

ORDINANCE #2023/18

AN ORDINANCE TO AMEND AND SUPPLEMENT TITLE 5 “BUSINESS LICENSES AND REGULATIONS” OF THE CODE OF THE BOROUGH OF FREEHOLD

WHEREAS, the Borough of Freehold is a desirable location for the filming of motion pictures and television programs; and

WHEREAS, such filming has the potential to disrupt the peace and tranquility of the residents of Freehold; and

WHEREAS, it is the desire of the Mayor and Council to minimize such disruptions by regulating such activities; now therefore

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Freehold, County of Monmouth, State of New Jersey, as follows:

Section 1

Title 5 Business Licenses and Regulations” of the Code of the Borough of Freehold shall be amended as follows; additions to the current ordinance are noted in underline.

5.96 Filming

5.96.010 Definitions. As used in this section, these terms shall have the meanings indicated:

“Commercial still photography” shall mean the taking of single or multiple photographs for sale or commercial use where the photographer sets up stationary equipment on Public Lands for longer than 30 minutes.

“Family Videos and Photography” shall mean the filming or videotaping of motion pictures, or still photography, intended solely for private use.

“Filming” shall mean all activity attendant to staging or shooting motion pictures, television shows or programs, commercial still photography, videotapes, computer-based programs or other visual reproduction technology now known or hereafter created. The period of filming includes the set-up, strike, time of photography and removal of all equipment. This term shall not include Family Videos and Photography and News Media.

“News Media” shall mean the photographing, filming, and/or videotaping stories by recognized news gathering programs and organizations.

“Private Property” shall mean any and all property that is not a public street, highway, sidewalk, square, public park or playground or any other public place within the Borough of Freehold, but rather is owned by or assessed to a private person or entity.

“Public Lands” shall mean any and every public street, highway, sidewalk, square, public park or playground or any other public place within the Borough which is within the jurisdiction and control of the Borough of Freehold.

5.96.020 Permit required.

A. Except for filming exempted by Subsection B of this section, no person or organization shall film or permit filming within the Borough of Freehold on any public or private property, public right-of-way, facility, and/or residence without first applying for and receiving a permit from the Borough, 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.

B. No permit is required if the following is met:

1. There will be 3 or fewer people on the set;
2. Less than two cameras will be used;
3. No parking is requested;
4. No audio or light stands are being used;
5. No exclusive access is requested; and
6. There will be no interference with the free passage of pedestrians and traffic over public lands.

C. Permit must be readily available for inspection by Borough officials at all times at the site of the filming, and a copy shall be transmitted to the Police and Fire Departments by the Borough Clerk. A copy of the permit shall be available to the public in the office of the Borough Clerk during regular business hours.

D. If a permit is issued and due to inclement weather or other good cause filming does not take place on the dates specified, the Borough Administrator may, at the request of the applicant, issue a new permit for filming on the dates subject to full compliance with all other provisions of this chapter. No additional fee shall be paid for this permit.

E. Filming permits shall be valid from 7:00 a.m. until 10:00 p.m. on any day in which filming is authorized under the permit. Exemptions to film at other times shall be granted only upon a showing that night filming will not significantly disrupt the peace and quiet of residents in the vicinity of the filming.

5.96.030 Standards and procedures for granting permits.

A. All permits shall be applied for and obtained from the Borough Administrator during normal business hours. Applications for such permits shall be in a form approved by the Borough Clerk and be accompanied by the applicable permit fee in the amount established in this Ordinance. All applications must contain at least the following information:

1. The name, address and telephone number of the applicant;
2. The location of the property where filming, etc., is to take place;
3. Whether the applicant is the owner or tenant in possession of the property;
4. The name and address of the owner of the property, if the applicant is not the owner;
5. The consent of the owner, if other than the applicant;
6. The name, address and telephone number of the person or entity the applicant wishes to allow to film, etc.;
7. The date the filming is to take place and the hours of filming;
8. The dates within the previous 12 months that any filming was conducted at this location;
9. A signed statement that the applicant affirms, under penalty of perjury, that all statements contained in the application are true;
10. A statement clarifying whether stunts, firearms, pyrotechnics, open flames, vehicle crashes, or other hazardous materials are to be used;
11. A statement ascertaining whether any actors or crew members will wear costumes that resemble the uniforms of any public personnel, including police and fire personnel;
12. The Borough shall receive credit on the project and shall read "Thank you to the Mayor, Borough Council and residents of the Borough of Freehold, New Jersey."

B. No permits shall be issued by the Borough Administrator unless applied for prior to two days before the requested shooting date.

C. The Borough Administrator shall issue a permit under this chapter upon a determination following due investigation and consultation with such appropriate Borough departments as are directly impacted by the application and are necessary from the nature of the application for review, that the applicant has complied with all other requirements contained in this chapter and the following criteria have been met:

1. The proposed use will not unreasonably interfere with traffic or pedestrian movement, or unreasonably interfere with or endanger the public peace or rights of nearby residents to the quiet, peaceable enjoyment of property, or otherwise be detrimental to the public peace, health, safety or general welfare. The applicant shall be required to provide a written plan for review and approval by the Chief of Police or his designee.

2. The proposed use will not unduly impede, obstruct or interfere with the operation of emergency vehicles or equipment in or through the permit area, or adversely affect the Borough's ability to perform municipal functions or finish Borough services in the vicinity of the permit area; and

3. The proposed use will not constitute a fire or safety hazard and all proper safety precautions will be taken as are reasonably necessary to protect the public peace, health, safety or general welfare.

D. If the applicant's production activity, by reason of location or otherwise, is likely to have a direct negative pecuniary effect on a business or merchant either by substantially limiting vehicular or pedestrian access to the business premises or if the production activity will directly and substantially interfere with a resident's use and quiet enjoyment of his or her property, such affected parties shall be given written notice of the proposed filming by the applicant contemporaneously with or prior to applying for a permit. This notice shall state that objections may be filed with the Borough Clerk prior to a decision on the application and be considered during a review of the same. Applicants must demonstrate proof of service of notification to affected parties in conjunction with submission of an application. Failure to notify such parties is grounds for denial of a permit.

E. The Borough Administrator shall act upon the application in a timely fashion and shall approve or disapprove the application in a period of not greater than seven business days following the filing of the application. The applicant shall be immediately notified of the action of approval, denial or revocation of the permit application or permit issued under this chapter. Notification may be by any means reasonably calculated to inform the applicant of the results of the determination.

F. The Borough Administrator may immediately revoke a permit that has been granted, if the conditions of the chapter and all applicable laws are no longer being met, or if the information supplied by the applicant becomes false and incomplete, or if any substantial change in circumstances results in the proposed use becoming detrimental to the public peace, health, safety or welfare. The Borough Administrator shall also have the right to revoke a permit if filming becomes detrimental to the public peace, health, safety or welfare.

G. If a permit is denied or revoked by the Borough Administrator, the notice of denial or revocation shall state the reasons for such action and the appropriate remedy or cure, if applicable. If a permit is denied or revoked by the Borough Administrator, the applicant has the right to appeal to the Mayor and Council of the Borough of Freehold within 15 days of the date of the denial or revocation. Any appeal shall be submitted to the Borough Clerk and heard by the Mayor and Council of the Borough of Freehold within 45 days of the date of submission.

5.96.040 Insurance, indemnification and performance bond.

A. No permit shall be issued for filming upon public lands unless the applicant shall procure and maintain in full force and effect during the term of the permit a policy of insurance from an insurance company duly licensed to transact business under the insurance laws of New Jersey, which policy names the Borough of Freehold, its officers, employees and agents as insureds

or additional insureds under the policy. Sufficient proof of insurance shall be filed with the Borough Administrator prior to the issuance of any filming permit.

1. Insurance shall be maintained in the following minimum amounts:
 - a. For bodily injury to any one person in the amount of at least \$500,000 and any occurrence in the aggregate amount of \$1,000,000.
 - b. For property damage, each occurrence in the aggregate amount of at least \$500,000.

2. Additionally, workers' compensation insurance must be maintained in an amount at least equal to the statutory limits required by the State of New Jersey. The Borough Administrator or his/her designee may waive the requirement of insurance if the Borough Administrator determines that the intended use does not present any significant exposure to liability for the Borough, its officers, employees or agents or to public property damage.

B. The applicant shall execute, in writing, an indemnification agreement substantially as follows:

“The applicant and any other persons, organizations, firms or corporations on whose behalf the application is made, represent, stipulate, contract and agree that they do jointly and severally defend, indemnify and hold harmless the Borough of Freehold against liability for any and all claims for damage to property or injury to or death of persons including reasonable attorney fees and costs arising out of or resulting from the use of public lands and private property for the purpose of filming, including but not limited to the Borough's issuance of a permit to film pursuant to this Ordinance.”

C. The applicant shall post a security deposit in the form of cash or certified check or a maintenance bond running in favor of the Borough of Freehold in the amount of \$1,000. This deposit is to protect and ensure that the location utilized will be left after filming in an undamaged and satisfactory condition, free of debris, rubbish and equipment and that due observance of all Borough ordinances, laws and regulations will be followed. Within five business days of the completion of the filming, the Borough will return the deposit if there has been no damage to public property or public expense caused by the filming. If the Borough Administrator determines that such damage or public expense has been incurred, such funds as are necessary to make the Borough whole shall be deducted from the deposit; provided, however, that the applicant may appeal such determination to the Mayor and Council of the Borough of Freehold. Such appeal shall be heard within 45 days.

5.96.50 Standards for filming.

A. As a condition of any permit granted under this chapter, the applicant agrees to comply with all federal, state and local laws and regulations at all times, including but not limited to laws regarding public nudity, lewdness and public decency. Noise shall be limited in order to comply with Chapter 8.36 of the Code of the Borough of Freehold.

B. Sufficient qualified security personnel shall be present whenever filming is to be conducted on public lands. Further, the Borough reserves the right, as a condition of granting any permit under this chapter, to require one or more on-site patrolmen in situations where the proposed production will use live animals, firearms, explosives, pyrotechnics, police uniforms, police vehicles, or driving shots with tow or camera rigs or if the production may impede the proper flow of traffic. The cost to provide such patrolmen shall be borne by the applicant as a cost of production.

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 Freehold Borough Police Department with respect thereto. An emergency lane must be kept open and available to police, fire and other emergency vehicles at all times, and there must be sufficient space available for public access at all times. The applicant shall work with the Police Department and Borough Administrator to prepare a written plan for providing emergency right-of-way for all vehicles.

D. 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 not park vehicles associated with such filming on 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.

E. The applicant shall permit the Freehold Borough Fire Department or other Borough officials to inspect the site and the equipment to be used at any time. The applicant shall comply with all safety instructions issued by the Fire Department or other Borough officials.

F. The applicant shall maintain a qualified, licensed electrician on site if existing electrical lines are to be utilized by the production, unless it is determined by the Borough Administrator that due to the nature of the production it is not necessary to do so in order to protect the general public.

G. In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue that the Borough was prevented from earning because of filming, such as parking meter revenue, or additional expenses incurred as a direct result of filming beyond the amount submitted as a security deposit. The applicant shall be informed of the estimated amount required to be paid under the terms of this provision at the time the permit is issued by the Borough Administrator. Upon completion of filming a final amount shall be determined by the Borough, which shall promptly inform the applicant of the amount due. This amount shall be paid within five business days.

H. The applicant must provide sufficient pedestrian access. Local residents, business people and their customers must have access to and from their residences or businesses. If access is denied it will be considered a violation of this chapter.

I. The applicant must keep the location swept and free of debris at all times. All catering, craft service, construction debris and personal trash must be removed from the location

each day at wrap and disposed of by private garbage disposal. The applicant may not use Borough trash cans for production trash.

J. Production crew members are not permitted to block driveways without the express permission of the owner or lessee.

K. All signs erected by the applicant must be removed at the completion of filming.

5.96.060 Fees.

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

A. Basic filming permit: \$ 25.00.

B. Additional daily filming charge for use of public buildings, public parks or other public facilities:

1. For filming of less than eight hours of use: \$750 per day.

2. For filming of eight or more hours of use: \$1,000 per day.

5.96.070 Violations and penalties.

Any person violating this chapter, upon conviction thereof, shall be punished by a fine not exceeding \$1,250 per offense or by imprisonment in the county jail for a term not exceeding 90 days. A separate offense shall be deemed committed on; each day during or on which a violation occurs or continues.

5.96.080 Applicability of other ordinances and regulations.

A. Nothing in this chapter shall be construed to impair or limit in any way any other power of the Borough of Freehold to define and declare nuisances and to cause their removal or abatement.

B. Nothing in this chapter shall be construed to abrogate or impair the power of the Borough of Freehold or any officer or department to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred upon the Borough by any other law or ordinance.

Section 2

If any part of this Ordinance shall be deemed invalid such part shall be deemed severable and the invalidity thereof shall not affect the remaining part of this Ordinance.

Section 3

Any Ordinance or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed and superseded.

Section 4

This Ordinance shall take effect upon final passage and publication in accordance with Law.

Introduced: May 1, 2023

Public Hearing/Adoption: May 15, 2023