

ORDINANCE 17-2002

ORDINANCE OF THE BOROUGH OF MADISON AMENDING THE BOROUGH CODE TO REGULATE COMMERCIAL FILMING IN THE BOROUGH OF MADISON

WHEREAS, the Borough Administrator has recommended that the Borough adopt an ordinance to regulate commercial filming in the Borough; and

WHEREAS, the Council has considered this recommendation and desires to proceed with the adoption of such ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Borough of Madison, in the County of Morris and State of New Jersey as follows:

SECTION 1: the Madison Borough Code shall be amended to include a Chapter entitled "Filming" as follows:

Chapter 98

Filming

98- 1 Definitions

98 - 2 Permit; application; point of contact

98 - 3 Rules and regulations; restrictions

98- 4 Fees

98 - 5 Violations and penalties

98 - 6 Exceptions

98 - 1 Definitions

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

FILMING - The taking of still or motion pictures, either on film, videotape, digital or similar recording medium, for commercial or educational purposes intended for viewing on video receivers, television, in theaters, the Internet or for institutional use. Filming performed by one individual using a hand held camera without assistance from others shall be excluded from this ordinance.

PUBLIC LANDS - Any and every public street, highway, sidewalk, square, public right of way, public park or playground, public building and property or other public place within the Borough which is within the jurisdiction and control of the Borough of Madison.

98 - 2 Permit; application; point of contact

98 - 2.1 No person, firm or corporation shall film or permit filming within the Borough of Madison without first obtaining an application for permit therefore, obtaining the required approvals, and filing the completed/approved permit together with applicable permit fee with the Borough at least ten (10) calendar days prior to the first date that filming is to take place.

98 - 2.2 Madison Borough filming permit applications may be obtained from the office of the Borough Clerk during normal business hours. Application for such permits shall be in a form approved by the Borough Administrator and shall be accompanied by a permit fee in the amount established by ordinance of the Borough of Madison.

98 - 2.3 The following information shall be included in the permit application:

- A. Location of filming.
- B. Proposed duration of filming, including date(s) and hours.
- C. Amount of space required on public streets/highways/sidewalks, etc.
- D. Contact information of applicant, including the on-site person.

98 - 2.4 One permit shall be required for each location.

98 - 2.5 A. One permit shall be sufficient to authorize outdoor filming on two (2) calendar days and indoor filming on two (2) calendar days within a period of not more than five (5) calendar days beginning on the date of issuance of the permit, provided that each such date on which filming is to take place shall be specified in the permit.

B. Permission for filming in excess of four days as described in §98-2.5A may be granted by the Borough Council upon filing of a request with the Borough Clerk seven (7) calendar days in advance of the Borough Council meeting at which the matter is to be considered. A copy of the permit application shall be attached to the request. See also section 98-3.10.

98 - 2.6 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 Administrator may, at the request of the applicant and with proper notice given to approving authorities and any affected property owners/tenants, issue a new permit for filming on other dates subject to full compliance with all other provisions of this ordinance. No additional fee shall be paid for this permit.

98 - 3 Rules and Regulations; restrictions

98 - 3.1 A permit shall be limited to no more than five (5) calendar days

98 - 3.2 No more than two (2) permits shall be issued by the Borough of Madison for filming that will take place in any residential zones, without a waiver pursuant to §98 – 3.10.

98 - 3.3 Issuance of Permits

A. No permit shall be issued by the Borough Administrator unless a completed application is filed with the Borough Clerk's office, at least ten (10) calendar days prior to the first date filming is to take place, and where the filming is to take place in any commercial or business district a copy of the application is filed with the Downtown Manager at least ten (10) calendar days prior to the first date filming is to take place. However, the Borough Administrator may waive the ten (10) calendar day period if, in the judgment of the Borough Administrator, the applicant has obtained all required approvals and adjacent property owners or tenants do not need to be notified.

B. Where the filming is to take place in any commercial or business district of the Borough of Madison, the Downtown Manager shall act as liaison to the tenants and owners in the commercial or business district. In that regard, the Downtown Manager shall:

- (1) Distribute relevant information regarding the proposed filming to the property owners and merchants in the commercial or business district that may be affected.
- (2) Provide to the Police Department, and such other municipal departments as may be necessary, written comments from the property owners and tenants in the commercial or business district.
- (3) Contact the Madison Police Department and any other relevant departments to coordinate the information with the property owners and tenants in the commercial district.
- (4) Upon issuance of a permit by the Borough Administrator, the Downtown Manager shall be the coordinator and liaison between Borough Departments and the tenants and property owners in the commercial district affected.

C. No permit shall be issued for filming upon public lands unless the applicant shall provide the Borough 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 and any occurrence in the aggregate amount of \$3,000,000.
 - (b) For property damage for each occurrence in the aggregate amount of \$500,000.

(c) a Certificate of Insurance shall be delivered to the Borough Clerk which shall name the Borough of Madison as an additional insured on the policy.

(2) An agreement, in writing, in a form approved by the Borough Attorney, whereby the applicant agrees to indemnify and save harmless the Borough of Madison, its officers, employees and agents, from any and all liability, expense, claim or damages resulting from the use of public lands.

(3) The posting of a cash bond of \$500 or a maintenance bond of \$1000, running in favor of the Borough and protecting and insuring 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, rules and regulations will be followed. Within two (2) business 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.

(4) A contractual agreement with the Madison Police Department for paid police coverage during the time indicated in the permit.

(5) Proof of service of written notification of proposed dates and lands to be used for production activities to any and all tenants and property owners, who will be directly affected by the filming and its site location, and simultaneously said tenants and property owners shall be informed that objections may be filed with the Borough Clerk. Such notification to take place at least three (3) business days prior to the requested shooting date, with proofs submitted to the Borough Clerk prior to issuance of the permit.

(6) A written approval from the Madison Police Department authorizing issuance of the permit and providing any traffic control requirements and public safety conditions.

(7) Where the filming is to take place in a business or commercial district, a written memorandum from the Downtown Manager certifying he/she has contacted the affected property owners or tenants and providing any concerns of the tenants and property owners in the commercial or business district.

98 - 3.4 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 Madison Police Department with respect thereto.

98 - 3.5 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.

98 - 3.6 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.

98 - 3.7 Filming, including setup and final cleanup, shall be permitted Monday through Friday between the hours of 8:00 AM and 10:00 PM or sunset, whichever is earlier.

98 - 3.8 The Borough Administrator may refuse to issue a permit whenever he/she

determines, on the basis of objective facts and after a review of the application and a written report thereon by the Madison Police Department and by other Borough departments 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, or in the opinion of the Madison Police Department would unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare. 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 officers to be borne by the applicant as a cost of production. Where existing electrical power lines are to be utilized by the production, on-site Borough Electric Department licensed employee(s) may be required and the cost of such employees is to be borne by the applicant as a cost of production. If any services are required by employees from other Borough Departments, the cost of such employees is to be borne by the applicant as a cost of production.

98 - 3.9 Any person aggrieved by the decision of the Borough Administrator or the Borough of Madison denying or revoking a permit or a person requesting relief pursuant to section 98 - 3.10 herein 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 no later than ten (10) calendar days from the date of the denial or revocation of the permit. The Borough Council shall set the matter down for a hearing within thirty (30) calendar 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. A resolution supporting the decision of the Borough Administrator or granting relief pursuant to § 98 - 3.10 shall be adopted by the Borough Council 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.

98 - 3.10 The Borough Council may authorize a waiver of any of the requirements

or limitations of this ordinance, and may authorize filming on other public property not defined as "public lands" and may authorize filming other than during the hours herein described or may extend the duration of a permit beyond five (5) calendar days or may permit filming at a particular location in a residential zone on more than two occasions during any one calendar year or may waive any other limitation or requirement of this ordinance whenever it determines that

strict compliance with such limitations will pose an unreasonable burden upon the applicant and that such a permit may be issued without endangering the public's health, safety and welfare.

98 - 3.11 Copies of the approved permit will be sent by the Borough Clerk to the

Police Department, Fire Department, Downtown Manager, the Department of Public Works, and the Board of Health. Copies shall be sent to any appropriate New Jersey State agencies, including the New Jersey Film Commission.

98 - 3.12 The applicant shall notify the Police Department, the Fire Department, Downtown Manager and the Board of Health 24 hours before filming takes place and shall permit the Police Department, the Fire Department, the Board of Health or other Borough inspectors to inspect the site and the equipment to be used. The applicant shall comply with all safety instructions issued by Borough inspectors, including the Police Department, the Fire Department and the Board of Health.

98 - 3.13 In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue or repairs to public property.

98 - 4 Fees

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

98 - 4.1 Permit:

- A. Basic filming for other than for nonprofit applicants \$100.
- B. Basic filming for nonprofit applicants filming for educational, non-commercial use: \$25.

98 - 4.2 Daily filming fee payable in addition to the basic filming permit fee

- A. \$500. per day, except as set forth in paragraph B. hereof.
- B. \$100. per day for nonprofit applicants filming for educational, non-commercial purposes.

98 – 4.3 Waiver of Fees for Student.

The fees set forth in § 98-4 shall be waived when filming is done by a student in a grade school, middle school, high school, college, university or other bona fide educational institution upon receipt by the Borough Clerk of a written certification from a teacher or administrator at the school attended by the student stating that the filming is for educational purposes only and is not intended for commercial use.

98 - 5 Violations and penalties

Any person violating this ordinance or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding \$1000. per day or by imprisonment in the County Jail for a term not exceeding ninety days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

98 - 6 Exemptions

The provisions of this chapter shall not apply to

- A. The filming of news stories within the Borough of Madison.
- B. Filming by one individual using a hand held camera without the assistance of other persons.
- C. Filming for authorized Madison Borough municipal government purposes as may be authorized by the Madison Borough Council or the Borough Administrator.

98 - 7 Severability

If any sentence, section, clause, or other portion of this ordinance or the application thereof to any person or circumstance 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.

SECTION 2: This Ordinance shall take effect as provided by law.

ADOPTED AND APPROVED

JOHN J. DUNNE, Mayor

Attest:

MARILYN SCHAEFER, Borough Clerk