

ORDINANCE NO. 2010-31

**ORDINANCE OF THE BOROUGH OF RED BANK,
COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING
CHAPTER IV, GENERAL LICENSING,
NEW SUBSECTION 4-15, "COMMERCIAL FILM MAKING"**

WHEREAS, the Borough of Red Bank has become a desirable location for the filming of motion pictures and television programs; and

WHEREAS, such filming has the potential to disrupt the peace and tranquility of the residents of Red Bank; and

WHEREAS, it is the desire of the Mayor and Council to minimize such disruptions by regulating such activities; now therefore

BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter IV of the Revised General Ordinances of the Borough of Red Bank, "General Licensing" is hereby amended and supplemented as follows:

SECTION ONE: New Subsection 4-15, entitled "Commercial Film Making" is hereby added as follows (*strikeouts denote deletions, underlined text denote additions*):

4-15.1 Definitions. As used in this chapter, these terms shall have the following meanings:

- a. *Filming* - The taking of commercial still photography or motion pictures either on film, videotape, or similar recording medium, for any purpose intended for viewing on television, in theaters or for institutional uses. This term shall not include *Family Videos and Photography*, and *News Media*, as defined herein.
- b. *Motion Picture, Television Pictures, Commercial Still Photography* - All activities attendant to the staging and/or shooting of commercial motion pictures, television series, television movies, commercials and to the taking of single or multiple photographs for sale or commercial use where the photographer sets up stationary equipment in any one location for longer than [five] 60 [consecutive] minutes .
- c. *Major Motion Picture* - Any film which is financed and/or distributed by a major motion picture, or television production studio or corporation; or filming activity connected with any part of a production with an overall budget of \$2,000,000.00, or more; or any recurrent television series programming.
- d. *News Media* - Photographic, filming, and/or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers or cameramen.
- e. *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.
- f. *Family Videos and Photography* - The filming or videotaping of motion pictures, or still photography, intended solely for private use.
- g. *Public Lands* - The areas including but not limited to any public building, street, sidewalk, highway, sidewalk, square, park, playground, and other public places, which is within the jurisdiction and control of the Borough of Red Bank.

4-15.2 Permit Required.

- a. No person shall use any public or private property, public right-of-way, facility, and/or residence for the purpose of taking motion pictures, television pictures or

commercial still photography, as defined herein, without first applying for and receiving approval from the Special Events Committee and a permit the Borough Administrator of the Borough of Red Bank, as applicable.

- b. The permit shall set forth the approved location of such filming and also the approved duration of such filming by specific reference to day or dates. No permit shall authorize filming for more than three (3) consecutive days in any one location and in no event shall filming at one location within the Borough exceed a total of six (6) days in any one calendar year, regardless of the number of permits utilized in reaching this six-day maximum. Either or both of the three-consecutive-day and the six-day limitations may be extended only if the filming requested satisfies the major motion picture exception defined by §4-15.9. Said permit must be readily available for inspection by Borough officials at all times at the site of the filming.
- c. All permits shall be applied for obtained from the office of the Borough Clerk during normal business hours. Applications for such permits shall be in a form approved by the Borough Administrator and be accompanied by a permit fees in the amounts established by this chapter in §4.15-2 .
- d. If a permit is issued and filming does not in fact take place on the dates specified due to good cause, including but not limited to reasons of inclement weather, the Borough Administrator may issue a new permit for filming on other dates subject to full compliance with all other provisions of this chapter. No additional fee shall be paid for this new permit.
- e. The provisions of this section shall not apply to News Media and Family Videos and Photography.

4-15.3 Issuance of Permits.

- a. Permits shall be issued by the Borough Administrator after review and approval of the Borough's Special Events Committee at one of its regularly scheduled meetings. Any such review shall determine whether any additional municipal services may be reasonably required depending upon the nature of the activities proposed.
- b. Expedited Permits may be issued by the Borough Administrator upon payment of the requisite fee. The Borough Administrator may issue the permit without approval of the Special Events Committee, so long as the application complies with all other requirements of this Section. The Borough Administrator may determine whether any additional municipal services may be reasonably required depending upon the nature of the activities proposed. Expedited permits shall be issued at the close of the fourth business day after submission of a complete permit application.
- c. No permits shall be issued unless all fees and reasonably necessary reimbursable expenses are paid to the Borough.
- d. No permit shall be issued for filming upon public lands unless the applicant shall provide the Borough of Red Bank with satisfactory proof of the following:
 1. Proof of Insurance Coverage including but not limited to, for Bodily injury to anyone person in the amount of \$1,000,000.00 and any occurrence in the aggregate amount of \$3,000,000.00;
 2. For Property damage for each occurrence in the aggregate amount of \$1,000,000.00;
 3. A written hold harmless and indemnification agreement acceptable to the Borough Attorney.
 4. The posting of cash or maintenance bond for the value of \$500.00 protecting and insuring that the location utilized for the filming will be left, in a satisfactory condition, free of debris, rubbish, and equipment, and that due observance of all Borough Ordinances, laws, and regulations will be followed. Within seven (7) days of the completion of the filming, the

Borough will return the bond if there has been no damage to the public property or public expense caused by the filming.

- e. 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 Red Bank Police Department, the Fire Marshal and the Borough Administrator and with respect thereto.
- f. 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.
- g. 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.
- h. 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. Such written notice shall be in a form acceptable to the Borough Administrator and shall inform such businesses and residents that objections may be filed with the Borough Administrator within the next three business days, said objections to form a part of applicant's application and be considered in the review of the same.

4-15.4 Filming in Residential Areas. Filming in residential zones shall be permitted Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m., and all activity shall meet the standards of Section 3-9.12, "Noise Disturbances" of this Code, provided that all requests for night scenes shall be approved in the permit to be granted in accordance with §4-15.6 hereof. The setup, production and breakdown required by all filming shall be included in the hours as set forth herein.

4-15.4 Refusal to Issue Permit; Employment of Patrolmen and Electrician.

- a. The Borough of Red Bank 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 Borough 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.
- b. The Borough reserves the right to require one or more Red Bank Police Officer(s), Fire Department personnel or any such other specialized Borough 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.

4-15.5 Appeals.

- a. Any person aggrieved by a decision of the Borough denying or revoking a permit or a person requesting relief pursuant to §4-15.6 may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed within 10 days of said decision.
- b. The Borough Council shall set the matter down for a hearing within thirty (30) days of the filing of the notice of appeal. The decision of the borough shall be in the form of a resolution at the first regularly scheduled public meeting, after the hearing of the appeal. The appellant may agree in writing to a later date for the decision.

4-15.6 Waiver of Requirements of Section by Borough. The Borough may authorize filming other than during the hours herein described. In determining whether to allow an extension of hours under this section, the Borough shall consider factors including but not limited to the following:

- a. Traffic congestion at the location;
- b. The Applicant's ability to remove film-related vehicles off the public streets;
- c. Whether the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming;
- d. Nature of the film shoot itself; e.g. indoor or outdoors; day or night; on public or private lands; proximity to residential neighborhoods; potential for disruption of normal residential or business activities; and
- e. Prior experience of the film company/applicant with the Borough, if any.

4-15.7 Copies of Permit; Inspections. Copies of the approved permit shall be sent to the Police and Fire Departments before filming takes place. The applicant shall permit the Police Department, the Fire Marshal or other Borough inspectors to inspect the site and equipment to be used. The applicant shall comply with all safety instructions issued by the Police Department, the Fire Marshal, or other Borough inspections.

4-15.8 Reimbursement of Certain Costs. In addition to any and all other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue, including but not limited to, repairs required to public property, and any revenues that the Borough was prevented from earning because of the filming.

4-15.9. Special Regulations for Major Motion Pictures.

- a. With regards to filming being done on a Major Motion Picture, and upon a favorable review of the factors set forth in §4-15.6 the Borough may grant an exemption of the three (3) consecutive filming day limit and/or the six (6) total filming days within a calendar year limit as defined in §4-15.2;
- b. Any days that are necessary for setup and preparation of a major motion picture filming may, at the discretion of the Borough, be counted as a filming day where such setup is anticipated to involve one or more of the factors set forth in §4-15.6 hereof.

4-15.10 Fees. The schedule of fees for the issuance of permits authorized by this chapter are as follows:

- a. Basic filming permit (Special Events Committee review): \$100.00.
- b. Expedited Permit (Borough Administrator review): \$250.00.
- c. Student Films: No Permit Fee. Student Films are otherwise liable for all other Borough costs except for filming or photography that is part of a course of study at any Red Bank educational institution, including, but not limited to, the Red Bank Public Schools, the Red Bank Charter School, Red Bank Catholic High School, or the Red Bank Regional High School District, or such other educational facilities located within the Borough.
- d. Overnight Parking/Use of Borough Lot(s): at cost.
- e. Police / Fire Protection: at cost.
- f. Use of Borough buildings, public parks, or closing of any street(s): \$1,500 \$500.00 per facility, per day.

4-15.11 Penalties. Where the owner of the premises is not the applicant for a permit required by this chapter, both the owner and the applicant shall each be liable for violations hereof. Any person violating this chapter or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding \$1,000.00 per day or by imprisonment in the county jail for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and adoption according to law.

First Reading: October 11, 2010

Final Reading: October 25, 2010