

Ordinance 2023-12

Adopted May 15, 2023

An Ordinance of the Borough of Dunellen Adding a New Chapter 152 to the Borough Code Entitled "Film Industry" Pursuant to N.J.S.A. 40A:10A-2"

152-1. 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 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 municipality.

MAJOR MOTION PICTURE

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

- A. Universal Pictures.
- B. Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel-Aire.
- C. Paramount, including MTV Films and Nickelodeon Movie.
- D. 20th Century Fox, including Fox Searchlight.
- E. Sony/Columbia.
- F. Disney/Miramax.
- G. MGM/United Artists.
- H. Dreamworks.
- I. Any major streaming service, such as Netflix, Hulu, or Amazon Prime Video.
- J. Any film for which the budget is at least \$5,000,000.
- K. 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 municipality.

152-2. 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 Municipal 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 municipal officials at all times at the site of the filming.

B. All permits shall be applied for and obtained from the office of the Municipal Clerk during normal business hours. Applications for such permits shall be in a form approved by the Municipal Clerk and be accompanied by a permit fee in the amount established by this chapter in Section 10 herein.

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 Municipal 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.

152-3. Issuance of permits.

A. No permits will be issued by the Municipal Clerk unless applied for prior to seven days before the requested shooting date; provided, however, that the Municipal Clerk may waive the seven-day period if, in the Clerk'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 upon public lands unless the applicant shall provide the municipality 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 \$500,000 and any occurrence in the aggregate amount of \$1,000,000.

(b) For property damage for each occurrence in the aggregate amount of \$300,000.

(2) An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the municipality from any and all liability, expense, claim or damages resulting from the use of public lands.

(3) The hiring of an off-duty police officer as selected by the Chief of Police or his designee for the times indicated on the permit.

C. 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.

152-4. Interference with public activity; notice of filming.

A. The holder of a permit 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.

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 five days prior to the requested shooting date and be informed that objections may be filed with the Municipal Clerk, said objections to form a part of applicant's application and be considered in the review of the same. Proof of service of notification to adjacent owners shall be submitted to the Municipal Clerk within three days of the requested shooting date.

152-5. Refusal to issue permit; employment of patrolmen and electrician.

A. The Municipal Clerk may refuse to issue a permit whenever the Clerk 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 municipal 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 patrolman 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.

152-6. Appeals.

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

B. An appeal from the decision of the Municipal Clerk shall be filed within 10 days of the Clerk's decision. Per the provisions of Dunellen Code Section 45-30, *et. seq.*, "Appointment of a Special Hearing Officer," the Mayor, with the advice and consent of the Borough Council, may appoint either the Borough Council, one or more of its members, or a Special Hearing Officer to hear the appeal. The Special Hearing Officer shall report the results of the review to the Mayor and Council within 30 days of appointment. The Dunellen Borough Council shall set forth its determination on the matter by resolution at the next following Council Meeting.

152-7. Waiver of requirements of chapter by Municipal Clerk.

The Municipal Clerk, in consultation with the Mayor and the Dunellen Chief of Police, may authorize a waiver of any of the requirements, provisions or restrictions of this chapter if the Municipal Clerk determines that a waiver thereof may be granted without endangering the public health, safety and welfare. In determining whether to issue a waiver, the Municipal Clerk 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 is requesting 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.

152-8. Copies of permit; inspections.

Copies of the approved permit will be sent to the Dunellen Police, Dunellen Fire Department, County Fire Marshal, Dunellen Rescue squad, the Dunellen Construction Office, the Dunellen Code Enforcement Officer, and the Health Inspector before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Dunellen Fire Department and the County Fire Marshal or other inspectors to inspect the site and the equipment to be used, if deemed necessary. The applicant shall comply with all safety instruction issued by the municipality, Middlesex County, or other municipal inspectors.

152-9. Reimbursement of certain costs.

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 revenue, repairs to public property or other revenues that the Borough was prevented from earning because of filming.

152-10. Fees.

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

A. Basic filming permit: \$100. Where an applicant requests a waiver of the provision of 152-3 (A) 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 \$150.

B. Daily filming fee payable in addition to the basic filming permit when filming entirely on public property: \$200 per day.

C. Daily filming fee payable for major motion picture when filming entirely on public property: \$300 per day.

D. Filming permit for nonprofit applicants filming for educational purposes, including student films (no daily rate required): \$25.

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

152-11. Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000.00, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. 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 Municipal Court Judge may determine.

152-12. Liaison with Municipality.

The Office of the Mayor of the Borough of Dunellen or their designee and the Dunellen Borough Administrator shall serve as Liaisons to any organization or business issued a permit under this ordinance.