

BOROUGH OF WALLINGTON
ORDINANCE NO. 2022-011

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE
BOROUGH OF WALLINGTON BY ADDING THERETO A NEW CHAPTER 136
TO REGULATE FILMING IN THE BOROUGH**

136-1 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, computers, in theaters, for institutional uses, or over the internet. The provisions of this chapter shall not be deemed to include the filming of news stories within the Borough of Wallington.

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, and Turner Production Company, Paramount, 20th Century Fox, Columbia/Tri-Star, Disney, MGM United Artists, Dreamworks, and Sony; or any film for which the budget is at least \$5,000,000; or any recurrent television series programming.

PUBLIC LANDS Any and every public street, highway, sidewalk, square, public park or playground or any other public place within the borough that is within the jurisdiction and control of the Borough of Wallington.

§ 136-2 **Permit required.**

A. No person or organization shall film or permit filming, or the setup or breakdown of filming apparatus, or the parking of commercial vehicles used for or assisting in filming, on public lands within the Borough of Wallington, or on private property, without first having applied for and obtained a permit from the office of the Borough Clerk. Application for such permits shall be in a form approved by the Borough Clerk and shall be accompanied by the permit and other fees required under this chapter. The application shall require that the applicant designate the names of all organizations involved in the filming, and shall require a designation, by name, address, and telephone number, of at least two persons directly connected with the filming. At least one of these designees shall be required to be present and in charge at the scene of the filming at all times.

B. The permit shall set forth the approved location or locations and approved duration of the filming by specific reference to day or dates. The permit must be readily available at all times at the site of any filming.

C. Copies of the approved permit will be sent to the Borough Police Department and Borough Fire Official before filming takes place, and to the New Jersey Film Commission. The permit holder shall allow borough personnel to inspect the site and the equipment to be used, said inspections not to unreasonably interfere with the filming. The permit holder shall comply with all safety instructions issued by the Police Department and/or the Fire Official and/or by any other authorized borough personnel.

§ 136-3 **Time and location for filming.**

A. No permit shall authorize filming for more than ten consecutive days in any one location. This limitation may be extended if the requested filming constitutes a major motion picture, or if a longer term for filming has been negotiated and approved.

B. Filming in residential areas may be permitted Monday through Friday between the hours of 7:00 a.m. and 9:00 p.m. The setup, production, and breakdown required by all filming shall be completed during the hours set forth herein.

C. The Borough Administrator may authorize filming other than during the days or hours or time period set forth herein. In determining whether to allow an extension of time for filming, the following factors shall be considered:

- (1)** Traffic congestion at the location caused by vehicles to be parked on the public streets;
- (2)** Applicant's ability to remove film-related vehicles off the public streets;
- (3)** Restrictions on the use of public streets or public parking during the course of the filming;
- (4)** Nature of the film shoot itself, e.g., indoor or outdoors, day or night;
- (5)** Prior experience of the film company applicant with the borough, if any;
- (6)** Such other factors as shall reasonably be considered in rendering a decision.

§ 136-4 **Application for permit; notice to residents; appeal process.**

A. No permits will be issued by the Borough Clerk unless application is made for the permit at least five days before the requested starting date. The Borough Administrator may waive any part of the five-day period if, in his or her judgment, the applicant has obtained all necessary approvals and adjacent businesses, merchants, or residents do not need to be notified.

B. When directed by the Borough Clerk or the Borough Administrator, or where the applicant's filming activity, by reason of location or otherwise, will directly involve or affect any businesses, merchants or residents, the applicant shall give all affected parties written notice of the filming application at least three days before the requested starting date. The affected parties shall be informed that they may file written objections with the Borough Clerk within one day of the notice of the filming application being served. Any written objections received by the Borough Clerk shall form a part of the application and shall be considered in review of the application. The applicant shall submit proof of service of the required notices to the Borough Clerk within one day of the notices being served. The Borough Clerk may require also that the applicant obtain and submit the signatures of the businesses, merchants, or residents, each indicating his or her approval or disapproval, which shall form a part of the application and shall be considered in review of the application.

C. The Borough Administrator may require that the application and the proposed filming be reviewed by the Police Department, Fire Official, and/or such other agencies as deemed necessary to protect the public health, safety, and welfare, or to ensure the proper operation of borough services. Any consulted borough personnel shall provide a written summary of the review to the Borough Administrator, which shall be considered as part of the application.

D. The Borough Administrator may refuse to issue a permit whenever it is determined, on the basis of objective facts and after a review of the application, that filming at the location and/or the requested times would violate any law or ordinance, would unreasonably interfere with the use and enjoyment of adjoining properties or public lands, would unreasonably impede the free flow of vehicular or pedestrian traffic, would unreasonably interfere with the proper operation of borough services, or would otherwise endanger the public's health, safety or welfare.

E. Any person who is aggrieved by a decision of the Borough Administrator to grant, deny or revoke a permit, or to grant an extension of time for filming, may appeal to the Appeal Subcommittee of the Film and Arts Committee of the Borough of Wallington. The aggrieved party shall file a written notice of appeal setting forth the reasons for the appeal with the Borough Clerk. An appeal from the decision of the Administrator shall be filed no later than one day from the date of the Administrator's decision.

F. The Appeal Subcommittee shall consist of three members of the Film and Arts Committee. The members of the Film and Arts Committee shall serve on the Appeal Subcommittee on a rotating basis. The Borough Administrator and the Borough Clerk shall be prohibited from serving on the Appeal Subcommittee. In any particular matter, any member with a conflict of interest or an appearance of a conflict of interest shall not sit on the Appeal Subcommittee.

G. The Appeal Subcommittee shall set the matter down for a hearing and shall provide notice to the aggrieved person. The hearing shall be held at any time within three days from the filing of the notice of the appeal. The hearing shall be open to the public. Immediately after the hearing, or at such other time as it shall deem appropriate, the Appeal Subcommittee shall issue its decision in support or rejection of the Borough Administrator's decision.

§ 136-5 **Requirements for issuance of permit.**

A. No permit shall be issued for filming upon public lands unless the applicant shall provide the borough with satisfactory proof of the following:

(1) Proof of insurance coverage for the duration of filming as follows: For bodily injury to any one person in the amount of \$500,000 and any occurrence in the aggregate amount of \$1,000,000 and for property damage to borough property for each occurrence in the aggregate amount of \$500,000. The applicant shall name the Borough of Wallington as an additional named insured on the policy, and proof of the certificate of insurance shall be required to be provided before the filming commences. The permit holder shall be responsible for insuring its own property. In no event shall the Borough of Wallington provide insurance for any of the permit holder's property or actions. The permit holder shall provide workers' compensation insurance and shall comply with New Jersey's workers' compensation statutes where necessary under the law.

(2) An agreement, in writing, in a form approved by the borough and included in the application, whereby the applicant agrees to indemnify and save harmless the Borough of Wallington and its agents, employees, and personnel, from any and all liability, expense, claim or damages resulting from the use of public lands or from the issuance of the permit.

(3) For a major motion picture or an approved longer-term permit, the posting of a cash bond or a maintenance bond in the amount of not less than \$1,500 running in favor of the borough, or the payment of a cash security deposit in the amount of not less than \$1,500, which amount can be increased at the discretion of the Borough Administrator. For all other filming, the necessity for and amount of a bond or security deposit shall be determined by the Borough Administrator or the Borough Clerk. The bond or security deposit is required for the purposes of protecting and insuring that the film location will be left in a satisfactory condition, free of debris, rubbish and equipment, that all required fees will be paid, and that all borough ordinances and regulations will be followed. Within 14 days after completion of all filming under the permit, the borough will return the bond or security deposit, provided the permit holder has complied with all of the terms of this chapter.

B. In addition, each applicant who is issued a permit for filming on either public or private lands shall be required to abide by the following:

(1) The permit holder shall take all reasonable steps to minimize interference with the passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Police Department and/or the Fire Official or other authorized Borough personnel with respect thereto.

(2) The permit holder 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 permit 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.

(3) The permit holder shall comply with all applicable federal and state laws and regulations, and shall comply with all applicable borough ordinances.

(4) If any scenes of partial or total nudity, public urination, violence, war, or other potentially offensive or harmful material is to be filmed, the applicant shall be required to state the nature of the material in the initial application. The permit holder where such filming shall occur shall take all reasonable steps to shield such filming and scenes from the public view, and shall respond to and follow all directives of the Borough Administrator with respect thereto. Such directives shall be issued whenever there are concerns about the public health, safety, and welfare.

(5) The Borough Administrator may require one or more on-site police officers, fire personnel, or other Borough personnel in situations where the proposed production may impede the proper flow of traffic, impact on the provision of borough services, or for other public health, safety, or welfare reasons. The permit holder shall pay for all costs associated with the use of borough personnel. Where existing electrical power lines are to be used by the production, an on-site licensed electrician may be required if the production company does not have a licensed electrician on staff.

§ 136-6 **Fees.** The schedule of fees required for filming are as follows:

A. Basic permit fee.

(1) Basic filming permit for filming on public or private lands: \$150.

(2) Basic filming permit for applicant requesting waiver of the five-day notice period provided above: \$250.

(3) Basic filming permit for nonprofit applicants filming for educational purposes: \$50.

(4) The basic filming permit is nonrefundable and must be paid at the time of submission of the application.

(5) 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 as deemed necessary by the Borough Clerk or Borough Administrator. No additional basic permit fee shall be required for the reissued permit.

B. Daily filming fee.

(1) Daily filming fee for filming: \$500 per day.

(2) Daily filming fee for major motion picture for filming on public lands: \$1,500 per day.

(3) No daily rate is required for nonprofit applicants filming for educational purposes. The Borough Administrator, in consultation with the Mayor, may determine to negotiate a flat fee for filming for approved longer-term permits.

(4) The daily filming fee shall be payable in full at the time the permit is approved and issued. The daily filming fee shall be nonrefundable.

C. Parking fees for filming.

(1) Fee for use of metered space: \$40 per day per metered space.

(2) Fee for parking in nonmetered areas: \$25 per day per passenger vehicle and \$50 per day per commercial vehicle.

(3) The Borough Administrator, in consultation with the Mayor, may determine to negotiate a fiat fee for parking for approved major motion pictures.

(4) The parking fees shall be payable at the time of issuance of the permit, and at such other times as shall be required due to increased parking by the permit holder. The Borough Clerk shall have the authority to override these fees where negotiation of a flat fee is more reasonable.

(5) There shall be no overnight parking allowed under any circumstances.

(6) The parking fees for filming shall be nonrefundable.

D. Other fees. The permit holder shall reimburse the Borough for any lost revenue, reimbursement for lower meter revenues, use of Borough resources (such as water or electricity), repairs to or cleanup of public property, for use of any Borough personnel, such as police officers, and for any other cost incurred by the Borough that is connected to the permit holder's filming. Such reimbursements shall be paid immediately upon being incurred, or shall be deducted from the bond or security deposit required under this chapter. If additional monies are due from the permit holder, the Borough shall bill the permit holder, and all payment is due within 30 days of the date of the invoice. If full payment is not made within 30 days, the lack of payment shall be considered a violation of this chapter, and punishable as same.

§ 136-7 **Violations and penalties.**

A. Any person violating this chapter, upon conviction thereof, shall be punished by a fine not exceeding \$1,000 per day, or by imprisonment in the county jail for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

B. Violations may be charged against the owner of the property where the violation occurs, or against the person who is actually committing the violation, or both. If a corporate entity is involved, the charges may be lodged against the corporate president, managing agent, registered agent, and/or shareholders.