

ORDINANCE NO. 3058

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, AMENDING CHAPTER 5.44-MOTION PICTURES OF THE WHITTIER MUNICIPAL CODE

WHEREAS, the last update to Chapter 5.44 – MOTION PICTURES was conducted on May 13, 2003;

WHEREAS, the City has conducted a review and determined that another update is necessary to bring various provisions of the Chapter into compliance with the Model Filming Ordinance and Guidelines for Best Practices in Film Regulations and Policies developed by the California Film Commission; and

WHEREAS, the City was required to send the proposed revisions to the ordinance to the California Film Commission for comment at least 30 days prior to the adoption of the ordinance and guidelines.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WHITTIER, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The title of Chapter 5.44-MOTION PICTURES is hereby amended to include additional wording:

Chapter 5.44 – MOTION PICTURES AND FILMING ACTIVITIES

SECTION 2. The text of Section 5.44.010 and subsections of the Whittier Municipal Code is hereby amended to include additional wording and the following additional subsections:

5.44.010 - Permit—Required.

No person shall use buildings, structures, lots, yards, courts, open spaces, spaces open to public view or any public property for the purpose of television, motion picture, commercial, digital media, student film or still photography without first obtaining a permit from the city manager or his/her designee therefor, except as specifically provided for in this chapter. Any person desiring such a permit, including but not limited to, a permit allowing the temporary use and occupancy of a portion of public property for the purpose of filming, shall submit a written application for the permit, together with a filing and processing fee in an amount set by the city council by ordinance, resolution or minute order, to the city manager or his/her designee, who shall, upon receipt thereof, issue the permit if found:

- B. That the activities proposed will not constitute an unreasonable threat of injury to person or property, if properly conducted.
 - 1. For filming on private property:

- a. Filming on private property in the Uptown Business District shall be limited to filming reviewed and concurred by the Whittier Uptown Association prior to submittal to the City;
 - c. All prep, shoot and strike shall occur only between the hours of six o'clock a.m. and ten o'clock p.m. Deviation from these hours may only be permitted with written approval in advance from the city manager or his/her designee on a case-by-case basis. Such approval shall be considered after additional documentation is received, such as agreement from one hundred percent of affected property owners and occupants within the 300 foot distance of the film location;
 - j. Sets constructed within or outside of a building and physically attached to the building such that they receive either vertical or lateral support from the building, will require a building permit to investigate and approve the points of attachment of the set to the building.
 - k. The applicant shall notify all affected properties within 300 feet of the film location(s) external boundaries, or to limits determined at the discretion of the city manager or his/her designee. The notification documentation that is provided to the affected properties shall be provided to the city.
2. For filming on public property:
- a. Filming on the public right-of-way in the Uptown Business District shall be limited to filming reviewed and concurred by the Whittier Uptown Association prior to submittal to the City;
 - f. All prep, shoot and strike shall be limited to the hours between six o'clock a.m. and ten o'clock p.m. Deviation from these hours may only be permitted with written approval in advance from the city manager or his/her designee on a case-by-case basis. Such approval shall be considered after additional documentation is received, such as agreement from one hundred percent of affected property owners and occupants within the 300 foot distance of the film location;
 - k. Sets constructed within or outside of a building and physically attached to the building such that they receive either vertical or lateral support from the building, will require a building permit to investigate and approve the points of attachment of the set to the building. The applicant shall notify all affected properties within 300 feet of the film location(s) external boundaries, or to limits determined at the discretion of the city manager or his/her designee. The notification documentation that is provided to the affected properties shall be provided to the city.
- C. The applicant shall be in possession of the permit at all times while on location. The permit shall not be reassigned by the applicant without the written consent of the city. Posted parking regulations and/or vehicle code regulations will be enforced unless otherwise noted.

SECTION 3. The text of Section 5.44.020 of the Whittier Municipal Code is hereby amended to include the following additional subsection:

- D. The filming is being done by a charitable organization with a 501(c) (3) Internal Revenue Service (IRS) status.

SECTION 4. The text of Section 5.44.030 of the Whittier Municipal Code is hereby amended to include additional wording and the following additional subsections:

5.44.030 - Permit—Issuance conditions.

- A. The city manager shall condition the issuance of a filming permit on the applicant's compliance with the requirements of Subsection (A) of Section 5.44.010, if the filming is to occur on private property, or Subsection (B) of Section 5.44.010, if the filming is to occur on public property. In addition, the following shall be imposed as conditions on the issuance of all filming permits:

1. The applicant shall secure liability insurance coverage in the amount set forth in the city of Whittier film permit guidelines then in effect. Such insurance shall include comprehensive general liability insurance, which includes property and fire insurance at the same rate and also, contractual liability and automobile liability at the same rate when applicable, in the form of a certificate and endorsement, covering the entire period of the permit and naming the city of Whittier as additional insured;

The applicant shall agree to waive all claims against the city of Whittier, its officers, agents, and employees, for fees, expenses or damage caused by, arising out of or in any way connected with the exercise of the rights under the permit;

3. The applicant shall agree to provide a waiver of subrogation on the Worker's Compensation policy stating that the insurer waives all rights of subrogation against the City including its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants;
 4. The applicant shall agree to save harmless, indemnify and defend the city of Whittier, its officers, agents, and employees with respect to any claims or suits for damages caused by, asserted to be caused by, arising out of, or in any way connected with exercise by the applicant of the rights granted by the permit, except those arising out of the sole negligence of the city;
 5. The applicant shall comply with municipal safety regulations and all requirements set out in the city's film permit guidelines;
 6. The applicant will submit to municipal safety inspections.
- B. The city manager or his/her designee shall require that a permittee pay, prior to commencement of filming, for any estimated costs incurred by the city for any necessary service in conjunction with the issuance and use of the permit, including but not limited to, police traffic control, as set forth in a fee schedule adopted by the city council. The applicant shall also pay any use fees required for use of any public property, including park or other city facility charges established by fee schedule or resolution.

- C. On or before the date of the expiration of the permit, the permittee shall remove from said private and/or public properties all location sets, structures, rubbish, and unsightly matter placed on said properties by the applicant. In the event that the applicant fails to do so, the city may cause the same to be done and the applicant agrees to pay the City for its cost incurred therefore.

SECTION 5. The text of some subsections of Section 5.44.040 of the Whittier Municipal Code is hereby amended to include additional wording:

5.44.040 - Permit—Decision to grant or deny.

- A. The city manager or his/her designee shall investigate and grant, conditionally grant or deny an application for a permit within the time limits set forth in this section.
- B. The completeness of an application shall be determined by the city manager or his/her designee, within five working days of its submittal to the city. If it is determined that the application is not complete, the applicant shall be notified in writing that the application is not complete and the reasons therefor, including any additional information necessary to render the application complete. Such writing may be hand delivered or sent via facsimile but also shall be deposited in U.S. mail, postage prepaid, immediately upon determination that the application is incomplete. Within five working days following receipt of an amended application or supplemental information, the city manager or his/her designee shall again determine whether the application is complete in accordance with the procedures set forth above. If an amended application is not filed with the city within fifteen days of the date of the notice to the applicant that the application is incomplete, then such application shall be deemed to have been withdrawn and the applicant will be required to submit a new application to the city.
- C. Upon the filing of a completed application, the city manager or his/her designee shall cause to be made by city staff an appropriate investigation as is needed, including consultation with the building, police, parks, recreation and community services departments, public works departments and the Los Angeles County fire department and inspection of the premises on which filming is proposed. Consultation is not grounds for the city to unilaterally delay in reviewing a completed application, nor is it grounds to extend the time period to render a decision pursuant to this section.
- D. The city manager or his/her designee shall render a written decision on the application for film permit within five business days of the submission of a completed application required by this chapter. Such written decision shall include findings upon which the decision is based and shall indicate any conditions which have been imposed in granting any such application.
- E. The city manager or his/her designee's decision shall be immediately hand delivered, mailed, or emailed to the applicant, and shall be provided in accordance with the requirements of this code.
- F. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time

beyond that provided for in this chapter or may request a continuance regarding any decision or consideration by the city of the pending application. Extensions of time sought by applicants shall not be considered delay on the part of the city or constitute failure by the city to provide for prompt decisions on applications.

SECTION 6. The text of some subsections of Section 5.44.050 of the Whittier Municipal Code is hereby amended to include additional wording:

5.44.050 - Appeal.

- A. Any interested person may appeal the decision of the city manager or his/her designee to the city council in writing, such written appeal to be personally delivered to the city or postmarked within five days of the city manager or his/her designee's written decision, or in the case of no written decision, within five days of any denial of a permit application by the city manager or his/her designee.
- B. Consideration of an appeal of the city manager or his/her designee's ~~city manager's~~ decision shall be at a public hearing, notice of which shall be given pursuant to California Government Code Sections 65091 and 65905 and which hearing shall occur within fifteen days of the filing or initiation of the appeal.
- C. The city council action on the appeal of the city manager or his/her designee decision shall be by a majority vote of the members present and upon the conclusion of the de novo public hearing, the city council shall grant, conditionally grant or deny the appeal. The city council's decision shall be final and conclusive and shall be rendered in writing within two days of the hearing, such written decision to be immediately mailed to the party appealing the city manager's decision and to any other affected parties. Such written decision shall include findings upon which the decision is based.

SECTION 7. The text of Section 5.44.070 of the Whittier Municipal Code and some subsections is hereby amended to include additional wording:

5.44.070 - Permit revocation.

- A. Any permit issued pursuant to the provisions of this chapter may be revoked summarily, subject to a pre-notice of violation or stop-work process unless there is a risk to the public health and safety, by the city on the basis of anyone or more of the following:
- B. The city officer who summarily revokes the permit on any of the enumerated bases shall advise the permit holder of the basis or bases for the revocation. The permit holder may appeal the revocation decision to the city manager or his/her designee, who shall hold an appeal hearing thereon within seventy-two hours.
- C. The revocation hearing shall be heard by the city manager or his/her designee. The city manager shall not be bound by the formal rules of evidence at the hearing.
- E. The city manager or his/her designee shall make his decision to uphold the permit revocation or reinstate the permit within twenty-four hours of the public hearing.
- F. The city manager or his/her designee's decision shall be in writing and shall be final. Such written decision shall include findings upon which the decision is based.

SECTION 8. The text of Section 5.44.080 of the Whittier Municipal Code is hereby amended to include additional wording:

5.44.080 - Violations.

Violation of any section of this chapter shall constitute a misdemeanor, but may at the discretion of the city prosecutor be charged as an infraction. Any police officer providing public safety services at a film permit location may issue a citation for violation of this chapter or for violation of the conditions of any permit issued hereunder. The minimum fine for a violation of this chapter or a permit violation is five hundred dollars per permit or chapter violation following non-compliance with a verbal and/or written notice of violation or stop-work notice.

SECTION 9. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirectly physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly

SECTION 10. Any provision of the Whittier Municipal Code or appendices thereto inconsistent with the provisions of the Ordinance, to the extent of such inconsistencies and no further, are repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 11. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Whittier hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 12. The Mayor shall sign and the City Clerk-Treasurer shall attest to **xc** the passage of this Ordinance. The City Clerk-Treasurer shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AND ADOPTED this 8th day of November 2016

JOSEPH A. VINATIERI, Mayor

ATTEST:

KATHRYN A. MARSHALL
City Clerk-Treasurer