

ORDINANCE NO. 02-2024 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AMENDING, SUPPLEMENTING, AND REVISING THE CODE OF THE CITY OF BURLINGTON TO CREATE CHAPTER 148 ENTITLED, “FILMS AND MOTION PICTURES”

WHEREAS, the City of Burlington (the “City”) is a Faulkner Act municipality with a Mayor-Council form of government pursuant to N.J.S.A. 40:69A-31, *et seq.*, with its organization, positions, powers and duties outlined within the Code of the City of Burlington as set forth pursuant to the Faulkner Act; and

WHEREAS, the City wishes to become classified as a “film-ready municipality”; and

WHEREAS, the New Jersey Motion Picture and Television Commission requires that to do so, municipalities enact a set of regulations and code of conduct for prospective large and small producers, including penalties for violators, within the City; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Common Council is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the City by law.

NOW, THEREFORE BE IT ORDAINED by the Common Council for the City of Burlington, in the County of Burlington, State of New Jersey that the Code of the City of Burlington is hereby amended, revised and/or supplemented as follows:

SECTION 1: The Code of the City of Burlington is hereby amended, supplemented, and revised to create Chapter 148, entitled “Films and Motion Pictures,” as follows:

§ 148-1 **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 education 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 City.

Major Motion Picture

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

- A. Universal Pictures.

- B. Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and BelAire.
- C. Paramount, including MTV Films and Nickelodeon Movie.
- D. 20th Century Fox, including Fox Searchlight.
- E. Sony/Columbia.
- F. Disney/Miramax.
- G. MGM/United Artists.
- H. Dreamworks.
- I. Any major streaming service, such as Netflix, Hulu, or Amazon Prime Video.
- J. Any film for which the budget is at least \$5,000,000.
- K. 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.

§ 148-2 New Jersey Motion Picture and Television Commission Liaison.

The Burlington City Director of Public Affairs and Use of Facilities Coordinator shall be designated as the New Jersey Motion Picture and Television Commission Liaison and shall be referred to in this Chapter as the “Director of Public Affairs”.

§ 148-3 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 Director of Public Affairs, 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 City officials at all times at the site of the filming.
- B. All permits shall be applied for and obtained from the office of the Director of Public Affairs during normal business hours. Applications for such permits shall be in a form approved by the Director of Public Affairs and be accompanied by a permit fee in the amount established by this chapter in § 10 herein.

- 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 Director of Public Affairs 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.

§ 148-4 **Issuance of permits.**

- A. No permits will be issued by the Director of Public Affairs unless applied for prior to three days before the requested shooting date; provided, however, that the City Business Administrator may waive the three-day period if, in his or her 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:
 - i. For bodily injury to any one person in the amount of \$500,000 and any occurrence in the aggregate amount of \$1,000,000.
 - ii. For property damage for each occurrence in the aggregate amount of \$300,000.
 - 2. 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.
 - 3. The hiring of an off-duty police officer for the times indicated on the permit.
- C. 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.

§ 148-5 **Interference with public activity; notice of filming.**

- A. 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.
- B. 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 Director of Public Affairs, 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 Director of Public Affairs within two days of the requested shooting date.

§ 148-6 **Refusal to issue permit; employment of patrolmen and electrician.**

- A. The City Business 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 City 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 City 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.

§ 148-7 **Appeals.**

- A. Any person aggrieved by a decision of the City Business Administrator denying or revoking a permit or a person requesting relief may appeal to the City Common Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Business Administrator.
- B. An appeal from the decision of the Business Administrator shall be filed within 10 days of the Administrator's decision. The City Common Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The decision of the City Common Council shall be in the form of a resolution supporting the decision of the City Business Administrator at the first regularly scheduled public meeting of the City Common Council after the hearing on the appeal, unless the appellant agrees in writing to a later date for the decision. If such a resolution is not adopted within the time required, the decision of the Administrator shall be deemed to be reversed, and a permit shall be issued in conformity with the application or the relief shall be deemed denied.

§ 148-8 **Waiver of requirements of chapter by Business Administrator.**

The City Business 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:

- A. Potential traffic congestion at the location.
- B. The applicant's ability to remove the applicant's vehicles and equipment from the public streets or other public property.

- C. The extent to which the applicant is requesting restrictions on the use of public streets or public parking facilities during filming.
- D. The nature of the filming, including whether filming will take place indoors or outdoors, and the proposed hours for filming.
- E. The extent to which the filming may affect adjoining and nearby property owners and occupants.
- F. The City's prior experience with the applicant, if any.

§ 148-9 Copies of permit; inspections.

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 City inspectors to inspect the site and the equipment to be used, if deemed necessary. The applicant shall comply with all safety instruction issued by the Fire Prevention Bureau or other City inspectors.

§ 148-10 Reimbursement of certain costs.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the City for any lost revenue, such as parking meter revenue, repairs to public property or other revenues that the City was prevented from earning because of filming.

§ 148-11 Fees.

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

- A. Basic filming permit: \$100. Where an applicant requests a waiver of the provision of § 3A 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 \$150.
- B. Daily filming fee payable in addition to the basic filming permit when filming entirely on public property: \$200 per day.
- C. Daily filming fee payable for major motion picture when filming entirely on public property: \$1,000 per day.
- D. Filming permit for nonprofit applicants filming for educational purposes, including student films (no daily rate required): \$25.
- E. Filming on private property: no daily filming fee will be imposed.

§ 148-12 Violations and penalties.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000, imprisonment in the county/municipal jail for a term not exceeding

90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

SECTION 2: Except as set forth in Section 1, the balance of the Code of the City of Burlington shall not be affected by this Ordinance.

SECTION 3: All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent they are inconsistent herewith.

SECTION 4: If the provisions of any section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph or subdivision, or clause of this Ordinance.

SECTION 5: This Ordinance shall take effect twenty (20) days after final passage by Council and signature by the Mayor.

Passed Common Council,

George Chachis, President
Common Council

Approved,

Barry W. Conaway, Mayor

ATTEST:

Cindy A. Crivaro, RMC
Municipal Clerk

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