

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2015**

**A LOCAL LAW AMENDING ARTICLE 36 OF THE TOWN
CODE OF THE TOWN OF NORTH HEMPSTEAD
ENTITLED “MOVIES AND FILMING”**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interests of the Town to make certain amendments to the Town’s regulations governing the application for and granting of permits for filming within the Town to consolidate the permitting process for all filming, whether on Town-owned or non-Town owned properties, into the Office of the Town Clerk, to amend provisions related to fees and notice of those in proximity to filming and to make other amendments to the Town's permitting processes and regulations.

Section 2.

Chapter 36 of the Town Code of the Town of North Hempstead is hereby amended as follows:

§ 36-1 Legislative intent.

- A. The Town Board of the Town of North Hempstead recognizes that the Town'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 Town Board of the Town of North Hempstead 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 with vehicular and/or pedestrian traffic, it is necessary to provide for the regulation of the taking of still or motion pictures within the Town 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.

§ 36-2 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 purposes of this chapter, the following terms shall have the meanings indicated:

~~[COMMISSIONER OF PARKS~~

~~The person designated by the Town Board as the Commissioner of Parks and Recreation.~~

~~[Added 9-12-2012 by L.L. No. 12-2012]~~

BASE CAMP

A location, other than the location where filming is to occur, where equipment related to the filming is stored or where services ancillary to the filming are performed. For purposes of this definition, a location used by an applicant for vehicle parking only shall not be considered a Base Camp.

EQUIPMENT

Shall include, but is 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 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, either on film, on videotape, digitally or by similar recording medium, for commercial or educational purposes intended for viewing on television or the Internet or in theatres or for institutional use. Filming includes all rehearsals, preparations and assembly and dismantling of all equipment and structures, including but not limited to scaffolding, lights, backdrops, tools and food, and the loading and unloading of vehicles containing the equipment, structures and food.

HANDHELD DEVICE

- (1) Film, still or television camera, video or digital camera, or other equipment held in the photographer's or filmmaker's hand, carried at all times 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 photography, filming or transmission; or
- (2) Tripods 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 Town which is within the jurisdiction and control of the Town or involving the use of any Town-owned or maintained facilities or equipment or of a special district within the Town for which the Town Board serves as the Board of Commissioners.

TOWN

The Town of North Hempstead.
[Added 9-12-2012 by L.L. No. 12-2012]

TOWN ATTORNEY

The person designated by the Town Board as the Town Attorney of the Town of North Hempstead.

TOWN BOARD

The Town Board of the Town of North Hempstead.
[Added 9-12-2012 by L.L. No. 12-2012]

TOWN CLERK

The Town Clerk of the Town of North Hempstead.
[Added 9-12-2012 by L.L. No. 12-2012]

TOWN FACILITY

Any land or building owned, leased, operated or controlled by the Town of North Hempstead or a special district operated by the Town of North Hempstead.

§ 36-3 Permits required.

- A. No person shall film or allow filming on public lands within the Town of North Hempstead without first obtaining a permit therefor from the Town Clerk in accordance with this chapter, except as provided for in § 36-4 hereof.
- B. No person shall film or allow filming on private property within the Town of North Hempstead without first obtaining a permit from the Town Clerk in accordance with this chapter when such filming shall result in an incidental use of public lands, except as provided for in § 36-4 hereof. Any incidental use of public lands that obstructs any public lands or interferes with the use of any public lands requires 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. Permits shall be obtained in the office of the Town Clerk during normal business hours. Applications for such permits shall be in accordance with § 36-5 and shall be accompanied by a permit fee in the amount established by the Town.
- D. One permit shall be required for each location.
- E. [1]The maximum number of consecutive days on which filming may be authorized shall not exceed 14, without a waiver pursuant to this chapter.
[Amended 9-12-2012 by L.L. No. 12-2012]

[1]: Editor's Note: Former Subsection E, regarding permits authorizing filming for one day only at one location only, was repealed 9-12-2012 by L.L. No. 12-2012. This local law also redesignated former Subsections F and G as Subsections E and F, respectively.
- F. If a permit is issued and due to inclement weather or other good cause, not within the control of the applicant, filming does not in fact take place on the date or dates specified, the Town Clerk may, at the request of the applicant, issue an amended permit for filming on other dates subject to full compliance with all other provisions of this chapter. No additional fee shall be required for an amended permit under this section.

§ 36-4 Exemptions.

Notwithstanding the requirements of this chapter, the filming activities designated below do not require a permit to be obtained pursuant to this chapter, if such activity does not obstruct or interfere with the use of any public lands. For purposes of this section, the term "obstruct or interfere with the use of any public lands" shall mean any filming activity which impedes or which involves the blockage, interruption or closure, in whole or in part, of any public lands.

- A. Filming and coverage by news media.
- B. Filming by and intended for the exclusive use of the owner and his/her immediate family.
- C. Filming occurring on public lands or on private property resulting in an incidental use of public lands, and involving the use of a handheld device, as defined herein.
- ~~D. Filming occurring at a Town of North Hempstead park or other facility in which the Town Board has established, or establishes, by local law or resolution, a fee schedule~~

~~and/or policy governing rules of conduct for such activity. In such instances, said fee schedule and/or policy shall be complied with in all respects.]~~

§ 36-5 Applications for permit.

All permits shall be applied for and obtained from the Office of the Town Clerk. Applications ~~[shall be obtained from and]~~ **may be** submitted to the Town Clerk in person **during normal business hours,** ~~[or]~~ by mail, **by email or by online form in the event that an online form is developed for this purpose.** ~~and~~ **Any application** must contain at least the following information:

- A. The name, address and telephone number of the applicant.
- B. The name, address and telephone number of the person or entity making the film.
- C. The name, address and telephone number of the location coordinator or other contact person.
- D. The location of the property where filming, etc., is to take place **and the location of any property to be used by the applicant as a base camp.**
- E. Whether the applicant is the owner or tenant in possession of the property **to be used for filming or as a base camp.**
- F. The name and address of the owner of the property, if the applicant is not the owner.
- G. The consent of the owner **of the property to be used for filming or as a base camp,** if other than the applicant.
- H. The date filming is to take place and the hours of filming.
- I. A statement indicating the nature and scope of filming, specifically detailing any excessive noise, illumination or other special effects and any potentially dangerous activity or creation of a dangerous condition, such as the use of explosives, pyrotechnics, animals, weaponry and stunts that may endanger the public's health~~[m]~~, safety or welfare. [Added 9-12-2012 by L.L. No. 12-2012[1]]

[1]: Editor's Note: This local law also redesignated former Subsections I through L as Subsections J through M, respectively.
- J. A list and description of all vehicles and their license plate numbers, including the applicant's vehicles and vehicles of the applicant's personnel.
- K. A list and description of all props, sets and equipment to be used in connection with the filming.

- L. Any other approval the Town Clerk deems necessary, together with any conditions which may be set forth.
- M. A signed statement that the applicant affirms, under penalty of perjury, that all statements contained in the application are true.

§ 36-6 Rules and regulations.

- A. No permit shall be issued for filming within the Town of North Hempstead unless the applicant for such permit:
 - (1) Provides proof of insurance coverage for damage to property in the amount of \$250,000 for any single claim and for any aggregate occurrence in the amount of \$1,000,000; for bodily injury for any person in the amount of \$500,000 and for any aggregate occurrence in the amount of \$2,000,000. Each such insurance policy shall name the Town of North Hempstead as an additional insured party.
 - (2) Agrees, in writing, to indemnify and hold harmless the Town of North Hempstead from any and all liability or damages resulting from the use of such public lands.
- B. The holder of a permit shall take all reasonable steps to minimize interference with the free passage of pedestrians and traffic over public lands and shall comply with all lawful directives issued by the Police Department or by the Town with respect thereto.
- C. The holder of a permit shall conduct filming in such a manner as to minimize the inconvenience or discomfort to adjoining property owners and/or residents which is attributable to such filming and shall, to the extent practicable, abate noise and park vehicles associated with such filming off the public streets. The holder shall avoid any interference with previously scheduled activities on public lands and shall limit, to the extent possible, any interference with normal public activity on such public lands.
- D. The holder of a permit shall take all reasonable steps to minimize the creation and spread of debris, litter and rubbish during filming and shall be responsible for removing all equipment, debris, litter and other rubbish from the filming location upon the completion of filming or the expiration of the permit, whichever comes first.
- E. The holder of a permit shall notify the appropriate Police and Fire Departments that it intends to film at the authorized location not less than ~~[48]~~72 hours before such filming shall commence.
- F. The holder of a permit that will allow the closing of a sidewalk, street or other public lands shall notify all properties directly affected by such closing, in writing, not less than ~~[48]~~72 hours before such closing shall begin.

G. **The Town may require the holder of a permit issued under this Chapter to provide notification of a planned filming to residents and businesses within 300 feet of the location of any anticipated parking (if occupying more than three parking spaces) or traffic obstruction. Such notification must distributed to each resident and business not less than 72 hours in advance of filming, when feasible. Each notification must include the following information:**

- (1) Name of production company**
- (2) Date and times of filming**
- (3) Description of filming activities**
- (4) Local production contact name and phone number**

[G]**H.** Filming hours:
[Amended 3-8-2011 by L.L. No. 5-2011]

- (1) Filming and related activities shall only be permitted between the hours of 7:30 a.m. and 9:00 p.m.
- (2) The arrival and setup of equipment and vehicles and the breakdown of such equipment and vehicles at the end of the filming shall be accomplished within the permitted time period.
- (3) Notwithstanding the above, an applicant may request authorization for modified filming hours, either earlier than 7:30 a.m. or after 9:00 p.m., by submitting a written request to the Town Clerk setting forth the specific dates and hours for which the applicant is seeking to film. A written request for such modified filming hours shall be subject to the following:
 - (a) The Town Clerk shall review the request and render a proposed written determination that shall be forwarded to the Supervisor and the Councilperson within whose district the filming is proposed to be [done]**conducted.**
 - (b) **Whenever practicable,** [T]the Supervisor and the Councilperson shall have three business days to consider the applicant's request and the proposed determination rendered by the Town Clerk, and each may provide comments and/or recommendations to the Town Clerk prior to the expiration of said time period.
 - (c) In the event that the Supervisor and the Councilperson provide no comments and/or recommendations, the proposed determination rendered by the Town Clerk shall become final and conclusive and shall be incorporated into the filming permit. In the event that the Supervisor

and/or Councilperson provide comments and/or recommendations contrary to the proposed determination rendered by the Town Clerk, those comments and/or recommendations shall prevail, be final and conclusive, and shall be incorporated into the filming permit.

[H]I. Upon receipt of an application for a permit with a filming location in a ~~[Town park]~~**Town Facility**, the ~~[Town Clerk shall transmit a copy of the application to the Commissioner of Parks, who shall approve or deny the use of the park. In approving an application for use of the park, the Commissioner of Parks may set reasonable conditions upon the applicant. In addition to fees as set forth in § 36-9 hereof, the applicant must pay any additional park use fees and agree to abide by the rules and regulations of said park unless otherwise authorized by the Commissioner of Parks.]~~**Town Attorney or his/her designee, who shall notify the applicant of any additional fees necessary for the use of the Town Facility pursuant to Section 36-9 herein and for the purpose of entering into a license agreement for the use of the Town Facility. The Town Clerk shall not approve such an application unless and until such fees and license are agreed upon to the satisfaction of the Town Attorney or his/her designee.**

[Added 9-12-2012 by L.L. No. 12-2012]

[F]J. Any permits issued hereunder shall not be transferable.

[Added 9-12-2012 by L.L. No. 12-2012]

[J]K. The holder of a permit agrees to abide by all provisions of this chapter, the specific terms and conditions of the permit, and all applicable Town, state, and federal laws or rules.

[Added 9-12-2012 by L.L. No. 12-2012]

§ 36-7 Review by Town Clerk.

A. The Town Clerk shall, upon receipt of a complete application for a permit under this chapter, communicate with the appropriate Police Department, Fire Department and Town department(s) for such public lands for which the permit is sought and shall request a written recommendation from each such agency as to whether the proposed filming could be ~~[done]~~**conducted** without creating a danger to the public or a public nuisance. Upon written recommendation from said agency(ies) having jurisdiction, the Town Clerk shall have the authority to require one or more on-site police patrolmen, or fire prevention and/or emergency responders, or additional private security, or such other licensed personnel as may be deemed appropriate, the cost of which, in its entirety, shall be borne by the applicant as a cost of production.

B. The Town Clerk may refuse to issue a permit after a review of the application, whenever a determination is made that the proposed filming would violate any law or ordinance **or unduly interfere with normal governmental or Town operations** 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, would 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 explosives, the use of stunts, helicopters, firearms or simulated firearms, [ø]otherwise endanger the public's health, safety or welfare **or unreasonably impedes or adversely affects the quality of life of the Town's residents or businesses.** Such refusal shall be in writing and shall specify the reasons for the refusal.

C. After receipt of an application under this Chapter, the Town Clerk shall provide notice of the application and the location of filming specified in the application to the Supervisor and to the Councilperson for the district in which the filming is to take place.

§ 36-8 Appeals to Town Board.

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

§ 36-9 Fees.

[Amended 9-12-2012 by L.L. No. 12-2012]

Each permit application shall be accompanied by payment of [The fee for a permit under this chapter shall be set according to the] **fees in** the amounts established [indicated in] **by** the Town of North Hempstead Permit Fee Schedule as adopted by resolution of the Town Board. **Such fee schedule may provide for the following:**

A. A non-refundable application fee.

B. A facility fee for use of Town Facilities, which fee may be identical for all Town Facilities or differentiate between Town Facilities.

C. An additional fee in the event that a base camp is designated or required.

D. An expedite fee to be assessed when the Town Clerk, at his or her discretion, receives a permit application for filming is to commence less than five (5) business days following the date of the application.

E. Other fees as may be deemed necessary or desirable by the Town Board.

The applicant shall also pay any fees or charges assessed by the Town to reimburse the Town for other personnel costs made necessary by filming at any location.

§ 36-10 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; 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. The imposition of such fine shall not be the Town's exclusive remedy in the event of a violation of this chapter. The Town may pursue any and all other legal remedies available to it in connection with any violation of this chapter.

§ 36-11 Waiver.

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

§ 36-12 Permit suspension in emergency circumstances.

- A. During the course of filming, any authorized Town Code enforcement official or a police officer of the appropriate police agency 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 hours occurs, permittees may appeal to the Town Board in the manner prescribed in § 36-8 hereof.[1]

[1]: Editor's Note: Former § 36-13, When effective, was repealed 9-12-2012 by L.L. No. 12-2012.

Section 3.

This Local Law shall take effect upon filing with the Secretary of State.