

Ordinance amending the City's Film Ordinance to only require permits for filming that excludes the public from public property, providing for fee and insurance waivers, and providing for existing penalties.

WHEREAS, the State of Texas, through the Texas Film Commission, provides incentives for qualified production of motion pictures, television series, commercials, music videos, interactive games and animation in the State; and

WHEREAS, the City of Corpus Christi benefits from the Industry's growth in the State, both economically and culturally, including through job creation, employment, construction of infrastructure, patronization of restaurants, hotels and other local businesses and rental of real property and equipment; and

WHEREAS, the City is committed to meeting the needs of the Entertainment Industry while simultaneously sustaining the quality of life of its citizens and businesses; and

WHEREAS, it is in the best interest of the City to utilize the Corpus Christi Film Commission at the Corpus Christi Convention and Visitors Bureau, which will be dedicated to meeting the needs of the Entertainment Industry and coordinating for the related needs of Corpus Christi's citizens and businesses; and

WHEREAS, the City of Corpus Christi desires to amend Chapter 36 of the Code of Ordinances to clarify the requirements for a Filming Permit, in light of the requirements of the First Amendment of the United States Constitution, and provide the City Manager, or designee, with the ability to waive application fees and insurance requirements in certain situations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. That the Code of Ordinances of the City of Corpus Christi is amended by amending Chapter 36, Article III "Procedures, Guidelines and Fees for Commercial Filming," by adding the underlined language and removing the ~~struck-through language~~, to read as follows:

"ARTICLE III. Procedures, Guidelines and Fees for ~~Commercial~~ Filming

Sec. 36-80. Definitions.

"Applicant" means the person or entity filming when such filming requires the exclusive use of Public Property and applying for a Filming Permit. entity-coordinating locations for the Production Company, who acts as the representative of the Production Company for the locations.

"City Manager" means the City Manager or ~~his/her~~ designee, ~~the City's Special Events~~

Coordinator.

“Element” means an activity involving or item of City of Corpus Christi property to be used during the filming.

“Entertainment Industry–~~Work~~” means the industry involved in production of motion pictures, television series, commercials, music videos, interactive games and animation, where the final product is intended to be commercially released and/or commercially distributed.

“Film Commission” means the Corpus Christi Film Commission Office at the Corpus Christi Convention and Visitors Bureau.

“Local Film Maker” means any film maker that resides in the following counties: Nueces, Kleberg, Jim Wells, San Patricio, Live Oak, Bee, Refugio, Goliad, Victoria and Aransas.

“Low-Impact Production” means a production that meets all of the following conditions: no generator, not more than 10 people in the crew at any one time, no moving production motor vehicles on camera (i.e. filming only passing traffic), no exclusive use of a street right-of-way by production vehicles or pedestrians, no exclusive use of a pedestrian right-of-way (i.e. no closure of a sidewalks), and no involvement or use of alcoholic beverages, car pursuits, stunts, aircraft or pyrotechnics. It shall be the responsibility of the Applicant to provide adequate written proof to the City Manager to establish that a production qualifies as a Low-Impact Production.

“Project” means the entire scope of work associated with the Filming Permit.

“Public Property” means City Property (including but not limited to City streets, rights-of-way, buildings, and park facilities), City equipment, and/or City personnel.

Sec. 36-81. Purpose and Scope.

- (a) The City Council recognizes there is a need to allow for ~~commercial~~ film-making activities in the City in a manner that protects the health, safety and welfare of the public by establishing guidelines and procedures pertinent to filming, which involves Public Property city property, equipment and personnel. The City of Corpus Christi has strategically identified filming as a valuable economic sector and one of the City’s goals is to encourage filmmakers to continue producing film projects in the City.
- (b) These procedures govern requests for ~~commercial~~ use of Public Property or city property (streets, rights-of-ways, parks, and public facilities), commercial use of private property which may affect adjacent Public Property public or private property, and the use of city equipment and personnel in the filming of movies, TV shows, commercials, social media videos, and related activities. To the extent that

this Article is inconsistent with or conflicts with any provision of the Code of Ordinances, this Article supersedes any such provision (i.e., sections regarding use of city rights-of-way, temporary street closures, and any other provisions inconsistent with this Article). This ordinance is intended to lay out the process to obtain a Filming Permit for film projects that require exclusive use of Public Property and is not intended to impede or place restrictions on film projects to the extent that such projects do not require exclusive use of Public Property.

- (c) This Article does not apply to the filming conducted by a governmental entity or of a public access program, the filming of a public meeting (as “meeting” is defined by Chapter 551 of the Texas Government Code), ~~or filming conducted by an educational institution.~~

Sec. 36-82. City and City Manager Authority.

- (a) The Applicant agrees that the City shall have full control over the use of the City property city streets, parks, facilities and property of the City while being used in the filming, as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming if determined to be detrimental to the public health, safety and welfare.
- (b) The Applicant agrees to allow the respective City Departments (i.e., Police, Fire, Development Services, Risk Management, Parks and Recreation) to inspect all structures and/or devices and equipment to be used in connection with the filming and taping if required by the City Manager.

Sec. 36-83. Corpus Christi Film Commission

- (a) The Corpus Christi Film Commission at the Corpus Christi Convention and Visitors Bureau is designated as the City’s agent for the Filming Permit. The Film Commission will be the first point of contact for the Filming Industry and will administer the Filming Permit process in conjunction with the City Manager’s designee.
- (b) Additionally, the Corpus Christi Film Commission shall be responsible for marketing Corpus Christi, in association with the Texas Film Commission, to the Entertainment Industry and maintaining a database of local resources for entertainment production.

Sec. 36-84. Permit Requirements.

- (a) Prior to filming that requires the prescribed exclusive use of Ppublic Pproperty ~~(city street, right-of-way, park facility, equipment, or personnel)~~, a Filming Permit must be

obtained. ~~No Filming Permit is required by the City unless the Entertainment Industry Work is performed on Public Property. No Filming Permit is required if the filming does not require the exclusive use of Public Property.~~

- (b) Filming Permits shall be issued by the Film Commission. Permits shall be issued to the Applicant and will specify the filming that may occur at a particular location at a particular time.
- (c) The Filming Permit Application will be evaluated by the Film Commission and City staff, and the elements requested will be considered for approval. The Filming Permit will authorize the element(s) to be performed as part of the filming.
- (d) In the event that permission to perform an element is denied by the City Manager or the Film Commission, the remainder of the Filming Permit can be granted for all other aspects of the Filming for which the requirements have been met.
- (e) An Applicant that receives a Filming Permit is responsible for knowing and complying with all local, state and federal laws, including other ordinances and regulations that establish prerequisites, authorizations and other required permissions applicable to the filming.
- (f) Where permitted, filming includes advertising signs or other displays of commercial speech, and the signs and/or displays must be removed upon the expiration of the Filming Permit.
- (g) Notwithstanding any other part of this code, any Applicant that performs filming without receiving a Filming Permit, violates the material terms of a Filming Permit, or is otherwise in violation of this ~~Entertainment~~ Filming Ordinance, shall be subject to penalties as provided in Section 1-6 of the Code of Ordinances.
- (h) The issuance of a permit shall not grant the Applicant a constitutionally protected property interest. All applications for permits shall be in the form prescribed and shall contain the information and exhibits required by this Article. All applications for permits shall be signed by the Applicant or ~~the designated representative~~ ~~some representative~~ of the Applicant having due and legal authority to enter into contracts binding upon the Applicant.
- (i) When more than one application is received for filming at substantially the same place and time, and the Film Commission reasonably determines that both filmings cannot logistically and/or safely occur together, the earlier or earliest of the applications that is received by the Film Commission in a substantially completed form, which includes submission of the requisite application fee, shall be given priority as to the time and place requested. The Corpus Christi Film Commission may make reasonable efforts to consult with the other applicant(s) in an attempt to find alternative times and/or locations that are acceptable.

Sec. 36-85. Processing of Filming Permit Applications.

- (a) The Application shall include, but not be limited to, the following:

- (1) Filming Project Name;
 - (2) Applicant Name, Contact Information including a valid phone number and email address, and Photo Identification;
 - (3) Producer (or Designee's) Name and Contact Information;
 - (4) Dates, Times and Locations of Preproduction, Filming and Wrap Activity;
 - (5) Description of Filming Activity at each Location; Supplemental script pages, Treatments or Storyboards may be required as part of this component
 - (6) Description of any elements that may be performed during the filming, including the dates, times and locations of each;
 - (7) Description of any aspects of the filming, other than the elements, that may require City services;
 - (8) Description of any assistance the Applicant may need from the Film Commission, and/or concerns the Applicant wants the Film Commission to be aware of;
 - (9) Evidence of insurance as required in section 36-87 of this code;
 - (10) Identification of adequate restroom facilities, waste disposal facilities and a sufficient supply of potable water to accommodate the participants during the filming activity;
 - (11) Report listing the number of vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations. Such locations will need to be specifically approved by the City so as to maintain traffic safety. On-street parking or use of public parking lots is subject to City approval. The use of exterior lighting, power generators, or any other noise or light-producing equipment requires on-site approval of the City Manager.
- (b) Application Time - A Filming Permit Application must be submitted to the Film Commission within the time frames below:
- (1) ~~Commercials or Episodic Television.~~ All Filming Other than Feature Films.
A minimum of 3 business days before the filming, or any substantial activity related to the project, begins.
 - (2) Feature Films. A minimum of 5 business days before the filming, or any substantial activity related to the project, begins.
- (c) Application Fee - All applications for Filming Permits shall be accompanied by a filing fee of ~~twenty five dollars (\$25.00).~~ \$25.00. ~~The City Manager may waive this fee upon proof of an organization's non-profit status. The Application Fee is waived for Local Film Makers if they are registered filmmakers with the Film Commission.~~ Other fees may apply (i.e. Public Right-of-Way Blockage Permit per section 53-195 of the Code of Ordinances). The City Manager may grant exemptions to the Application Fee for:
- (1) Students filming as part of an educational project sponsored by an accredited educational institution;
 - (2) Non-profit organizations upon proof of the organizations' non-profit status;

- (3) Local Film Makers if they are registered filmmakers with the Film Commission; or
- (4) Low-Impact Productions.

Sec. 36-86. Use of ~~City~~Public Property, Equipment and Services.

- (a) *Required Use of City Equipment and Personnel.* In completing the Filming Permit Application, the Applicant will indicate additional City Equipment or Services necessary for the public safety, health and welfare of the City. The Applicant is responsible for paying the costs incurred as a result of the production activity for use of any Police, Fire, Traffic Engineering or other City Personnel assigned to the Project (whether specifically requested by the production or not). The Film Commission will facilitate contracting for use of off-duty city personnel (police, fire or other city personnel) directly. Rates for the use of any of city equipment, including police vehicles and fire equipment, will be provided at the time of application. The City Manager may, at his/her discretion, require an advance deposit for the use of city equipment through the offices of the Film Commission. Permit Fees All required fees related to use of City Equipment and Personnel will be due before a Filming Permit is issued.
- (b) *Police and Fire.* The Chief of Police and/or Fire Chief shall have the authority to stipulate additional Police or Fire requirements and level of staffing at any time during the Project, if it is determined to be in the best interest of public safety, health and welfare of the City. The cost of additional staff will be borne by the ~~A~~applicant and will be due to the City within seven days after notification of the additional staff cost.
- (5) *Traffic Engineering.* It shall be the duty of each Applicant to make provisions for the safe crossing of pedestrians and the orderly movement of vehicular traffic in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD). If a street closure or traffic control is required, the Applicant shall be responsible for paying occupancy charges required by section 53-195. Traffic control plans must be obtained from a Professional Engineer licensed in the State of Texas and submitted to the City for approval. A review fee of ~~one hundred dollars (\$100.00)~~\$100.00 will be charged for the required review of traffic control plans submitted by an Applicant's consultant professional engineer. The Applicant is responsible for obtaining services for traffic control devices.
- (d) *Use of City Property.* The City Manager may authorize the use of any of city streets, rights-of-way, parks, facilities, the use of the City of Corpus Christi name, trademark or logo and/or the use of city equipment and/or personnel ~~for commercial uses~~ in the production of movies, television programs, commercials, social media, or training films and related activities. In conjunction with these uses, the City

Manager may require that any or all of the conditions as specified on the Filming Permit Application be met as a prerequisite to that use.

- (e) *Fees for Use of City Property.* Depending upon the extent of the use of City Property, the Applicant agrees to reimburse the Film Commission for costs incurred when using City property. All required fees related to use of City Property will be due within 10 business days of the issuance of a Filming Permit.
- (f) *Notification of Neighbors.* The Applicant shall provide a short written description of the schedule for the proposed production to the owners, tenants and residents of each property in the affected neighborhood (as defined by boundaries set by the City Manager). The Applicant, or his or her designee, shall make a demonstrated effort to notify each owner, tenant and resident of all such property 24 hours prior to filming.

Sec. 36-87. Insurance Requirements, Save Harmless and Limitation of Liability.

- (a) *Insurance Requirements.* These insurance requirements follow the Texas Film Commission's insurance requirements. The producer shall furnish the City with a certificate of insurance, naming the City of Corpus Christi and the Corpus Christi Film Commission as an additional insured, in the amounts required by the City's Risk Manager, which includes an amount not less than \$1,000,000.00 general liability, including bodily injury and property damage; automobile liability (if applicable) in an amount not less than \$500,000.00 including bodily injury and property damage; worker's compensation to include all participants utilized in connection with filming and related activities; and employer's liability. Any City employee who is considered by the City to be in an off-duty status and who sustains injury/illness will be covered by the Applicant's workers' compensation coverage. The City of Corpus Christi reserves the right to determine and modify insurance requirements on a case-by-case basis, taking into consideration other risk factors involved in the filming activities, including but not limited to, for example, involvement or use of alcoholic beverages, car pursuits, stunts, aircraft and/or pyrotechnics. Local film makers should contact the Corpus Christi Film Commission for information about insurance requirements. The City Manager, in consultation with the City's Risk Manager, may waive insurance requirements on a case-by-case basis.
- (b) *Save Harmless Agreement.*
 - (1) Applicant is required to provide a save harmless agreement in which ~~a~~Applicant agrees to defend with counsel approved by City, pay and save harmless the City, its officers and employees from any and all claims or lawsuits for personal injury or property damage arising from or in any way connected to the filming; excepting any claims arising solely out of the negligent acts of the City, its officers and employees.

- (2) The Applicant agrees to pay in full, within 30 days upon receipt of an invoice, the costs of repair for any and all damage to public or private property resulting from or in connection with the filming activities and film production, and to restore the property to its original, or better than original, condition prior to the production. Film Producer/Applicant will be responsible for any and all damage to equipment used regardless if owned, rented, leased or borrowed.
- (c) *Limitation of Liability.* This ordinance shall not be construed as imposing upon the City or its officials or employees any liability or responsibility for any injury or damage to any person in any way connected to the use for which permits have been issued. The City and its officials and employees shall not be deemed to have assumed any liability or responsibility by reasons of inspections performed, the issuance of any permit or the approval of any use of the right-of-way.

Sec. 36-88. Sanitation and Clean-up.

A Filming Permit may be issued only after adequate waste disposal facilities have been identified and obtained by Aapplicant. Applicant may be required to utilize City signage addressing litter and recycling. Such signage must be returned to the City at the end of the event. Applicant ~~will~~ must clean the right-of-way of rubbish and debris, returning it to its pre-activity condition, within 24 hours of the conclusion of the filming activity. If the Aapplicant fails to clean up such refuse, such clean up shall be arranged by the City and the cost charged to aAapplicant.”

SECTION 2. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word, or provision hereof be given full force and effect for its purpose.

SECTION 3. Publication shall be made one time in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

SECTION 4. Penalties are as provided in Section 1-6 of the Code of Ordinances.

SECTION 5. This ordinance takes effect upon official publication.

That the foregoing ordinance was read for the first time and passed to its second reading on this the _____ day of _____, 2021, by the following vote:

Paulette M. Guajardo _____	John Martinez _____
Roland Barrera _____	Ben Molina _____
Gil Hernandez _____	Mike Pusley _____
Michael Hunter _____	Greg Smith _____
Billy Lerma _____	

That the foregoing ordinance was read for the second time and passed finally on this the _____ day of _____ 2021, by the following vote:

Paulette M. Guajardo _____	John Martinez _____
Roland Barrera _____	Ben Molina _____
Gil Hernandez _____	Mike Pusley _____
Michael Hunter _____	Greg Smith _____
Billy Lerma _____	

PASSED AND APPROVED on this the _____ day of _____, 2021.

ATTEST:

Rebecca Huerta
City Secretary

Paulette M. Guajardo
Mayor