

Chapter 135

FILMING

GENERAL REFERENCES

Fire prevention — See Ch. 139.

Peace and good order — See Ch. 207.

Garbage, rubbish and refuse — See Ch. 157.

Public health nuisance code — See Ch. 223.

Noise — See Ch. 193.

Vehicles and traffic — See Ch. 295.

§ 135-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FILMING — 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 and time of photography. However, the provisions of this chapter shall not be deemed to include the filming of news stories by recognized news gathering programs and organizations.

FILM PERMIT COORDINATOR — The Director of Community Development shall be designated the film permit coordinator and shall approve or deny permits for filming on public lands within the City of Passaic.

PRIVATE PROPERTY — Any and all property that is not a public street, highway, sidewalk, square, public park or playground or any other public place within the City of Passaic, but rather is owned by or assessed to a private person or entity.

PUBLIC LANDS — Any and every public street, highway, sidewalk, square, public park or playground or any other public place within the City which is within the jurisdiction and control of the City of Passaic.

§ 135-2. Permit required.

- A. Except for filming exempted by Subsection B of this section, no person or organization shall film or permit filming on public lands within the City of Passaic without first having made an application for a permit from the Film Permit Coordinator, 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. Incidental use of public land that is of minimal impact and does not result in a closing of same to public use shall not be considered filming on public land requiring a permit.
- C. No permit shall authorize filming for more than seven consecutive days in any one location. If filming exceeds seven days, an application for an extension of the permit must be made to the Film Permit Coordinator. Said permit must be readily available for inspection by City officials at all times at the site of the filming, and a copy shall be transmitted to the Police and Fire Departments by the Film Permit Coordinator. A copy of the permit shall be available to the public in the office of the City 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 Film Permit Coordinator 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.

§ 135-3. Standards and procedures for granting permit.

- A. All permits shall be applied for and obtained from the Film Permit Coordinator during normal business hours. Applications for such permits shall be in a form approved by the City council and be accompanied by the applicable permit fee in the amount established in § 135-6 of this chapter.
- B. No permits shall be issued by the Film Permit Coordinator unless applied for prior to two days before the requested shooting date.
- C. The Film Permit Coordinator shall issue a permit under this chapter upon a determination following due investigation and consultation with such appropriate City 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;
 - (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 City's ability to perform municipal functions or finish City 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 City 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 Film Permit Coordinator 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 Film Permit Coordinator 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 Mayor 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 Film Permit Coordinator, the notice of the 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 Film Permit Coordinator, the applicant has the right to appeal to the City Council within 15 days of the date of the denial. Any appeal shall be submitted to the City Clerk and heard by the Council within 30 days of the date of submission.

§ 135-4. 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 City of Passaic, its officers, employees and agents as insureds or additional insureds under the policy. Sufficient proof of insurance shall be filed with the Film Permit Coordinator 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 Film Permit Coordinator or his/her designee may waive the requirement of insurance if the Film Permit Coordinator determines that the intended use does not present any significant exposure to liability for the City, 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 City of Passaic against liability for any and all claims for damage to property or injury to or death of persons 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 City's issuance of a permit to film pursuant to Chapter 135 of the Code of the City of Passaic.

- 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 City of Passaic 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 City ordinances, laws and regulations will be followed. Within five business days of the completion of the filming, the City will return the deposit if there has been no damage to public property or public expense caused by the filming. If the Film Permit Coordinator determines that such damage or public expense has been incurred, such funds as are necessary to make the City whole shall be deducted from the deposit; provided, however, that the applicant may appeal such determination to the City Council. Such appeal shall be heard within 30 days.

§ 135-5. 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 193 of the Code of the City of Passaic.
- B. Sufficient qualified security personnel shall be present whenever filming is to be conducted on public lands. Further, the City 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 Passaic 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 Film Permit Coordinator 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 Passaic Fire Department or other City 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 City 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 Film Permit Coordinator 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 City for any lost revenue that the City 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 Film Permit Coordinator. Upon completion of filming a final amount shall be determined by the City, 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 City 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.

§ 135-6. Fees.

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

- A. Basic filming permit: \$50.
- B. Additional daily filming charge for use of public buildings, public parks or other public facilities:
 - (1) For filming of eight or more hours of use: \$1,000 per day.
 - (2) For filming of less than eight hours of use: \$500 per day.
- C. There shall be no charge for filming by a nonprofit organization, which qualifies under Section 501(c)(3)¹ as a charitable organization or is an accredited educational institution, and for which no person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes or photos.
- D. There shall be no charge for filming exclusively on private property.

1. Editor's Note: Section 501(c)(3) refers to Section 501(c)(3) of the Internal Revenue Code.

§ 135-7. 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.

§ 135-8. 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 City of Passaic 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 City of Passaic 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 City by any other law or ordinance.