

ORDINANCE NO. 036-2024

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 22 - BUSINESSES, BY REPEALING ARTICLE IV – COMMERCIAL MOTION PICTURE MAKING AND SIMULTANEOUSLY ADOPTING A NEW ARTICLE IV – FILMING OPERATIONS TO REGULATE THE ISSUANCE OF PERMITS FOR FILMING OR PHOTOGRAPHY ON OR AFFECTING TOWN PROPERTY AND FILMING OR PHOTOGRAPHY THAT IMPACTS OR REQUIRES TOWN SERVICES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Palm Beach, Florida (“Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town has the authority, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Chapter 166, Florida Statutes, to adopt such regulations as it deems appropriate to further the health, safety, and welfare of its residents; and

WHEREAS, the Town is a barrier island with limited access points internationally known as a premier residential community of exceptional beauty; and

WHEREAS, the very aspects of the Town that appeal to most of its citizenry—superlative stores and restaurants, grand architecture and landscaping, public beaches, parks and other open spaces, and beautiful homes—also attract tourists and other visitors; and

WHEREAS, the Town's traffic and limited availability of parking have reached critical levels that threaten the community's identity, character, and quality of life; and

WHEREAS, the Town has within the past year accepted the results of a traffic and parking study performed by its outside consultant The Corradino Group, which study has detailed the traffic and parking challenges facing the Town; and

WHEREAS, The Corradino Group study determined that, on average, more than 75,000 vehicles enter and exit the Town daily—traffic numbers that far exceed the Town’s population of 9,235 residents—and that the Town’s major attractors (beaches, golf courses and commercial areas) generate on average more than 30,000 entry and exit trips on weekends and more than 20,000 entry and exit trips on weekdays; and

WHEREAS, the Town Council has determined that the Town’s traffic and parking challenges threaten the community’s identity, character, and quality of life; and

WHEREAS, the conduct of filming operations in the Town have the potential to further exacerbate the Town’s traffic and parking challenges; and

WHEREAS, the Town Council considered changes to the existing Commercial Motion Picture Making Ordinance proposed by Town Staff in consultation with the Town Attorney at its September 10, 2024 and October 8, 2024 meetings; and

WHEREAS, having heard the testimony of Staff and having heard public comment, the Town deems it in the interest of public safety, health and welfare to repeal its Commercial Motion Picture Making Ordinance and adopt this new ordinance on Filming Operations to provide regulations governing permits for filming or photography on or affecting public streets, trails, alleys, sidewalks, parks, beaches, and other public places and buildings within the Town and permits for filming or photography that impact or require Town services;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Palm Beach, Palm Beach County, Florida, as follows:

Section 1. The recitations set forth above are true and correct and incorporated herein as legislative findings of the Town Council.

Section 2. The Town Council hereby repeals Article IV – Commercial Motion Picture Making of Chapter 22 – Businesses in its entirety and simultaneously adopts a new Article IV – Filming Operations, to read as follows:

ARTICLE IV. FILMING OPERATIONS

DIVISION 1. GENERALLY

Sec. 22-126. Purpose.

The purpose of this article is to provide regulations governing permits for filming or videotaping on or affecting public streets, trails, alleys, sidewalks, parks, beaches, and other public places and buildings located within the Town of Palm Beach or that impact or require Town services.

This article does not establish a permitting scheme for filming operations conducted for the purpose of carrying on or practicing any profession, occupation or calling or for any commercial or quasi-commercial use or purpose in any private residential building or accessory building in the Town's residential zoning districts. Such uses are *prohibited* in all residential zoning districts pursuant to Town Code Sections 134-789, 134-839, 134-889, 134-944, 134-999, and 134-1054.

Sec. 22-127. Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant includes an individual, firm, partnership, corporation, company, or other legal entity that has submitted an application for a filming permit under this article.

Camera means any device used to produce theatrical motion pictures, television entertainment motion pictures, industrial motion pictures, television commercials, still photography, or any other photography, regardless of medium. Camera shall include (but not be limited to) aerial filming or photography devices.

Filming operations means activities necessary to create still, live, or motion pictures, whether made on or by film, electronic tape, aerial filming or photography device, or any other electronic device used to produce theatrical motion pictures, television entertainment motion pictures, industrial motion pictures, television commercials, still photography, or any other photography, regardless of medium, for use in any print or electronic media. Filming operations shall include (but not be limited to) the erection, dismantling, and transportation of related equipment. Filming operations

shall also include (but not be limited to) set construction, actual filming, rehearsals, and set teardown.

Filming permit means the permit required by this article for individuals or other entities wishing to conduct filming operations (as defined above) (1) on Town property, (2) affecting Town property or the use thereof, or (3) impacting or requiring Town services.

Permittee means any applicant to whom a filming permit is issued by the Town under this article.

Town property means any real or tangible property owned or controlled by the Town including, but not limited to any public street, trail, alley, sidewalk, park, beach, or other public place or building.

Sec. 22-128. Penalty for violations.

Persons found to be in violation of any provision of this article may be subject to penalties provided by law for the violation of municipal ordinances or, alternatively, may be subject to the jurisdiction of the code enforcement board. Nothing in this Section shall prevent the Town from seeking civil injunctive relief. Any person, organization, corporation, agency, or entity that conducts filming operations without having first obtained a valid permit shall be assessed a penalty, in accordance with the fee schedule adopted by the Town.

Sec. 22-129. Waiver of provisions.

The Town Council may in its discretion waive any requirements of this Article.

Secs. 22-130–22-150. Reserved

DIVISION 2. FILMING PERMIT

Sec. 22-151. Required.

Individuals or other entities wishing to conduct filming operations (a) on Town property, (b) affecting Town property or the use thereof, or (c) impacting or requiring Town services must apply in advance to the Town and obtain a filming permit for that activity from the Town Council.

Sec. 22-152. Exemptions from provisions.

The following activities are specifically exempted from the provisions of this article so long as such activities do not violate any other ordinance, law, rule, regulation, or court order, including (but not limited to) Town Code Sections 42-196 (prohibited noise), 42-197 (specific acts prohibited relating to noise), 42-282 (conditions for outdoor gatherings), 106-1 (obstructions generally), 106-48 (unlawful acts within public rights-of-way, roadways, and sidewalks), 106-257 (regulations relating to special events), 106-281 (special event permit required), 106-287 (walks and runs), 118-4 (vehicles impeding traffic), 118-6 (generation of traffic greater than normal in residential districts), 118-48 (parking interfering with traffic), 118-86 (regulation generally relating to parking,

stopping, and standing; tow-away zones), 118-88 (parking of boat trailers), 118-89 (parking of trucks, commercial vehicles limited), 118-90 (commercial vehicles stopping on Ocean Boulevard):

- (1) *Personal/Family Use*: Individuals conducting filming operations exclusively for their own personal or family use when such filming operations last for no longer than one hour (including any setup and breakdown) and involves the participation of no more than 15 individuals, and such individuals
 - a. Are using only hand-held cameras, no more than one tripod (but not including use of such tripod on public transit and public transit platforms), hand-held props, and/or hand-held equipment, and
 - b. Are not (i) asserting exclusive use of Town-owned or -controlled property; (ii) using prop weapons, fire, pyrotechnics, animals (other than the personal pets of the individuals conducting the filming or photography), prop vehicles, stunts, or actors in costume as first responders; (iii) engaging in changes of clothing in the course of their filming; (iv) requesting parking privileges; (v) engaging in fights, whether real or simulated; (vi) using language in public likely to incite violence or panic; (vii) violating or simulating violations of any governing law, whether criminal or civil; or (viii) otherwise requesting an exemption from the Town's rules and regulations or engaging in conduct that would require an exemption from the Town's rules and regulations.
- (2) *Educational Use*: Bona fide student and/or faculty filming operations exclusively for educational purposes, provided that the individuals conducting such filming operations
 - a. Are using only hand-held cameras, no more than one tripod (but not including use of such tripod on public transit and public transit platforms), hand-held props, and/or hand-held equipment, and
 - b. Are not (i) asserting exclusive use of Town-owned or -controlled property; (ii) using prop weapons, fire, pyrotechnics, animals (other than the personal pets of the individuals conducting the filming operations), prop vehicles, stunts, or actors in costume as first responders; (iii) engaging in changes of clothing in the course of their filming; (iv) requesting parking privileges; (v) engaging in fights, whether real or simulated; (vi) using language in public likely to incite violence or panic; (vii) violating or simulating violations of any governing law, whether criminal or civil; (viii) otherwise requesting an exemption from the Town's rules and regulations or engaging in conduct that would require an exemption from the Town's rules and regulations.
- (3) *News Media*: Employees of print or electronic news media when conducting filming operations of ongoing news events, although this

exemption shall not apply to simulations or reenactments orchestrated by print or electronic news media or any scripted content.

- (4) *Law Enforcement and Regulatory:* Agents or other authorized representatives of Town, state, or federal law enforcement or environmental regulatory agencies conducting filming operations exclusively for official and authorized law enforcement or regulatory purposes.

Sec. 22-153. Application.

- (1) *Required.* A completed filming permit application must be submitted to the Town no less than 20 business days prior to the Town Council meeting at which the filming permit application is to be considered.
- (2) *Filing and Changes.* Any filming permit application submitted under this Chapter must be submitted as directed by the Town. The applicant shall provide to the Town the certificate of insurance, fees, and all other information reasonably requested by the Town relating to the proposed filming operations. If, while any filming permit application is pending, during the term of any filming permit, or at any time between approval of a filming permit application and the term of any filming permit granted pursuant thereto, there is any change in any of the aspects of the proposed filming operations discussed in this Chapter, the applicant shall notify the Town in writing thereof.
 - a. If the change occurs after a filming permit application has been submitted but prior to the Town Council's consideration of the filming permit application, the applicant must notify the Town of the change no less than five business days prior to the Town Council meeting at which the filming permit application is to be considered. If the change occurs less than five business days prior to the Town Council meeting at which the filming permit application is to be considered or if the applicant, for any other reason, fails to timely inform the Town Council of the change pursuant to this subsection, the Town Council may defer consideration of the filming permit application to a future Town Council meeting.
 - b. If the change occurs after the Town Council has approved the original filming permit application, the applicant must notify the Town Council of the change within five business days of its occurrence, simultaneously submit a new filming permit application indicating the change, and obtain approval at the next Town Council meeting before moving forward with the filming operations under the changed circumstances.
- (3) *Certificate of Insurance.* The applicant shall provide at its own cost and expense Comprehensive General Liability Insurance coverage endorsing the Town as an additional insured with limits of liability not less than \$10,000,000.00 per occurrence. All required insurance policies shall

provide a waiver of subrogation and rights of recovery against the Town, including its agents, officers, past and present employees, elected officials, and representatives. The insurance policy in effect shall protect both parties and be primary and non-contributory for any and all losses covered by the above-described insurance. Insurers have no recourse against the Town for payment or assessments in any form on any insurance policy. When an aircraft is to be involved in any filming, the applicant will be required to obtain aviation coverage with limits of liability not less than \$100,000,000.00 per occurrence. If any watercraft is to be involved in filming, marine coverage is required with limits of liability not less than \$25,000,000.00 per occurrence. The Town Council may increase the limits of liability and request additional coverages as necessary upon the recommendation of the Town Manager or designee.

- (4) *Fees.* The applicant shall pay to the Town an administrative processing fee and daily filming operations fee, in accordance with the fee schedule adopted by the Town Council by resolution as may be amended from time to time.

Sec. 22-143. Prerequisites and conditions to issuance of a filming permit.

- (1) Prior to a filming permit being granted, the following requirements shall be satisfied:
 - a. *Hold harmless agreement:* The applicant shall execute a hold harmless agreement in favor of the Town. Such hold harmless agreement shall release and forever discharge the Town and agree to indemnify, defend, and hold free and harmless the Town and its agents, employees, elected officials, and representatives from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys' or other professional fees, or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims for bodily injury, including death in connection with or arising directly or indirectly out of the activities of the applicant or its agents, representatives or employees within the Town. The hold harmless agreement shall be executed by the individual(s) or entity(ies) capable financially and otherwise of honoring the terms thereof, and the agreement shall be in a manner and form acceptable of the Town and deemed to provide the protection necessary to the Town as intended by this Section.
 - b. *Indemnification:* To the fullest extent allowed by law, the applicant shall protect, defend, reimburse, indemnify, and hold free and harmless the Town and the Town's agents, employees, elected officials, and representatives from and against any and all claims, losses, penalties, damages, settlements, costs, charges, attorneys' or other professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, and cause or causes of action of every kind and character in connection with, arising directly or indirectly out of, or

related to the applicant and the activity performed under the filming permit application. Without limiting the generality of the foregoing, the applicant's indemnity shall include all claims, damages, losses, or expenses arising out of or relating to personal injury, death, property damage, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright, proprietary information, or applications of any thereof, or any other tangible or intangible personal or property right or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule, or regulation, or any order of any court. The applicant shall agree to investigate, respond, adjust, and provide a defense for all and any such claims, demands, and actions at the applicant's sole expense and agrees to bear and remain liable for all such other costs and expenses relating thereto, even if such claim is groundless, false, or fraudulent. Notwithstanding the foregoing, the applicant's indemnity shall not extend to liability for damages to persons or property to the extent such damage was caused by any act, omission, or default of the Town, or by the Town's officers, agents, or employees. The applicant shall acknowledge and agree that the Town would not enter into a contract without this indemnification of the Town by the applicant and that the Town's entry into a contract shall constitute good and sufficient consideration for this indemnification. These provisions shall survive the expiration or earlier termination of the filming permit application. Nothing in this agreement shall be construed to affect in any way the Town's rights, privileges, and immunities as set forth in F.S. 768.28.

- c. *Deposit for extraordinary services:* The applicant shall deposit with the Town an amount determined by the Town Manager or designee and approved by the Town Council, to compensate the Town for any extraordinary services required by the Town for purposes of carrying on the activity to be conducted pursuant to the terms of the permit.

(2) The following are conditions to the issuance of any filming permit:

- a. *Time limitations:* In no event shall any of the activities to be conducted pursuant to the terms of the filming permit be conducted between the hours of 8:00 a.m. and 10:00 a.m. or between the hours of 3:00 p.m. and 5:00 p.m. Dates and times during which filming operations shall be allowed shall be subject to the approval of the Town Manager or designee.
- b. *Deference to normal traffic flow patterns:* At no time shall the public streets, sidewalks, or rights-of-way of the Town be blocked or impeded to restrict or inhibit the normal flow of pedestrian, bicycle, or vehicular traffic.
- c. *Prohibition on streets:* In no event shall any of the activities to be conducted pursuant to the filming permit be conducted on any street, road, or other public right-of-way paved for vehicular use.

- d. *Maximum number of days per month:* In no event shall filming operations be conducted for a period of more than seven days in any one month during the period of time that is allowed for the filming operations pursuant to the filming permit and this Chapter. It is the intention of this subsection that the seven-day period is the maximum number of days allowed for filming operations during any one month. In other words, if one applicant has already received a filming permit allowing filming operations for a period of seven days during any one month, no other permits shall be granted to that applicant or any other applicant for filming operations during that month. For purposes of this section, filming permit applications shall be considered in the priority of the earliest filed application.
- (3) In addition to the conditions described in subsection (2) above, the Town may place conditions on filming operations if deemed necessary to protect the public health or safety or the general welfare of the community, its citizenry, and/or the environment of the Town or to prevent a public nuisance. Such conditions may include (but need not be limited to) the required use of police, fire, and/or other Town personnel during film production at the cost of the permittee.

Sec. 22-155. Review and appeals.

- (1) Every application for a filming permit shall be set for a public hearing before the Town Council.
- (2) In reviewing a filming permit application, the Town Council may deny the filming permit application for any of the following reasons:
 - a. The proposed filming operations represent an unreasonable threat to Town property or other assets or resources of the City.
 - b. The proposed filming operations will create an unreasonable danger of death, injury, or disruption of wildlife, or of damage or destruction to plant life.
 - c. The proposed filming operations will negatively impact the health, safety, or welfare of the Town or its residents or visitors.
 - d. The proposed filming operations will impose an unreasonable burden on the Town staff or staff of other governmental agencies.
 - e. The proposed filming operations will unreasonably deprive Town residents or visitors of the use of Town property or facilities for an extended period of time.
 - f. The proposed filming operations would require entry into or access to areas of Town property or facilities which are closed to the general public or would allow activities not permitted to Town residents or visitors.

- g. The proposed filming operations violate any ordinance of the Town or any other government's law, rule, or regulation.
 - h. The applicant has made a material misrepresentation in the filming permit application.
 - i. The proposed filming operations will result in a public nuisance.
 - j. The proposed filming operations will negatively impact traffic in the Town.
 - k. The applicant has violated any conditions of a previously issued filming permit or has violated any ordinance, rule, regulation, law, or court order in the conduct of filming operations under a previous filming permit.
 - l. The applicant has previously conducted filming operations without or prior to receiving a filming permit despite being required by the Town Code to obtain a filming permit for the filming operations.
- (3) Upon completion of its review, the Town Council shall approve the filming permit application, approve the filming permit application with conditions intended to mitigate any adverse impacts caused by the proposed filming operations, or deny the application. If the Town Council approves the filming permit application with conditions, the filming permit will become effective upon the permittee's acceptance of the conditions.
 - (4) The Town Manager or designee shall have the authority to revoke a filming permit upon violation of its terms or the terms of this Article.
 - (5) If a filming permit is denied or revoked, any person aggrieved shall have the right to appeal to the Town Council. The appeal must be filed within 10 business days of the denial or revocation. Any appeal will be heard at the next Town Council meeting occurring at least five business days after the filing of the notice of appeal.

Sec. 22-156. Duties of permittee.

The permittee shall comply with all provisions of this article, other laws, and ordinances of the Town (including, but not limited to, Town Code Sections 42-196 (prohibited noise), 42-197 (specific acts prohibited relating to noise), 42-282 (conditions for outdoor gatherings), 106-1 (obstructions generally), 106-48 (unlawful acts within public rights-of-way, roadways, and sidewalks), 106-257 (regulations relating to special events), 106-281 (special event permit required), 106-287 (walks and runs), 118-4 (vehicles impeding traffic), 118-6 (generation of traffic greater than normal in residential districts), 118-48 (parking interfering with traffic), 118-86 (regulation generally relating to parking, stopping, and standing; tow-away zones), 118-88 (parking of boat trailers), 118-89 (parking of trucks, commercial vehicles limited), 118-90 (commercial vehicles stopping on Ocean Boulevard), 134-789 (prohibited uses in R-AA Large Estate Residential District), 134-839 (prohibited uses in R-A Estate Residential District), 134-889 (prohibited uses in R-B Low Density Residential District), 134-944 (prohibited uses

in R-C Medium Density Residential District), 134-999 (prohibited uses in R-D(1) Moderate Density Residential District), and 134-1054 (prohibited uses in R-D(2) High Density Residential District)), state, and federal governments, and all conditions of the filming permit.

Sec. 22-157. False information prohibited in filming permit application.

No person shall knowingly falsify or misrepresent any information or representation made in the filming permit application.

Sec. 22-158. Permits nontransferable.

Filming permits shall be nontransferable.

Sec. 22-159. Possession.

The person heading or leading the filming process shall carry the filming permit on their person during the conduct of filming operations and shall be present during the conduct of filming operations.

Secs. 22-160–22-250. Reserved.

Section 3. Severability.

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

Section 4. Repeal of Ordinances in Conflict.

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification.

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 12th day of November 2024, and for second and final reading on this ____ day of _____, 2024.

Danielle H. Moore, Mayor

Bobbie D. Lindsay, Town Council President

Lewis S.W. Crampton, Council President Pro Tem

Julie Araskog, Town Council Member

ATTEST:

Edward A. Cooney, Town Council Member

Kelly Churney, Acting Town Clerk

Bridget Moran, Town Council Member