

An Ordinance To Amend The Provisions Of Chapter 10 Of the Code Of Ordinances Of Porterdale, Georgia, Entitled “Licenses, Permits, And Miscellaneous Regulations”, To Add A New Article, Designated As Article XVI, To Regulate Motion Picture, Television and Photographic Production Within The City Of Porterdale.

BE IT ORDAINED:

WHEREAS, pursuant to Section 1.13(e) of the City Charter of the City of Porterdale, Georgia, the City is authorized to license and regulate businesses within the City;

WHEREAS, pursuant to Section 1.13(pp) of the City Charter, the City is authorized to exercise and enjoy all other powers, functions, rights, and privileges necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants;

WHEREAS, the film industry has utilized locations within the City of Porterdale for production of motion pictures and television shows;

WHEREAS, for the safety, welfare, and well-being of the citizens and residents of the City of Porterdale, Georgia, the Mayor and City Council have determined to enact regulations to govern the production of motion pictures, independent filmography, documentaries, music videos, television shows, programs and commercials, as well as the taking of single or multiple photographs for sale, and all activity attendant to staging or shooting such images, on public and private property;

NOW, THEREFORE, the Mayor and City Council of the City of Porterdale, Georgia hereby **ORDAIN** to amend the provisions of Chapter 10 of the Code of Ordinances of the City of Porterdale, Georgia, Entitled “Licenses, Permits, and Miscellaneous Regulations, to add a new Article, to be designated as Article XVI and entitled “Motion Picture, Television and Photographic Productions”, and which Article shall provide as follows:

**ARTICLE XVI
MOTION PICTURE, TELEVISION AND PHOTOGRAPHIC PRODUCTIONS**

Sec. 10-640. Purpose and Intent.

The governing authority’s intent in adopting this Article is to facilitate entertainment production events in the City of Porterdale while safeguarding the interest of City of Porterdale residents and businesses. This article provides the basis for the rule and regulations governing the issuance of permits for filming within the City. It strengthens the City’s ability to anticipate and provide necessary support services for entertainment production events to ensure filming is done in a manner consistent with public health, safety and the protection of property.

Sec. 10-641. Definitions.

For the purpose of this Article, the following terms, phrases, words and their derivations shall have the meaning given herein:

Applicant shall mean the individual, organization, corporation, or any other entity that is ultimately responsible for the filming that is the subject of a permit application and who is legally authorized to bind the producer.

Application means the documents created by the City that must be completed and submitted to the City to request a permit.

City shall mean City of Porterdale.

City of Porterdale Film Coordinator or *Coordinator* shall mean the employee designated by the City Council to work with and be the City's point of contact with media productions, and to assist in coordinating the permitting or authorization process for the City.

Filming shall mean 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, programs, or commercials. Filming also means the taking of single or multiple photographs for sale or use for a commercial purpose where the photographer sets up stationary equipment on public or private property or the public right-of-way in any one location for longer than five (5) consecutive minutes.

Permit means a permit validly issued by the City that authorizes filming.

Producer means an individual, organization, corporation or any other entity responsible for filming in the City of Porterdale.

Public property means real property owned by the City or for which the City is a lessee, 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 lessee. Public property shall not include the right of way of any State highway, including but not limited to Georgia Highway 81, for which a permit shall be applied for and obtained through the Georgia Department of Transportation.

Sec. 10-642. Notification and Permit or Authorization — Required.

- (a) No person shall use any public right-of-way, or any public property, or facility for the purpose of filming as defined in Sec. 10-641, without notification to the City and a permit issued pursuant to the provisions of this Article.

- (b) No person shall use any private property, facility or residence for the purpose filming as defined in Sec. 10-641, without notification to the City and authorization issued pursuant to the provisions of this Article.
- (c) An applicant or producer that receives a permit is responsible for knowing and complying with all other laws, including other ordinances and regulations that establish prerequisites, authorizations and other regulated permissions applicable to filming.
- (d) Where permitted filming includes advertising signs or other displays of commercial speech, the signs and/or displays must be removed upon the expiration of the permit.
- (e) While it is the intent of the City to honor each permit, the issuance of such permit shall not grant the applicant or producer a constitutionally protected property interest.

Sec. 10-643. Exemptions.

The provisions of this Article shall not apply to the following:

- (a) Current news productions, which includes reporter, photographers or camera persons in the employment of a newspaper, news service, broadcasting station or similar entity engaged in the broadcasting of a news event;
- (b) Productions which are conducted by City of Porterdale and the Newton County Board of Education, or other governmental agencies as approved by the City Council;
- (c) Productions which are conducted within legally established commercial motion picture/television/still photography studios;
- (d) Student filming by a student or students duly enrolled in an educational institution;
- (e) Filming associated with any permitted or unpermitted rally, protest, or demonstration, except when the same is staged for the sole purpose of being included in the motion picture, television, or photographic production final product.

Sec. 10-644. Application.

- (a) Any person desiring a permit or authorization under the provisions of this Article shall make application on forms provided by the City of Porterdale Film Coordinator at least ten (10) working days prior to any filming activity taking place. The form must be signed and accompanied by all required fees, deposits, hold harmless agreements and insurance certificates required by this chapter before it will be processed. If the application satisfies the criteria of this chapter, the permit or authorization shall be issued within ten (10) working days of submittal.
- (b) At a minimum, Applicant shall provide the following information:

- (1) Applicant's contact information, including the name and phone number for a 24-hour contact person;
 - (2) Project information including the filming locations, dates and time.;
 - (3) Description of proposed parking arrangements for vehicles and equipment;
 - (4) Description of the type of sound equipment to be used and the timing of the use of amplified sound;
 - (5) Information on any special effects to be used. A fire watch may be required of the City of Porterdale. *See* Section 10-651 below;
 - (6) Details of planned lane or road closures, including required detours and traffic control plans. Emergency vehicle access shall be maintained at all times. Road closures require on-duty POST certified law enforcement officers on site as determined and directed by the City of Porterdale Police Chief, at the production company's expense.
 - (7) Applicant's security plan. If necessary to address public safety considerations, Applicant may be required to hire off-duty POST certified law enforcement officers as determined and directed by the City of Porterdale Police Chief. *See* Sec. 10-653 below.
- (c) *Fees.* Each application shall be accompanied by fees in accordance with the fee schedule as identified in Sec. 10-658 below. Except as set forth below, all fees shall be nonrefundable.

Sec. 10-645 Issuance of permit or authorization; conditions.

- (a) The City of Porterdale Film Coordinator, or designee, shall issue a permit or authorization as provided for in this Article when, from a consideration of the application, and from such other information as may be otherwise obtained, the Coordinator, after consultation with the City of Porterdale Police Chief, the Newton County Fire Service, and the City Public Works Director, finds that:
- (1) The conduct of such activity will not unduly interfere with traffic or pedestrian movement or endanger public safety and that no streets will be completely closed to traffic for an unreasonable period of time; and
 - (2) The conduct of such activity will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by Applicant; and

- (3) The conduct of such activity will not constitute a fire hazard or any other type of hazard and all safety precautions will be taken as determined by the heads of the aforementioned departments or their designees.
- (b) Notwithstanding the above, the Coordinator may deny an application if:
 - (1) The Applicant production company owes an outstanding debt to the City; or
 - (2) The Applicant production company previously caused significant damage to City property and failed to adequately repair the damage or reimburse the City for repair or restoration; or
 - (3) The Applicant previously violated a City of Porterdale ordinance or other applicable federal or state law in connection with filming activity in City of Porterdale.
 - (c) The decision of the Coordinator to issue, conditionally issue, or deny a permit or authorization shall be final unless appealed in writing within five (5) working days of the decision to the Mayor. The Mayor will render a decision to issue, conditionally issue or uphold the denial of a permit or authorization within two (2) days of the appeal. The decision of the Mayor shall be final.
 - (d) When more than one permit application is received for filming at the same location at the same time, and the Coordinator reasonably determines both productions cannot occur, the first complete application that is received by the City shall receive priority as to the requested location and time. The Coordinator shall make reasonable efforts to accommodate any other applications to identify alternative suitable filming locations and times. Any fees paid by an unsuccessful applicant due to the unavailability of a requested filming location shall be fully refundable, notwithstanding any provision in this ordinance to the contrary.
 - (e) In no event shall the City of Porterdale Film Coordinator or any city employee's evaluation of whether to grant or deny the application include consideration of the race, color, creed, religion, gender, age, disability, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, political affiliation or associational relationships of the applicant, producer, or any person associated with the filming or by the message or content of the filming.

Sec. 10-646. Cost of additional services.

If deemed necessary, additional law enforcement, code enforcement, fire, and other City services shall be required for the purpose of protecting, assisting and regulating the proposed activity. The reasonable cost of providing such additional services shall be paid in advance to the City by Applicant.

Sec. 10-647. Insurance.

Applicant agrees to maintain the following insurance for any permit for filming on City property, utilize City right-of-way, or utilize City vehicles or equipment:

Coverage	Limit
a) Worker's Compensation	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$500,000 Each Accident
	\$500,000 Disease/Employee
	\$500,000 Disease/Policy
b) Automobile Liability	
Owned Vehicles	\$1,000,000
Non-owned Vehicles	\$1,000,000
Hired Vehicles	\$1,000,000
c) Commercial General Liability	
Aggregate Limit	\$2,000,000
Each Occurrence Limit	\$1,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to Rented Premises	\$100,000
Medical Payments	\$5,000

All insurance shall be provided by an insurer(s) acceptable to the City, and shall name the City of Porterdale as an additional insured on the general liability and automobile liability policies. Applicant shall include a certificate or policy of insurance evidencing compliance with these requirements.

Sec. 10-648. Hold Harmless Agreement.

Applicant shall execute an indemnification and hold harmless agreement as provided by the City prior to the issuance of any permit.

Sec. 10-649. Conditions; restrictions.

- (a) Applicant shall maintain a copy of the permit or authorization on-site at all times.
- (b) Applicant shall comply with any and all conditions or restrictions the City may impose as a condition to issuing a permit or authorization. No changes in conditions or restrictions shall be made without first obtaining written approval of the City of Porterdale Film Coordinator, which approval shall not be unreasonably withheld.

(c) Applicant shall have nonexclusive use of City facilities unless otherwise granted in writing.

(d) City of Porterdale and its agents are not responsible for disturbances caused during film activities.

(e) *Filming in residential areas.*

(1) Filming shall be conducted between the hours of 7:00 a.m. and midnight. All set up, filming and take down shall occur during these hours unless all residents within 200 linear feet of the filming location are notified and compensated by Applicant at a rate of \$50 per each day of film activity. No exceptional activities such as pyrotechnics or explosions shall be conducted between midnight and 7:00 a.m.

(2) Impacted residents shall be notified in writing at least three (3) days in advance of filming of any road closures and shall be compensated by Applicant at a rate of \$100 per day for their inconvenience. Such notification shall include information regarding the relevant filming location, as well as the use of any special effects.

(f) *Filming in business areas.*

(1) Impacted businesses shall be notified in writing at least three (3) days in advance of any filming that may impede customer access to such businesses. If customer access to a business is directly impeded during business hours, the business owner shall be compensated by Applicant at a rate of \$200 per day for filming activity, including set up, filming and take down.

(2) If a business is otherwise affected by the filming, compensation will be decided between the filming company and the business owner.

(g) Permits are not transferable.

Sec. 10-650. Permit Modifications.

(a) All filming activity shall be confined to the locations, times, and conditions specified in permit.

(b) Any Applicant seeking to modify a previously issued permit shall submit such request to the Coordinator in writing no later than one full business day in advance of the effective date of a permit.

(c) There shall be no additional application fee associated with modifying a permit when, in the reasonable discretion of the Coordinator, the requested modification is not material. For the purposes of this ordinance, a “material” change means that the processing of the

requested change will result in the expenditure of City staff time or services that is more than de minimus.

- (d) Where an Applicant requests a material modification to a filming permit at least three (3) days in advance of the effective date of such permit, there shall be no additional application fee for the processing of such modification.
- (e) Where an Applicant requests a material modification to a filming permit fewer than three (3) days in advance of the effective date of such permit, the Applicant must pay a \$300 rush fee for the processing of such modification.
- (f) Where an Applicant notifies the County at least three (3) days in advance of the effective date of a permit of a modification or cancellation resulting in the decrease or elimination of fees for filming in a City of Porterdale facility, the Applicant shall be entitled to a refund of fifty percent (50%) of the relevant facility fee.
- (g) Any request to modify a permit that results in additional fees shall be accompanied by payment for any applicable fees at the time of the submission of the request.

Sec. 10-651. Special Effects, Fire, Explosives, and Similar Devices.

No filming involving the use of fire, explosives, pyrotechnics, smoke machines, or other similar special effects may be permitted unless specifically approved by the City of Porterdale Police Department in consultation with the Newton County Fire Service. If, in the reasonable discretion of the City of Porterdale Police Department, a fire watch is required, Applicant shall be responsible for paying fees for the supervision of any film activity involving fire, explosives, pyrotechnics, smoke machines, or other similar special effects by a Newton County firefighter.

Sec. 10-652. Prohibition of Alteration of Vegetation.

Applicant shall not remove, cut, trim, or otherwise alter the vegetation on public property in connection with any filming activity unless specifically authorized to do so in writing by an authorized representative of the City.

Sec. 10-653. Security.

Applicant's security plan is subject to approval by the City of Porterdale Police Department. If necessary to address public safety considerations or the security of City facilities, Applicant may be required to hire off-duty POST certified law enforcement officers as determined and directed by the City of Porterdale Police Department.

Sec. 10-654. Pre-Permit Issuance Meeting.

In advance of the issuance of any permit, the Coordinator may schedule a meeting with the Applicant and any applicable City of Porterdale Department Heads, or in the absence of any

Department Head, his or her designee. Participation may be in person or via teleconference. Such meeting shall occur to coordinate the approval of any filming activity and to determine any additional requirements necessary for the approval of the permit application. The City reserves the right to require any additional reasonable requirements identified by the Coordinator or any City of Porterdale Department Heads, or in the absence of any Department Heads, his or her designee, to address concerns regarding filming activities.

Sec. 10-655. Cleanup/restoration.

- (a) For filming on City owned property, Applicant shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use, maintenance of the area and the cleanup of trash and debris. The areas used shall be cleaned of trash and debris to City's satisfaction within two (2) hours of the completion of the activity or within such other time established in the permit. Applicant shall be responsible for restoring any area damaged or disrupted before leaving the site, reasonable wear and tear excepted. If, after notice and a reasonable opportunity to provide repairs, the site is not repaired or restored to the City's reasonable satisfaction, the City shall have the necessary restoration and/or repairs performed and shall bill Applicant for any reasonable costs incurred by the City. Applicant shall reimburse City for the reasonable cost of such work within thirty (30) days of receipt of the invoice.
- (b) Applicant shall be responsible for repairing damage to any public right-of-way to the satisfaction of the City, as determined in the City's reasonable discretion.

Sec. 10-656. Rights upon grant of permit for filming on public property.

- (a) Upon issuance of a permit to an Applicant, the City grants to Applicant the following rights with respect to the public property filming location ("Premises") specified in the permit application:
 - (1) To enter and remain upon the Premises with personnel, equipment and sets for the sole and express purpose of recording and photographing (still or moving) scenes live or on tape, film or by any other process on the Premises during the term specified in the permit.
 - (2) To photograph (still or moving) and record the exterior and interior of buildings, ("Buildings") and other structures ("Structures"), including, but not limited to, signs, furniture, and pictures contained in or on such Buildings and/or Structures, which are on the Premises, and to photograph (still or moving) and record any animals on the Premises.
 - (3) To change the location of and/or replace furnishings in Buildings located on the Premises for the purpose of photographing (still or moving) and recording scenes pursuant; provided however, that Production Company shall return and put back all such furnishings to their rightful place prior to vacating the Premises.

- (4) To use the name of the Premises and/or the name of any Buildings or Structures located on the Premises or to represent each of the foregoing as another real or fictional location, or use a fictional name, in connection with Applicant's use of the recordings and photographs (still or moving).
- (5) To construct and photograph a set duplicating all or part of the Premises and Buildings or Structures (including but not limited to, any signs or any interiors of Buildings and Structures).
- (6) To use all recordings and photographs (still or moving) made by Applicant pursuant to the permit in all media now known or hereafter devised throughout the universe, in perpetuity, including the in-context advertising and promotion of the Project and customary in-context clip licensing and freely assign such rights.
- (7) To remove any and all of its sets, structures, and other materials and equipment from the Premises upon completion of the term of this Agreement.

Sec. 10-657. Exercise of Police Power Not Affected.

Nothing in this Ordinance shall be interpreted in any way to limit the police power of the City.

Sec. 10-658 Fee Schedule and Payment Obligations.

The following fees shall be imposed and paid:

- (a) Application Fee: \$75.00. Charges for Services rendered on Late Requests will be an additional \$100 as the result of requests made less than three (3) business days' notice.
- (b) *Fees for filming in a City of Porterdale facility.* This includes Yellow River Park, Train Depot, that portion of the Gravel Parking lot (across from the Lofts) owned by the City, Public Works Facility, BC Crowell Park (Ball Field and amenities, Cedar Shoals Park, the neighborhood parks, water towers, the old Jail, the Old Gymnasium, and the streets and alleyways.
 - (1) \$500 per day for preparation, construction, take down, and clean-up in all location except Yellow River Park. A fee of \$750 per day shall apply for Prep/Strike at Yellow River Park.
 - (2) \$750 per day for filming in all locations except Yellow River Park. A fee of \$1,000 per day shall apply for filming in Yellow River Park.
 - (3) Access to the building after hours requires two on-duty deputies at a fee of \$40 per hour per deputy with a four (4) hour minimum
 - (4) City Attendant is required to be on site at a rate of \$25.00 per hour for 8 hours, \$30.00 per hour after 8, and \$40.00 per hour after 12 paid by the film staff.

- (5) Special Permitting or Special Circumstances: City Attendant will be paid at a rate to be negotiated between the City Attendant and the film staff not to exceed \$40.00 per hour.
- (c) *City of Porterdale Police Officer Fees:*
- (1) On-duty officers at a fee of \$45.00 per hour with a four (4) hour minimum,
 - (2) Off-duty officers to be negotiated directly with the Police Chief at a fee of \$40.00 per hour with a four (4) hour minimum, paid directly to the firefighter as contract labor by film staff.
- (d) Fees for the use of Newton County Fire Service Vehicles and Equipment are to be negotiated directly with the Newton County Fire Chief and the Newton County Manager.
- (e) *Cost of Additional Services.* If deemed necessary, additional law enforcement, code enforcement, fire, and other City services shall be required for the purpose of protecting, assisting, and regulating the proposed activity. The reasonable cost of providing such additional services shall be paid in advance to the City by the Applicant.
- (f) Fees for use of City of Porterdale Vehicles and Equipment Use:
- (1) Administrative/Chief Sport Utility Vehicle (Tahoe/Explorer/Ram): \$200/day.
 - (2) Public Works Trucks: \$250/day.
 - (3) Public Works Heavy Equipment (Multi-Hog, Bulldozer, etc.): \$275/day.
 - (4) Support vehicle (trailer, ATV, etc.): \$150/day.
 - (5) All apparatus/vehicles require 1 driver minimum to be paid by the film staff.
 - (6) All vehicles and equipment apparatus will be available 8 hours prior to first call date/time for signage and lettering if needed; all signs/lettering must be removed within 8 hours of final cut time.
 - (7) Any damage incurred to vehicles/equipment due to signage or lettering will be replaced by our vendor and the cost will be billed directly to the film staff.
 - (8) Fuel will be billed at current industry rates and billed directly to the film staff.

Sec. 10-659. Penalties for violation.

Any applicant or producer who performs filming without receiving a permit, or performs filming that violates the material terms of a permit, or is otherwise in violation of this Article, upon

citation or summons by the Police Chief, Code Enforcement Officer, or other authorized City employee, and judgment or conviction by the Municipal Court of the City of Porterdale or any other court of competent jurisdiction, shall be subject to the penalties set forth in Sec. 1-7 of this Code now or as it may be amended in the future. Each day a violation continues shall constitute a separate offense.

Sec. 10-660. Disclaimer.

- (a) The City, its officials, officers, employees, or agents shall not incur any liability or responsibility for any injury or damage to any person or any property in any way connected to the use for which any permit has been issued under this Article. The City, its officials, officers, employees, or agents 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 or other public property.
- (b) By enacting this Article, the City is assuming an undertaking to promote the general welfare of its citizens. The City, its official, officers, employees and agents shall not be liable to any person, including, but not limited to, persons whose names appear on the application, or permit, who claim that the enactment, enforcement or violation of this Article caused injury or loss of any kind.

Read and adopted in the regular meeting of the City Council held on this _____ day of _____, 2021.

ATTEST:

Kathy Boutry, City Clerk

Arlene, Mayor

Timothy D. Chambers, City Attorney

Kay Piper, Council Member Post 1

Linda Finger, Council Member Post 2

Michael Patterson, Council Member Post 3

Mike Harper, Council Member Post 4

Lowell Chambers, Council Member Post 5

(e) *Filming in residential areas.*

- (1)
 - (a) Filming shall be conducted between the hours of 7:00 a.m. and 10:00 pm. All set up, filming and take down shall occur during these hours. All residents within 200 linear feet of the filming locations must be notified in writing and compensated by Applicant at a minimum rate of \$50 per each day of film activity. No exceptional activities such as pyrotechnics or explosions shall be conducted between 10:00 pm and 7:00 a.m.
 - (b) Filming activity may be extended for two additional hours (i.e., between 10:00 pm and midnight) if application is made therefore on the initial Permit application. In the event a permit is issued to allow filming activity during this additional 2 hour period, all residents within 200 linear feet of the filming locations must be notified in writing and compensated at the minimum rate of \$25.00 for each day on which filming occurs during the additional 2 hour period.
- (2) Impacted residents shall be notified in writing at least three (3) days in advance of filming of any road closures and shall be compensated by Applicant at a minimum rate of \$100 per day for their inconvenience. Such notification shall include information regarding the relevant filming location, as well as the use of any special effects.