

## ORDINANCE NO. 4132-A

**AN ORDINANCE OF THE CITY OF MUSKOGEE, OKLAHOMA AMENDING CHAPTER 22, BUSINESS REGULATIONS, ADDING ARTICLE XVII, COMMERCIAL FILM REGULATIONS, SECTIONS 22-680 DEFINITIONS, 22-681 GENERAL REQUIREMENTS, 22-682 PERMIT DENIAL AND APPEAL, 22-683 PERMIT VIOLATION AND APPEAL; BY PROVIDING FOR REPEALER, SEVERABILITY, AND SETTING AN EFFECTIVE DATE.**

NOW THEREFORE, BE IT ORDAINED BY THE City Council of the City of Muskogee, Oklahoma:

**SECTION 1.** Chapter 22 shall be amended by adding Article XVII Commercial Film Regulations to the Muskogee City Code, which shall read as follows, to-wit:

### **22-680. DEFINITIONS:**

- A. *Applicant:* the individual applying for a permit who is legally authorized to bind the producer.
- B. *Application:* the document[s] created by the City Manager that must be completed and submitted to the City to request a permit.
- C. *Filming:* creating motion picture images and all activity attendant to staging, shooting, and associated basecamp operations associated with the production of commercial motion pictures, independent filmography, documentaries, music videos, television shows, and commercials. Filming also means creating still photography images for commercial use and all activity attendant to staging or shooting such images.
- D. *Public property:* real property owned by the City, or of which the City is a tenant, including, without limitation, parks, streets, sidewalks, other rights-of-way and buildings. Public property shall not include real property which is being leased by the city to a tenant.

### **22-681. GENERAL REQUIREMENTS:**

- A. No person shall use any public property or facility for the purpose of taking motion pictures, television, or commercials without first applying for and receiving a Permit from the City Manager. Conditions may be applied depending upon the nature of activities required under the Permit and the zoning districts in which they take place. Whenever a Permit is sought for activities in primarily residential neighborhoods, extra consideration shall be given to the conditions imposed to ameliorate as much as possible inconvenience to the residents.

- B. 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 Muskogee Police Department, the Fire Marshal and the City Manager and with respect thereto.
- C. The applicant shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners as a result of such filming and shall, to the extent practicable, abate noise and park vehicles off the public streets. All vehicles parked on public streets and rights of ways shall be done so in accordance with all applicable state and local regulations.
- D. The holder shall not interfere with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity on such public lands.
- E. The applicant shall give written notice of the filming to all businesses and residents within two hundred feet (200') of the filming location and further provide written proof of such notice at least three business days prior to the submission of a completed permit application.
- F. The rules and regulations governing the issuance of Permits shall be based upon the following concerns: the health and safety of all persons; mitigation of disruption to all persons within the affected area; the safety of property within the City; and traffic congestion at particular locations within the City. The City Manager shall establish such policies, rules, regulations, and forms as to insure the intent of this ordinance is properly enacted and enforced.
- G. If a Permit is granted, the Permittee acknowledges that the City will not intervene or negotiate access rights to private property with property owners; the Permittee is expected to deal directly with private property owners for required permission and consent.
- H. The City reserves the right to require one or more Muskogee Police Officer(s), Fire Department personnel or any such other specialized City officials to remain on-site during the times indicated on the permit, in situations where the production may impede the proper flow of traffic, or otherwise impact upon public safety. The cost of all such personnel shall be borne by the applicant as 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.
- I. An application fee, permit fee, and fees for required City staff and services shall be set according to and used to offset municipal expenses covering costs related to licensing, inspection, administration and enforcement of this Article. Fees required herein shall be set forth in Schedule A. Additional fees and charges may

be assessed by the City Manager based upon specific requirements, including fees for the monitoring of public safety or special services by a city department, based upon labor, time and equipment necessary to provide the service. When using city-owned buildings or property other than public road rights-of-way, for production activities, a separate rental fee or charge may be negotiated.

- J. A signed indemnification and hold harmless agreement, in a form acceptable to the City Attorney, shall accompany the application, together with a certificate of insurance naming the city as an additional insured. The minimum limits of insurance coverage shall not be less than \$1,000,000.00 per occurrence.

- K. Exemptions: *The following activities do not require a permit;*

*News media:* The provisions of this article shall not apply to or affect reporters, photographers or camerapersons 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;

*Personal/family video:* The recording of visual images (motion or still photography) solely for private personal use, and not for commercial use;

*Charitable films:* Commercials, motion pictures, television, digital media 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;

*Student Films:* Motion Picture, Television or Still Photography produced to satisfy a course or curriculum requirement at an accredited educational institution. The student filmmaker must supply proof that he/she is currently enrolled in any such educational institution.

- L. Security Deposit: To ensure cleanup and restoration of location sites, an applicant may be required to submit a refundable deposit (amount to be determined by the City). Upon completion of filming and inspection of the site by the city, if no verifiable damage has occurred, the security deposit shall be returned to the applicant.

## **22-682. PERMIT DENIAL AND APPEAL.**

The City may refuse to issue a permit whenever it determines, on the basis of objective facts and after a review of the application by the Police Department and by other City agencies 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, unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare. If an Application for a Permit is denied, the City Manager shall give written notice to the Applicant setting forth the reasons for permit denial. The Applicant shall have an opportunity to respond to a denial notice within seven (7) calendar days after receipt of the notice by presenting written or oral evidence to the City Manager and request a hearing on same. If a hearing is requested, the applicant shall have the right to present and confront evidence, be represented by counsel and have the hearing recorded. A final written decision will be issued by the City Manager within fifteen (15) calendar days after said hearing.

## **22-683. PERMIT VIOLATION AND APPEAL.**

If an applicant violates any provisions of this ordinance or a permit issued pursuant thereto, the city may provide the applicant with verbal or written notice of such violation. If the applicant fails to correct the violation, the city may revoke the permit and all activity must immediately cease. If a Permit is revoked, the City Manager shall give written notice setting forth the reasons for the permit revocation. The permit holder shall have an opportunity to respond to revocation notice within seven (7) calendar days after receipt of the notice by presenting written or oral evidence to the City Manager and request a hearing on same. If a hearing is requested, the applicant shall have the right to present and confront evidence, be represented by counsel and have the hearing recorded. A final written decision will be issued by the City Manager within fifteen (15) calendar days after said hearing.

Reserved 22-684 to 22-690

SECTION 2. CODIFICATION. The City Clerk is hereby directed to enter the added section into the appropriate place in The Muskogee City Code of Muskogee, Oklahoma, as authorized and approved by this Ordinance.

SECTION 3. SEVERABILITY. If any provision, paragraph, word, section of article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

SECTION 4. REPEALER. All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE,  
OKLAHOMA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

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MARLON J. COLEMAN, Mayor

ATTEST:

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TAMMY L. TRACY, City Clerk

Approved as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 2021.

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ROY D. TUCKER, City Attorney