

Council Communication

September 16, 2014, Business Meeting

First Reading of an Ordinance repealing AMC Chapter 6.36, Film and Television Productions and Enacting Replacement AMC Chapter 6.36

FROM:

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SUMMARY

This is the first reading of an ordinance repealing Ashland Municipal Code 6.36, Film and Video Production and replacing it with essentially new provisions. The existing film ordinance was adopted in 1984. New filming technologies and methods, along with an increase in filming activities in Ashland over the past several years, have highlighted a need to clarify and update the City's rules for monitoring and minimizing any downside consequences of film production in Ashland. Adoption of this ordinance will clarify the City's expectations for safety, impact and liability when filming on City-owned property and other property and make clear for commercial and non-commercial film makers, television producers and photographers when filming permits and fees are required.

BACKGROUND AND POLICY IMPLICATIONS:

Film production was identified by the Economic Development Technical Team as an economic development tool. The City wants to encourage responsible local film production.

The purpose of regulating film production is three-fold: 1) to ensure the safety of participants, spectators and the general public, 2) to minimize the inconvenience and disruptive impacts to citizens, businesses and City services and 3) to minimize the liability risk to the City, to the general public and to public property.

Staff has done considerable research on film production ordinances, permitting and fees in other cities in Oregon and California, as well as other cities that are similar to Ashland in terms of population, tourism-dependent economies, and dense and heavily-used downtowns and universities that provide film production courses. Generally, the regulations and permit requirements are broad and don't include specifics. Oregon's Office of Film and Television recommends ordinance provisions broad enough to allow flexibility when working with each new film project.

The significance of the safety, impacts and liability issues raised by any film production depends not on any one factor, but rather on a combination of factors that include the nature of the proposed film activity, the number of vehicles, the number of people involved, the number of days filming and the filming locations.



The City Council provided direction on filming regulations at the July 14, 2014 study session and at the February 4, 2014 meeting. The proposed ordinance now would not require filming permits for filming for news purposes, personal filming using personal devices, filming on property not owned by the City, filming in studios, and filming for charitable purposes (when no one is receiving a profit for performing the filming). In addition, the ordinance gives the city administrator express flexibility to waive permit requirements, permit fees and liability insurance.

As noted in previous meetings with the Council, staff worked with Gary Kout of Southern Oregon Film and Television and Anne Lundgren of JOMA films to develop proposed film permit fees. The fees are based on the number of participants, the number of vehicles, the number of days filming, the location of filming and the number of days in advance of filming the application is submitted. Those fees can be viewed in the DRAFT Film Production Guidelines (attached) and will come to the Council as a resolution for approval.

Staff also received useful input on the Film Production Guidelines and Polices from Allan Sandler of Sandler Films, which is attached. His comments are highlighted in green.

Erik Palmer of Southern Oregon University also provided input (attached). Recently the Mayor, staff, Brandon Givens of RVTV and Erik Palmer met to discuss his input. That meeting resulted in a productive solution for students filming on city-owned property. See item #3 listed below under “Other Significant Changes from Current Ordinance” and attachment #3.

The proposed ordinance differs from the current one in that it provides for two distinct forms of regulation. First, it establishes general rules with which every filming activity must comply. Then it establishes a specific permitting process for the film productions on City property that are logistically complex and likely to present safety, disruption and liability problems. These are also the projects most in need of a single point of contact to provide guidance in working through City requirements and the projects most likely to demand significant amounts of effort and time from City staff, often from multiple departments,

All filming projects have to comply with the general filming regulations. However, not all trigger the requirement for a filming permit and would not necessarily involve City staff at all, unless some other form of approval or notice is required by another City ordinance (for example, a street closure or other film production activities that qualify as a Special Event). If citizens file complaints or police officers discover problems with the unpermitted project additional permits, regulations and/or alternative film plans may be required.

Whether or not a particular filming project is required to get a filming permit, it is subject to the provisions of all City ordinances (such as the requirement to have a City business license or to pay a fee to occupy a parking space all day) and must take responsibility for full compliance. As with most other ordinances, enforcement would be undertaken by City police officers or code enforcement officials, typically prompted by citizen complaints. In other words, projects that do not require filming permits would not get the benefit of having City staff serve as ombudsman for them.

Other significant changes from current ordinance:



1. Exempts permit requirement for productions filmed entirely on private property, but does require notice to neighbors of the film activity using a form developed by the City and providing the City with a copy of the notification.
2. Exempts permit requirements for personal film or video productions using personal devices.
3. Allows for easing the permit requirements for student films shot on City-owned property. Filming activities would be exempt from filming permit fees; would not need a permit if conducted solely on non-City property; and would need a permit for filming on City property only in circumstances to be specified in a tentative agreement, yet to be finalized, with SOU. Under this agreement, professors teaching film production classes would assess the student-proposed film activities using a City- and Parks-provided list of activities that trigger a City film permit. If the activity is not included on the list, the student would not have to secure a filming permit. If the activity is on the list, the student would have to secure a filming permit. Trigger activities would include blocking a City street or sidewalk, the use of supplemental lighting, etc. This would streamline the process for students and still provide for oversight of film activities presenting genuine safety, disruption or liability challenges. This special arrangement for student filming projects was developed as a result of a recent meeting between the Mayor, staff, Brandon Givens from RVTV and Erik Palmer. This process will be clarified in a memorandum of understanding between the City and SOU.
4. Allows the City Administrator to waive permit requirements, permit fees and liability insurance if in the judgment of the City Administrator, the film activity has minimal impact with respect to traffic, noise, parking, safety, crowd control, disruption of services or obstruction of public rights of way.

Discussion Points:

- Should a filming project by a for-profit production company on City property be exempted from the film permit requirement when the product is paid for by and benefits a charitable organization, even when the project presents genuine safety, disruption, or liability challenges and requires significant City staff time and effort?
- Is the risk of fire or other disruptions to neighboring property owners small enough that filming on private property need not be enough of a City concern to require a special filming permit?
- Should “filming for news reporting or documenting public events” include filming of any activity of interest to the public, such as local history, hobbies or skills development? Is there a plausible definition of “activity of interest to the public” that is not inherently so broad that it includes any possible activity? Would requiring filming permits for taping shows on City property concerning topics which are not “news” but which are matters of public interest infringe on free speech rights? When filming about such topics takes place on City property, should it be exempt from permitting requirements whether or not the filming poses safety, disruption or liability challenges?
- Should filming for classwork be exempt from the requirement for a permit, as well as exempt from having to pay a permit fee, whether or not the filming poses safety, disruption or liability challenges? (Filming for classwork on non-City property would not require a filming permit in any event.)
- Does “personal use” or “personal device” need to be defined in the ordinance?

For informational purposes staff has included in this packet the draft Film and Television Production Guidelines and Policy. This document will be included for adoption with the resolution setting fees.



Meanwhile, City and Parks staffs are working together to streamline the permit application process for applicants who want to film in City parks.

FISCAL IMPLICATIONS:

The proposed changes to the ordinance do not have a fiscal impact on the City.

STAFF RECOMMENDATION AND REQUESTED ACTION:

Staffs recommends Council move the ordinance to second reading and provide direction for any changes to be made.

SUGGESTED MOTIONS:

I move approval of first reading by title only of an ordinance titled, “An ordinance Repealing AMC Chapter 6.36 Film and Television Productions and Enacting Replacement AMC Chapter 6.36 Film Productions”.

ATTACHMENTS:

- Draft Film and Television Production Ordinance
- Draft Film and Television Production Guidelines and Policy
- Input from Alan Sandler
- Input from Erik Palmer
- Draft instructions for SOU student films



ORDINANCE NO. _____

**AN ORDINANCE REPEALING AMC CHAPTER 6.36
FILM AND TELEVISION PRODUCTIONS AND ENACTING
REPLACEMENT AMC CHAPTER 6.36 FILM PRODUCTIONS**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **underlined**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City. The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, the City has for many years regulated commercial film and television production to ensure the safety of the participants, spectators, and general public and to minimize disruption of public services and inconvenience to Ashland Citizens, businesses, and visitors.

WHEREAS, updating and clarification of the City’s existing ordinances and guidelines concerning film production activities to take into account new technologies and current film production practices and technologies should make it easier for film producers to make decisions about activities in Ashland and also better to protect the interests of Ashland residents.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6.36 Film and Television Productions is hereby repealed in its entirety.

SECTION 2. A replacement Chapter 6.36 Film Productions is hereby enacted to read as follows:

SECTION 6.36.010 Definitions

For purposes of this Chapter, the following definitions shall apply to the following:

- A. “Film production” and “Filming” mean any activities pertaining to staging or shooting motion pictures, broadcast shows or programs, advertisements, and commercial still photography, in any medium, including film, tape or digital format.
- B. “Filming for Charitable Purposes” means film production for a nonprofit organization that qualifies as a charitable organization under Section 501(c)(3) of the Internal Revenue Code or a public benefit corporation or religious corporation under ORS 65.001 to 65.067 or which is an unincorporated association, provided

no profit is derived from the filming, either directly or indirectly, by any individual.

- C. "Filming for News Purposes" means filming for news reporting or documenting public events.
- D. "Personal Filming" means filming for personal use by means of a personal device.
- E. "Filming in studios" means filming at a fixed place of business where film production is regularly conducted on the premises.
- F. "Filming for Classwork" means filming for purposes of an instructional class, including student, noncommercial or teaching productions.
- G. "Special Event" means a film production activity that requires the involvement of multiple City departments.

SECTION 6.36.020 General Filming Regulations

The following requirements apply to all filming activities, including those for which a filming permit is not required:-

A. All filming activities must be conducted in full compliance with Ashland Municipal Code, specifically including Title 9 (Health and Sanitation), Title 10 (Public Peace, Morals and Safety), Title 11 (Vehicles and Traffic), Title 15 (Buildings and Construction), and Title 18 (Land Use).

A.B. Filming on Non-City Property: Filming on property not owned or controlled by the City must be preceded by permission or consent to use the property by the person who owns or controls it.

B.C. Damage: The film production must not threaten or result in damage or detriment to private or public property.

C.D. Notification: All resident and merchants within a two hundred (200) feet radius of the film location must receive notice of filming at least forty-eight (48) hours prior to the first day of filming at that location, provided however, this notification requirement does not apply to filming in studios, filming for news purposes, and personal filming.

D.E. Cleanup: Any filming on City-owned property must be conducted in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used must be clean of trash and debris within four (4) hours after completion of filming at the scene and restored to the original condition. Any area damaged or disrupted by filming must be restored before conclusion of filming-related activities on the site. If the site is not cleaned, repaired and restored to the City's satisfaction, the City Administrator will have the necessary work performed and charge the cost of the necessary work to the persons responsible.

E.F. Impacts to City Operations.: The filming must not unduly interfere with normal governmental or City operations.

F.G. Fire Hazard: The filming must not result in an increased fire hazard, and all proper safety precautions must be taken.

G.H. Police: The filming must not require the diversion of so great a number of City police officers as to interfere with normal police protection of other areas in the City.

~~H.I.~~ Schedule Conflicts: The filming must not interfere with a previously scheduled event.

~~I.J.~~ Traffic Control:

- 1) No residential streets may be completely closed to traffic.
- 2) For filming that will impair traffic flow, persons responsible for the filming activities must use certified flaggers or local law enforcement personnel and comply with all traffic control requirements deemed necessary.
- 3) The persons responsible for the filming activities must furnish and install advance warning signs and any other traffic control devices in conformance with the Oregon Temporary Traffic Control Handbook, State of Oregon Department of Transportation. All appropriate safety precautions must be taken.
- 4) Traffic may be restricted to one 12-foot lane of traffic and/or stopped intermittently. The period of time that traffic may be restricted will be determined by the City Administrator, based on location and time of day.
- 5) If the filming activities include parking for an extended time of equipment, trucks, and/or cars at sites where parking is typically not permitted, temporary "No Parking" signs must be posted.
- 6) Any emergency roadwork or construction by the Oregon Department of Transportation or by the City of Ashland, and/or private contractors, under permit or contract to the City, shall have priority over filming activities.
- 7) In order to assure the safety of citizens, roads that serve as emergency service roads must never be blocked.
- 8) No relocation, alteration, or moving of signage or structures is permitted without prior written approval from the Public Works Department.

~~J.K.~~ Parking Lots: When parking in a parking lot, those responsible for the film production may be billed according to the current rate schedule established by the parking lot owner.

~~K.L.~~ Sidewalk Obstructions: Film activities may not inhibit pedestrian access on sidewalks. Stringing cable across sidewalks, or from generator to service point requires prior written approval from the Public Works Department.

~~L.M.~~ Sanitary Facilities: A portable toilet facility must be provided at any filming site for each twenty-five (25) persons or fraction thereof working there, unless fewer than ten (10) persons will be working at the the filming site or unless the filming site is less than five hundred (500) feet from a public or private toilet facility open during the filming and available to those working at the site.

~~M.N.~~ Fees (Other than Filming Permit Fees): Whether or not a filming permit fee is required pursuant to Section 6.36.040, persons responsible for filming must pay any other applicable fees, including Special Service fees, established by resolution for use of City facilities in filming and for City services deemed by the City Administrator to be necessary for ensuring the safety of filming participants and the general public and compliance with the Ashland Municipal Code. The estimated actual costs of providing City services for which no fee has been previously set by resolution may also be charged.

SECTION 6.36.030 Required Permits -- Application

- A. Except as provided in 6.36.030D and F, no person shall use any City-owned property for filming without first applying for and receiving a filming permit from the City Administrator or a designee. Issuance of a filming permit does not alter the requirement in Ashland Municipal Code Section 6.04 for a general business license in order to conduct any business in Ashland and does not alter any other requirements for City approvals.
- B. Any person conducting filming that requires a permit under the provisions of this Chapter must submit an application on the appropriate form provided by the City Administrator or a designee. Such application shall be submitted at least ten (10) working days prior to the date the applicant seeks to conduct any filming activity for which a permit is required. If such activity requires a Special Event permit, and the application is submitted fewer than four (4) weeks in advance of the planned filming date, the applicant must pay the established rush fee.
- C. The City Administrator may waive the requirement that an application be filed ten (10) days in advance when, in the opinion of the City Administrator, neither the City nor the general public will be inconvenienced or harmed by such waiver.
- D. The following filming activities are exempt from the requirement to have a City permit for filming, provided the filming does not disrupt legal activities on either public or private property; does not substantially obstruct public rights of way or parking sites; and does not result in substantial safety, noise or crowd control problems; ~~and is conducted in full compliance with Ashland Municipal Code, specifically including Title 9 (Health and Sanitation), Title 10 (Public Peace, Morals and Safety), Title 11 (Vehicles and Traffic), Title 15 (Buildings and Construction), and Title 18 (Land Use):~~
 - 1) Filming for News Purposes
 - 2) Personal Filming
 - 3) Filming for Charitable Purposes
 - 4) Filming on private property or on state, federal or Ashland School District property
 - 5) Filming in studios
- E. The City Administrator will issue a filming permit when, from a consideration of the application and from such other information as may be otherwise obtained, it is found that the requirements in Sections 6.36.020, .040 and .050 will be met.
- F. The requirement for a City permit for filming that is not expressly exempted under Section 6.36.020D may nevertheless be waived if, in the judgment of the City Administrator, the filming activities will not disrupt legal activities on public or private property; will not substantially obstruct public rights of way or parking sites; and will not result in substantial safety, noise or crowd control problems; ~~and will be conducted in full compliance with Ashland Municipal Code, specifically including Title 9 (Health and Sanitation), Title 10 (Public Peace, Morals and Safety), Title 11 (Vehicles and Traffic), Title 15 (Buildings and Construction), and Title 18 (Land Use).~~
- G. No changes in the date for which the filming permit has been issued shall be made without first obtaining approval of the City Administrator, and compliance with the established time limitation.

- H. The decision of the City Administrator to issue, conditionally issue, not issue or waive the requirement for a filming permit shall be final unless appealed in writing within five (5) working days of the decision, by requesting a hearing before the City Council at the next available meeting.

SECTION 6.36.040 Insurance and Indemnification

- A. Before a filming permit is issued, the applicant must submit a certificate of insurance satisfactory to the City showing the City of Ashland, its officers, employees and agents as additional insureds under insurance for an amount deemed by the City to be sufficient to provide coverage for possible liability to third parties for personal injuries, wrongful death, and property damage.
- B. Waiver of Liability Insurance: The liability insurance required in subsection A above may be waived if, in the judgment of the City Administrator, the impacts of the planned filming activities in terms of traffic, noise, parking, crowd control and disruption to or obstruction of public rights of way will be minimal and the City's risk of liability is deemed minimal.
- C. Workers Compensation: The holder of a filming permit must conform to all applicable legal requirements for workers compensation insurance for all persons operating under the permit.
- D. Indemnification: Before a filming permit is issued, the applicant must execute an agreement acceptable to the City holding the City, its officers, employees and agents harmless from damages, costs and expenses arising out of or incident to the filming activities.

SECTION 6.36.050 Filming Permit Fees

- A. Each application for a filming permit shall be accompanied by a standard fee, as established by resolution of the City Council. Filming for Classwork that occurs on City-owned property, however, is exempt from payment of this standard fee.
- B. Filming activities requiring a permit may be exempted from the requirement in Section 6.36.030A to pay the standard filming permit fee if, in the judgment of the City Administrator, the filming activities will not disrupt legal activities on public or private property; will not substantially obstruct public rights of way or parking sites; and will not result in substantial safety, noise or crowd control problems; ~~and will be conducted in full compliance with Ashland Municipal Code, specifically including Title 9 (Health and Sanitation), Title 10 (Public Peace, Morals and Safety), Title 11 (Vehicles and Traffic), Title 15 (Buildings and Construction), and Title 18 (Land Use).~~

SECTION 6.36.060 Violations

- A. Violation of AMC 6.36.030 (Permit Required] shall be considered a Class I violation, subject to the limitations of AMC 1.08.
- B. Any violation of the requirements of this Chapter not addressed in A above shall be a Class III violation as defined by AMC 1.08 and punishable as set forth in that section and may also result in revocation of the permit and, upon approval by the City Council disqualification from filming in Ashland for up to one (1) year..

SECTION 3. Savings. Notwithstanding this enactment of this ordinance, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 5. Codification. Provisions of this Ordinance shall be incorporated in the City Code, and the word “ordinance” may be changed to “code”, “article”, “section”, or another word, and the sections of this Ordinance may be renumbered or re-lettered, provided however, that any Whereas clauses and boilerplate provisions (*i.e.*, Sections Numbers 2-4 of this ordinance) need not be codified, and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the ____ day of _____, 2014, and duly PASSED and ADOPTED this ____ day of _____, 2014.

Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2014.

John Stromberg, Mayor

Reviewed as to form:

David H. Lohman, City Attorney

DRAFT
Film and Television Production Guidelines and Policies
September 2014

Overview

Ashland recognizes and welcomes the positive economic impact of film and video production in Ashland.

The City regulates filming to ensure the safety of the film participants, spectators and general public, and to minimize the impact and inconvenience to Ashland citizens, businesses, visitors, the disruption of public services and the liability risk to others and to public property.

Filming in City parks and park facilities may be subject to additional requirements established by the Ashland Parks and Recreation Commission. Depending on the nature of the production activities, additional City permits may be required.

Generally, downtown Ashland is not available for filming on Halloween, the day after Thanksgiving (Festival Lights), July 4, or any day on which a conflicting event has previously been scheduled.

Production companies are encouraged to contact Southern Oregon Film and Television (SOFAT) at 877-434-5676 during production planning and prior to applying for City of Ashland approvals.

I. Film Permits

Unless exempted as described below in ‘B’, a film or television production in the City of Ashland must have a City Film Permit, as well as any other required City approvals as determined by the nature of the production activities. A film permit is also required for activities related to staging or shooting commercial still photographs.

Production activities that require the exclusive use of the public right of way or city-owned property and/or substantially impact or impede traffic flow must also secure a Special Event Permit.

A. Application and Deadline

1. Where to obtain an Application. The application for a Film Permit is posted on the City’s website at www.ashland.or.us/filmpermit or can be obtained from the City Administration office by calling 541-488-6002.
2. Application Submission Deadlines. Completed applications shall be submitted no later than ten (10) days in advance of filming. If the production triggers a Special Event Permit (e.g. requires exclusive use of a public right of way or substantially impacts or

impedes traffic flow) the completed application, including payment, must be received at least 90 days in advance or is subject to a 'rush' fee charge of \$250.

3. Criteria for Approval/Denial of Film Permit Application:

1. Is another event scheduled for the same day?
2. Is injury to persons or damage to property a realistic possibility?
3. Will production activities substantially interfere with the safe and orderly movement of pedestrians, cyclists and vehicular traffic?
4. Is the proposed location adequate for the size and nature of the production activities?
5. What extent will City equipment, staff and services be required?
6. Have insurance and indemnification requirements been met?
7. Have all other City permit requirements been met?
8. Have all required ODOT and/or Jackson County permits been secured?

B. Exemptions from Film Permit

1. Filming for News purposes
2. Personal film or video produced solely for private, family use
3. Filming in studios
4. Charitable Films if no profit is derived from the filming either directly or indirectly by any party
5. Non-commercial film or video production that is contained entirely on state, federal or Ashland School District property
6. Classes in audio visual work, including student, noncommercial, or teaching productions, when such work occurs entirely on public or private primary school, secondary school or college property
7. Private property filming. Note: while exempt from securing a permit, film makers are required to notify neighboring properties and the City using the City form included in the packet

C. Permit Waiver

A film or television production may be exempted from permit requirements if, in the judgment of the City Administrator, the impacts regarding traffic, noise, parking, crowd control and disruption to or obstruction of public rights of way are minimal and unlikely to be noticed by neighboring property owners or the public at large.

II. Permit Fees

A. Basic Film Permit Fee. A permit is required for all commercial, for-profit film and television productions, whether on public or private property. The amount of the fee depends on how far in advance of filming the application is submitted, the number of cast and crew involved in the production, the number of large vehicles, the number of days for production, and whether the production will include areas in the downtown core.

Total cast and crew	Total large vehicles	Number of production days in Ashland	Fee (if submitted less than 10 working days in advance)	Discounted Fee (if submitted more than 10 working days in advance)	Downtown Core Premium
1-10	1-2	1-3	\$50	\$25	N/A
11-24	3-4	4-5	\$130	\$75	\$100
25 or more	5 or more	5 or more	\$250	\$150	\$250

Basic film permit fees are determined by the *greater* of (a) the number of cast and crew; (b) the number of vehicles, or (c) the number of production days in Ashland.

Productions that require a Special Event Permit will pay either the Film Permit fee or the Special Event Permit, whichever is *greater*. If filming in the downtown core, productions will pay the downtown core premium fee in addition to the Film Permit fee or the Special Event Permit fee.

B. Fee Waiver. A film or television production or still photography may be exempted from permit fees and other requirements if, in the judgment of the City Administrator, the impacts regarding traffic, noise, parking, crowd control and disruption to or obstruction of public rights of way are minimal and unlikely to be noticed by neighboring property owners or the public at large.

C. Special Event Permit Fees. Based on the information provided in the permit application and the required meeting with City staff, additional fees will be charged for City personnel, street and sidewalk closures, reserved parking, and the use of public property. The cost for providing City personnel will be based on the number of City employees determined by the City to be required for overseeing the production to ensure the safety of the film participants and general public; and the amount the City pays for the hours worked by those employees at their normal wage rates. The final decisions on public safety requirements and security rests with the Ashland Police Department, Public Works Department, and the Ashland Fire Department.

D. Refunds If the application is not approved, or if the applicant withdraws the request, the City Administrator and/or staff designee will evaluate and determine if a refund is appropriate.

II. Additional Permit Requirements

A. Insurance and Indemnification.

1. The City of Ashland requires a Certificate of Insurance in the amount of at least two million (\$2,000,000) dollars to protect the City against claims for personal injury or property damage that could occur because of production activities. The

certificate must also name the City as an additional insured. A copy of the certificate must be submitted with the completed film permit application.

2. The Oregon Department of Transportation (ODOT) also requires a Certificate of Insurance if the filming occurs on ODOT right-of-way.
3. A Film Permit applicant must sign a City-provided indemnification agreement holding the City and its officers, employees and agents harmless from all liabilities, obligations and claims arising out of the applicant's production activities.
4. All applicants and **or persons, businesses, companies working under contract must conform** [add per Sandler] to all applicable Federal and State requirements for Worker's Compensation Insurance for all persons operating under a permit.

B. Liability Insurance Waiver. Film and video productions and still photography may be exempted from liability insurance requirements, if, in the judgment of the city administrator, the impacts regarding traffic, noise, parking, crowd control and disruption to or obstruction of public rights of way are minimal and the risk to the City is deemed unlikely.

C. Notifications. Notification of proposed filming must be provided to affected residents and businesses in the surrounding area (as determined by Administrative review of the permit application) forty-eight (48) hours in advance of filming.

1. City provided notification forms to businesses must be hand delivered directly to the store owner/manager/employee and may not be posted on the door or window of the business.
2. City provided notification forms to residents may be left at the front door of the property but not in the mailbox of the residence.

D. Meeting with City Staff. After receiving the completed Film Permit application and Special Event Permit application (if required), a meeting between City staff and the applicant will occur so both parties can review the proposed film location and identify other needs/permits etc.

E. Toilets. Arrangements must be made for toilets to accommodate the film crew. If portable toilets are used, their placement must comply with all local requirements.

F. Clean Up. The location(s) of the production activities must be cleaned and restored to pre-filming conditions.

II. Other Required Permits/Approvals

A. Business License

A business license is required to film in Ashland. A temporary Business License is \$25.00 and is valid for 30 days. In addition to the business license for the film production company, any subcontractors also must have a business license, including security companies, caterers, etc.

B. Special Event Permit If film production activities require the involvement of multiple city departments -- for example Police, Fire, Public Works, and Parks -- the applicant may be required to secure a Special Event Permit and comply with all associated requirements and fees, in addition to the Film Permit and its fees.

C. Food and Beverage Tax

Caterers must pay the City Food and Beverage Tax.

D. Miscellaneous Regulations

The following table outlines other regulations that may apply to film production activities:

Questions	Contact	Phone	Possible Permit
Will filming occur in a city park?	Parks and Recreation	541-488-5340	
Will a public address system, bullhorn or amplified music be used?	Administration	541-488-6002	Noise
Will filming interfere with a bus route or schedule?	RVTD, Field Operation Coordinator	541-779-2877	
Will food be served (e.g. open flame, propane tank etc)?	Ashland Fire & Rescue	541-482-2770	Fire
Will alcoholic beverages be served?	Oregon Liquor Control Commission City Recorder Ashland Fire & Rescue	541-776-6191 541-488-5307 541-482-2770	OLCC temporary license
Will filming include tents, canopies, booths, cooking, pyrotechnics etc.?	Ashland Fire & Rescue	541-482-2770	Fire
Does your event involve the Plaza?	Administration	541-488-6002	Plaza
Will filming occur on Highway 99 (e.g. North Main, East Main, Lithia Way, Siskiyou Blvd.) or on Highway 66 (e.g. Ashland Street)?	Oregon Department of Transportation Jackson County Roads	541-774-6328 541-774-6360 541-774-8184	
Do you need reserved parking, street or sidewalk closures?	Public Works	541-488-5857	

Included in this packet:

1. Business License Application
2. Film Permit Application
3. Neighbor notification form
4. Indemnity Agreement
5. Copy of Ashland Municipal Code Chapter 6.36 regarding Motion Picture and Television Productions
6. Resolution setting fees

DRAFT
Film and Television Production Guidelines and Policies
September 2014

Overview

Ashland recognizes and welcomes the positive economic impact of film and video production in Ashland.

The City regulates filming to ensure the safety of the film participants, spectators and general public, and to minimize the impact and inconvenience to Ashland citizens, businesses, visitors, the disruption of public services and the liability risk to the City of Ashland, others and to public property.

Filming in City parks and park facilities may be subject to additional requirements established by the Ashland Parks and Recreation Commission. Depending on the nature of the production activities, additional City permits may be required. (This should be an all encompassing Ordinance so companies coming to Ashland do not need to be concerned about being tied up in getting another permit)

Generally, downtown Ashland is not available for filming on Halloween, the day after Thanksgiving (Festival Lights), July 4, or any day on which a conflicting event has previously been scheduled.

Production companies are encouraged to contact Southern Oregon Film and Television (SOFAT) at 877-434-5676 during production planning and prior to applying for City of Ashland approvals.

I. Film Permits

Unless exempted as described below in 'B', a film or television production in the City of Ashland must have a City Film Permit, as well as any other required City approvals as determined by the nature of the production activities. A film permit is also required for activities related to staging or shooting commercial still photographs. (Again this should be an all encompassing permit process so an out of town company does not get involved in something they do not know about..The permit they fill out needs to be such that it covers all possible work conditions...That would be easy to create. In this way it makes it easier for a company to use Ashland as a destination for filming and allow much needed income to the City. If there is a concern about something not being covered we can put in the permit application something like..."If a use for your production is not covered in this application please contact city for clarification"...

Production activities that require the exclusive use of the public right of way or city-owned property and/or substantially impact or impede traffic flow must also secure a Special Event Permit. (Again you need to tell in the ordinance or at least make the special use permit part of the

Ordence and permit in advance...Nothing is worse for a production company is to have the permit to open ended and not clear as to what the Production company needs to understand in advance]

a. A. Application and Deadline

1. Where to obtain an Application. The application for a Film Permit is posted on the City’s website at www.ashland.or.us/filmpermit or can be obtained from the City Administration office by calling 541-488-6002.

2. Application Submission Deadlines. Completed applications shall be submitted no later than ten (10) days in advance of filming. If the production triggers a Special Event Permit (e.g. requires exclusive use of a public right of way or substantially impacts or impedes traffic flow) the completed application, including payment, must be received at least 90 days in advance or is subject to a ‘rush’ fee charge of \$250.

3. Criteria for Approval/Denial of Film Permit Application:

(The items below are a little insulting since all items mentioned need to be spelled out as to what the requirements are and need to be answered by the applicant in a manner of not asking but telling what is needed)

1. Is another event scheduled for the same day?
2. Is injury to persons or damage to property a realistic possibility?
3. Will production activities substantially interfere with the safe and orderly movement of pedestrians, cyclists and vehicular traffic?
4. Is the proposed location adequate for the size and nature of the production activities?
5. What extent will City equipment, staff and services be required?
6. Have insurance and indemnification requirements been met?
7. Have all other City permit requirements been met?
8. Have all required ODOT and/or Jackson County permits been secured?

B. Exemptions from Film Permit

1. News Media
2. Personal film or video produced solely for private, family use
3. Studio
4. Charitable Films
5. Non-commercial film or video production that is contained entirely on state, federal or Ashland School District property
6. Classes in audio visual work, including student, noncommercial, or teaching productions, when such work occurs entirely on public or private primary school, secondary school or college property
7. Private property filming. Note: while exempt from securing a permit, film makers are required to notify neighboring properties and the City using the City form included in the packet

(#2 through 6 excluding # 3 need to show some sort of insurance to protect the city from liability. #7 does need to state that when using private property the production company must obey all ordinances as the owner of the private

property needs to be responsible for such as sound levels, lighting ordinances that shine off the property to other homes and the public areas and etc.

a. C. Permit Waiver

A film or television production may be exempted from permit requirements if, in the judgment of the City Administrator, the impacts regarding traffic, noise, parking, crowd control and disruption to or obstruction of public rights of way are minimal and unlikely to be noticed by neighboring property owners or the public at large. **(Again this should not be the case..Liability to the City remains regardless if it is sem by other s or not.)**

II. Permit Fees

A. Basic Film Permit Fee. A permit is required for all commercial, for-profit film and television productions, whether on public or private property. The amount of the fee depends on how far in advance of filming the application is submitted, the number of cast and crew involved in the production, the number of large vehicles, the number of days for production, and whether the production will include areas in the downtown core.

Total cast and crew	Total large vehicles	Number of production days in Ashland	Fee (if submitted less than 10 working days in advance)	Discounted Fee (if submitted more than 10 working days in advance)	Downtown Core Premium
1-10	1-2	1-3	\$50	\$25	N/A
11-24	3-4	4-5	\$130	\$75	\$100
25 or more	5 or more	5 or more	\$250	\$150	\$250

Basic film permit fees are determined by the *greater* of (a) the number of cast and crew; (b) the number of vehicles, or (c) the number of production days in Ashland.

Productions that require a Special Event Permit will pay either the Film Permit fee or the Special Event Permit, whichever is *greater*. If filming in the downtown core, productions will pay the downtown core premium fee in addition to the Film Permit fee or the Special Event Permit fee.

B. Fee Waiver. A film or television production or still photography may be exempted from permit fees and other requirements if, in the judgment of the City Administrator, the impacts regarding traffic, noise, parking, crowd control and disruption to or obstruction of public rights of way are minimal and unlikely to be noticed by neighboring property owners or the public at large. **(Please not my coments on #3a)**

C. Special Event Permit Fees. Based on the information provided in the permit application and the required meeting with City staff, additional fees will be charged for City personnel, street and sidewalk closures, reserved parking, and the use of public property. The cost for providing City personnel will be based on the number of City

employees determined by the City to be required for overseeing the production to ensure the safety of the film participants and general public; and the amount the City pays for the hours worked by those employees at their normal wage rates. The final decisions on public safety requirements and security rests with the Ashland Police Department, Public Works Department, and the Ashland Fire Department. (We can not have a general statement .. We must state what those fees are.)

D. Refunds If the application is not approved, or if the applicant withdraws the request, the City Administrator and/or staff designee will evaluate and determine if a refund is appropriate.

II. Additional Permit Requirements

A. Insurance and Indemnification.

1. The City of Ashland requires a Certificate of Insurance in the amount of at least two million (\$2,000,000) dollars to protect the City against claims for personal injury or property damage that could occur because of production activities. The certificate must also name the City as an additional insured. A copy of the certificate must be submitted with the completed film permit application. (Because it may cost the production company to get this certificate I suggest that it not need to come with the permit application but say within 3 days of permit approval but before production starts which ever is sooner)
2. The Oregon Department of Transportation (ODOT) also requires a Certificate of Insurance if the filming occurs on ODOT right-of-way.
3. A Film Permit applicant must sign a City-provided indemnification agreement holding the City and its officers, employees and agents harmless from all liabilities, obligations and claims arising out of the applicant's production activities.
4. All applicants and or persons/businesses/companies working under contract must conform to all applicable Federal and State requirements for Worker's Compensation Insurance for all persons operating under a permit.

B. Liability Insurance Waiver. Film and video productions and still photography may be exempted from liability insurance requirements, if, in the judgment of the city administrator, the impacts regarding traffic, noise, parking, crowd control and disruption to or obstruction of public rights of way are minimal and the risk to the City is deemed unlikely. (Again note my remarks above..There should be no exemptions unless working on private property)

C. Notifications. Notification of proposed filming must be provided to affected residents and businesses in the surrounding area (as determined by Administrative review of the permit application) forty-eight (48) hours in advance of filming. (We must state what this means and why the contact to others and what are the conditions of denial regarding this #C.)

1. City provided notification forms to businesses must be hand delivered directly to the store owner/manager/employee and may not be posted on the door or window of the business.
2. City provided notification forms to residents may be left at the front door of the property but not in the mailbox of the residence.

D. Meeting with City Staff. After receiving the completed Film Permit application and Special Event Permit application (if required), a meeting between City staff and the applicant will occur so both parties can review the proposed film location and identify other needs/permits etc.

E. Toilets. Arrangements must be made for toilets to accommodate the film crew. If portable toilets are used, their placement must comply with all local requirements.

F. Clean Up. The location(s) of the production activities must be cleaned and restored to pre-filming conditions.

II. Other Required Permits/Approvals

A. Business License

A business license is required to film in Ashland. A temporary Business License is \$25.00 and is valid for 30 days. In addition to the business license for the film production company, any subcontractors also must have a business license, including security companies, caterers, etc.

B. Special Event Permit If film production activities require the involvement of multiple city departments -- for example Police, Fire, Public Works, and Parks -- the applicant may be required to secure a Special Event Permit and comply with all associated requirements and fees, in addition to the Film Permit and its fees.

C. Food and Beverage Tax

Caterers must pay the City Food and Beverage Tax.

D. Miscellaneous Regulations

The following table outlines other regulations that may apply to film production activities:

	Contact	Phone	Possible Permit

Questions			
Will filming occur in a city park?	Parks and Recreation	541-488-5340	
Will a public address system, bullhorn or amplified music be used?	Administration	541-488-6002	Noise
Will filming interfere with a bus route or schedule?	RVTD, Field Operation Coordinator	541-779-2877	
Will food be served (e.g. open flame, propane tank etc)?	Ashland Fire & Rescue	541-482-2770	Fire
Will alcoholic beverages be served?	Oregon Liquor Control Commission City Recorder Ashland Fire & Rescue	541-776-6191 541-488-5307 541-482-2770	OLCC temporary license
Will filming include tents, canopies, booths, cooking, pyrotechnics etc.?	Ashland Fire & Rescue	541-482-2770	Fire
Does your event involve the Plaza?	Administration	541-488-6002	Plaza
Will filming occur on Highway 99 (e.g. North Main, East Main, Lithia Way, Siskiyou Blvd.) or on Highway 66 (e.g. Ashland Street)?	Oregon Department of Transportation Jackson County Roads	541-774-6328 541-774-6360 541-774-8184	
Do you need reserved parking, street or sidewalk closures?	Public Works	541-488-5857	

Included in this packet:

1. Business License Application
2. Film Permit Application
3. Neighbor notification form
4. Indemnity Agreement
5. Copy of Ashland Municipal Code Chapter 6.36 regarding Motion Picture and Television Productions
6. Resolution setting fees

Email from Erik Palmer, SOU

August 8, 2014

Dear Councilors,

My prior email on the topic of the new film ordinance prompted helpful responses from Ann Seltzer and councilors Voisin, Marsh and Morris, and I look forward to continuing the conversation as the city moves toward adoption in September.

Meanwhile, I had the opportunity to spend some time with Shelley Midthun today, and she provided me with another helpful insight for the city's consideration. Shelley is the Film & Television coordinator for the City of Portland via the Portland Development Commission, and serves with me on the board of Oregon Story Board. Her key insight is that Portland is not interested in permitting any fully hand-held production, and only starts to become interested for those productions that will put equipment such as tripods or light stands on the ground on public property.

At SOU, we have just hired a new faculty member in Film & Television production. He is coming to us from the University of Central Florida in Orlando, and said that he has undertaken low-impact productions under a similar restriction there.

That seems to me like another reasonable way to assess impact without undue bureaucratic burden for either producers or the city. The faculty and staff at SOU remain available to help the city right-size this ordinance, and we thank you for your attention.

Best wishes,

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On Fri, Aug 8, 2014 at 10:54 AM, Erik Palmer <palmere@sou.edu> wrote:

Dear Ann,

Thank you very kindly for reaching out to the faculty and staff at SOU regarding Ashland's proposed media production ordinance. Since we first heard about the ordinance in February, we have had extensive internal conversation and long email threads about this topic, with participants including Provost Susan Walsh, Associate Provost Jody Waters, faculty colleagues Howard Schreiber and Robert Clift, and Digital Media Center staff Brandon Givens, Charles Douglas and Joe Brett.

Our general consensus is that these revisions seem well conceived for larger professional productions, such as those typically undertaken by Gary Kout and Anne Lundgren. But they needlessly impact smaller productions of all kinds, including most photo and video productions undertaken by SOU students.

Since the first draft, new revisions to the ordinance have properly exempted productions on our campus, and have established an option for the city administrator to exempt low-impact productions. But, as written, the ordinance remains problematic for the way that it both creates bureaucracy for production activities that should be automatically exempted, and creates ambiguity where it should provide clarity.

These are issues not just for SOU's academic activities, but also for low-impact productions of all kinds, created by a wide spectrum of Ashland's residents and visitors. Councilors including Marsh, Lemhouse and Morris have all been correct to thoughtfully interrogate the potential impact of this ordinance on everyday media production activities by citizens.

Here is one example of how this regulation will almost certainly impact students and faculty at SOU: Twice a year, we teach VP215/EMDA202 - Digital Video Foundations. In Winter term, the course typically enrolls 80 students, each of whom must complete two short narrative videos during the ten-week term. The course fulfills a General Education requirement for all majors at SOU, and is popular among students in many majors. It serves as a required introduction for students who will go on to major in film, video and television production, but it has an equally large population of students who do not aspire to careers in professional filmmaking. Historically, nearly all students complete projects that entail off-campus shooting. As we read the proposed regulation, nearly all of those students will be obligated to submit paperwork to the city in order to gain a low-impact waiver. Is the city committed to the value of processing more than 100 applications arriving in a burst in late January and early February of every year? And another round in June, when we typically offer the same course during the short summer session?

We have further concerns regarding the categories of production described in this ordinance. The ordinance implies a distinction between “private” production and production intended for “public” audiences, and it appears to presume that the City has an interest in regulating all public production.

However, public production takes many forms that do not entail a commercial relationship between producer and client. These include “productions” made by citizens and posted on social media platforms, the production of video for educational purposes, and production by public access producers who are otherwise subsidized by the city’s commitment to RVTV. As written, the regulation also seems likely to impact travel & tourism, where some visitors could technically be required to get prior review from the City Administrator and confirm that they are “low-impact” producers before creating photos and video that they intend to post online.

The regulation also fails to provide clarity for journalists and documentary filmmakers. We might presume them to be covered by a journalism exemption inherited from the prior film ordinance. But it is not clear to us whether this regulation envisions that journalists and documentary filmmakers can exercise that exemption automatically, or will be expected to seek exemption from the City Administrator prior to any given day's shooting.

We are also concerned about the level of community outreach on this topic. While we welcome this invitation to provide feedback, many other stakeholders in this ordinance do not appear to have had any meaningful visibility in the deliberation on the ordinance. These include media instructors with Ashland Schools or Ashland Art Center, public access media producers affiliated with RVTV, local journalists and documentary filmmakers, local wedding and portrait photographers, the Ashland Independent Film Festival, Oregon Shakespeare Festival, and representatives of local clients for photo and video productions. Gary Kout and Anne Lundgren are excellent resources to help guide the city on this topic within their area of expertise, but do not well represent the full scope of production activities that might be captured under the umbrella of this ordinance.

Finally, the city does not appear to have fully considered issues of free speech, free assembly and private property ownership in its deliberation on this ordinance. A reasonable balance between the legitimate needs of city administration and these higher public values is to be expected, and the commercial speech envisioned as the target of this ordinance will properly have lower protection than other kinds of speech. But we have not yet seen clarity in the city's consideration on how commercial and non-commercial speech should be distinguished for the purpose of this ordinance. Meanwhile, there has yet been no conversation on a staff or council level regarding the implications of making the City Administrator the overseer of which productions may or may not be exempted, with wide authority to set criteria about impact, and no defined mechanism for review or appeal.

In the end, we believe that this ordinance will prove to be unworkable and widely ignored by the citizens of Ashland. The city should be wary of taking an interest in regulating the day-to-day media production activities of citizens, and should write an ordinance that automatically exempts all low-impact productions, no matter their intended use. Based on the information we have available from staff presentations, the city's existing regulations appear to have been sufficient to mitigate most problem productions, and those practices of efficient response to actual impacts should continue.

We thank you again for your interest in providing a clear, useful and usable ordinance for the citizens of Ashland, and look forward to any opportunity to help the city reach that goal.

Best wishes,

EP

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Erik Palmer, Ph.D.

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Academic Coordinator, Southern Oregon Digital Media Center

Associate Editor, Visual Communication Quarterly

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Information for Students Planning to Film Off Campus on Public Property

City Permit

The City of Ashland requires all film makers to secure a film permit when filming on city-owned property. However you may be exempt from this requirement if upon review of your proposed film activity with your instructor the instructor determines that:

- a. You are not placing equipment on sidewalks
- b. You are not blocking pedestrians from walking through your “scene” or forcing pedestrians to step off the curb
- c. You are not using “weapons” real, fake or otherwise
- d. You are not interrupting vehicular traffic including the use of equipment, actors crossing streets, blocking parking spaces, blocking fire lanes and fire hydrants
- e. You are not violating the noise ordinance [site ord here]
- f. You do not require the closure of a city street, alley, sidewalk, parking spaces
- g. You are not filming in city parks
- h. You are not asking for exclusive use of a city park or a section(s) of a city park.
- i. You are not asking for exclusive use of a park facility
- j. You are not asking park visitor to move out of the way at any time
- k. You are not blocking park visitors from a pathway at any time
- l. You are not using amplified sound or supplemental lighting in a city park
- m. You are not using open flames, candles, pyrotechnics, or any special effects
- n. You are not blocking building exits

Letter from Instructor

If your instructor determines that you will need to secure a City permit you must submit a permit application and a letter from your instructor. The letter must state your name, class number of program of study, and include a statement certifying that your project is strictly for non-commercial educational purposes. The letter must be signed by your instructor and dated within 30 days of your first proposed film activity.

Submit Permit Application

To apply for a City film permit see www.ashland.or.us/studentfilm. **The application and all required paperwork must be submitted at least ten days in advance.**

As you fill out your application, you will need to disclose, in detail, exactly what you wish to film. This includes contact information, the size of your cast and crew, the equipment that you plan to use along with specific information on each location(s) you wish to film at including the date(s), time(s), you wish to film, a detailed description of the scene(s) and any activity taking place as part of the filming.

Permit Application Review

Once your film permit application has been accepted we will contact you to go over your application.

Because all film permit situations are unique, we may ask you to fulfill other requirements as a condition of permit release. These requirements could include, but are not limited to:

- Notifying nearby residents and businesses of your filming plans
- Meeting with concerned community members
- Applying for additional permits (special effects, street closures etc.)
- Organize a walk through for public safety personnel

Please be advised that it may be necessary for you to adjust your proposed activities in order to address community concerns.

Fees and Payments

Generally film permit fees are waived for student productions; however, if the film activity requires additional permits such as a street closure, or public safety personnel, those fees are not waived. Payment of any fees are required prior to permit approval.

Permit Approval

Once the City has received all the necessary paperwork from you and other requirements met, The approved permit will be emailed to you or you can pick it up from City Hall.

Keep Permit Available

You are required to keep at least one copy of the approved permit with you on-location at all times and it should be made available for review to any City staff or public safety personnel.