

ORDINANCE NO. 2941-13

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA,
AMENDING CHAPTER 26 ARTICLE III "FILM INDUSTRY" TO
STREAMLINE AND AMEND THE FILM PERMITTING
PROCESS; PROVIDING FOR CODIFICATION, CONFLICT,
AND AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER
PARK:

SECTION 1. That Chapter 26, Article III "Businesses" of the Code of Ordinances is hereby amended and modified by moving Chapter 26, Article III, Divisions 1 and 2 to Chapter 7 and renumbering the sections of "Film Production Permit" provisions in the Code as follows:

Sec. 7-1. Findings of fact.

The motion picture, television and still picture industries can be environmentally clean industries, desirable for the city so long as there is adequate regulation to protect the health, safety and well-being of the local community, atmosphere and environment.

Sec. 7-2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant includes an individual, firm, partnership, corporation, company or any association of joint stock.

City equipment means and includes any tangible property, other than real property, owned or controlled by the city.

City facilities means and includes any public street, sidewalk, park, recreational facility, cemetery, building, lake or other water body or real property owned or controlled by or under the jurisdiction of the city.

Film production means and includes any and all motion picture production, television production, videography and still photography.

Film Commissioner means the Director of the Metro Orlando Film Commission, a Division of the Metro Orlando Economic Development Commission.

Motion picture production means and includes all activity attendant to staging or shooting commercial motion pictures or programs and commercially prepared videotape.

Permittee means any applicant to whom a film production permit is issued by the city.

Production crew means and includes any and all persons who are in any way involved in the production, staging or shooting of commercial motion pictures, videotaping, television shows or programs or still photography.

Production vehicles means and includes any and all vehicles which are in any way involved in the production, staging or shooting of commercial motion pictures, videotaping, television shows or programs or still photography and includes but is not limited to automobiles, trucks, trailers, vessels, motorcycles, helicopters and airplanes.

Still photography means and includes all activity attendant to staging or shooting commercial still photographs.

Television production means and includes all activity attendant to staging or shooting commercial television pictures, shows or programs and commercially prepared broadcasts.

Temporary structures means and includes any and all structures assembled on or near a location attendant to motion picture production, television production or still photography.

Videography means and includes all activity attendant to staging and shooting commercially prepared videotape.

Sec. 7-3. Film Commissioner.

The Film Commissioner is hereby authorized to act as the agent for the City of Winter Park in soliciting, receiving and processing of applications for production permits. However, the Film Commissioner shall process such applications through the office of the City Manager, and the City Manager shall first review and either approve or deny a permit based upon the procedures set out in this Code. The Film Commissioner shall have the authority after approval of a permit by the City Manager to issue a production permit, but may not do so unless first the City Manager has approved the issuance of a Winter Park film production permit. With regard to motion photography production, no other City permits shall be required except for the permit issued by the City Manager pursuant to this Code.

Sec. 7-4. Exemptions.

- (a) *Broadcast studios.* The provisions of this article shall not apply to any commercial motion picture, television or videotaping studio or photography studio operating at its established or fixed place of business in the city.
- (b) *Current news.* The provisions of this article shall not apply to or affect reporters, photographers or cameramen in the employ of a newspaper, news service, television station or similar entity engaged in on-the-spot broadcasting of news events concerning those persons, scenes or occurrences in the news and of general public interest.
- (c) *Limited film production.* The permitting provisions of this article shall not apply to any film productions conducted entirely on privately owned property and not involving the use of any city facilities or city equipment, but the filming requirements of section 7-5 shall apply.
- (d) *Limited videography and still photography.* The provisions of this article shall not apply to videography or still photography involving a production crew of five or fewer persons and three or fewer production vehicles.
- (e) *Personal use.* The provisions of this article shall not apply to noncommercial filming or videotaping of motion pictures or still photography which are solely for personal-family use.
- (f) *Training, educational and public service use.* The provisions of this article shall not apply to any industrial, corporate, charitable or not-for-profit film production intended for in-house training or educational purposes which are not offered for sale or distribution to third persons and which involve a production crew of five or fewer persons and three or fewer production vehicles, but the filming requirements of section 7-5 shall apply.

Sec. 7-5. Filming requirements.

The following requirements will be made of all motion picture production, television production and still photography within the limits of the city:

- (1) A film production permit may be issued authorizing filming at more than one location within the city limits.
- (2) Film production or related activity shall be permitted between the hours of 7:30 a.m. and 7:30 p.m. in residential neighborhoods and between 6:00 a.m. and 10:00-12 p.m. in business and commercial areas. Film production or related

activity shall not occur at any other time unless the special written prior approval of the city manager is granted.

- (3) No filming or related activity shall take place on Sundays or holidays without the prior written approval of the city manager.
- (4) All parking relating to film production shall be restricted to one side of the street only. All public roadways shall be kept open at all times unless approved by the chief of police. Parking may be prohibited in the area of filming activity if, in the opinion of the city manager, a safety hazard could result.
- (5) There shall be no nude or partially nude performers in the view of the public at any time or within any city park or city facilities.
- (6) There shall be no act of rape, sodomy, bestiality, sexual intercourse or acts of violence portraying the dismemberment of bodies or body parts of humans or animals in view of the public at any time or within any city park or city facilities.
- (7) Waste and refuse disposal, as well as placement of portable toilet facilities, shall be conducted in the manner directed by the director of public works.
- (8) Any damage to public property, private property and landscape shall be fully remedied at the cost of the permittee.
- (9) No film production or any related activity may take place in violation of any federal, state or local law, ordinance or regulation.
- (10) Additional restrictions may be placed on film production within the limits of the city if the city manager or the city commission deems it necessary to protect the public health, safety or general welfare of the community, its citizenry, and its environment. Such restrictions may include the required use of police, fire and other city personnel during the filming.
- (11) At no time shall the noise level resulting from film production or related activities violate Chapter 62, Article IV, Division 2.
- (12) At no time, during film production or related activities, shall lights or lighting be operated in any manner which endangers or injures the safety or health of humans or animals or which annoys or disturbs the reasonable person of normal sensitivities or which endangers or injures personal or real property.

- (13) Vehicles shall not be parked overnight on or about property or roadways within the city, except property properly zoned therefor, without prior written consent obtained from the property owner of the parking site, a majority of the neighboring residents or occupants or businesses within a 500-foot circumference of the parking site and the city manager.

Sec. 7-6. Required.

No person shall engage in, conduct or carry on the business of film production, motion picture production, television production or still photography on private or public property within the limits of the city without first applying for or receiving a film production permit from the city except for filming or videotaping of motion pictures or still photography for personal use .

Sec. 7-7. City manager's duties.

The city manager is authorized to act as the agent for the city in the receipt and processing of applications for film production permits. The city manager shall issue the film production permits.

Sec. 7-8 ~~26-108~~. Application; fees.

- (a) Any person seeking the issuance of a film production permit shall complete the written application form provided by the city manager and file that written application with the city manager not less than seven working days and not more than 180 days before the commencement of film production. The application must be signed, under oath, by an authorized representative of the applicant, together with a nonrefundable application fee.
- (b) The city commission is authorized to establish a schedule of application fees that will defray the city's costs of investigation and review in connection with the application. The fee may be waived or reduced by the city manager upon a determination that the film production provides positive publicity or otherwise advances the goals of the city.

Sec. 7-9. Contents and effect of application.

- (a) An application for a film production permit shall contain the following specific information:
 - (1) Location of the film production described by a street address or, if necessary, property description.

- (2) Film production dates, including estimates and projections as to the possibility of delays and postponements.
- (3) Hours of filming, which must be consistent with the permit requirements of this division.
- (4) Type of film production.
- (5) Proposed use of temporary structures, including a description of each temporary structure, its proposed use and placement and the dates and duration of each proposed placement.
- (6) Number and type of production vehicles and equipment, as well as the number of production crew and other personnel to be on location with the production.
- (7) Proposed plan for dealing with sanitation, including disposal of waste and refuse as well as placement of portable toilet facilities.
- (8) Necessity for closures of public streets or sidewalks and the proposed dates and necessary duration of such proposed closures.
- (9) Neighborhood consents signed by the majority of proprietors or authorized representatives of any business and residents and occupants of any property located within a 500 foot circumference of each film production site as well as a signed consent from each neighboring business or resident on the immediate right, left, front and rear of the film production site. The consents shall be informed consents reflecting that the signatory party has been advised of the location, duration and nature of the film production, including any special effects and the number and type of production vehicles to be used.
- (10) Proposed utilization of city equipment and city facilities.
- (11) A hold harmless agreement in favor of the city executed by an authorized representative of the applicant.
- (12) Proof of general liability insurance coverage in the amount of at least \$1,000,000.00 naming the city as additional insured.

- (13) Proof of worker's compensation insurance coverage for each and every employee in any way involved with the film production, as required under the laws of the state.
 - (14) A comprehensive list of special effects to be utilized, the proposed date and site for performance of each special effect or use of explosive devices, accompanied by proof of \$5,000,000.00 of liability insurance therefor, naming the city as additional insured. In addition, the film production permit application shall list the person in charge (pilot or technician) of special effects, together with his qualifications and licensure by the applicable federal and state agencies.
- (b) The application for a film production permit shall constitute an agreement by the applicant to pay for city personnel expenses and extraordinary services provided by the city, including all repairs, renovations and landscaping and turf restoration or replacement which are necessitated by virtue of the production.
- (c) The application for a film production permit shall constitute a covenant between the applicant and the city, specifying that the applicant will halt or interrupt filming upon instruction from a uniformed officer of the police department. The city covenants not to instruct that film production be halted or interrupted unless in its discretion it perceives that the filming shall cause or coincide with interference with traffic movement, disturbance of the peace, destruction of property, violation of the law or a threat to the public peace, health, safety or welfare.

Sec. 7-10. Approval criteria.

The city manager shall approve issuance of a film production permit upon application, unless one of the following circumstances exists:

- (1) The applicant has been convicted of a felony or a misdemeanor involving moral turpitude and has not subsequently demonstrated rehabilitative characteristics.
- (2) The applicant has made a material misrepresentation in the application.
- (3) The proposed film production will substantially disrupt the peace and quiet within any area of the city.
- (4) The proposed film production will have a substantial impact upon traffic within any area of the city.

- (5) The proposed film production in any way damages or degrades the image of the city.
- (6) The film production fails to comply with any of the criteria designated under this article for issuance of the film production permit or rules and regulations governing the production.
- (7) If the application is for renewal of a film production permit, the applicant has violated conditions of the previous permit or ordinances or regulations of the city in the conduct of the film production.

Sec. 7-11. Limitations.

- (a) There shall be no more than four film production permits granted with reference to any single residentially zoned property during a given calendar year.
- (b) There shall be no more than ten film production permits granted with reference to any single non-residentially zoned property during a given calendar year.
- (c) No film production permit shall be issued with reference to a particular location if either the city manager or city commission determines that film production at that location would, in any way, adversely affect the public health, safety or general welfare of the citizenry, community and environment of the city.

Sec. 7-12. Fees; deposit for city personnel and extraordinary service fee.

- (a) Upon issuance of a film production permit, the permittee shall pay to the city the applicable film production permit fees as established by the city.
- (b) At the conclusion of the film production, any additional permit fees required in excess of those paid at the time of issuance of the permit will be paid to the city by the permittee, and any excess permit fees paid by the permittee will be refunded by the city.
- (c) The issuance of a film production permit shall not operate to waive the payment of any prescribed fees for the use of city facilities, and the permittee shall be required to pay the applicable charges and deposits, if any, as established by the city for the use of its city facilities.

- (d) The city shall recover its reasonable expenses for city personnel utilized and extraordinary services rendered in connection with a film production. Such costs shall include but not be limited to charges for personnel and equipment committed in support of the production. Based on the information contained in the permit application and such consultations as may be required between the applicant and the city manager, an estimate of these costs will be provided to the applicant at the time his application for the permit is approved. Prior to issuance of a film production permit, the permittee shall deposit with the city the amount of these estimated costs. At the conclusion of the production, expenses below or in excess of the estimates will be refunded by the city or paid by the permittee, respectively.

Sec. 7-13. Denial; term; revocation or suspension.

- (a) *Denial of permit.* Where the film production permit is denied, the applicant shall be notified in writing by mail or by electronic email with verification of receipt within ten days of the denial and the reasons therefor.
- (b) *Term.* Film production permits issued pursuant to this article shall be effective for the stated purpose from the date of issuance through the date specified in the permit.
- (c) *Revocation or suspension.* A film production permit may be revoked or suspended for any of the following reasons:
 - (1) A material false statement contained in the application;
 - (2) Failure to comply with federal, state or municipal laws and regulations;
 - (3) Failure to comply with any conditions imposed by the city on the issuance of the film production permit;
 - (4) Failure to operate the film production in accordance with such ordinances, laws, orders, rules and regulations as may be applicable; or
 - (5) Conducting the film production business or activity in a fraudulent or disorderly manner or in a manner which endangers the public health, safety, welfare or in any manner which disrupts the public peace.

Sec. 7-14. Notice of hearing and grounds for suspension or revocation.

Prior to suspension or revocation of a film production permit, the permittee shall be notified in writing of the grounds for suspension or revocation of the permit, and a hearing shall be held before the city manager thereon. Notice of the hearing shall be given to the permittee at least ten days prior to the hearing.

Sec. 7-15. Emergency temporary suspension.

If the conduct or activity of the permittee creates an imminent peril to the environment or the public health, safety or welfare, the film production permit may be summarily suspended upon notice to the permittee. The permittee shall be entitled to a hearing within three working days thereafter and any temporary emergency suspension shall not exceed 15 days pending a hearing under section 7-14.

Sec. 7-16. Conduct of hearing on suspension or revocation.

The hearing before the city manager on the suspension or revocation of a film production permit shall be conducted to allow the permittee the right to be heard and to call witnesses on the permittee's behalf.

Sec. 7-17. Decision after hearing on suspension or revocation.

The decision of the city manager shall be rendered within ten days of the close of the hearing on the suspension or revocation of the film production permit. The decision shall be in writing and shall set forth the findings of fact and conclusions of law underlying the decision, and the permittee shall be notified of the decision in writing within ten days of the date of the decision.

Sec. 7-18. Appeal procedure.

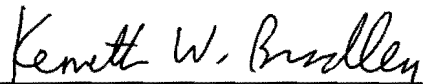
The decision of the city manager upon a denial of a film production permit application or suspension or revocation of a film production permit may be appealed to the city commission by written notice thereof filed with the city manager within 30 days of the date of the written decision of the city manager.

SECTION 2. Conflicts. All ordinances or portions or ordinances in conflict herewith are hereby repealed.

SECTION 3. Codification. Section 1 of this Ordinance shall be codified as provided.


SECTION 4. Effective Date. This Ordinance shall become effective immediately upon its final passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 28th day of October, 2013.



Mayor Kenneth W. Bradley

ATTEST:



City Clerk Cynthia S. Bonham