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## **MEMORANDUM**

**To:** Mayor and City Council

**From:** Kimberly Greer, Assistant to the City Manager

**Date:** April 9, 2012

**Subject:** **Film and Video Policy and Related Fees**

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### **BACKGROUND**

The City of Dunwoody does not have a specific policy for permitting production companies to film within the City. Since incorporation, interested filming companies have applied and been permitted through the special event permitting process. Due to the different needs of film production as compared to special events, the current process can be overly burdensome to interested film producers without necessarily affording desired protections to the area surrounding the production location and the interests of the City as a whole.

### **DISCUSSION - POLICY**

As discussed at the February Work Session Meeting, staff drafted a Film and Video Policy for discussion. Based on the Council's feedback at the February Work Session Meeting, staff further refined the policy as it relates to the balance between the need to afford appropriate protections for the community while not being overly burdensome to filming companies. Additionally, based on Council's suggestions, staff added language to more clearly delineate the different requirements for filming that occurs on publically-owned property versus private property. Finally, staff further refined the exemptions allowed for student films and other low-impact filming.

Staff also shared our draft Film and Video Policy with the Georgia Department of Economic Development's Entertainment Division which oversees film, video, and music for the state. The Division Director reviewed our draft policy and the policy has been updated to reflect her comments.

As discussed in February, adopting a Film and Video policy has both benefits and challenges but staff believes the positive impacts for the community far outweigh the challenges associated with being more welcoming to the filming industry.

### **DISCUSSION - FEES**

If the Council approves a Film and Video Policy, the Council may set permit fees to ensure the City is compensated for time, expenses, and limitations on public use of property or facilities that filming may cause.

Staff has researched and examined film permit fees in surrounding jurisdictions. Although the application fees, daily fees, and park/facility rental fees vary by City, each City does charge for the use of off-duty officers at a rate set by the Police Department which is similar to our existing process for utilization of off-duty officers for Special Events.



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Jurisdiction	Application	Daily	Park/Facility Rental	Police Services
Decatur		\$100/day	\$500/day	Yes
DeKalb County		no set policy	\$2,500/day	Yes
Johns Creek	\$50 + \$10/day	individually set	\$25-\$45/hour	Yes
Marietta	\$25	min. \$250/day	min. \$250/day	Yes
Norcross		\$320/day	\$5-\$75/hour	Yes
Roswell		\$250	\$75-\$325/hour \$500-\$900/day	Yes
Sandy Springs		\$100/day	\$25-\$100/hour	Yes
Dunwoody (proposed)	\$25	\$100/day	\$500/day	Yes

Based on these existing fees, staff recommends adopting the fees listed in the bottom row for the film production in the City of Dunwoody, however, Council may increase or decrease these proposed fees. Staff believes these ensure the City is compensated for time, expenses, and limitations on public use of property or facilities that filming may cause without being restrictive, inappropriately high, or out of line with our neighboring cities.

**RECOMMENDATION**

Staff recommends adopting a Film and Video Policy to regulate future film productions and promote the film industry in the City. Additionally, staff recommends adopting filming permit fees.

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## FILM AND VIDEO POLICY

### **I. Background and Purpose**

~~The State of Georgia adopted the Georgia Entertainment Industry Investment Act in 2008 to encourage production, and post production projects such as feature films, television, and digital production throughout the state.~~

The City of Dunwoody desires to make it easier for ~~production companies to produce films~~ filming in the City inasmuch as ~~they bring it~~ brings employment opportunities, tourism, hotel occupancy, and general economic development to the City. Additionally a specific policy will deter and limit unregulated commercial film production and similar activities from occurring within the City that would cause a public nuisance and pose a threat to public health, safety, and welfare.

The City invites and encourages film and video production utilizing City property so long as the City's primary responsibility to provide service and protection to the general public is not impaired and provided that the City is compensated for the time, labor, and other costs associated with allowing the utilization of City property and facilities.

### **~~II.~~ Purpose**

This policy has been designed in order to outline the parameters and process for obtaining a filming permit for any filming to occur ~~on City owned property~~ in the City of Dunwoody.

### ~~Filming that is to take place~~ **II. Summary of Procedures and Scope**

~~The procedures for filming, and requirements for permitting, vary depending on City right of way is subject to the City's Special Event Ordinance as well as any other state, federal or local law regarding on the location of the filming.~~

#### 1. Filming on Private Property

Filming on private property requires permission of the property owner but does not require a permit from the City unless certain activities – activities conducted on – are included which may impact public rights of way determined to be applicable public health, safety, and welfare. These activities include but are not limited to guns in display of the public; public nudity; special effects such as fire, explosives, or pyrotechnics; nondomestic animals; or filming outside the hours permitted by the City's Noise Ordinance.

#### 2. Filming on Streets and Right-of-Way

Filming on streets and right-of-way requires a permit from the City. Any filming activity that may disrupt the normal flow of traffic will require the hiring of off-duty, POST-certified police officers.

### 3. Filming on Public Property

Filming on public property, including publically owned parks and facilities, requires a permit from the City. The potential need for City personnel and equipment, including POST-certified police officers, will be determined through the application review process.

## **III. Definitions**

*City Property* means and includes any park, recreational facility, building, water body, or real or tangible property owned or controlled by the City.

*Commercial film* means and includes all activity involved or ancillary to filming any entertainment or advertising programs for any media now known or hereafter created.

*Charitable or student films* means any filming by a nonprofit organization, which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization or done on behalf of an accredited educational institution.

*Film Contact* means the person responsible for acquiring a filming permit.

*Filming* means and includes all activity involved or ancillary to staging or shooting motion pictures, television shows or programs, commercial still photography, video tapes, computer-based programs, or other visual reproduction technology now known or hereafter created. The period of filming includes the set-up, strike and time of photography, and any pre-production and post-production activities on said film.

*Filming Permit* means the permit required by this policy.

*Production Crew* means any and all persons who are in any way involved with or engaged in filming, including, but not limited to, all who will or who customarily receive credit of any sort either during opening or closing credit sequence of a completed film.

*Production Location* means any location ~~owned by the City~~ at which filming is to take place.

*Production Equipment* means and includes any and all equipment utilized during filming which shall include, but not be limited to cameras, video recording devices,

sound recording devices, lighting equipment, sound equipment, tracking, scaffolding, cranes, and temporary vending or other equipment used for providing food and beverages to the production crew.

*Production Vehicles* means and includes any and all vehicles which are in any way utilized during filming including transporting the Production Crew to and from the Production Location which may include, but is not limited to campers, mobile homes, automobiles, trucks, trailers, motorcycles, and helicopters.

*Temporary Structure* means and includes any and all structures assembled on or near a Production Location for the purpose of filming.

#### **~~IV.~~ Scope**

~~The scope of this Film and Video Policy applies to all current and future requests for filming on City property.~~

~~No person shall use any City park, facility or other public property owned or controlled by the City for any activity meeting the definition of filming without first applying for and receiving a permit from the City pursuant to this Policy.~~

#### **~~V.~~ Process for Application and Application Review**

The City shall utilize the following process for consideration of filming permits:

##### 1. Application

- a. The film contact shall make application to the City for filming to occur in the City of Dunwoody on a form prescribed by the City.
- b. Each application for filming shall be accompanied by a nonrefundable application fee in such amount as may be set by Resolution of the City Council.

~~c. Each application shall be accompanied by a valid Insurance Certificate for the production company, naming the City of Dunwoody as additional insured, and providing for at least a \$1,000,000 umbrella liability policy and \$1,000,000 automobile policy.~~

##### 2. Application Review

- a. Upon the receipt of a complete application, the City Manager, or his or her designee, shall review the application and may refer the application to such appropriate City departments as are impacted by the proposed filming for review, evaluation, investigation, and recommendations regarding approval or disapproval of the application.

b. As part of its due diligence, for filming occurring on public property, the City may seek to acquire basic information about the proposed film and/or a treatment for the film.

~~b.c.~~ \_\_\_\_\_ Proposed filming which includes the building or assembly of temporary structures, pyrotechnics, or open flames may also require review by the DeKalb County Fire Department and/or Fire Marshal.

~~c.d.~~ \_\_\_\_\_ Any onsite food vending or preparation may also require review and certification by the DeKalb County Health Department. Filming production companies are encouraged to use local Dunwoody businesses to provide craft services.

~~d.~~ Prior to granting a filming permit, the City may seek to acquire a copy of the script and/or treatment for the film to determine if the film includes material or information that violates Georgia's obscenity laws or would be prohibited from being associated with a federal or state government. The City may review any portion of the script or treatment that, in the City's sole discretion, presents or may present the City or any of its departments, employees, officials or agents in a negative or embarrassing light. If the film does contain such material or scenes, the application may be denied. This condition shall apply to all filming throughout the duration of the filming in Dunwoody.

### 3. Application Approval or Denial

a. The City's approval or denial of an application for a filming permit shall be provided to the applicant in writing within 10-5 days of the receipt of a complete application. Failure by the City to respond within 10-5 days does not automatically signify the City's approval of the application.

~~a.b.~~ \_\_\_\_\_ Applicants who are denied a permit for filming on a public right of way or private property may appeal said denial pursuant to Section 27-277 of the City Code. This right shall not apply to any filming on City-owned property.

~~b.c.~~ \_\_\_\_\_ Conditions to issuing a permit include, but are not limited to: the execution of a Property Use Agreement for the use of City Property.

~~1.~~ The City may require that an approximately five-second long logo that promotes Dunwoody be visible within its presentation for the life of the project and the City be mentioned in the end credits as owner of the property used for filming.

~~2. The City may require a Property Use Agreement to be executed by the applicant and/or production company for use of the City Property.~~

1. The Property Use Agreement shall be accompanied by a valid Insurance Certificate for the production company, naming the City of Dunwoody as additional insured, and providing at least a \$1,000,000 umbrella liability policy and \$1,000,000 automobile policy.

32. As part of the Property Use Agreement, the City may institute additional conditions on filming so as to ensure the City's primary responsibility to provide service and protection to the general public is not impaired and to protect the health, safety and welfare of the citizens of the City.

3. Depending on the proposed uses of City Property, as part of the Property Use Agreement, the City may determine a cash bond to be appropriate. In this event the City shall advise the film contact of the amount, and this bond shall be remitted to the City before the filming permit is issued.

e.d. \_\_\_\_\_ Reasons for denial of a filming permit include, but are not limited to:

1. False or incomplete information on the application;
2. The filming will disrupt traffic within the City beyond practical solution;
3. The filming will interfere with access to fire stations and/or fire hydrants;
4. The location of the filming will cause undue hardship to adjacent businesses or residents beyond practical solution; or
5. The filming will cause disruption of public services which would unreasonably impact the remainder of the City; or
- ~~6. The film includes material or scenes that violate Georgia's obscenity laws;~~
- ~~7. The film depicts the City, its officials, officers, employees, agents and/or representatives in a manner as to portray foolishness, incompetence, evil, indifference or dereliction of duty, or otherwise presents them in a negative or embarrassing light; or~~

~~8. The film contact fails to comply with any terms required by this policy or other applicable Ordinances of the City of Dunwoody.~~

#### 4. Revocation of a Filming Permit

- a. Reasons for revocation of a filming permit include, but are not limited to:
  1. False information on the application or failure to comply with all terms and conditions of the permit;
  2. Failure to arrange for or adequately remit all applicable fees, deposits, insurance, or bonds to the City; or
  3. Existence of disaster, public calamity, riot or other emergency as the City determines, in its sole discretion, to be an impact upon the public health, safety, and welfare.

#### **VIV. Permit Fees**

The permit fees for filming shall be set in such amount as determined by the City Council and adopted by Resolution.

1. Permit fees shall be paid in full prior to the issuance of the filming permit and in any event no later than 48 hours after the commencement of filming.
- ~~2. An additional fee shall be paid as a "usage fee" for use of the City Property, on a per diem rate as determined by Resolution of the City Council.~~
- ~~3.2.~~ The fees required by this policy shall be in addition to any other fees which may be required by any other applicable Ordinances.
- ~~4. A cash bond may be determined to be appropriate by the City, and in this event the City shall advise the film contact of the amount, and this bond shall be remitted to the City before the filming permit is issued.~~
- ~~5.3.~~ Should the production crew desire to have use of any equipment owned by the City, such as police cars, park equipment, and the like, an additional fee shall be paid so as to cover the reasonable cost for use of the equipment, as well as the delivery and return of the items to the City.
- ~~6.4.~~ Charitable or student films may be excused by the City Manager from the administrative application fee and/or other fees associated with the filming permit if, in his or her reasonable discretion the benefits of the filming exceed the costs to the community at large.

#### **VHVI. Exceptions**



1. The following filming and film-related activities are exempt from the permitting requirements of this policy.
  - a. Current news, including reporters, photographers, or camerapersons in the employment of a newspaper, news service, television station, or similar entity engaged in on-the-spot broadcasting of news events concerning those persons, scenes, or occurrences in the news.
  - ~~b. Personal family use, including the filming~~ Sound, visual, or videotaping sound and visual recordings of motion pictures open meetings of the State, County, City, School Board, or other political subdivision of the State.
  - ~~b.c.~~ Filming or still photography created solely for personal family use.
  - ~~c. Filming conducted with a production crew of four persons or less whose production equipment and production vehicles are situated solely within private property throughout filming and said property owner has granted permission for such filming.~~
2. Charitable or student films may be excused by the City Manager from certain permitting requirements, such as the liability insurance requirement, if, in his or her reasonable discretion the benefits of the filming exceed the costs to the community at large.

#### **VHVVII.    Responsibility**

The City Council and the City Manager all have specific duties in regards to Film and Video Policy.

1. City Council
  - a. Adopt a policy for film and video and associated fees.
  - b. Update the policy for film and video as needed to best reflect the needs of the community.
2. City Manager
  - a. Ensure the City maintains a form to appropriately gather information for the review of a request for filming in the City.
  - b. Ensure applications are reviewed in a timely manner.

- c. Make final decisions as to the approval or denial of filming permits.
- d. Designate a City film liaison that shall be the point of contact throughout film production.