names and addresses of all personal holding mortgages or other security interests in the property.
- (xx) State the number of miles from the nearest population center, and describe briefly the transportation facilities serving that population center.
- (xxi) State the exact dimensions of the track proposed. Submit at least one copy of the architect's drawings showing detail of the proposed construction. If a grandstand is in existence, describe the size and type of construction.
- (xxii) Describe the efforts to be made to insure the security safety and comfort of patrons and license holders.
- (xxiii) State the availability of fire protection and adequacy of law enforcement and police protection.
- (xxiv) State the parking lot capacity and describe the construction and type of parking facilities.
- (xxv) State the number and type of construction of stables, other barn areas, forecourt and paddock areas, indicating capacities and fire prevention facilities for all areas.
- (xxvi) Describe the facilities for owners, trainers, jockeys, grooms and other racing personnel.
- (xxvii) State the arrangements for food and drink concessions indicating the names and addresses of concessionaires and the terms of the concession contracts.
- (xxviii) Describe any concessions, clubs or other special facilities, existing or proposed, for patrons.
- (xxix) Indicate by actual dates the racing days requested by applicant.
- (xxx) Indicate the kind of racing to be conducted.
- (xxxi) Describe the proposed pari mutuel operation in general and indicate in particular the terms of the pari mutuel ticket sales.
- (xxxii) Describe climatic conditions prevalent during the proposed racing season.
- (xxxiii) Indicate the population of the local area, and the growth trend. Indicate the potential market including tourists, transients and patrons from neighboring areas.
- (xxxiv) Indicate the principal sources of local income, showing the percentage from farming and ranching, industrial, professional services, military and other governmental sources.

(xxxv) Describe the effect of competition with other racetracks in and out of the state and with other sports or recreational facilities in the area.

(xxxvi) Indicate what effect opposition from area residents may have on the economic outlook for the proposed track.

25. Pursuant to NMAC 15.2.1.8 (I)(9), the Commission in addition to any other legally sufficient reason, may disapprove, deny, refuse to renew, suspend, or revoke a license to conduct horse racing or a horse race meeting in the State of New Mexico if any person having any direct or indirect interest in the applicant or in the licensee, or any nature whatsoever, whether financial, administrative, policy-making or supervisory:

- (i) has been convicted of a felony under the laws of New Mexico, the laws of any other state or the laws of the United States, unless sufficient evidence of rehabilitation has been presented to the commission;
- (ii) has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, unless sufficient proof of rehabilitation has been presented to the commission;
- (iii) has violated or attempted to violate any law or regulation with respect to racing in any jurisdiction, unless sufficient proof of rehabilitation has been presented to the commission;
- (iv) has consorted or associated with bookmakers, touts or persons of similar pursuits, unless sufficient proof of rehabilitation has been presented to the commission;
- (v) is consorting or associating with bookmakers, touts or persons of similar pursuits;
- (vi) is financially irresponsible as found or determined by the commission; or,
- (vii) is a past or present member of or participant in organized crime as such membership or participation may be found or determined by the Commission.

26. The Commission may deny an application to conduct a horse race meet if the granting of the application would not be in the public interest or because it would not protect the health of the horse racing industry. See NMAC 15.2.1.8 (I)(3).