

Chapter 15

MOTION PICTURE AND TELEVISION PRODUCTION

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SEC. 15.1 PURPOSE

The purpose of this Chapter is to provide rules and regulation governing the issuance of permits for filming, videotaping, photography or any related activity on location within the City, to assure that such activity is consistent with considerations of the public health, safety, and general welfare and the protection of property. The requirements provided in this Chapter shall be separate and in addition to those provisions of this Code regarding business regulation and licensing. Any and all fees provided in this Chapter are intended to cover the cost of investigation and processing permits for filming, as specified herein, and shall be in addition to all other applicable licenses and/or permits provided in this code.

SEC. 15.2 DEFINITIONS

For the purpose of this chapter, the following words and phrases are defined and shall be construed as hereinafter set out, unless it is apparent from the context that a different meaning was intended:

- A. "Charitable purposes" means filming, videotaping for a motion picture, television production or photography conducted by an organization in which no individual either directly or indirectly receives a profit from the production, marketing or showing of the films, tapes or photos.
- B. "City" means the City of Piedmont, a municipal corporation formed and operating pursuant to the laws of the State of California.
- C. "City Clerk" means the city clerk of the City.
- D. "City Council" means the city council of the City.
- E. "City Administrator" means the city administrator of the City, or his or her designee.
- F. "Department of Public Works" means the Department of Public Works of the City.
- G. "Director of Public Works" means the Director of City's Department of Public Works, or his or her designee.
- H. "Film" or "filming" includes, but is not limited to, feature motion pictures, videotapes, television, motion pictures, commercials and photography.
- I. "Film Coordinator" shall be a person in the Department of Public Works of the City, who shall handle basic coordination of permit applications.
- J. "News purposes," as specified in this chapter means filming or videotaping for television news broadcasting by reporters, photographers or camera persons in the employ of a newspaper, news service or similar entity, of news events concerning those persons, scenes or occurrences which are in the news and of general public interest. The filming or videotaping of such shall be for regularly scheduled news programs (but not magazine or documentary programs) and special news programs which are not preplanned and are broadcast within twenty-four hours after the event.
- K. "Permittee" means any individual, firm, corporation or group or combination acting as a unit to whom or which a film permit is granted by the City under the provisions of this chapter.
- L. "Person" means any individual, firm, corporation, association or group or combination acting as a unit.
- M. "Production" means the activity of making a film or video or taking photos for commercial or noncommercial purposes on property owned by the City or on private property within the jurisdiction of the City.

N. APhotography@ means still photography.

SEC. 15.3 PERMIT REQUIRED.

It shall be unlawful for any person to engage in the business or activity of (1) filming; (2) videotaping; (3) producing motion pictures on motion picture film, electronic videotape for public exhibition motion pictures, or television or (4) photography at any place within the City, without a film permit from the City. Exemptions to the foregoing are the business or activity of filming at or in an established motion picture or television or photography studio or entirely within an enclosed structure or building which is used for that purpose at least seven (7) days during any continuous thirty (30) day period, and those exemptions set forth in Section 15.4 hereafter. Any person interested in filming within the City shall complete in full a film permit application as stated in this Chapter and provide the City all the information requested in Section 15.5 of this chapter."

SEC. 15.4 EXEMPTION FROM CHAPTER PROVISIONS.

Provisions of this Chapter 15 shall not apply to:

- A. The filming or videotaping of motion pictures solely for private or family use;
- B. The filming or videotaping of motion pictures for use in a criminal investigation, civil proceeding or emergencies such as fires, floods or police actions;
- C. The filming or videotaping of motion pictures for news purposes (but not magazine or documentary programs);
- D. Education, government and public access and local origination programs for cable television systems franchised within the City;
- E. The filming or videotaping of motion pictures by the City itself (e.g., videotaping of sewer lines and promotional filming)
- F. Photography solely for private or family use, including by commercial photographers;
- G. Photography for use in a criminal investigation, civil proceeding or emergencies such as fires, floods or police actions;
- H. Photography for news purposes (but not magazine or documentary programs);
- I. Photography by the City itself (e.g., videotaping of sewer lines and promotional filming);
and

- J. Any other activity deemed to be in the public interest by the City Administrator.

SEC. 15.5 APPLICATION FORMS

A. The Department of Public Works shall furnish an application form for film permits which, following processing by the Department of Public Works, shall be forwarded to the City Administrator. Such application form shall require the following information:

1. Name, permanent street address and telephone number of applicant;
2. If the applicant is a corporation, the current name, principal address and telephone number of the applicant; provided that if such address is different from the current address for the corporation on file with the California Secretary of State, applicant shall also provide such additional address;
3. If the filming or videotaping for motion picture or television production is conducted by a nonprofit organization which qualifies under Section 501(c)(3) of the Internal Revenue Code or Section 23701 of the California Revenue and Taxation Code as a charitable organization, and no person, directly or indirectly, receives a profit from the marketing or production of the film or tape or from showing the film, tapes or photos, the applicant must state this on the application form, and must attach reasonable proof thereof;
4. Name, address and telephone number of the person in charge of the location and responsible for applicant's and applicant's employees' conduct;
5. The name, address and twenty-four hour telephone number of at least two persons to be contacted in the event of emergency situations which might alter the conditions of the film permit; this should include at least one of such addresses, which shall be within twenty-five (25) miles of City, to which notice, including emergency notices, can be physically served.
6. Name of film/project;
7. Location(s), date(s), time(s) and activities of the proposed filming or taping. If the proposed filming or taping involves the use of private property, the full name and address of the property owner where the filming/taping is to take place and a signed affidavit from the property owner granting permission for the proposed use of the property in question shall be provided.
8. Approximate number of individuals in cast and crew;
9. List of types and number of vehicles and other equipment;
10. As applicable, a statement that overnight parking and locations are needed;

11. Requests for special assistance at the location, including but not limited to street closure, traffic control and emergency services;
12. Special conditions or requests by the applicant;
13. Such further information as may be determined from time to time by resolution of the City Council;
14. Dated signature of applicant;
15. If the applicant is a corporation, the application shall be signed by two principal officers of the corporation.

B. In addition to the provisions of this chapter, any applicant who or which will engage in any activity which requires compliance with any federal, state or local regulations, including additional license or permits, shall present evidence of satisfactory compliance with such regulations.

SEC. 15.6 **TIME FOR FILING APPLICATIONS.**

A. Applications shall be presented to the Department of Public Works at least five (5) business days in advance of the desired date of neighbor notification. The Film Coordinator will review the permit application along with a draft of the neighbor notification with the City Administrator. Once the application has been determined complete, the applicant will be given consent to proceed with the notification. The applicant is required to notify all adjacent property owners within 300 feet of the project at least ten (10) calendar days prior to the event.

B. The time for application processing shall be extended during those periods when the City is required to wait for the issuance of permits by other agencies and/or public entities for which applicant has applied or is required to apply. In addition, the Director of Public Works may shorten the ten (10) day time period for notification of neighbors, if in the Director's discretion, it is determined that notice to the City and its residents will still be adequate."

SEC. 15.7 **FEES**

A. Each application shall be accompanied by a nonrefundable application and investigation fee payable to the City, which amount shall be set from time to time by resolution of the City Council; provided, however, that no fee shall be required of applicants filming or videotaping for motion picture or television production for charitable purposes, as defined in Section 15.5.A.3 of this chapter.

B. In the event that weather conditions or other circumstances beyond the control of the permittee require that the date(s) or time(s) of the proposed filming or taping need to be altered, no additional application and investigation fee shall be required because of such alteration of the date(s) or time(s) so long as the Department of Public Works is given at least one (1) business day notice of the alteration; but an additional fee will be charged if minor changes, additions, deletions and extensions to the original film permit are requested which are not beyond the control of the permittee. The additional fee shall be set from time to time by resolution of the City Council. A minor change, addition, deletion or extension to the original film permit request must be filed with the Department of Public Works. Only one such request permit will be allowed.

C. If the City Administrator determines that any potential danger to the public's health, safety or general welfare or property would be eliminated by the presence of police or fire protection at the site of the filming or videotaping for motion picture or television production, the City Administrator may grant the film permit upon condition that the permittee pay in advance to the City the costs of such police or fire protection as may be required.

D. For film permits which necessitate the City to provide services to the permittee in addition to police or fire protection, service charges shall be imposed. Such charges will be determined by the applicable servicing City department(s) and shall not exceed the actual cost incurred by the City in providing such services. Such service charges shall include, but shall not be limited to, charges for labor, supervision, overhead, administration and the use of any and all City equipment, supplies, etc. Additional charges may be imposed to cover the cost of extraordinary film permit investigation and/or staff costs, if the City Administrator determines this is necessary.@

SEC. 15.8 DETERMINATION BY CITY ADMINISTRATOR

A. The City Administrator is hereby designated to be the City's decision maker for purposes of granting of the film permit.

B. Before granting any film permit pursuant to this chapter, the City Administrator shall determine that such filming or videotaping for motion picture or television production will not unreasonably interfere with the public health, safety and general welfare or unreasonably endanger any property. In making the determination, the City Administrator shall take into consideration the noise, traffic hazards, fire hazards and other environmental problems, including health and safety problems, which are likely to be caused by such activities. In granting the permit, the City Administrator may further impose any reasonable conditions as are necessary to protect the public health, safety and general welfare or property.

SEC. 15.9 REGULATIONS

The City Council may from time to time establish regulations for film permits which shall

be in addition to any other requirements of this Chapter.

SEC. 15.10 APPEAL TO THE CITY COUNCIL

A. Any applicant aggrieved by any decision of the City Administrator with respect to a film permit may appeal such decision to the City Council by filing a written request within ten days following notice of such decision.

B. A written request for such appeal shall be filed with the Department of Public Works and all such requests shall contain the following information:

1. The name and address of the applicant;
2. The date of the decision in question;
3. The reasons for the appeal; and
4. The grounds relied upon for relief.

C. The appeal requests shall be accompanied by a nonrefundable appeal fee in an amount to be set from time to time by resolution of the City Council.

D. Upon receipt of the appeal request, the Department of Public Works will request the City Clerk to, and the City Clerk shall, set the matter for hearing at a regular meeting of the City Council no later than thirty (30) days following the date the appeal was filed. Notice of the time and place of the hearing shall be mailed to the applicant, by certified mail, no later than ten (10) days prior to the date set for hearing. The notice may also designate certain records that the applicant is required to produce at the time of the hearing.

E. At the hearing as prescribed by this section, the applicant and the City may submit any and all evidence as applicant believes to be relevant. The City Council may require the presentation of additional evidence from either the applicant or the City, or from both, and may continue the hearing from time to time for the purpose of allowing the presentation of additional evidence. Upon conclusion of the hearing, the City Council may, by resolution with findings, approve, refer or modify the decision of the City Administrator, and any such decision of the City Council shall be final.

SEC. 15.11 PUBLIC FACILITIES

Use of any public facility within the City may require an additional rental or use agreement, which may require rental payments, security deposits, and similar monetary requirements, all of which shall be separate from and in addition to any other fees or monetary payments required in this Chapter.

SEC. 15.12 CLEAN UP

A permittee shall conduct operations in an orderly fashion. The area shall be cleaned of trash and debris upon completion and before leaving the site(s). A security deposit to assure that a permittee removes all trash and debris from filming site(s) may be required. This requirement and the amount thereof shall be determined by the City Administrator.

SEC. 15.13 TRAFFIC

- A. For filming that would impair traffic flow, an applicant shall use City law enforcement personnel.
- B. If required for traffic safety or as a condition of the film permit, an applicant shall furnish and install advance warning signs and any other traffic control devices in conformance with the Manual of Traffic Controls, State of California, Department of Transportation. All appropriate safety precautions shall be taken.
- C. All interruptions of normal pedestrian or vehicular traffic must be authorized on the permit. Police officers assigned to on-site supervision may further restrict operations based on safety concerns. Traffic shall not be detoured without prior approval by the City.
- D. Unless authorized by the City, camera cars shall be driven in the direction of traffic and shall observe all traffic laws.
- E. Any emergency roadwork or construction by state or local government agencies and/or private contractors under permit or contract to the City shall have priority over filming activities.

SEC. 15.14 SPECIAL RESTRICTIONS

For the convenience of the general public, all activity by a permittee between the hours of 10:00 p.m. and 6:00 a.m. may be restricted. As a condition of film permit approval, all surrounding residents and/or businesses within a three-hundred-foot radius of the filming activity may be required to be notified of date(s) and time(s) in which late evening and early morning filming is to take place.

SEC. 15.15 INSURANCE AND INDEMNITY

- A. It shall be a condition of the issuance and continued validity of any film permit granted pursuant to this chapter that the permittee first obtain, pay for, and maintain a policy of general liability insurance approved as to form by the City Attorney which shall insure the City, its officers and employees against any liability, or claims of liability, brought or made by or on behalf of any person for personal injury or property damage caused by or arising out of any act or omission of the permittee, his agents or employees, including any officers or employees of the

City, or caused by or arising out of the condition of any City-owned or controlled property, whether real or personal, and occurring during the film permit period and as a result of the activities for which such film permit was issued. The amount of coverage to be provided by such policy shall be determined from time to time by resolution of the City Council. The permittee may satisfy the requirement imposed by this section through the presentation of a certificate of insurance, for at least the required amount of coverage, which indicates that, by endorsement thereof, the City, its officers and employees have been added as additional insureds. Such certificates shall additionally provide that the required insurance will not be modified, changed or terminated unless prior written notice thereof has been transmitted to the City Administrator.

B. A bond/cash deposit may also be required for purposes of repairing any damage and restoring the City's facilities to their original condition. The amount shall be determined from time to time by resolution of the City Council. In the event of such damage, the City shall provide written notice to the permittee specifying the damage to be repaired and/or City facilities to be restored, which repair or restoral shall be accomplished by permittee within seven (7) days of receipt of the notice, or if it is impossible to complete such repairs or restoral within such seven (7) day period, then as soon as they can be completed, but in no case longer than thirty (30) days after the date of receipt of such notice. If, after providing permittee with such written notice, the requested repairs and/or restoration of City facilities have not been completed as required herein, the City may draw upon the bond/cash deposit to effect the repairs and/or restoration of the City facilities. In the event of damage requiring emergency repairs and/or restoration of City facilities by the City, the permittee shall be required to reimburse the City in full for all costs incurred within thirty (30) days of receipt of an invoice from City.

C. It shall be a condition of the issuance of any film permit granted pursuant to this chapter that the permittee shall agree to defend and to hold the City, its officers and employees harmless from any and all claims and liability of any kind whatsoever resulting from or arising out of the issuance of such film permit, and permittee shall execute a hold harmless and indemnity agreement in a form to be determined by the City Attorney.

SEC. 15.16 SUSPENSION

Any film permit issued pursuant to the terms of this chapter may be subject to immediate suspension if it is found necessary for the protection of public health, safety or general welfare. Such suspension shall only be instituted upon the determination of the City Administrator that immediate protective action is necessary. In the event of such a suspension, the City Administrator shall within twenty-four (24) hours after the suspension: (1) cause to be served upon the permittee a written statement containing the grounds for suspension and a notice of hearing to show cause before the City Administrator as to why the film permit should not be suspended pending revocation hearings; and (2) cause to be served upon the permittee a notice of revocation hearing before the City Council as provided in Section 15.17 of this chapter. The hearing before the City Administrator shall be held not later than five (5) days following the service of the notice to the permittee.

SEC. 15.17 REVOCATION

A. Any film permit granted or issued pursuant to the provisions of this chapter may be revoked after a public hearing before the City Council. A film permit may be revoked under the following circumstances:

1. Where it has been determined that the permittee has violated or has failed to comply with any of the terms or conditions of the film permit;
2. Where it has been determined that the permittee has violated or has failed to comply with any of the ordinances, resolutions or applicable regulations of the City;
3. Where it has been determined that the film permit has been granted pursuant to false or fraudulent information contained in the film permit application;
4. Where it has subsequently been determined that the filming activity will fail to meet the criteria enumerated in this chapter for granting a film permit; or
5. Where it has been determined that the preservation of the public health, safety AND general welfare demand revocation of the film permit.

B. A notice of the revocation shall be mailed to the permittee, by certified mail, stating the grounds for the revocation and providing a date within thirty (30) days of the mailing of such notice for a public hearing before the City Council. Upon the conclusion of the public hearing, the City Council may, by resolution with findings, revoke or modify the film permit and the decision of the City Council shall be final and conclusive as to all matters in controversy.

SEC. 15.18 VIOLATION AS A NUISANCE

Any filming, videotaping or related activities not conducted pursuant to the provisions of this chapter shall be and are hereby declared to be an unlawful action and a public nuisance. The City may commence an action at law or in equity in the name of the City in any court of competent jurisdiction against the permittee to ensure compliance with the terms and provisions of this chapter. All remedies prescribed herein will be cumulative and the use of any one (1) or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.