

## **ORDINANCE NO. 12062021-2**

**AN ORDINANCE OF THE CITY OF MILES ADOPTING “MILES FILMING GUIDELINES,”; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL PROVIDING A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, to become recognized as a “filming-friendly” city it is important for a city to adopt guidelines on filming that provide production companies and other entities with clear regulations to follow and that remove unexpected barriers to filming; and

**WHEREAS**, the City Council has determined that it would be advantageous to the image of Miles to become a filming friendly city; and

**WHEREAS**, Miles adopts certain Filming Guidelines by this Ordinance in order to strive to become recognized as a filming friendly city.

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

**SECTION 1.** That the foregoing recitals are adopted and made findings by incorporation herein.

**SECTION 2.** “Miles Filming Guidelines” are hereby adopted into the Miles Code of Ordinances and shall read as follows:

### **“Sec. 1. PURPOSE.**

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

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.

### **Sec. 2. MAYOR AUTHORITY.**

The Mayor 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 Mayor 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 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., Police, 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 Mayor.

### **Sec. 3. PERMIT REQUIREMENTS.**

Before filing an application, on such form as promulgated by the Office of the Mayor, for filming in the City, the Office of the Mayor must be contacted to discuss the production's specific filming requirements and the feasibility of filming in the City.

Any commercial producer who desires to undertake a commercial production in the City is required to complete and return the attached application for filming to the Office of the Mayor, 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.

### **Sec. 4. APPLICATION FEE.**

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

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

### **Sec. 5. USE OF CITY EQUIPMENT AND PERSONNEL.**

The Applicant shall pay for all costs of any Police, 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 Mayor. The Applicant shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. The Mayor may, at his/her discretion, require an advance deposit for all costs related City personnel and/or the use of City equipment.

The Mayor, in consultation with the Chief of Police and/or 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.

#### **Sec. 6. USE OF CITY-OWNED REAL ESTATE.**

The Mayor may authorize the use of any street, right-of-way, park or public building, use of the City 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 Mayor 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 Mayor.

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 3 hours/day (unless approved for additional)
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 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.

#### **Sec. 7. 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 Mayor. 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 Mayor.

## **Sec. 8. HOURS OF FILMING.**

Unless express written permission has been obtained from the Mayor 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.

## **Sec. 9. NOTIFICATION OF NEIGHBORS.**

The Applicant shall provide a short, written description, approved by the Mayor, 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 Mayor, the Mayor may grant or deny the filming application.

## **Sec. 10. 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 Miles 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. The City of Miles must be addressed as certificate holder. Applicant's insurance should be primary and include waiver of subrogation in favor of the City.

## **Sec. 11. 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.

## **Sec. 12. 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 Miles, Texas. **I AND MY FIRM WILL INDEMNIFY AND HOLD HARMLESS THE CITY OF MILES, 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 Miles on behalf of the firm.

Signed: Amy Fischer  
Title: City Secretary  
Date: 12-6-2021

**Sec. 13. Violations; Penalty.**

- (a) A person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a separate offense for each and every violation, and for each day during which a violation is committed, permitted, or continued.
- (b) An offense under this chapter is punishable by a fine of not more than \$500.
- (c) A culpable mental state is not required for the commission of an offense under this article and need not be proved.
- (d) The penalties provided for in Subsection (b) are in addition to any other remedies that the city may have under city ordinances and state law."

**SECTION 3.** The phrase "City Property" used in the Filming Guidelines includes all streets and rights-of-way, whether or not owned in fee by the City.

**SECTION 4.** The Mayor may make changes to the application form or other documents as the Mayor deems necessary, but the Filming Guidelines may only be amended by the City Council.

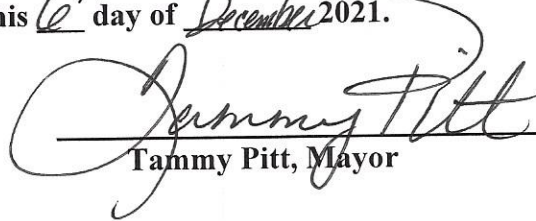
**SECTION 5.** That a violation of any provision of this Ordinance shall be a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00) upon conviction.

**SECTION 6.** It is hereby declared by the City Council of the City of Miles that if any of the sections, paragraphs, sentences, clauses, phrases, words, or provisions of this ordinance should be declared unconstitutional or otherwise invalid for any reason, such event shall not affect any remaining sections, paragraphs, sentences, clauses, phrases, words, or provisions of this ordinance.

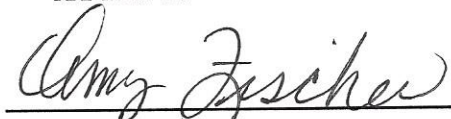
**SECTION 7.** All ordinances or portions thereof to the extent they are in conflict with this Ordinance regarding the subject matter of this Ordinance are repealed.

**SECTION 8.** This ordinance shall become effective upon passage and publication of its caption. The City Secretary is directed to publish the caption of this Ordinance in the Official Newspaper of the City.

**PASSED AND APPROVED** on this 6<sup>th</sup> day of December 2021.

  
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Tammy Pitt, Mayor

**ATTEST:**

  
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Amy Fischer  
City Secretary

