

# **BOROUGH OF FANWOOD, UNION COUNTY, NEW JERSEY**

**ORDINANCE: 2023-02-R**

## **AN ORDINANCE OF THE BOROUGH OF FANWOOD, COUNTY OF UNION, AND STATE OF NEW JERSEY ENACTING CHAPTER 150 OF THE BOROUGH CODE FOR FILMS & MOTION PICTURES**

**WHEREAS**, the Borough desires to enact an ordinance on the time, place and manner for persons filming motion pictures within the jurisdiction of the Borough of Fanwood, New Jersey;

**NOW THEREFORE BE IT ORDAINED** by the Mayor and Council of the Borough of Fanwood, County of Union, State of New Jersey as follows:

Chapter 150 is hereby enacted as follows:

### CHAPTER 150 FILMING ORDINANCE

#### **Section 150-1 DEFINITIONS**

As used in this chapter, the following terms shall have the meanings indicated:

#### **FILMING**

The taking of still or motion pictures either on film or videotape or similar recording medium, for commercial or education 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 Borough.

#### **MAJOR MOTION PICTURE**

Any film which is finance and/or distributed by a major motion picture studio, including but not limited to the following:

Universal Pictures

Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel-Aire.

Paramount

20th Century Fox, including Fox Searchlight

Sony Columbia

Disney/Miramax

MGM/United Artists

Dreamworks

Any major streaming service, such as Netflix, Hulu, Amazon Prime Video

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

Recurrent weekly television series programming

## PUBLIC LANDS

Any and every public street, highway, sidewalk, square, public park, or playground or any other public place within the municipality which is within the jurisdiction and control of the Borough.

### **Section 150-2 PERMIT REQUIRED**

A. No person or organization shall film or permit filming on public or on private property where such filming involves the use of public property for the operation, placement or temporary storage of vehicles or equipment utilized in such filming, including but not limited to, any temporary structure, barricade or device intended to restrict or block off pedestrian or vehicular traffic, without first having obtained a permit from the office of the Borough Clerk, which permit shall set forth the approved location of such filming and the approved duration of such filming by specific reference to day or dates. Said permit must be readily available for inspection by Borough officials at all times at the site of the filming.

B. All permits shall be applied for and obtained from the office of the Borough Clerk during normal business hours. Applications for such permits shall be in a form approved by the Borough and be accompanied by a permit fee in the amount established by this Chapter.

C. If a permit is issued and due to inclement weather or other good cause, filming does not in fact take place on the dates specified, the Borough Clerk may, at the request of the applicant, issue a new permit for filming on other dates subject to full compliance with all other provisions of this Chapter. No additional fee shall be paid for this permit.

### **Section 150-3 ISSUANCE OF PERMITS; REQUIREMENTS**

A. No permits will be issued by the Borough Clerk unless applied for prior to three (3) days before the requested shooting date; provided, however, that the Borough Administrator may waive the three (3) day period if, in the Administrator's judgment, the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.

B. No permit shall be issued for filming on public lands unless the applicant shall provide the Borough with satisfactory proof of the following:

Proof of insurance coverage as follows:

For bodily injury to any one person in the amount of \$500,000.00 and any occurrence in the aggregate amount of \$1,000,000.00; and

For property damage for each occurrence in the aggregate amount of \$300,000.00

C. No permit shall issue unless there is an Agreement, in writing, whereby the applicant agrees to indemnify and save harmless the Borough from any and all liability, expense, claim or damages resulting from the use of public lands.

D. The hiring of an off-duty police officer for the times indicated on the permit.

E. 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 Police Department with respect thereto.

#### **Section 150-4 INTERFERENCE WITH PUBLIC ACTIVITY; NOTICE OF FILMING**

A. The holder of a permit shall conduct filming in such a manner as to minimize 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.

B. The holder 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 applicant'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 Borough Clerk, said objections to form a part of the applicant's application and be considered in the review of same. Proof of service of notification to adjacent owners shall be submitted to the Borough Clerk within two (2) days of the requested shooting date.

#### **Section 150-5 REFUSAL TO ISSUE PERMIT**

A. The Borough Administrator may refuse to issue a permit whenever he/she 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 Borough agencies involved with the proposed filming site, that filming at the location and/or the 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.

B. Further, the Borough reserves the right to require one or more on-site patrol officers in situations where the proposed production may impede the proper flow of traffic, the cost of said patrol officers 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.

### **Section 150-6 APPEALS**

A. Any person aggrieved by a decision of the Borough Administrator denying or revoking a permit or a person requesting relief may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Administrator.

B. An appeal from the decision of the Borough Administrator shall be filed within ten (10) days of the Administrator's decision. The Borough Council shall set the matter down for a hearing within thirty (30) days of the day on which the notice of appeal was filed. The decision of the Borough Council shall be in the form of a resolution supporting the decision of the Administrator at the first regularly scheduled public meeting of the Borough Council after the hearing on the appeal, unless the appellant agrees in writing to a later date for the decision. If such a resolution is not adopted within the time required, the decision of the Administrator shall be reversed and a permit shall be issued in conformity with the application or the relief shall be deemed denied.

### **Section 150-7 WAIVER OF REQUIREMENTS**

The Borough Administrator may authorize a waiver of any of the requirements, provisions or restriction of this Chapter if the Administrator determines that a waiver thereof may be granted without endangering the public health, safety and welfare. In determining whether to issue a waiver, the Administrator shall consider the following factors:

- (1) Potential traffic congestion at the location.
- (2) The applicant's ability to remove the applicant's vehicles and equipment from the public streets or other public property.
- (3) The extent to which the applicant requested restrictions on the use of public streets or public parking facilities during filming.
- (4) The nature of the filming, including whether filming will take place indoors or outdoors, and the proposed hours for filming.

(5) The extent to which the filming may affect adjoining and nearby property owners and occupants.

(6) The Borough's prior experience with the applicant, if any.

### **Section 150-8 COPIES OF PERMIT; INSPECTIONS**

A. Copies of the approved permit will be sent to the Police, Fire and Public Works Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Borough Fire Inspector or other Borough officials and/or inspectors to inspect the site and the equipment to be used, if deemed necessary. The applicant shall comply with all safety instructions issued by the Fire Inspector, Police Department or other Borough Officials.

B. In addition to any other fees or costs mentioned in this Chapter, the applicant shall reimburse the Borough for any lost revenue, such as parking meter or permit revenue, repairs to public property or other revenues that the Borough was prevented from earning because of filming.

### **Section 150-9 FEES**

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

Basic filming permit: \$250.00. Where an applicant requests a waiver of the provisions of this Chapter requiring expedited processing of a permit application within 24 hours of the filming date, the basic filming permit fee for processing the application on an expedited basis shall be \$375.00.

Daily filming fee payable in addition to the basic filming permit when filming entirely on public: \$500.00 per day.

Daily filming fee for major motion pictures when filming entirely on public property: \$1,000.00 per day.

Filming permit for nonprofit applicants filming for educational purposes, including student films (no daily rate required): \$25.00.

Filming on private property: No daily filming fee will be imposed.

### **Section 150-10 VIOLATIONS & PENALTIES**

Any person who violates any provision of this Chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000.00. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Borough Municipal Judge may determine.

BE IT FURTHER ORDAINED this amended Chapter 150 shall take effect as provided by law.

Introduced:

Adopted:

\_\_\_\_\_  
Colleen Mahr, Mayor

Attest: \_\_\_\_\_  
Kathleen Holmes, Borough Clerk