Agenda Item Form

Agenda Date: 08/24/04

Districts Affected: ALL DISTRICTS
Dept. Head/Contact Information: David Dobson/541-4872

Type of Agenda Item:

- ☐ Resolution
- ☐ Tax Installment Agreements
- ☐ RFP/ BID/ Best Value Procurement
- ☐ Application for Facility Use
- ☐ Interlocal Agreements
- ☐ Other _____
- ☐ Staffing Table Changes
- ☐ Tax Refunds
- ☐ Budget Transfer
- ☐ Bldg. Permits/Inspection
- ☐ Contract/Lease Agreement
- ☐ Board Appointments
- ☐ Donations
- ☐ Item Placed by Citizen
- ☒ Introduction of Ordinance
- ☐ Grant Application

Funding Source:

- ☐ General Fund
- ☐ Grant (duration of funds: _____ Months)
- ☒ Other Source: permit fee

Legal:

☒ Legal Review Required Attorney Assigned (please scroll down): Matt Watson ☒ Approved ☐ Denied

Timeline Priority: ☐ High ☒ Medium ☐ Low # of days: 5

Why is this item necessary:
To attract more Commercial Film/Video projects to El Paso by expediting the permitting process

Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:
No incremental costs since a fee per filming location is still paid. Potential cost savings by streamlining review process and reducing need for legal preparation of ordinances each time a Special Privilege Permit is requested.

Statutory or Citizen Concerns:
None

Departmental Concerns:
None

City of El Paso
Economic Development Department

MEMORANDUM

TO: Mayor and City Council
Jim Martinez

FROM: David G. Dobson, Director

SUBJECT: Introduction of Ordinance
Regular Agenda, City Council Meeting of August 24, 2004
Public Hearing of September 7, 2004

DATE: August 19, 2004

The introduction of two ordinances is necessary for the streamlining of permitting processes in order to effectively position El Paso as a "film friendly" city. Attracting more commercial production companies to do feature films, such as the upcoming Disney movie "Glory Road – the Don Haskins story," TV pilots, and video projects will provide an added infusion into the City's overall economy. This can best be accomplished by streamlining the permitting process for filming on public rights-of-way and City property.

Modification of the ordinances will allow for an administrative review (rather than City Council authorization) of encroachment onto public rights-of –way and City property, and an issuance of filming permits within five days. This would do much to enhance our image as a place to do business.

There are no incremental costs and a fee per application is charged to the production company. However, there are potential cost savings by streamlining the review process by reducing the need for legal preparation of ordinances ultimately eliminating the need for a "Special Privilege Permit" request.

Should you have further questions, please feel free to contact me at 541-4872.

Thank you.

2 Civic Center Plaza, 1st Floor • El Paso, Texas 79901 • (915) 533-4284, Fax (915) 541-1316

AN ORDINANCE AMENDING TITLE 13 (STREETS, SIDEWALKS AND PUBLIC PLACES), TO CREATE CHAPTER 13.30 (FILM-MAKING EVENTS), OF THE EL PASO MUNICIPAL CODE; TO CREATE PROVISIONS FOR THE ISSUANCE OF PERMITS FOR CERTAIN TYPES OF USES OF STREETS, ALLEYS AND OTHER AREAS OWNED BY THE CITY; TO ESTABLISH CRITERIA FOR THE CONSIDERATION, ISSUANCE AND REVOCATION OF THE PERMITS; TO PROVIDE FOR THE ISSUANCE OF PERMITS; TO ESTABLISH FEES; TO PROVIDE FOR AN APPEAL PROCESS; AND TO CREATE DUTIES FOR PERMITTEES AND PARTICIPANTS; THE PENALTY BEING AS PROVIDED IN SECTION 13.30.110 OF THE MUNICIPAL CODE.

WHEREAS, the City wishes to streamline the procedure of applying for and obtaining permits for film-making events by separately providing for the issuance of these permits in a new chapter of the City Code;

WHEREAS, the City finds that creating separate permits for film-making events will create a more efficient process by which requests for these temporary uses of streets and other City buildings or facilities can be taken and processed by the City, which also benefits the residents and other users of the City's streets;

WHEREAS, the City finds that the film-making events included under this chapter are not events that involve the exercise of First Amendment rights guaranteed under the United States Constitution so that it is appropriate to separate the issuance of these permits from the issuance of parade permits; and

WHEREAS, the enactment of this ordinance to create this system of permits for allowing for certain limited temporary uses of the City's streets and alleys is done in compliance with the City Charter.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Chapter 13.30 (Film-making Events) of the El Paso Municipal Code shall be created.

Section 2. That Section 13.30.010 (Definitions) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.010 Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"City Equipment" means fire, police, street, machinery or other mechanical devices owned and used by the City of El Paso.

"City Facility" means any City owned real property and any improvements made thereto.

"Commissioner" means the El Paso Film Commissioner.

"Director" means the director of the department of Economic Development for the City of El Paso or that person's designee for purposes of review and approval, approval with modifications, or denial of proposed film-making permit applications.

"Film-making event" means any filming or photography session done for commercial purposes in connection with the making of a film, movie, television production, commercial or like endeavor, which requires the closing of the street or a portion thereof to normal vehicular traffic or the use of a City building or facility for a period of time of less than forty-eight hours.

"Location" means any street, alley, other City of El Paso right-of-way, building, or facility proposed to be utilized for a film-making event.

"Non-Public Buildings" means the non-public portion of any City Building or Facility not otherwise designated for public use and instead currently utilized by City staff for City business.

"Permitee" means the individual to whom a film-making permit has been issued.

"Pre-designated department representative" means one of three employees within a given department authorized to review film-making permit applications. Such employees shall be the department head and two designees or three designees designated by a department head. The names of these individuals shall be provided to and kept on file with the El Paso Film Commission as a primary and secondary contact for each department requiring review of a film-making permit application. Each pre-designated department representative shall be authorized to provide approval on behalf of the respective department.

"Right-of-way" means the entire area of a street or alley owned by the City in easement or by fee simple interest, including the driving surface of the street and any improved or unimproved abutting land not used for vehicle traffic.

"Street" means that portion of public right-of-way improved, designed or ordinarily used for vehicular traffic to include alleys when applicable.

Section 3. That Section 13.30.020 (Permit required) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.020 Permit required.

A person or organization conducting a film-making event involving the proposed use of a city right-of-way or facility shall apply for a permit for such use from the Commissioner in accordance with this chapter. The Director is authorized to issue a permit for any person or organization in compliance with all requirements enumerated herein. Any person requesting the use or closure of a right-of-way or city facility for more than 48 hours, or that is not otherwise permitted by this chapter, shall submit the request in accordance with the provisions in chapters 13.32 or 15.08 of this code, or obtain a lease or licensing agreement for the use of a city facility, as applicable.

Section 4. That Section 13.30.030 (Obedience to other laws required) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.030 Obedience to other laws required.

This chapter shall not be construed to authorize the use of city facilities or rights-of-way for film-making events except in exact compliance with the laws of the state and other ordinances of the city applicable thereto, and persons who violate such other laws and ordinances shall be subject to the penalties provided in the other applicable laws and ordinances.

Section 5. That Section 13.30.040 (Permit application) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.040 Permit application.

An application for a film-making event permit must be made for each film-making event project (including but not limited to, a motion picture, commercial or documentary) on a form provided by the city and filed with the Commissioner. Additionally, a Location Information Form must be similarly filed for each location proposed on the permit application. Locations, when approved, provide for the use of City rights-of-way or facilities for periods not to exceed 48 consecutive hours per location. Request for use of rights-of-way for more than 48 consecutive hours at a particular location shall require a special privilege license as provided for in chapter 15.08 of the El Paso Municipal Code.

A. Application Filing & Review. An application shall be filed with the Commissioner. No materially incomplete application shall be accepted. Upon receipt of a materially complete application, the Commissioner shall timestamp and assign an application number to the project together with a separate location number for each proposed film-making event location. The applicant, or the Commissioner on behalf of the applicant, shall then be responsible for obtaining a recommendation for each proposed location from all affected departments as outlined below:

1. The Commissioner shall immediately forward the application to all the departments for which application review is required and shall additionally inform Council members of any locations proposed within their district. The Commissioner or applicant shall work with a pre-designated departmental representative to facilitate timely review. A pre-designated department representative for film-making events permitting shall provide a recommendation for approval, approval with modification, or denial for each proposed location along with applicable departmental comments. A pre-designated department representative shall make every effort to provide a recommendation within one business day.
2. Departments where review is required shall be Fire, Police, Sun Metro, Solid Waste, Traffic-Engineering, and Streets. Other departments may be requested to review the application, as determined to be appropriate by the Commissioner. Review by and approval by the Director of Aviation shall be required for any proposed filming on City of El Paso airport property. Similarly, proposed use of non-public buildings shall require City Manager Approval. The use of any police or fire facility shall require approval of the police or fire marshal respectively.
3. A pre-designated department representative shall provide written acknowledgment of receipt. Any department required or requested to review shall make recommendation and provide comments by no later than the close of business on the third City Hall business day, after receipt. Upon completion of distribution to all departments making a review, the applicant or Commissioner, as the case may be, shall forward the date of receipt by the pre-designated department representative to the Director. The Director shall begin his review on the forth City business day following the date of receipt of the application and location information and shall make recommendation as required per 13.30.050.

B. Application Content. The application for a film-making event permit shall set forth the following information:
1. The name, address and telephone number(s) of the person and organization seeking to conduct the event, as well as at least one alternate contact and the contact's telephone number;
2. The proposed title and description of the project;
3. The location or locations of the event;
4. Any additional information requested by the Director or Commissioner reasonably necessary for a fair determination as to whether the permit should be issued.
5. All information required on the standard application form.
6. All supplementary documentation required.
7. Proposed Location Content. For each proposed location submitted as part of an application, the applicant shall provide the following information:
   A. The physical address or description of the location, and rights-of-way affected by filming, proposed closures or intermittent traffic control and traffic control plan as required by 13.30.040.B.9.b.
   B. The dates and times for set-up, filming and tear-down/clean-up.

C. The number of cast and crew expected to be present for set-up, filming and tear-down/clean-up.
D. The type of filming action expected to take place at the location.

8. Any additional information requested on the location information form, or by the Director or Commissioner, reasonably necessary for a fair determination as to whether the location should be approved.
9. Required Supplementary Documentation. The applicant shall provide all documentation required under this subsection, unless otherwise stated herein, at the time an application is filed.
   a. Applicant Authorization. If the film-making event is designed to be conducted by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall also file a communication in writing from the person proposing to hold the film-making event, authorizing the applicant to apply for the permit on his behalf.
   b. Traffic Control Plan. For each proposed location on City right of way, a traffic control plan showing the proposed location of all barricades, signs and devices to be used for redirecting traffic around the closure area shall be provided by the applicant and shall comply with the following:
      1. The traffic control plan shall provide for the closing of the street to include any intersections and rerouting of traffic, use of appropriate manned barricades, signs, and peace officers under the jurisdiction of the City of El Paso or otherwise, and shall also designate on the plan, the location of adequate and appropriate parking areas.
      2. Such traffic control plan shall be in conformity with the most recent edition of the Texas Manual on Uniform Traffic Control Devices, shall be drawn on a map, and be timely submitted to the Traffic Engineer pursuant to the requirements set forth herein. In considering the appropriateness of a traffic control plan, the Traffic Engineer may recommend approval with modification or otherwise incorporate any recommendations made by other pre-designated departmental review representatives or department heads, which may include the use of some El Paso police officers.
      3. The traffic control plan shall provide that an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13'6" for emergency vehicle access on all temporarily closed streets be retained. Fire hydrant locations shall be identified and no structure shall be located within 15 feet of any such fire hydrant.
      4. As part of a submitted traffic control plan, the permittee agrees to be responsible for the following:
         a. Obtaining and placing barricades and signs in conformity with the traffic control plan.

b. Costs associated with the placement of such barricades and signs.
c. Costs for city police assistance, traffic control or otherwise, as provided in section 13.30.100 of this code if a determination is made that police traffic control assistance is also necessary.
d. To remove all barricades and signs and reopen streets immediately after the film-making event and subsequent tear-down/clean-up has ended.
e. To pay all parking meter fees for the time utilized.
f. Ensuring that property owners abutting an event location to be held on a street are not denied access to their property.

C. Certificate of Insurance. A certificate of liability insurance naming the City of El Paso as an additional insured. When applicable, the applicant must provide insurance pursuant to the following conditions and in the following amounts:

1. If filming in a "City facility or premises", then, Worker's Compensation with statutory limits; Employers Liability with minimum limits for bodily injury: a) by accident, $100,000 per each accident, b) by disease, $100,000 per employee with a per policy aggregate of $500,000.
2. Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of $500,000 per occurrence. NOTE: If filming involves "extended car chases or stunts", then minimum limit of $3,000,000 per occurrence.
3. If the filming involves the use of aircraft then Aircraft Liability insurance for owned, hired, and non-owned aircraft with a minimum limit of $5,000,000 per occurrence.
4. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of $1,000,000 per occurrence, $1,000,000 general aggregate. NOTE: If filming in a "City facility or premises", then, minimum limits of $1,000,000 per occurrence and $2,000,000 general aggregate. NOTE: If filming involves use of pyrotechnics, explosives or fireworks, then $3,000,000 per occurrence, $3,000,000 general aggregate.
5. If alcoholic beverages are sold, served, or otherwise made available, then Liquor Liability Insurance with minimum limits of $1,000,000 for each claim.
6. With respect to the above required insurance, all insurance contracts and certificate(s) of insurance shall contain and state in writing, the following required provisions: a) name the City of

El Paso and its officers, employees, and elected representatives as additional insureds; b) state that coverage shall not be cancelled, non-renewed or materially changed except after thirty (30) days' written notice by certified mail to: Film Commissioner, 1 Civic Center Plaza, El Paso, TX 79901; c) waive subrogation against the City of El Paso, its officers, employees, for bodily injury (including death) property damage or any other loss.

D. Proof of Notice to Abutting Owners. A statement from the applicant for a film-making event that every owner or occupant of real property abutting the boundaries of the area in which the film-making event will be conducted has been notified. Notification shall additionally be provided in writing in both English and Spanish to each common address abutting the location. In addition, a statement showing which such owners or occupants have given consent for the film-making event, have not consented, or have not responded. Inability to obtain consent from at least seventy-five percent (75%) of the affected owners or occupants may be grounds for permit denial or revocation.

E. Application Location Fees. A fee of $40.00 for each proposed filming location, to cover the expenses incident to processing, right-of-way closure, and hooding of parking meters shall be paid by the person applying for the permit at the time of the filing of the application.

Section 6. That Section 13.30.050 (Permit consideration and issuance) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.050 Permit consideration and issuance.

A. Director Review. The Director shall review an application and each proposed event location together with departmental recommendations and comments in order to ensure that the proposed film-making event complies with the provisions of this chapter and is an appropriate use under subsection B. The Director shall approve, approve with modifications consistent with departmental recommendations, or disapprove an application, or specific event location no later than two City of El Paso business days after the date specified in 13.30.040.A.3. The Director's failure to issue an approval, approval with modifications, or disapproval of the application within the time period provided herein shall constitute a denial for purposes of section 13.30.070 of this code. The Director shall immediately notify the applicant of his determination, and if the application is denied, of the reasons therefore.

B. Application and Event Location Considerations. The Director shall consider the following criteria, as may be appropriate to whether the applicant's proposals adequately and appropriately address public health, safety and welfare issues and whether police or other City personnel assistance shall be required as part of approval and can be provided:

1. The expected general flow of traffic upon the street or streets affected at the time proposed for the film-making event;
2. Whether any owners or occupants of real property abutting the boundaries of the area in which a film-making event will be conducted have not consented to the conduct of the event, and if objections have been filed, whether allowing the event will significantly impair the access to the affected property;
3. The existence, if any, of alternate routes for public transit vehicles and private vehicles;
4. Whether the event will significantly affect the city's ability to deliver police, fire and medical emergency services in the vicinity;
5. The extent, if any, of disruption to the use and enjoyment of residential, business, industrial and governmental facilities located in the vicinity of the proposed event.
6. To determine whether and to what extent police or other traffic control assistance reasonably will be required under this subsection, the Director, upon recommendation of the Chief of Police and City Engineer or their designees, shall consider such factors as the proposed size, proposed length, potential need to reroute traffic, close streets and control traffic at intersections, anticipated amount of traffic to be controlled, number of intersections involved, as well as the time of day and date of the film-making event.
7. Prior similar events. The Director may review records, if any, from prior similar events conducted at or near the proposed site to determine whether there has been a history of traffic control problems, noise or other disruptions associated with the conduct of other events and whether the applicant presently demonstrates the steps to be taken to resolve any prior problems or disruptions.

C. Mandatory Application Denial. The Director shall not approve an application or specific proposed event location, as the case may be, when:

1. The applicant has not furnished all information and documentation required by section 13.30.040.
2. The traffic control plan and submitted maps do not adequately address security and traffic control issues or does not otherwise adequately address the criteria and requirements of this section. However, the Director may approve a modification of the applicant's submittal when such modification adequately addresses security and traffic control issues.
3. The film-making event is proposed to be held on any state or federal highway or road and the appropriate governmental agency has not affirmatively authorized the proposed use in writing. However, the Director may approve a film-making permit application "subject to" approval from the appropriate state or federal governmental agency. In such event, the applicant is not authorized to conduct the film-making event until he receives the approval and provides a copy of the approval to the Director. Further, the Director is authorized to submit an application to any federal or state agency to obtain authorization for use of their rights-of-way on behalf of the applicant when such authorization is required and such agency requires that application only be filed by a governmental entity.

4. The applicant requests a use not permitted under this chapter.
5. The applicant fails to pay any outstanding fees assessed under this chapter for the application or has failed to pay any outstanding fees for any past event.
6. The Police Chief, Fire Marshall, or their designees have determined that the conduct of the film-making event would pose a serious threat to the public health, safety or welfare.
7. The proposed use conflicts with a permit already granted and filed or with the terms of an ordinance granting a special privilege for the use of the street that has either been introduced or approved by the city council.
8. For a specific location when such location is proposed for use of more than 48 hours and a special privilege license has not been issued.
9. The Director of Aviation for the City of El Paso airport has not approved the specific event location on airport property.
10. The City Manager has not approved the specific event location at or in non-public buildings.
11. Applicant has failed to obtain permits and Federal Aviation Administration approvals required for use of aircraft at his sole cost when required by 14.12 of the El Paso Municipal Code. However, the Director is authorized to approve subject to receipt of such required permits prior to the event time.
12. Applicant has failed to obtain required permits for the use fire, pyrotechnics or explosives at his sole cost. However, the Director is authorized to approve subject to receipt of such required permits prior to the event time or may authorize the use of the location without the use of pyrotechnics or explosives. Additionally, should the State of Texas require that only the City of El Paso be allowed to apply for such required permits, the Director is hereby authorized to do so on behalf of the applicant. In such instances, the Director may approve a film-making permit application event location "subject to" approval from the appropriate state agency. In such event, the applicant is not authorized to conduct the film-making event until the applicant receives the approval and provides a copy of the approval to the Director.
13. Written approval from the City Manager when use of a non-public portion of a City building or facility is requested.
14. For a specific location, the applicant proposes a location size that is more than two blocks in length and is additionally deemed too large and an undue burden on traffic flow in the area. However, the Director may approve a reduced location size in such instances.

D. Permit Modifications when Abutting Owners Object. In the event that a permit is issued for any film-making event for which consent has not been given by an owner or occupant of any real property adjacent to the area of closure, the Director, when issuing the permit, may modify the time or impose additional requirements, such as requiring barricades for lawns or other properties, within the closure area that may assist with the protection or enjoyment of or access to the property of those persons who have indicated their objection to the event.

E. Estimated Costs Assessed. At the time that the permit is issued, the Director shall provide the permitee with a copy of the City's estimate of any permittee required costs assessed under this chapter. Permittee, by conducting the film-making event, acknowledges that such

estimate is subject to change and promises to pay all amounts due including those in addition to the estimate provided.

F. Time to Clean Up. The Director shall designate the time period that the applicant shall have for all clean-up and site restoration required under this chapter.

G. Permittee's Agreements in Consideration of Permit Issuance. A permittee receiving a film-making event permit shall, at the time the permittee appears to receive the permit:

1. Agree in writing to reimburse the City for the cost of city personnel and equipment used to support the film-making activity, as determined by the Director.
2. Return any location utilized to its pre-event condition at no cost to the City.
3. Provide the names and cellular telephone numbers or pager numbers of one or more persons who will be at the scene and in charge of the scene during the film-making event.

H. In the event that the permittee fails to comply with the provisions of subsections C or G of this section, the Director shall not issue the permit and such action shall constitute a denial for purposes of section 13.30.070 of this code.

I. The City Manager, in approval of any event location utilizing non-public buildings may require additional consideration, restrictions, or conditions as necessary under the circumstances.

Section 7 That Section 13.30.060 (On-site location amendment) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.060 On-site location amendments and event date amendments

A. On-site location amendments. The Director may approve a request to expand or otherwise modify an approved location at the time of the event. The Director shall only be required to consult with the Traffic-Engineer and the primary police officer assigned to the event location and obtain approval from each prior to approval of such modification. Modifications of this nature shall not be allowed for more than two or 20% of the approved event locations, whichever is more, and shall not result in an amendment of the approved location by more than 50 percent of the area originally approved. Any request for an on-site location amendment shall require a fee equal to 50% of the event permit cost initially charged for that location.

B. Event date amendments. The Director may approve a request to change the event date for an approved location. The Director shall consult with the pre-designated police department and traffic-engineering representative and obtain their consent prior to approval. The Director shall immediately notify all departments initially responsible for review of such change immediately upon approval.

Section 8. That Section 13.30.070 (Appeal from Denial) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.070 Appeal from denial.

If the Director denies an application for a permit, the action is final unless, within ten days following the date of receiving notice of the action, the applicant files with the Director, a written appeal to the Development Coordinating Committee membership specifying reasons why the application should receive further consideration by the city.

A. Development Coordinating Committee Review. The Development Coordinating Committee [DCC] shall review the applicant's appeal no later than the week following the request for appeal. The applicant shall have an opportunity to present information on his behalf that supports the applicant's needs to close or use city streets or otherwise use City property for the film-making event, to show that the event is permitted under this chapter, to show that the application and submitted documentation comport to the requirements of this chapter, and that the use is appropriate under all applicable state laws and City ordinances. The DCC action shall be to approve, approve with modifications, or deny the requested application.

B. Appeal from DCC denial. An applicant may appeal from a denial of the DCC directly to City Council. The city council shall make the final determination on the matter. The council shall, as soon as practical, hear such appeal after reasonable notice to the applicant. The applicant shall have an opportunity to present information on his behalf that supports the applicant's needs to close or use city streets for the film-making event and to show that the event is permitted under this chapter and that the application and submitted documentation comport to the requirements of this chapter. If the city council fails to render a decision within thirty days after the date the appeal is filed with the city clerk, the appeal is denied, unless city council, by specific motion, extends the time period for the consideration of the appeal.

Section 9. That Section 13.30.070 (Duties of permittee) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.080 Duties of permittee.

A permittee shall comply with all permit directions and conditions, with all applicable laws and ordinances, and obtain all other city permits that may be required in conjunction with the film-making event.

A. The person conducting the film-making event shall carry the permit upon his person during the conduct of the film-making event.

B. The permittee shall comply with all obligations imposed under section 13.30.040 regarding the implementation of the security and traffic control plan and shall not permit a film-making event to proceed or continue until such time as the applicable traffic control plan or method is set up and functioning.

C. The permittee shall, immediately upon the conclusion of the film-making event, clean and remove all litter and debris left on the streets, sidewalks and other public rights-of-way by participants, and with the permission of the property owner, all litter and debris left on private property by event participants.

D. In the event that the permittee fails to clean and remove all such litter and debris on the streets, sidewalks and other public rights-of-way within four hours of the end of the film-making event, or other time period as otherwise determined by the Director as part of application approval, the city may perform such cleaning and the permittee shall be responsible for the costs of the city cleaning.

E. Payment of any city cleaning costs shall be due and payable upon receipt of the bill from the city comptroller.

Section 10. That Section 13.32.090 (Duties of Participants) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.090 Duties of participants.

A. During the course of a film-making event, each participant who is operating a vehicle of any type, shall obey the directions of any peace officer who is providing traffic control. All participants shall be licensed to drive the vehicle they are operating.

B. Each participant shall remain responsible for the payment of any bridge-crossing tolls, should the location include the use of a toll area.

C. All participants at a location that is at an area under the control, direction or supervision of the United States Bureau of Customs and Border Protection shall comply with all laws, regulations and other requirements pertaining to the entry into and exit from such area.

Section 11. That Section 13.30.100 (Costs of city police traffic control assistance) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.100 Costs of city police and fire traffic control or oversight assistance.

A. Permittee shall be responsible for all costs of city police and fire traffic or oversight assistance including additional costs associated with delays or modifications to submitted applications.

B. Payment of the costs shall be due and payable upon receipt of the bill from the city comptroller.

Section 12. That Section 13.30.110 (Violation—Penalty) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.110 Permit revocation

The Director shall revoke a film-making event permit if:

A. The permittee fails to comply with or the film-making event is in violation of any provision of the permit, a city ordinance, or other applicable law.

B. The Police Chief, Fire Chief, or their designees have determined that the conduct of the special event is posing a serious threat to the public health, safety or welfare.

C. Applicant herein is obligated to immediately restore and vacate the location immediately upon receipt of permit revocation.

Section 13. That Section 13.30.120 (Rental of City Equipment) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.120 Rental of City Equipment

A film-making event applicant requesting the temporary rental of City equipment shall submit written request to the Director. The Director shall immediately forward the request to a pre-designated departmental representative within the department responsible for such equipment. The pre-designated representative shall recommend approval, approval with modifications, or denial of the request within three City Hall business days following the date of receipt of the request. The Director shall forward a recommendation for approval or approval with modifications to the Office of the City Attorney for preparation of any necessary rental agreement. Once prepared, the Director shall place the rental agreement on the next Council agenda. Such rental agreement shall include all terms agreed to by the Director and deemed necessary by the Office of the City Attorney to protect the City's interest. Council may approve, approve with modifications, or deny the request for rental of City equipment.

Section 14. That Section 13.30.130 (Violation—Penalty) of the El Paso Municipal Code shall be created to read as follows:

Section 13.30.130 Violation—Penalty

A. A person commits an offense if he promotes or sponsors a film-making event for which a permit has not been issued or has been revoked.
B. A person to whom a permit has been issued commits an offense if he intentionally violates the terms of the permit.
C. A person participating in a film-making event for which a permit has been issued commits an offense if he intentionally violates the terms of the permit.
D. A person commits an offense if he participates in a film-making event for which a permit is required without a permit having been issued, or if issued, subsequently revoked.

Section 14. Except as herein amended, Title 13 of the El Paso Municipal Code shall remain in full force and effect.

ADOPTED this _____ day of September, 2004.

CITY OF EL PASO

_____

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO CONTENT:

David Dobson
Director of Economic Development

APPROVED AS TO CONTENT:

for Ted Marquez
Traffic Engineer

APPROVED AS TO CONTENT:

Richard Wiles
Police Chief

APPROVED AS TO FORM:

Matt Watson
Assistant City Attorney

Filming Permit Application

Project Title:	
Application Date:	
Permit #:	
Issue Date:	

Film Commissioner
Department of Economic Development
1 Civic Center Plaza | El Paso, TX 79901
Email: film@elpasotexas.gov
915-534-0698; Fax: 915-532-2963 800-351-6024

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Submit a separate application for each filming project (e.g. motion picture, commercial, documentary) at least five (5) working days before filming is to commence. Submit a separate Filming Location Information Form for each location proposed under this permit application. Expedited permits will be considered at the sole discretion of the Film Commissioner. Applicant must be registered with the El Paso Film Commission before filing a filming permit application. Call 915-534-0698, email film@elpasotexas.gov or visit www.elpasocvb.com/film.

SECTION 1: APPLICANT

Production Company	Location Manager	Mailing Address	City, State Zip		
Main Number	**Mobile Number**	**Fax**	**Alternate Contact**	**Alternate Number**	**Alternate Mobile**

SECTION 2: FILMING DESCRIPTION

Film Title and Type:

☐ Feature Film ☐ TV Show ☐ TV Movie ☐ TV Pilot/Series ☐ Commercial ☐ Student Project
☐ Music Video ☐ Corp. Video ☐ Documentary ☐ Still Photos ☐ News Show ☐ Nonprofit/PSA

Description of Project:

SECTION 3: FILMING LOCATION(S) [Submit Location Information Form for each]

Total # Locations:		List physical address and/or description of each location proposed under this permit (attach additional sheets if necessary)
Location #1:		
Location #2:		
Location #3:		
Location #4:		
Location #5:		

SECTION 4: PUBLIC NOTIFICATION

Applicant shall, prior to submitting this application, deliver written request for permission to all owners or occupants of real property abutting the boundaries of the area in which the filming will be conducted. The request must include the following information: (1) filming date(s), time and location; 2) production company point of contact, and; 3) City point of contact with telephone number. Written permission must be obtained from at least seventy-five percent (75%) of the affected owners or occupants, or the permit may be denied or revoked.

SECTION 5: SECURITY, CROWD CONTROL/TRAFFIC CONTROL, AND FIRE SAFETY

At the discretion of the Director of Economic Development or that person's designee, applicant shall have one or more El Paso Police Department supervisory officer(s) present during filming on City street, building or premises, at the applicant's sole cost and expense. Applicant may also be required to provide additional personnel designated for security, crowd control, and traffic control during filming. The total number of peace officers required for a location will be determined by the Director of Economic Development based on recommendations received by the El Paso Police Department, using industry specific planning variables, and may be a combination of on-duty and off-duty police officers. The El Paso Fire Department may also require the presence of firefighters and fire equipment during filming, at the applicant's sole cost and expense. The applicant is responsible for providing a detailed traffic control plan for approval by City Traffic/ Engineering department for each filming location as necessary. Signage for closures or detours posted on City streets for traffic control must comply with Texas Manual on Uniform Traffic Control Devices.

SECTION 6: RIGHTS TO IMAGES

Filming Company is granted the irrevocable right to use the recordings taken by company in perpetuity.

SECTION 7: DENIAL OR REVOCATION

The Director of Economic Development shall deny or revoke any filming permit if the applicant makes a false statement of material fact on the application or fails to comply with, or the activity is in violation of, any provision of the filming permit, or any other applicable law. The filming permit shall also be denied or revoked if the Police, Fire, City Manager or Airport Director determines the activity poses a serious threat to public health, safety or welfare. If a filming permit is denied or revoked, the applicant shall be notified by any two of: 1) telephone; 2) mail; 3) fax, or 4) email, notice of the denial or revocation and of the right to an appeal and instructions on how to file an appeal with the Development Coordinating Committee.

SECTION 8: OFFENSES OR PENALTIES

An applicant/person commits an offense if he/she commences filming without a filming permit or in violation of any provision of the filming permit, Chapter 13.30 of the El Paso City Code, or any other applicable law. Each offense is punishable by a fine not to exceed $2,000 for each violation of a provision governing fire safety, zoning, public health, sanitation, including dumping of refuse; and $500 for each violation of all other provisions.

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SECTION 9: INSURANCE

The applicant shall procure and keep in full force and effect for the duration of filming, a minimum insurance written by an insurance company approved by the State of Texas and acceptable to the city and issued in the standard form approved by the Texas Dept. of Insurance. All provisions of each policy must be acceptable to the city and name the city and its officers and employees as additional insured.

1. **Commercial General Liability Insurance** including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage of limits of $1,000,000 per occurrence, and $1,000,000 general aggregate. NOTE: If filming in a "City facility or premises", then minimum limits of $1,000,000 per occurrence, and $2,000,000 general aggregate. NOTE: If filming involves the use of pyrotechnics, explosives or fireworks, then $3,000,000 per occurrence, and $3,000,000 general aggregate.
2. **Workers' Compensation Insurance** with statutory limits if filming in a "City facility or premises;" **Employers Liability** with minimum limits for bodily injury: a) by accident, $100,000 per each accident, b) by disease, $100,000 per employee with a per policy aggregate of $500,000.
3. **Business Automobile Liability Insurance** covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of $500,000 per occurrence. NOTE: If filming involves "Extended Car Chases", then, minimum limit of $3,000,000 per occurrence.
4. **Aircraft Liability Insurance** for owned, hired, and non-owned aircraft with a minimum limit of $5,000,000 per occurrence, if the filming involves the use of aircraft.

Production Company agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions: a) name the City of El Paso and its officers, employees, and elected representatives as additional insureds to the Commercial General Liability and Business Automobile Liability policies; b) state that coverage shall not be cancelled, non-renewed or materially changed except after thirty (30) days written notice by certified mail to: Film Commissioner; Department of Economic Development; 1 Civic Center Plaza; El Paso, TX 79901; c) waive subrogation against the City of El Paso, its officers, employees, for bodily injury (including death) property damage or any other loss.

SECTION 10: INDEMNIFICATION

As a condition of a Filming Permit being issued, the permit holder agrees to indemnify, defend and hold harmless the City of El Paso and all of its officers and employees against any and all suits, causes of action or claims for injuries, damages, costs and expenses to persons, or property, whether public of private, that may arise out of, or be constituting a part of the filming event, or any activity constituting a part of the filming, or any act, omission or misconduct of the permit holder or his agents, representatives, contractors, or employees. The permit holder agrees to discharge any and all judgments that may be rendered against the City of El Paso or its officers in connection with any suit, cause of action, or claim after the judgment becomes final.

SECTION 11: RIGHT TO USE CITY OF EL PASO NAME

Filming company shall have the irrevocable right to photograph City of El Paso facilities and premises, as well as any name connected with such premises, and to use any such names in and in connection with films.

SECTION 12: FEES & PAYMENTS

$40.00 per filming location must accompany this form at time of submission: Application fee applies to street closures/traffic management and hooding of parking meters, and all other services limited to street closures/traffic management (not including parking meter rates). All fee payments must be in the form of Money Order, Check, Cash or Credit Card, made payable to the City of El Paso. Use of City parks, buildings and/or other facilities requires additional fees as published, and these fees must be paid in advance of filming. City of El Paso will provide an estimated cost for use of on-duty City personnel, such as Police and Fire, and actual costs will be billed to the applicant after the filming activity. No filming permit will be released until all necessary permits, licenses, and certificates of insurance are received by the City of El Paso. Filming application fee is waived for student projects, non-profit and public service filming. Any other waiver of permit or usage fees must be approved by City Council.

SECTION 13: ACKNOWLEDGEMENT/SIGNATURE

By signing below, the Applicant certifies that the information provided above is correct; he/she has read and understood the information contained in this application; and he/she agrees to conduct the filming in compliance with all applicable codes, ordinances, laws and the conditions contained in the filming permit. This application, location information forms and other attachments shall be considered as part of the filming permit.

Applicant's Signature:	**DATE:**

SECTION 14: ENCLOSURES

The following MUST BE INCLUDED with the application at time of submission. Incomplete applications will not be processed.

1)_____PERMIT FEE 2)____USAGE FEES 3)_____LOCATION INFORMATION FORM(S) 4)_____CERTIFICATION OF INSURANCE

5)_____ALL OTHER ATTACHED INFORMATION

DEPARTMENTAL COMMENTS AND/OR APPROVALS (print name, initial and date):

Traffic/Engineering	Sun Metro
Police	Solid Waste
Fire	Other
Streets	Film Commissioner
Parks	Economic Development

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Filming Location Information Form

Project Title:	
Location # (from Application):	
Date:	

Film Commissioner
Department of Economic Development
1 Civic Center Plaza | El Paso, TX 79901
Email: film@elpasotexas.gov
915-534-0698; Fax: 915-532-2963 800-351-6024

This Filming Location Information Form must be submitted for each proposed location listed on the Filming Permit Application, and for any new location proposed while an approved Filming Permit is in effect (e.g. on-site additions). This approved Filming Location Form must be kept with the approved Filming Permit and presented upon request.

SECTION 1: FILMING LOCATION, CLOSURE(S) AND LAYOUT(S)

List physical address, and street(s) affected by filming, proposed closures or intermittent traffic control. Attach layout including traffic control plan.

SECTION 2: FILMING SCHEDULE

Set-up	Filming	Tear Down/Clean-up
Date(s): / /	Date(s): / /	Date(s): / /
Start Time: : am/pm	Start Time: : am/pm	Start Time: : am/pm
End Time: : am/pm	End Time: : am/pm	End Time: : am/pm
# Cast/Crew:	# Cast/Crew:	# Cast/Crew:

SECTION 3: FILMING ACTION (Check all that apply)

☐ Interior Dialogue	☐ Wet Down	☐ Dolly/Sidewalk	☐ Other:_____
☐ Exterior Dialogue	☐ Drive-By	☐ Dolly/Curb Lane	☐ Other:_____
☐ Intermittent Traffic Control	☐ Tow Shot	☐ Smoke/Open Flame	☐ Other:_____
☐ Street Closure	☐ Driving/Flow/Traffic	☐ Music Playback	☐ Other:_____
☐ Lane Closure	☐ Camera/Curb Lane	☐ Gunfire	☐ Other:_____
☐ Drive Up/Away	☐ Police Car/Motorcycle	☐ Pyrotechnics	☐ Other:_____

SECTION 4: OTHER INFORMATION

Is the location a City owned park, building or other facility? If so, please detail:

If pyrotechnics or special effects are involved in filming, please explain:

If there are parking meters on streets that will be closed, please list cross streets:

Will filming involve "Extended Car Chases" (over 1/4 mile in length, exceeding the posted speed limit by more than 50 mph or disobeying other traffic laws)? If so, please explain:

Will filming involve the use of aircraft, helicopters, etc.? If so, please explain your requirements:

Will tents be needed that are 400 sq. ft. or larger? _____ If so, please complete the following: (1) Prepare copies of a scaled drawing on-site plan detailing location of tent; adjacent structures, (2) Submit certificate of flame resistance for tent materials, and (3) Submit copy of notification.

Be sure to attach layout of proposed location including detailed traffic control plan/signage.

DEPARTMENTAL COMMENTS AND/OR APPROVALS (print name, initial and date):

Traffic/Engineering	Sun Metro
Police	Planning, R&D
Fire	Solid Waste
Streets	Film Commissioner
Parks	Economic Development

ADDENDUM FOR LOCATION ADDITION OR ALTERATION -- ATTACH TO ORIGINAL.

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Filming Location Information Form

Project Title:	
Permit #:	
Location #:	
Date:	

Film Commissioner
Department of Economic Development
1 Civic Center Plaza;El Paso, TX 79901
Email: film@elpasotexas.gov
915-534-0698; Fax: 915-532-2963

This Location Form is an addendum to the Original Location Form on file in order to add or alter/change the existing request. This additional location, or alteration of existing location(s) will be attached, once approved and signed by appropriate departments (2), to the original Location Form. A copy will be put on file with Economic Development and the El Paso Film Commission.

SECTION 1: FILMING LOCATION, CLOSURE(S) AND LAYOUT(S) if required, & REQUEST:

SECTION 2: FILMING SCHEDULE ADDITION OR CHANGE:		
Set-up	**Filming**	**Tear Down/Clean-up**
Date(s): / /	Date(s): / /	Date(s): / /
Start Time: : am/pm	Start Time: : am/pm	Start Time: : am/pm
End Time: : am/pm	End Time: : am/pm	End Time: : am/pm
# Cast/Crew:	# Cast/Crew:	# Cast/Crew:

POLICE, TRAFFIC/ENGINEERING AND FILM COMMISSIONER MUST APPROVE BELOW; OTHER DEPARTMENTS OPTIONAL	
Streets:	Sun Metro:
Traffic/Engineering:	Solid Waste:
Police:	Other:
Fire:	Film Commissioner:
Parks:	Economic Development: