

**BOROUGH OF EMERSON  
COUNTY OF BERGEN**

**NOTICE OF ADOPTION**

**ORDINANCE #1528-16**

**Introduced: June 28, 2016**

**Adopted: July 12, 2016**

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 12th day of July, 2016. A copy of Ordinance 1528-16 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

**AN ORDINANCE CREATING AND ESTABLISHING A NEW CHAPTER XX OF THE CODE  
OF THE BOROUGH OF EMERSON ENTITLED, "MOTION PICTURE FILMING"**

**BE IT ORDAINED**, by the Mayor and Council of the Borough of Emerson, County of Bergen and State of New Jersey, that the following Chapter entitled "Motion Picture Filming" be and is hereby created and established as follows:

**§ -1. Establishment.**

- A. The Borough of Emerson recognizes that commercial filming is an important industry in the Borough and requires various regulations to preserve the general health, safety and welfare of Borough inhabitants; in addition, the imposition of various fees is required to offset administrative costs incurred in processing permit applications and conducting the requisite inspections.
- B. The Borough of Emerson hereby enacts Chapter \_\_\_\_ of the Code of the Borough of Emerson to establish fees and regulations governing commercial filming.

**§ -2. Definitions.**

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

**CHARITABLE FILMS**

Commercials, motion pictures, television, videotapes, or still photography produced by a nonprofit organization which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization. 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.

**MOTION PICTURE; TELEVISION; STILL PHOTOGRAPHY**

Means and includes all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercials in any medium, including film, tape or digital format.

**NEWS MEDIA**

The photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast, or reporting for print media by reporters, photographers or cameramen.

## **PUBLIC LANDS**

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 Emerson.

## **REGULATED FILMING**

The taking of still or motion pictures, whether on film, videotape or similar recording medium, for commercial or educational purposes intended for viewing on television, in theaters, on the internet or for institutional uses; provided, however, that the provisions of this chapter shall not be deemed to include news media or persons engaged in regulated filming which is limited to hand-held cameras with no set, direction, support staff or accessory equipment.

## **STUDIO**

A fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

### § 157-3. Permit requirements; exemptions.

#### A. Permit required.

- (1) No person or organization shall undertake or permit regulated filming on public lands within the Borough of Emerson without first having obtained a permit from the office of the Borough Clerk, which permit shall set forth, among other appropriate conditions, 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 Borough officials at all times at the site of the filming.
- (2) 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 shall be accompanied by a permit fee in the amount established by this chapter in § \_\_-6 herein.
- (3) 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 or amended 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.

#### B. Exemptions.

- (1) News media. The provisions of this chapter shall not apply to or affect reporters, photographers or cameramen in the employ of a newspaper, news service, or similar entity engaged in on-the-spot print media, publishing or broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest.
- (2) Family video: the filming or videotaping of motion pictures solely for private family use.
- (3) Studio filming: filming activities (motion or still photography) conducted at a studio.

#### C. Requires a permit and reduced fee.

- (1) Charitable films: projects that qualify under Section 501(c)(3) of the Internal Revenue Code.
- (2) Student-produced films. Films must have been made in the school year and must have been produced for course credit or under the supervision of a faculty member. Applicant must be enrolled in or be a recent (one year) graduate from an accredited postsecondary four-year institution or other selected university which offers a degree in film or television. Eligible films are those in which every major crew position was held by a student.

§ -4. Liability provisions.

A. Liability insurance. Before a permit is issued, a certificate of insurance will be, for bodily injury to any one person, in the amount of \$1,000,000 and, for any occurrence, in the aggregate amount of \$3,000,000, as well as, for property damage, for each occurrence, in the aggregate amount of \$500,000. The Borough officers and employees shall be named as additional insured. The certificate shall not be subject to cancellation or modification until after 30 days' written notice to the Borough. A copy of the certificate will remain on file.

B. Workers' compensation insurance. An applicant shall conform to all applicable federal and state requirements for workers' compensation insurance for all persons operating under a permit.

C. Hold harmless agreement. Prior to the issuance of a permit under this chapter, the applicant shall execute a written hold harmless agreement, whereby the applicant agrees to indemnify and save harmless the Borough of Emerson from any and all liability, expense, claims or damages resulting from the use of public lands.

D. Security deposit. To ensure cleanup and restoration of the site, an applicant may be required to submit a refundable security deposit in the form of a cash bond as follows: the posting of a cash bond of \$500 or a maintenance bond of \$1,000 running in favor of the Borough and protecting and ensuring that the location utilized will be left, after filming, in a satisfactory condition, free of debris, rubbish and equipment, and that due observance of all Borough ordinances, laws, and regulations will be followed. Within 30 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.

E. Child labor laws. An applicant shall conform to all applicable child labor laws, including but not limited to N.J.S.A. 34:2-21.57 to 34:2-21.64 and N.J.A.C. 12:58-4.14.

§ -5. Rules and regulations governing issuance of permits.

The applicant must comply with the following:

A. No permits will be issued by the Borough Clerk unless applied for prior to five (5) business days before the requested filming date; provided, however, that the Borough Clerk may waive the five-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. Accommodations must be made to provide toilet facilities required by filming participants.

C. Cleanup. The permittee shall conduct operations in an orderly fashion, with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the original condition before leaving the site.

D. Filming on private property. An applicant is required to obtain the property owner's permission, consent, and/or lease for use of property not owned or controlled by the Borough.

E. Public Works Department (roads and streets). If the applicant must park equipment, trucks, and/or cars in zones that will not permit it, temporary "no parking" signs must be posted. The applicant must also obtain permission to string cable across sidewalks or from generator to service point.

F. Traffic control. For filming that would impair traffic flow, an applicant must hire one or more off-duty Emerson Police Officer(s) through the office of the Police Chief and must comply with all traffic control requirements deemed necessary. The Chief of Police shall determine, in his discretion, the number of officers required to maintain the public safety.

G. The holder of the permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands, streets and sidewalks and shall comply with all lawful directives issued by the Emerson Police Department with respect thereto.

H. 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. 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. All residents and merchants within a two-hundred-foot radius of the film location must receive notice of filming at least 48 hours prior to the first day of filming, and be informed that objections may be filed with the Borough Clerk, 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 Township Clerk within two (2) days of the requested shooting date.

I. The Borough Clerk and/or Borough Administrator may refuse to issue a permit whenever he determines, after a review of the application and a report thereon by the Police Department and by other agencies involved with the proposed filming, that filming at the location and/or 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, or if the Borough Clerk and/or Borough Administrator otherwise determines that the filming on public lands would not serve the best interests of the Borough of Emerson. Further, the Borough reserves the right to require one or more on-site patrolmen in situations where the proposed production may impede the proper flow of traffic or in any other way jeopardize the public safety; the cost of said patrolmen 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.

J. Emergency construction. Any emergency road work or construction by Borough or county crews and/or private contractors under permit or contract to the appropriate department shall have priority over filming activities.

K. Parking lots and metered spots. When parking in a parking lot or metered spot, an applicant may be billed according to the current rate schedule established by the Borough.

L. Filming in residential zones shall be permitted only between the hours of 7:00 a.m. and 9:00 p.m., provided that all requests for night scenes shall be approved in the permit. The setup, production and breakdown required by all filming shall be included in the hours as set forth herein.

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

- (1) Traffic congestion at the location caused by vehicles to be parked on the public street;
- (2) The applicant's ability to remove film-related vehicles from the public streets;
- (3) When the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming;
- (4) The nature of the film shoot itself, e.g., indoors or outdoors, day or night; and
- (5) Prior experience of the film company/applicant with the Borough, if any.

N. Copies of the approved permit will be sent to the Borough of Emerson Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Fire Department or other Borough inspectors to inspect the site and the equipment to be used. The applicant shall comply with all safety instructions issued by the Fire Department or other Borough inspectors. A fire extinguisher must be maintained on site at all times.

O. 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.

P. If an applicant wishes to utilize Bergen County property within the Borough of Emerson, the applicant must obtain a permit from the Bergen County Film Commission and the Borough of Emerson.

Q. Weapons. If weapons, including but not limited to guns, knives, swords, cannons, machetes, rifles, and bow and arrows, are used during filming, the applicant must notify the Borough of Emerson Police Department of same, even if these weapons are only props.

R. Pyrotechnics. If an applicant wishes to use pyrotechnics, they must submit their plan, including the date, time, location and amount of explosives, to the Borough of Emerson Fire Chief and Fire Prevention Bureau.

#### § -6. Fees.

A. Permits.

- (1) Basic filming permit: \$250 per day.
- (2) Charitable and student-produced film permit: \$25 per day.

B. Daily filming fee payable in addition to the basic filming permit fee: \$500 per day. Fees for applicants producing charitable and student films are waived.

#### § -7 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 Emerson to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

B. Nothing in this chapter shall be construed to abrogate or impair the power of the Borough of Emerson or any officer or department to enforce any provisions of 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.

#### § -8 Severability.

If any clause, sentence, subdivision, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

§ -9. Violations and penalties.

Any person violating this chapter or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding \$1,000 per day, or by imprisonment for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**BE IT FURTHER ORDAINED**, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

**BE IT FURTHER ORDAINED**, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

ATTEST:

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JANE DIETSCHKE, RMC

BOROUGH CLERK

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LOUIS LAMATINA,

MAYOR