

ORDINANCE NO. 22-001

AN ORDINANCE OF THE CITY OF MARLIN, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MARLIN BY AMENDING CHAPTER 16.5, LICENSES AND BUSINESS REGULATIONS BY ADOPTING ARTICLE IV, FILM PROJECTS, TO ADOPT GUIDELINES FOR THE FILMING OF MOVIES AND TELEVISION PROGRAMS WITHIN THE CITY OF MARLIN; ESTABLISHING REQUIREMENTS FOR THE SUBMISSION OF AN APPLICATION FOR A PERMIT; PROVIDING FOR A RIGHT OF INSPECTION; ESTABLISHING REQUIREMENTS FOR THE USE OF CITY PERSONNEL AND PROPERTY; ESTABLISHING HOURS OF FILMING; ESTABLISHING REQUIREMENTS FOR INSURANCE COVERAGE; REQUIRING PAYMENT FOR DAMAGES TO CITY PROPERTY; PROVIDING FOR THE ENFORCEMENT OF THIS ORDINANCE; PROVIDING FOR PENALTIES AND REMEDIES FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AMENDMENT OF CONFLICTING ORDINANCES; EFFECTIVE DATE; AND OPEN MEETINGS CLAUSES.

WHEREAS, the commercial filming for movies and television programs within the City of Marlin (the "City") promotes the economic development of the City and is beneficial to the businesses and the citizens of the City;

WHEREAS, commercial filming within the City can also negatively affect the citizens and businesses within the City and can cause damage to public property and can unlawfully obstruct and impede traffic on public streets and roads and affect and harm private property interests of the citizens of the City;

WHEREAS, the adoption of reasonable guidelines and regulations to regulate commercial filming activities within the City of Marlin, Texas will protect the use of streets, public property, and private property within the City while allowing and authorizing commercial filming operation in the City and the use of public property for commercial filming activities;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF MARLIN, TEXAS THAT:

Section 1. Authority. This ordinance is adopted pursuant to the police powers and authority given general law cities by the constitution, codes, and general laws of the State of Texas, including but not limited to Chapt. 51, Tex. Local Gov't. Code.

Section 2. Findings of Fact. The findings and recitations set out in the preamble of this Ordinance are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes.

Section 3. Purpose. This ordinance is intended to create and establish a program for promoting economic development within the City of Marlin. This ordinance is intended to establish guidelines for the filming of movies and television programs within the City of Marlin also referred to as commercial filming, in order to protect the personal and property rights of the citizens and businesses within the City and to promote the public health, safety, and welfare within the citizens of the City of Marlin.

Section 4. Adoption of Article IV "Film Projects" as an amendment to Chapter 16.5, Licenses and Business Regulations, of the Code of Ordinances of the City of Marlin. Article IV of Chapter 16.5 of the Code of Ordinances of the City of Marlin is adopted to read as follows:

ARTICLE IV. FILM PROJECTS

Sec. 16.5-38. Meeting with the City

Before filming all or any portion of a movie, television show, commercial, or other film project in the City, the operating executive in charge of the film project, or its authorized agent, must contact the office of the City Administrator to discuss the project's specific filming requirements and the feasibility of filming in the City.

Sec. 16.5-39. Permit Requirements.

(a) Before any party commences or engages in any commercial filming activities on any public street, alley, right of way, or property owned by the City of Marlin, the party shall file an application for a permit to authorize or permit commercial filming within the City of Marlin ("Application"). The completed Application and the supporting documentation required by this Ordinance shall be filed with the City Secretary. An approved form *Application for Commercial Filming* to seek authorization and a permit for commercial filming within the City is attached to this Ordinance as Exhibit "A."

(b) Any person or entity filming in the City must complete and return the Application for Commercial Filming to the City Secretary, for the following types of commercial filming activities:

(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.

(c) Before filing an Application for Commercial Filming, the mayor or the city administrator must be contacted by the intended Applicant, or its authorized agent, to discuss specific and final filming requirements that the Applicant will include in a proposed Application for Commercial Filming.

Sec. 16.5-40. Approval of Application

The City Council for the City of Marlin shall have exclusive authority to grant the Application as well as the additional authority to set and regulate the hours and locations of filming production and the use of public streets and buildings of the City. The City Council reserves the full and absolute right to prohibit all filming or to order the cessation of filming in order to promote the public health, safety, and welfare of the citizens of the City of Marlin.

Sec. 16.5-41. Notification of Neighbors and Owners of Adjacent Properties

The Applicant shall provide a short-written description of the schedule for the proposed film production to the owners and residents of each property in the affected neighborhood as defined by boundaries set by the mayor or the City Council. The Applicant, or his designee, shall discuss with owners and residents of all such property and submit as part of the Application a report noting any owner or resident's agreement or disagreement with the proposed filming activities along with the address and phone numbers of all such property owners and residents and their signatures.

Sec. 16.5-42. Authority of Mayor or City Administrator

The City Council may authorize the use of any street, right-of-way, 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. The City Council may impose conditions and limitations to the approval of the Application. The City Council authorizes the mayor and the city administrator to take any additional action to ensure the full and complete compliance with the terms and provisions of this Ordinance and any terms and conditions set by the City Council in approving the Application. The mayor or the city administrator may require that any or all of the conditions as specified on the Application be met as a prerequisite to beginning any filming activities.

Sec. 16.5-43. Right of Inspection

The Applicant, as a condition of the approval of an Application, shall permit law enforcement, code enforcement, and any authority authorized to conduct building inspections for the City to inspect all structures and/or devices and equipment to be used in connection with the filming and taping as deemed necessary or as directed by the mayor or the city administrator.

Sec. 16.5-44. Use of City Equipment and Personnel

The mayor or the city administrator shall have the authority to require police or fire personnel, or City-owned equipment be present and on duty or in use at the site of filming activities if it is determined to be in the best interest for public safety or in the best interest of public health, safety, and welfare of the citizens of the City.

Sec. 16.5-45. Use of City Property

(a) The City Council may authorize the use of any street, right-of-way, public building, name, trademark or logo, 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 or the city administrator may require that any or all of the conditions and/or remuneration as specified on the Application be met as a prerequisite to that use. A security or damage deposit may be required by the mayor based on production activity.

(b) The Applicant agrees that the City of Marlin shall have full control over the use of the name, trademark and logo, public streets and buildings of the City while being used, as well as control over the hours of production and the general location of the production. The City of

Marlin reserves the full and absolute right to prohibit all filming or order cessation of filming if determined to be hazardous to the public health, safety, or welfare to the citizens of the City of Marlin.

(c) If filming is done on City property or if any road in the City is to be blocked or obstructed, a security agreement must be signed by the Police Chief for the City of Marlin before any filming is to be done. Costs for security is the sole responsibility of the filming organization and the number of officers and road closures have to be approved prior to filming by the Chief of Police for the City of Marlin ("Chief of Police").

(d) No large trucks or filming on the streets or roads may begin within the City of Marlin without the prior review and approval of the City Council which may, in the opinion of the mayor, the city administrator, or the Chief of Police, cause damage to the roads or streets. This includes any actions which will impede a street or road by any vehicles on any City right-of-way.

(e) If filming activities will cause noise or excessive lighting which will exceed and affect areas outside of the filming area between the hours of 10:00 P.M. and 7:00 A.M., the Applications shall specify such activities so that owners of adjacent properties will have the ability to be heard prior to the City Council's consideration of the Application. If such activities become necessary as part of filming after the approval of the Application, the mayor or the city administrator shall be notified prior to any such filming and the Council must approve the filming activities that will cause noise or excessive lighting which will affect areas outside of the filming area between the hours of 10:00 P.M. and 7:00 A.M. Owners of adjacent properties may appear at the Council meeting to be heard prior to the City Council's consideration of the Application. If any streets or roads are to be closed to prevent noise for filming, a safety plan must be approved by the Chief of Police prior to any filming.

Sec. 16.5-46. Equipment and Vehicles

The Applicant shall provide a full and complete list of the number of vehicles and types of equipment to be used during the filming including their proposed hours of use and their proposed parking locations. All parking locations must be approved by the mayor or the city administrator. The use of exterior lighting, power generators, or any other noise or light producing equipment requires on-site approval of the mayor or the city administrator.

Sec. 16.5-47 Hours of Filming

Unless the approved Application states otherwise as authorized in this Ordinance, filming will be limited to the hours between 7:00 A.M. and 9:00 P.M. on any day unless prior authorization to film at times other than 7:00 A.M. until 9:00 P.M. is approved by the City Council.

Sec. 16.5-48. Certificate of Insurance

The Applicant shall attach with the Application a certificate of insurance, issued by a company authorized to conduct business in the State of Texas, naming the City of Marlin and its agents, officers, elected officials, employees and assigns as additional insured, in an amount not less than \$1,000,000 aggregate general liability, including bodily injury or death and property damage

with a \$5,000,000 umbrella insurance; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

Sec. 16.5-49. Damage to Public or Private Property

The Applicant shall pay in full, within ten (10) days from date of an invoice, the repair costs for any and all damage to public or private property, resulting from or in connection with, the filming, and restore the property to its original or better condition existing prior to the filming.

Sec. 16.5-50. Hold Harmless

The Applicant, by submitting an Application for approval as authorized in this Ordinance, shall agree to hold the City harmless from any claim, damages or cause of action arising against the City now or in the future, known or unknown, resulting from the Applicant's filming operations.

Sec. 16.5-51. Enforcement

The provisions of this Ordinance shall be enforced by the persons or agencies designated by the City, including, but not limited to, the Falls County Sheriff's Department, the Chief of Police for the City of Marlin Police Department, any peace officer employed by the City of Marlin Police Department, any designated building official, and the code enforcement officer. It shall be a violation of this Ordinance to interfere with a peace officer or any other person authorized to enforce the provisions of this Ordinance in the performance of his or her duties

Sec. 16.5-52. Penalties

Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof within the City limits, shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

Section 5. Remedies for Violation of this Ordinance. Any remedies cited herein are in addition to and not in lieu of all remedies permitted to the City by law.

Section 6. Amendment and Repeal of Conflicting Ordinances. All parts of ordinances in conflict herewith are hereby amended and repealed to the extent of such conflict only.

Section 7. Severability. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion be inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 8. Effective Date. This Ordinance shall, upon final passage, be published in the official newspaper of the City of Marlin, Texas, as required by law and shall become effective ten (10) days after the date of the last publication thereof.

Section 9. Open Meetings Act. That it is hereby officially found and determined that the meeting which this Ordinance was passed was open to the public as required by law and that the public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act; Tex. Gov't Code.

FIRST READING on the 14th day of December, 2021.

SECOND READING on the 17 day of December, 2021.

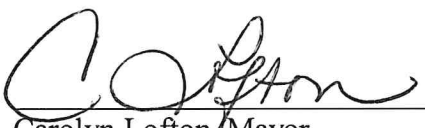
PASSED AND APPROVED on this the 11 day of January, 2021.

ATTEST:

CITY OF MARLIN, TEXAS



Maryann Waddle, City Secretary



Carolyn Lofton, Mayor
City of Marlin, Texas