



Legislation Details (With Text)

File #: 13-2236 **Version:** 1 **Name:** Amendment to Film Ordinance
Type: Ordinance **Status:** Filed
File created: 11/21/2013 **In control:** Municipal Council and City Clerk
On agenda: 3/5/2014 **Final action:** 4/2/2014
Title: AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE 2, ADMINISTRATION, CHAPTER 2, OFFICE OF THE MAYOR AND AGENCIES, SECTION 84, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY (2000), AS AMENDED AND SUPPLEMENTED, TO REVISE THE REQUIREMENTS AND FEES FOR THE ISSUANCE OF A FILMING PERMIT.
Sponsors: Councilmembers Sharif/Crump

Sponsors:

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
4/2/2014	1	Municipal Council	Close on Public Hearing and Adopt	Pass
3/19/2014	1	Municipal Council	Adopt on First Reading	Pass
3/5/2014	1	Municipal Council	Advance to First Reading	Pass

AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE 2, ADMINISTRATION, CHAPTER 2, OFFICE OF THE MAYOR AND AGENCIES, SECTION 84, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY (2000), AS AMENDED AND SUPPLEMENTED, TO REVISE THE REQUIREMENTS AND FEES FOR THE ISSUANCE OF A FILMING PERMIT.

Sponsors: Councilmembers Sharif/Crump

WHEREAS, the City of Newark has seen an increase of applications for filming within the City of Newark, including major motion pictures and has a need to modify the existing filming permit ordinance to deal with issues that have arisen concerning the filming, cost to the City of Newark for allowing the filming and other matters that relate to the convenience, health and safety of residents and businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1: Title 2, Administration, Chapter 2, Office of the Mayor and Agencies, Section 84, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, be and the same is hereby amended as follows:

(Note: *strikethroughs* represent deletions and *bold & underline* represents additions)

2:2-84. FILMING PERMITS.

2:2-84.1. Definitions.

“City” shall mean those areas which are ~~City-owned properties or a public right-of-way or any other public place or private land within the municipality which is within the jurisdiction~~ **geographic limits** of the City of Newark.

“**Film**” or “Filming” shall mean the taking of still or motion pictures either on film or videotape or similar recording medium, **now known or hereinafter created** for commercial or educational purposes intended for viewing on television, in theaters or for institutional uses. **The provisions of this chapter shall not be deemed to include the “filming” of news stories within the City of Newark.**

“Licensee” shall mean a person who has a privilege to enter upon land arising from the permission or consent of the owner of the land.

“Major Motion Picture” shall mean any film or recurrent television series programming or made for TV or internet streaming or other distribution method which is financed and/or distributed directly or indirectly by a major motion picture studio and/or their production and distribution subsidiaries, which release a substantial number of films annually and consistently command a significant share of box-office revenues in any given market, including but not limited to the following:

A. Comcast/NBC Universal/Universal Pictures

B. Time Warner/Warner Brothers Entertainment, including New Line Cinema, Castle Rock Cinema, Village Road show, Bel-Aire

C. MTV Films and Nickelodeon Movie.

D. Sony/Columbia

F. Disney/Miramax/Marvel Studios/Lucasfilm/Pixar

G. MGM-United Artists

H. Viacom/Paramount/DreamWorks

I. Lionsgate Films

J. The Weinstein Company;

K. 21st Century Fox/Fox Entertainment

L. HBO, and other cable network providers and their subsidiaries or affiliates; and/or

M. Any film for which the budget is at least \$5,000,000.00.

“Permittee” means the person, organization, corporation, association or other entity issued a film permit pursuant to this ordinance.

“Public Lands” shall mean any and every public street, right of way, highway, sidewalk, square, public park or playground or any other public place within the City of Newark and/ or is under the ownership or control of the City of Newark, whether within the City or not (for example, the lands owned and/or under the control of the City of Newark which are part of the Newark Watershed).

2:2-84.2. Permit Required, Fees.

a. No person or organization shall film or permit filming on public or private land within the City of Newark without first **applying for and** having obtained a permit from the Office of the Mayor, which permit shall set forth the

approved location of such filming and the duration of such filming by specific reference to day or dates. **Said permit shall be readily available for inspection by City of Newark officials at all times at the site of the filming. All permits shall be applied for and obtained from the Mayor's Office of Public Information during normal business hours. Applications for such permits shall be in a form approved by the Mayor's Office of Public Information and be accompanied by a permit fee in the amount established by this ordinance, along with the necessary supporting documentation. The fees shall be deposited in the general treasury.**

b. The Mayor's Office of Public Information shall not grant any permit for filming unless the applicant, where practical, submits a copy of a statement of concurrence with the proposed filming request signed by the heads of not less than fifty-one (51%) percent of the households and/or business owners on the block or blocks on which filming will take place.

c. The Mayor's Office of Public Information shall not grant any permit for **which** street closings **on are necessary, unless the** application **for the permit is** submitted less **more** than twenty (20) calendar days in advance of the actual filming date. **Permits for street closure shall be issued by the Department of Engineering and are subject to a separate application process. During the filming of any special effect or stunt requiring the use of pyrotechnics or any material deemed hazardous to person or property, including but not limited to, fireworks, open flames or explosives, the Applicant must first obtain any necessary fire permit before the filming permit will be approved.**

d. The Mayor's Office of Public Information shall submit all applications for street closings to the Newark Police and Fire Departments for their review and shall obtain a recommendation prior to the granting of any permit for a street closing. **The applicant shall permit the Fire Department or other City inspectors to inspect the site and the equipment to be used. The applicant shall comply with all safety instructions issued by the Fire Department or other City inspectors or personnel, including the Health Department.**

e. The Mayor's Office of Public Information shall prepare all forms for the application permit to be granted under this ordinance.

f. **A permit is not intended to be a substitute for a License Agreement between applicant/permittee and the City of Newark for the filming on public lands, whether or not the filming is of City operations. Such a License Agreement shall be obtained before such filming. Such a License Agreement shall be obtained before such filming, which License Agreement shall contain such terms and conditions, which are to the satisfaction of the Corporation Counsel and the Business Administrator.**

f. ~~There shall be assessed a fee of one hundred (\$100.00) dollars for the granting of each permit to cover the expenses which shall be assessed and collected by the central permit office of the City of Newark.~~

(Ord. 6 S+Fb, 11-8-01 § 3)

2:2-84.3. Issuance of Permits.

~~Licensee shall indemnify, defend and hold harmless, the City, against any and all claims for damage and liability for injury to or death of persons; and for damage to or destruction of property of the owner occurring during licensee's use of the premises and caused by licensee's operations under and pursuant to this agreement; and shall pay reasonable cost of defending lawsuits resulting including, but not limited to, reasonable attorneys fees, court costs and any judgment awarded to a third party as the result of such suit. In accordance with the foregoing, licensee shall also indemnify, defend and hold harmless the City from any and all claims of intellectual property.~~

~~The City shall be named an additional insured on the licensee's comprehensive General Liability Insurance Policy, which shall have a minimum of two million (\$2,000,000.00) dollars in coverage. The City of Newark shall also be named as certificate holder entitled to twenty (20) days notice of cancellation.~~

No permit shall be issued for filming upon public lands unless the applicant shall provide the City of Newark with satisfactory proof of the following:

- (1) **Proof of insurance coverage as follows:**
 - (a) **For bodily injury to any one person in the amount of \$1,000,000.00 per occurrence and in the aggregate amount of \$2,000,000.00.**
 - (b) **For property damage for each occurrence in the aggregate amount of \$300,000.00.**
 - (c) **The City of Newark shall be named as an additional insured and a certificate holder entitled to thirty (30) days' notice of modification or cancellation.**
- (2) **An agreement, in writing, whereby the permittee agrees to indemnify, defend and hold harmless, the City, against any and all claims for damage and liability for injury to or death of persons; and for damage to or destruction of property of the owner occurring during permittee's use of the premises and caused by permittee's operations under and pursuant to this agreement; and shall pay reasonable cost of defending lawsuits resulting including, but not limited to, reasonable attorneys fees, court costs and any judgment awarded to a third party as the result of such suit. In accordance with the foregoing, permittee shall also indemnify, defend and hold harmless the City from any and all claims of intellectual property.**
- (3) **The hiring of an off-duty Newark police officer(s) for the times indicated on the permit in such number as required by the Newark Police Department.**
- (4) **The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Newark Police Department with respect thereto.**
- (5) **Consent of the property owner, if the property owner is not the applicant or the City of Newark.**
- (6) **The City also reserves the right to deem that a License Agreement be a prerequisite to the filming on public land or involving the filming of City operations, whether on public land or not, the terms and conditions of which shall be in addition to any permit and permit fee.**

2:2-84. 4. Interference with public activity; notice of filming

The permittee shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming off the public streets.

The permittee shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands. Where the licensee's production activity, by reason of location or otherwise, will directly involve and/or affect any businesses, merchants or residents, these parties shall be given written notice of the filming at least three (3) days prior to the requested shooting date and be informed that objections may be filed with the Mayor's Office of Public Information. Proof of service of notification to adjacent owners shall be submitted to the Mayor's Office of Public Information within two days of the requested shooting date.

2:2-84.5 Fees

The schedule of fees for the issuance of permits authorized by this chapter are as follows:

- (1) **Basic Filming Permit Fee: Five Hundred (\$500.00) Dollars. Where an applicant requests a waiver of the provision of 2:2-84.2 requiring an expedited processing of a license application within twenty (20) days of the filming date, the basic filming permit fee for processing the application on an expedited basis shall be One Thousand (\$1,000.00) Dollars.**
- (2) **Daily Filming Fee for Major Motion Picture in addition to Basic Filming Permit Fee: One Thousand Five**

Hundred (\$1,500.00) Dollars per day.

- (3) Filming permit for non-profit applicants filming for educational purposes: No Fee.
- (4) Overnight Parking Fee For Use of Publicly Owned Property or Public Right of Way: Five Hundred (\$500.00) Dollars per day. Non-Profit Applicants: Fifty (\$50.00) Dollars per day.

2:2-84.42:2-84.6. Discrimination Policy.

The City of Newark is an equal opportunity/affirmative action employer and adheres to the State nondiscrimination policies and encourages the application of minorities and women. Our nondiscrimination policy is as follows:

The City of Newark does not discriminate against any employee or applicant for employment because of race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, familial status, liability for service in the Armed Forces of the United States, nationality, public assistance, political affiliation or beliefs or handicap. (Ord. 6 S+Fb, 11-8-01 § 9)

2:2-84.52:2-84.7. Reimbursement of Certain Costs.

In addition to any other fees or costs mentioned in this chapter, the permittee shall reimburse the City of Newark for any lost revenue, such as parking meter revenue, repairs to public property or other revenues that the City was prevented from earning or receiving because of filming or over-night parking.

Further, the licensee permittee shall reimburse the City for any additional cost incurred by the Police and/or Fire Departments as a result of licensee's permittee's activity under this agreement permit. (Ord. 6 S+Fb, 11-8-01 § 10)

2:2-84.8. Denial of Permit.

The Mayor's Office of Public Information may refuse to issue permit whenever it determines, on the basis of objective facts and after a review of the application and a report thereon by the Police Department and by other City agencies involved with the proposed filming site, that filming at the location and/or time set forth in the application would violate any law or ordinance or would unreasonably interfere with the use and enjoyment of adjoining properties, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.

Further, the City reserves the right to require more than one on-site police officer where the proposed production may impede the proper flow of traffic; the cost of said police officer to be borne by the applicant as a cost of production. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may be similarly required if the production company does not have a licensed electrician on staff or if City bargaining units rule require a City employee. The applicant shall comply with all prevailing wage laws in the employment of electricians or other trades.

Any person aggrieved by a decision denying or revoking a permit, may appeal to the Business Administrator, in a written notice filed with the Business Administrator filed within ten (10) days of the decision, setting forth the reasons for the appeal. The decision of the Business Administrator shall be final.

2:2-84.9. Violations and penalties.

Where the property owner of the premises is not the applicant for a permit required by this ordinance, both the owner and the applicant shall each be liable for violations hereof. Any person violating this ordinance, upon conviction thereof, shall be punishable in accordance with laws governing the violation of municipal ordinances.

Section 2: If any section, paragraph, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section paragraph, clause or provision so adjudged and the remainder shall be

deemed valid and effective.

Section 3: This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This ordinance amends the requirements and fee associated with obtaining a film permit to produce movies and/or commercials in the City of Newark.