

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 08-42.3

AN ORDINANCE TO AMEND CHAPTER 24, "OUTDOOR GATHERINGS" OF THE CITY OF NOVI CODE, TO PROVIDE NEW SUBSTANTIVE REGULATIONS CONCERNING REQUIREMENTS FOR FILMING PERMITS WITHIN AND THROUGHOUT THE CITY.

THE CITY OF NOVI ORDAINS:

PART I

That Chapter 24, "Outdoor Gatherings" shall be amended to change its title to "Outdoor Gatherings and Filming Permits."

PART II

That Chapter 24, "Outdoor Gatherings," Section 24-2, Definition, shall be amended to add a definition of "Motion picture, television, radio and photographic production" to read as follows:

Motion picture, television, radio and photographic production means all activity attendant to staging or shooting (video taping or filming or digital recording) 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 consecutive minutes.

PART III

That Chapter 24, "Outdoor Gatherings" shall be amended to add Article III, "Permit for motion picture, television, radio and photographic production," as Sections 24-26 to 24-36, and to change the title to Article II to "Permit for Outdoor Assembly," such articles to read as follows:

ARTICLE II. PERMIT FOR OUTDOOR ASSEMBLY

Sections 24-16 through 24-25

[Unchanged]

ARTICLE III PERMIT FOR MOTION PICTURE, TELEVISION, RADIO AND PHOTOGRAPHIC PRODUCTION (FILMING PERMIT)

Sec. 24-26. Required.

No person shall use any public right-of-way, or any public or private property, facility or residence for the purpose of producing, broadcasting, taking or making any commercial motion picture, television, radio or photographic production as defined in Section 24-2 unless he/she shall have first made application for and obtained, as prescribed in this article, a permit for each instance.

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

- (1) Current news productions, which includes reporters, photographers or camera persons in the employment of a newspaper, news service, broadcasting station or similar entity engaged in the broadcasting of news events.
- (2) Productions which are conducted by the City's public, education and government access organizations, or by or at the direction of the City.
- (3) Productions which are conducted within legally established commercial motion picture/television/radio/ photography studios.
- (4) Video or multimedia broadcast or transmission of a live performance within a live entertainment venue on large-screen monitors (i.e., jumbotrons).
- (5) Video or multimedia broadcast on the Internet.
- (6) Private events filmed or photographed for non-commercial purposes, such as private parties or weddings.

Sec. 24-27. Application – Filing.

Any person desiring a permit to conduct motion picture, television, radio and photographic production activities under the provisions of this chapter shall make application on the appropriate form provided by the City Manager or his/her designee, or by furnishing the required information in person or by first class mail, facsimile, or the internet to the City Manager or his/her designee. The form must be signed and accompanied by all required fees, deposits, hold harmless agreements and insurance certificates required by this chapter before it will be processed. If the application satisfies the criteria of this chapter, the permit shall be issued within four (4) working days of submittal, or within five (5) working days of submittal if the activity requires traffic control in excess of three (3) minutes, or within seven (7) working days of submittal if activities require road closures, or include stunts or special effects.

Sec. 24-28. Same – Contents.

The applicant for a permit required by this article shall supply the following information on the application:

- (1) The name, mailing address and phone number of the person making the application, along with the name and contact information for the location manager. Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors or members;
- (2) The address, legal description and proof of ownership of the site at which the proposed activity is to be conducted. Where ownership is not vested in the

- prospective permittee, he or she shall submit an affidavit from the owner indicating the owner's consent to the use of the site for the proposed activity;
- (3) A statement of the kind, character, and type of proposed motion picture, television, radio and photographic production;
 - (4) The dates and hours during which the proposed motion picture, television, radio and photographic production is to be conducted;
 - (5) An estimate of the maximum number of attendants expected at the motion picture, television, radio and photographic production for each day it is conducted;
 - (6) Each application shall be accompanied by a fee, as follows:
 - 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 shall be waived for charitable and nonprofit organizations which qualify under Section 501(c)(3) of the United States Internal Revenue Code. The processing fee is non-refundable.
 - b. A daily property use fee in an amount established by resolution of the City Council to compensate the City for the use of public property and its unavailability for ordinary and usual purposes resulting from the filming activity.
 - c. A monitoring fee to reimburse the City for staff time required to monitor the filming activity, and for reasonable costs for other City services or equipment approved for use during such activities, in an amount as determined at the time of the City's review of permit application.
 - d. The processing fee and 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 motor vehicles;
 2. Productions for wholly charitable or educational purposes and from which no profit is derived, either directly or indirectly; and
 3. Student filming – productions directed or produced by a person currently enrolled in courses related to the production.

Sec. 24-29. Same – Accompanying plans.

Each application for a permit required by this article shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective permittee's plans to provide for the following:

- (1) The size or area of the property to be used, including a sketch of the filming site showing placement of work trucks, location of production vehicles,
- (2) Sketch of the "base camp" if any, showing any off-street locations for crew parking, honeywagon, catering, and non-essential production vehicles;
- (3) Traffic control plan of the exact filming location, listing roads or lanes to be closed, if any;
- (4) Description of the duration of the proposed activity and daily hours of operation.
- (5) Facilities for cleanup and waste disposal;
- (6) Letter of notification and signatures from businesses/neighborhoods impacted by filming if required by the City Manager or his/her designee; and
- (7) Insurance and bonding arrangements.

Sec. 24-30. Same – Investigation.

Filming Permit: Upon receipt by the City Manager or his/her designee, copies of the application for a permit required by this article shall be forwarded to the Police Chief, Fire Chief, Community Development Department, and to such other appropriate public officials as the City Manager or his/her designee deems necessary. Such officers, departments and officials shall review and investigate matters relevant to the application and within four (4) days of receipt thereof shall report their findings and recommendations to the City Manager or his/her designee.

Sec. 24-31. Prerequisites to issuance.

In processing an application for a filming permit required by this article the City shall, at a minimum, require the following:

- (1) *Security personnel.* The permittee shall employ at his own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the location of the filming activity and for the preservation of order and protection of property in and around the site of the filming activity. No permit shall be issued unless the Police Chief or his/her designee is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the assembly.
- (2) *Notification.* The permittee or his/her/its designee shall notify affected residents, occupants and businesses, in advance of filming, and as instructed by the City Manager or his/her designee, of the duration and location of filming activities, including information about planned special effects, road and lane closures, "no parking" requests, sidewalk usage and the time that any barricades will be placed on the street.
- (3) *Access.* Production vehicles may not block parking lot access drives, fire hydrants, or be parked in fire lanes, and must allow a minimum of 20 feet of clearance between vehicles parked on either side of the road for emergency response vehicles to pass.
- (4) *Base camps.* Base camps may not be located on a public street. Only the necessary production vehicles (i.e. grip and light truck) may be parked on a public street, if necessary, at the filming location. Crew parking, honeywagon, catering, and other non-essential production vehicles shall be at a predetermined location.
- (5) *Outdoor filming.* For production activities taking place outside of buildings, and that are expected to attract more than 200 attendants, the provisions of this article related to Outdoor Assembly shall also apply.
- (6) *Insurance.* As a condition of issuing such a Filming Permit, the permittee shall furnish insurance in an amount to be determined by the City Manager but in no event in an amount less than one million dollars (\$1,000,000.00) 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. An additional minimum of five million dollars (\$5,000,000.00) of such general liability insurance coverage shall be required in the event motor vehicles, aircraft, helicopters, explosives or pyrotechnics are used in the activity. Such insurance shall be evidenced by the standard General Special Endorsement Form or the Certificate of Insurance (Public Liability) form provided by the City Manager or his/her designee. The

applicant shall also submit verification that adequate worker's compensation insurance coverage is maintained.

- (7) *Bonding.* Before the issuance of a permit, the permittee shall deposit a sum of money in cash, in an amount of five hundred dollars (\$500.00) or in any higher amount determined by the City Manager or his/her designee to be reasonably required under the circumstances. The bond shall be in a form approved by the City Attorney, conditioned upon the permittee's faithful compliance with all of the terms and provisions of this chapter and all applicable provisions of state or local law, and which shall indemnify the City, its agents, officers, and employees and the City Council against any and all loss, injury or damage whatever arising out of or in any way connected with the filming activity and which shall indemnify the owners of property adjoining the filming site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the filming activity.
- (8) *Fire protection.* The permittee shall at his/her own expense take adequate steps as determined by the Fire Chief to ensure fire protection.
- (9) *Hold Harmless Agreement.* The permittee shall execute a hold harmless agreement as provided by the City prior to the issuance of any permit.
- (10) *Other conditions.* Prior to the issuance of a permit, the City Manager may impose any other conditions reasonably calculated to ensure compliance with the requirements of this Section and to protect the health, safety, welfare and property of attendants or of citizens of the City, including a limitation on the duration of the permit and the location of activities thereunder.

Section 24-32. Findings.

In processing an application for a permit required by this article, the City Manager, or his/her designee, shall issue a permit as provided for in this chapter when, from a consideration of the application and from such other information as may be otherwise obtained, he/she finds that:

- (1) The conduct of such activity will not unduly interfere with the use and enjoyment of neighboring property or 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. Adequate advance notice of any street closure shall be given in accordance with the provisions of Section 31-9 of the Code of the City of Novi.
- (2) 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.
- (3) The activity does not propose to include obscene matter or an obscene performance and will not involve conduct in violation of state, local, or federal laws, rules, or regulations, including 1984 PA 343, being MCL 752.361 to 752.374.
- (4) At the determination of the City Manager or his/her designee as well as the Novi Police, Fire and Community Development Departments, that the condition of such activity will not constitute a fire hazard or any other type of hazard and all property safety precautions will be taken as determined by the heads of the aforementioned departments or their designees.
- (5) The permit shall not authorize the production of a film that in any manner requires the use property owned by or under the control of the City of Novi in

violation of 2008 PA 84, prohibiting the production of a film that includes obscene matter or an obscene performance or that requires that individually identifiable records be created and maintained for every performer provided in 18 USC 2557.

The decision of the City Manager or his/her designee to issue, conditionally issue, or deny a permit shall be final unless appealed in writing within five working days of the decision by requesting a hearing before the City Council at the next available meeting. Where conditions are imposed as prerequisite to the issuance of a permit and where a permit is denied, notice thereof shall be mailed to the applicant by certified mail within five (5) days of such action. In the case of a permit denial, the reasons therefore shall be stated in the notice.

Sec. 24-33. Grounds for denial.

A filming permit, required by this article, may be denied if:

- (1) The applicant fails to comply with any or all requirements of this chapter (including those set forth in Section 24-32), or with any or all conditions imposed pursuant to this chapter, or with any other applicable provision of state, local, or federal laws, rules, or regulations;
- (2) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document;

Sec. 24-34. Contents, posting, transferability.

A permit required by this article shall specify the name and address of the permittee, the kind and location of the filming activity, the maximum number of attendants permissible, the duration of the permit and any other conditions imposed pursuant to this chapter. It shall be posted in a conspicuous place upon the premises of the filming activity, and shall not be transferred to any other person or location.

Sec. 24-35. Revocation.

- (1) The City Manager or his/her designee may revoke a permit issued pursuant to this article whenever the permittee, his employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth in this chapter, including the conditions imposed upon issuance of the permit, or with any and all provisions, regulations, ordinances, statutes, or other law incorporated by reference in this chapter.
- (2) A permit shall automatically be revoked if riotous, disorderly, obscene, or otherwise unlawful conduct occurs at a filming location or if an assemblage exceeds one hundred and twenty-five (125) percent of the estimated attendance, as indicated on the application for a permit. In such instances the premises may be closed by the police department and the assembly disbursed.

Sec. 24-36. Cost of Additional Services.

If deemed necessary by the City Manager or his/her designee, additional police, code enforcement, fire, 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 City Manager or his/her designee.

Section 24-37. Clean-up and 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 area used shall be cleaned of trash and debris within two hours of the completion of the activity or within such other time established in the permit to the City's satisfaction. The applicant shall be responsible for restoring any area damaged or disrupted before leaving the site. If the site is not repaired or restored to the City's satisfaction, the City Manager or his/her designee shall have the necessary restoration and/or repairs performed and the applicant shall reimburse the City for such work within ten days of completing filming. In the event the applicant fails to so reimburse the City, the 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 dollars (\$500.00) or in any higher amount determined by the City Manager 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.

Section 24-38. Administrative Regulations.

The City Manager or his/her designee is hereby authorized to promulgate and enforce administrative regulations in the implementation and enforcement of this chapter.

PART IV

Savings Clause. That the amendment of the Novi Code of Ordinances set forth in this ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this ordinance.

PART V

Severability. That should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART VI

Repealer. All other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

PART VII

Effective Date: Publication. That the provisions of this ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the Novi City Council this 20th day of October, 2008.

/s/

David B. Landry, Mayor

/s/

Maryanne Cornelius, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the 20th day of October, 2008.

/s/

Maryanne Cornelius, City Clerk

Adopted: 10/20/08
Published: 10/30/08