

Chapter 117: Filming

[HISTORY: Adopted by the Council of the City of Beacon 9-3-2013 by L.L. No. 16-2013. Amendments noted where applicable.]

§ 117-1 Findings; purpose.

- A. The City Council finds that significant filming, photography and similar activities on private and public property has been and will be taking place in the City of Beacon for commercial purposes and that such filming and photography may create hardship, inconvenience, danger and discomfort to large numbers of citizens and residents of the City because of the disruption of traffic on public streets and private neighborhoods and potential interference with certain municipal functions and operations.
- B. By reason of the foregoing, the City Council finds that the health, safety and welfare will be served by adoption of a local law providing a means of regulating the undertaking of any filming or photography, in a commercial manner, on public property and regulation of the same activities conducted on private property where such activities will result in disturbance, interference, or inconvenience to the public.

§ 117-2 Definitions.

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

ADVERTISEMENT

Any film, as defined herein, produced for use in a television or internet commercial, or for a published advertisement.

FILM or FILMING

The taking of still or motion pictures whether on film, videotape, photograph, digital recording or by similar recording medium, for commercial or educational purposes and intended for viewing on television, in theaters or for institutional uses. The provisions of this chapter shall not be deemed to include the filming of news stories within the City of Beacon.

MAJOR COMMERCIAL PRODUCTION

Any film with a budget in excess of \$3,000,000 which is part of a television series, special, documentary, or made-for-TV movie; or which is financed, produced 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; or
- H. Dreamworks.

PUBLIC LANDS

Any public street, highway, sidewalk, square, public park or playground, or any other public place within the City of Beacon, which is within the jurisdiction and control of the City of Beacon.

§ 117-3 Permit required.

- A. No person or organization shall film on public land within the City of Beacon without first having obtained a permit from the City Administrator, 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. No permit shall authorize filming for more than three consecutive days in any one location, and in no event shall filming at one location within the City exceed a total of six days in any one calendar year, regardless of the number of permits utilized in reaching this six-day maximum. Either or both of the three-consecutive-day and the six-day limitations may be extended only if the filming requested constitutes a major motion picture, as defined by § 117-2 of this chapter.
- B. Subject to the provisions of § 117-4E, no person or organization shall film or permit filming on privately owned real property within the City of Beacon where such filming will result in disturbance, interference or inconvenience to the public without first having obtained a permit from the City Administrator, 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. No permit shall authorize filming for more than three consecutive days in any one location, and in no event shall filming at one location within the City exceed a total of six days in any one calendar year, regardless of the number of permits utilized in reaching this six-day maximum. Either or both of the three-consecutive-day and the six-day limitations may be extended only if the filming requested constitutes a major motion picture, as defined by § 117-2 of this chapter.
- C. No person shall film City employees in the course of their duties on behalf of the City unless the person or entity wishing to conduct such filming first obtains a permit from the City Administrator.

§ 117-4 Permit exemptions.

The provisions of this chapter shall not apply to and no permit or fee shall be required for the following activities, provided they will not require closure of a public street or substantially impede vehicular traffic:

- A. Filming conducted solely for the purpose of reporting news for newspapers, television news and other news media;
- B. Filming conducted entirely within a fixed place of business where filming activities are regularly conducted on the premises;
- C. Filming conducted for use in a criminal investigation or civil or criminal court proceeding;
- D. Filming activities taking place under sponsorship of the City of Beacon, whether on public or private property;
- E. Noncommercial filming conducted on private property solely for private or family use;
- F. Commercial still photography, or staging thereof, when conducted to the exclusion of any other filming, provided the still photography will not require closure of any public street or sidewalk or otherwise obstruct a public right-of-way; and
- G. Commercial filming activities conducted exclusively on private property where such activities will not result in external disturbances to the public, including but not limited to light, noise, vibration or odor nuisances, or obstruction or closure of any public right-of-way.

§ 117-5 Permit applications.

- A. Applications may be submitted to the City through the City Clerk's office in person or by mail and must contain the following:
 - (1) The name of the applicant;
 - (2) The street address or location of the property where filming is to take place;
 - (3) Whether the applicant is owner or tenant in possession of property and the name of the owner of property if the applicant is not the owner;
 - (4) Whether any street closures, sidewalk obstructions or other inconveniences to the public will be required, and the proposed dates and times for such closings; and
 - (5) Payment for the nonrefundable application fee, as set forth in the City fee schedule.^[1]

[1] *Editor's Note: The fee schedule is on file in the City offices.*

- B. The applicant shall submit a use plan showing the days and hours of proposed operation, parking plans and any mitigating measures proposed and the name, local address and local telephone number of a person who will be available 24 hours a day during the activity and who shall have control of and responsibility for the direction of all participants in the permitted activity and for the property for which the activity is permitted.
- C. No permit shall be issued for filming upon public lands unless the applicant shall provide the City with satisfactory proof of the following:
 - (1) Proof of insurance coverage of such type and with such policy limits as prescribed by the City Administrator.
 - (2) An agreement, in writing, whereby the applicant agrees to indemnify and save harmless the City of Beacon from any and all liability, expense, claim or damages resulting from the use of public lands. The indemnification agreement shall further provide that the applicant agrees to reimburse the City for any damage to City property resulting from the permitted filming activities.
 - (3) The posting of cash or a maintenance bond, in an amount set forth in the City fee schedule, running in favor of the City of Beacon and protecting and insuring 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 City ordinances, laws and regulations will be followed. Within 21 days of the completion of the filming, the City will return the bond if there has been no damage to public property or public expense caused by the filming.
 - (4) The hiring of a City of Beacon police officer for the times indicated on the permit and at the discretion of the City Administrator.
- D. The City Administrator shall review the application and may seek the advice of the Chief of Police, Fire Chief, Building Inspector and the Superintendent of Highways in reviewing such plans.
- E. The City Administrator shall make the final determination with respect to any application, including requests for permit extensions.
- F. The Chief of Police shall have the power to enforce the conditions set by any permit granted pursuant to this chapter.

§ 117-6 Additional permit specifications.

- A. The City Administrator may attach conditions and safeguards ensuring the orderly conduct of the activity and the minimization of impacts of such use.
- B. The City Administrator may require an applicant to provide no less than 48 hours' prefilming notice to all property owners within a radius of 250 feet of the filming location. Such notice shall include a copy of the applicant's application.
- C. If any portion of permitted filming will take place on a public sidewalk or street, the City Administrator may require the applicant to submit a deposit, as set forth in the City fee schedule,^[1] to be returned upon completion of the permitted filming, less costs incurred by the City for any cleanup of public property or facilities made necessary by the permitted filming.

[1] *Editor's Note: The fee schedule is on file in the City offices.*
- D. Site plan approval by the Planning Board is not required for placement, erection, or construction of a temporary structure that is to be removed prior to or upon conclusion of permitted filming activities; provided, however, the Building Inspector shall be permitted to inspect any such temporary structure to ensure it does not pose a danger to the public.
- E. If a permit is issued and filming does not take place on the dates specified therein due to inclement weather or other good cause, the City Administrator may, at the request of the permit holder, issue a new permit for filming subject to full compliance with all provisions of this chapter and conditions of the original permit.

§ 117-7 Deadline for filing applications.

Applications for a permit must be filed with the City Clerk a minimum of five business days prior to the date when filming is to begin, except that an application for a permit which includes street closures, stunts, or pyrotechnics must be filed a minimum

of 10 business days in advance of the first day of filming; provided, however, that the City Administrator may waive the five-day period if the applicant has obtained any and all necessary approvals and neighboring property owners or tenants do not need to be notified.

§ 117-8 Permit fee.

Permit holders shall pay a daily fee to the City of Beacon, in an amount set forth in the City fee schedule.^[1]

[1] *Editor's Note: The fee schedule is on file in the City offices.*

§ 117-9 Compensation for loss of business.

Where permitted filming activities require closure of a street or sidewalk and thereby temporarily eliminate access to an adjacent business, the permit holder may be required, in the sole discretion of the City Administrator, to compensate the affected business(es) for the resulting loss of income caused by elimination of a street or sidewalk. If the business operator and permit-holder cannot agree on fair compensation within five business days, the City Administrator shall mediate a settlement of the compensation amount.

§ 117-10 Reimbursement of City lost revenue.

In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the City for any lost revenue, such as parking meter revenue, that the City is prevented from earning because of permitted filming activity.

§ 117-11 Security and other city services.

- A. In addition to any other fee or cost mentioned in this chapter, a permit holder shall also pay an hourly rate for use of any City Police, Fire or Highway Department or other City personnel or equipment in connection with any filming activities subject to this chapter, whether for security or other purposes. An estimate of the total cost for the services and equipment shall be provided to the applicant prior to issuance of the permit. The applicant shall pay the estimated cost in full prior to issuance of the permit, provided the applicant shall be refunded any unused portion thereof within seven business days after completion of the filming activities.
- B. It shall be the duty of the Beacon Chief of Police, Fire Chief and the Highway Superintendent or other designated City personnel to determine the number of personnel and equipment needed, if any, to provide adequate security precautions or other necessary services at the permitted location(s) and the date(s) and time(s) during which such precautions or services shall be required. Such services may also be provided upon written request by the permit-holder based upon the availability of personnel and equipment.

§ 117-12 Duties of permit-holders.

The permit-holder and all agents, employees, and contractors thereof shall comply with the following requirements:

- A. The permit-holder shall comply with all instructions, requirements and conditions set forth in the permit.
- B. The permit-holder shall comply with any instructions given by the City of Beacon Police Department officer(s) assigned to police the filming at the permitted location.
- C. The permit-holder shall comply with instructions given by City employees assigned to regulate the filming at the permitted location.
- D. The permit-holder shall take reasonable steps to minimize the creation and/or spread of debris and/or garbage from the permitted location and shall be responsible for the removal of all equipment, debris and garbage from the permitted location upon completion of filming or expiration of the permit, whichever comes first.
- E. The permit-holder shall clean and restore all City-owned property utilized during the filming to the same condition as existed prior to the filming.

§ 117-13 Permit extensions for major commercial productions.

A permit-holder who has been granted a permit for a major commercial production may make an application to the City Council for an extension of time at the location(s) specified in the original permit. Such application for an extension of time must be submitted no fewer than five days before the proposed extension date. In deciding whether or not to grant an application for extension of time, the City Council may consult with the Chief of Police, Fire Chief, City Administrator and any other City staff to determine whether continued filming will constitute a threat to public health, safety, or welfare, or unreasonably interfere with vehicular or pedestrian traffic. Extension of a permit pursuant to this section shall require payment of additional fees in accordance with the number of days for which the permit is extended.

§ 117-14 Permit revocation or suspension.

- A. The City Administrator may revoke a permit if the permit-holder or any agents, employees, or contractors of the permit-holder fail to comply with the requirements set forth in this chapter or if the City Administrator determines that the permit application was false in any material detail. Notice of the grounds for revocation of the permit shall be provided in writing to the applicant or person in charge of the filming.
- B. The Chief of Police may suspend the permit when the filming activities pose a hazard to persons or property and the location manager will not, or cannot, prevent the hazard after being instructed to do so by an officer of the Beacon Police Department.
- C. Violation of the terms and conditions of a permit, without prior written modification by the City Administrator, shall constitute a forfeiture of the privileges conveyed pursuant to the permit, thereby requiring that all filming activities cease immediately, subject to fine or penalty for violation of this chapter.

§ 117-15 Limitations on activities.

- A. Unless otherwise determined by the City Administrator, in accordance with Subsections **B** and **C** of this section, the permissible hours of filming shall in all cases be from 8:00 a.m. to 9:00 p.m. each day, including time used for the setup, breakdown and removal of any sets, equipment, staging areas or vehicles used in connection with the filming.
- B. Upon written request by the applicant, the City Administrator may, in his/her sole discretion, authorize filming at times other than during the hours stated in Subsection **A** of this section. Such times shall be set forth in the terms and conditions of the permit. In rendering its determination to expand the permissible hours of filming for a given application, the City Administrator shall consider the following factors:
 - (1) Potential traffic congestion caused by vehicles or equipment to be kept on the public street;
 - (2) The applicant's ability to remove film-related vehicles and equipment off the public streets in between filming;
 - (3) The time(s) of day during which the applicant is requesting restrictions on the use of public streets or public parking during the course of the filming;
 - (4) The nature of the film shoot itself, i.e., indoor or outdoor, day or night, or on public or private lands; and
 - (5) Prior experience the City has in dealing with the film company/applicant, if any.
- C. Upon written request by the applicant, the City Administrator may, in his/her sole discretion, authorize the placement, operation or storage of any sets, equipment, staging areas or vehicles used in connection with the filming at times other than during the otherwise permitted hours for filming stated in Subsection **A** herein. In rendering its determination, the City Administrator shall consider the factors set forth in § 117-15B.
- D. No filming or photography shall be allowed that interferes with, disrupts, hinders or otherwise impedes the operations and/or activities of any City of Beacon employee, department, agent or contractor. For purposes of this chapter, the direct and intentional filming of any City employee, department, agent or contractor is deemed a distraction and hindrance to the performance of public duties, therefore requiring a permit pursuant to this chapter.
- E. No alteration of any nature, whether temporary or permanent, shall be made to City-owned or -operated real property in connection with permitted filming, including, without limitation, trimming of trees or plants, digging of holes, or modification of structures, unless done with the express, written consent of the City Administrator. The City Administrator may impose additional fees on a permit-holder for such alterations.

§ 117-16 Adherence to other laws.

Notwithstanding the issuance of a permit pursuant to this chapter, all filming in the City shall be conducted in accordance with all applicable City ordinances and federal and state laws.

§ 117-17 Penalties for offenses.

- A. Any person, persons, corporation, company, group or other entity of any kind who or which fails to obtain the permit required herein, or otherwise violates any provision of this chapter, shall be guilty of an offense which shall be punishable by a fine of not more than \$350 per offense or by imprisonment not exceeding 15 days, or both.
- B. The imposition of such fine shall not be the City's exclusive remedy in the event of a violation of this chapter, and the City may pursue any and all other legal remedies available in connection with any violation of this chapter.

§ 117-18 Previous violations.

Notwithstanding any of the foregoing, the City Administrator may deny a permit to an applicant who has been previously convicted of a violation of this chapter within 18 months from the date of conviction.