

1 Re: AMENDMENT TO CODE OF ORDINANCES

2
3 **AN ORDINANCE TO AMEND CHAPTER 14. BUSINESS REGULATION AND**
4 **TAXATION BY ADDING ARTICLE XIII. MEDIA PRODUCTION AND PERMITS TO**
5 **THE CITY OF FAIRBURN CODE OF ORDINANCES; TO PROVIDE FOR**
6 **SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN**
7 **EFFECTIVE DATE AND FOR OTHER PURPOSES**
8

9 BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN,
10 GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME THAT:

11
12 **Whereas**, the Mayor and City Council of the City of Fairburn (hereinafter the “City”) have adopted
13 certain rules, requirements and regulations in the City of Fairburn, Georgia, in order to promote
14 the health, safety, and welfare of the citizens of the City of Fairburn; and
15

16 **Whereas**, the Mayor and City Council finds that there is significant interest in filming movie
17 productions in the City and in the State of Georgia as a whole; and
18

19 **Whereas**, the Mayor and City Council finds that the citizenry and the City’s interests are served
20 by encouraging movie production within the City limits; and
21

22 **Whereas**, the Mayor and City Council finds that such movie productions could positively impact
23 the economy and the citizens of the City; and
24

25 **Whereas**, the Mayor and City Council finds that the City of Fairburn’s Code of Ordinances should
26 be amended in order to provide the regulations needed to allow for movie production within the
27 City limits; and
28

29 **Whereas**, the Mayor and City Council finds that such ordinances regulating movie production are
30 necessary for the health, welfare and safety of the citizens of Fairburn and for the movie production
31 employees; and
32

33 **NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of**
34 **Fairburn, Georgia, and it is hereby ordained by the authority of same that Chapter 14-**
35 **Business Regulation and Taxation be amended by adding Article XIII. Media Productions**
36 **and Permits to the City of Fairburn Code of Ordinances as depicted on Exhibit A attached**
37 **hereto.**
38

39 Section 1. Adoption of the following attached as Exhibit A.
40

41 Section 2. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall
42 be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect
43 the previously existing provisions of the other sections, subsections, sentences, clauses or phrases
44 of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence,
45 clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part
46 thereof. The City Council declares that it would have passed the remaining parts of this Ordinance

1 or retained the previously existing Ordinance if it had known that such part of parts hereof would
2 be declared or adjudicated invalid or unconstitutional.

3
4 Section 3. This Ordinance shall become effective on the 14th day of September, 2020.

5
6 Section 4. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed to
7 the extent of the conflict.

8
9 APPROVED this 14th day of September, 2020, by the Mayor and Council of the City of Fairburn,
10 Georgia.

11
12 _____
13 Elizabeth Carr-Hurst, Mayor

ATTEST:

14
15 _____
16 Arika Birdsong-Miller, City Clerk

17
18 APPROVED AS TO FORM:

19
20 _____
21 William R. (Randy) Turner, City Attorney
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23

ARTICLE XIII - MEDIA PRODUCTIONS AND PERMITS.

Sec. 14-361 – Definitions.

A. “Film”, “Filming” or “Film Activity” shall mean creating motion picture or still photographic images, and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, commercials and student films produced to satisfy a post-secondary school course requirement at an educational institution in any medium including film, tape or digital format, including, but not limited to, motion pictures, television or commercial still photography.

B. “Charitable Films” shall mean commercials, motion pictures, television, videotapes, digital recording 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 films, tapes or photos.

C. “News Media” shall mean the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers or camerapersons.

D. “Student Film” shall mean a film where the Producer is a student enrolled in an accredited educational institution and who is enrolled in a filmmaking or television class at such accredited educational institution, either on the undergraduate or graduate level and where the primary purpose of such film is a learning experience in which the Producer fulfills whatever educational requirements such project is produced for. The Producer and/or corresponding educational institution must own the film, which may only be used for non-profit purposes.

E. “Studio” shall mean a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

F. “Facility” shall mean any structure or building, regardless of the presence of active utilities located on public or private property.

G. “Residence” shall mean any single-family home, mobile home, trailer, multi-family housing unit or units, apartments, condominiums, dormitory or any other structure wherein persons are legally permitted to reside.

H. “Exigent Circumstances” shall mean conditions of property, weather, lighting, scheduling, or Filming equipment that are necessary for the scheduled Filming Activity which, if forced to wait at least five business days, would make them unavailable for use by the production through no fault of any agent of the production responsible for same, and which was not known or could have reasonably been ascertained at least five business days prior to the scheduled Filming Activity.

I. “Expedited Review” shall mean a permit application submitted for review pursuant to this article less than five (5) business days prior to the scheduled Film Activity, but at least eighteen (18)

hours prior to the scheduled Film Activity, as a result of Exigent Circumstances. The fee for any Expedited Review will be one hundred fifty dollars (\$150).

J. “Film Liaison” shall mean the appointed designee to oversee all permitting activity under this Article, to review permit applications for approval or denial or, in the case of Expedited Review or as otherwise authorized by this Article, to approve or deny the same. The Film Liaison shall guide applicants through the process of review, assist in coordinating needed City services – such as police, fire, sanitation, etc. – and coordinate any other licenses and permits that may be necessary to stage the Filming Activity.

K. “Private Property” shall mean real property owned or leased by an individual or non-governmental entity, including, for example, residential homes and commercial developments.

L. “Public Property” shall mean real property owned, leased or controlled by the City, including, without limitation, parks, streets, sidewalks, other rights of way and buildings.

M. “Producer” shall mean an individual, organization, corporation or other entity that is ultimately responsible for the Filming Activity that is the subject of the application and permit.

N. “Impact,” with regards to public property, shall mean (1) Use of intellectual property belonging to the City; (2) Closure of a City or state street, lane and/or sidewalk; (3) Use of pyrotechnics or other explosives; (4) Smoke effects, water effects or flame effects; (5) Display of real or artificial firearms, grenades or other weapons that would cause the public to fear violence; (6) Vehicle chases and/or vehicle crashes; (7) Use of large or any other equipment that has a reasonable likelihood of causing damage to public property; (8) Use of wild animals controlled under federal or state law or county and/or municipal ordinances; (9) Use of city or state streets and/or lanes for the parking of trailers or vehicles associated with the Filming Activity that are likely to restrict the flow of traffic; (10) If another permit and/or license or any type of inspection is required by the ordinances of the City for the Filming Activity; or (11) any combination of the above.

O. “Disturbing the Peace” shall mean (1) real or simulated fighting visible from public property or right-of-way; (2) using offensive words in public that are likely to incite violence; (3) shouting in a public place that could be heard from a radius of 100 yards and that could have the effect of disturbing the health, safety and/or welfare of the surrounding public; (4) use of non-domestic animals or domestic animals that will be loud and audible to a reasonable person in a radius of two hundred (200) feet that is inside a structure with the windows and doors closed; (5) playing of music or other noise loud enough to be heard by a reasonable person within a radius of five hundred (500) feet or two hundred (200) feet if inside a structure with the windows and doors closed; (6) presence of public nudity or what would be considered indecent exposure under the City Code; (7) simulated (or real) drug use; and (8) what would otherwise be considered disorderly conduct under the City Code.

Sec. 14-362 – Purpose and Intent

The intent of the City in adopting this filming ordinance is to facilitate entertainment industry work performed in the City of Fairburn while safeguarding the interests of Fairburn's residents and businesses. This ordinance creates the City of Fairburn Film Liaison, who will be dedicated to responding to the needs and issues pertaining to permitting and filming within the City of Fairburn. This ordinance strengthens the City's ability to anticipate and provide adequate services for the multiple filming projects throughout the City of Fairburn. It also enhances the City's ability to accommodate unanticipated circumstances and requested changes. The Film Liaison similarly will respond to the needs of Fairburn's neighborhoods regarding entertainment industry work, and will promote community awareness of the entertainment industry's impact upon the City of Fairburn's economic development. This ordinance furthers the City's commitment to being a best-in-class location to work and live.

Sec. 14-363 - Permit and exemptions.

A. Permit required. No person shall use any Public Property or Facility or Private Property, Facility or Residence where such use will have an Impact on public property for the purposes of Filming without first applying for and obtaining a permit pursuant to this Article.

B. Exemptions. The following types of filming are exempt from the permitting requirement of Section 80-480(A) above. This provision does not exempt a producer from complying with other applicable Code provisions, laws, ordinances or regulations that require elements or other activities included in the filming to be permitted or approved by the appropriate governmental entity.

1. News Media. The provisions of this Article shall not apply to Film Activities for the purpose of News Media.

2. Personal/Family Video. The recording of visual images (motion or still photography) solely for private use and not for commercial use.

3. Studio Filming. Film Activities (motion or still photography) conducted at or within a properly-licensed studio.

4. Small Business. The owner of any Small Business, as defined by the size standards of the Small Business Administration (SBA), may film a commercial for said business at their properly licensed business location without a permit, so long as the filming takes place wholly inside the private premises of the business location or immediately outside the premises so long as the filming does not substantially interfere with any vehicular or pedestrian traffic on the public right of way.

5. Rallies/Protests/Demonstrations. Filming associated with any permitted or unpermitted rally, protest or demonstration, except with the same is staged for the sole purpose of being included in the filming's final product.

6. Outdoor events. Filming associated with an outdoor event that is authorized by a city-issued outdoor event permit, as defined in Section 80-179 of the Code, except when the same is staged for the sole purpose of being included in the filming's final product.

Sec. 14-364 - Administration.

A. The City Administrator may designate a City employee to serve as the Film Liaison. Said employee shall be employed in the City's Community Development Department and shall be responsible for administering the provisions of this Article. Film Liaison shall be responsible for administering the provisions of the Article. If no Film Liaison is designated, then the City Administrator shall serve as the Film Liaison.

B. Issuance of permits and other decisions rendered pursuant to the terms of this Chapter shall be based upon the following:

1. The health and safety of all persons, including citizenry and customers of any businesses located within the City; and
2. Mitigation of disruption to all persons and businesses within the affected area; and
3. The safety of all public and private property within the City; and
4. Traffic congestion at particular locations within the City; and
5. Ability of the applicant to organize the Filming Activity and comply with all applicable laws, ordinances and regulations, and/or the City to coordinate the necessary services within the period of time between submittal of application and scheduled date of Filming Activity; and
6. Whether any other legal and/or permitted activity is taking place at the location of the scheduled Film Activity at the same time.

Sec. 14-365 - Applications and issuance of permits.

A. Applications shall be made on a form prescribed by the Film Liaison and shall include the following information:

1. The representative of the property, the address, e-mail address and any available telephone number of the place at which the activity is to be conducted; and
2. A written description of the specific location at such address or place including a description of any facilities on the location where Filming will take place; and
3. The inclusive hours and dates Film Activities will occur; and
4. A general statement of the character or nature of the proposed Film Activity; and
5. The name, address, e-mail address and telephone number of the person or persons in charge of such Film Activity; and

6. The exact number of personnel to be involved with such Film Activities; and
7. A detailed description of any Film Activity that may cause public alarm such as the use of any animals, gunfire or pyrotechnics and low flying aircraft; and
8. The exact amount and type of vehicles and equipment to be employed along with a parking plan.
9. A detailed description of any elements that may be performed during the filming, including the dates, times and locations of each;
10. A detailed description of any aspects of the filming, other than the elements, that may require city services.

B. Deadline for applications. Subject to the Expedited Review exception, applications must be submitted a minimum of five (5) business days in advance to the Film Liaison. If the Film Activity interferes with traffic or involves potential public safety hazards, the application shall be submitted a minimum of seven (7) business days in advance.

C. With the exception of those applications requesting the use of pyrotechnics, explosives, fire/smoke-making devices, etc., all applications shall be reviewed and issued by the Film Liaison. The Film Liaison shall review and act on the application no later than seven (7) business days following the submittal of the completed application. For those applications submitted less than eight (8) business days prior to the Filming Activity, but more than three (3) business days prior to the Filming Activity, the Film Liaison shall review and act on the application no later than three (3) business days after the filing of the application.

D. The Film Liaison, in coordination with the City Administrator, the Chief of Police, and the Fire Chief, shall review and approve any application requesting the use of pyrotechnics, explosives, fire/smoke-making devices, etc. based on the criteria stated above and make recommendations for approval or denial to the Film Liaison. The Film Liaison shall review and act on the application no later than seven (7) business days following the submittal of the completed application.

E. An application submitted for Expedited Review shall be assessed administratively by the Film Liaison who, based on the criteria above, shall approve or deny the permit. The decision of the Film Liaison must be communicated to the applicant in writing in the most expeditious method available and requested by the applicant at the applicant's expense. In case of a denial, and only if the applicant so directs, the Film Liaison shall forward the application for de novo review by the Mayor and City Council at the next regularly scheduled council meeting, but no later than thirty (30) days after the issuance of the denial. The written letter of denial shall serve as the Film Liaison's recommendation to the Mayor and City Council.

F. Change of Date. Upon the request of the permittee, the Film Liaison shall have the power, upon a showing of good cause, to change the date for which a film permit has been issued, provided the date change does not extend the length of the permitted Film Activity originally approved or

substantially change any required filming regulation factor detailed in this Article or any condition placed on the permit when originally approved.

G. The issuance of a permit shall not grant the Producer a constitutionally protected property interest.

Section 14-366 – Filming Elements.

(1). An applicant shall indicate on the application each of the elements listed below that will be included in the filming.

(2). The final decision of whether to allow the element shall be made by the Department of Economic Development, after consultation with the Film Liaison, and communicated to the applicant by the Film Liaison. Prior to denying permission to perform an element, representatives of the Department of Planning and Zoning, as well as the Film Liaison, shall consult with the producer in an attempt to find alternative ways to accommodate the producer's filming needs.

(3). This section applies to the activities listed below only when they occur on public property. Where the element requires approval from an additional governmental jurisdiction, the producer must obtain that approval as well.

(4). The elements are as follows:

- (a) Night-time filming with the use of outdoor lighting where a residence exists within 150 feet from the location of an outdoor light;
- (b) Filming in buildings that are owned by the city and not leased to a third party, or in buildings of which the city is a lessee;
- (c) Use of a temporary structure that requires permitting by the office of buildings and/or the City of Fairburn Fire Department;
- (d) Use of intellectual property belonging to the city;
- (e) Closure of a street, lane and/or sidewalk;
- (f) Use of pyrotechnics or other explosives;
- (g) Smoke effects, water effects, or flame effects;
- (h) Display of real or artificial fire arms, grenades, or other weapons that would cause the public to fear violence;
- (i) Vehicle chases and/or vehicle crashes;

- (j) Dangerous stunts that have a reasonable likelihood of causing substantial personal injury;
- (k) Use of large or any other equipment that has a reasonable likelihood of causing damage to public property;
- (l) Filming in a city park; and
- (m) Use of wild animals controlled under federal, state, or county law and/or ordinances.

Sec. 14-367 - Application fee, hiring of city personnel.

A. Application Fee. With the exception of Student Films and Charitable Films (as stated in the fee schedule), which shall be exempted, the application fee for any filming permit must be submitted together with the application. The fee (based on the City's Fee Schedule) and the Filming Permit must be issued in compliance with this policy. Presentation of proof to the City that the final film product contains end-credit attribution to the City of Fairburn and the City Logo shall result in reimbursement of 25% of the Application Fee.

B. Hiring/Use of City Personnel. The production company shall pay the City for any employees provided to the company (e.g. police, fire, traffic) for the purpose of assisting the production, whether at the request of the applicant or as a condition of the permit. The rate for an employee and minimum hours of hire for employees shall be established by resolution of Mayor and Council in consultation with the Chief of Police or Fire Chief, if applicable.

Sec. 14-368 - Filming regulations.

A. Residential Locations. Filming in residential neighborhoods shall be limited to the hours between 7:00 a.m. and 10:00 p.m. Eastern Standard Time or 11:00 p.m. Eastern Daylight Time.

B. Notification. Permittees must provide all residents, businesses and merchants within a 200-foot radius of the Film Location written notice of the dates, times, location addresses and production company contact at least seventy-two (72) hours prior to the first Film Activity, or twelve (12) hours in case of Expedited Review applications. If a permittee requires on-street parking for production vehicles, residents, businesses and merchants impacted by the parking requirements must receive written notice at least 24 hours prior to the arrival of the vehicles.

C. Clean up. The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The Filming Activity area, Facilities and Residences used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the area's, Residence's or Facility's original condition before leaving the site.

D. Filming on private property. A permittee must obtain permission, consent and/or secure a lease for any use of property not owned or controlled by the City.

E. The removal, cutting, trimming, or destroying of trees or vegetation in the City right-of-way is prohibited, unless specifically approved by the permit.

F. Signage. Any signs associated with the filming process may not exceed thirty-five (35) square feet in size. Please indicate any signage that you will be placing in the City of Fairburn including signage directing crew to the site, the dates the signs will be posted, and when they will be removed. All signage must be removed by film production crew and contact name, number, and e-mail must be provided for crew member responsible for removal.

G. Tents or temporary membrane structures having an area in excess of 200 square feet or canopy in excess of 400 square feet require a tent permit and inspection by the Fire Marshal.

F. Traffic control.

1. In the event any filming impairs traffic flow, permittees may be required to use City of Fairburn Police Department employees for traffic purposes and comply with other traffic control requirements as deemed necessary by the City's Chief of Police or designee.

2. Permittees shall furnish and install advance warning signs and any other traffic control devices in conformance with the National Manual on Uniform Traffic Control Devices ("MUTCD"). All appropriate safety precautions must be taken.

3. For any lane closure or intermittent traffic control, the period of time that traffic may be restricted will be determined by the Chief of Police, based on traffic volumes for location and time of day. Requests for such closures must be submitted as part of the application and applicant must diligently assist the Chief of Police, or designee, in developing a traffic control plan if so requested.

4. Traffic shall not be detoured across a double line without prior authorization of the Chief of Police, or designee.

5. Cars with cameras mounted or held by a passenger and/or driver must still be driven in the direction of traffic and observe all traffic laws while filming, unless otherwise authorized by the Chief of Police, or designee.

6. Any emergency roadwork by City employees and/or private contractors under permit or contract to the City shall have priority over filming activities.

Sec. 14-369 - Liability.

A. Liability Insurance. Before a permit is issued, a certificate of insurance will be required in the amount not exceeding \$1,000,000.00 naming the City as an additional insured for protection against claims of third persons, including but not limited to, personal injury, wrongful death, and property damage. The certificate shall not be subject to cancellation or modification until after thirty days' written notice to the City. A copy of the certificate shall be attached to the permit for Filming filed with the City.

B. Worker's Compensation Insurance. A permittee shall conform to all applicable Federal and State requirement for Worker's Compensation Insurance for all persons operating under a permit. Proof of Workers Compensation Insurance shall be attached to the permit for Filming filed with the City.

C. Hold Harmless/Disclosure Agreement. A permittee shall execute a hold harmless agreement on a form created by the City prior to the issuance of a permit.

D. Security Deposit. To ensure cleanup and restoration of the site, a permittee may be required to submit a refundable deposit of one hundred fifty dollars (\$150). Such deposit shall be paid at the time a Filming permit is filed with the City. Upon completion of the Filming and inspection of the site by the City, if no verifiable damage has occurred, the security deposit should be returned to the permittee.

Sec. 14-370 - Violations; Revocation.

A. Any Producer that performs Filming Activity requiring a permit under this ordinance without such a permit, shall be in violation of this ordinance and subject to a \$1,000 fine for each day of non-permitted Filming Activity.

B. In addition to revocation of a Filming permit, a permittee violating any provisions of this ordinance shall be subject to a one thousand dollar (\$1,000.00) fine for each violation. In the event of any such violation, the Film Liaison or other City official shall provide the permittee with verbal or written notice of such violation. If the permittee fails to correct the violation within a reasonable time as specified by the Film Liaison or other City official, the Filming Liaison shall direct all Filming Activity to cease immediately. Permitted Filming Activity shall not resume until the violation is corrected.

C. If the violation is not corrected within the following forty-eight (48) hours, the Film Liaison may revoke the permit by giving written notice to the Producer or designated representative on site." The Producer may appeal such revocation to the Mayor and City Council by submitting a written appeal within five (5) business days of the revocation notice to the Film Liaison, who shall place said appeal on the next regularly scheduled City Council Meeting for de novo review by the Mayor and City Council, but not later than thirty (30) business days following the receipt of the appeal notice. At the appeal hearing, the revocation may not be reversed unless the Producer convinces the Mayor and City Council, by preponderance of the evidence, that no violation occurred or that said violation was corrected prior to receipt of the revocation notice. The decision of the Mayor and City Council shall be final.

Sec. 14-371 - Appeals.

Appeals of any decisions of the Mayor and City Council under this Article shall be by Petition for Writ of Certiorari in the Fulton County Superior Court in accordance with state law.