

**VILLAGE OF DEERFIELD
LAKE AND COOK COUNTIES, ILLINOIS**

ORDINANCE NO. 0-13-48

**AN ORDINANCE REGULATING COMMERCIAL FILM
PRODUCTION IN THE VILLAGE OF DEERFIELD**

**PASSED AND APPROVED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF DEERFIELD, LAKE
AND COOK COUNTIES, ILLINOIS, this**

21st day of October, 2013.

**Published in pamphlet form
by authority of the President
and Board of Trustees of the
Village of Deerfield, Lake and
Cook Counties, Illinois, this
21st day of October, 2013.**

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LAKE AND COOK COUNTIES, ILLINOIS**

ORDINANCE NO. 0-13-48

**AN ORDINANCE REGULATING COMMERCIAL FILM
PRODUCTION IN THE VILLAGE OF DEERFIELD**

WHEREAS, the Village of Deerfield has experienced an increase in requests from commercial film production companies, local businesses and Village residents to utilize public and private property in the Village as locations for producing commercial films; and

WHEREAS, the Village of Deerfield recognizes that commercial filming can be beneficial and enjoyable to both the Village and its residents; and

WHEREAS, the corporate authorities of the Village of Deerfield are of the opinion that the use of public or private property in the Village in film production activities should be regulated to avoid unreasonable and unnecessary disruptions to the community, to protect the rights of the public to the safe and normal use of public streets, rights of way and property, and to generally protect and safeguard public health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF DEERFIELD, LAKE AND COOK COUNTIES, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION 1: That the Municipal Code of the Village of Deerfield be and the same is hereby amended to add the following as Article 3, "Film Production," of Chapter 14, "Licenses," of the Municipal Code of the Village of Deerfield:

Article 3. Film Production

Sec. 14-36. Statement of Policy and Purpose.

(a) **Statement of Policy.** It is the policy of the Village to allow interior or exterior locations on public or private property in the Village to be used in large scale commercial film production activities only if:

(1) the personal and property rights of affected residents and businesses can be adequately protected;

(2) unreasonable and unnecessary disruptions to the community can be avoided;

(3) the rights of the public to the safe and normal use of the public streets, rights-of-way and property can be protected;

(4) the rights of the public to the orderly functioning of government and to the provision of public services can be protected;

(5) the public health, safety and welfare can be adequately protected; and

(6) the Village can be adequately compensated both for the direct use of Village resources and for the effects on Village resources and Village operations arising from film production activities.

(b) **Purpose.** This Article has been enacted in furtherance of the following purposes:

(1) to establish standards and procedures for evaluating requests for film production permits;

(2) to assure that requests for film production permits are evaluated on a case-by-case basis so as to recognize that each permit application presents a unique set of circumstances;

(3) to assure that the Village will be adequately compensated for the processing of film production permit applications.

Sec. 14-37. **Definitions.** For the purposes of this Article, the following words and phrases shall have the meanings given in this section, unless the context clearly requires a different meaning:

(a) "Film production" means the process of recording live action on film, digital recording, magnetic tape or any other medium, for later commercial sale or distribution as a movie, television show, music video, advertising commercial, training film or educational program.

(b) "Large scale film production activities" means any and all activities related to film production, including but not limited to set-up,

site restoration, using film production equipment, and gatherings of persons involved in the film production, when such activities are supported in any manner by: i) any vehicles used primarily to transport film production equipment; ii) any vehicles in excess of 7,500 lbs. gross vehicle weight; or (iii) any film crew consisting of 6 or more persons; or any (iv) production taking place on more than a single residential zoning lot.

(c) "Film production activity charges" means the charges established by the Village to compensate the Village both for the direct use of Village resources and for the effects on Village resources and Village operations arising from film production activities pursuant to a film production permit.

(d) "Film production equipment" means any object used in film production, including but not limited to lighting equipment, sound equipment, cameras, dressing rooms, trailers, props, furnishings and vehicles.

(e) "Film production permit" means a permit issued in accordance with the procedures and provisions of this Article.

(f) "Village resources" means and includes any and all of the following: (i) elected and appointed Village officials; (ii) Village employees and personnel; (iii) operating and administrative departments of the Village; (iv) vehicles, equipment, personal property and real estate owned, leased or operated by or on behalf of the Village; (v) streets, sidewalks, parkways, parking lots and public rights-of-way located within the Village; and (vi) services provided by, on behalf of or under the auspices of the Village, regardless of the nature of the services, and regardless of whether or not such services are provided or made available to the citizens and businesses located in the Village.

Sec. 14-38. Permit Required. Except as provided in Section 14-39 of this Article, no person shall engage in, participate in or start any large scale film production activities anywhere in the Village without having first obtained a film production permit from the Village in accordance with the procedures established in this Article.

Sec. 14-39. Exceptions to Permit Requirement. No film production permit shall be required for film production activities that are for personal use, for news or for news features. In addition, no film production permit shall be required for film production activities of students provided such activities are in conjunction with coursework, either at an accredited educational institution or at an adult education program that is conducted under the auspices of a school district, park district or community organization that either is located in West Deerfield Township or is supported by taxes paid in whole or in part by residents of the Village.

Sec. 14-40. Permit Application.

- (a) **Form of Application.** Any person requesting a film production permit shall file an application on a standard form to be provided by the Village Clerk.
- (b) **Filing Application; Minimum Processing Period.** The completed permit application shall be filed with the Village Clerk no less than five (5) days nor more than 180 days before the proposed commencement of film production activities.
- (c) **Contents of Application.** The application shall contain all information and statements, and shall be accompanied by all documentation required by this section, plus such other information as may be required by this Article for the type of film production activities proposed, and such other information as the Village Manager or his designee may reasonably deem necessary to complete the review of the application.
- (d) **Signature under Oath.** The application shall be signed under oath by an authorized representative of the applicant.
- (e) **Required Information.** The applicant shall provide at least the following information:
 - (1) The name, permanent address, local address and local telephone number of the applicant. If the applicant is an entity, the nature of the entity shall be described and proof of its current, lawful existence provided.
 - (2) The name, permanent address, local business address, permanent phone number and local phone number of the individual or individuals responsible for the day-to-day operations of the film production.
 - (3) A statement that the person signing the application is authorized to do so.
 - (4) A description of the type of film production (e.g. commercial, feature film, film scene, training film, etc.) and type of film production equipment to be used. The applicant does not need to describe the anticipated content of the film.
 - (5) A written summary or explanation of the portion of the production to be shot within the Village.
 - (6) The proposed dates and times of the film production.

(7) A description of all locations in the Village, whether public or private, that the applicant proposes to use for the film production activities and/or for storage of film production equipment.

(8) A letter or statement of approval, in the form provided in subsection (f) below, signed by the owner or owners and occupants of each location described pursuant to the preceding paragraph.

(9) A description of any special effects to be utilized, especially incendiary or explosive devices, plus proof of no less than two million dollars (\$2,000,000.00) liability insurance therefor, along with the name and qualifications of the person in charge of such special effects, and proof of licensing by the applicable federal and state agencies. The certificate of insurance shall name the Village as an additional insured. The insurance required by this paragraph shall be in addition to the general liability insurance coverage required by subsection (f), below.

(10) A description of the number of personnel and the number and types of vehicles and equipment to be on location for the film production activities, including a description of the number of personnel and equipment the applicant proposes to have on the film production location to provide emergency medical treatment for persons involved in the film production.

(11) A description of where vehicles and equipment will be parked during film production activities.

(12) A description of the method and procedures to be used for food service and health and sanitation on the film production location.

(13) A description of the method and procedures for the removal of garbage and other waste from the film production location.

(14) A description of all Village resources the applicant requests to use.

(15) An agreement to pay the Village for all Village film production activity charges.

(16) An agreement to pay in full, promptly upon receipt of an invoice, the cost of repair for any and all damage to public property of any kind, resulting from or in connection with, the film production, and to restore such property to the condition it was in immediately prior to the film production.

(f) Required Attachments. In addition to the information required by subsection (e) of this section, the following documents shall be attached to the application:

(1) Notification of Neighbors. The permit application shall be accompanied by proof that the applicant has initiated notification to all owners of record and occupants of all property situated within four hundred (400) linear feet, in each direction and on both sides of the street or streets of the location upon which filming is expected to occur, not less than five (5) days prior to the first day of the proposed film production schedule. The notice may be delivered personally, sent by U.S. mail, and/or given by posting signs at the location upon which the filming is expected to occur. The notice shall be in a form approved by the Village Manager and shall contain a written description of the proposed film production, including the proposed production schedule and the type of film production activities and film production equipment the applicant proposes to use. The notice shall state that the owner of record and the property's occupants may submit any written comments and objections to the Village Manager within three (3) days from receipt of the notice. The notice shall also clearly state that the film production at any proposed location will be permitted only with the approval of the Village Board if the proposed film production will last more than four (4) days.

(2) Property Owner Letter of Approval. The letter or statement required by subsection (e)8 of this section shall state the approval and consent of the owner or owners and, where applicable, of the lessee or lessees of the property, to the property's use as a location for film production. The signatures on the letter shall be notarized. The letter of approval shall also contain the following statement:

"I hereby certify that I am the owner of record [or, where applicable, the occupant] of the property located at [street address], which will be used for film production. I hereby waive any claim against the Village of Deerfield arising out of or in connection with the issuance of the film production permit and will indemnify and hold harmless the Village of Deerfield for and from any loss, damage, expense, claims and costs of every nature and kind that I may incur as a result of or in connection with the film production activities pursuant to said permit."

(3) Certificate of Insurance. The permit application shall be accompanied by a certificate of insurance, issued by a company acceptable to the Village Manager and authorized to do business in the State of Illinois. The certificate of insurance shall be in an amount of not less than one million dollars (\$1,000,000.00) for general liability coverage, including bodily injury, property damage and automobile

liability. The certificate of insurance shall name the Village as an additional insured, using language acceptable to the Village Manager, and shall contain a provision prohibiting the cancellation or termination of the policy without providing at least 30 days written notice to the Village.

(4) Worker's Compensation and Employer's Liability Insurance. The permit application shall be accompanied by proof acceptable to the Village Manager that the applicant has provided worker's compensation insurance, employer's liability insurance and all other insurance required by law to be provided for the employees of the applicant.

(5) Indemnification and Hold Harmless Agreement. The permit application shall be accompanied by an indemnification agreement whereby the applicant agrees to defend and hold the Village, its officers, employees and agents, harmless from any loss, damage, expense, claim and cost of every nature and kind whatsoever, including attorney's fees, arising out of or in connection with the film production authorized under the permit, including without limitation the applicant's use of the public resources specified in the film production permit.

Sec. 14-41. Processing Permit Applications.

(a) Authority of Village Manager. The Village Manager or his designee shall review each film production permit application to determine whether the application is complete, to determine whether the application meets the standards established by this Article, and to establish the applicable film production activities charges.

(b) Review of Application. In reviewing the application, the Village Manager or his designee shall review all documents submitted with the application and all additional documentation required by the Village Manager pursuant to Section 14-40 of this Article.

(c) Standards for Reviewing Applications. In reviewing each application for a film production permit, the Village Manager or his designee shall consider the totality of the circumstances of the proposed film production, as described in all of the application materials, as well as all impacts, whether direct or indirect, that the proposed film production activities may have on Village resources and Village operations. The review of the application shall include, but not be limited to, a consideration of the following factors:

(1) the nature of the Village resources the Village Manager or his designee has determined should be assigned to the film production activities;

(2) the nature of additional Village resources the Village Manager or his designee has determined should be assigned to the film production activities;

(3) the extent to which the personal and property rights of residents and businesses are affected and whether such rights can be adequately protected;

(4) the nature and extent of any disruptions to the day-to-day activities of the Village's residents and businesses, and whether such disruptions can be adequately minimized;

(5) the nature and extent of the impact of the proposed film production activities on the right of the public to the safe and normal use of the Village's streets, rights-of-way and public property, and whether such use can be adequately protected;

(6) the nature and extent of the impact of the proposed film production activities on the right of the public to the orderly functioning of local government and to the provision of public services, and whether such governmental functions and public services can be adequately provided;

(7) whether the public health, safety and welfare can be adequately protected during the film production activities;

(8) whether the Village can be adequately compensated both for the direct use of Village resources in the course of the proposed film production activities and for all other effects or impacts on Village resources and Village operations that may arise from the proposed film production activities;

(9) consideration of any objections received; and

(10) the experience of the Village and/or neighboring municipalities in prior dealings with the applicant.

(d) Setting Application Processing Fees and Film Production Activity Charges. The permit application review process shall include setting the film production activity charges, as provided in this Article.

Sec. 14-42. Application Fees.

(a) **Basic Application Fee.** All applications for film production permits shall be accompanied by a basic application processing fee, which shall be paid to the Village in such amount as may be fixed from time to time by the annual fee resolution adopted by the corporate authorities. The basic application processing is hereby established at up to four (4) hours of staff review time. No application for a film production permit will be processed until the basic application processing fee has been paid.

(b) **Additional Processing Fees.** The Village reserves the right to be paid additional processing fees if the amount of time expended by the Village Manager and Village staff in processing a film production application exceeds the processing time on which the basic processing fee is based. The hourly rates for additional processing fees shall be set from time to time by the annual fee resolution adopted by the corporate authorities.

(c) **Fees Not Refundable.** The basic application fee and any additional processing fees shall not be refundable.

Sec. 14-43. Film Production Activity Charges.

(a) **Setting Film Production Activity Charges.** Charges for film production activities shall be calculated by the Village Manager separately for each application prior to the issuance of any permit, provided that the Village Board, in the exercise of its discretion, shall have the right to establish the film production activity charges for any permit that is subject to issuance by the Village Manager, and the amount of the film production activity charges set by the Village Manager in such cases shall be considered a recommendation to the Village Board.

(b) **Applicability of Film Production Activity Charges.** To assure that Village resources are not used for private commercial gain unless the Village is adequately compensated for all effects of such use, film production activity charges shall be assessed whenever any film production activity has any of the following characteristics:

(1) any film production activity that takes place at any outdoor location in the Village, whether on public or private property, even if the actual filming occurs only indoors;

(2) any film production activity that uses, involves or affects the use of, any Village resource;

(3) any film production activity that is likely to use, or that is likely to involve or affect the use of, any Village resource; and

(4) any film production activity that affects, or that is likely to affect, the day-to-day operations of the Village.

(c) **Estimated Film Production Activity Charges.** The Village shall set estimated film production activity charges in an amount determined to be sufficient to compensate the Village both for the direct use of Village resources and for the effects on Village resources and Village operations arising from the permitted film production activities. In setting the estimated film production activity charge, the Village shall use a market-based approach to determine the financial impact of the proposed film production activities in light of the factors considered in processing the permit application. The film production activity charge shall provide the basis for the permit deposit required by this Article and shall be subject to modification at any time up to and including the completion of the film production activities.

(d) **Cancellation of Film Production.** If the applicant cancels the permitted film production activity less than four (4) business days before the scheduled shoot date, the following cancellation charges shall be paid and/or withdrawn from the permit deposit:

- (1) 3 business days before shoot date: 25% of the estimated film production activity charge.
- (2) 2 business days before shoot date: 50% of the estimated film production activity charge.
- (3) 1 business days before shoot date: 75% of the estimated film production activity charge.
- (4) Day of the production: 100% of the estimated film production activity charge.

(e) **Final Film Production Activity Charges.** At the conclusion of the film production activities, the Village Manager shall determine the final film production activity charges, using the same methods and considering the same factors as was done in setting the estimated film production activities charges. If the final charges are less than the deposit, the Village shall refund the excess. If the final charges show a balance due from the permittee, the final fee shall be due and payable in full upon issuance of the final invoice by the Village.

Sec. 14-44. **Permit Deposit.** Upon approval of any film production activity permit, the applicant shall make a cash deposit with the Village in an amount equal to the greater of 125% of the estimated permit fee calculated pursuant to this Article. No film production permit shall be issued until the permit deposit has been made. The permit deposit shall be made in cash and shall be placed by the Village in a non-interest bearing account. The Village shall be entitled to draw against the permit deposit to pay any portion of any invoice for the repair or restoration of public property that the permittee has not paid within seven (7) days

of its issuance. In the event that the Village elects to draw against the permit deposit, the permittee shall be required to restore the permit deposit to its original amount within three (3) days.

Sec. 14-45. Issuance or Denial of Permit.

(a) Permits for More Than Four Days. The final determination on the issuance of any permit for film production lasting for more than four (4) days shall be made by the Village Board. Upon completing his review of all such applications, the Village Manager shall submit a report to the Village Board, summarizing the factual circumstances surrounding the proposed film production and identifying all Village resources that will be used or affected by the film production activities. The Village Manager's report may also contain recommendations regarding issuance of the permit, conditions to be incorporated into the permit if it is issued, and the estimated film production activities charges.

(b) Permits for Up to Four Days. The final determination on the issuance of any permit for film production lasting for four (4) days or less shall be made by the Village Manager. If the Village Manager determines that the circumstances of any such film production warrant consideration by the Village Board, the Village Manager may refer the application to the Village Board for final decision. The referral shall be accompanied by the same type of report as is required for applications subject to final decision by the Village Board under subsection (a) of this section.

(c) Permits for Same Zoning Lot. Not more than four (4) film production permits, for not more than an aggregate total of twelve (12) film production days, shall be issued for the same zoning lot during any twelve (12) month period. Additional permits may be approved by the Village Board.

(d) Final Permit Decisions. The decision of the Village Manager or, where applicable, the Village Board on the issuance or denial of a film production permit shall be final.

Sec. 14-46. Reservation of Rights.

(a) The Village reserves the right to revoke the issuance of a film production permit in the event that the applicant does not meet the conditions of the permit.

(b) The Village reserves the right to order the cessation of film production activities in the event the Village Manager determines either that any of the terms and conditions upon which the film production permit was issued have been violated or that the operation of the film

production has otherwise caused a detriment to the public health, safety and welfare.

(c) The Village reserves the right to inspect all structures, devices and/or film production equipment to be used in connection with the film production at any time the film production is in process.

(d) The Village reserves the right to assign additional police, fire and other Village personnel and/or services to the film production or film production locations, in the event the Village Manager or his designee determines that such additional personnel and/or services are warranted by the circumstances of the film production activities.

(e) The Village reserves the right to assign additional Village equipment to the film production or film production locations, in the event the Village Manager or his designee determines that such additional equipment is warranted by the circumstances of the film production activities.

(f) The Village reserves the right to designate other or additional Village locations, including but not limited to parking areas and streets, for use during the film production or at any film production locations, in the event the Village Manager or his designee, determines that such additional locations are warranted by the circumstances of the film production activities.

(g) The Village reserves the right to designate or assign any other or additional Village resources for use during the film production or at any film production locations, in the event the Village Manager or his designee determines that such additional Village resources are warranted by the circumstances of the film production activities.

(h) The Village reserves the right to impose such regulations, conditions or restrictions other than or in addition to those provided in this section as the Village, acting through its Village Board or Village Manager, may deem necessary to protect the public health, safety or welfare, which regulations, conditions or restrictions shall be stated in the permit.

(i) The Village reserves the right to deny or postpone the issuance of a permit if issuing the permit will allow more than one film production operation in the Village on any given day.

Sec. 14-47. Permit Duration and Extensions.

(a) Duration of Permit. Any film production permit issued under this Article shall be valid only for the time period specified within the permit.

(b) **Permit Extensions.** The Village Manager, in the exercise of his discretion, may approve a request for an extension of time beyond the time specified in the permit only if all of the following conditions are met:

(1) the applicant shall pay additional processing fees prior to the processing of the permit extension request;

(2) the extension does not violate any terms or conditions of a permit that was initially approved by the Village Board.

(3) the applicant shall have filed with the Village Manager a letter of understanding signed by a majority of the owners of record and occupants of property situated within four hundred (400) linear feet, in each direction and on both sides of the street or streets, of the film production location;

(4) the applicant shall pay all additional processing fees;

(5) the Village Manager shall have determined that the requested extension will not place an undue burden on the normal operations of the Village;

(6) the Village Manager shall have determined that the requested extension will not unreasonably interfere with the normal operations of businesses located within the Village;

(7) the Village Manager determines revised estimated film production activities charges and the applicant pays the required cash deposit on such revised charges.

(c) **Extension of Permit Conditions.** In the event of an extension of the time period for the film production permit, the permit shall remain subject to all conditions of the original permit.

Sec. 14-48. Hours of Production. Film production, including time for set-up and restoration, shall be limited to the hours between 7:30 a.m. and 7:00 p.m. on Monday through Fridays and to the hours between 8:30 a.m. and 5:00 p.m. on Saturdays. Film production crews and equipment shall not arrive or stand at the production site except during said hours of production. A request for hours of production beyond those specified in this subsection may be approved by the Village Manager only after the applicant has presented a letter of understanding signed by a majority of the owners of record and occupants of property situated within four hundred (400) linear feet, in each direction and on both sides of the street or streets, of the location upon which filming is expected to occur.

Sec. 14-49. Compliance with Applicable Ordinances, Regulations, Conditions and Restrictions. All film production permits issued pursuant to this Article shall be conditioned upon the applicant's compliance with all applicable ordinances of the Village and with any additional regulations, conditions or restrictions set forth in the permit.

Sec. 14-50. Compliance with Police Orders. The Village reserves the right of the Chief of Police to order any holder of a permit under this Article to immediately vacate the public ways and/or public property if, in his or her determination, such action is necessary to protect the public health, safety or welfare. All film production permits issued pursuant to this Article shall be conditioned upon the applicant's immediate compliance with any such order.

Sec. 14-51. Vehicle and Equipment Parking. Unless otherwise directed by the Manager or ordered by the Chief of Police, vehicles, trailers and equipment shall only be parked on one side of any Village street.

Sec. 14-52. Violations and Penalties.

(a) General Penalty. Any person who violates a provision of this Article, who makes a false statement in obtaining a permit under this Article, or who violates a condition of any permit issued under this Article, shall be subject to a fine of seven hundred fifty dollars (\$750.00).

(b) Revocation of Permit. Every permit issued pursuant to this Article shall be subject to revocation by the Village Manager upon any violation of the terms or conditions upon which it was issued, or upon the violation of this Article or any other applicable Village ordinance or state law. Such revocation may be in addition to any fine imposed for any such violation.

(c) Separate Offenses. Each act of violation and each day on which a violation of this Article or a permit issued pursuant to this Article occurs shall constitute a separate offense.

(d) Liability of Permit Holder. Every permit holder shall be subject to penalties for violations of this Article and for violations of the terms or conditions of any permit issued pursuant to this Article by any officer, director, manager, employee, agent or representative of the permit holder as if such violation had been committed by the permit holder personally.

SECTION 2: That the annual fee resolution of the Village of Deerfield be and the same is hereby amended to add the following as the application fee to be paid pursuant to Section 14-42 of the Municipal Code of the Village of Deerfield, as amended:

| <u>Classification</u> | <u>Municipal Code Reference</u> | <u>Description</u> | <u>Fee for FY 2013/2014</u> |
|-----------------------|---------------------------------|---------------------------|-----------------------------|
| (D) Businesses | 14-42(a) | Basic application fee | \$100.00 |
| | 14-42(b) | Additional processing fee | \$60.00 per hour |

SECTION 3: That this Ordinance, and each of its terms, shall be the effective legislative act of a home rule municipality without regard to whether such Ordinance should: (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law; or, (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the Village of Deerfield that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 4: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED this 21st day of October, 2013.

AYES: Benton, Farkas, Jester, Nadler, Seiden, Struthers

NAYS: None

ABSENT: None

ABSTAIN: None

APPROVED this 21st day of October, 2013.

Harriet Cassatral
Village President

ATTEST:

Kate Smith
Village Clerk