

## **MEMORANDUM**

**To:** Mayor and City Council

**From:** Jessica Guinn

**Date:** September 15, 2015

**Subject:** **Update of Film and Video Policy**

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### **ITEM DESCRIPTION**

Update of Film and Video Policy to incorporate additional provisions for photography

### **BACKGROUND**

The current Film and Video Policy, which was adopted by the City Council on April 23, 2012, defines Filming as, "...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..." Under the current definition, commercial still photography, including local photographers operating as a small business, is subject to the same fees as filming for major motion pictures.

Nearby jurisdictions, including Roswell and Johns Creek, offer a photography permit to allow for commercial photography on public property. Upon review of these policies, staff recommends that a similar policy be employed in Dunwoody. As proposed, the "Film and Video Policy" would be renamed "Media Production and Photography Policy." The policies and procedures for filming would remain unchanged; however, the proposed revision provides a permit for professional or portrait photography shoots on public property, which do not exceed two hours in duration or ten minutes of set-up/teardown time. Photography shoots exceeding the time limitations would be held to the same requirements as filming or media productions. Options for both an annual photography permit and a one-day photography permit are included within the revision to the policy.

### **RECOMMENDED ACTION**

Consider and approve the proposed revisions to the Film and Video Policy, which would be renamed Media Production and Photography Policy.

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## **MEDIA PRODUCTION AND PHOTOGRAPHY POLICY**

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

The City of Dunwoody desires to make it easier for media production and photography in the City insomuch as 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 media production and photography 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.

This policy has been designed in order to outline the parameters and process for obtaining a permit for any commercial media production or photography to occur in the City of Dunwoody.

### **II. Summary of Procedures and Scope**

The procedures for media production and photography, and requirements for permitting, vary depending on the location and scope of the activity.

#### **1. Media Production on Private Property**

Media Production on private property requires permission of the property owner but does not require a permit from the City unless certain activities are included which may impact 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 media production outside the hours permitted by the City's Noise Ordinance.

#### **2. Media Production on Streets and Right-of-Way**

Media production on streets and right-of-way requires a permit from the City. Any media production activity that may disrupt the normal flow of traffic will require the hiring of off-duty, POST-certified police officers. Any costs for the hiring of off-duty, POST-certified police officers shall be paid for by the applicant.

#### **3. Media Production on Public Property**

Media production 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. Any costs for the hiring of off-duty, POST-certified police officers shall be paid for by the applicant.

#### 4. Photography on Public Property

Photography on public property, including publically owned parks and facilities, requires a permit from the City. An annual permit is available, which is valid for one year from the date issued. A one-time permit is also offered for a single photography session of up to two hours with no more than ten minutes for set-up or teardown. Photography events that are expected to shoot for more than two hours or require more than ten minutes of set-up/teardown time will require a Media Production Permit. Any photography shoots impacting streets or right-of-way will also require a Media Production Permit.

### 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 media production* means and includes all activity involved or ancillary to filming or photographing any entertainment or advertising programs for any media now known or hereafter created for profit.

*Charitable or student media production* means any filming or photography 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.

*Contact* means the person responsible for acquiring a media production or photography permit.

*Media Production* means and includes all activity involved or ancillary to staging or shooting motion pictures, television shows or programs, commercial still photography shoots exceeding two hours or ten minutes of set-up/teardown time, video tapes, commercial film, computer-based programs, or other visual reproduction technology now known or hereafter created. The period of production includes the set-up, strike and time of photography, and any pre-production and post-production activities on said media production.

*Media Production Permit* means the permit required by this policy for media production, including photography shoots exceeding two hours or ten minutes of set-up/teardown time, or photography shoots impacting streets or right-of-way.

*Photography* means professional or portrait photography on public property in the City of Dunwoody. Photography to be used by the photographer solely for personal or noncommercial purposes does not require a permit.

*Photography Permit, Annual* means the annual permit required by this policy for photography shoots of no more than two hours and requiring no more than ten minutes set-up/teardown time. This permit allows the permittee to provide photography services on public property for one year from the date of issuance.

*Photography Permit, Daily* means a one day permit required by this policy for photography shoots of no more than two hours and requiring no more than ten minutes set-up/teardown time. This permit allows the permittee to provide photography services on public property for one calendar day upon issuance.

*Production Crew* means any and all persons who are in any way involved with or engaged in media production, 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 media production.

*Production Location* means any location at which media production is to take place.

*Production Equipment* means and includes any and all equipment utilized during production 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 production 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 media production.

**IV. Process for Application and Application Review**

The City shall utilize the following process for consideration of media production or photography permits:

1. Application

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

## 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 media production or photography for review, evaluation, investigation, and recommendations regarding approval or disapproval of the application.
- b. As part of its due diligence, for media production occurring on public property, the City may seek to acquire basic information about the proposed production and/or a treatment for the production.
- c. Proposed media production or photography 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.
- d. Onsite food preparation may also require review and certification by the DeKalb County Health Department. Catered and/or pre-packaged food is not subject to this provision. Media production companies are encouraged to use local Dunwoody businesses to provide craft services.

## 3. Application Approval or Denial

- a. The City's approval or denial of an application for a media production or photography permit shall be provided to the applicant in writing within 5 days of the receipt of a complete application. Failure by the City to respond within 5 days does not automatically signify the City's approval of the application.
- b. Applicants who are denied a permit for media production 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 media production or photography on City-owned property.

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- c. Conditions to issuing a media production permit include, but are not limited to the execution of a Property Use Agreement for the use of 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.
  2. 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 contact of the amount, and this bond shall be remitted to the City before the filming permit is issued.
- d. Reasons for denial of a media production or photography permit include, but are not limited to:
1. False or incomplete information on the application;
  2. The media production or photography will disrupt traffic within the City beyond practical solution;
  3. The media production or photography will interfere with access to fire stations and/or fire hydrants;
  4. The location of the media production or photography will cause undue hardship to adjacent businesses or residents beyond practical solution; or
  5. The media production or photography will cause disruption of public services which would unreasonably impact the remainder of the City.

#### 4. Revocation of a Media Production or Photography Permit

- a. Reasons for revocation of a media production or photography permit include, but are not limited to:

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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.

## **V. Permit Fees**

The permit fees for media production and photography 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 media production or photography permit and in any event no later than 48 hours after the commencement of filming.
2. The fees required by this policy shall be in addition to any other fees which may be required by any other applicable Ordinances.
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.
4. Charitable or student media productions 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.

## **VI. Exceptions**

1. The following media production and photography 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. Sound, visual, or sound and visual recordings of open meetings of the State, County, City, School Board, or other political subdivision of the State.
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## **VII. Responsibility**

The City Council and the City Manager all have specific duties in regards to Media Production and Photography Policy.

1. City Council
  - a. Adopt a policy for media production and photography and associated fees.
  - b. Update the policy for media production and photography 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 media production or photography in the City.
  - b. Ensure applications are reviewed in a timely manner.
  - c. Make final decisions as to the approval or denial of media production or photography permits.
  - d. Designate a City media liaison that shall be the point of contact throughout media production.



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