

ORDINANCE 27-2023

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**AN ORDINANCE ESTABLISHING THE BOROUGH AS A FILM READY
MUNICIPALITY CREATING A NEW SECTION OF THE BOROUGH CODE,
SECTION 252 ENTITLED FILMING**

WHEREAS, the New Jersey Motion Picture and Television Commission (“NJMPTVC”), which falls under the New Jersey Department of State’s Business Action Center, promotes film and television production in New Jersey and serves as a resource for production companies.

WHEREAS, NJMPTVC established a Film Ready *New Jersey* 5-step certification and marketing program that educates municipalities on the basics of motion picture and television production and enables municipalities to effectively accommodate on location filming and market their communities as filming destinations and which sets basic standards for attracting filmmaking and positions the state as a top production destination.

WHEREAS, the “film-ready” designation provides an elevated platform for certified communities to promote themselves as filming destinations and connects film and TV professionals with skilled and knowledgeable liaisons across the state, who can provide local expertise and support to create easier, faster, and better access to nearby resources and location information.

WHEREAS, the Borough Council believes it is in the best interest of its residents to adopt a Film Ready ordinance in order to obtain the NJMPTVC Certification and to attract opportunities to the Borough and its constituents related to the growing film industry throughout New Jersey.

NOW THEREFORE BE IT ORDANDED, by the Borough Council of the Borough of Eatontown, that it hereby creates Chapter 152 “Filming”, of the Borough Code is hereby created which will read as follows:

Section 252-1: Definitions.

FILMING: The taking of still or motion pictures, either on film or videotape or similar recording medium, for commercial or educational purposes, intended for viewing on television, in theaters, for institutional uses, over the internet, or on any other medium. The provisions of this chapter shall not be deemed to include the filming of news stories within the Borough. Filming includes all rehearsals, preparations, assembly and dismantling of all equipment and structures, including, but not limited to, scaffolding, lights, backdrops, tools and food, and the loading and unloading of vehicles containing the equipment, structures, and food.

MOTION PICTURE: Any film which is financed and/or distributed by a motion picture studio.

PUBLIC LANDS: Any and every public street, highway, sidewalk, square, public park or playground or any other public place within or owned by the Borough which is within or owned by the Borough which is within the jurisdiction and control of the Borough.

TELEVISION SERIES: A series of programs or shows to be aired on television or any other platform, such as streaming or on the internet.

Section 252-2. Permit Required.

A. No person or organization shall film or permit filming within the Borough of Eatontown without first having obtained a permit from the Zoning Officer, which permit shall set forth the approved location of such filming and the approved duration of such filming by specific reference today or dates. No permit shall authorize filming for more than three consecutive days in any one location, and in no event shall filming at one location within the Borough exceed a total of six days in any one calendar year, regardless of the number of permits utilized in reaching this six-day maximum. This six-day limitation may be extended only if the filming requested constitutes a major motion picture or television series. Said permit must be readily available for inspection by Borough officials at all times at the site of the filming.

B. All permits shall be applied for and obtained from the Zoning Officer during normal business hours. Applications for such permits shall be in a form approved by the Zoning Officer and be accompanied by a permit fee in the amount set forth herein below.

C. If a permit is issued and, due to inclement weather or other good cause, filming does not in fact take place on the dates specified, the Borough Zoning Officer may, at the request of the applicant, 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 permit.

Section 250-3. Criteria for issuance of permits.

A. No permit will be issued by the Zoning Officer unless applied for at least ten days prior to the requested shooting date; provided, however, that the Zoning Officer may waive the ten day period if, in the Zoning Officer's judgment, the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.

B. No permit shall be issued for filming upon public lands unless the applicant shall provide the Borough with satisfactory proof of the following:

1. Certificate of insurance specifically naming the Borough of Eatontown as an additional insured, providing general liability, bodily injury, and property damage coverage with minimum limits of liability not less than \$1,000,000 combined single limit. Said certificate shall state that "the issuing company shall mail 30 days' written notice to the certificate holder named, certified mail return receipt."

2. An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the Borough of Eatontown from any and all liability, expense, claim or damages resulting from the use of public lands.
3. The posting of a cash or surety bond of \$500 in favor of the Borough to ensure that the location utilized will be left after filming in a satisfactory condition, free of debris, rubbish and equipment, and that due observance of all ordinances, laws and regulations will be followed. Within seven days of the completion of the filming, the Borough will return the bond if there has been no damage to public property or public expense caused by the filming.
4. The hiring of an off-duty Eatontown police officer for the times indicated on the permit.

C. The holder of the permit shall take all reasonable steps to minimize interference with the passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Eatontown Police Department with respect thereto.

D. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming off the public streets. The holder shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activities on such public lands. Where the applicant's production activity, by reason of location or otherwise, will directly involve and/or affect any businesses, merchants or residents, these parties shall be given written notice of the filming at least three days prior to the requested shooting date and be informed that objections may be filed with the Zoning Officer, said objections to form a part of the applicant's application and be considered in the review of the same. Proof of service of notification to adjacent owners shall be submitted to the Zoning Officer within two days of the requested shooting date.

E. Filming in residential zones shall be permitted Monday through Friday between the hours of 7:00 a.m. and 9:00 p.m., provided that all requests for night scenes shall be approved in the permit to be granted in accordance with the provisions of Subsection H hereinbelow. The setup, production and breakdown required for all filming shall be included in the hours as set forth herein.

F. The Zoning Officer may refuse to issue a permit whenever the Zoning Officer determines, on the basis of objective facts and after a review of the application and a report thereon 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. Further, the Borough reserves the right to require one or more on-site patrolmen in situations where the proposed production may impede the proper flow of traffic, the cost of said patrolman to be borne by the

applicant as a 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.

G. Any person aggrieved by a decision of the Zoning Officer denying or revoking a permit or a person requesting relief pursuant to Subsection (F) may appeal to the Mayor and Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Clerk. An appeal from the decision of the Zoning Officer shall be filed within 10 days of the Zoning Officer's decision. The Mayor and Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The decision of the Mayor and Council shall be in the form of a resolution supporting, reversing, or modifying the decision of the Zoning Officer at the first regularly scheduled public meeting of the Mayor and Council after the hearing on the appeal, unless the appellant agrees, in writing, to a later date for the decision.

H. The Zoning Officer may authorize filming other than during the hours described herein. In determining whether to allow an extension of time under this subsection, the Zoning Officer shall consider the following factors:

1. Traffic congestion at the location caused by vehicles parked on the public streets;
2. Applicant's ability to remove film-related vehicles off the public streets;
3. When the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming;
4. Nature of the film shoot itself, e.g., indoor, or outdoor, day or night; and
5. Prior experience of the film company/applicant with the Borough, if any.

I. Copies of the approved permit shall be sent to the Police, Fire Departments and First Aid before filming takes place and to the New Jersey Film Commission. The applicant shall permit members of the Police Department, Fire Department, Fire Prevention Bureau, Department of Public Works or other Borough officers or inspectors to access the site for such purposes as may be necessary or appropriate. The applicant shall comply with all safety instructions issued by the Fire Prevention Bureau or other Borough inspectors.

J. In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue that the Borough was prevented from earning because of filming calculated by the appropriate Department Head and providing this information to the Zoning Officer.

K. Special regulations for major motion pictures and television series.

1. When filming is requested with respect to a major motion picture or television series, the duration of such filming shall not exceed six consecutive days in duration.
2. Any days necessary to be used for setup and preparation for a major motion picture or television series filming may, in the discretion of the Borough Zoning Officer, be counted as a filming day where setup is anticipated to involve one or more of the factors set forth in Subsection H hereinabove.

L. An applicant requesting permission to film on Borough property or in a Borough building shall, in addition to a filming permit application, file a facilities use permit application. Except as provided hereinbelow, such an application shall require approval of the Mayor and Council. The Mayor and Council shall have sole discretion to grant or deny the application and shall have the authority to impose such terms and conditions as the Mayor and Council deem appropriate. Notwithstanding the foregoing, if there is no Mayor and Council meeting between the time the application is filed and the anticipated filming date(s), the Borough Administrator may grant an application for a one-day filming event provided it is approved by the Zoning Officer, the Police Chief and the Superintendent of Public Works, or their respective designees, and the Director of Recreation.

Section 250-4. Fees.

The schedule of fees for the issuance of permits authorized by this chapter is as follows:

A. Filming permit application fee: \$200. Where an applicant requests a waiver of the provision of Subsection A of § 250-3 requiring expedited processing of the permit application, the application fee shall be \$400. The application fee for nonprofit applicants filming for educational purposes shall be \$25.

B. In addition to the filming permit application fee, a daily filming fee as follows:

1. For motion picture, television series or commercial: \$3,000 per day;
2. For all other filming, except as provided in Subsection B(3) below: \$500 per day;
3. For nonprofit applicants filming for educational purposes: no fee.

C. Fire Prevention Fees: \$250.00 per day for Fire Truck and \$35 per hour for each firefighter with a minimum of 4 firefighters, if required, at the discretion of the Fire Official.

Section. 250-5 Violations and 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 persons violating this chapter or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding \$2,000 per day or by imprisonment in the county jail for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

IT IS FURTHER ORDAINED, that if any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section,

paragraph, subsection, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective;

IT IS FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict;

IT IS FURTHER ORDAINED that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

DATE INTRODUCED: 9/27/2023
DATE ADOPTED: 10/11/2023

APPROVED:



ANTHONY TALERICO, JR., MAYOR

Date: 10-23-2023

ATTEST:



JULIE MARTIN RMC, MUNICIPAL CLERK

Date: 10-23-2023