

ORDINANCE #157

**AN ORDINANCE TO REGULATE FILMING
AND TO PROVIDE FOR FILMING PERMITS**

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THE CITY OF UTICA ORDAINS:

Section 1010. Purpose of Ordinance. It is the purpose of this Ordinance to provide rules governing the issuance of permits for filming motion picture, television, commercial and non-theatrical filming activities on location within the city. The intent of this Ordinance is to ensure that still photographers and motion picture, television, commercial and non-theatrical filming companies will be encouraged to use locations for filming activities within the city so long as those activities are consistent with the public safety and the protection of property.

Section 1020. Definitions. As used in this Ordinance:

“Applicant” means the person, organization, corporation, association or other entity applying for a permit to film in the City of Utica.

“City” means the City of Utica as a municipal corporation and existing pursuant to the laws of the State of Michigan.

“Film Development Office” means the office of the Mayor as designated by the City Council to coordinate filming and issue film permits in the City of Utica.

“Filming Activity” means the staging, shooting, filming, videotaping, photographing, or other similar process conducted for the making of still photographs, motion pictures, television programs, video games, commercial and nontheatrical film productions.

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“Film Permit” means written authorization from the City’s representative designated by City Council to conduct the Filming Activity described in the permit.

“News Purposes” means a Filming Activity conducted for the purpose of reporting on persons, events, or scenes which are in the news for newspapers, television news, and other news media.

“Permittee” means the person, organization, corporation, association or other entity issued a film permit under this policy.

“Public Street” means any street or road maintained by the City and located within the City limits.

“Still Photography” means and includes all activity attendant to staging or shooting commercial still photographs.

“Student Filming Activity” means Filming Activity conducted to fulfill a course requirement by a student enrolled at a public or private school.

“Studio” means a fixed place of business where filming activities are regularly conducted upon the premises.

Section 1030. Permit Required. It is unlawful to conduct a Filming Activity as defined in Section 1020 within the City without first obtaining a Film Permit from the Film Development Office.

A permit is issued by the Film Development Office for the purpose of filming on City-owned, leased or controlled real property or City streets. This permit does not constitute or grant permission to use or occupy property not owned, leased or controlled by the City. This permit must be in the possession of the Permittee at all times while on location in Utica.

An Applicant shall obtain the private property owner’s permission, consent, and/or lease for use of property not owned or controlled by the City.

Section 1040. Permit Exemptions. The provisions of this ordinance shall not apply to any of the following activities provided that the activity will not require the closure of a public street, or substantially impede vehicular traffic thereon:

- A. Filming Activities conducted for news purposes as defined in Section 1020;
- B. Filming Activities conducted at studios as defined in Section 1020;
- C. Filming Activities conducted for use in a criminal investigation or civil or criminal court proceeding;
- D. Noncommercial filming activities conducted on private property solely for private or family use;

- E. Commercial still photography or staging thereof, when conducted to the exclusion of any other Filming Activity as defined in Section 1020, when the following conditions apply:
 - 1. The Still Photography, or staging thereof, will not be conducted on City property.
 - 2. The Still Photography, or staging thereof, will not require the parking of more than two motor vehicles on any public street within the City.
- F. Filming Activities conducted by or for the City.

Section 1050. Deadline for Filing Applications. Applications for a Film Permit must be filed with the Film Development Office a minimum of two business days in advance of the date the Film Activity is to begin, except that of an application for a permit which includes street closures, stunts, or pyrotechnics which must be filed a minimum of five business days in advance of the first day of filming.

No late applications will be processed by the City unless the Film Development Office determines that special circumstances exist relative to the application which would have precluded its application on a timely basis.

Applicants are encouraged to submit applications at the earliest advance date possible in order to facilitate coordination between City departments.

Upon such showing of good cause, the Film Development Office shall consider applications which are filed after the filing deadline if there is sufficient time to process and investigate the application, and for city staff to prepare for the Filming Activity.

Section 1060. Application Form. The permit application shall be on a form furnished by the Film Development Office signed by the Applicant or agent thereof. Such form shall include, but not be limited to, the following information:

- A. Name, address, and telephone number of Applicant;
- B. Name, address, and telephone number of person in charge of filming on location;
- C. Filming location(s), dates and approximate daily call times of proposed Filming Activity;
- D. Description of scenes to be filmed including details of any hazardous Filming Activity employing firearms, explosives, the use of open flame, other pyrotechnical effects, animals, stunts, filming of moving motor vehicles, watercraft or aircraft;
- E. Description of the types and number of motor vehicles which will be parked on public streets, and description of any equipment to be placed on public property;

- F. Evidence of adequate insurance certification as stipulated by Section 1110;
- G. Such other information as the Film Development Office may require.

Section 1070. Permit Approval/Denial.

- A. The application shall be approved or denied within two business days of receipt of the application unless the proposed Filming Activity requires extensive review by other City departments due to fire or traffic safety. The Film Permit shall be approved by the Film Development Office unless determined from consideration of the application or other pertinent information, that any of the following conditions exist:
 - 1. The Filming Activity will substantially disrupt the use of a street at a time when it is usually subject to traffic congestion, or interfere with the operation of emergency vehicles in the proposed permit area.
 - 2. The location of the Filming Activity will substantially interfere with street maintenance work, or a previously authorized excavation permit.
 - 3. The proposed permit location is on City property and the Filming Activity will substantially interfere with other previously authorized activities, contracts or safety of the public or employees while on City property.
 - 4. The proposed permit location is on City property and the Filming Activity will substantially interfere with municipal functions or the scheduled maintenance of City buildings or grounds.
 - 5. The Filming Activity creates a substantial risk of injury to persons or damage to property.
 - 6. The Applicant failed to complete the application after being requested to do so, or the information contained in the application is found to be false in any material detail.
 - 7. The particular Filming Activity would violate federal, state, or local law including licensing or permit requirements.
- B. When the grounds for permit denial can be corrected by imposing reasonable permit conditions, the Film Development Office may impose such conditions rather than denying the permit.

Section 1080. Permit Conditions. The Film Development Office may condition the issuance of a Film Permit by imposing reasonable requirements concerning the time, place, manner and duration

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of Filming Activities as referenced on the “Terms and Conditions” attached to the Film Permit, including but not limited to, the following:

- A. Requirements for the presence of employees of the City at the Applicant’s expense, when required for the particular Filming Activity;
- B. Requirements concerning posting of no parking signs, placement of traffic control devices, and employment of traffic and crowd control monitors at the Applicant’s expense;
- C. Requirements concerning posting of the outer boundaries of the Filming Activity, and providing advance notice to affected property owners/businesses;
- D. Requirements concerning the cleanup and restoration of public streets and City property employed in the Filming Activity;
- E. Restrictions concerning the use of City employee services, vehicles, and other equipment in the Filming Activity;
- F. Requirements that the Applicant pay all fees, and obtain all permits and licenses required for the Filming Activity under local, state and federal law;
- G. Restrictions on the use of firearms, explosions, and other noise-creating or hazardous devices which disturb the peace;
- H. Restrictions on the use of stunts involving pyrotechnics, open flame, vehicle crashes, or other hazardous materials;
- I. Requirements concerning coverup of police, fire and other official uniforms worn by actors, when the actors are not on camera;
- J. Restrictions concerning the use of city logos, insignias, badges, or decals for filming purposes;
- K. Restrictions on the daily hours the Filming Activity may be conducted within the City;
- L. Requirements concerning the City’s receipt of proper acknowledgment for any assistance provided in making feature, television, or commercial productions;
- M. Requirements concerning affirmative action and nondiscriminatory practices for employment.

Section 1090. Fees.

- A. A schedule of fees for City services and use of City property shall be established by resolution of the City Council;
- B. The Applicant shall pay all costs incurred by the City in providing City employees to be present during Filming Activity.

Section 1100. Change of Filming Activity Date. Upon reasonable notice by the Permittee in advance of the Filming Activity, the Film Development Office is authorized to change the date for which the Film Permit has been issued without requiring a new application or permit.

Section 1110. Insurance Required. The Applicant for a Film Permit shall procure and maintain for the duration of the Film Activity insurance in the forms, types, and amounts prescribed by the City's Film Development Office.

Section 1120. Liability and Indemnification. Prior to the issuance of the Film Permit the permit Applicant must agree in writing to comply with the "Filming Permit Terms and Conditions".

Section 1130. Duties of Permittee. The Permittee, and all agents, employees, and contractors of the Permittee at the Filming Activity site within the City, shall comply with the following requirements:

- A. The Permittee shall comply in writing with all "Terms and Conditions" of the Film Permit.
- B. The Permittee shall not conduct a Filming Activity within the City not authorized by the Film Permit.
- C. The Permittee shall comply with instructions made by the Utica Police Department officer(s) assigned to police the Filming Activity site.
- D. The Permittee shall comply with instructions made by City employees assigned to regulate the Filming Activity site.
- E. The Permittee shall clean and restore all City-owned property utilized during the Filming Activity to the same condition as existed prior to the Filming Activity.
- F. The Permittee shall comply with this Ordinance and all other policies and ordinances of the City, state and federal law.

Section 1140. Street Closures. The Applicant for a Film Permit may request that the City authorize a street closure on the Film Permit application. A short-term encroachment permit may be granted by the Film Development Office or his or her designee.

Section 1150. Pyrotechnics. During the filming of any special effect or stunt requiring the use of pyrotechnics or any material deemed hazardous, including but not limited to, fireworks, open flames, or explosives, the Applicant must obtain a fire permit from the Film Development Office.

Section 1160. Permit Revocation or Suspension.

- A. Permit Revocation. The Film Development Office may revoke the Film Permit if the Permittee, or any agents, employees, or contractors of the Permittee fail to comply with the requirements set forth in Section 1130A through F, or if the Film Development Office determines after the permit is issued that the permit application was false in any material detail.
 - 1. Notice of the grounds for revocation of the Film Permit shall be provided in writing by the Film Development Office to the permit Applicant or person in charge at the location of the Filming Activity.
 - 2. Appeals of the permit revocation shall be conducted in the matter specified in Section 1170.

- B. Permit Suspension. The Utica Police Department officer assigned to police the Filming Activity site may suspend the Film Permit when the Filming Activity poses an immediate hazard to persons or property and the location manager will not, or cannot, prevent the hazard after being instructed to do so by the officer.
 - 1. The grounds for the permit suspension shall be provided in writing by the Film Development Office to the Permittee within one business day of the suspension.
 - 2. Appeals of the permit suspension shall be conducted in the manner specified in Ordinance 1170.

Section 1170. Appeals. The permit Applicant or Permittee may appeal a permit denial, revocation, suspension, permit condition, insurance/fees requirement or the Film Development Office's decision not to waive a deadline set forth in this Ordinance. Such appeal shall be filed with the City Clerk's Office not later than five business days after the date written notice of the decision is made. Failure to file timely appeal shall result in a waiver to the right to appeal. The appeal shall be heard by the City Council at a special council meeting within five (5) business days.

The decision of the City Council shall be final.

Section 1180. Violation – Penalty. The violation of any provision of this Ordinance shall constitute a civil infraction.

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The above ordinance was adopted at a regular Council meeting on August 11, 2009 with 6 votes in favor and one absent.

M. Catherine McGrail
City of Utica
City Clerk

Attest:

Jacqueline K. Noonan
CITY OF UTICA
Mayor