

## LOCAL LAW NO. 8 of 2013

**TITLE: Filming within the Inc. Village of Manorhaven**

**BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE INC. VILLAGE OF MANORHAVEN AS FOLLOWS:**

FIRST:

### **Legislative Intent**

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- A. The Board of Trustees recognizes that the Village's natural beauty, geographical location and historical sites are attractive to individuals, organizations, corporations, groups and other entities involved in the businesses of still photography, motion pictures and television.
  - B. It is hereby found by the Board that such filming activities may create a threat to public safety, health or welfare due to the time, location or duration of the filming, or may unduly interfere and vehicular and/or pedestrian traffic, marking it necessary to provide for the regulation of the taking of still or motion pictures within the Village through the issuance of permits and that said regulation is a matter affecting the public interest and, therefore, should be subject to supervision and administrative control for the purpose of safeguarding the public against the impact of such activities.

### **Title.**

This chapter shall be known as the "Movies and Filming Law" of the Village of Manorhaven

### **Definitions**

- A. Whenever used in this chapter, words used in the singular include the plural, and vice versa, and pronouns used in the masculine gender also include the feminine, and vice versa.
- B. For the purpose of the chapter, the following terms shall have the meanings indicated:

#### **EQUIPMENT**

Shall include, but in not limited to, television, photographic, film, digital or video cameras or transmitting television equipment, including radio remotes, props, sets, lights, backdrops, electric and grip equipment, dolly tracks, screens or microphone devices, and any and all production-related materials, Equipment shall not include a handheld device, as defined herein, and vehicles, as defined in the Vehicle and Traffic Law § 159, that are used solely to transport a person or persons while engaged in the activity of filming from within such vehicle, operated in compliance with relevant traffic laws and rules.

## **FILMING**

The taking of still or motion pictures on any type of analog or digital recording medium, for the commercial, educational or institutional purposes, intended for viewing on any devices, including but not limited to, television, projector screen, computer, smartphone, tablet, or other electronic device, or for viewing over the internet or in any place of public assembly, or for educational or institutional use. Filming includes all rehearsals, preparations, assembly and dismantling of all equipment and structures, including, but not limited to, scaffolding, lights, backdrops, tool and food, and the loading and unloading of vehicles containing the equipment, structures and food

## **HANDHELD DEVICE**

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- (1) A film, still or television camera, video or ~~digital~~ camera, smartphone, tablet other equipment held to the photographer's or filmmaker's and, carried with the photographer or filmmaker during the course of filming, and not requiring the use of cables or any other item or equipment not carried by the photographer or filmmaker at all times during the course of the photography filming or transmission; or
  - (2) A tripod used to support film, still, television, video or digital cameras.

## **INCIDENTAL USE OF PUBLIC LANDS**

Public lands used in conjunction with filming that occurs on private property.

## **PERSON**

Any individual, partnership, corporation, organization, association, limited-liability company, partnership society or any other legal entity.

## **PRIVATE PROPERTY**

Any property other than public lands.

## **PUBLIC LANDS**

Any and every public street, highway sidewalk or square, public park or playground, public waters, waterfront property or other public place within the Village or involving the use of any Village-owned or -maintained facilities or equipment.

## **Permits Required**

- A. No person shall film or allow filming on public lands within the Village of Manorhaven without first applying for and obtaining a permit therefore from the Village Clerk in accordance with this chapter, except as provided for in § hereof.
- B. No person shall film or allow filming on private property within the Village of Manorhaven without first obtaining a permit from the Village Clerk in accordance with this chapter, except as provided for in § hereof. Any incidental

used of public lands that obstructs any public lands or interferes with the use of any public lands shall be fully disclosed, described and included in any application for a permit; provided, however, that nothing contained in this section shall prevent persons from temporarily loading or unloading filming equipment on any public right-of-way, provided that such loading or unloading is done without unnecessary delay, and provided that such filming equipment is not allowed or permitted to remain on such public right-of-way for a period longer than 15 minutes.

- C. Applications for permits shall be filed and completed in accordance with § and the rules and regulations adopted by the Board of Trustees from time to time in order to implement the provisions of the chapter.
- D. One permit shall be required for each location.
- E. A permit shall authorize filming at one location only, whether such filming shall occur indoors or outdoors, provided that the dates on which filming is to take place shall be specified in the permit.
- F. A permit may authorize filming for up to a maximum of three consecutive days.
- G. Only two periods of filming activity shall be allowed at any one location per calendar year. This limitation shall not apply to any re-shoot or follow-up shoot that is set forth in the permit application.
- H. If a permit is issued and, due to inclement weather or other good cause not within the control of the applicant, issue an amended permit for filming on other dates subject to full compliance with all other provisions of the chapter. An administrative fee of \$ shall be required for an amended permit under this section.
- L. If an additional date or dates of filming become required to complete any filming authorized pursuant to a permit issued under this chapter, the Village Clerk may, at the request of the applicant, issue an extension permit, subject to full compliance with all other provisions of this chapter. The conditions requirements and fees for any extension permit shall be the same as those required for the existing permit(s) provided there have not been any changes in the circumstances regarding the filming, if there are any changes in circumstances proposed for the filming under the extension permit, the Village Clerk may, at the Clerk's discretion, modify any of the conditions, requirements or fees and deposits required for the extension permit, in addition, an administrative fee of \$ shall be required for an extension permit under this section.

### **Exemptions.**

Notwithstanding the permit requirement of this chapter, the filming activities designated below do not require a permit to be obtained pursuant to this chapter, provided that such activity does not obstruct or interfere with the use of any public lands or private roads located within the Village. For purposes of this section, the term "obstruct or interfere

with the use of any public lands or private roads located within the Village” shall mean any filming activity which impedes or which involves the blockage, interruption or closure, in whole or in part, of any public lands or private roads located within the Village

- A. Filming and coverage by news media.
- B. Noncommercial filming by and intended for the exclusive use of the owner of private property and his/her immediate family.
- C. Filming occurring on public lands or on private property resulting in an incidental use of public lands, and limited to the use of a handheld device, as defined herein.
- D. Filming occurring on public lands for which the Village contracts with an applicant or has otherwise established by local law, resolution, or by the rules and regulations adopted pursuant to this chapter a fee schedule and/or policy governing such activity. In such instances, said contract, fee schedule and/or policy shall apply.
- E. Filming occurring on any nonresidential parcel of property having a lot area of acres or more. Notwithstanding this exemption from the requirements of this chapter, filming on any nonresidential parcel of property having a lot area of acres or more shall be subject to the rules, regulations and fees adopted by the Board of Trustees from time to time pursuant to § .

### **Applications for permits; permit procedures**

- A. Application forms shall be obtained from and submitted to the Village Clerk, in person, by mail or by e-mail; provided, however, that no application will be deemed complete until payment of the submission fee required under the rules and regulations adopted by the Board of Trustees pursuant to this chapter is made to the office of the Village Clerk.
- B. Applications shall be made and include such information as required by the rules and regulations adopted by the Board of Trustees pursuant to this chapter.
- C. Upon receipt of completed application, the Village Clerk shall review the application pursuant to § of this chapter. Upon completion of the review, the Village Clerk shall provide the applicant with written notification that:
  - (1) The application has been granted and the permit will be issued when the applicant pays the permit fees and deposits as determined by the Village Clerk in accordance with the requirements of this chapter and Chapter of the Village Code;
  - (2) The application has been granted with specific requirements for issuance of permit pursuant to § and will be issued when the applicant files proof of

compliance with such specific requirements and pays the permit fees and deposits as determined by the Village Clerk in accordance with the requirements of this chapter and Chapter of the Village Code;

(3) The application has been referred to the Board of Trustees for review pursuant to § of this chapter, base upon noncompliance of proposed filming with the requirements of this chapter; or

(4) The application has been denied and the specific reasons for such denial.

D. The Village Clerk shall not issue any permit under this chapter until the applicant has fully complied with all applicable requirements of this chapter.

E. The Village reserves the right to impose additional and further requirements up to and through the date or dates of the filming activity, as deemed by the Village to be necessary to assure compliance and requirements and purposes of this chapter.

F. The Village reserves the right to immediately revoke any permit issued due to noncompliance with the requirements of the permit.

### **Rules and regulations.**

A. The Board of Trustees is authorized to promulgate and adopt, by resolution of the Board, rules and regulations implementing the provisions of this chapter. Further, the Board of Trustees shall have the authority to adopt amendments, additions, or revisions to such rules and regulations, from time to time, as the Board deems appropriate, by resolution of the Board.

B. A copy of the rules and regulations adopted by the Board of trustees pursuant to this chapter shall be maintained in the Office of the Village Clerk and shall be available upon request.

### **Review by Village Clerk.**

A. The Village Clerk, upon receipt of a complete application for a permit under this chapter, shall conduct a review of the application to determine:

(1) Whether the proposed filming activity complies with the requirements of this chapter;

(2) Whether any specific requirements should be imposed on the issuance of a permit; and

(3) The total amount of the fees and deposits due pursuant to this chapter and Chapter of the Village Code.

B. The Village Clerk shall complete the review in three (3) business days.

C. In conducting the review, the Village Clerk shall communicate with the Village Police Department and other Village department(s) and officials regarding the application. The Village Clerk shall request a written recommendation from the Police Department and the other Village departments or officials as to whether the proposed filming may be done without creating a danger to the public or a public nuisance.

D. In exercising the authority granted by this chapter in the review of applications and issuance of permits, the Village Clerk shall consider any facts and circumstances that the Village clerk deems relevant to the specific application, including, but not limited to the following:

- (1) The location of the proposed filming;
- (2) The date and duration of the proposed filming;
- (3) Any complaints or objections raised by any neighboring property owners;
- (4) The recommendations, if any, that the Village Clerk receives pursuant to the communications and requests made under §     ;
- (5) The number of permits previously granted at the location of the proposed filming; and
- (6) Any facts or circumstance specific to the proposed filming that may impact the health safety and welfare of the residents of the Village.

E. In issuing a permit under this chapter, the Village Clerk may impose specific requirements on the issuance of the permit, based on the Village Clerk's review of the application. The specific requirements may include, without limitation, any or all of the following.

- (1) Notification to the property owners located adjacent to or in the vicinity of the filming activities;
- (2) Written consent to the filming activities proposed from property owners adjacent to or in the vicinity of the filming activities;
- (3) Arrangements to provide for the presence of one or more on-site police officers, or fire prevention and/or emergency responders, or additional private security, or such other licensed personnel as may be deemed appropriate, the cost for which, in its entirety, shall be borne by the applicant as a cost production; and/or
- (4) Any other condition that may be necessary to protect the health, safety and welfare of the residents of the Village.

F. The Village Clerk may deny an application for a permit under this chapter after a review of the application, whenever a determination is made that the proposed

filming would violate any law or ordinance or would unreasonably interfere with the public's use of public lands; unreasonably interfere with the use and enjoyment of adjoining properties; unreasonably impede the flow of vehicular or pedestrian traffic; be detrimental to the community because of anticipated excessive noise, illumination or other effect caused by the proposed filming, including, but not limited to, a potentially dangerous activity or creation of a dangerous condition, such as the use of explosive, the use of stunts, helicopters, firearms or simulated firearms; or otherwise endanger and the public's health safety or welfare. Such denial shall be in writing and shall specify the reasons for the denial.

### **Review by Nassau County Police Department; payment for police overtime.**

Each application must be reviewed by the Chief of Police or a Lieutenant of 6 Prec. of the Nassau County Police Department to determine if a police presence is required for the proposed filming. This determination shall be made in the sole discretion of the Chief of Police or a Lieutenant. If the Chief or a Lieutenant determines that a police presence is required, the Chief or Lieutenant will provide the Village Clerk with an estimate of number of police officers required and the cost to provide the same. The applicant must pay a deposit in an amount determined by the Village Clerk which shall be at least 50% of the cost of the police overtime to be charged prior to the issuance of the permit. The remaining percentage of the cost of the police overtime is to be paid to the Village within five days of the completion of the filming.

### **Review by Port Washington Fire Department.**

If any pyrotechnics are to be used in connection with the proposed filming, the applicant must submit the application to the Port Washington Fire Department for review in advance of the filming. The applicant must abide by the Port Washington Fire Department's recommendations and requirements in connection with the use of pyrotechnics.

### **Appeals to Board of Trustees.**

Any person aggrieved by a decision of the Village Clerk to deny or revoke a permit may appeal to the Board of Trustees. A written notice of appeal setting forth the reason for the appeal shall be filed with the Village Clerk within 10 days of the Village Clerk's decision. The Board of Trustees shall review such appeal within 30 days from the day on which the notice of appeal is filed, or as such other time as may be reasonably practicable, and may reverse, modify or affirm the action of the Village Clerk upon a finding the action of the Village Clerk was arbitrary, capricious or not supported by substantial evidence. The Board of Trustees shall render a decision in the form of a resolution. The decision and order of the Board of Trustees on such appeal shall be final and conclusive.

## **Fees.**

The fee for a permit under this chapter shall be set according to the amount indicated in the Village Permit Fee shall be set by the Board of Trustees, as shall be determined. The Board of Trustees may modify any such fee in accordance with the hardship review and modification provision of Chapter 64 of the Village Code.

## **Penalties for offenses.**

- A. The violation of any provision of this chapter shall be punishable by a fine of not less than \$1,500 nor more than \$2,500 for a first offense; and by a fine of not less than \$2,500 nor more than \$5,000 for a second or subsequent offense committed within a period of three years. Each day's continued violation shall be a separate, additional violation of this chapter.
- B. If an applicant or the holder of a film permit violates any the provisions of this chapter, no further permits shall be issued to such applicant or permit holder for a period of one year after the date of the violation.
- C. The remedies set forth herein shall not be the Village's exclusive remedy in the event of a violation of this chapter. The Village may pursue any and all other legal remedies available to it in connection with any violation of this chapter.

## **Waiver.**

The Board of Trustees, upon consent of majority of its members, after due consultation, may authorize a waiver of the requirements and/or limitations of this chapter whenever it determines that strict compliance with such limitations or requirements will pose an unreasonable burden upon the applicant and that such permit may be issued without endangering the public's health, safety or welfare. In such instances, the Board of Trustees may attach additional conditions and safeguards to ensure the orderly conduct of the activity and to minimize the impact of such use.

## **Permit suspension in emergency circumstances.**

- A. During the course of filming, any authorized Village Code enforcement official or a police officer may suspend any permit where public health or safety risks are found or where exigent circumstances warrant such action.
- B. Where a suspension lasting longer than six (6) hours occurs, permittees may appeal to the Village Board of Trustees in the manner prescribed in § hereof.



SECOND:    **Separability.**

If any section, sub-section, sentence, clause or phrase of this local law is for any reason held invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this local law.

THIRD:    **Effective Date.**

This act shall take effect immediately upon filing with the Secretary of State as provided by law.

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