



City of Bunnell, Florida

Agenda Item No. E.1.

Document Date: 1/18/2019 Amount:
Department: Attorney Account #:
Subject: Ordinance 2019-01 Creating Permitting Process for Motion Picture Photography
Productions. - First Reading
Agenda Section: Ordinances: (Legislative):

ATTACHMENTS:

Description	Type
Ordinance 2019-01 Creating Permitting Process for Motion Picture Photography Productions	Ordinance

Summary/Highlights:

This ordinance creates a permitting process for motion picture photography production within the City.

The ordinance generally defines "motion picture photography production" as the commercial shooting or making of a motion picture, television, music video, videotape, or film production utilizing City equipment or utilizing City facilities, or such production on private property involving the erection of tents or other temporary structures, the congregating together of 50 or more individuals, or the use of pyrotechnics, explosives, or other incendiary devices. The term excludes production at a studio and any news, news feature, or documentary production, or production for personal or private use.

Background:

City staff has become aware of the shooting of a number of commercial music video productions within the City and on City property that involve the congregation of large groups of people and that have a disparate impact on City services, including law enforcement services. This permit process has been developed to provide for an orderly process to address the impacts of such productions on City services and address life-safety concerns, while preserving the free speech rights of the producers thereof.

Staff Recommendation:

Approve Ordinance 2019-01 Creating Permitting Process for Motion Picture Photography Productions. -
First Reading.

City Attorney Review:

Reviewed and approved.

Finance Department Review/Recommendation:

ORDINANCE 2019-01

AN ORDINANCE OF THE CITY OF BUNNELL, FLORIDA AMENDING CHAPTER 14 ENTITLED “BUSINESSES”, CREATING ARTICLE VIII ENTITLED “MOTION PICTURE PHOTOGRAPHY PRODUCTION” IN THE BUNNELL CODE OF ORDINANCES, AND CREATING NEW SECTIONS 14-150 THROUGH 14-159 RELATED TO MOTION PICTURE PHOTOGRAPHY PRODUCTION; PROVIDING FOR FINDINGS AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR A PERMITTING PROCESS AND PENALTY FOR VIOLATION; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF THE CITY OF BUNNELL; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, Florida Statutes, include authority to enact regulations to protect the health, safety and welfare, and interests of the citizens of the City; and

WHEREAS, the City of Bunnell can adopt and enforce regulations of behavior that implicate First Amendment activity when the regulations only affect the time, place, and manner of expression, are content-neutral, are narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels of communication; and

WHEREAS, the City of Bunnell has a significant interest in providing a safe and pleasant environment and in eliminating nuisance activity; and

WHEREAS, the City Commission finds that regulation of motion picture photography production, is a content neutral and narrowly tailored way to promote public safety, and protect residents and visitors; and

WHEREAS, the City Commission finds that regulation of motion picture photography production in public places provides ample alternative avenues of communication and are narrowly drawn to address the City’s substantial interests; and

WHEREAS, the City of Bunnell has a significant interest in preserving the safety of traffic flow and preventing traffic congestion wherever possible in the City of Bunnell; and

WHEREAS, the City of Bunnell has a significant interest in the safety of pedestrians and individuals traveling in vehicles throughout the City of Bunnell; and

WHEREAS, the City of Bunnell has a significant interest in promoting tourism and the aesthetics of the City of Bunnell; and

WHEREAS, the City of Bunnell has a compelling governmental interest in preserving and protecting the lives of its citizens which can be imperiled by traffic; and

WHEREAS, the City Commission of the City of Bunnell finds it is in the best interest and welfare of the citizens of the City to enact this Ordinance; and

WHEREAS, the City of Bunnell has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW THEREFORE BE IT ORDAINED BY THE COMMISSION OF THE CITY OF BUNNELL, FLORIDA THAT:

Section 1. Recitals.

The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance and adopted as legislative findings.

Section 2 Amendment to Bunnell Code of Ordinances.

Chapter 14 of the Bunnell Code of Ordinances is hereby amended to read as follows:

Article VIII. – MOTION PICTURE PHOTOGRAPHY PRODUCTION

Sec. 14-150. - Short Title.

Sections 14-150 to 14-159 of this Code may be known and cited as the Bunnell Motion Picture Photography Production Ordinance.

Sec. 14-151. - Purposes.

The purpose of the Bunnell Motion Picture Photography Production Ordinance is to establish regulations and a permitting process for motion picture photography production endeavors on public property owned or controlled by or under the jurisdiction of the City of Bunnell, or those on private property involving the erection of tents or other temporary structures or involving the use of pyrotechnics, explosives, or other incendiary devices.

Sec. 14-152. - Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings respectively ascribed to them in this section, except where the context clearly requires otherwise:

(1) *City Equipment* is any tangible property, other than real property, owned by the City and utilized in the normal course and scope of providing governmental service by the City of Bunnell.

(2) City Facility is any public street, sidewalk, place or building owned or controlled by or under the jurisdiction of the City of Bunnell to include, but not be limited to, City parks and recreation facilities, and City Hall.

(3) Motion Picture Photography Production (also referred to herein as Production) is the commercial shooting or making of a motion picture, television, music video, videotape, or film production utilizing City equipment or utilizing City facilities. This term shall also include, and a production permit shall be required for, the commercial shooting or making of a motion picture, television, music video, videotape, or film production on private property involving the erection of tents or other temporary structures, the congregating together of 50 or more individuals, or the use of pyrotechnics, explosives, or other incendiary devices. This term shall not include the shooting of such film at studios constructed for such purpose where no City equipment or City facilities are involved, and shall not include any news, news feature, or documentary production, or production for personal or private use.

(5) Production Permit (also referred to herein as Permit) is the permit required by this Ordinance.

Sec. 14-153. - City Manager.

The City Manager or designee is hereby authorized to act as the agent for the City of Bunnell in the receipt and processing of applications for production permits. The City Manager shall issue the permit within 10 business days after the submission of a complete permit application meeting all of the requirements of this Ordinance, unless road closures, intermittent traffic control or closure of public areas are needed to allow production and necessitate further processing time. The applicant shall be required to sign an acknowledgement accepting any conditions associated with the permit.

Sec. 14-154. - Permit Required; Suspension and/or Revocation; Violation.

(1) No person shall advertise, engage in, participate in, and/or start any motion picture photography production unless a production permit shall first have been obtained from the City Manager. Violation of this section shall be punishable as provided in Section 1-7 of this Code, or by any other means available pursuant to this Code or controlling law.

(2) Failure to comply with the terms and conditions of the production permit once issued shall be grounds for immediate suspension of the production until such time as the non-compliance is remedied. The suspension shall be initially communicated orally, followed by a written suspension order. Continued failure to comply with the terms and conditions of the production permit may result in revocation of the permit. Continuation of the production in violation of the suspension and/or revocation shall be punishable as provided in Section 1-7 of

this Code, or by any other means available pursuant to this Code or controlling law.

(3) The issued permit must be on location during the motion picture photography production and available for inspection upon request.

Sec. 14-155. - Application for Permit.

(1) Any person seeking the issuance of a production permit shall submit an application with, and on forms provided by, the City Manager, and pay a fee in an amount set by resolution of the City Commission. Said application shall be filed not more than 180 days before, and not less than 15 business days before the commencement of motion picture photography production within the City. The application shall be signed, under oath, by an authorized representative of the applicant.

(2) The application shall contain the following information:

- (a) Location(s) of the production.
- (b) Duration and type of the production.
- (c) Insurance. All coverages to name the City as an additional insured.
 - 1. General liability insurance or comprehensive coverage in the amount of at least one million (\$1,000,000.00) dollars.
 - 2. Workers compensation coverage for all employees.
 - 3. If special effects such as incendiary or explosive devices will be utilized, proof of five million (\$5,000,000.00) dollars liability insurance. In addition, the application shall list the person in charge (pyrotechnician) of such special effects together with his or her qualifications and licensure by the applicable federal and/or state agencies.
 - 4. If automobiles are used as part of the production, proof of (\$1,000,000) dollars automobile coverage.
- (d) Proposed utilization of City equipment.
- (e) Necessity for closures of public streets or sidewalks and for what duration.
- (f) A written summary or explanation of the portion of the production to be shot within the City of Bunnell.
- (g) Number and type of vehicles and/or equipment and number of personnel to be on location with the production.
- (h) An agreement to pay for extraordinary services provided by the City.

Sec. 14-156. – Restoration of Property.

If some or all of a motion picture photography production is to take place on public or private property not at a studio and the production involves the erection

of temporary structures or temporary modification of an existing structure or the introduction of an object or substance onto the property, the applicant for the production permit shall be required to restore the property to the condition existing prior to the production. In addition, the City shall be authorized to require that the applicant provide a performance bond, in an amount to be determined by the City, to insure such restoration.

Sec. 14-157. - Costs for Extraordinary Services.

The City shall recover direct costs for extraordinary services rendered in connection with a motion picture photography production. Such costs shall include, but not be limited to, charges for personnel and/or equipment committed in support of the production which are outside the normal scope of government services. Based on the information contained in the permit application, an estimate of these costs will be provided to the applicant prior to issuance of the permit. The City may require pre-payment of all or a portion of these estimated costs prior to issuance of the permit. At the conclusion of the production, actual costs below or in excess of the estimates will be refunded by the City or paid by the applicant, respectively.

Sec. 14-158. - Fee for Use of City Parks.

The City Commission shall by resolution establish reasonable rates for use of city parks by persons holding a valid permit for motion picture photography production. Such rates shall be in addition to any other costs enumerated in Section 14-157.

Sec. 14-159. – Penalty.

Any person found guilty of violating the provisions of this Ordinance shall be punished in the manner prescribed in Section 1-7 of this Code, or by any other means available pursuant to this Code or controlling law.

Section 3. Implementing Administrative Actions.

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

Section 4. Codification.

The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Bunnell Code of Ordinance* and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 1, 3, 4, 5, 6, and 7 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 5. Conflicts.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 6. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon enactment.

First Reading: approved on this 28th day of January, 2019.

Second Reading: adopted on this ____ day of _____ 2019.

CITY COMMISSION, City of Bunnell, Florida.

By: _____
Catherine D. Robinson, Mayor

Approved for form and content by:

Wade Vose, City Attorney

Attest:

Kristen Bates, City Clerk

Seal: