ORDINANCE NO. 2012-05

AN ORDINANCE BY THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF THE CITY OF SMYRNA CODE OF ORDINANCES, CHAPTER 22 BUSINESSES BE AMENDED, ADDING ARTICLE VIII FILM INDUSTRY AND AMENDING CHAPTER 22 AS DESCRIBED:

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SMYRNA, GEORGIA:

That Article VIII be added to Chapter 22 of the City of Smyrna Code of Ordinances and Titled Film Industry

That Article VIII includes a category DIVISION 1. GENERALLY

That Division 1. Generally be amended to include:

FILM INDUSTRY

DIVISION 1. GENERALLY

Sec. 22-315. Purpose.
The motion picture, television and internet industries can be environmentally clean industries, desirable for the city so long as there is adequate regulation to protect the health, safety and well-being of the local community, atmosphere and environment.

Sec. 22-316. Definitions.

(a)For t he purposes of t his ordinance, the following w ords and terms shall be interpreted to have similar meanings:

(1) Words used in the singular number include the plural and words used in the plural number include the singular.
(2) Words used in the present tense include the future tense.
(3) The word "shall" is always mandatory and never discretionary or directory.
(4) The word "structure" includes the word "building."
(5) The word "constructed" includes the words "erected," "built," "altered," "rebuilt," and "repaired."
(6) The word "may" is always discretionary and never mandatory.
(7) The word "person" shall include the words "individual," "firm," "partnership," "corporation," "association," "organization," "trust," "company," or any other legal entity.

(b) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant includes an individual, firm, partnership, corporation, company or any association of joint stock.

City Administrator means the city administrator of the city or his/her designee duly authorized to enforce the filming ordinance.

City equipment means and includes any tangible property, other than real property, owned or controlled by the city.

City facilities means and includes any public street, sidewalk, park, recreational facility, cemetery, building, lake or other water body or real property owned or controlled by or under the jurisdiction of the city.

Film production means and includes any and all motion picture production, television production, videography and web based production.

Motion picture production means and includes all activity attendant to staging or shooting commercial motion pictures or programs and commercially prepared videotape.

Permittee means any applicant to whom a film production permit is issued by the city.

Production crew means and includes any and all on-location persons who are in any way involved in the production, staging or shooting of commercial motion pictures, videotaping or television shows or programs.

Production vehicles means and includes any and all on-location vehicles which are in any way involved in the production, staging or shooting of commercial motion pictures, videotaping or television shows or programs and includes but is not limited to automobiles, trucks, trailers, vessels, motorcycles, helicopters and airplanes.

Television production means and includes all activity attendant to staging or shooting commercial television pictures, shows or programs and commercially prepared broadcasts.

Temporary structures means and includes any and all structures assembled on or near a location attendant to motion picture production or television production.

Videography means and includes all activity attendant to staging and shooting commercially prepared videotape.

Web based production means and includes all activity attendant to staging or shooting commercial internet or web based motion pictures, shows or programs and commercially prepared broadcasts.

Sec. 22-317. Exemptions.

(a) *Broadcast studios.* The provisions of this article shall not apply to any commercial motion picture, television or videotaping studio or photography studio operating at its established or fixed place of business in the city.

(b) *Current news.* The provisions of this article shall not apply to or affect reporters, photographers, soundpersons, crew, vehicles or cameramen in the employ of a newspaper, news service, television station or similar entity engaged in on-the-spot broadcasting or recording of news events concerning those persons, scenes or occurrences in the news and of general public interest.

(c) *Personal-family use.* The provisions of this article shall not apply to noncommercial filming or videotaping of motion pictures which are solely for personal-family use.

(d) *Training, educational and public service use.* The provisions of this article shall not apply to any industrial, corporate, charitable, public service, public service announcements or not-for-profit film production intended for in-house training or educational purposes.

(e) *Political use.* The provisions of this article shall not apply to any film production intended for political purposes.

(f) *City direction.* The provisions of this article shall not apply to any film productions which are conducted by the city's public, education and government access organizations, or by or at the direction of the city;

(g) *Non-commercial private events.* The provisions of this article shall not apply to any private events filmed or photographed for non-commercial purposes, such as private parties or weddings.

(h) *Low impact film production.* The provisions of this article shall not apply to any film production which involves an on-location production crew of ten (10) or fewer persons and three (3) or fewer on-location production vehicles and is conducted entirely on private property and has no impact on public right-of-ways and is in compliance with all local ordinances including, but not limited to noise and light. (Examples of impacts on the public right-of-way include, but not limited to on-street parking; street closures; interruption of vehicular or pedestrian traffic flow; placement production equipment on public property.)

Sec. 22-318. Administrative Regulations.
The city administrator or their designee is hereby authorized to promulgate and enforce administrative regulations in the implementation and enforcement of this chapter.

That Article VIII includes a category DIVISION II. CERTIFICATE

That Division II. Certificate be amended to include:

DIVISION II. CERTIFICATE

Sec. 22-319. Permit Required.
No person shall engage in, conduct or carry on the business of film production, motion picture production, television production or web based production on private or public property within the limits of the city without first applying for or receiving a film production permit from the city.

This is in addition to any permit that maybe required by the International Fire Code or any other applicable code.

Sec. 22-320. City Administrator's duties.
The city administrator is authorized to act as the agent for the city in the receipt, processing and approval of applications for film production permits.

Sec. 22-321. Application.
(a) Any person seeking the issuance of a film production permit shall complete the written application form provided by the city and shall provide all information therein, and file that written application with the city not less than five (5) working days and not more than 180 days before the commencement of film production. The application must be signed by an authorized representative of

the applicant.

(b) The application for a film production permit shall constitute an agreement by the applicant to pay for city personnel expenses and extraordinary services provided by the city, including all repairs, renovations and landscaping and turf restoration or replacement which is necessitated by virtue of the production, unless another agreement to fix all damages to public property caused by the production is agreed upon by the applicant and the city.

(c) The application for a film production permit shall constitute a covenant between the applicant and the city, specifying that the applicant will halt or interrupt filming upon instruction from an officer of the Smyrna Police or Fire Department, upon violation of any state or local police or fire codes. The city covenants not to instruct that film production be halted or interrupted unless in its discretion it perceives that the filming shall cause or coincide with interference with traffic movement, disturbance of the peace, destruction of property, violation of the law or a threat to the public peace, health, safety or welfare.

(d) The application for a film production permit shall indemnify and hold harmless the City of Smyrna from all damages, suits, actions or liabilities, including all attorneys' fees, resulting from acts of the filming company or its agents during the filming activity or occurring as a result of the use of filming locations by the filming company.

Sec. 22-322. Insurance.

(a) Proof of general liability insurance coverage in the amount of at least $1,000,000.00 per incident or occurrence. The city administrator may require a larger amount of insurance and/or that the city be named as an additional insured if it is determined that the nature of the proposed film activity necessitates such action.

(b) Proof of worker's compensation insurance coverage for each and every employee in any way involved with the film production, as required under the laws of the State of Georgia.

(c) A comprehensive list of on-location non computerized special effects to be utilized, the proposed date and site for performance of each special effect or use of explosive devices, accompanied by proof of $5,000,000.00 per incident or occurrence of liability insurance therefore, naming the city as additional insured. In addition, the film production permit application shall list the person in charge (pilot or technician) of special effects, together with his qualifications and licensure by the applicable federal and state agencies.

Sec. 22-323. Approval criteria.

The city administrator shall approve issuance of a film production permit upon application, unless one of the following circumstances exist which may result in the denial of a film permit:

(1)The applicant has made a material misrepresentation in the application.

(2)Traffic impacts will occur, but no acceptable mitigation plan is provided. Examples of traffic impacts include, but are not limited to street closures, on-street parking and interruption of vehicular or pedestrian traffic flow.

(3) The film production fails to comply with any of the criteria designated under this article for

issuance of the film production permit or rules and regulations governing the production.

(4) If the application is for renewal of a f ilm production pe rmit, the applicant has violated conditions of the previous permit or ordinances or regulations of the city in the conduct of the film production.

Sec. 22-324. Limitations.
(a) There shall be no more than four film production permits granted with reference to any single residentially zoned property during a given calendar year.

(b) No film production permit shall be issued with reference to a particular location if either the city administrator or the city council determines that film production at that location would, in any way, adversely affect the public health, safety or general welfare of the citizenry, community and environment of the city.

Sec. 22-325. Notification of affected businesses and residents.
(a) Following the submission of a film permit application, but no less than three (3) business days prior to commencement of the filming activity, the filming company shall notify in writing all businesses and residents affected by the proposed activity. The filming company shall provide a signed copy of such notification to the city administrator as required in the film permit application. Where the planned activity may have a significant and/or prolonged impact on the normal activities of the area (for example, activities impacting parking or traffic in the core commercial district), the city administrator shall have the discretion to require earlier notification.

(b) The area to be covered by the notification prescribed in (a) above shall be a minimum of a 300 foot radius of the planned activity. Based upon the nature of the planned activity, the city administrator shall have the discretion to specify a wider area of notification as a condition of issuance of the permit.

(c) Notification should include all available information concerning the location and duration of the filming, prep and wrap activities, the times of day required for each location, proposed parking restrictions and restrictions on public streets, proposed location for all support facilities, as well as specifics regarding the use of lights, noise and any special effects or extraordinary equipment. The notification shall also the film company's production office telephone number and the location manager's telephone/cell phone/pager numbers. The notification shall also inform that any concerns, objections or complaints pertaining to the planned activity may be registered with the office of the city administrator.

(d) After commencement of the filming activity, the film company shall provide written notification to the affected businesses and residents of any subsequent changes to the information provided in the original notification and of any additional variances or permits granted by the city to the filming company.

Sec. 22-326. Special effects, explosives and similar devices.
(a) No film production which involves the use of explosives, pyrotechnics, fire or other special effects which involve flames or incendiary devices may be undertaken unless all required permits have been obtained.

(b) Use of public water by way of hydrant hookup shall require coordination with the City of Smyrna Water Department or Cobb County Water Department as applicable. Payment for any such water consumed shall be the responsibility of the applicant and be coordinated with the respective Department.

Sec. 22-327. Fees; deposit for city personnel and extraordinary service fee.
(a) Upon issuance of a film production permit, the permittee shall pay to the city the applicable film production permit fees as established by the city.

(b) The issuance of a film production permit shall not operate to waive the payment of any prescribed fees for the use of city facilities or services.

Sec. 22-328. Denial; term; revocation or suspension.
(a) *Denial of permit.* Where the film production permit is denied, the applicant shall be notified in writing by mail within five (5) days of the denial and the reasons therefore.

(b) *Term.* Film production permits issued pursuant to this article shall be effective for the stated purpose from the date of issuance through the date specified in the permit.

(c) *Revocation or suspension.* A film production permit may be revoked or suspended for any of the following reasons:

(1) A material false statement contained in the application;

(2) Failure to comply with federal, state or municipal laws and regulations;

(3) Failure to comply with any conditions imposed by the city on the issuance of the film production permit;

(4) Failure to operate the film production in accordance with such ordinances, laws, orders, rules and regulations as may be applicable; or

(5) Conducting the film production business or activity in a fraudulent or disorderly manner or in a manner which endangers the public health, safety, welfare or in any manner which disrupts the public peace.

Sec. 22-329. Notice of hearing and grounds for suspension or revocation.
Prior to suspension or revocation of a film production permit, the permittee shall be notified in writing of the grounds for suspension or revocation of the permit, and a hearing shall be held before the license and variance board thereon in accordance with Section 2-144 of the Smyrna Code of Ordinances. Notice of the hearing shall be given to the permittee at least three (3) days prior to the hearing.

Sec. 22-330. Emergency temporary suspension.
If the conduct or activity of the permittee creates an imminent peril to the environment or the public health, safety or welfare, the film production permit may be summarily suspended upon notice to the permittee. The permittee shall be entitled to a hearing before the license and variance board within three (3) working days thereafter.

All ordinances, parts of ordinances, or regulations in conflict herewith are repealed as of the effective date of this ordinance.

Severability: Should any section of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Approved by Mayor and Council this 20th day of August, 2012

Attest: A. Max Bacon, Mayor

Susan D. Hiott, City Clerk
City of Smyrna

Approved as to form:

Scott A. Cochran, City Attorney