

ORDINANCE NO. 2019-30

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, ENACTING REGULATORY GUIDELINES FOR FILMING WITHIN THE CITY LIMITS; EMPOWERING THE CITY ADMINISTRATOR TO ISSUE FILM PERMITS PURSUANT TO THOSE GUIDELINES; PROVIDING FOR: ENACTMENT; REPEALER; SEVERABILITY; AND PROPER NOTICE AND MEETING

WHEREAS, the Wimberley City Council ("Council") aims to promote economic development in and around the City of Wimberley ("City"); and

WHEREAS, the natural scenic beauty of the area in and around the City offers a desirable location for filmmaking; and

WHEREAS, the Council believes that attracting filmmakers to the area will contribute to the City's economic development goals; and

WHEREAS, and the Council seeks to prevent filmmaking activities from impeding traffic on public roads, creating fire hazards, or otherwise inconveniencing or infringing on the rights of City residents; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the Council finds that it is necessary and proper for the good government, peace or order of the City of Wimberley to adopt an ordinance governing filmmaking within and around the City.

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

SECTION 1. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the Council and made a part hereof for all purposes as findings of fact.

SECTION 2. An ordinance establishing Regulatory Guidelines for Filming in Wimberley, Texas is hereby created as set forth in Exhibit "A".

SECTION 3. Cumulative and Conflicts. This Ordinance shall be cumulative of all provisions of ordinances of the City of Wimberley, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared

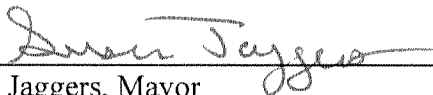
unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrased, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

SECTION 6. Proper Notice and Meeting. It is hereby officially found and determine3d that the meeting at which this Ordinance was passed open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by law.


PASSED AND APPROVED First Reading this 5th day of September 2019, by a vote of 5 (Ayes), 0 (Nays), and 0 (Abstentions)

PASSED AND APPROVED First Reading this 19th day of September 2019, by a vote of 4 (Ayes), 0 (Nays), and 0 (Abstentions)

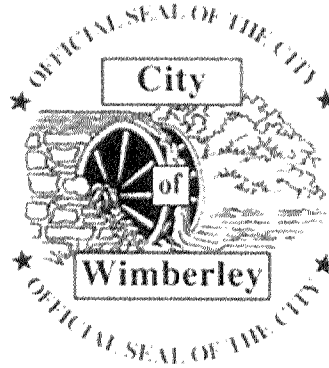


Susan Jagers, Mayor


ATTEST:



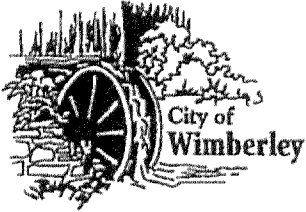
Laura J. Calcote, City Secretary



APPROVED AS TO FORM:



City Attorney



Attachment "A"

Regulatory Guidelines for Filming in Wimberley, Texas

- I. PURPOSE**
- II. CITY CONTROL/CITY ADMINISTRATOR AUTHORITY**
- III. PERMIT REQUIREMENTS AND FEES**
- IV. APPLICATION FEE**
- V. USE OF CITY EQUIPMENT AND PERSONNEL**
- VI. USE OF CITY-OWNED REAL ESTATE**
- VII. VEHICLES AND EQUIPMENT**
- VIII. HOURS OF FILMING**
- IX. NOTIFICATION OF NEIGHBORS**
- X. CERTIFICATE OF INSURANCE**
- XI. DAMAGE TO PUBLIC OR PRIVATE PROPERTY**
- XII. HOLD HARMLESS AGREEMENT**

Guidelines for Filming in Wimberley, Texas

I. PURPOSE

The Regulatory Guidelines contained in this policy are intended to create a program for promoting economic development activity within Wimberley and the vicinity of the City. The following Guidelines are also intended to protect the personal and property rights of Wimberley, Texas residents and businesses, and to promote the public health, safety and welfare. The City Administrator reserves the right to impose additional regulations in the interest of public health, safety and welfare, or if otherwise deemed appropriate by the City Administrator.

These Guidelines cover requests for commercial use of City-owned property (including but not limited to streets, rights-of-way, parks, and/or public 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, television programs, commercials, music videos and corporate films.

II. CITY CONTROL/CITY ADMINISTRATOR AUTHORITY

The City Administrator or City Administrator's designee may authorize the use of any street, right-of-way, park, or public building, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Administrator or City Administrator's designee may require that any or all of the conditions and/or remuneration herein and as specified on the application be met as a prerequisite to that use.

The Applicant agrees that the City of Wimberley shall have exclusive authority to grant the Applicant the use of public streets, rights-of-way, parks and public buildings of the City, 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 in order to promote the public health, safety or welfare.

The Applicant shall allow City departments (e.g., Law Enforcement, Fire, Building) to inspect all structures, property, devices and equipment to be used in connection with the filming and taping, as deemed appropriate by the City Administrator.

III. PERMIT REQUIREMENTS

Before filing an application for filming in Wimberley, the Office of the City Administrator must be contacted to discuss the production's specific filming requirements and the feasibility of filming in Wimberley, Texas.

Any commercial producer who desires to undertake a commercial production in Wimberley is required to complete and return the attached application for filming to the Office of the City Administrator, within the time frames below:

- **Commercials or episodic television:** a minimum of two (2) business days prior to the commencement of filming or any substantial activity related to the project.

- **Feature films:** a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.

IV. APPLICATION FEE

An application processing fee of \$25.00 should accompany each application for filming in Wimberley.

The City Administrator may waive this fee upon proof of an organization’s non-profit status or for any other reason deemed appropriate by the City Administrator.

V. USE OF CITY EQUIPMENT AND PERSONNEL

The Applicant shall pay for all costs of any Law Enforcement, Fire, Public Works, or other City personnel assigned to the project (whether or not specifically requested by the production). Remuneration rates for the use of any City equipment, including police cars and fire equipment, will be established on a case-by-case basis as determined by the City Administrator. The Applicant shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. The City Administrator may, at his/her discretion, require an advance deposit for all costs related City personnel and/or the use of City equipment.

The City Administrator, in consultation with Law Enforcement and/or the Fire Chief, shall have the authority to stipulate additional fire or police 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 and firefighters shall be paid by the production company at a rate no less than one and one-half times their hourly rate.

VI. USE OF CITY-OWNED REAL ESTATE

The City Administrator may authorize the use of any street, right-of-way, park or public building, use of Wimberley, Texas name, trademark or logo and/or use of City equipment and/or personnel for commercial uses in motion picture production. In conjunction with these uses, the City Administrator may require that any or all of the conditions and/or remuneration as specified herein and on the application be met as a prerequisite to that use. A security or damage deposit may be required within the discretion of the City Administrator.

The Applicant shall reimburse the City for inconveniences when using public property. Following is the rate schedule:

<u>Activity</u>	<u>Cost per calendar day</u> maximum of 12 hours/day
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area	\$500 per day

Partial, non-disruptive use of a public building, park, right-of-way, or public area	\$250 per day
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking	\$50 per block, per day
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking	\$25 per block, per day
Use of City parking lots, parking areas, and City streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)	\$50 per block or lot, per day

The Applicant acknowledges and agrees that the City of Wimberley, Texas, possesses and retains exclusive authority to grant the Applicant a revocable license for the use of its name, trademark, and logo, public streets, rights-of-way, parks and buildings of the City as well as control over 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 activity in order to promote the public health, safety and/or welfare.

VII. 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. Such locations will need to be specifically approved by the City Administrator. On-street parking or use of public parking lots is subject to City approval.

The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the City Administrator.

VIII. HOURS OF FILMING

Unless express written permission has been obtained from the City Administrator 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.

IX. NOTIFICATION OF NEIGHBORS

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

Based upon this community feedback, and other appropriate factors considered by the City Administrator, the City Administrator may grant or deny the filming application.

X. CERTIFICATE OF INSURANCE

The Applicant shall attach a valid certificate of insurance, issued by a company authorized to conduct business in the State of Texas, naming the City of Wimberley and its agents, officers, elected officials, employees and assigns, as additional insured, in an amount not less than \$1,000,000 general liability, including bodily injury and property damage with a \$5,000,000 umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

XI. 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 any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its original condition prior to the production, or to better than original condition.

XII. PENALTY

Any person who shall violate any provision of this Ordinance or shall fail to comply herewith, or with any of the requirements hereof shall be liable for a fine not to exceed the sum of \$500.00 per offense. Each violation and each day the violation exists shall constitute a separate offense. Penalties under this Ordinance shall not preclude any civil remedies available.

XII. HOLD HARMLESS AGREEMENT

The Applicant shall sign the following Hold Harmless Agreement holding the City harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use:

I certify that I represent the firm which will be performing the filming/taping at the locations specified on the attached permit application. I further certify that I and my firm will perform in accordance with the directions and specifications of The City of Wimberley, Texas, and that I and my firm will indemnify and hold harmless the City of Wimberley, Texas and its elected officials, officers, servants, employees, successors, agents, departments and assigns from any and all losses, damages, expenses, costs and/or claims of every nature and kind arising out of or in connection with the filming/taping and other related activities engaged in pursuant to this Application.

I further certify that the information provided on this Application is true and correct to the best of my knowledge, and that I possess the authority to sign this and other contracts and agreements with the City of Wimberley, Texas on behalf of the firm.

Signed: _____

Title: _____

Date: _____

THE CITY OF WIMBERLEY, TEXAS
Application for Commercial Filming

Title of project

Type of production (feature film, television production, commercial, corporate, music video, etc.)

Proposed Filming Locations (attach additional pages if necessary)

Date(s) of prep/filming

Primary Contact

Name:

Cell phone:

Email:

Location Administrator (if different from Primary Contact)

Name:

Cell phone:

Email:

Production Company Information

Name of Production Company:

Address:

City/State/Zip:

Website:

Primary Contact's Name:

Primary Contact's Phone:

Primary Contact's Email:

Is this production already in contact with the Texas Film Commission? _____

If yes, who is your contact at the Texas Film Commission?

Name:

Phone:

Email:

PRODUCTION (*Attach additional sheets if necessary.*)

1. Production schedule and activities, including stunts, pyrotechnics, special effects, aerial photography, amplified sound or use of animals: (Give dates and times and rain dates. Hours should include set-up, holding of sets and restoration.)

2. Approximate number of persons involved with the production, including cast and crew:

3. Anticipated need of City personnel, equipment or property:

4. Public areas in which public access will be restricted during production:

5. Describe alterations to public property:

6. Number and type of production vehicles to be used and location(s) where vehicles will be parked:

7. Location where crew will be fed, if not at filming location:

8. Location where extras will be held, if not at filming location:

9. Please attach map of anticipated street closure(s) or other public area use.

Applicant (production company representative):

_____ Date: _____

Name

Title

Application approved by Wimberley representative:

_____ Date: _____

The "Guidelines for Filming in Wimberley, Texas" apply to all motion picture production in Wimberley.

The Office of the City Administrator may require the applicant to acknowledge receipt of the Guidelines prior to approving this application.