

**CITY OF LITHONIA
STATE OF GEORGIA**

ORDINANCE NO. 19-05-01

1 AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF LITHONIA,
2 GEORGIA TO AMEND CHAPTER 4, ARTICLE 27, SECTION 5 *et seq.* (“FILM
3 PRODUCTION ORDINANCE”) OF THE CODE OF ORDINANCES; TO PROVIDE FOR
4 SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE AN EFFECTIVE
5 DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER LAWFUL
6 PURPOSES.

7 **WHEREAS**, the duly elected governing authority of the City of Lithonia, Georgia
8 (“City”) are the Mayor and Council thereof; and

9 **WHEREAS**, the Mayor and Council desire to provide for an application and permitting
10 process by which filmmakers may apply for and receive permission to film commercial motion
11 picture images on public property in the City of Lithonia, Georgia; and

12 **WHEREAS**, the regulation of film production is a public purpose that protects the public
13 health, safety, general welfare and aesthetics of the City of Lithonia and all its citizens.

14 **NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE**
15 **COUNCIL OF THE CITY OF LITHONIA, GEORGIA**, and by the authority thereof:

16 **Section 1.** The Code of Ordinances of the City of Lithonia, Georgia, is hereby amended
17 by inserting the language in Chapter 4, Article 27, Section 5 *et seq.* (“Film Production
18 Ordinance”) as set forth in Exhibit A, which is attached hereto and made a part hereof by
19 reference.

20 **Section 2.** (a) It is hereby declared to be the intention of the Mayor and Council that all
21 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
22 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

23 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
24 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
25 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
26 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
27 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this
28 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase
29 of this Ordinance.

30 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
31 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise
32 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the
33 express intent of the Mayor and Council that such invalidity, unconstitutionality or
34 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional
35 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or
36 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,
37 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,
38 enforceable, and of full force and effect.

39 **Section 3.** All ordinances and parts of ordinances in conflict herewith are hereby
40 expressly repealed.

41 **Section 4.** Penalties in effect for violations of the Code of Ordinances, City of Lithonia,
42 Georgia at the time of the effective date of this Ordinance shall be and are hereby made
43 applicable to this Ordinance and shall remain in full force and effect.

44 **Section 5.** The effective date of this Ordinance shall be the date of adoption unless
45 otherwise specified herein.

Section 5-27-100 Scope and purpose.

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47 The governing authority's intent in adopting this article is to facilitate entertainment production
48 events in the city of Lithonia, Georgia while safeguarding the interests of the city's residents and
49 businesses. This article provides the basis for the rules and regulations governing the issuance of
50 permits for filming within the city. It strengthens the city's ability to anticipate and provide
51 necessary support services for entertainment production events to ensure filming is done in a
52 manner consistent with public health, safety and the protection of property.

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54 **Section 5-27-101 Definitions.**

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56 Words and terms not defined in this article but defined in applicable state law, shall be given that
57 meaning. All other words or phrases shall be given their common, ordinary meaning unless the
58 context requires otherwise. The following words, terms and phrases, when used in this article,
59 shall have the meanings ascribed to them below, except where the text clearly indicates a
60 different meaning:

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62 *Applicant means* the individual applying for a permit who is legally authorized to bind
63 the producer.

64
65 *Application means* the documents created by the department that must be completed and
66 submitted to the department to request a permit.

67
68 *Department means* the Office of the City Administrator.

69
70 *Director means* the City Administrator.

71
72 *Element means* an activity listed in section **5-27-105**

73
74 *Filming means* creating motion picture images and all activity attendant to staging,
75 shooting, and associated basecamp operations associated with the production of commercial
76 motion pictures, independent filmography, documentaries, music videos, television shows, and
77 commercials. Filming also means creating still photography images for commercial use and all
78 activity attendant to staging or shooting such images.

79

80 *Permit means* the authorization issued by the department necessary to conduct filming.
81 Producer means an individual, organization, corporation or any other entity that is responsible
82 for the filming.
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84 *Public property means* real property owned by the city, or of which the city is a tenant,
85 including, without limitation, parks, streets, sidewalks, other rights-of-way, and buildings. Public
86 property shall not include real property which is being leased by the city to a tenant.
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88 **Section 5-27-102 Rules and regulations.**
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90 The director may promulgate such rules and regulations, not inconsistent with the provisions of
91 this article, necessary for the administration and enforcement of this article.
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93 **Section 5-27-103 Permit required.**
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95 (a) Any producer who wishes to perform filming on public property must obtain a permit prior
96 to filming.
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98 (b) Any producer who wishes to perform filming on private property must first obtain a permit
99 if filming includes any element listed in section _____.
100

101 (c) Permits shall be issued by the department and shall be issued to a producer.
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103 (d) Any producer who performs filming without receiving a permit, or performs filming that
104 violates the material terms of a permit, or is otherwise in violation of this article, upon citation or
105 summons by the police chief, code enforcement officer or other authorized city employee, and
106 judgment or conviction of the violation in a court of competent jurisdiction, which includes the
107 Municipal Court of Lithonia, shall be subject to appropriate penalties as imposed by the court. If
108 convicted of violating any provision of this article, the court shall impose a minimum fine of four
109 hundred ninety-nine dollars (\$499.00) in addition to any other authorized punishment imposed
110 by the court.
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112 **Section 5-27-104 Permit exemptions.**
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114 The provisions of this article shall not apply to:
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116 (1) Current news productions, including reporters, photographers or cameramen in the
117 employment of a newspaper, news service, broadcasting station or similar entity engaged in the
118 broadcasting of news events;
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120 (2) Productions that are conducted by the DeKalb County School System or other government
121 organizations, including, but not limited to, DeKalb County Television; and
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123 (3) Filming associated with any rally, protest or demonstration, except when such rally or
124 demonstration is staged for the sole purpose of being included in filming.
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Section 5-27-105 Filming elements.

- (a) All applications shall list each element that may be included in filming.
- (b) Elements are as follows:
 - (1) Filming outdoors between 11:00 p.m. and 7:00 a.m. within a three-hundred-foot radius of a dwelling unit, residence, place of worship, or business;
 - (2) Filming on public property;
 - (3) Closure of a street, lane and/or sidewalk;
 - (4) Occupation of the right-of-way;
 - (5) Use of pyrotechnics or other explosives, smoke effects, water effects, flame effects, or other potentially dangerous instrumentalities;
 - (6) Display or use of real or artificial firearms, grenades, or other weaponry;
 - (7) Vehicle chases and/or vehicle crashes;
 - (8) Dangerous stunts that have a reasonable likelihood of causing substantial personal injury;
 - (9) Use of equipment that has a reasonable likelihood of causing damage to public property;
 - (10) Filming that includes sound as defined and regulated by the Lithonia Noise Ordinance, now and as it may be amended hereafter;
 - (11) Use or presence of any animal which is naturally inclined to do harm or capable of inflicting serious harm upon human beings, or any animal whose possession or sale is prohibited by federal, state, or local law;
 - (12) Public nudity and/or any behavior that would be deemed lewd and lascivious;
- (c) The final decision of whether an element is allowed shall be made by the director.

Section 5-27-106 Permit application.

An application shall include the following:

- (1) Project title;
- (2) Name and specific contact information of applicant, including physical address and current phone number;

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173 (3) Dates, times and locations of the filming;
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175 (4) Detailed description of the filming;
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177 (5) Description of all elements that may be performed;
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179 (6) Applicable insurance policy information and certificates.
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181 **Section 5-27-107 Permit modification, suspension, or cancellation.**

- 182 (a) After receiving a permit, a producer may request a modification of the permit at any time
183 by submitting a change request in writing and the requisite change fee to the director. The
184 department shall process the change request in the same manner established for processing initial
185 applications.
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187 (b) A permit may be immediately suspended where the city identifies an imminent or
188 substantial endangerment to the health and welfare of persons, or to property caused by or
189 resulting from the filming; or an actual or imminent violation of the material terms of the permit,
190 this article or any other federal, state or local law.
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192 (c) A permit may be cancelled where:
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194 (1) The department determines that an imminent or substantial endangerment to the
195 health and welfare of persons or to property caused by or resulting from the filming
196 cannot be reasonably eliminated;
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198 (2) The department determines that the producer has intentionally or recklessly
199 violated material terms of the permit or this article;
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201 (3) The department determines that the producer does not have or has lost insurance
202 coverage.
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204 (d) If a permit is suspended or cancelled, the department shall give written notice to the
205 applicant setting forth the reasons for permit suspension or cancellation. The applicant or
206 producer shall have an opportunity to respond to a suspension or cancellation notice within seven
207 (7) business days after receipt of the notice by presenting written or oral evidence to the director.
208 A final written decision will be issued by the director within fifteen (15) business days after the
209 applicant or producer has appealed the suspension or cancellation.
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211 (e) If a permit is under consideration for cancellation or suspension because of health or safety
212 risk and the producer is otherwise in compliance with the permit, the city shall make reasonable
213 efforts to find alternative means to accommodate the producer's filming and to eliminate said
214 health or safety risk and allow filming to proceed.
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216 (f) If the producer is not in compliance with the permit or suspends or cancels the permit prior
217 to filming, no refund will be issued.

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(g) If the department suspends or cancels a permit prior to filming, the city will refund the permit fee upon written request.

Section 5-27-108 Permit denial.

- (a) The director may deny a permit if any one (1) of the following conditions exists:
 - (1) Filming poses an unreasonable risk of injury or damage to persons or property not associated with the filming;
 - (2) Filming poses an unreasonable risk of irreversible damage to public property;
 - (3) The date and time requested conflicts with other filming or other scheduled events or activities;
 - (4) Filming unreasonably interferes with city functions or operations;
 - (5) Producer owes an outstanding debt to the city;
 - (6) Producer cannot procure insurance;
 - (7) Producer previously violated this article on two (2) or more occasions within the last three (3) years; or
 - (8) Producer made a material misrepresentation on the application.
- (b) If a permit is denied, the department shall give written notice to the applicant setting forth the reasons for permit denial. The applicant or producer shall have an opportunity to respond to a denial within seven (7) business days after receipt of the denial notice by presenting written or oral evidence to the director. A final written decision will be issued by the director within fifteen (15) business days after the applicant or producer has appealed the denial.

Section 5-27-109 Responsibilities after permit issuance.

- (a) The producer shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the removal of trash and debris. Upon completion of the filming, the premises shall be left in a clean condition. It is the responsibility of the producer to exercise reasonable care in inspecting and immediately repairing any damage to any public property which occurs as a result of filming.
- (b) After filming concludes, the producer shall leave all public property in the same or better condition as it was prior to filming.
- (c) The producer must publicly display the approved permit on site at all times during filming, set up, break down, and related activities.

264 (d) The producer, including any employees, contractors and subcontractors, is responsible for
265 knowing and complying with all city ordinances and other applicable federal, state and local
266 laws.

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268 (e) The producer must give written notification of filming activities to all residents and
269 businesses within a three-hundred-foot radius of the filming and post notices. The notification
270 should be sent within a reasonable time before filming begins. The notification should include
271 the date, time, location, and a general description of the filming activities authorized by the
272 permit.

273 (f) Where filming includes advertising signs or other displays of commercial speech, all signs
274 and/or displays must be removed upon expiration of the permit.

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276 (g) Issuance of an approved permit shall not grant to producer, nor otherwise create, a
277 constitutionally protected property interest.

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279 (h) Upon receipt of the permit, and by accepting said permit, the producer shall, at its sole cost
280 and expense, fully indemnify, defend and hold harmless the city, its officers, boards,
281 commissions, employees and agents against any and all claims, suits, actions, liability and
282 judgments for damages to persons or property, that may arise from the permit and any activities
283 performed pursuant to the permit by, on behalf of, or at the direction of the producer, except to
284 the extent that the claims, losses and/or expenses are caused by the negligence or intentional
285 misconduct of the city, its officials, or employees.

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287 (i) The producer may be required to hire at its sole expense off-duty police or fire personnel,
288 as determined by city assessment of the public safety risks posed by elements of the filming and
289 related activities.

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291 (j) The producer shall obtain at its sole expense, and keep in full force and effect during the
292 term of the permit liability insurance as required by the city. Insurance requirements shall be
293 identified on the permit application.

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295 **Section 5-27-110 Fee schedule.**

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297 The applicant shall pay all such applicable fees, including the following:

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299 (1) Each application must be accompanied by the nonrefundable application fee.
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301 (2) Producer shall attach payment for the permit fee to the application.
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303 (3) Where producer requests a material change in the terms of a previously-issued
304 permit, a change fee shall apply. Where the department determines that any
305 requested change is immaterial, no change fee shall apply.
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307 (4) Where filming requires the presence of law enforcement, fire rescue services, watershed
308 management services, or any other services provided by the city, such services will be paid for

309 by producer accordingly. The fee schedule for such services provided by the city shall be
310 promulgated by the department and approved by official action of the governing authority.

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312 **Section 5-27-111 Disclaimer.**

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314 By enacting this article, the city is assuming an undertaking to promote the general welfare of its
315 citizens. The city, its officers, agents and employees shall not be liable to any person, including,
316 but not limited to, persons whose names appear on the application or permit, who claim that the
317 enactment, enforcement or violation of this article caused injury or loss of any kind.