

Section 32-204 Motion picture, television and photographic productions

A. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein:

Applicant shall mean the individual, organization, corporation, or any other entity that is ultimately responsible for the filming that is the subject of a permit application.

County shall mean Newton County.

Motion picture, television and photographic production shall mean all activity attendant to staging or shooting (videotaping or filming) commercial motion pictures, television shows, programs or commercials, and to the taking of single or multiple photographs for sale or use for a commercial purpose where the photographer sets up stationary equipment on public or private property or the public right-of-way in any one location for longer than five (5) consecutive minutes.

Newton County Film Coordinator or Coordinator shall mean the employee designated by the Board of Commissioners to work with and be the County's point of contact with media productions, and to assist in coordinating the permitting or authorization process for the County.

B. Notification and Permit or Authorization—Required.

1. No person shall use any public right-of-way, or any public property or facility for the purpose of producing, taking or making any commercial motion picture, television or photographic production as defined in Section A without notification to the County and a permit issued pursuant to the provisions of this chapter.
2. No person shall use any private property, facility or residence for the purpose of producing, taking or making any commercial motion picture, television or photographic production as defined in Section A without notification to the County and authorization issued pursuant to the provisions of this chapter.

C. Exemptions.

The provisions of this chapter shall not apply to the following:

1. Current news productions, which includes reporter, photographers or camera persons in the employment of a newspaper, news service, broadcasting station or similar entity engaged in the broadcasting of a news event.
2. Productions which are conducted by Newton County and the municipalities in Newton County, the Newton County Board of Education, or other governmental agencies as approved by the Board of Commissioners.

3. Productions which are conducted within legally established commercial motion picture/television/still photography studios.
4. Student filming.

D. Application.

Any person desiring a permit or authorization under the provisions of this chapter shall make application on forms provided by the Newton County Film Coordinator at least ten (10) working days prior to any filming activity taking place. The form must be signed and accompanied by all required fees, deposits, hold harmless agreements and insurance certificates required by this chapter before it will be processed. If the application satisfies the criteria of this chapter, the permit or authorization shall be issued within ten (10) working days of submittal.

Any person seeking to apply for a permit or authorizations under the provisions of this chapter may submit a completed application to the Coordinator fewer than ten (10) working days prior to any filming activity, provided that such application shall be accompanied with an additional \$500 rush fee, which shall be nonrefundable. No application may be submitted to the Coordinator later than one full business day in advance of the effective date of the requested permit. The Coordinator may refuse to accept an application submitted fewer than ten (10) working days prior to any filming activity and may deny an application accepted for processing that was submitted fewer than ten (10) working days prior to any filming activity when, in the reasonable discretion of the Coordinator, the processing of the application is not feasible.

At a minimum, Applicant shall provide the following information:

1. Applicant's contact information, including the name and phone number for a 24-hour contact person.
2. Project information including the filming locations, dates and time.
3. Description of proposed parking arrangements for vehicles and equipment.
4. Description of the type of sound equipment to be used and the timing of the use of amplified sound.
5. Information on any special effects to be used. A fire watch may be required of the Newton County Fire Service. See Section J(9) below.
6. Details of planned lane or road closures, including required detours and traffic control plans. Emergency vehicle access shall be maintained at all times. Road closures require on-duty POST certified law enforcement officers on site as determined and directed by the Newton County Sheriff's Office, at the production company's expense.

7. Applicant's security plan. If necessary to address public safety considerations, Applicant may be required to hire off-duty POST certified law enforcement officers as determined and directed by the Newton County Sheriff's Office. See Section J(11) below.

E. Fees.

Each application shall be accompanied by fees in accordance with the fee schedule as identified in Section N below. Except as set forth below, all fees shall be nonrefundable.

F. Issuance of permit or authorization; conditions.

The Newton County Film Coordinator, or designee, shall issue a permit or authorization as provided for in this chapter when, from a consideration of the application, and from such other information as may be otherwise obtained, the Coordinator, after consultation with the Newton County Sheriff's Office, the Newton County Fire Service, public works department, and building and grounds department, finds that:

1. The conduct of such activity will not unduly interfere with traffic or pedestrian movement or endanger public safety and that no streets will be completely closed to traffic for an unreasonable period of time; and
2. The conduct of such activity will not unduly interfere with normal governmental or County operations, threaten to result in damage or detriment to public property, or result in the County incurring costs or expenditures in either money or personnel not reimbursed in advance by Applicant; and
3. The conduct of such activity will not constitute a fire hazard or any other type of hazard and all safety precautions will be taken as determined by the heads of the aforementioned departments or their designees.

Notwithstanding the above, the Coordinator may deny an application if:

1. The Applicant production company owes an outstanding debt to the County; or
2. The Applicant production company previously caused significant damage to County property and failed to adequately repair the damage or reimburse the County for repair or restoration; or
3. The Applicant previously violated a Newton County ordinance or other applicable federal or state law in connection with filming activity in Newton County.

The decision of the Coordinator to issue, conditionally issue, or deny a permit or authorization shall be final unless appealed in writing within five (5) working days of the decision to the Chairman of the Board of Commissioners. The Chairman will render a decision to issue,

conditionally issue or uphold the denial of a permit or authorization within two (2) days of the appeal. The decision of the Chairman will be final.

When more than one permit application is received for filming at the same location at the same time, and the Coordinator reasonably determines both productions cannot occur, the first complete application that is received by the County shall receive priority as to the requested location and time. The Coordinator shall make reasonable efforts to accommodate any other applications to identify alternative suitable filming locations and times. Any fees paid by an unsuccessful applicant due to the unavailability of a requested filming location shall be fully refundable, notwithstanding any provision in this ordinance to the contrary.

G. Cost of additional services.

If deemed necessary, additional law enforcement, code enforcement, fire, and other County services shall be required for the purpose of protecting, assisting and regulating the proposed activity. The reasonable cost of providing such additional services shall be paid in advance to the County by Applicant.

H. Insurance.

Applicant agrees to maintain the following insurance for any permit to film on County property, utilize County right-of-way, or utilize County vehicles or equipment:

<u>Coverage</u>	<u>Limit</u>
1. Worker's Compensation	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$500,000 Each Accident \$500,000 Disease/Employee \$500,000 Disease/Policy
2. Automobile Liability	
Owned Vehicles	\$1,000,000
Non-owned Vehicles	\$1,000,000
Hired Vehicles	\$1,000,000
3. Commercial General Liability	
Aggregate Limit	\$2,000,000
Each Occurrence Limit	\$1,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to Rented Premises	\$100,000

Medical Payments

\$5,000

All insurance shall be provided by an insurer(s) acceptable to the County, and shall name Newton County as an additional insured on the general liability, auto liability. Applicant shall include a certificate or policy of insurance evidencing compliance with these requirements.

I. Hold Harmless Agreement.

Applicant shall execute an indemnification and hold harmless agreement as provided by the County prior to the issuance of any permit.

J. Conditions; restrictions.

1. Applicant shall maintain a copy of the permit or authorization on-site at all times.
2. Applicant shall comply with any and all conditions or restrictions the County may impose as a condition to issuing a permit or authorization. No changes in conditions or restrictions shall be made without first obtaining written approval of the Newton County Film Coordinator, which approval shall not be unreasonably withheld.
3. Applicant shall have nonexclusive use of County facilities unless otherwise granted in writing.
4. Newton County and its agents are not responsible for disturbances caused during film activities.
5. Filming in residential areas.
 - a. Filming shall be conducted between the hours of 7:00 a.m. and midnight. All set up, filming and take down shall occur during these hours unless all residents within 200 linear feet of the filming location are notified and compensated by Applicant at a rate of \$50 per each day of film activity. No exceptional activities such as pyrotechnics or explosions shall be conducted between midnight and 7:00 a.m.
 - b. Impacted residents shall be notified in writing at least three (3) days in advance of filming of any road closures and shall be compensated by Applicant at a rate of \$100 per day for their inconvenience. Such notification shall include information regarding the relevant filming location, as well as the use of any special effects.
6. Filming in business areas.
 - a. Impacted businesses shall be notified in writing at least three (3) days in advance of any filming that may impede customer access to such businesses. If customer access to a business is directly impeded during business hours, the business owner shall be

compensated by Applicant at a rate of \$200 per day for filming activity, including set up, filming and take down.

- b. If a business is otherwise affected by the filming, compensation will be decided between the filming company and the business owner.

7. Permits are not transferable.

8. Permit Modifications.

- a. All filming activity shall be confined to the locations, times, and conditions specified in permit.
- b. Any Applicant seeking to modify a previously issued permit shall submit such request to the Coordinator in writing no later than one full business day in advance of the effective date of a permit.
- c. There shall be no additional application fee associated with modifying a permit when, in the reasonable discretion of the Coordinator, the requested modification is not material. For the purposes of this ordinance, a “material” change means that the processing of the requested change will result in the expenditure of County staff time or services that is more than *de minimus*.
- d. Where an Applicant requests a material modification to a filming permit at least three (3) days in advance of the effective date of such permit, there shall be no additional application fee for the processing of such modification.
- e. Where an Applicant requests a material modification to a filming permit fewer than three (3) days in advance of the effective date of such permit, the Applicant must pay a \$500 rush fee for the processing of such modification.
- f. Where an Applicant notifies the County at least three (3) days in advance of the effective date of a permit of a modification or cancellation resulting in the decrease or elimination of fees for filming in a Newton County facility, the Applicant shall be entitled to a refund of fifty percent (50%) of the relevant facility fee.
- g. Any request to modify a permit that results in additional fees shall be accompanied by payment for any applicable fees at the time of the submission of the request.

9. Special Effects, Fire, Explosives, and Similar Devices.

- a. No filming involving the use of fire, explosives, pyrotechnics, smoke machines, or other similar special effects may be permitted unless specifically approved by the Newton County Fire Service. If, in the reasonable discretion of the Newton County Fire Service, a fire watch is required, Applicant shall be responsible for paying fees for the supervision of any film activity involving fire, explosives, pyrotechnics, smoke machines, or other similar special effects by a Newton County firefighter.

10. Applicant shall not remove, cut, trim, or otherwise alter the vegetation on Newton County land in connection with any filming activity unless specifically authorized in writing.

11. Security.

- a. Applicant's security plan is subject to approval by the Newton County Sheriff's Office. If necessary to address public safety considerations or the security of County facilities, Applicant may be required to hire off-duty POST certified law enforcement officers as determined and directed by the Newton County Sheriff's Office.

12. In advance of the issuance of any permit, the Coordinator may schedule a meeting with the Applicant and any applicable Newton County Department Heads, or in the absence of any Department Head, his or her designee. Participation may be in person or via teleconference. Such meeting shall occur to coordinate the approval of any filming activity and to determine any additional requirements necessary for the approval of the permit application. The County reserves the right to require any additional reasonable requirements identified by the Coordinator or any Newton County Department Heads, or in the absence of any Department Heads, his or her designee, to address concerns regarding filming activities.

K. Cleanup/restoration.

1. For filming on County owned property, Applicant shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use, maintenance of the area and the cleanup of trash and debris. The areas used shall be cleaned of trash and debris to County's satisfaction within two (2) hours of the completion of the activity or within such other time established in the permit. Applicant shall be responsible for restoring any area damaged or disrupted before leaving the site, reasonable wear and tear excepted. If, after notice and a reasonable opportunity to provide repairs, the site is not repaired or restored to the County's reasonable satisfaction, the County shall have the necessary restoration and/or repairs performed and shall bill Applicant for any reasonable costs incurred by the County. Applicant shall reimburse County for the reasonable cost of such work within thirty (30) days of receipt of the invoice.
2. Applicant shall be responsible for repairing damage to any public right-of-way to the satisfaction of the County, as determined in the County's reasonable discretion.

L. Upon issuance of a permit to an Applicant, the County grants to Applicant the following rights with respect to the filming location ("Premises") specified in the permit application:

1. To enter and remain upon the Premises with personnel, equipment and sets for the sole and express purpose of recording and photographing (still or moving) scenes live or on tape, film or by any other process on the Premises during the term specified in the permit.
2. To photograph (still or moving) and record the exterior and interior of buildings, ("Buildings") and other structures ("Structures"), including, but not limited to, signs, furniture, and pictures contained in or on such Buildings and/or Structures, which are on the Premises and to photograph (still or moving) and record any animals on the Premises.

3. To change the location of and/or replace furnishings in Buildings located on the Premises for the purpose of photographing (still or moving) and recording scenes pursuant; provided however, that Production Company shall return and put back all such furnishings to their rightful place prior to vacating the Premises.
4. To use the name of the Premises and/or the name of any Buildings or Structures located on the Premises or to represent each of the foregoing as another real or fictional location, or use a fictional name, in connection with Applicant's use of the recordings and photographs (still or moving).
5. To construct and photograph a set duplicating all or part of the Premises and Buildings or Structures (including but not limited to, any signs or any interiors of Buildings and Structures).
6. To use all recordings and photographs (still or moving) made by Applicant pursuant to the permit in all media now known or hereafter devised throughout the universe, in perpetuity, including the in-context advertising and promotion of the Project and customary in-context clip licensing and freely assign such rights.
7. To remove any and all of its sets, structures, and other materials and equipment from the Premises upon completion of the term of this Agreement.

M. Nothing in this Ordinance shall be interpreted in any way to limit the police power of the County.

N. Fee Schedule and Payment Obligations:

1. Application Fee: \$50.00
2. Fees for filming in a Newton County facility:
 - a. \$750 per day for preparation, construction, take down, and clean up in all locations except at Gaither Plantation and Lake Varner/Cornish Creek Reservoir. A fee of \$1000.00 per day shall apply for Prep/Strike at Gaither Plantation and Lake Varner/Cornish Creek Reservoir
 - b. \$1000 per day for filming in all locations except at Gaither Planation and Lake Varner/Cornish Creek Reservoir. A fee of \$2000 per day shall apply for filming at Gaither Planation and Lake Varner/Cornish Creek Reservoir
 - c. Access to the building after hours requires two on-duty deputies at a fee of \$40 per hour per deputy with a four (4) hour minimum
 - d. County Attendant is required to be on site at a rate of \$25.00 per hour for 8 hours, \$30.00 per hour after 8, and \$40.00 per hour after 12 paid by the film staff.
 - e. Special Permitting or Special Circumstances: County Attendant will be paid at a rate to be negotiated between the County Attendant and the film staff not to exceed \$40.00 per hour
3. Fees for use of Newton County Fire Service Vehicles and Equipment Use:
 - a. Administrative/Chief Sport Utility Vehicle (Tahoe/Expedition): \$200/day
 - b. Fire Engine: \$325/day

- c. Ladder Truck: \$500/day
 - d. Tanker: \$250/day
 - e. Brush Truck: \$275/day
 - f. Squad/Rescue (not an ambulance): \$275/day
 - g. Support vehicle (boat, supply truck, ATV, fire safety trailer): \$175/day
 - h. All apparatus/vehicles require 1 driver minimum to be paid by the film staff
 - i. All apparatus will be available 8 hours prior to first call date/time for signage and lettering if needed, all signs/lettering must be removed within 8 hours of final cut time
 - j. Any damage incurred to apparatus/vehicles due to signage or lettering will be replaced by our vendor and the cost will be billed directly to the film staff
 - k. Fuel will be billed at current industry rates and billed directly to the film staff
 - l. Loose equipment on apparatus/vehicles is not included in rental pricing, please see below. Pricing for loose equipment varies based on requested equipment; please contact Newton County Fire Services for specific needs and pricing
4. Newton County Fire Service Personnel (firefighters) Fees:
- a. \$40/hour per firefighter with a four (4) hour minimum, paid directly to the firefighter as contract labor by film staff
 - b. If personnel are utilized as part of an apparatus rental, they are to be paid 1 hour prior to call time and 1 hour after cut time for vehicle handling
 - c. Fire watch fee; please contact Newton County Fire Services for specific needs and pricing
5. Newton County Sheriff's Office Personnel Fees:
- a. On-duty deputies at a fee of \$40 per hour per deputy with a four (4) hour minimum