

ORDINANCE NO. 637

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF RIVERVIEW BY THE ADDITION OF ARTICLE III "SPECIAL EVENTS" IN CHAPTER 54 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" TO PROVIDE A PROCESS FOR PROMOTING AND MANAGING FILM MAKING WITHIN THE CITY.

THE CITY OF RIVERVIEW ORDAINS:

ARTICLE I. Amendment. That Sections 54-50 through 54-61 along with Article III titled "Special Events" of Chapter 54, "Streets, Sidewalks and Other Public Places" be added to hereafter read as follows:

ARTICLE II. Special Events

Sec. 54-50. Film Making.

(a) Purpose. The state has adopted legislation that encourages the production of movies and television shows, the creation of film industry infrastructure, and the hiring of Michigan workers for the wide range of jobs that exist in the film making industry. The goal of the legislation is to benefit the economy statewide.

The city encourages the production of motion pictures and television within its boundaries. This section provides the basis for the rules and regulations governing filming, video taping and related activity within the city. This section is intended to ensure that filming/video taping is done consistent with public health and safety and the protection of property.

(b) Waivers. The city manager, at his discretion, may waive the requirements of this article and may authorize the use of any city street, right-of-way, park, public area, or public building/structure, for use in the filming, taping, or production of any film project, including but not limited to, movies, television, commercials or training films.

(1) The city manager shall have full control over the general location, hours, use of public streets, buildings, equipment, and personnel while being used for filming, taping or production purposes.

(2) The city manager shall have the full and absolute right to prohibit and/or order the cessation of filming, taping and/or the production of any project if such acts are determined to be detrimental to public health, safety and welfare.

(3) The city manager may negotiate charges for direct and reasonable costs incurred by the city to provide additional police, fire, public safety, public works, or any other services needed or deemed necessary by the city manager to respond to the film making request.

(4) The city manager shall have the right to impose additional regulations under this section for the protection of public safety and welfare.

Section 54-51. Definitions.

For the purposes of this article;

**City Manager** means the City Manager for the City of Riverview or his or her designee.

**Motion picture, television, radio and photographic production** means all activity attendant to staging or shooting (video taping or filming or digital recording) commercial motion pictures, television shows, programs or commercials and the taking of single or multiple photographs for sale or use for a commercial purpose where the photographer sets up stationary equipment on public or private property or in the public right-of-way in any one (1) location for longer than five consecutive minutes.

Section 54-52. Permit Required.

(a) No person shall use any public right-of-way or any public or private property or facility for the purpose of producing, broadcasting, taking or making any commercial motion picture, television, radio or photographic production as defined in section 54-51 unless he/she shall have first made application for and obtained, as prescribed in this article, a permit for each instance.

(b) The provisions of this article shall not apply to the following:

- (1) Current news productions, which includes reporters, photographers or camera persons in the employment of a newspaper, news service, broadcasting station or similar entity engaged in the broadcasting of news events;
- (2) Productions which are conducted by the city's public, education and government access organizations or by or at the direction of the city;
- (3) Productions which are conducted within legally established commercial motion picture/television/radio/photography studios;
- (4) Video or multimedia broadcast or transmission of a live performance within a live entertainment venue on large screen monitors; or
- (5) Private events filmed or photographed for non-commercial purposes, such as private parties or weddings.

Section 54-53. Permit Applications.

(a) Any person desiring a permit to conduct motion picture, television, radio, and photographic production activities under the provisions of this article shall make application on the appropriate form provided by the city, or by furnishing the required information in person or by first class mail, facsimile or the internet to the city manager. The form must be

signed and accompanied by all required fees, deposits, hold harmless agreements and insurance certificates required by this chapter before it will be processed.

(b) The applicant for a permit required by this article shall supply the following information on the application:

(1) The name, mailing address and phone number of the person making the application, along with the name and contact information for the location administrator. Where the person making the application is a partnership, corporation, or other association, this information shall be provided for all partners, officers and directors or members;

(2) The address, legal description, and proof of ownership of the site at which the proposed activity is to be conducted. Where ownership is not vested in the prospective permittee, he or she shall submit an affidavit from the owner indicating the owner's consent to the use of the site for the proposed activity.

(3) A statement of the kind, character and type of proposed motion picture, television, radio and photographic production;

(4) The dates and hours during which the proposed motion picture, television, radio, and photographic production is to be conducted;

(5) An estimate of the maximum number of attendants expected at the motion picture, television, radio, and photographic production for each day it is conducted;

(6) Each application shall be accompanied by a fee, as follows:

a. A processing fee in an amount established by resolution of the city council to reimburse the city for the staff time required to evaluate the application and establish conditions for approval. The processing fee shall be waived for charitable and nonprofit organizations which qualify under Section 501(c) (3) of the United States Internal Revenue Code. The processing fee is non-refundable.

b. A daily property use fee in an amount established by resolution of the city council to compensate the city for the use of public property and its unavailability for ordinary and usual purposes resulting from the filming activity.

c. A monitoring fee to reimburse the city for staff time required to monitor the filming activity, and for reasonable costs for other city services or equipment approved for use during such activities in an amount as determined at the time of the city's review of permit application.

d. The process fee and the property use fee shall be waived for the following:

1. Productions conducted by a cable television company operating under a franchise granted by the city which are not conducted on public property, do not interfere with public right-of-ways, and which involve fewer than two motor vehicles;
2. Productions for wholly charitable or educational purposes and from which there is no profit derived either directly or indirectly; and
3. Student filming - productions directed or produced by a person currently enrolled in courses related to the production.

(c) Each application for a permit required by this article shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective permittee's plans to provide for the following:

- (1) The size or area of the property to be used, including a sketch of the filming site showing placement of work trucks, location of production vehicles;
- (2) Sketch of the "base camp" if any, showing any off-street locations for crew parking, honey wagon, catering and nonessential production vehicles;
- (3) Traffic control plan of the exact filming location listing roads or lanes to be closed, if any;
- (4) Description of the duration of the proposed activity and daily hours of operation;
- (5) Facilities for cleanup, waste disposal and sanitation arrangements;
- (6) Letter of notification and signatures from businesses/neighborhoods impacted by filming if required by the city manager or his/her designee; and
- (7) Insurance arrangements and coverage.

#### Section 54-54. Investigation of Application.

Upon receipt by the city manager's office, copies of the application for a permit required by this article shall be forwarded to the appropriate city departments, and to such other appropriate public officials as the city manager or his/her designee deems necessary.

#### Section 54-55. Issuance Requirements.

(a) In processing an application for a production filming permit required by this article the city shall, at a minimum, require the following:

- (1) *Security personnel.* The permittee shall employ, at his own expense, such security personnel as are necessary and sufficient to provide for the adequate security and

protection of the maximum number of attendants at the location of the filming activity and for the preservation of order and protection of property in and around the site of filming activity. No permit shall be issued unless the city manager, the public safety official, or their respective designee(s) is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the production filming.

(2) *Notification.* The permittee or his/her designee shall notify affected residents, occupants, businesses or schools in advance of filming; and, as instructed by the city manager, of the duration and location of filming activities including information about planned special effects, road and lane closures, “no parking” requests, sidewalk usage and the time that any barricades will be placed on the street and/or sidewalk.

(3) *Access.* Production vehicles may not block parking lot access drives, fire hydrants, or be parked in fire lanes and must allow a minimum of 20 feet of clearance between vehicles parked on either side of the road for emergency response vehicles to pass.

(4) *Base camps.* Base camps may not be located on any public street, easement, thoroughfare, right-of-way or any public property unless approved in writing by the city manager. Only the necessary production vehicles (i.e., grip and light trucks) may be parked on a public street, if necessary, at the filming location. Crew parking, honey wagon, catering and other non-essential production vehicles shall be at a predetermined location approved by the city manager or his/her designee.

(5) *Insurance.* As a condition of issuing a permit under this article, the permittee shall furnish insurance in an amount to be determined by the city manager but in no event in an amount less than one million dollars (\$1,000,000.00) to protect the city against claims of third persons for personal injury, wrongful death and property damage and to indemnify the city for damage to the city property arising out of the permittee’s activities. An additional minimum of five million dollars (\$5,000,000.00) of such general liability insurance coverage shall be required in the event motor vehicles, aircraft, helicopters, explosives or pyrotechnics are used in the activity. Such insurance shall be evidenced by the standard general special endorsement form or the certificate of insurance (public liability) form provided by the city. The applicant shall also submit verification that adequate worker’s compensation insurance coverage is maintained.

(6) *Bonding.* Before the issuance of a permit, the permittee shall deposit a sum of money in cash, in the amount of \$500.00 or in any higher amount determined by the city manager to be reasonably required under the circumstances. The bond shall be in a form approved by the city attorney, conditioned upon the permittee’s faithful compliance with all of the terms and provisions of this article and all applicable provisions of state or local law, and which shall indemnify the city, its agents, officers, employees and the city council against any and all loss, injury, or damage whatsoever arising out of or in any way connected with the filming activity and which shall indemnify the owners of property adjoining the filming site for any costs attributable

to cleaning up and/or removing debris, trash, or other waste resultant from the filming activity. The city manager may waive this bonding provision at his discretion.

(7) *Fire Protection.* The permittee shall at his/her own expense take all necessary steps as determined by the city manager, public safety director, fire marshal, or their respective designee(s), to ensure adequate fire protection.

(8) *Hold Harmless Agreement.* The permittee shall execute a hold harmless agreement as provided by the city prior to the issuance of any permit.

(9) *Other Conditions.* Prior to the issuance of a permit, the city manager, or his/her designee, may impose any other conditions reasonably calculated to ensure compliance with the requirements of this section and to protect the health, safety, welfare, and property of attendants or of citizens of the city, including a limitation on the duration of the permit and the location of activities thereunder.

(b) In processing an application for a permit required by this article, the city manager shall issue a permit as provided for in this chapter when, from a consideration of the application and from such other information as may be otherwise obtained, he finds that:

(1) The conduct of such activity will not unduly interfere with the use and enjoyment of neighboring property or unduly interfere with traffic or pedestrian movement or endanger public safety and that no streets will be completely closed to traffic for an unreasonable period of time. Adequate advance notice as determined by the city manager, police chief, or their respective designees of any street closure shall be given.

(2) The conduct of such activity will not unduly interfere with normal governmental or city operations, threaten to result in damage or detriment to public property, or result in the city incurring any costs or expenditures in either money or personnel not reimbursed in advance by the applicant.

(3) The activity does not propose to include obscene matter or an obscene performance and will not involve conduct in violation of state, local, or federal laws, rules, or regulations, including 1984 PA 343, being MCI 752.361 to 752.374.

(4) The condition of such activity will not constitute a fire, safety or any other type of hazard and that all proper safety precautions will be taken as determined by the heads of the applicable departments or their designees.

(5) The permit shall not authorize the production of a film that in any manner requires the use of property owned by or under the control of the City of Riverview in violation of 2008 PA 84, prohibiting the production of a film that includes obscene matter or an obscene performance or that requires that individually identifiable records be created and maintained for every performer provided in 18 USC 2557. The city reserves the right to review all proposed scripts for any production filming activities. The decision

of the city to issue, conditionally issue, or deny a permit shall be final unless appealed in writing within five working days of the decision by requesting a hearing before the City Council at the next available meeting. Where conditions are imposed as prerequisite to the issuance of a permit and where a permit is denied, notice thereof shall be mailed to the applicant by certified mail within five (5) days of such action. In the case of a permit denial, the reasons therefore shall be stated in the notice.

Section 54-56. Grounds for Denial.

A filming permit, required by this article, may be denied if:

- (1) The applicant fails to comply with any or all requirements of this article or with any or all conditions imposed pursuant to this chapter, or with any other applicable provision of state, local, or federal laws, rules or regulations; and/or
- (2) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

Section 54-57. Contents, Posting, Transferability.

A production film permit required by this article shall specify the name and address of the permittee, the kind and location of the filming activity, the maximum number of attendants permissible, the duration of the permit and any other conditions imposed pursuant to this chapter. It shall be posted in a conspicuous place upon the premises of the filming activity, and shall not be transferred to any other person or location.

Section 54-58. Revocation of Permit.

(a) The city manager, or his/her designee, may revoke a permit issued pursuant to this article whenever the permittee, his employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth in this chapter, including the conditions imposed upon issuance of the permit, or with any and all provisions, regulations, ordinances, statutes, or other law incorporated by reference in this chapter.

(b) A permit shall automatically be revoked if riotous, disorderly, obscene, or otherwise unlawful conduct occurs at a filming location or if an assemblage exceeds one hundred and twenty-five (125) percent of the estimated attendance, as indicated on the application for a permit. In such instances, the premises may be closed by the Police Department or Fire Department and the assembly disbursed.

Section 54-59. Cost of Additional Services.

If deemed necessary by the city manager or his/her designee, additional police, code enforcement, fire and other city services shall be provided for the purpose of protecting, assisting, and regulating the proposed activity. The estimate cost of providing such additional

services shall be paid in advance to the city by the applicant. Any additional city services will be provided/coordinated through the city.

#### Section 54-60. Clean-up and Restoration.

(a) The applicant shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use, maintenance of the area, and the cleanup of trash and debris. The area used shall be cleaned of trash and debris within two hours of the completion of the activity or within such other time established in the permit to the city's satisfaction. The applicant shall be responsible for restoring any area damaged or disrupted before leaving the site. If the site is not repaired or restored to the city's satisfaction, the city shall have the necessary restoration and/or repairs performed and the applicant shall reimburse the city for such work within ten days of completing filming.

(b) In the event the applicant fails to so reimburse the city, the city may secure its reimbursement from either a cash or surety bond which shall be posted with the city to ensure faithful performance of such restoration. Such faithful performance bond shall be filed at the time of the application in an amount of \$500.00 or in any higher amount as determined by the city manager and/or his/her designee to be reasonably required under the circumstances. The amount of the bond shall in no way limit the applicant's liability or responsibility for the costs of repairs or restoration in the event these costs exceed the bond amount.

#### Section 54-61. Administrative Regulations.

The city manager is hereby authorized to promulgate and enforce administrative regulations in the implementation and enforcement of this article

ARTICLE II. Penalty: A person violating this ordinance shall be deemed guilty of a misdemeanor and punished in accordance with Section 1-8 of the Code of Ordinances of the City of Riverview, unless a different penalty is expressly provided in this ordinance.

ARTICLE III. Severability: Should any word, sentence, phrase or any portion of this ordinance be held in a manner invalid by any court of competent jurisdiction or by any agency having authority to do so for any reason whatsoever, such holding shall be construed and limited to such word, sentence, phrase or any portion of the ordinance held to be invalid and shall not be construed as affecting the validity of any remaining words, sentences, phrases or portions of the ordinance.

ARTICLE IV. Conflicting Ordinances: All prior existing ordinances adopted by the City of Riverview inconsistent or in conflict with the provisions of this ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

ARTICLE V. Reading and Publication: This ordinance shall be given a first reading on February 14, 2011, shall be given a second reading on March 7, 2011, and adopted on March 7, 2011, and shall be published and become effective upon publication. The clerk shall

publish a summary of this ordinance and include in the publication notice that a true copy of the ordinance can be inspected or obtained at the clerk's office.

ADOPTED, APPROVED AND PASSED by the City Council of the City of Riverview 7<sup>th</sup> day of March, 2011.

The undersigned hereby certifies that the foregoing is a true and accurate copy of the ordinance adopted by the City Council of the City of Riverview at a regular meeting held on March 7, 2011.

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Judith A. Bratcher, City Clerk