

# WEST VIRGINIA CODE: §19-23-19

## **§19-23-19. Tentative approval of application for construction permit; denial of application; publication of notice.**

(a) Upon the basis of the application and all other information before it, the Racing Commission shall make and enter an order granting tentative approval of the application if it finds:

(1) That the applicant intends to proceed in good faith to construct and establish a horse or dog racetrack complying in all particulars with the law of this state, the provisions of this article and any reasonable rules and regulations of the Racing Commission;

(2) That the plans for such proposed horse or dog racetrack are adequate and have been prepared with due regard to the safety of all persons who will use such horse or dog racetrack;

(3) That the applicant is financially able to complete such horse or dog racetrack in accordance with the plans submitted with such application; and

(4) That the construction and establishment of such proposed horse or dog racetrack would be in the best interests of horse or dog racing within this state.

(b) Otherwise, the Racing Commission shall deny the application and refuse to grant tentative approval thereof. The Racing Commission shall make and enter an order to that effect and all of the provisions of section sixteen pertaining to the denial of any application for a license and an order in connection therewith and the provisions of section seventeen pertaining to judicial review of a decision of the Racing Commission shall govern and control. The denial and refusal shall be final and conclusive unless a hearing thereon shall be demanded pursuant to the provisions of section sixteen of this article considered in pari materia with the preceding sentence of this subsection (b).

(c) If the Racing Commission grants tentative approval of such application, it shall prepare and publish a notice to the public that the Racing Commission has granted tentative approval of the application and that the Racing Commission will confirm such tentative approval and issue a construction permit to the applicant at the expiration of sixty days from the date of the first publication of such notice (which date shall be specified in said notice), unless within said time a petition for a local option election shall have been filed, in accordance with the provisions of this article, with the county commission of the county in which any integral part of said horse or dog racetrack is proposed to be constructed and established. Such notice shall be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which any integral part of such proposed horse or dog racetrack is to be constructed and is established.