

## ORDINANCE NO. 2021-18

**AN ORDINANCE OF THE CITY OF BOERNE, TEXAS, ENACTING GUIDELINES FOR FILMING WITHIN THE CITY LIMITS; ESTABLISHING PERMIT REQUIREMENTS AND FEES FOR THE USE OF AND/OR CLOSURE OF CITY RIGHTS-OF-WAY, STRUCTURES AND SERVICES; REQUIRING NEIGHBOR NOTIFICATION AND LIABILITY INSURANCE; CONTAINING AN ADMINISTRATIVE PENALTY; CONTAINING A REPEALER; CONTAINING A SEVERANCE CLAUSE; AND SETTING AN EFFECTIVE DATE**

**WHEREAS**, the City Council of the City of Boerne recognizes that on-location commercial filming is good business for the community and can promote economic activity and so desires to be a Film Friendly Texas Community; and

**WHEREAS**, the filming guidelines and permit regulations are intended to create a program for promoting economic development activity while protecting the personal and property rights of Boerne citizens and business; and

**WHEREAS**, the City Council finds that it is necessary for these economic development goals and for the health, safety, and welfare of the public to adopt an ordinance governing filmmaking within and around the City of Boerne.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:**

### Section 1.

The foregoing recitals are incorporated into this Ordinance by reference as findings of facts as if expressly set forth herein.

### Section 2.

The Guidelines for Filming in Boerne, Texas, attached as "Exhibit A" to this Ordinance ("the Guidelines") are hereby approved and authorized by the City of Boerne for all professional filming occurring within the city limits of Boerne, Texas.

### Section 3.

Persons or entities wishing to conduct commercial movie or television production or any type of filming or taping activities in the City of Boerne shall apply for a Permit pursuant to the Guidelines and shall not conduct any such activities without first obtaining a Permit from the City. Said persons or entities shall follow all of the Guidelines while engaged in production, filming, or taping activities in the City of Boerne and shall pay all relevant fees in accordance with the City's Fee Ordinance.

Section 4.

Failure to follow the Guidelines or failure to pay required fees may result in no permit being issued and/or the revocation of a permit issued pursuant to this Ordinance, and/or a notice to stop filming and assessment of administrative penalties as set forth in the City's Fee Ordinance.

Section 5.

That all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 6.

That if any provisions of this ordinance shall be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

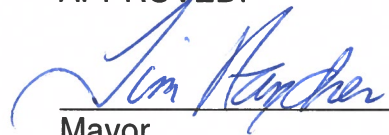
Section 7.

This ordinance will take effect immediately upon passage.


PASSED AND APPROVED on this the first reading the 22<sup>nd</sup> day of May, 2021.

PASSED, APPROVED AND ADOPTED on this the second reading the 8<sup>th</sup> day of June, 2021.

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

# EXHIBIT A



## **Guidelines for Filming in Boerne, Texas**

Adopted June 8, 2021

- I. Purpose
- II. City Control / Authority
- III. Permit Requirements and Fees
- IV. Use of City Equipment and Personnel
- V. Use of City Property
- VI. Vehicles and Equipment
- VII. Hours of Filming
- VIII. Notification of Neighbors
- IX. Certificate of Insurance
- X. Damage to Public or Private Property
- XI. Indemnification and Hold Harmless Agreement

# **Guidelines for Filming in Boerne, Texas**

## **I. PURPOSE**

The Guidelines contained in this policy are intended to create a program for promoting economic development activity within the City of Boerne and the vicinity of the City. The following Guidelines are also intended to protect the personal and property rights of Boerne, Texas residents and businesses, and to promote the public health, safety, and welfare. The City may impose additional regulations where deemed necessary for public safety.

These Guidelines cover requests for commercial use of City-owned property, public streets, rights-of-way, parks, public areas, and/or City-owned buildings, commercial use of private property which may affect adjacent public or private property, and the use of City equipment, and personnel in all types of motion picture production, including but not limited to, feature films, and the filming or taping of movies, television programs, commercials, music videos or corporate films, and other films and related activities.

## **II. CITY CONTROL / AUTHORITY**

The City of Boerne Community Services Director over the City's Parks and Recreation Department ("the Director") is authorized to receive all applications submitted pursuant to these Guidelines, make determinations, and take other actions described herein on behalf of the City. The Director and/or his designee may authorize the use of any street, right-of-way, park, public area, or public building, equipment, or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or other films and related activities. In conjunction with these uses, the Director may require that any or all the conditions and/or remuneration herein, and as specified on the Application and/or in the City's Fee Ordinance ("the Fee Ordinance"), be met as a prerequisite to that use.

The Applicant agrees that The City of Boerne, Texas shall have full control over the use of public streets, rights-of-way, parks, public areas of the City and City-owned public buildings, while being used as well as authority to regulate the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming if determined to be detrimental to the public health, safety, or welfare.

The Applicant shall allow City departments (e.g., Police, Fire, Code Enforcement, Building Inspection, etc.) to inspect all structures, property, devices, and equipment to be used in connection with the production, filming and taping, if determined to be necessary for public safety.

### III. PERMIT REQUIREMENTS

Before submitting an Application for filming in the City of Boerne, Texas, the Applicant must contact the Film Friendly Liaison, located at the office of Special Projects, (830) 248-1617 to discuss the production's specific filming requirements and the feasibility of filming in Boerne, Texas.

Any commercial producer who desires to undertake a commercial film or tape production in Boerne, Texas must submit a COMPLETED permit Application (including fees) to the Boerne Parks and Recreation Department no less than five (5) business days prior to the first day of filming. The Application is located on the City of Boerne website ([www.ci.boerne.tx.us](http://www.ci.boerne.tx.us)).

**Prior to any such use of City Property, Applicant shall submit an executed Indemnification and Hold Harmless Agreement in the form attached below to the City.**

**No filming activities shall be initiated until a permit has been issued under this section and all required documents have been executed and submitted to the City.**

### IV. USE OF CITY EQUIPMENT AND PERSONNEL

The Applicant shall pay for all costs of any Police, Fire, Public Works, or other City personnel assigned to the project (whether or not specifically requested by the producer). Remuneration rates for the use of any City equipment, including police vehicles and fire equipment, will be as established in the City's Fee Ordinance. The Applicant shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. **The Director may require an advance deposit for all costs related to City personnel and/or the use of City equipment based on costs established in the Fee Ordinance in effect at the time of the filming.**

The Director in consultation with the Chief of Police or Fire Chief shall have the authority to stipulate additional police or fire personnel requirements and level of staffing for same, at any time during a film project if it is determined to be in the best interest of public health, safety, and welfare, which cost shall be borne entirely by the Applicant.

Off-duty police officers shall be paid a rate as determined by the Boerne Police Department's policy for hiring off-duty officers. Off-duty officers work off-duty assignments on a voluntary basis and will be hired and paid by the production company.

All other non-police off-duty personnel who are hired by a production company must

comply with the City's policy on outside activities in effect at the time of production filming.

## **V. USE OF CITY-OWNED PROPERTY**

The Director may authorize the use of any City street, right-of-way, park, public area, or City-owned building, use of Boerne, Texas' name, trademark, or logo, and/or use of City equipment, and/or personnel for commercial uses in motion picture production, the filming or taping of movies, television programs, commercials, or other films and related activities. In conjunction with these uses, the Director may require that any or all of the conditions and/or remuneration as specified on the Application be met as a prerequisite to that use. A security or damage deposit may be required as outlined in the City's Fee Ordinance.

**Note:** Several streets/roads in Boerne are owned by the Texas Department of Transportation (TxDOT). Any total or partial disruptions of these roads require TxDOT's approval; these approvals are handled through the Boerne Police Department. Roads include Interstate Highway 10, State Highways 87 (Main Street) and 46 (River Road), FM 474 (Esser Road) and FM 1376 (Sisterdale Road).

The Applicant shall reimburse the City for inconveniences when using public property. Rates for these inconveniences are outlined in the City's Fee Ordinance. These uses include, but are not limited to

- Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area
- Partial non-disruptive use of a public building, park, right-of-way, or public area
- Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)
- Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking (for filming purposes)
- Use of City parking lots, City parking areas, and City streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)

In the event an Applicant wishes to conduct an activity which will require City resources for which a fee is not set out in the City's Fee Ordinance, the Applicant may enter into an agreement with the City to provide for the City to be compensated for the actual cost of use of the public resources.

## **VI. VEHICLES AND EQUIPMENT**

The Applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming including proposed hours of use and proposed parking locations. All parking locations to be used, including off-street, on-street, or public parking lots must be specifically approved in the Permit. Approval of parking will be based on traffic safety considerations.

The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the Director. Approval of lighting will be based on consideration of the reduction of potential nuisances to neighboring properties. Noise and sound levels must be in compliance with the City of Boerne's Ordinance for Noise and Sound Level Regulation.

## **VII. HOURS OF FILMING**

Unless permission has been obtained from the Director in advance, and affected property owners, tenants and residents have been notified, filming will be limited to the following hours:

Monday through Friday 7:00 a.m. to 9:00 p.m.

Saturday, Sunday, and holidays 8:00 a.m. to 8:00 p.m.

## **VIII. NOTIFICATION OF NEIGHBORS**

The Applicant shall provide a short, written description, approved by the Director, of the schedule for the proposed production to the owners, tenants, and residents of each property in the affected neighborhood. The Applicant, or his designee, shall make a good faith effort to notify each owner, tenant, and residents of all such property, and submit as part of this Application, a report noting owners, tenants and/or residents' comments along with their signatures, addresses and phone numbers.

## **IX. CERTIFICATE OF INSURANCE**

The producer/Applicant shall procure at a minimum the following levels and types of insurance, each naming the City of Boerne as additional insured, and each of which shall protect City of Boerne against all liability or claims due to injury to person or damage to property arising out of any activities on City property or public streets or rights-of-way or otherwise if undertaken pursuant to the terms of the Permit from the City.

1. General liability insurance with a minimum per occurrence limit of one million dollars (\$1,000,000.00),



2. Automobile Liability insurance for bodily injury or property damage for any cars driven in the City for the permitted activities of a minimum amount of one million dollars (\$1,000,000.00) per occurrence; and
3. Other appropriate insurance requested by the City of Boerne related to dangerous activities.

Additionally, the producer shall provide the City of Boerne with a certificate of insurance demonstrating the insurance coverage described above is in effect for the activities undertaken pursuant to the Permit.

#### **X. DAMAGE TO PUBLIC OR PRIVATE PROPERTY**

The Applicant shall pay in full, within ten (10) days of receipt of an invoice, the costs of repair for all damage to public or private property, resulting from, or in connection with, or arising out of the production, and shall restore the property to its original condition prior to the commencement of production, or to better than original condition.

#### **XI. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

The Applicant and the Producer, if different individuals, shall sign the City's Indemnification and Hold Harmless Agreement holding the City harmless from any and all claim, whether for injury to person or property, that are related to or that may arise from their use of designated public property, rights-of-way, or equipment in conjunction with the permitted use.

**INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

**IN CONSIDERATION OF THE PERMISSION BEING GRANTED TO \_\_\_\_\_ BY THE CITY OF BOERNE TO USE CITY PROPERTY, I \_\_\_\_\_, HEREBY AGREE AS FOLLOWS ON BEHALF OF MYSELF AND \_\_\_\_\_ ENTITY.**

**I/WE CERTIFY THAT I/WE REPRESENT THE FIRM WHICH WILL BE PERFORMING THE PRODUCTION, FILMING/TAPING AT THE LOCATIONS SPECIFIED IN THE FILM PERMIT APPLICATION SUBMITTED BY \_\_\_\_\_. I/WE FURTHER CERTIFY THAT I/WE AND THE FIRM WILL PERFORM IN ACCORDANCE WITH THE GUIDELINES FOR FILMING IN THE CITY OF BOERNE, TEXAS, AND THAT I/WE HEREBY INDEMNIFY AND HOLD HARMLESS THE CITY OF BOERNE, TEXAS FOR AND FROM ANY LOSS, DAMAGE, EXPENSE, CLAIMS AND COSTS OF EVERY NATURE AND KIND ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTION, FILMING/TAPING PURSUANT TO THE PERMIT APPLIED FOR.**

*I/we understand that the Boerne City Police shall have total control of traffic issues. I/we certify that agreements have been signed with all private property owners involved with the filming and that any property damage will be repaired to the owner's approval.*

*I/we further certify that the information provided on the Application is true and correct to the best of my/our knowledge and that I/we hold the authority to sign this and other contracts and agreements with the City of Boerne on behalf of the firm.*

Name (please print): \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Name (please print): \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_