

ORDINANCE NO. 2018-8

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CHARTERED CITY OF VISTA, CALIFORNIA, ADDING
CHAPTER 12.25 TO THE VISTA MUNICIPAL CODE
CONCERNING FILM PERMITS**

The City Council of the City of Vista does ordain as follows:

1. Findings. The City Council hereby finds and declares the following:

A. This ordinance is enacted pursuant to the powers vested in the City of Vista pursuant sections 5 and 7 of Article XI of the California Constitution.

B. The ordinance is intended to protect the public health, safety and welfare. It shall be applied in a lawful manner which is content and viewpoint neutral.

2. Code Amendment.

A. Chapter 12.25 is added to the Vista Municipal Code to read as follows:

**“CHAPTER 12.25
FILM PERMITS**

Section 12.25.010.	Purpose
Section 12.25.020.	Definitions
Section 12.25.030.	Film Permit Required; Exceptions
Section 12.25.040.	Film Permit Application and Issuance
Section 12.25.050.	Denial, Suspension or Revocation of Film Permit
Section 12.25.060.	Film Permit Fees
Section 12.25.070.	Insurance and Indemnification
Section 12.25.080.	Students and Non-profit Organizations
Section 12.25.090.	Administrative Regulations

Section 12.25.010. Purpose

The film permit requirements established in this Chapter are intended to facilitate filming, videotaping, photographing, and other visual recording activities within the city of Vista, whether on public or private property, in a manner that does not unreasonably interfere with the public peace, quiet enjoyment, health, and safety, including traffic, parking, and pedestrian circulation, and the use of or access to public property and facilities, or unreasonably endanger any property.

Section 12.25.020. Definitions

For the purposes of this Chapter, certain words and phrases are defined and certain provisions shall be construed as herein set forth, unless it is apparent from the context that a different meaning is intended.

(a) "City Manager" means the city manager of the City, or the city manager's designee for all actions described in this Chapter other than promulgating regulations pursuant to Section 12.25.090.

(b) "Commercial filming" means filming for the primary purpose of commercial use, sale or distribution, including, but not limited to, filming done for compensation, the expectation of compensation, or advertising on any medium.

(c) "Filming" means and includes all activity related to the taking of any still photographs, and to the staging, videotaping or filming of motion pictures, television shows or programs, serials, commercials, music videos, internet productions, print advertisement, training or educational videos, and to any other type of visual recording process, including digital recording.

(d) "Non-profit organization" means an organization that qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, provided that no person directly or indirectly receives a profit from the production, marketing or distribution of non-profit films or photography.

(e) "Student" means an individual enrolled in a recognized educational institution and who is conducting filming for purposes of a class project, assignment or other school requirement.

Section 12.25.030. Film Permit Required; Exceptions

(a) Except as provided in paragraph (b), no person shall conduct any filming in the city of Vista without a permit issued by the City.

(b) This Chapter does not apply to:

(1) Filming conducted solely for non-commercial purposes (including, but not limited to, personal, private or family use), provided the filming: (i) does not expose third parties to a risk of injury; and (ii) does not directly or indirectly disrupt or impair use of public property, including the public right of way.

(2) Filming for news media, including, but not limited to, newspapers, magazines, news services, broadcast stations, television or cable news shows, internet news programs, and similar news media, for the primary purpose of disseminating news, recent events, and other current, public affairs;

(3) Filming conducted entirely within the premises of a validly permitted motion picture, television, radio, or photography production studio;

(4) Filming at any City-owned facility pursuant to a City-executed license or agreement provided that the method, hours and days of filming are consistent with the license or agreement;

(6) Filming by or for the City or other governmental agencies;

and

(6) Student filming that does not require the placement of equipment, parking of vehicles, or other use or control of public property to the exclusion of others.

(7) Filming which occurs pursuant to an approved street or other event under Chapter 12.12 or an approved park event under Chapter 12.13 where each of the following is satisfied: (1) the filming locations, times and methods were fully described in the permit application, (2) the filming is incidental and subordinate to the primary event authorized pursuant to the event approved pursuant to Chapters 12.12 or 12.13, (3) the event sponsors, or their contractors, are the parties engaged in the filming, and (4) the filming occurs in conformity with all terms and conditions of the approved permit.

Section 12.25.040. Film Permit Application and Issuance

(a) Each film permit application shall be in a form provided by the City and must be completed in full and filed with the City Manager or designee.

(b) Complete applications, inclusive evidence of required insurance and the application fee, shall be filed no later than five City business days prior to the date of scheduled filming, or twelve days prior to the date of scheduled filming if location and/or public service fees will be owed pursuant to Section 2.25.060(b). When location and/or public service fees are owed, the amounts are determined after the complete application is submitted as provided in Section 2.25.060(b).

(c) Prior to issuance of a film permit, the City Manager may, as he or she deems necessary from the application, refer the application to other City departments that may be impacted by the proposed filming for the departments' review, evaluation, and recommendation to approve or disapprove the application.

(d) The City Manager or designee shall issue a film permit in accordance with this Chapter provided that the following criteria and requirements are met:

(1) A complete and accurate application has been received, inclusive of evidence of required insurance, payment of the application fee, and payment of the location and/or public services fees if required pursuant to Section 12.25.060.

(2) The proposed filming will not unduly interfere with traffic or pedestrian movement; close any public space, street, sidewalk, parkway or other rights-of-way for an unreasonable period of time, or unduly interfere with nearby residents' or business owners' quiet, peaceful enjoyment of their property;

(3) The proposed filming will not endanger public safety or property, including, but not limited to, the following:

(A) The proposed filming will not unduly impede, obstruct or interfere with the operation of emergency vehicles or equipment in or through the permitted area, and

(B) The proposed filming will not constitute a fire hazard or any other type of hazard and all proper safety precautions will be taken as necessary to protect the public health, safety, and general welfare;

(4) The proposed filming will not endanger or threaten damage to public property;

(5) The proposed filming will not unduly interfere with normal governmental functions or City services and operations, or conflict with previously scheduled events;

(6) The proposed filming will not otherwise be detrimental to the public health or safety;

(7) Any potential liabilities or expenses which the City may experience due to the filming are covered by insurance policies and indemnity agreements sufficient to financially protect the City, as determined by the City Manager or designee; and

(8) The applicant has demonstrated that the proposed filming will occur without violating applicable laws or regulations.

(e) The permittee shall maintain the film permit at the filming location at all times for the duration of the filming.

(f) The permit shall set forth the location and hours of allowed filming, and shall include any conditions or rules which the City Manager or designee determines are reasonably necessary for the filming to occur in a manner consistent with the standards described in this Chapter.

Section 12.25.050. Denial, Suspension or Revocation of Film Permit

(a) The City Manager shall deny issuance of a film permit if the requirements of this Chapter and all applicable laws and regulations have not been met, or if the application contains incomplete, false or misleading information.

(b) The City Manager may immediately suspend or revoke a film permit if the requirements of this Chapter and all applicable laws and regulations are not met; the information supplied by the permittee becomes, or is determined to be, false or incomplete; or any substantial change in circumstances renders the filming detrimental to the public health, safety or general welfare.

Section 12.25.060. Film Permit Fees

Prior to issuance of a film permit, all fees shall be paid on or before the date set forth below:

(a) A non-refundable application fee shall accompany the application to reimburse the City for costs incurred to review the application.

(b) A location fee, if applicable, shall be paid at least five City business days prior to the start of any filming. The location fee is designed to compensate the City for the applicant's use of public property and its unavailability for ordinary and usual purposes resulting from the filming, including preparation and strike days. The location fee will be reasonably determined by the City Manager after considering the public facilities to be used, the timing of the use, and the duration of the proposed use. Location fees are waived for the following:

- (1) Filming conducted entirely on private property;
- (2) Non-profit organizations; and
- (3) Students.

(c) A public services fee shall be paid at least five City business days prior to the start of any filming. The public services fee will be in an amount to reimburse the City for the cost of services it reasonably expects to incur in providing police officers, code enforcement officers, fire personnel, or other City personnel or City equipment for the purpose of protecting, assisting, and regulating the filming and public safety. The public services fee will be determined by the City Manager or designee based on the personnel to be provided, the duration of their required work, the cost of the personnel, and other expenses which will be imposed on the City.

(d) Any location fee and/or public service fee will be refunded to an applicant if the application is denied. An applicant will also be entitled to a full or partial refund if the filming is cancelled and the City receives advance written notice with sufficient time for the City to: (i) regain full or part use of the public

property which is subject to the location fee; or (ii) avoid incurring all or part of the expenses to be covered by the public services fee.

(e) If an applicant disputes a location fee or public services fee determined by the City, the applicant may make a written request for reconsideration of that fee prior to making payment if the written request explains the basis for disagreeing with the City determination and the amount the applicant believes to be the correct determination. Upon receiving such a request for reconsideration, the City Manager or designee will review the request and make a final written determination of the fee.

(f) No refund or dispute of a fee may occur except as provided in this Section.

Section 12.25.070. Insurance and Indemnification

(a) Before a film permit is issued, the applicant shall furnish public liability insurance in amounts as determined by the City's Risk Manager but in no event less than one million dollars and name the City of Vista, its City Council, boards and commissions, officers, agents, and employees as additional insureds.

(b) Before a film permit is issued, the applicant shall agree to indemnify, defend, and hold the City harmless from any liability for personal injury, wrongful death, and property damage arising out of the use of the film permit and City streets, property, and facilities.

Section 12.25.080. Students and Non-profit Organizations

(a) Students conducting filming shall first submit to the City a written certificate from their school stating that they are bona fide, currently enrolled students of the school.

(b) Non-profit organizations conducting filming shall first submit to the City a certificate stating that they are exempt and classified as non-profit under applicable Federal and State tax law."

Section 12.25.090. Administrative Regulations

(a) When administering this Chapter, City officers, employees, and agents shall, act in a manner which is content neutral and viewpoint neutral.

(b) The City Manager is authorized to adopt administrative regulations or administrative filming and permit processing requirements which are consistent with the purposes of this Chapter.

(c) Violations of the administrative regulations adopted pursuant to this Section shall constitute violations of this Chapter, and shall subject the violator to the penalties set forth in this Chapter 1 of this Municipal Code."

3. Severability. If any word, sentence, paragraph, or other portion of this ordinance is deemed to be invalid or unenforceable for any reason by a court of competent jurisdiction, the City Council declares its intent that all remaining words, sentences, paragraphs or portions of the ordinance not held to be invalid or unenforceable shall remain in full force and effect, and shall be so construed, as if the original ordinance did not contain the invalid or unenforceable language.

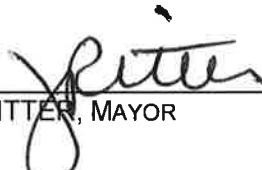
4. Effective Date. This ordinance shall be in full force and effect on the 31st day following the date of adoption.

5. Adoption. INTRODUCED and ADOPTED at a meeting of the City Council held on May 22, 2018, by the following vote:

AYES: Mayor Ritter, Aguilera, Franklin, Green

NOES: Rigby

ABSTAIN: None



JUDY RITTER, MAYOR

APPROVED AS TO FORM:
DAROLD PIEPER, CITY ATTORNEY

ATTEST:
KATHY VALDEZ, CITY CLERK

By: 

By: 

APPROVED
Jonathan B. Stone
1444 050718

CERTIFICATION

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2018-8 to be posted on May 24, 2018, at the following locations within the City of Vista: 1) the Reference Desk of the Vista Branch of the San Diego County Public Library, 700 Eucalyptus Avenue; 2) the Lobby Counter at the Gloria E. McClellan Senior Center, 1400 Vale Terrace Drive; and 3) the City Clerk's Office, 200 Civic Center Drive.

A handwritten signature in blue ink that reads "Kathy Valdez". The signature is written in a cursive style with a large, looping "y" at the end.

Kathy Valdez, City Clerk