

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2010-__

AN ORDINANCE TO REQUIRE PERMITS AND FEES FOR MOTION
PICTURE AND TELEVISION PRODUCTIONS; REPEALING SECTION
9.F OF ORDINANCE NO. 1992-3, BUSINESS REGISTRATION AND
LICENSING ORDINANCE, REQUIRING REGISTRATION OR
LICENSING FOR MOTION PICTURE/TELEVISION
PRODUCTION/PHOTOGRAPHY ACTIVITIES; AND AMENDING
ARTICLE III, SECTION 1, TABLE III.1.6 OF ORDINANCE NO. 2008-12,
AN ORDINANCE ESTABLISHING PERMIT AND REVIEW FEES FOR
PROJECTS IN SANTA FE COUNTY, NEW MEXICO, PERTAINING TO
FILM PERMIT APPLICATION FEES

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF SANTA FE:

Section 1 – Title. Sections 1 through 10 shall be known as the Santa Fe County Film Ordinance.

Section 2 – Findings. Santa Fe County affords numerous locations for commercial filming by motion picture and television productions. The Board of County Commissioners finds that it is in the best interests of Santa Fe County to regulate such commercial filming activities to protect the health, safety, welfare and well being of the County and its residents by requiring permits and fees for those activities.

Section 3 – Definitions.

A. “Administrator” means the Land Use Administrator established under Ordinance 1996-10, Santa Fe Land Development Code, or comparable position under amended or successor ordinances.

B. “Applicant” means either the person requesting a film permit or an agent or representative with authority to bind the person requesting a film permit.

C. “Charitable films” means commercials, motion pictures, television, or videotapes produced by a nonprofit organization that qualifies under Section 501 (c) (3) of the Internal Revenue Code as a charitable organization and for which no profit shall be

received by any person, directly or indirectly, from marketing and production of the film or from showing the film.

D. “County Produced Government Access Films” means motion pictures or programs produced by or in association with Santa Fe County and for which no profit shall be received by any person, directly or indirectly, from marketing and production of the film or from showing the film.

E. “Family or personal use filming” means the filming or videotaping of motion pictures solely for private, personal or family use.

F. “Film,” “filming” or “filming activity” means all activity in preparation of, or attendant to, staging, making, striking, filming or video recording of commercial motion pictures, television shows, programs and commercials, including magazine or documentary programs and still photography productions involving ten (10) or more people.

G. “Film permit” or “permit” means written authorization from the Administrator to conduct filming activity as described in the permit.

H. “Major production” means a production operating with a cast and crew which exceeds fifteen (15) members associated with the production.

I. “Media District” means a specific district within the Santa Fe Community College District where a variety of media businesses such as, publishing, broadcast and filming activities are regularly conducted entirely upon the premises.

J. “News media” means photographing, filming or videotaping for the purpose of either planned or unplanned reporting by television news broadcasts, newspapers or other reporting by reporters, photographers or camera operators concerning persons, scenes or events which are in the news and of general public interest.

K. “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, sole proprietorship, association, joint venture or any legal or commercial entity.

L. “Student films” means motion pictures, television programs or commercials produced to satisfy a course or curriculum requirement at an educational institution. The student filmmaker must be currently enrolled at an educational institution.

M. “Studio” means a sound stage comprised of a controlled interior environment, approved by Santa Fe County, where filming activities are regularly conducted upon the premises.

N. “Small Scale Production” means a production operating with a cast and crew of fifteen (15) members or less associated with the production.

Section 4 –Film Permit Exemptions

No film permit shall be required for the following activities.

A. News media activities performed by reporters, photographers or camera operators employed by a television station, news service, newspaper or similar entity engaged in on-the spot media, publishing or broadcasting of news events.

B. Family or personal use filming.

C. Charitable Films.

D. Still photography productions involving less than ten (10) people.

E. County Produced Government Access Films.

F. Filming activities occurring within the Media District.

G. Student Films.

H. Filming activities conducted within a sound stage or Studio pursuant to a valid Santa Fe County business license.

Section 5 – Film Permit Requirements

A. Permit Application: Any person intending to occupy or use any private property, property owned or controlled by Santa Fe County or other public property subject to Santa Fe County’s jurisdiction for filming activity shall submit an application for a film permit to the Administrator (Santa Fe County Land Use Department) in the form prescribed by the Administrator at least ten (10) working days prior to the date on which the person intends to commence filming. If filming may interfere with traffic or may involve potential safety hazards, the application shall be submitted at least fifteen (15) working days prior to the date on which the person intends to commence filming. In determining whether to grant the film permit, deny the permit or to grant the permit in part and to deny the permit in part, the Administrator shall consider the following: public health and safety, avoidance of undue disruption to persons within the area where the filming is proposed, traffic congestion and safety of private and public property. The application for a film permit shall require the Applicant to provide such information as may be required by the Administrator to evaluate the application, indemnify and hold Santa Fe County harmless from the filming activity and provide proof of insurance naming Santa Fe County as an additional insured. A person who fails to apply for a filming permit when required to do so shall be deemed in violation of this Ordinance and if found guilty of violating this Ordinance may be punished in accordance with NMSA 1978, Section 4-37-3 (1975) (as amended).

B. Change of Filming Date(s): Upon request by the holder of a film permit, the Administrator may, upon a showing of good cause, change the date(s) for which a film permit has been issued, provided all other requirements, including duration and location of filming, shall continue to be met.

C. Acknowledgement in Film Credits: The Applicant shall agree that an acknowledgment shall appear in the credits of the motion picture, documentary or television program stating the production was filmed within Santa Fe County.

D. Dismantlement of Temporary Structures: If filming activity includes construction of any temporary structures, the Applicant shall be responsible for dismantling them and returning the property to its original condition within thirty (30) days of the expiration of the permit.

E. Clean Up: The Applicant shall conduct operations in an orderly fashion with continuous attention paid to the storage of equipment not in use and the cleanup of all trash and debris at the property used for filming. The property used for filming shall be cleaned of trash and debris upon completion of filming and restored to its original condition.

F. Consent for Filming: The Applicant shall obtain the property owner's written permission, consent, and/or lease for the use of any property to be used for filming not owned or controlled by Santa Fe County and a copy of the property owner's written approval shall accompany the film permit application. If the property to be used for filming is owned or controlled by Santa Fe County, the Applicant shall execute a lease or other written approval acceptable to Santa Fe County to use the property for filming and a copy of that approval shall accompany the film permit application.

G. Flood Control: When filming in a floodplain area or an area subject to flooding, an Applicant must vacate the area when inclement weather is evident due to the potential for flash flooding in Santa Fe County.

H. Public Works Department: If the Applicant must park equipment, trucks, and/or cars on a County right-of-way or requires additional access from a County road, the Applicant shall obtain written pre-approval from the Santa Fe County Public Works Department and a copy of that written pre-approval shall accompany the film permit application.

I. Traffic Control: If filming activity may impair traffic flow, the Applicant shall be responsible for notifying the New Mexico Department of Transportation, the Santa Fe County Public Works Department, the Santa Fe County Sheriff's Department and the New Mexico State Police before the Applicant submits the film permit application to the Administrator. The Applicant shall include as part of the film permit application (1) proof of notification to the foregoing entities, (2) their responses and (3) an explanation of all steps the Applicant shall take to comply with any traffic control requirements imposed by them. In addition, the following requirements shall apply:

- (1) The Applicant shall be responsible for requesting assistance from the Santa Fe County Sheriff's Department and/or the New Mexico State Police in mitigating any traffic flow impedance that may be caused by filming, shall be responsible for any unusual costs that may be incurred by the Sheriff's Office and/or the New Mexico State Police for providing such assistance and shall comply with all traffic control requirements that may be specified by the Administrator to grant the film permit application.
- (2) The Applicant shall furnish and install advance warning signs, any other traffic control devices and take all safety precautions as may be required by the New Mexico Department of Transportation and/or Santa Fe County Public Works Department.
- (3) Traffic may be restricted to one twelve (12) foot lane of traffic and/or stopped intermittently. The period of time that traffic may be restricted will be determined by the Santa Fe County Sheriff's Department or the New Mexico State Police, based on location. Traffic shall not be detoured across a double line without official prior approval.
- (4) Unless authorized by the Santa Fe County Sheriff's Department or the New Mexico State Police Department, camera cars must be driven in the direction of traffic and must observe all traffic laws.
- (5) Any emergency roadwork or construction by Santa Fe County and/or private contractors under permit or contract to the County shall have priority over filming activities.

J. Conflagration: If a scene requires a fire, pyrotechnics, campfire, explosions, open flame or burning a Fire Safety Advisor, Officer or a similarly qualified person, such as a Licensed Pyrotechnic Operator, shall be assigned by the Applicant to the movie set or site. Such activity must be pre-approved by the Santa Fe County Fire Marshal and all County Fire Marshal requirements shall be met. The Applicant shall submit as part of the film permit application (1) proof it has written pre-approval from the Santa Fe County Fire Marshal and (2) an explanation of all steps it shall take to comply with all County Fire Marshal requirements.

K. Notification: Unless waived by the Administrator, the Applicant shall take all reasonable efforts to provide at least forty-eight (48) hours advance notice to all persons occupying properties adjacent to the filming location.

Section 6 – Insurance and Hold Harmless Agreement

A. General Liability Insurance, Including Automobile: Before a film permit is issued, the Applicant shall obtain a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000 combined single limits of

liability for bodily injury, including death, and property damage for any one occurrence. The Applicant shall provide the Administrator with a certificate of insurance evidencing such insurance as part of the film permit application and Santa Fe County shall be named as an additional insured on the insurance policy.

B. Worker's Compensation Insurance: The Applicant shall comply with all Federal and State requirements for Worker's Compensation Insurance for those employed for the film production.

C. Hold Harmless Agreement: The Applicant shall execute an Indemnification Agreement in the form specified by the Administrator prior to the issuance of a film permit.

D. Performance Deposit/Surety Bond: To ensure cleanup and restoration of the property where filming will occur, the Applicant may be required to post a refundable deposit, in the form of a letter of credit or surety bond at the time the permit application is submitted. Upon completion of filming an inspection of the filming location site shall be conducted by the Administrator and the deposit may be returned to the Applicant upon determination resort the deposit is not required for cleanup and restoration of the filming location. The amount of the deposit required will be determined by the Administrator and shall depend upon the nature of Filming proposed to assure the filming location site can be returned to its pre-film condition.

E. Children and Youth Services: An Applicant shall conform to all applicable State of New Mexico Children, Youth and Families Department requirements for all children and youth participating in the film production.

Section 7 – Permit Issuance, Revocation, Suspension

A. Permit Issuance. A film permit may be issued only after all appropriate agency signatures have been secured on the film permit application, all written approvals have been obtained, insurance and indemnification has been provided, all requirements imposed by the Administrator have been met and all permit fees have been paid.

The following information shall be included in the film permit application:

- (1) Name, address and phone number of the production company; name, address and phone number of the production company owner; address and telephone number of location(s) where filming activity is to be conducted.
- (2) Description of the specific filming location(s) and the type of scenes or activity to be filmed.
- (3) Hours and dates filming activity will occur. Hours noted shall include arrival and departure times.

- (4) General statement of the type or nature (e.g., feature film, documentary, commercial, etc.) of the filming activity.
- (5) Name, address and telephone number of the person or persons in charge of the filming activity.
- (6) Number of personnel to be involved (cast and crew) in the filming activity.
- (7) Specific location(s) of all staging areas.
- (8) Detailed site location map and detailed drawings of all structures proposed for construction by the production company. All structures, alterations and/or disturbance to the site must be dismantled and/or returned to pre-production condition within thirty (30) days of the expiration of the film permit.
- (9) Use of any animals.
- (10) Exact amount/type of vehicles/equipment to be involved.
- (11) All lights used for night filming must be shown on the site location map. To preserve the Santa Fe County night sky, all lighting must be site and/or scene specific.
- (12) Any contribution(s) to community organization(s) the Applicant intends to make for the overall benefit of the community where the filming activity will occur.

B. Permit Revocation. The Administrator may revoke a film permit if the Applicant, or any agent, employee, or contractor of the Applicant fails to comply with the requirements set forth in this Ordinance, or in the film permit, or if it is determined the film permit application was false in any material detail. Notice of the grounds for revocation of the Film Permit shall be provided in writing by the Administrator to the Applicant or person in charge at the location of the filming activity.

C. Permit Suspension. The County Sheriff and/or County Fire Department Officers may suspend the film permit if at any time the filming activity poses an immediate hazard to persons or property and the location manager will not, or cannot, prevent the hazard after being instructed to do so by a law enforcement officer. The grounds for the film permit suspension shall be provided in writing by the Administrator to the Applicant within two (2) working days of the suspension.

Section 8 – Appeals

The Applicant may appeal the denial of a Film Permit, or a revocation, suspension, or permit condition. Such appeal shall be filed with the Administrator not later than five (5) working days after the date the decision is made. Failure to timely file an appeal shall

result in a waiver to the right to appeal. The appeal process is subject to Article II, Section 2.3.4 of the Santa Fe County Land Development Code.

Section 9 – Film Permit Application Fees

The Applicant shall pay a Film Permit Application fee in the amount established by this Ordinance. The Film Permit Application fee shall be paid to Santa Fe County when the Application is submitted for approval. The Film Permit Application fee is to cover the County’s cost of processing a Film Permit Application. There may be added fees for additional related County services (including, but not limited to: law enforcement, traffic control, fire safety, trash hauling and attorney’s fees) as defined by the Film Permit Application, as amended. No Film Permit shall be issued to an Applicant who owes the County money on a prior permit.

A. Fee Table

Fee Type	Major Production	Small Scale Production	Episodic Television Production
Application Fee*	\$100.00	\$100.00	\$100.00
Base Fee - first five days of filming	\$150.00	\$75.00	0.00
Per Day Fee - after first five days	\$15.00	\$15.00	0.00
Monthly	0.00	0.00	\$225.00
Thirty Day Cap**	\$300.00	\$225.00	0.00
Per Day Fee Exceeding Cap***	\$10.00	\$10.00	0.00

*All permits are subject to this fee regardless of the scale or type of production.

** Fee will be capped on film activity which will be in production for up to 30 days.

***Per day fee for film activity exceeding 30 days of production.

Section 10 – Severability

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.

Section 11 – Repeal and Amendment

Section 9.F of Santa Fe County Ordinance No. 1992-3, Business Registration and Licensing Ordinance, Requiring Registration or Licensing for Motion Picture/Television Production/Photography Activities is hereby repealed.

Article III, Section 1, Table II.1.6 of Santa Fe County Ordinance No. 2008-12, an Ordinance Establishing Permit and Review Fees for Projects in Santa Fe County, New Mexico, Pertaining to Film Permit Application Fees is hereby amended by Section 9 hereof.

PASSED, APPROVED AND ADOPTED, on this ___ day of _____, 2010 by the Santa Fe County Board of Commissioners

 **DRAFT**

Harry Montoya, Chairman
Santa Fe County Board of Commissioners

ATTEST:

 **DRAFT**

Santa Fe County Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

 **DRAFT**

Stephen C. Ross, County Attorney