

ORDINANCE 23-19

BOROUGH OF POMPTON LAKES

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 28, “TELEVISION AND MOVIE FILMING” OF THE MUNICIPAL CODE OF THE BOROUGH OF POMPTON LAKES

WHEREAS, The Mayor and Council of the Borough of Pompton Lakes (the “Borough”), County of Passaic, State of New Jersey adopted Ordinance 22-16 creating Chapter 28 “Television and Movie Filming”; and.

WHEREAS, the Borough desires to amend Ordinance 22-16 in furtherance of ensuring the Borough is able to execute “film ready” opportunities more timely and efficiently.

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or Federal Government, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

BE IT HEREBY ORDAINED by the Borough Council of the Borough of Pompton Lakes in the County of Passaic and the State of New Jersey as follows:

Section 1. RECITALS. The foregoing whereas clause is incorporated herein by reference and made a part hereof

Section 2. Chapter 28, “Television and Movie Filming,” shall be created to include the following:

Note: Additions are shown in **bold and underline** and deletions are shown as ~~striketrough~~.

CHAPTER 28 Television and Movie Filming.

§ 28-1 Definitions.

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

APPLICANT or APPLICANT OF PERMIT

Any person, organization, corporation, association or other entity applying for a film permit from the Borough of Pompton Lakes.

FILMING

The taking of still or motion pictures either on film or videotape, or similar recording medium, for the 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 Borough of Pompton Lakes.

FILM CREW MEMBERS

Any and all persons associated with the filming, including, but not be limited to: directors, actors, set or costume designers, camera crew members, lighting crew members, sound crew members, boom operators, pyrotechnic experts, stunt performers, extras, stagehands, security personnel, production or personal assistants, contractors and subcontractors, photographers, interns (paid or unpaid) and agents.

LICENSEE

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

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

- (1) Universal Pictures/Comcast/NBC Universal;
- (2) Warner Brothers, including New Line Cinema, Castle Rock Cinema and Turner Production Company;
- (3) Paramount Global, including MTV Films and Nickelodeon Movie;
- (4) 20th Century Fox, including Fox Searchlight;
- (5) Sony/Columbia/Tri-Star;
- (6) Disney/Miramax/Pixar/Marvel Studios;
- (7) DreamWorks;
- (8) Lionsgate Films;
- (9) HBO and other cable network providers and heir subsidiaries or affiliates; and/or
- (10) MGM United Artists.

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

C. Any recurrent weekly television series programming.

PUBLIC LAND

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

RESIDENTIAL ZONES

Shall mean as established by Chapter 190 of the Code of the Borough of Pompton Lakes.

§ 28-2 Permit required; application; duration; extensions.

- A. No person or organization shall film or permit filming on public property within the Borough of Pompton Lakes without having first applied and obtained a permit from the Borough Clerk, which shall set forth the approval location of such filming and the approved duration of such filming by specific reference to day or dates. All permits shall be applied for and obtained during normal business hours of the Office of the Clerk. Applications for such permits shall be in a form approved by the Office of the Clerk and be accompanied by a permit fee in the amount established by this ordinance, along with the necessary supporting documents.
- B. 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 Pompton Lakes 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.
- 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.

§28-3 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~~
No permits will be issued by the Municipal Clerk unless applied for prior to five days before the requested shooting date; provided, however, that the Borough Administrator may waive the five-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. If waived, the expedited film permit fee will be applied.
- B. No permits will be issued for filming upon public lands unless the applicant shall provide the Borough of Pompton Lakes 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 per occurrence and in the aggregate amount of \$2,000,000
 - (b) For property damage for each occurrence in the aggregate amount of \$300,000.
 - (c) The Borough of Pompton Lakes shall be named as an additional insured and a certificate holder entitled to 30 days' notice of modification or cancellation
 - (2) An agreement, in writing, whereby the applicant agrees to indemnify, defend and hold harmless the Borough of Pompton Lakes, 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 Pompton Lakes from any and all claims of intellectual property.
 - (3) 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.

- (4) The hiring of an off-duty Pompton Lakes police officer(s) for the times indicated on the permit in such number as required by the Pompton Lakes Police Department.
- C. 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 Pompton Lakes Police Department with respect thereto.
 - D. 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 two days of the requested shooting date.
 - E. Any applicant shall be required to hire off-duty police officers during filming if:
 1. Firearms, pyrotechnics, or other hazardous materials are to be used;
 2. Any actors or film crew members are to be wearing costumes that resemble the uniforms of any type of public personnel;
 3. Any streets or lanes are to be closed; or
 4. The filming involves activities in which a police presence is necessary to protect health, safety or welfare of the residents of the Borough of Pompton Lakes.
 - F. Any applicant shall be required to arrange with the Parking Authority for the use of parking in a municipal lot or metered spot(s).

§ 28-4 Refusal to issue permit; employment of patrolmen and electrician.

- A. The Borough may refuse to issue a permit whenever it is determined, on the basis of objective facts and after a review of the application and a written report thereon by the Police Department and by Borough departments involved in the proposed building 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, or in the opinion of the Police Department would unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.
- B. The Borough of Pompton Lakes reserves the right to require one or more on-site police officers in situations where proposed production may impede the proper flow of traffic, the cost of said officers to be borne by the applicant as a cost of production. Where existing 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.

§ 28-5 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.

§ 28-6 Copies of permit; inspections.

- A. Copies of the approved permit shall be sent by the Borough Clerk to the Police Department and Fire Department before filming takes place. Copies shall be sent to any appropriate New Jersey state agencies, including the New Jersey Motion Picture and Television Commission.
- B. The applicant shall notify the Police Department and Fire Department 48 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.

§ 28-7 Interference with Public Activity; Notice of Filming.

The licensee 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 licensee 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 days prior to the requested shooting date and be informed that objections may be filed with the Office of the Clerk. Proof of service of notification to adjacent owners shall be submitted to the Office of the Clerk within two days of the requested shooting date.

§ 28-8 Filming in residential zones.

Filming in residential zones shall be permitted Monday through Friday between the hours of 7:00 a.m. and 9:00 p.m. or dusk, whichever is earlier, and between 9:00 a.m. and 9:00 p.m. on weekends or dusk, whichever is earlier and provide that all requests for night scenes shall be approved in the permit. The setup, production and breakdown required by all filming shall be included in the hours as set forth herein.

§ 28-9 Fees.

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

- (1) Basic Filming Permit Fee: \$150.00
- (2) Expedited Film Permit Fee: \$250.00**
- (3) Non-profit Organization: \$25.00**
- (4) Daily Filming Fee: \$500.00 (in addition to the Basic Permit Fee)**
- (5) Daily Filming Fee for Major Motion Picture: \$1,500.00 per day (in addition to the Basic Permit Fee)**
- (6) Overnight Parking Fee for Use of Publicly Owned Property or Right-of-Way: \$500.00 per day. Non-profit applicants: \$50.00 per day.**

§28-10 Waiver of Fees for Student.

The fees set forth in § 28-9 shall be waived when filming is done by a student in a grade school, middle school, high school, college, university or other bona fide educational institution upon receipt by the Borough Clerk of a written certification from a teacher or administrator at the school attended by the student stating that the filming is for educational purposes only and is not intended for commercial use.

§ 28-11 Reimbursement of certain costs.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough of Pompton Lakes 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.

§ 28-12 Special regulations for major motion pictures.

Any days necessary to be used for setup and preparation for a major motion-picture filming shall be counted as a filming day where such setup is anticipated to involve one or more of the following conditions: traffic congestion; applicant's ability to remove film-related vehicles off the public streets; restrictions on the use of public streets or public parking during the course of the filming; and the nature of the film shoot (i.e., time of day, indoors or outdoors)

§ 28-13 Violations and penalties.

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 or by imprisonment in the county jail for a term not exceeding 90 days, of both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 28-14 Waiver of Requirements

The Borough Administrator may authorize a waiver of any of the requirements, provisions or restrictions of this chapter if they determine that a waiver thereof may be granted without endangering the public health, safety and welfare. In determining whether to issue a waiver, the 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.**

§ 28-15 Exemptions.

The provisions of this chapter shall not apply to

- A.** The filming of news stories within the Borough of Pompton Lakes by individuals and/or legitimate entities or organizations for purposes of journalism or news reporting;
- B.** 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;
- C.** Filming for authorized municipal government purposes as may be authorized by the Borough Council or the Borough Administrator.

SECTION 3. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.

NOTICE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the regular meeting of the Mayor and Borough Council of the Borough of Pompton Lakes, County of Passaic, State of New Jersey held in the Municipal Building on the 10th day of May, 2023, and the same came up for final passage at the regular meeting of the Mayor and Borough Council held on the 24th day of May, 2023, at which time, after persons interested were given the opportunity to be heard concerning said Ordinance, the same was passed and will be in full force and effect in the Borough of Pompton Lakes after approval by the Mayor or in accordance with law.

Approved:

Michael Serra, Mayor

Elizabeth Brandsness, Borough Clerk