

ORDINANCE NO. 2017.234

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AMENDING CERTAIN PROVISIONS OF CHAPTER 16 OF THE DENTON CODE OF ORDINANCES, SPECIFICALLY ARTICLE VI SECTIONS 16-180, 16-181, 16-182, 16-183, AND 16-187 TO PROVIDE FOR CLARIFICATION OF THE DEFINITIONS AND PERMITTING REQUIREMENTS APPLICABLE FOR FILMING WITHIN THE CITY OF DENTON; PROVIDING FOR A SEVERABILITY CLAUSE, SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Denton, Texas has previously implemented Chapter 16 Article VI “Movie Permits” of the Code of Ordinances of Denton Texas; and

WHEREAS, it is the intention of the City to further refine the requirements of film permitting and its applicability to better serve the citizens of the City of Denton; and

WHEREAS, the Council finds that said amendments are in the best interest of the citizens of the City of Denton and should be adopted as stated herein;

**NOW THEREFORE;**

**THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:**

**SECTION 1.** The recitals contained herein are made a part of this Ordinance as if set forth at length herein.

**SECTION 2.** Chapter 16, Article VI “Movie Permits” is hereby amended as underlined in the following:

“Article VI. Film Permits

Sec. 16-180. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Film*, when used as a verb, means to perform or undertake any activity ~~in a public place lying~~ within the city limits which constitutes, in whole or in part, a component part in, or necessary preparation for, the process of recording moving images onto a tangible medium, including, but not limited to, motion picture photographic film, videotape, videodisc, or digitized storage of video data. ~~Specifically excluded from this definition are processes relating to the taking of so-called “home movies” or “home videos” not intended for commercial rebroadcast or viewing.~~

Sec. 16-180.1--Exemptions.

This Article does not apply to:

- (a) Private Use. Film made for private and not commercial use and which does not adversely impact adjacent properties. This includes amateur photography or videography.
- (b) News Media. Reporters and related crew in the employ of a newspaper, news service, radio or television broadcasting station, or similar entity engaged in on the spot broadcasting, reporting or photographing of current news of general public interest
- (c) City Business. Film made for the City by City personnel or a nonprofit 501(c)3 and film made for use in a criminal investigation or court proceeding.

Sec. 16-181. - Film permit required.

- (a) Permit Required. It shall be unlawful for any person to film in the City limits without a permit issued by the City Manager unless otherwise exempt under this Article.
- (b) Permit application. Any production company, business, or individual who wishes to film a ~~feature film, television movie, television episodic, television commercial, or music video~~ within the city limits, shall obtain a film permit from the city manager not less than ten (10) working days prior to filming. The ten-day requirement may be waived at the discretion of the city manager. In making such application the applicant shall provide the name of the production company or individual, as well as the dates, times and locations where filming will take place. The applicant shall also identify by type and number production equipment (trucks, automobiles and other vehicles) involved in the production, and shall disclose detailed information on the use of firearms, fire, pyrotechnics, flammable substances, explosives, or other hazardous materials or effects to be used during filming. The execution of a hold harmless agreement for the benefit of the City in the form provided by the City Manager and approved by the City Attorney must be included with the application.
- (c) Fee. There is no fee for the film permit.
- (d) Insurance. The applicant shall provide proof of comprehensive general liability insurance covering its operations within the city for bodily injury and property damage in the minimum amount of one million dollars (\$1,000,000.00) combined single limit on a per occurrence basis. The city manager may impose additional insurance requirements as necessary. The applicant shall ensure that all policies remain in full force and effect during all phases of the filming, that they name the city as an additional insured, and that the policies are issued by a company authorized to do business in the State of Texas.
- (e) Indemnification. The applicant shall agree to indemnify and hold harmless the city, its officers, agents, and employees, from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the activities performed by the applicant within the city, whether such injuries, death, or damages, are caused by the city's sole negligence or the joint negligence of the city and any other party.
- (f) Approval criteria. The city manager will consider the potential effect on property owners in approving or denying the application, and will endeavor to define restrictions to minimize adverse impacts upon the neighborhood. A permit may be denied if, in the opinion of the city manager, the locations, hours, or other factors, such as danger to the public or neighbors,

traffic disruption, or noise as requested unreasonable. A permit may also be withheld pending applicant's satisfaction of all conditions prerequisite to approval.

- (g) *Additional Requirements.* The permit shall incorporate all necessary requirements of this article, together with such other requirements deemed appropriate by the city manager and authorized by this article. The city manager may additionally, as a condition of the permit, require applicant to enter into a separate agreement with the city, incorporating any and all duties or responsibilities authorized by this article. The area where the filming activity is taking place must be kept in a clean and safe condition and clear of all debris. Full daily cleaning is required. All activity of the applicant conducting filming activities must comply with all local, state, and federal laws.
- (h) *Appeal.* An applicant may appeal to the city council the city manager's denial of a film permit.
- (i) *Notification.* The applicant is required to notify in writing all adjacent properties that may be reasonably affected by filming activity. If permitted filming activity is determined by the City to impact traffic flow, then the applicant must publish notice in the Denton Record Chronicle.
- (j) *Expiration.* A film permit issued under this Article will be invalid if, after 180 days after issuance, no filming activity has commenced on the property designated in the permit.
- (k) *Penalty.* In addition to losing the privilege to film in the city limits, any person or entity who violates any provision, section, requirement, terms or conditions of this Article will, upon conviction, be deemed guilty of a misdemeanor and each day of such violation shall constitute a separate offense in accordance with Sec. 1-12 of the Denton Code of Ordinances. The City reserves the right to pursue any other remedies allowed by law for violations of this Article.

Sec. 16-182. - Closing streets for filming; permit application.

~~As an available option to appearing before the city council to reuest an ordinance temporarily closing a public street,~~ An applicant for a film permit must apply for a street closing permit as provided herein if, during any portion of the filming, access to public rights-of-way are to be obstructed or denied. Any permit issued under this section may be incorporated into a film permit issued under section 16-181 of this code.

- (a) *Application.* An applicant must submit a request for a street closing permit at least fourteen (14) working days prior to the requested closing. The fourteen-day requirement may be waived at the discretion of the city manager.
- (b) *Barricade plan.* Upon application, the applicant must simultaneously submit a sketch indicating the area to be closed and the location of all properties adjacent to the area being closed. A traffic control plan must be submitted to the City for review and approval. The barricade plan, provided by a professional barricade company, must indicate placement of barricades, types of barricades, warning and detour signs, and shall conform with the requirements of the Barricade Manual adopted by section 25-92 of this Code, all applicable laws, regulations, and city policies, and must be consistent with good engineering practice.
- (c) *Street closing petition.* The applicant must circulate a petition and obtain signatures, names and addresses from all abutting property owners, tenants, and merchants potentially affected by the street closing. The petition must also indicate each signatory's consent or opposition to

the closing. A street closing petition form will be provided to the applicant upon request. The original of the street closing petition must be submitted to the city manager five (5) days prior to the requested closing.

- (d) *Traffic control.* ~~Prior to the submission of the application,~~ The applicant shall coordinate traffic control plans and requirements with the City of Denton Police Department. Should the police department deem it necessary for one or more individuals to direct traffic in and around the closed area, the applicant shall utilize only police officers (as defined in the Rules of the Road, Tex. Trans. Code, Sections 541-545, as amended or superseded) to effectuate this purpose. The applicant may arrange with the police department to hire off-duty Denton police officers to assist in project security or traffic control, or both, provided that applicant shall indemnify the city for any and all injuries sustained by any officers so hired and comply with such other terms and restrictions as the police department may deem appropriate.
- (e) *Emergencies.* The City may order immediate removal or relocation of any barricades in emergency situations or for safety considerations, without notice. Such action does not create a continuing obligation on the part of the City and does not create any liability against the City for any damages to the property if such removals or relocations were conducted in good faith.

Sec. 16-183. Repealed.

Sec. 16-184. - Changes in schedule.

Changes in street closing dates, times, and location must be approved by the city manager five (5) working days prior to the actual closing. The five-day requirement may be waived at the discretion of the city manager. If an approved closure date is later adjusted to satisfy a request of the applicant, the applicant shall advise abutting property owners in writing or in person of the change in schedule, no less than forty-eight (48) hours in advance of the actual planned closure.

Sec. 16-185. - Access to closed area.

The permittee shall not deny access to the closed area to city personnel or emergency vehicles (police, fire, ambulances), and shall not deny reasonable access to property owners going to and from their property.

Sec. 16-186. - Restoration of site.

The permittee shall restore the public area to its original condition upon completion of any or all activity requiring the blocking or closing of a public street.

Sec. 16-187. – Permit option not exclusive.

Nothing in this article shall be construed to prevent an individual from approaching the city council directly for an ordinance to temporarily close public streets.”

**SECTION 3.** If any section, subsection, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Denton, Texas hereby declares it would have enacted such remaining portions despite any invalidity.

**SECTION 4.** Save and except as amended hereby, all of the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases of the Code of Ordinances shall remain in full force and effect.

**SECTION 5.** This Ordinance providing for a penalty shall become effective 14 days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this Ordinance to be published twice in the *Denton Record-Chronicle*, the official newspaper of the City of Denton, Texas within 10 days of the date of its passage.

PASSED AND APPROVED this the 15 day of August, 2017.

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CHRIS WATTS, MAYOR

ATTEST:

JENNIFER WALTERS, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

AARON LEAL, INTERIM CITY ATTORNEY

BY: Jennifer W. Walters