

ARTICLE 12

FILM PERMIT ORDINANCE

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ARTICLE 12

FILM PERMIT ORDINANCE

SEC. 3-12.01 PURPOSE. The purpose of this article is to regulate filming activity within the City of Hayward in order to protect the public health, safety, and welfare.

SEC. 3-12.02 DEFINITIONS. The following definitions shall apply for purposes of this article:

- a. City Manager shall mean the City Manager of the City of Hayward or his or her designee.
- b. Chief of Police shall mean the Chief of Police of the City of Hayward or his or her designee.
- c. City shall mean the City of Hayward.
- d. News Purposes shall mean filming or videotaping of news events for television newscasting by reporters, photographers, or camera persons in the employ of a newspaper, news service, or similar entity where the event is not preplanned, and the film or tape is broadcast within 24 hours of the event, not including magazine or documentary programs.
- e. Filming Activity shall mean the staging, shooting, filming, videotaping, photographing, or other similar process conducted for the making of still photographs, motion pictures, television programs, music videos, and commercial and non-theatrical film productions.
- f. Studio shall mean a fixed place of business where filming activities are regularly conducted upon the premises.
- g. Film Permit shall mean written authorization from the Chief of Police to conduct the filming activity outlined in the permit.

SEC. 3-12.03 PERMIT REQUIRED. Except as otherwise provided in Section 3-12.04, it shall be unlawful for any person to engage in filming activity as defined in Section 3-12.02 any place within the City, other than an established studio as defined in Section 3-12.02 or within an enclosed structure or building, without a film permit from the City.

SEC. 3-12.04 EXCEPTIONS. The provisions of this chapter shall not apply to:

- a. Noncommercial filming or videotaping activities conducted solely for private or family use;
- b. Filming or videotaping activities conducted for use in a criminal investigation, or civil or criminal court proceeding;
- c. Filming or videotaping activities conducted for news purposes as defined in Section

3-12.02;

- d. Filming or videotaping activities conducted for education, government, and public access and local origination programs for cable television systems franchised within the City;
- e. Any activity deemed to be in the public interest by the City Manager.

Nothing in this chapter shall limit the right of the City to suspend filming or videotaping activities excepted herein when found necessary for the protection of the public health, safety or general welfare, and when such filming activity poses an immediate hazard to persons and/or property.

SEC. 3-12.05 PERMIT APPLICATION. The Chief of Police shall develop an appropriate application form and furnish it to anyone who desires a film permit. An application must be filed with the Chief of Police at least two weeks prior to the date on which the filming activity is proposed. Upon a showing of good cause, applications which are filed after the deadline shall be considered if there is sufficient time to process and investigate the application and for City staff to prepare for the filming activity, as determined by the Chief of Police.

SEC. 3-12.06 APPLICATION REVIEW AND PERMIT CONDITIONS.

- a. Before granting a film permit, the Chief of Police shall review the application and determine that the proposed filming or videotaping will not unreasonably interfere with the public health, safety, and general welfare, or unreasonably endanger any property. Appropriate City departments shall review the application as deemed necessary by the Chief of Police. In granting a film permit, any reasonable conditions may be imposed as necessary to protect public health, safety, and general welfare, or property. Factors which may be taken into consideration in granting and conditioning a permit include but are not limited to: noise, traffic congestion, traffic hazards, fire hazards, environmental problems, interference with street maintenance work and whether the proposed activity would violate federal, state, or local law.
- b. Conditions which may be attached to the film permit may include but are not limited to the following:
 - (1) Requirements regarding the presence of City employees, such as police officers, at the permittee's expense;
 - (2) Requirements regarding traffic control, such as the placement of traffic control devices and signs at the permittee's expense;
 - (3) Requirements regarding cleanup and restoration of property used in the filming activity;
 - (4) Restrictions regarding the use of firearms and noise-creating or hazardous devices;
 - (5) Restrictions regarding stunts involving pyrotechnics, vehicle crashes, and other hazardous materials and/or activity;
 - (6) Requirements regarding the time of the filming activity;

- (7) Requirements regarding notification to nearby businesses and/or residences.

SEC. 3-12.07 FEES. The fee for permits issued pursuant to this ordinance shall be established from time to time by resolution of the City Council. The applicant shall pay such fee upon filing an application for a permit. An amount representing the cost of reimbursement of City personnel required for the filming activity shall be paid at the time of permit issuance.

SEC. 3-12.08 INSURANCE. The applicant shall provide the City with evidence of insurance for general liability and covering any liability of the permittee, permittee's lessees, the City of Hayward and their/its officers, employees, and agents arising out of the filming activity. The insurance policy shall be in an amount not less than one million dollars or such higher amount as determined by the Chief of Police in consultation with the City Attorney to be necessary to protect the City against foreseeable risks for bodily and personal injury liability and property damage arising from activities contemplated by the permit. The applicant shall furnish the City with proof of such insurance coverage in a form and manner that is satisfactory in all respects to the City Attorney prior to the start of the filming activity.

SEC. 3-12.09 INDEMNIFICATION AND LIABILITY. The permittee shall hold harmless, indemnify, and defend the City of Hayward and its officers, employees, and agents from and against any and all losses, claims, or judgments for damages to any person or property arising from the filming activity or issuance of the film permit.

SEC. 3-12.10 PERMIT REVOCATION. The Chief of Police may revoke the film permit if the permittee, or any agents, employees, volunteers, or contractors of the permittee fail to comply with the permit conditions and requirements, or if it is determined after issuance that the permit application is materially false. The Chief of Police shall provide the permittee with grounds for revocation in writing within a reasonable time of revocation.

SEC. 3-12.11 PERMIT SUSPENSION. Any permit issued pursuant to the terms of this ordinance shall be subject to immediate suspension by the City if it is found necessary for the protection of the public health, safety, or general welfare. A Hayward police officer assigned to police the filming activity site may suspend the film permit when the filming activity poses an immediate hazard to persons and/or property, and the location manager will not, or cannot prevent the hazard after being instructed to do so by the officer.

SEC. 3-12.12 APPEALS. The permit applicant or permittee may appeal a permit denial, revocation, suspension, or refusal to waive a deadline set forth in this ordinance. The appeal shall be filed in the City Manager's office no later than three business days after the date notice of the decision is given. The appeal shall be heard by the City Manager no later than three business days after the appeal is filed. A decision shall be rendered no later than two business days after the appeal hearing. The decision of the City Manager shall be final.

SEC. 3-12.13 VIOLATION. Any person violating any provision of this ordinance shall be guilty of an infraction. Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in Government Code section 36900. After the third conviction for a violation of this article within any 12-month period, any subsequent violation within the 12-month period may be punished as a misdemeanor.