

ORDINANCE 2023-30

*Borough of Metuchen
County of Middlesex
State of New Jersey*

**ORDINANCE CREATING THE PROCESS FOR FILMING
IN THE BOROUGH OF METUCHEN**

WHEREAS, the Borough of Metuchen is a desirable location for the filming of motion pictures and television programs; and

WHEREAS, such filing has the potential to disrupt the peace and tranquility of the residents of Metuchen; and

WHEREAS, the Mayor and Council of the Borough of Metuchen seek to minimize such disruptions by regulating such activities.

NOW THEREFORE BE IT ORDANED by the Mayor and Council of the Borough of Metuchen, County of Middlesex, State of New Jersey that it hereby amends the Code of the Borough of Metuchen creating Chapter 88 entitled, "Films and Motion Pictures" to state as follows:

Chapter 88

FILMS AND MOTION PICTURES

§ 88-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FAMILY VIDEOS AND PHOTOGRAPHY

The filming or videotaping of motion pictures, intended solely for private use.

FILMING

All activity attendant to staging, taking or shooting motion pictures televisions shows or programs, videotaping either on film, videotape, computer based-program or other visual preproduction technology or similar recording medium, now known or hereafter created, for commercial or educational purposes intended for viewing on television, in theaters or for institutional uses. The period of filming includes the set-up, time of filming and removal of all

equipment. The provisions of this chapter shall not be deemed to include Family Videos and Photography and News Media within the Borough of Metuchen.

MAJOR MOTION PICTURE

Any film which is financed and/or distributed by a major motion picture studio, including but not limited to the following:

- A. Universal Pictures;
- B. Warner Brothers, including New Line Cinema, Castle Rock Cinema, Village Road Show and Bel-Aire;
- C. Paramount, including MTV Films and Nickelodeon Movie;
- D. 20th Century Fox, including Fox Searchlight;
- E. Sony/Columbia;
- F. Disney/Miramax;
- G. MGM United Artists;
- H. DreamWorks;
- I. Any film for which the budget is at least \$5,000,000;
- J. Recurrent weekly television series programming.

NEWS MEDIA

The filming and/or videotaping stories by recognized by news gathering programs and organizations.

PUBLIC LANDS

Any and every public street, highway, sidewalk, square, right of way, public park or playground or any other public place within the Borough which is within the jurisdiction and control of the Borough of Metuchen.

§ 88-2. Permit required.

A. No person or organization shall film or permit filming on public or private land within the Borough of Metuchen where such filming involves the use of public property for the operation, placement or temporary storage of vehicles or equipment utilized in such filming, including, but not limited to, any temporary structure, barricade or device intended to restrict or block off pedestrian or vehicular traffic, without first having obtained a permit, approved by the Borough Administrator, from the office of the Borough Clerk, which permit shall set forth the approved location of such filming and the approved duration of such filming by specific reference to day or dates. 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 office of the Borough Clerk during normal business hours. Applications for such permits shall be in a form consistent with this Chapter and approved by the Borough Clerk and Administrator and be accompanied by a permit fee in the amount established by this chapter in Section 12 herein.

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 Clerk, upon approval of the Borough Administrator, 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.

D. No permit will be required by this Chapter if the following are met:

- (1) There will be five or fewer people on the set;
- (2) No more than two cameras will be used in filming;
- (3) No parking is requested or required;
- (4) No audio or light stands are being used;
- (5) No exclusive access is requested or required; and
- (6) There will be no interference with the free passage of pedestrian and traffic over public lands.

§ 88-3. Issuance of permits.

A. No permits will be issued by the Borough Clerk unless applied for prior to ten (10) days before the requested shooting date; provided, however, that the Borough Administrator may waive the ten-day period if, in the Borough Administrator has judged that the applicant has obtained all related approvals and adjacent property owners or tenants do not need to be notified.

B. All applications for permits shall include at least the following information:

- (1) The name, address and telephone number of the applicant;
- (2) The specific location of the property where filming, etc., is to take place;
- (3) Whether applicant is the owner or tenant in possession of the property;
- (4) The name address of the owner of the property, if the applicant is not the owner;

- (5) The written consent of the owner of the property;
- (6) The name, address and telephone number of the person or entity the applicant wishes to allow to film, etc;
- (7) The date/s the filming is to take place and the hours of filming;
- (8) The dates within the previous 12 months that any filming was conducted at this location;
- (9) A statement detailing whether stunts, firearms, pyrotechnics, open flames, vehicle crashes, or other hazardous materials are to be used;
- (10) A statement detailing whether any actors or crew members will wear costumes that resemble uniforms of any public personnel, including police and/or fire personnel;
- (11) Acknowledgement that the Borough of Metuchen shall receive credit on the project which shall read “Thank you to the Mayor, Borough Council, Officials, Employees and Residents of the Borough of Metuchen.”
- (12) A signed statement that the applicant acknowledges the conditions of the permit and, under the penalty of perjury, that all statements contained in the application are true and accurate; and
- (13) Any other information or documentation determined necessary for the consideration of the application.

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) Proof of insurance coverage as follows:
 - (a) For bodily injury to any one person in the amount of \$500,000 and any occurrence in the aggregate amount of \$1,000,000.
 - (b) For property damage for each occurrence in the aggregate amount of \$300,000.
- (2) An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the Borough of Metuchen from any and all liability, expense, claim or damages resulting from the use of public lands.
- (3) The posting of cash deposit of \$500 or a maintenance bond of \$500 running in favor of the Borough and protecting and ensuring 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 Borough ordinances, laws

and regulations will be followed. Within 21 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) To the extent deemed necessary within the sole discretion of the Borough, the hiring of off-duty police officer/s for the times indicated on the permit.

C. The issuance of a Filming Permit contained herein is solely for filming and shall not provide the applicant with the exclusive use or permission for the use of Borough Fields and/or Properties. Said applicant shall be required to file a separate application and comply with all necessary requirements for said use of Borough Fields and/or Properties as provided in the Code of the Borough of Metuchen.

D. 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 Metuchen Police Department with respect thereto.

E. The Borough Administrator may immediately revoke a permit that has been granted, if the conditions of this Chapter and all applicable laws are not, or no longer, being met, or if the information supplied by the applicant becomes false and/or incomplete, or if any substantial change in circumstances results in the proposed use becoming detrimental to the public peace, health, safety or welfare. It shall be expressly acknowledged that the Borough Administrator shall have the right to revoke a permit if filming becomes detrimental to the public peace, health, safety or welfare without the Borough and/or Administrator including any liability whatsoever. In the event that a permit is revoked, the applicant shall have the same right of appeal to the Borough Council, as set forth in this Chapter, as if their application was denied.

§ 88-4. Interference with public activity; notice of filming.

A. 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.

B. The holder shall avoid any interference with previously scheduled activities upon public lands and limit, to the extent possible, any interference with normal public activity 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 ten days prior to the requested shooting date and be

informed that objections may be filed with the Borough Clerk, said objections to form a part of applicant's application and be considered in the review of the same. Proof of service of notification to adjacent owners shall be submitted as part of the application to the Borough Clerk.

§ 88-5. Filming in residential zones.

Filming in residential zones shall be permitted Monday through Friday between the hours of 7:00 a.m. and 10:00 p.m., provided that all requests for night scenes shall be approved in the permit to be granted in accordance with Sections 2 and 3 hereof. The setup, production and breakdown required by all filming shall be included in the hours as set forth herein.

§ 88-6. Refusal to issue permit; employment of patrolmen and electrician.

A. The Borough Administrator may refuse to issue a permit whenever it's determined, on the basis of objective facts and after a review of the application or a report thereon by the Police Department and/or 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. 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.

§ 88-7. Appeals.

A. Any person aggrieved by a decision of the Borough Administrator denying or revoking a permit or a person requesting relief pursuant to Section 6 may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Administrator.

B. An appeal from the decision of the Borough Administrator shall be filed within 10 days of the Borough Administrator's decision. The Borough Council shall set the matter down for a hearing within 30 days of the day on which the notice of appeal was filed. The Borough Council shall affirm, modify or reverse the decision of the Borough Administrator at the first regularly scheduled public meeting of the Borough Council after the hearing on the appeal, unless the appellant agrees in writing to a later date for the decision.

§ 88-8 Waiver of requirements of chapter by Borough Administrator

The Borough Administrator may authorize filming other than during the hours herein described. In determining whether to allow an extension of hours under this section, the Borough Administrator shall consider the following factors:

- A. Traffic congestion caused at the location.
- B. Applicant's ability to remove film-related and other vehicles and equipment off the public streets or other public property.
- C. The nature and extent of when the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming.
- D. The nature of the film shoot itself; e.g., indoor or outdoors; day or night; on public or private lands.
- E. The nature and extent to which filming may adversely affect adjoining property owners' use and enjoyment of their property.
- F. Prior experience of the film company/applicant with the Borough, if any.

§ 88-9. Copies of permit; inspections.

Copies of the approved permit will be sent to the Police and Fire Departments before filming takes place and to the New Jersey Film Commission. The applicant shall permit the Fire Prevention Bureau or other Borough Inspectors and Officials to inspect the site and the equipment to be used. The applicant shall comply with all safety instructions issued by the Fire Prevention Bureau or other Borough Inspectors/Officials.

§ 88-10. Reimbursement of certain costs.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue, such as parking meter revenue, repairs to public property or other revenues that the Borough was prevented from earning because of filming.

§ 88-11. Special regulations for major motion pictures.

- A. When filming is requested with respect to a major motion picture, the approved location of such filming and approved duration of such filming by specific reference to day or dates may exceed three consecutive days and/or may exceed six days in duration if approved by

the Borough Administrator in their discretion following a favorable review of the factors set forth in Section 8

B. Any days necessary to be used for set-up and preparation for a major motion picture filming may, in the discretion of the Administrator, be counted as a filming day where such setup is anticipated to involve one or more of the factors set forth in Section 8.

§ 88-12. Fees

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

Basic filming permit: \$150. Where an applicant requests a waiver of the provision of Section 3A requiring expedited processing of a permit application within 24 hours of the filming date, the basic filming permit fee for processing the application on an expedited basis shall be \$500.

Daily filming fee payable in addition to the basic filming permit shall be \$300 per day.

Daily filming fee payable for a major motion picture shall be \$1,000 per day.

Filming permit for nonprofit applicants filming for educational purposes (no daily rate required) shall be \$25.

§ 88-13. Violations and penalties

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

BE IT FURTHER ORDAINED by the Mayor and Council that all prior ordinances, or sections of ordinances, inconsistent with the within ordinance are hereby repealed; and

BE IT FURTHER ORDAINED by the Mayor and Council that all remaining sections of the Code of the Borough of Metuchen not amended or referenced herein shall not be affected thereby and shall remain in full force and effect; and

BE IT FURTHER ORDAINED by the Mayor and Council that if any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall continue in full force and effect, and to this end, the provisions of this Ordinance are hereby declared to be severable; and

BE IT FURTHER ORDAINED by the Mayor and Council that this ordinance shall become effective immediately upon final passage and publication as provided by law.

Introduction: November 13, 2023
 Date of Publication: November 17, 2023

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
BRANCH	X				HIRSCH	X			
DELIA	X				HYMAN	X			
GIAMBOI	X				KANDEL	X			
MOTION	DELIA			SECOND		GIAMBOI			
X – INDICATES VOTE				AB- ABSENT		NV- NOT VOTING			

I hereby certify the foregoing to be a true copy of an ordinance introduced by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on November 13, 2023.

 Deborah Zupan, RMC
 Borough Clerk

Adopted: November 27, 2023
 Date of Publication: December 1, 2023

COUNCILMEMBER	YES	NO	NV	AB	COUNCILMEMBER	YES	NO	NV	AB
BRANCH				X	HIRSCH	X			
DELIA	X				HYMAN				X
GIAMBOI	X				KANDEL	X			
MOTION	DELIA			SECOND			GIAMBOI		
X – INDICATES VOTE				AB- ABSENT			NV- NOT VOTING		

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Borough Council of the Borough of Metuchen, Middlesex County, New Jersey at a regular meeting held on November 27, 2023.

 Deborah Zupan, RMC
 Borough Clerk

ATTEST:

BOROUGH OF METUCHEN

 Deborah Zupan, RMC
 Borough Clerk

By: _____
 Jonathan M. Busch
 Mayor