

ORDINANCE NO. 559

**AN ORDINANCE REGULATING FILMING
IN THE BOROUGH OF MANTOLOKING,
OCEAN COUNTY, NEW JERSEY**

§ ____-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, videotape or similar recording medium, for commercial or educational purposes intended for viewing on television, in theaters or for institutional uses or advertising purposes. Filming includes all rehearsals, preparations, assembly and dismantling of all equipment and structures, including but not limited to scaffolding, lights, backdrops, tools and food, and the loading and unloading of vehicles containing the equipment, structures and food.

NEWS STORIES – The reporting or summarizing of information concerning something that has either recently taken place or of current events of general interest and includes such features commonly known as newscasts, news bulletins and news anthology programs.

NONPROFIT APPLICANT – Any charitable, religious or other organization qualifying pursuant to Sec. 501(c)(3) of the Internal Revenue Code or its successor.

PUBLIC LANDS -- Any and every public street, highway, sidewalk, square, public park, beach or playground or any other public place within the Borough which is within the jurisdiction and control of the Borough of Mantoloking.

§ ____-2. Permit required.

- A.** No person or organization shall film or permit filming on public or private land within the Borough of Mantoloking without first having obtained a permit from the office of the Borough Clerk, 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. No permit shall authorize filming for more than three (3) consecutive days in any one location and in no event shall filming at one (1) location within the Borough exceed a total of six (6) days in any one (1) calendar year, regardless of the number of permits utilized in reaching this six (6) day maximum. Said permit must be readily available for inspection by Borough

officials at all times at the site of the filming. A separate permit and applicable fees are required for each location.

- B. All permits shall be applied for and obtained from the Office of the Borough Clerk during normal business hours. Applications for such permits shall be in a form approved by the Borough Clerk and be accompanied by a permit fee and all other pertinent fees in the amounts established by this chapter in § ____-12 herein.
- C. A permit shall be sufficient to authorize outdoor or indoor filming within the defined period of time only. 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.

§ ____-3. Issuance of permits.

- A. No permits will be issued by the Borough Clerk unless applied for not less than fourteen (14) days before the requested shooting date; provided, however, that the Borough Clerk may waive the ten (10) day period if, in his judgment, the applicant has complied with all the requirements of this ordinance.
- B. No permit shall be issued for filming upon public lands unless the applicant shall provide the Borough Clerk 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 \$1,000,000.00 and any occurrence in the aggregate amount of \$2,000,000.00.
 - (b) For property damage of not less than \$500,00.00 per incident and in the aggregate amount of \$1,000,000.00.
 - (2) An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the Borough of Mantoloking from any and all liability, expense, claim or damages resulting from the use of public lands.
 - (3) Agrees in writing to reimburse the Borough of Mantoloking for any lost revenue, such as parking meter revenue, repairs to public property and other revenue the Borough was prevented from earning because of the filming.

- (4) The posting of cash of \$500.00 or a maintenance bond of \$1,000.00 in favor of the Borough for protecting and insuring that the location utilized will be left after filming in a satisfactory condition (free of debris, rubbish and equipment) and that all Borough ordinances, laws and regulations will be followed. Within seven (7) days of the completion of the filming, the Borough will return the bond if there has been no damage to public property or public expense caused by the filming.
- (5) Proof of the hiring by the applicant of a Mantoloking police officer for the times indicated on the permit if required by the Borough Clerk upon recommendation from the Police Chief.
- (6) Written consent of all title owners and occupants (if different than title owners) of any private property upon which filming is proposed.
- (7) Agrees in writing to comply with all lawful directives issued by the Borough of Mantoloking Police Department, Fire Department, or Code Enforcement Department and to reimburse the Borough for any police, fire or other Borough personnel.
- (8) Provide notice to property owners of properties located, and occupants residing (if different than the property owners), within 200 feet of the property lines of the premises for which a permit is requested as measured along public streets. Such notice shall be in writing and shall advise the property owners and occupants of the date or dates upon which filming is proposed to take place and the location of the premises where the filming is to take place. Such notice shall either be personally served or serviced via Certified Mail Return Receipt Requested upon the property owners and occupants entitled to receive notice at least seven (7) days prior to the commencement of filming. Service by Certified Mail Return Receipt Requested shall be deemed complete upon the receipt of such mail by the property owners and occupants. Upon written request by the applicant the Borough shall, within 72 hours, make and certify a list from the current tax duplicates of the addresses of the property located within the Borough of Mantoloking within 200 feet of the property lines of the premises for which a permit is requested together with the names and addresses of the record owners thereof. Notice to owners and occupants of properties in adjoining municipalities shall

be given by personal service or by Certified Mail Return Receipt Requested to the Clerk of such adjoining municipality. Prior to commencing filming the applicant shall file with the Borough Clerk an affidavit of proof of service in accordance herewith or the Borough clerk shall be authorized to revoke the permit until compliance is made.

- 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 Mantoloking Police Department with respect thereto.

§ ____-4. 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.
- C. The holder of a permit shall take all reasonable steps to minimize the creation and spread of debris and rubbish during filming and shall be responsible for removing all equipment, debris and other rubbish from the filming location upon the completion of filming or the expiration of the permit, whichever comes first.
- D. The holder of a permit shall not conduct filming in such a manner as to preclude or impede access to adjoining properties from a public street or to encroach upon adjoining property without the express written consent from the owner and occupant (if different than the owner) thereof.
- E. The holder of a permit shall not permit any lights used in connection with the filming to shine directly into any windows upon any other property nor permit any noise, in excess of the limitation specified in the Borough's noise ordinance, to extend across property lines. In the event of a violation hereof the Borough may abate the violation and charge the cost thereof and penalty therefore to the applicant who shall reimburse the Borough for same.

§ ____-5. Filming in residential zones; parking.

Filming in residential zones shall be permitted Monday through Friday between the hours of 8:00 a.m. and 7.00 p.m. or sundown, whichever is earlier, except as set forth in § ____-8. The setup, production and breakdown required for all filming shall be included in the hours as set forth herein. Automobiles, trucks and all other vehicles

owned, leased or used by the applicant for filming in either public or private property in the Borough of Mantoloking shall be parked, if at all possible, off the public streets, and in any event shall not be parked on more than one side of the street as directed by the Police Chief or his designee and shall be parked in such a manner as to permit the unimpeded flow of public traffic. Vehicles parked in violation hereof may be towed by the Borough of Mantoloking and the cost thereof shall be reimbursed to the Borough by the applicant.

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

- A. The Borough Clerk 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 Borough 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 public's use of public lands, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare.
- B. Further, the Borough reserves the right to require one or more on-site police officers in situations where the proposed production may impede the proper flow of traffic, the cost of said police officers 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.

§ ____-7. Appeals.

- A. Any person aggrieved by a decision of the Borough Clerk denying or revoking a permit or a person requesting relief pursuant to § ____-8 may appeal to the Borough Council. 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 ten (10) days of the Clerk's decision. The Borough 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 Borough Council shall be in the form of a Resolution supporting the decision of the Borough Clerk at the first regularly scheduled public meeting of the Borough 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 Borough Clerk shall be deemed to be reversed, and a permit shall be issued in conformity with the application or the relief pursuant to § ____-8 shall be deemed denied.

§ ____-8. Waiver of requirements of chapter by Borough Clerk.

The Borough Clerk may authorize filming other than during the hours herein described. In determining whether to allow an extension of hours under this section, the Clerk shall consider the following factors:

- A. Traffic congestion at the location caused by vehicles to be parked on the public street.
- B. Applicant's ability to remove film-related vehicles off the public streets.
- C. When the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming.
- D. Nature of the film shoot itself; e.g. indoor or outdoors; day or night; on public or private lands.
- E. Prior experience of the film company/applicant with the Borough, if any.
- F. Whether a permit may be issued without endangering the public's health, safety and welfare.

§ ____-9. Copies of permit; inspections.

Copies of the approved permit will be sent to the Borough of Mantoloking Police and Fire Departments before filming takes place. The applicant shall notify the Borough of Mantoloking Fire Chief and Police Chief no later than 72 hours before filming takes place and shall permit the Fire and/or Police Chiefs or their designees to inspect the site and the equipment to be used and to take such other measures as may be necessary to protect the public health, safety or welfare. The applicant, and all its employees, subcontractors, agents, etc. shall comply with all fire safety instructions by the Fire Chief or his designee. The applicant, and all its employees, subcontractors, agents, etc. shall comply with all safety instructions by the Police Chief or his designee.

§ ____-10. Reimbursement of certain costs.

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

§ ____-11. Fees.

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

- A. Basic filming permit: \$100.00.

- B. Where an applicant requests a waiver of the provision of § ____-3A requiring expedited processing of the permit application, the basic filming permit fee shall be \$150.00.
- C. A permit fee of \$750.00 for filming on public land within the Borough of Mantoloking.
- D. Daily filming fee for each day of filming pursuant to any permit issued: \$750.00 per day (which shall be waived for nonprofit applicants filming for educational purposes).
- E. Filming permit for nonprofit applicants filming for educational purposes (no daily filming fee required): \$25.00.

§ ____-12. Violations and penalties. [REVISE]

Where the owner of the premises is not the applicant for a 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 \$2,500.00 per day or by imprisonment in the county jail for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ ____-13. Exemptions.

The provisions of this chapter regarding requirement for and issuance of a permit shall not apply to the filming or reporting of news stories within the Borough of Mantoloking however such filming shall nevertheless comply with the following restrictions:

- A. Filming in residential zones shall be permitted Monday through Friday between the hours of 8:00 a.m. and 7.00 p.m. or sundown, whichever is earlier.
- B. Such filming shall be conducted in such a manner as to minimize the inconvenience or discomfort to adjoining property owners or the interference with previously scheduled activities or the normal public activities upon public lands.
- C. Such filming shall be conducted so as to minimize the creation and spread of debris and rubbish during filming and, upon the completion of the filming, those conducting the filming shall remove all equipment, debris and other rubbish from the filming location.
- D. To the extent practical, advance notification of such filming shall be furnished to the Borough Clerk.

E. Such filming shall be conducted in such a manner as not to preclude access to adjoining properties from the public street or to encroach upon adjoining property without the express written consent from the owner and occupant thereof.

F. Such filming shall comply with all lawful directives issued by the Borough of Mantoloking Police, Fire or Code Enforcement officers and officials.

G. Automobiles, trucks and all other vehicles owned, leased or used by the applicant for filming in either public or private property in the Borough of Mantoloking shall not be parked on more than one side of the street as directed by the Police Chief or his designee and shall be parked in such a manner as to permit the unimpeded flow of public traffic. Vehicles parked in violation hereof may be towed by the Borough of Mantoloking and the cost thereof shall be reimbursed to the Borough by the applicant.

H. Lights used in connection with the filming shall not shine directly into any windows upon any other property nor shall any noise, in excess of the limitation specified in the Borough's noise ordinance, extend across property lines.

§ ____-14. Repeal.

All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

§ ____-15. Severability.

If any sentence, section, clause or other portion of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such Judgment shall not affect, impair or repeal the remainder of this ordinance.

§ ____-16. Effective date.

This ordinance shall take effect immediately upon passage and publication.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed upon first reading at a regular meeting of the Mayor and Council for the Borough of Mantoloking, in the County of Ocean and State of New Jersey, held on September 15, 2008, and said Ordinance will be considered for final passage at the Borough Hall, Downer Avenue, Mantoloking, New Jersey, at 4:30 p.m. on Monday, October 20, 2008, or as soon thereafter as said matter may be reached, at which time and place all persons interested will be given an opportunity to be heard.

Irene H. Ryan, R.M.C.

