

ORDINANCE NO. 03-21

**ORDINANCE OF THE BOROUGH OF ROCKAWAY
MAYOR AND COUNCIL
CREATING CHAPTER 133, FILMING,
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

WHEREAS, the Mayor and Council of the Borough of Rockaway have determined that it would be in the best interest of the citizens of the Borough to establish a policy around filming within the Borough of Rockaway.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Rockaway that Chapter 133, Filming, be created and shall read as follows:

Chapter 133. Filming

§ 133-1 Definitions.

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

FILMING

The taking of still or motion pictures, either digitally or on film, videotape or similar recording medium, for commercial or educational purposes, intended for viewing on video receivers, television, in theaters, on the Internet or for institutional use. Filming performed by one individual using a hand-held camera without assistance from others shall be excluded from this chapter.

PUBLIC LANDS

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

§ 133-2 Permit required; application; time restrictions.

- A. No person, firm or corporation shall film or permit filming within the Borough of Rockaway without first obtaining an application for permit therefor, obtaining the required approvals and filing the completed/approved permit, together with the applicable permit fee, with the Borough at least 10 calendar days prior to the first date that filming is to take place.
- B. Rockaway Borough filming permit applications may be obtained from the Office of the Borough Clerk during normal business hours. Application for such permits shall be in a form approved by the Borough Administrator and shall be accompanied by a permit fee in the amount established by ordinance of the Borough of Rockaway and all documentation and information required pursuant to this Chapter.
- C. The following information shall be included in the permit application:
 - (1) Location of filming;
 - (2) Proposed duration of filming, including date(s) and hours;
 - (3) Amount of space required on public streets/highways/sidewalks, etc.;
 - (4) Contact information of applicant, including the on-site person; and
 - (5) Traffic control plan approved by the Traffic Bureau of the Rockaway Borough Police Department (if required).
- D. One permit shall be required for each location.

E. Duration of time authorized.

- (1) One permit shall be sufficient to authorize outdoor filming on two calendar days and indoor filming on two calendar days within a period of not more than five calendar days beginning on the date of issuance of the permit, provided that each such date on which filming is to take place shall be specified in the permit.
- (2) Permission for filming in excess of four days as described in § **133-2E(1)** may be granted by the Borough Council upon filing of a request with the Borough Clerk seven calendar days in advance of the Borough Council meeting at which the matter is to be considered. A copy of the permit application shall be attached to the request. See also § **133-3J**.

F. 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 Administrator may, at the request of the applicant and with proper notice given to approving authorities and any affected property owners/tenants, 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.

§ 133-3 Issuance of permits; filming restrictions; appeals; exceptions to limitations.

- A. A permit shall be limited to no more than five calendar days.
- B. No more than two permits shall be issued by the Borough of Rockaway for filming that will take place in any residential zones without a waiver pursuant to § **133-3J**.

C. Issuance of permits.

- (1) No permit shall be issued by the Borough Clerk unless a completed application is filed with the Borough Clerk's office at least 10 calendar days prior to the first date filming is to take place.
- (2) No permit shall be issued for filming upon public lands unless the applicant shall provide the Borough with satisfactory proof of the following:
 - (a) Proof of insurance coverage as follows:
 - [1] For bodily injury to any one person in the amount of \$1,000,000 and any occurrence in the aggregate amount of \$3,000,000;
 - [2] For property damage for each occurrence in the aggregate amount of \$500,000; and
 - [3] A certificate of insurance shall be delivered to the Borough Clerk which shall name the Borough of Rockaway as an additional insured on the policy.
 - (b) An agreement, in writing, in a form approved by the Borough Attorney, whereby the applicant agrees to indemnify and save harmless the Borough of Rockaway, its officers, employees and agents from any and all liability, expense, claim or damages resulting from the use of public lands;
 - (c) The posting of a cash bond of \$500 or a maintenance bond of \$1,000, running in favor of the Borough 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 Borough ordinances, rules and regulations will be followed. Within two business 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;
 - (d) The cost for any additional police officers to be on site shall be paid by the

applicant/permittee in accordance with the rate schedule for police officers and vehicles. In the event that any type of pyrotechnic detonation is part of the filming, the Borough may require the presence of a fire inspector and/or fire apparatus, the cost of which shall be paid by the applicant/permittee. Similarly, where existing electrical power lines are to be utilized in the production of the film, an on-site licensed electrician may be required if the production company does not have a licensed electrician on staff, the cost of which shall be borne by the applicant/permittee.

- (e) Proof of service of written notification of proposed dates and lands to be used for production activities to any and all businesses and property owners within 200' of the filming location(s), and simultaneously said businesses and property owners shall be informed that objections may be filed with the Borough Clerk. Such notification is to take place at least three business days prior to the requested shooting date, with proofs submitted to the Borough Clerk prior to issuance of the permit;
 - (f) A written approval from the Rockaway Borough Police Department authorizing issuance of the permit and providing any traffic control requirements and public safety conditions.
- 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 Rockaway Borough Police Department with respect thereto.
- E. 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. 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.
- F. The holder of a permit shall take all reasonable steps to minimize the creation and spread of debris and rubbish during filming and shall be responsible for removing all equipment, debris and other rubbish from the filming location upon the completion of filming or the expiration of the permit, whichever comes first.
- G. Filming, including setup and final cleanup, shall be permitted Monday through Friday between the hours of 8:00 a.m. and 10:00 p.m. or sunset, whichever is earlier.
- H. The Borough Administrator may refuse to issue a permit whenever he/she determines, on the basis of objective facts and after a review of the application and a written report thereon by the Rockaway Borough Police Department and by other Borough departments 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 public's use of public lands or the use and enjoyment of adjoining properties or, in the opinion of the Rockaway Borough Police Department, would unreasonably impede the free flow of vehicular or pedestrian traffic or otherwise endanger the public's health, safety or welfare. Further, the Borough reserves the right to require one or more on-site police officers in situations where the proposed production may impede the proper flow of traffic, the cost of said officers, in accordance with A263-1(3) to be borne by the applicant as a cost of production. If any services are required by employees from other Borough departments, the cost of such employees is to be borne by the applicant as a cost of production.
- I. Any person aggrieved by the decision of the Borough Administrator or the Borough of Rockaway denying or revoking a permit or a person requesting relief pursuant to § 133-3J herein may appeal to the Borough Council. A written notice of appeal setting forth the reasons for the appeal shall be filed with the Borough Clerk no later than 10 calendar days from the date of the denial or revocation of the permit. The Borough Council shall set the matter down for a hearing within 30

calendar days of the day on which the notice of appeal was filed. The decision of the Borough Council shall be in the form of a resolution. A resolution supporting the decision of the Borough Administrator or granting relief pursuant to § 133-3J shall be adopted by the Borough Council 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.

- J. The Borough Council may authorize a waiver of any of the requirements or limitations of this chapter and may authorize filming on other public property not defined as public lands and may authorize filming other than during the hours herein described or may extend the duration of a permit beyond five calendar days or may permit filming at a particular location in a residential zone on more than two occasions during any one calendar year or may waive any other limitation or requirement of this chapter whenever it determines that strict compliance with such limitations will pose an unreasonable burden upon the applicant and that such a permit may be issued without endangering the public's health, safety and welfare.
- K. Copies of the approved permit will be sent by the Borough Clerk to the Police Department, Fire Department, the Department of Community Services, and the Board of Health. Copies shall be sent to any appropriate New Jersey state agencies, including the New Jersey Film Commission.
- L. The applicant shall notify the Police Department, the Fire Department, Director of Community Services and the Board of Health 24 hours before filming takes place and shall permit the Police Department, the Fire Department, the Board of Health or other Borough inspectors to inspect the site and the equipment to be used. The applicant shall comply with all safety instructions issued by Borough inspectors, including the Police Department, the Fire Department and the Board of Health.
- M. In addition to any other fees or costs mentioned in this chapter, the applicant shall reimburse the Borough for any lost revenue or repairs to public property.

§ 133-4 Fees.

The fee to be paid by each applicant at the time of submitting an application for a license shall be as provided in Chapter A263, Fees.

§ 133-5 Violations and penalties.

Any person violating this chapter or these rules and regulations, upon conviction thereof, shall be punished by a fine not exceeding \$2,000 per day or by imprisonment in the county jail for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 133-6 Exemptions.

The provisions of this chapter shall not apply to:

- A. The filming of news stories within the Borough of Rockaway;
- B. Filming by one individual using a hand-held camera without the assistance of other persons; and
- C. Filming for authorized Rockaway Borough municipal government purposes as may be authorized by the Rockaway Borough Council or the Borough Administrator.

§ 133-7 Severability.

If any sentence, section, clause or other portion of this chapter or the application thereof to any person or circumstance shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this chapter.

DATE: January 28, 2021

BOROUGH OF ROCKAWAY

ATTEST: Kimberly Cuspilich, Acting Borough Clerk

BY: Thomas Mulligan, Mayor

CERTIFICATION

I, Kimberly Cuspilich, Acting Borough Clerk of the Borough of Rockaway, in the County of Morris, do hereby certify that the foregoing is a true and correct copy of an ordinance introduced by the Mayor and Council at a meeting held on January 28, 2021.

Kimberly Cuspilich
Acting Borough Clerk