

**STATE OF GEORGIA
CITY OF HAPEVILLE**

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA BY CREATING A NEW ARTICLE 14 TO BE ENTITLED “MEDIA PRODUCTIONS AND PERMITS” TO CHAPTER 11 (“BUSINESS LICENSING AND REGULATION”); TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, The Mayor and Council of the City of Hapeville (hereinafter the “City”) finds that there is significant interest in filming movie productions in the City and in the State of Georgia as a whole; and

WHEREAS, The Mayor and Council of the City finds that the citizenry and City’s interests are served by encouraging movie production within the City limits; and

WHEREAS, The Mayor and Council of the City finds that such movie productions could positively impact the economy and the citizens of the City; and

WHEREAS, The Mayor and Council of Hapeville finds that the City’s Code of Ordinances should be amended in order to provide the regulations needed to allow for movie production within the City limits; and

WHEREAS, The Mayor and Council finds that such ordinances regulating movie production are necessary for the health, welfare and safety of the citizens of Hapeville and for the movie production employees; and

BE IT AND IT IS HEREBY ORDAINED by the Mayor and Council of the City of Hapeville, Georgia and by the authority thereof

Section 1. Chapter 11 of the Code of Ordinances of the City of Hapeville, Georgia is hereby amended by creating a new Article 14 to be entitled “Media Productions and Permits,” to read and to be codified as follows:

“ARTICLE 14 - MEDIA PRODUCTIONS AND PERMITS.

Sec. 11-14-1. – Definitions.

- A. “Film”, “Filming” or “Film Activity” shall mean creating motion picture or still photographic images, and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, commercials and student films produced to satisfy a post-secondary school course requirement at an educational institution in any medium including film, tape or digital format, including, but not limited to, motion pictures, television or commercial still photography.
- B. “Charitable Films” shall mean commercials, motion pictures, television, videotapes, digital recording or still photography produced by a nonprofit organization which qualifies under Section 501(C)(3) of the Internal Revenue Code as a charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing films, tapes or photos.
- C. “News Media” shall mean the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers or camerapersons.
- D. “Student Film” shall mean a film where the Producer is a student enrolled in an accredited educational institution and who is enrolled in a filmmaking or television class at such accredited educational institution, either on the undergraduate or graduate level and where the primary purpose of such film is a learning experience in which the Producer fulfills whatever educational requirements such project is produced for. The Producer and/or corresponding educational institution must own the film, which may only be used for non-profit purposes.
- E. “Studio” shall mean a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.
- F. “Facility” shall mean any structure or building, regardless of the presence of active utilities, located on public or private property.

- G. “Residence” shall mean any single family home, mobile home, trailer, multi-family housing unit or units, apartments, condominiums, dormitory or any other structure wherein persons are legally permitted to reside.
- H. “Exigent Circumstances” shall mean conditions of property, weather, lighting, scheduling, or Filming equipment that are necessary for the scheduled Filming Activity which, if forced to wait at least five business days, would make them unavailable for use by the production through no fault of any agent of the production responsible for same, and which was not known or could have reasonably been ascertained at least five business days prior to the scheduled Filming Activity.
- I. “Expedited Review” shall mean a permit application submitted for review pursuant to this Article less than five (5) business days prior to the scheduled Film Activity, but at least eighteen (18) hours prior to the scheduled Film Activity, as a result of Exigent Circumstances.
- J. “Film Liaison” shall mean the City Manager or designee appointed to oversee all permitting activity under this Article, to review permit applications and make recommendations to the City Council for approval or denial or, in the case of Expedited Review or as otherwise authorized by this Article, to approve or deny the same. The Film Liaison shall guide applicants through the process of review, assist in coordinating needed City services – such as police, fire, sanitation, etc. – and coordinate any other licenses and permits that may be necessary to stage the Filming Activity.
- JK. “Private Property” shall mean real property owned or leased by an individual or non-governmental entity, including, for example, residential homes and commercial developments.
- L. “Public Property” shall mean real property owned, leased or controlled by the City, including, without limitation, parks, streets, sidewalks, other rights of way and buildings.
- M. “Producer” shall mean an individual, organization, corporation or other entity that is ultimately responsible for the Filming Activity that is the subject of the application and permit.
- N. “Impact,” with regards to public property, shall mean (1) Use of intellectual property belonging to the City; (2) Closure of a City or state street, lane and/or sidewalk; (3) Use of pyrotechnics or other explosives; (4) Smoke effects, water effects or flame effects; (5) Display of real or artificial fire arms, grenades or other weapons that would cause the public to fear violence; (6) Vehicle chases and/or vehicle crashes; (7) Use of large or any other equipment that has a reasonable likelihood of causing damage to public property; (8) Use of wild animals controlled

under federal or state law or county and/or municipal ordinances; (9) Use of city or state streets and/or lanes for the parking of trailers or vehicles associated with the Filming Activity that are likely to restrict the flow of traffic; (10) If another permit and/or license or any type of inspection is required by the ordinances of the City for the Filming Activity; or (11) any combination of the above.

- O. “Disturbing the Peace” shall mean (1) real or simulated fighting visible from public property or right-of-way; (2) using offensive words in public that are likely to incite violence; (3) shouting in a public place that could be heard from a radius of 100 yards and that could have the effect of disturbing the health, safety and/or welfare of the surrounding public; (4) use of non-domestic animals or domestic animals that will be loud and audible to a reasonable person in a radius of two hundred (200) feet that is inside a structure with the windows and doors closed; (5) playing of music or other noise loud enough to be heard by a reasonable person within a radius of five hundred (500) feet or two hundred (200) feet if inside a structure with the windows and doors closed; (6) presence of public nudity or what would be considered indecent exposure under the City Code; (7) simulated (or real) drug use; and (8) what would otherwise be considered disorderly conduct under the City Code.

Sec. 11-14-2. - Permit and exemptions.

- A. Permit required. No person shall use any Public Property or Facility, or Private Property, Facility or Residence where such use will have an Impact on public property for the purpose of Filming without first applying for and obtaining a permit pursuant to this Article.
- B. Exemptions.
1. News Media. The provisions of this Article shall not apply to Film Activities for the purpose of News Media.
 2. Personal/Family Video. The recording of visual images (motion or still photography) solely for private use and not for commercial use.
 3. Studio Filming. Film Activities (motion or still photography) conducted at or within a properly-licensed studio.
 4. Small Business. The owner of any Small Business, as defined by the size standards of the Small Business Administration (SBA), may film a commercial for said business at their properly licensed business location without a permit, so long as the filming takes place wholly inside the private premises of the business location or immediately outside the premises so long as the filming does not substantially interfere with any vehicular or pedestrian traffic on the public right of way.

Sec. 11-4-3. - Administration.

- A. The City Manager may designate a City employee to serve as the Film Liaison. Said employee shall be employed in the City's Economic Development Department and shall be responsible for administering the provisions of the Article. If no Film Liaison is designated then the City Manager shall serve as the Film Liaison.
- B. Issuance of permits and other decisions rendered pursuant to the terms of this Chapter shall be based upon the following:
 - 1. The health and safety of all persons, including citizenry and customers of any businesses located within the City; and
 - 2. Mitigation of disruption to all persons and businesses within the affected area; and
 - 3. The safety of all public and private property within the City; and
 - 4. Traffic congestion at particular locations within the City; and
 - 5. Ability of the applicant to organize the Filming Activity and comply with all applicable laws, ordinances and regulations, and/or the City to coordinate the necessary services within the period of time between submittal of application and scheduled date of Filming Activity; and
 - 6. Whether any other legal and/or permitted activity is taking place at the location of the scheduled Film Activity at the same time.

Sec. 11-14-4. - Applications and issuance of permits.

- A. Applications shall be made on a form prescribed by the Film Liaison and shall include the following information:
 - 1. The representative of the property, the address, e-mail address and any available telephone number of the place at which the activity is to be conducted; and
 - 2. A written description of the specific location at such address or place including a description of any facilities on the location where Filming will take place; and
 - 3. The inclusive hours and dates Film Activities will occur; and
 - 4. A general statement of the character or nature of the proposed Film Activity; and
 - 5. The name, address, e-mail address and telephone number of the person or persons in charge of such Film Activity; and
 - 6. The exact number of personnel to be involved with such Film Activities; and

7. A detailed description of any Film Activity that may cause public alarm such as the use of any animals, gunfire or pyrotechnics and low flying aircraft; and
 8. The exact amount and type of vehicles and equipment to be employed along with a parking plan.
- B. Deadline for applications. Subject to the Expedited Review exception, applications must be submitted a minimum of five (5) business days in advance to the office of the Film Liaison. If the Film Activity interferes with traffic or involves potential public safety hazards, the application shall be submitted a minimum of seven (7) business days in advance.
- C. With the exception of those applications requesting the use of pyrotechnics or explosives, all applications shall be reviewed and issued by the Film Liaison. The Film Liaison shall review and act on the application no later than seven (7) calendar days following the submittal of the completed application. For those applications submitted less than eight (8) days prior to the Filming Activity, but more than three-days prior to the Filming Activity, the Film Liaison shall review and act on the application no later than three (3) days after the filing of the application. The applicant may appeal any denial of the application by the Film Liaison to the Mayor and City Council by filing an appeal within five (5) days of the decision, and which will be placed on the next Regular City Council meeting which is at least 24 hours after the filing of the appeal.
- D. The Film Liaison shall review and assess any application requesting the use of pyrotechnics or explosives based on the criteria stated above and make recommendations for approval or denial to the Mayor and City Council. The Mayor and City Council shall review and act on the application no later than seven (7) calendar days following the submittal of the completed application, unless the application is not submitted at least eight (8) days prior to the Filming Activity in which case the Mayor and Council shall act on the application no later than three (3) days after the filing of the completed application, but with at least 24 hours' notice as required by the Georgia Open Meetings Act. If no regular meeting is scheduled within this period of time, the Mayor shall call a Special Called Meeting to conduct such review within the prescribed period of time.
- E. An application submitted for Expedited Review shall be assessed administratively by the Film Liaison who, based on the criteria above, shall approve or deny the permit. The decision of the Film Liaison must be communicated to the applicant in writing in the most expeditious method available and requested by the applicant at the applicant's expense. In case of a denial, and only if the applicant so directs, the Film Liaison shall forward the application for de novo review by the Mayor and City Council at the next regularly scheduled council meeting, but no later than thirty (30) days after the issuance of the denial. The written letter of denial shall serve as the Film Liaison's recommendation to the Mayor and Council.

- F. Change of Date. Upon the request of the permittee, the Film Liaison shall have the power, upon a showing of good cause, to change the date for which a film permit has been issued, provided the date change does not extend the length of the permitted Film Activity originally approved or substantially change any required filming regulation factor detailed in this Article or any condition placed on the permit when originally approved.
- G. The issuance of a permit shall not grant the Producer a constitutionally protected property interest.

Sec. 11-14-5. - Application fee, reimbursement for cost, waiver.

- A. Application Fee. With the exception of Student Films and Charitable Films, which shall be exempted, the application fee for any filming permit must be submitted together with the application required in section 11-14-4 above. The fee shall be based on how far in advance of the scheduled Film Activity the completed application is filed as established by Resolution of Mayor and Council. Presentation of proof to the City that the final film product contains end-credit attribution to the City of Hapeville and the City Logo shall result in reimbursement of 40% of the Application Fee.
- B. Reimbursement for Personnel. The production company shall reimburse the City for any employees provided to the company (e.g. police, fire, traffic) for the purpose of assisting the production, whether at the request of the applicant or as a condition of the permit. The rate for an employee and minimum hours of hire for employees shall be established by resolution of Mayor and Council in consultation with the Chief of Police or Fire Chief, if applicable. Such payment shall be made directly to the employee(s) at least twenty-four (24) hours prior to the use of the employee(s) and is non-refundable.

Sec. 11-14-6. - Filming regulations.

- A. Residential Locations. Filming in residential neighborhoods shall be limited to the hours between 7:00 a.m. and 10:00 p.m. Eastern Standard Time or 11:00 p.m. Eastern Daylight Time.
- B. Notification. Permittees must provide all residents, businesses and merchants within a 200-foot radius of the Film Location written notice of the dates, times, location addresses and production company contact at least seventy-two (72) hours prior to the first Film Activity, or twelve (12) hours in case of Expedited Review applications. If a permittee requires on-street parking for production vehicles, residents, businesses and merchants impacted by the parking requirements must receive written notice at least 24 hours prior to the arrival of the vehicles.
- C. Clean up. The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The Filming Activity area, Facilities and Residences used shall be

cleaned of trash and debris upon completion of shooting at the scene and restored to the area's, Residence's or Facility's original condition before leaving the site.

- D. Filming on private property. A permittee must obtain permission, consent and/or secure a lease for any use of property not owned or controlled by the City.
- E. Traffic control.
 - 1. In the event any filming impairs traffic flow, permittees may be required to use City of Hapeville Police Department employees for traffic purposes and comply with other traffic control requirements as deemed necessary by the City's Film Liaison. Permittees shall pay for the use of such personnel.
 - 2. Permittees shall furnish and install advance warning signs and any other traffic control devices in conformance with the National Manual on Uniform Traffic Control Devices ("MUTCD"). All appropriate safety precautions must be taken.
 - 3. For any lane closure or intermittent traffic control, the period of time that traffic may be restricted will be determined by the Chief of Police of the City of Hapeville, based on traffic volumes for location and time of day. Requests for such closures must be submitted as part of the application and applicant must diligently assist the Chief of Police, or designee, in developing a traffic control plan if so requested.
 - 4. Traffic shall not be detoured across a double line without prior authorization of the Chief of Police.
 - 5. Cars with cameras mounted or held by a passenger and/or driver must still be driven in the direction of traffic and observe all traffic laws while filming, unless otherwise authorized by the Film Liaison, after consultation with the Chief of Police.
 - 6. Any emergency roadwork by City employees and/or private contractors under permit or contract to the City shall have priority over filming activities.
- F. Municipal parking lots. Permittees shall not be required to pay any fee for parking in any municipal parking lot.
- G. Fireworks, explosives, etc. No film activity which involves the use of explosives, pyrotechnics, fire, smoke-making machines or other special effects may be undertaken unless specifically approved by the City of Hapeville Fire Department. Indication of the use of such devices shall be included on the permit form submitted to the City, and such form must be reviewed and signed by the Chief of the Hapeville Fire Department or his or her designee before such devices can be used.

Sec. 11-14-7. - Liability.

- A. Liability Insurance. Before a permit is issued, a certificate of insurance will be required in the amount not exceeding \$1,000,000 naming the City as an additional insured for protection against claims of third persons, including but not limited to, personal injury, wrongful death, and property damage. The certificate shall not be subject to cancellation or modification until after thirty days' written notice to the

City. A copy of the certificate shall remain on file in the City Clerk's office. A copy of the certificate shall be attached to the permit for Filming filed with the City.

- B. Worker's Compensation Insurance. A permittee shall conform to all applicable Federal and State requirement for Worker's Compensation Insurance for all persons operating under a permit. Proof of Workers Compensation Insurance shall be attached to the permit for Filming filed with the City.
- C. Hold Harmless Agreement. A permittee shall execute a hold harmless agreement on a form created by the City prior to the issuance of a permit.
- D. Security Deposit. To ensure cleanup and restoration of the site, a permittee may be required to submit a refundable deposit (amount to be determined). Such deposit shall be paid at the time a Filming permit is filed with the City. Upon completion of the Filming and inspection of the site by the City, if no verifiable damage has occurred, the security deposit should be returned to the permittee.

Sec. 11-14-8. Violations; Revocation.

- A. Any Producer that performs Filming Activity requiring a permit under this ordinance without such a permit, shall be in violation of this ordinance and subject to a \$1,000 fine for each day of non-permitted Filming Activity.
- B. In addition to revocation of a Filming permit, a permittee violating any provisions of this ordinance shall be subject to a one thousand dollar (\$1,000.00) fine for each violation. In the event of any such violation, the Film Liaison or other City official shall provide the permittee with verbal or written notice of such violation. If the permittee fails to correct the violation within a reasonable time as specified by the Film Liaison or other City official, the Filming Liaison shall direct all Filming Activity to cease immediately. Permitted Filming Activity shall not resume until the violation is corrected.
- C. If the violation is not corrected within the following forty-eight (48) hours, the Film Liaison may revoke the permit by giving written notice to the Producer or designated representative on site." The Producer may appeal such revocation to the Mayor and City Council by submitting a written appeal within five (5) days of the revocation notice to the Film Liaison, who shall place said appeal on the next regularly scheduled City Council Meeting for de novo review by the Mayor and City Council, but not later than thirty (30) days following the receipt of the appeal notice. At the appeal hearing, the revocation may not be reversed unless the Producer convinces the Mayor and City Council, by preponderance of the evidence, that no violation occurred or that said violation was corrected prior to receipt of the revocation notice. The decision of the Mayor and City Council shall be final.

Sec. 11-4-9. Appeals.

Appeals of any decisions of the Mayor and City Council under this Article shall be by Petition for Writ of Certiorari in the Fulton County Superior Court in accordance with state law.

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and

sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2018.

CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED AS TO FORM:

City Attorney