ORDINANCE NO. 2024-09

AN ORDINANCE OF THE CITY OF BRECKENRIDGE, TEXAS AMENDING CHAPTER 13, "OCCUPATIONAL LICENSES AND REGULATIONS", OF THE BRECKENRIDGE CODE OF ORDINANCES BY ADDING ARTICLE VII, "FILM AND MEDIA PRODUCTIONS"; OUTLINING REGULATIONS FOR FILMING AFFECTING CITY-OWNED PROPERTY AND CITY EQUIPMENT AND PERSONNEL; PROVIDING A PENALTY; PROVIDING REPEALER AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Breckenridge, Texas (the "City") is a home-rule city operating pursuant to its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution;

WHEREAS, the City Commission of the City (the "City Commission") has determined becoming a Film Friendly City would benefit the overall vitality of the City;

WHEREAS, the City Commission wishes to encourage filmmakers and all media production and moving image professionals to take advantage of the unique beauty, character, culture, and history of the City;

WHEREAS, the City Commission has adopted Chapter 13 "Occupational Licenses and Regulations" of the City's Code of Ordinances to provide for regulations for various types of occupations within the City;

WHEREAS, the City Commission wishes to protect the personal and property rights of residents and businesses of the City, and finds that it is in the best interest of the public health, safety, and welfare to encourage film and media productions but establish reasonable regulations concerning the same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BRECKENRIDGE, TEXAS THAT:

I. **Amendment to Chapter 13**. Chapter 13, "Occupational Licenses and Regulations" of the Breckenridge Code of Ordinances is hereby amended to add Article VII, "Film and Media Productions", which shall read as follows:

ARTICLE VII. FILM AND MEDIA PRODUCTIONS

Sec. 13-110. Purpose.

(a) The regulations contained in this article are intended to create a program for promoting economic development activity within the City and its vicinity. This article is also intended to protect the personal and property rights of the City's residents and businesses, and to promote public health, safety, and welfare.

(b) This article governs requests for commercial use of City-owned property (including but not limited to public 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, resources, and personnel in all types of motion picture production (including, but not limited to, feature films, television programs, commercials, music videos, documentaries, and corporate films).

Sec. 13-111. Definitions.

(a) Applicant: A person or entity desiring to engage in activities described in Section 13-110(b) who files an application with the City to engage in said activities pursuant to Section 13-113.

(b) Permittee: A person or entity who is granted a permit to engage in activities described in Section 13-110(b).

Sec. 13-112. City Authority.

(a) The City Manager may authorize by permit the use of any street, right-of-way, park, public building, equipment, or personnel for commercial uses in the filming or taping of movies, television programs, documentaries, commercials, training films, or other media, and related activities pursuant to the requirements of this article.

(b) The City shall have exclusive authority to grant a permittee the use of public streets, rights-of-way, parks, public buildings, equipment, resources, and personnel of the City, as well as authority to regulate the hours of production and the general location of the production. The City Commission reserves the full and absolute right, and authorizes the City Manager, to prohibit all filming or to order cessation of filming when necessary to promote public health, safety, and welfare.

(c) Permittees 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 City Manager.

(d) A permit under this Article does not constitute a grant of any ownership, leasehold, easement, or other property interest or estate in any City property or other property.

Sec. 13-113. Permit Requirements.

(a) Before filing an application for filming in the City, a potential applicant should contact City staff to discuss the production's specific filming requirements and the feasibility of filming in the City, and to coordinate other logistics and/or questions.

(b) The application must be submitted to the City within the time frames below:

(1) 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.

(2) Feature films: a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.

(3) Activity requiring closure of City property: at least two (2) months before the requested closure.

(c) The permit application must include the following information:

(1) Name, address, phone number, and email address of the applicant;

(2) Type, name, and brief summary of content of film or media production;

(3) Dates and times of proposed filming, in general;

(4) Locations of proposed filming, with estimated timelines for set-up, filming, and breakdown in each location;

(5) A list of the vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations; and

(6) Name, mobile phone number, and email address of designated representative of the applicant.

(c) A permit fee, as set forth in Appendix A, Fee Schedule, shall be submitted with each permit application. The City Manager may waive this fee upon proof of an organization's non-profit status.

(d) A security or damage deposit may be required within the discretion of the City Manager.

(e) An applicant must sign a hold harmless agreement, as part of the application, in which the applicant agrees to reimburse the City for costs and inconveniences of using City property, personnel, facilities, and/or other resources, as described in this article and as outlined in Appendix A, and for damage to public or private property caused by the applicant.

(f) 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 and its agents, officers, elected officials, and employees as additional insureds, in an amount not less than $1,000,000 general liability, including bodily injury and property damage with a $1,000,000 umbrella and automobile liability (if applicable) in an amount not less than $1,000,000 including bodily injury and property damage.

(g) The applicant shall include, as part of the application, a report noting any owners', tenants' and/or residents' comments, along with their signatures, addresses and phone numbers, to the applicant's notice of filming provided pursuant to Section 13-114.

Sec. 13-114. Notification to Neighbors.

Before the filing of an application for a permit pursuant to Section 13-113, above, the applicant shall provide a short, written description, approved by the City Manager, of the schedule for the proposed production to the owners, tenants, and residents of each property in the affected neighborhood(s) or areas where filming is to occur. The applicant, or his or her designee, shall notify each owner, tenant, and resident of all such property of the impacts to such property during the production (including but not limited to public property or street closures), and shall submit, as part of the application required

under Section 13-113, a report noting any 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 City Manager, the City Manager may grant or deny the permit application.

Sec. 13-115. City Equipment and Personnel.

(a) A permittee shall pay for all costs of any Police, Fire, Public Works, Parks and Recreation, 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 City Manager. A permittee shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. The City Manager may, at his/her discretion, require an advance deposit for all costs related to City personnel and/or the use of City equipment.

(b) The City Manager, in consultation with the Chief of Police and/or Fire Chief, may impose additional police or fire requirements and level of staffing, at any time during a project if it is determined to be in the best interest of public health, safety, and welfare. Such costs shall be borne entirely by the permittee.

Sec. 13-116. Use of City-Owned Property.

(a) In granting a permit application, the City Manager may authorize the use of any street, right-of-way, park, or public building, use of City's name, trademark, or logo and/or use of City equipment and/or personnel for commercial uses in the project.

(b) A permittee shall not use, and permittee shall prohibit its employees and contractors from using, City property for any activities not expressly permitted by the City, which may include, but is not limited to, construction of structures, changing, modifying, or damaging property, or causing hazardous material to be brought onto the property.

(c) Any right of use granted to the applicant for use of City property shall be subject and subordinate to the City's necessary uses for municipal purposes. The City retains the right to all other persons to use the City property at the time that applicant is using the City property in a manner that does not unreasonably interfere with permittee's permitted activities.

(d) 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 welfare, or convenience, or to protect the personal or property rights of City residents or businesses.

(e) On-street parking or use of public parking lots is subject to City Manager approval. The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires approval of the City Manager.

Sec. 13-117. Hours of Filming.

Unless express written permission has been obtained from the City Manager in advance, and affected property owners, tenants, and residents have been notified, filming will be limited to the following hours:

(a) Monday through Friday: 7:00 a.m. to 9:00 p.m.
(b) Saturday, Sunday, & City-recognized Holidays: 8:00 a.m. to 10:00 p.m.

Sec. 13-118. Damage to Property.

(a) In order to leave City-owned property in as good condition as when received, permittees are responsible for and must provide professional cleaning, street sweeping, and/or sanitation services upon completion of work, if the City requests such services at any time. Upon such a request by the City, permittees must obtain approval from the City of the permittee's arrangements for such services (which will not be unreasonably withheld). The City may require such approval before use of the City-owned property before production activity begins.

(b) If a permittee does not restore any property used in accordance with this Article to its original condition prior to the production, or to better than original condition, the permittee 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.

Sec. 13-119. Penalty.

Any person, firm, or corporation who intentionally, knowingly or recklessly violates any provision of this Article, as amended, shall be subject to a fine not to exceed the sum of five hundred dollars ($500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense, provided, however, that in all cases involving an intentional, knowing, reckless, or criminally negligent violation of any provision of this Article, as amended, governing public health shall be subject to a fine not to exceed the sum of two thousand dollars ($2,000.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense.

II. <u>Amendment to Appendix A</u>. Section VI "Occupational Licenses and Regulations" or Appendix A, "Fee Schedule" of the Breckenridge Code of Ordinances is hereby to read as follows:

VI. <u>Chapter 13</u> – Occupational Licenses and Regulations.

(A) Permit Fee for Shows, Circuses, etc.(per day)(Sec. 13-3): $50.00

(B) Peddler License Fees (Sec. 13-65):

(1) Peddler or Solicitor:
  (a) Application Fee: $50.00
  (b) License Fee: $50.00

(2) Itinerant Vendor:

(a) License Fee: $250.00

(3) Canvasser:
(a) Application Fee: None
(b) License Fee: None

(4) Mobile Food Vendor:
(a) Application Fee: $50.00

(C) Gaming Machine Fees (Article VI):
(1) Permit Fee: $1,000.00
(2) Occupations Tax (per machine): $15.00

(D) Film and Media Productions (Article VII):

(1) Permit Application Fee: $25.00

(2) Fees for Inconveniences to Public Property:

Activity	Cost per Calendar Day:
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area	$500.00
Partial, non-disruptive use of a public building, park, right-of-way, or public area	$250.00
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking	$50.00
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking	$25.00
Use of City parking lots, parking areas, and City streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)	$50.00

III. **Repeal**. Any prior ordinances or ordinance provisions are hereby repealed to the extent they are in conflict with the terms of this Ordinance. Any remaining provisions of said ordinances shall remain in full force and effect.

IV. **Severability**. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Breckenridge hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, clauses, or phrases be declared unconstitutional or invalid.

V. **Open Meetings**. It is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered at such meeting, including this Ordinance was given, all as required by Chapter 551, as amended, Texas Government Code.

VI. **Effective Date**. This Ordinance shall become effective immediately upon its adoption and after publication as required by law.

PASSED, APPROVED, AND ADOPTED on this the 4th day of June 2024.

Bob Sims, Mayor

ATTEST:

Jessica Sutter, City Secretary

SEAL

THE CITY OF BRECKENRIDGE
SEAL
TEXAS