

ORDINANCE 2017-026

Introduction & 1<sup>st</sup> reading: September 18, 2017

2<sup>nd</sup> reading & Adoption: October 2, 2017

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**AN ORDINANCE TO AMEND THE CITY OF POWDER SPRINGS CODE OF ORDINANCES TO INCLUDE A NEW SECTION RELATING TO MOTION PICTURE, TELEVISION AND PHOTOGRAPHIC PRODUCTION; TO ESTABLISH AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

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**WHEREAS,** The City of Powder Springs invites and encourages film production within the City limits provided the City of Powder Springs's primary responsibility to provide service and protection to the general public is not impaired; and,

**WHEREAS,** The City of Powder Springs is compensated for the time, labor, and other costs associated with permitting the utilization of City of Powder Springs property and facilities; and,

**WHEREAS,** The City of Powder Springs is indemnified from responsibility arising from an injury, accident, destruction of property or other occurrence associated with the project;

**NOW THEREFORE,** be it hereby ordained by the Mayor and City Council of the City of Powder Springs that the Code of Ordinances is amended as follows:

**Section 1.**

**Article IV.**

**16-140 Title.** This article shall be known as the Motion Picture, Television and Photographic Production Ordinance of the City of Powder Springs, Georgia.

**16-141 Definitions.**

For the purpose of this article, the following terms phrases, words and their derivations shall have the meaning given herein.

Motion picture, television and photographic production shall mean all activity attendant to staging or shooting (video taping or filming) commercial motion pictures, television shows, programs or commercials, and to 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 the public right-of-way in any one (1) location for longer than five (5) consecutive minutes.

**16- 142. Permit Required.**

No person shall use any public right-of-way, or any public or private property, facility or residence for the purpose of producing, taking or making any commercial motion picture, television or photographic production as defined in Section without a permit issued pursuant to the provisions of this Article.

**16-143. Permit Exemptions.**

The provisions of this Article shall not apply to the following:

- A. Current news productions, which includes reporter, photographers or camera persons in the employment of a newspaper, news service, broadcasting station or similar entity engaged in the broadcasting of a news event.
- B. Productions which are conducted by the City of Powder Springs or City-sanctioned organizations or governmental agencies as approved by the City Council.
- C. Productions which are conducted within legally established commercial motion picture/television/still photography studios, and
- D. Student filming.

**16-144. Permit Application.**

Any person desiring a permit under the provisions of the Article shall make application on the appropriate form provided by the City of Powder Springs Economic Development Department or by furnishing the required information by telephone to the Economic Development Director or his/her designee. The form must be signed and accompanied by all required fees, deposits hold harmless agreement and insurance certificate required by this Article before it will be processed. If the application satisfies the criteria of the Article, the permit shall be issued within two (2) working days of submittal, or within four (4) working days of submittal if the activity requires traffic control in excess of three (3) minutes or includes stunts or special effects, or within ten (10) working days of submittal if activities require road closures.

**16-145. Permit Fees.**

Each application shall be accompanied by the following fees:

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 of approval. The processing fee may be waived, at the discretion of the Economic Development Director, for charitable and nonprofit organizations which qualify under Section 501 (c) (3) of the United States Internal Revenue Code, if substantial benefits will inure to the City of Powder Springs.

B. A daily property use fee in an amount established by resolution of the City Council to reimburse the City for the staff time required to monitor the activity, as well as to compensate the City for the use of public property and its unavailability for ordinary and usual purposes resulting from the filming activity. 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 (2) motor vehicles; and
2. Student filming.

The property use fee may be waived for:

1. Productions for wholly charitable or educational purposes and from which no profit is derived, either directly or indirectly, at the discretion of the Economic Development Director if he or she determines that substantial benefits will inure to the City of Powder Springs.

**16-146. Permit Issuance - Conditions.**

The Economic Development Director or his/her designee shall issue a permit as provided for in this Article when, from a consideration of the application and from such other information as may be otherwise obtained, he or she finds that:

A. The conduct of such activity will not 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. Seventy-two (72) hours notice of any street closure shall be provided.

B. 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 costs or expenditures in either money or personnel not reimbursed in advance by the applicant.

C. At the determination of the Economic Development Director or his/her designee as well as the City's Police Department, Public Works Department, City Clerk's office and Cobb County Fire, as appropriate,, that such activity will not constitute a fire hazard or any other type of hazard and all safety precautions will be taken as determined by the heads of the aforementioned departments or their designees.

D. The decision to issue, conditionally issue, or deny a permit shall be final unless appealed in writing within five (5) working days of the decision to the City Manager. The City Manager will render a decision to issue, conditionally issue or uphold the denial of a permit within two (2) days of the appeal. The decision of the City Manager will be final.

**16-147 Additional Services.**

If deemed necessary by the Economic Development Director or his/her designee, additional police, code enforcement, and other City services shall be provided for the purpose of protecting, assisting and regulating the proposed activity. The 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 Economic Development Director or his/her designee.

**16-148 Insurance.**

As a condition of issuing such a permit, the applicant shall furnish insurance in the amount to be determined by the Economic Development Director, but in no event, an amount less than five hundred thousand (\$500,000) dollars, 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. A minimum of five million (\$5,000,000) dollars of such general liability insurance coverage shall be required in the event aircraft, helicopters, pyrotechnics or automobile chase scenes are used in the activity. Such insurance shall be evidenced by the standard General Liability Special Endorsement Form mandated by this Article. Applicant shall also submit verification that adequate Worker's Compensation insurance coverage is maintained.

**16-149 Hold Harmless Agreement.**

The applicant shall execute a hold harmless agreement as provided by the City prior to the issuance of any permit.

**16-150 Conditions - Restrictions.**

The applicant shall maintain a copy of the Photography/Motion Picture Permit on-site at all times.

The applicant shall also comply with any and all conditions or restrictions the City may impose as a condition to issuing a permit. No changes in conditions or restrictions shall be made without first obtaining the approval of the Director of Economic Development or his/her designee.

Minor changes to the permit may be approved by the Economic Development Department or his/her designee prior to completion of filming in the form of a written attachment to the permit.

Permittee's shall have non-exclusive use of facilities unless otherwise granted in writing.

The City of Powder Springs and its agents are not responsible for disturbances caused during film activities.

#### **16-151 Clean-up/Restoration.**

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 areas used shall be cleaned or trash and debris within two (2) hours of the completion of the activity or within such other time established in the permit to City's satisfaction. Applicant shall be responsible for restoring an area damaged or disrupted before leaving the site. If the site is not repaired or restored to the City's satisfaction, the Economic Development Director or his/her designee shall have the necessary restoration and/or repairs performed and applicant shall reimburse City for such work within twenty (20) days of completing filming. In the event applicant fails to so reimburse City, 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 five hundred (\$500) dollars or in any higher amount determined by the Economic Development Director 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.

**16- 152 Administrative Regulations.**

The Economic Development Director or his/her designee, with the approval of the City Manager, is hereby authorized to promulgate and enforce administrative regulations in the implementation and enforcement of the Article.

**Section: 2**

It is hereby declared to be the intention of this ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

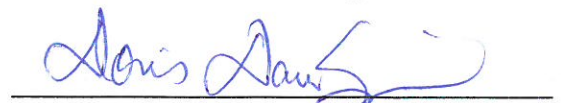
**Section: 3**

All ordinances or part of ordinances in conflict with this ordinance are hereby repealed.

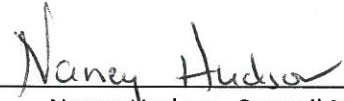
**SO ORDAINED** this 2<sup>nd</sup> day of October, 2017.

  
Albert Thurman, Mayor

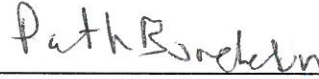
  
Cheryl Sarvis, Council Member

  
Doris Dawkins, Council Member

[additional signature page follows]



Nancy Hudson, Council Member



Patrick Bordelon, Council Member



Patricia Wisdom, Council Member

Attest:  
Kelly Axt, City Clerk

