

## ORDINANCE 23-2024

### ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 98 OF THE BOROUGH CODE ENTITLED "FILMING" TO REGULATE COMMERCIAL FILMING IN THE BOROUGH OF MADISON

**WHEREAS**, the Director of Business Development and Borough Administrator have recommended that the Borough adopt amendments to Chapter 98 of the Borough Code entitled "Filming" to regulate commercial filming in the Borough; and

**WHEREAS**, the Borough Council has considered this recommendation and desires to proceed with the adoption of such ordinance.

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Madison, in the County of Morris and State of New Jersey as follows:

#### **Chapter 98: Filming (Replacement)**

##### **§ 98-1 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:

- Universal Pictures.
- Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel- Aire.
- Paramount, including MTV Films and Nickelodeon Movie.
- 20th Century Fox, including Fox Searchlight.
- Sony/Columbia.
- Disney/Miramax.
- MGM/United Artists.
- DreamWorks.

- Any major streaming service, such as Netflix, Hulu, or Amazon Prime Video.
- Any film for which the budget is at least \$5,000,000.
- 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.

### **§98-2 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 Clerk and be accompanied by a permit fee in the amount established by this chapter in §98-10 herein.
- C.** The following information shall be included in the permit application:
- (1)** Locations of filming;
  - (2)** Proposed duration of filming, including date(s) and hours; subject to the final approval of the Borough Clerk as to the final filming schedule within the Borough of Madison and subject to the requirements of this section;
  - (3)** Amount of space required on public streets/highways/sidewalks; etc.; and
  - (4)** Contact information for the applicant, including the on-site person;
  - (5)** The estimated number of film crew members expected to be on-site during filming;
  - (6)** If filming is conducted on private property, proof of the property owner's consent to film.
- D.** 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.

### **§98-3 Issuance of permits.**

- A.** No permits will be issued by the Borough Clerk unless applied for prior to ten days before the requested shooting date; provided, however, that the Borough Administrator may waive the ten-day period if, in his 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:
  - (2)** For bodily injury to any one person in the amount of \$1,000,000 and any occurrence in the aggregate amount of \$2,000,000.
  - (3)** For property damage for each occurrence in the aggregate amount of \$300,000.
  - (4)** The Borough of Madison shall be named as an additional insured and a certificate holder entitled to 30 days' notice of modification or cancellation
  - (5)** 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. An agreement, in writing, whereby the applicant agrees to indemnify, defend and hold harmless the Borough of Madison, against any and all claims for damage and liability to or death of persons; and for damages to or destruction of public lands occurring during applicant's use of the premises and caused by the application's operations under and pursuant to this Agreement; and shall pay the reasonable costs 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 Borough of Madison from any and all claims of intellectual property.
  - (6)** The posting of a \$500.00 cash deposit protecting and ensuring that the location utilized will be left after filming in a satisfactory and debris free condition and in a fashion consistent with the Borough code. In the event that the property is not left in such condition, and remains unabated for more than 24 hours after the Borough notifies the Applicant of the same, the Borough is free to draw upon said monies to abate such condition that the Borough deems necessary in its sole and unencumbered judgment and to the extent that the \$500.00 deposit is insufficient to reimburse the Borough for all related expenses associated with the same, it shall be permitted to pursue recover against the Applicant for all reasonable costs associated with the same and if successful, the applicant must reimburse the Borough for all reasonable expenses associated with the same, including, but not limited to reasonable attorney's fees.
- C.** The hiring of off-duty police officer(s) and/or firefighter(s) for the times indicated on the permit. The number of police officers and/or firefighters required on the set will be determined by the appropriate municipal authority (Borough of Madison Police Department, Borough of Madison Fire Department, etc.). The Applicant shall be

responsible for the full cost of hiring the off-duty police officer(s) and/or firefighter(s). 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.

**(1)** Any applicant shall be required to hire off-duty police officers during filming if:

- (a) Firearms, pyrotechnics, or other hazardous materials are to be used;
- (b) Any actors or film crew members are to be wearing costumes that resemble the uniforms of any type of public personnel;
- (c) Any streets or lanes are to be closed; or
- (d) The filming involves activities in which a police presence is necessary to protect health, safety or welfare of the residents of the Borough of Madison.

**(2)** Any applicant shall be required to arrange with the Borough of Madison Police Department and Parking Office for the use of parking in a municipal lot

**§98-4 Interference with public activity; notice of filming.**

- A.** The holder of the permit shall take all responsible 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 Madison Police Department with respect thereto.
- B.** The holder of the 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. 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 days prior to the requested shooting date and be informed that objections may be filed with the Borough Clerk, said objection to form a part of 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 five days of the requested shooting date. 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.
- C.** 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 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 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 Borough Clerk within two days of the requested shooting date.

**§98-5 Refusal to issue permit; employment of patrolmen and electrician.**

- A.** The Borough Administrator may refuse to issue a permit whenever he 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 patrolmen 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.

**§98-6 Appeals.**

- A.** Any person aggrieved by the decision of the Borough Clerk denying or revoking a permit that has been denied by the Borough of Pompton Lake may appeal to the Borough Administrator. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Clerk.
- B.** An appeal from the decision of the Borough Clerk shall be filed within 10 calendar days from the date of the denial or revocation of the permit. The matter shall be decided by the Borough Administrator upon the written record unless a hearing is requested. Any hearing shall be conducted informally by the Borough Administrator, and the formal rules of evidence shall not apply. The decision of the Borough Administrator shall be issued within 45 days from the date of the notice of the appeal. Such decision is final and appealable to the Superior Court of New Jersey.

**§98-7 Waiver of requirements of chapter by Administrator.**

- A.** The Borough Administrator may authorize a waiver of any of the requirements, provisions or restrictions 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 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.

**§98-8 Copies of permit; inspections.**

- A. Copies of the approved permit will be sent to the Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Fire Prevention Bureau or other borough 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 Prevention Bureau or other borough inspectors.
- B. The applicant shall notify the Police Department and Fire Department 72 hours before the filming takes place and shall permit the Police Department and Fire Department or other designated Borough inspector to inspect the site and the equipment to be used. The applicant shall comply with all safety instructions issued by Borough inspectors, including but not limited to the Police Department and Fire Department.

**§98-9 Reimbursement of certain costs.**

- A. 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.

**§98-10 Fees.**

- A. The schedule of fees for the issuance of permits authorized by this chapter are as follows:
  - (1) Basic filming permit: \$150. Where an applicant requests a waiver of the provision of §98-3, 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 \$200.
  - (2) Daily filming fee for Major Motion Picture payable in addition to the basic filming permit when filming entirely on public property: \$250 per day.
  - (3) Daily filming fee payable in addition to the basic filming permit when filming entirely on public property: \$1,000 per day.
  - (4) Filming permit for nonprofit applicants filming for educational purposes, including student films (no daily rate required): \$50.
  - (5) Filming on private property: no daily filming fee will be imposed

**§98-11 Violations and penalties.**

- A. Where the owner of the premises is not the applicant for the permit required by this chapter, both the owner and the applicant shall each be liable for violations hereof.

Any person violating this chapter or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding \$2,000 per day.

**§98-12 Exemptions.**

**A.** The provisions of this chapter shall not apply to:

- (1)** The filming of news stories within the Borough of Madison by individuals and/or legitimate entities or organizations for purposes of journalism or news reporting;
- (2)** Filming by one individual using a hand-held camera without the assistance of other persons, or filming by one or more individuals for weddings, religious, occasions and other family or social private parties, occasions, events or functions;
- (3)** Filming for authorized municipal government purposes as may be authorized by the Borough Council or the Borough Administrator.

ADOPTED AND APPROVED  
July 22, 2024

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ROBERT H. CONLEY, Mayor

Attest:

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ELIZABETH OSBORNE, Borough Clerk

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