

# Borough of Fair Lawn



## ORDINANCE NO. 2676-2023

### AN ORDINANCE CREATING A NEW CHAPTER 98, FILMING, OF THE CODE OF THE BOROUGH OF FAIR LAWN 2000

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Fair Lawn as follows:

**SECTION 1.** That a new Chapter 98, Filming, of the Code of the Borough of Fair Lawn 2000 (the "Borough Code") be and is hereby created as follows:

#### **§98.1 Definitions.**

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

- A. BOROUGH – shall mean the Borough of Fair Lawn, Bergen County, New Jersey.
- B. FILMING – shall mean the taking of still or motion pictures either on film, video tape, or similar recording medium, for commercial or educational purposes intended for viewing on television or in theaters or for institutional use.
- C. PUBLIC LANDS – shall mean any and every public street, highway, sidewalk or square, public park or playground or other public place within the Borough which is within the jurisdiction or control of the Borough.
- D. NEWS STORIES – shall mean the reporting or summarizing of information concerning something that has either recently taken place or of current events of general interest and includes such features commonly known as newscasts, news bulletins and news anthology programs.
- E. PRIVATE PROPERTY – Shall mean land not owned by the government or dedicated to public use.
- F. MAJOR MOTION PICTURE - Any film that is finance and/or distributed by a major motion picture studio, including but not limited to the following:
  - 1) Universal Pictures
  - 2) Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel-Aire

- 3) Paramount 20th Century Fox, including Fox Searchlight
- 4) Sony Columbia
- 5) Disney/Miramax
- 6) MGM/United Artists
- 7) Dreamworks
- 8) Any major streaming service, such as Netflix, Hulu, or Amazon Prime Video
- 9) Any film for which the budget is at least \$5 million
- 10) Recurrent weekly television series programming

### **§98.2 Permit required.**

- A. No person or organization shall film or permit filming on public property, 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, 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. Such permit must be readily available for inspection by Borough officials at all times at the site of the filming.
- B. Applications for such permits shall be on a form available from the Office of the Municipal Clerk. All permits shall be applied for and obtained from the Office of the Borough Clerk during normal business hours. All applications shall be accompanied by a permit fee in accordance with Chapter 94 at Section 94.12, "Miscellaneous Fees," of the Borough Code.
- C. If a permit is issued and, due to inclement weather or other good cause, filming does not 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 required for this permit.

### **§98.3 Requirements for issuance of permit.**

- A. No permit will be issued by the Borough Clerk unless applied for not less than three (3) days, weekends and holidays excepted, prior to the requested filming date(s); provided, however, that the Borough Clerk may waive the three-day period if, in their judgment, the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified. However, if an applicant seeks a change in the times

established by §98.4 F, below, applicant shall submit its application no less than ten (10) days, weekends and holidays excepted, to permit the Mayor and Council to consider such request.

- B. No permit shall be issued for filming upon public lands unless the applicant shall have provided the Borough with the following:
1. A certificate of insurance evidencing the following coverages and amounts:
    - a) Workers Compensation Insurance – New Jersey statutory amount;
    - b) Employers' Liability: five hundred thousand (\$500,000) dollars each accident; five hundred thousand (\$500,000) dollars, Disease – policy limit; five hundred thousand (\$500,000) dollars, Disease – each employee;
    - c) General Liability:
      - i. General aggregate: two million \$2,000,000 dollars;
      - ii. Products and completed operation aggregate: one million (\$1,000,000) dollars;
      - iii. Personal and advertising injury: one million (\$1,000,000) dollars;
      - iv. Each occurrence: one million (\$1,000,000);
      - v. Damage to premises rented by permittee: fifty thousand (\$50,000) dollars;
      - vi. Medical expense (any one (1) person): ten thousand (\$10,000) dollars;
    - d) Business Automobile Liability: one million (\$1,000,000) dollars each accident; if permit holder intends to have its employees use their own vehicles to conduct business, Employer's non-ownership automobile liability for one million (\$1,000,000) dollars each accident shall be required.

The public liability and property damage insurance policies shall name the Borough, its servants, agents, employees and subdivisions as additional insureds, and shall contain the phrase, "The Borough of Fair Lawn, its servants, agents, employees or any subdivision thereof are additional named insureds."

The Certificate of Insurance shall be in a form acceptable to the Borough and shall provide that the insurance stated thereon will not be cancelled or amended without thirty (30) days' notice to the Borough of such cancellation or amendment. The applicant shall be responsible for purchasing and maintaining the required insurance coverage at its own cost and expense.

2. Indemnification Agreement. An agreement duly executed by applicant agreeing to indemnify, defend and hold harmless the Borough from any and all liability, expense (including reasonable attorneys' fees and costs), claim, damages, injury or death arising out of, relating to, or resulting from applicant's filming activities, including but not limited to the Borough's issuance of a permit pursuant to this Chapter.

#### **§98.4 Additional Permit Requirements**

- A. Permit holder shall take all reasonable steps necessary to minimize interference with the free passage of pedestrians and traffic over public lands, limit to the extent possible any interference with previously scheduled activities upon public lands, limit to the extent possible, any interference with normal public activity on such public lands, and comply with all lawful directives issued by the Borough Police Department and Fire Department with respect thereto.
- B. Permit holder shall reimburse the Borough for the costs incurred during filming for Borough employees and equipment, including but not limited to police officers, fire personnel and employees of the Department of Public Works. The Borough reserves the right to require adequate police presence on-site in situations where the proposed production may impede the proper flow of traffic and the cost of such police presence shall be borne by the permit holder. Where existing electrical power lines are to be utilized by the production, an on-site licensed electrician may be required and, if the production company does not have a licensed electrician on staff, the Borough shall provide such licensed electrician with the cost thereof to be borne by the permit holder.
- C. Where applicant's activity, by reason of location or otherwise, will directly involve and/or affect any businesses, merchants or residents ("affected parties"), such affected parties shall be given written notice of the proposed filming, the anticipated filming date, times and duration. Such notice shall be provided to the affected parties at least three (3) days prior to the requested filming date and the affected parties informed that objections may be filed with the Municipal Clerk. Any timely objections received shall be considered in reviewing applicant's permit application. Proof of service of notification to affected parties shall be submitted to the Borough Clerk within two (2) days of the requested filming date.
- D. Permit holder shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners and occupants

attributable to such filming and shall, to the extent practicable, abate noise.

- E. Permit holder shall take all reasonable steps necessary to minimize the creation and spread of debris and rubbish during filming and shall be responsible for removing all debris and rubbish from the filming location upon completion of filming.
- F. Filming shall be permitted between the hours of 7:00 am and 10:00 pm unless a change in the filming times is approved by the Mayor and Borough Council. Filming entirely within interior locations on private property are not subject to these time limitations.
- G. Permit holder shall comply with all fire safety instructions issued by the Fire Marshal or his designee.
- H. Vehicles used in connection with the filming, including vehicles of personnel associated with such filming, shall be parked off the public right of way to the maximum extent permitted. Vehicles should not be parked upon private property without the express written consent from the property owner or occupant. Vehicles parked in the public right of way shall comply with all applicable parking and traffic regulations.
- I. Damage to or destruction of public land and damage to or loss or destruction of any other property caused by the actions of the permit holder, its servants, agents or employees, shall be promptly repaired or replaced by the permit holder to the reasonable satisfaction of the Borough or in lieu of such repair or replacement, the permit holder shall pay the Borough an amount sufficient to compensate the Borough for the required repair and/or replacement.

**§98.5 Refusal to issue permit; revocation of permit.**

- A. The Borough Clerk may refuse to issue a permit whenever it is determined, on the basis of the objective facts and after a review of the application and a report thereon from the Police Department and other Borough Departments, that the filming at the location, times and/or dates 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 health, safety or welfare.
- B. The Borough Clerk may revoke or suspend a permit at any time, in their sole discretion, if it is reasonably determined that filming is deleterious to the

general public health, safety and welfare, or that the permit holder is violating any of the provisions of this Chapter 98. Upon such revocation or suspension, the permit holder shall cease all operations. A revocation or suspension may be in addition to the permit holder being subject to the penalties provided at §98.11, below.

#### **§98.6 Appeals.**

- A. Any person aggrieved by a decision of the Borough Clerk denying, suspending or revoking a permit may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Clerk within ten (10) days of the denial or revocation.
- B. The Borough Council shall set the matter down for a hearing within twenty(20) 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 affirming, amending or reversing the decision of the Borough Clerk adopted at the first scheduled regular 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.

#### **§98.7 Waiver of requirements.**

- A. The Borough Clerk may authorize a waiver of any of the requirements, provisions or restrictions, except with respect to §98.4 F, if the Borough 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 Borough 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 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.
  - 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.

#### **§98.8 Fees and reimbursement.**

See Chapter 94, Fees, §94-12, Miscellaneous Fees, Paragraph FF, "Chapter 98, Filming."

### **§98.9 Exemptions.**

This Chapter 98 shall not apply to the filming of news stories by authorized press personnel within the Borough. In addition, filming by the Borough of Fair Lawn's Police Department, Fire Department, Ambulance Corps or OEM, or other Borough agency for training purposes, shall be exempt. Filming by Fair Lawn TV Productions Inc., and video clubs or video classes of the Fair Lawn Public Schools is exempt but shall comply with §98.4 Paragraphs A, D and E of this Chapter.

### **§98.10 Miscellaneous.**

- A. Screen credit shall be given to the Borough of Fair Lawn.
- B. Permit holder shall not make any permanent changes or alterations in or to the public lands and the appurtenances thereto or any installations without the express written permission of the Borough.
- C. Permit holder shall allow a duly authorized representative of the Borough, without prior notice, to be present in and about the public lands and appurtenances for the purpose of making inspections and reviewing the actions being undertaken by the permit holder pursuant to this Chapter.

### **§98.11 Violations.**

Any person who violates any provision of this Chapter shall be subject to the general penalty provisions at Chapter 1, General Provisions, Article III, General Penalty Provisions, of the Borough Code.

**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 of the Ordinance shall be deemed valid and effective.

**SECTION 3.** All ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 4.** This Ordinance shall take effect upon passage and publication according to law.

Introduced: July 25, 2023

	<b>Motion</b>	<b>Second</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Reinitz			X			
Rottenstrich		X	X			
Cutrone	X		X			
Krause			X			
Peluso						X

Expected Adoption Date: August 15, 2023

	<b>Motion</b>	<b>Second</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Reinitz		X	X			
Rottenstrich			X			
Cutrone			X			
Krause	X		X			
Peluso			X			

**Attest:**

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Nicholas J. Magarelli, RMC  
Municipal Clerk

**Approved:**

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Kurt Peluso  
Mayor