

ARTICLE IV. FILMING OPERATIONS

DIVISION 1. GENERALLY

Sec. 22-126. 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 Chapter.

Camera means any device used to produce theatrical motion pictures, television entertainment motion pictures, industrial motion pictures, television commercials, ~~or~~ 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, ~~or~~ 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. The following activities are specifically exempted from the definition of film operations (and thus do not require a permit) 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), 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):

- (1) Individuals filming or photographing exclusively for their own personal or family use when such filming and photographing lasts for no longer than one hour (including any setup and breakdown) and involves the participation of no more than ~~six~~ 15 individuals, and such individuals
 - a. Are using only ~~a~~ hand-held cameras, ~~one camera or no more than~~ one tripod ~~(with the exception of)~~ 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) Filming or photographing for advertising purposes when using a single aerial filming or photography device where such device is operated solely from privately owned property, such device is intended to capture predominantly the same privately owned property, and the activities conducted do not impact any public rights of way or other Town property or impact or require Town services.~~

~~(3)~~(2) Bona fide student and/or faculty filming or photography exclusively for educational purposes, provided that the individuals conducting such filming

- a. Are using only ~~a~~ hand-held cameras, ~~one camera on no more than~~ one tripod ~~(with the exception of 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; (iv) 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.

~~(4)~~(3) Employees of print or electronic news media when filming ongoing news events, although this exemption shall not apply to simulations or reenactments orchestrated by print or electronic news media or any scripted content.

~~(5)~~(4) Agents or other authorized representatives of Town, state, or federal law enforcement or environmental regulatory agencies filming or photographing exclusively for official and authorized law enforcement or regulatory purposes.

Filming permit means the permit required by this Chapter 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 Chapter.

Town property means any real or tangible property owned or controlled by the Town.

Sec. 22-127. Penalty for violations.

Persons found to be in violation of any provision of this chapter 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.

Secs. 22-128–22-150. Reserved

DIVISION 2. FILMING PERMIT

Sec. 22-151. Required.

- (1) Individuals or other entities wishing to conduct filming operations (4a) on Town property, (2b) affecting Town property or the use thereof, or (3c) impacting or requiring Town services must apply in advance to the Town and obtain a filming permit.
- (2) The activities permitted by this Chapter are restricted to commercially zoned districts and shall not be permitted within the residentially zoned districts, including those areas of Lake Trail that are zoned residential, except that filming permits may be sought for filming operations to occur exclusively within public parks even if such parks are in areas zoned residential.
- (3) Filming operations conducted for commercial purposes are prohibited in private residential buildings pursuant to Town Code Sections 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).

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Sec. 22-152. Application.

A completed filming permit application must be submitted to the Town no less than 20 days prior to the Town Council meeting at which the filming permit application is to be considered. If, while any filming permit application is pending or during the term of any filming permit granted pursuant thereto, there is any change in fact, policy, or method that would alter the information given in the filming permit application, the applicant shall notify the Town in writing thereof within two business days after such change. Any filming permit application submitted under this Section must be submitted in the manner requested by the Town.

Sec. 22-153. Prerequisites and conditions to issuance of a filming permit.

- (1) Prior to a filming permit being granted, the following requirements shall be satisfied:
 - a. The applicant shall provide to the Town all information reasonably requested by the Town relating to the proposed filming operations.
 - b. 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, expenses, suits, costs, fines, and damages, including attorneys' fees, 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.

- c. 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 officers, agents, and employees 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~~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.
- d. 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.

- e. 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. 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.

- b. 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 34:00 p.m. and 56:00 p.m. Dates and times during which filming operations shall be allowed shall be subject to the approval of the Town Manager or designee.

- ~~e.~~ 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.

~~d.c. The activities permitted by this Chapter are restricted to commercially zoned districts and shall not be permitted within the residentially zoned districts.~~

- d. 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.

- e. In no event shall any of the activities to be conducted pursuant to the filming permit involve activities constituting violations of any 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), 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).

- f. 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. 22-154. Review and appeals.

- (1) In reviewing a filming permit application, the Town 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 the existence of 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.
- (2) Upon completion of its review, the Town 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 approves the filming permit application with conditions, the filming permit will become effective upon the permittee's acceptance of the conditions.
- (3) The Town Manager or designee shall have the authority to revoke a filming permit upon violation of its terms or the terms of this Chapter.
- (4) 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 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. 22-155. 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. 22-156. 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. 22-157. Permits nontransferable.

Filming permits shall be nontransferable.

Sec. 22-158. Waiver of provisions.

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

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.