

**CITY OF MIDDLETOWN, NY APPLICATION FOR THE
REQUEST TO USE CITY PROPERTY FOR COMMERCIAL
PHOTOGRAPHY, FILM, VIDEOTAPE AND ELECTRONIC IMAGING**



Date: _____

1. Applicant/Permittee: _____

2. Production Company's Name: _____

3. Production Company's Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Cell: _____

Email: _____

4. Production Contact: _____

(Include address and
phone/fax, if different
From above)

5. Description of Story Line to be Filmed, Photographed, Taped or Electronically Imaged
(Description must be complete and accurate.)

(Production storyboards, scripts, script summaries, etc., if available, should be attached in lieu of a description, but shall be referred to above and attached to this permit as "Schedule A".)

6. Locations/Activities/City owned properties only

(List specific activities for each location identified here and the date and time that specified activities will take place.)

Date(s)	Time(s)	Location	Activity

7. List Production Equipment and Vehicles

(If more room is needed, include a list as part of the Schedule "A" attachment.)

8. Size of Cast and Crew: _____

9. Will residents or businesses be affected by the production: Yes _____ No _____

10. Will traffic be affected by the production: Yes _____ No _____

11. The Applicant/Permittee expressly agrees that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the City of Middletown, the Permittee shall indemnify and hold harmless the City of Middletown, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the Permittee's negligent acts or omissions or negligent acts or omissions of third parties under its direction and control which are reasonably related to the Permittee's rights and obligations under this Permit; and that except for damage contributed to, caused by or resulting from the negligence of the City of Middletown, to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of the Permittee's indemnification obligation herein and to bear all other costs and expenses related thereto.

In addition to and not in limitation of foregoing, the Permittee in its own name and naming the City of Middletown as additional insured, shall at the commencement of the term hereof, obtain and maintain in continuous effect for the term hereof, policies of insurance providing for the coverages and the limits and subject to the conditions set forth in Schedule "B", attached hereto and made a part hereof. The terms of Schedule "B" may be amended at the discretion of the City of Middletown as needed.

THE ATTACHED TERMS AND CONDITIONS AND SCHEDULE(S) ARE INCORPORATED INTO THE PERMIT APPLICATION AND WILL CONSTITUTE A PART OF THE PERMIT WHEN SIGNED BY AN AUTHORIZED OFFICIAL OF THE CITY OF MIDDLETOWN.

BY SIGNING BELOW, PERMITTEE’S AGENT REPRESENTS THAT HE/SHE HAS ACTUAL AUTHORITY TO BIND PERMITTEE TO THIS AGREEMENT.

FEE’S WILL BE ASSESSED UPON REVIEW OF THIS APPLICATION.

FOR DUE CAUSE, THIS APPLICATION MAY BE REVOKED AT ANY TIME

COMPLETING THIS APPLICATION DOES NOT REPRESENT APPROVAL.

PLEASE RETURN THIS APPLICATION TO THE CITY OF MIDDLETOWN ECONOMIC DEVELOPMENT DEPT. 16 JAMES STREET – MIDDLETOWN – NY- 10940

APPLICANT/PERMITTEE

Date: _____

Signature: _____

Print Name: _____

Title: _____

City of Middletown, New York

Date: _____

Signature: _____

City of Middletown, Mayor
Joseph M. DeStefano

PERMIT TERMS AND CONDITIONS

- 1) Use of Property/Grant of Rights: The City of Middletown hereby grants to Permittee permission to enter upon and use locations described in Paragraph 5 of the Permit (“Property”) for the limited purpose of shooting scenes for possible use in _____ (“Picture”). Permittee, its licensees, assigns and successors shall be the sole and exclusive owner of all rights of whatever nature in and to the Picture and/or any photography or recording that takes place on the Property pursuant to the terms of this Agreement, including all copyrights, in perpetuity throughout the universe.
- 2) Term: The term of this Agreement shall be as set forth in paragraph “6” of page “2” of this document.
- 3) Permit Fee: In consideration for the granting of this Permit and for use of the location(s) described on Page 2, Paragraph “6” of the Permit, Permittee shall pay to the City of Middletown the sum of _____ DOLLARS. This is an administrative fee only and does not include any additional fees that may be accrued due to location usage and/or the use of any municipal/county services.
- 4) Other Fees: Additional fees may be assessed based on location needs as well as the need for services of the City of Middletown Police Department and the City of Middletown Public Works Department (see attached Schedules for description of such services). City of Middletown Service fees will be assessed by representatives of involved departments and/or a knowledgeable local official. Said sum shall be due and payable after permit has been approved and at least two weeks before such services are required.
- 5) Surrender of Premises: The Permittee agrees that upon the expiration or other termination of this Permit Agreement, they shall leave the Property and shall leave said Property in the same or better condition existing on the date hereof.
- 6) Cancellation Fees/Liquidated Damages: In the event Permittee, for any reason, is unable to use the Property on the specific dates and times provided for in this Permit Agreement and less than 24 hours cancellation notice has been given, then Permittee shall pay to the City of Middletown, or, if payment has already been made, then City of Middletown shall retain, as liquidated damages, the sum of _____ per day for each day the subject Property has been reserved for Permittee’s use. Both the City of Middletown and Permittee agree that said sum of _____ per day represents a fair and reasonable estimate of the damages that the City of Middletown would incur should Permittee fail to use the Property as provided herein. Postponements and/or rescheduling due to weather issues are exempt from this clause.
- 7) Installation and Removal of Equipment: Permittee understands and agrees that any installation or removal of equipment used in connection with its production shall be completed during the hours of operation set forth herein.
- 8) Alterations: The Permittee shall not make any alterations, additions or improvements to City of Middletown property without the express prior written approval of an authorized official of the City of Middletown.
- 9) Exclusivity: This Permit allows for the Permittee’s exclusive use of the designated property as described herein, unless otherwise indicated in this document. Any restrictions or exceptions to this clause may be documented in Schedule “A” as needed.
- 10) Designated Activities: If it is discovered that Permittee has not fully described in this application the activities involved in the production or has been intentionally deceptive, it shall, without limiting any other damages to which the City of Middletown may be entitled, be grounds for the termination of this Permit.
- 11) Park Permits: If use of City Parks is requested Permittee shall be required to complete any applications and follow any guidelines as per the City of Middletown Parks Department.
- 12) Other Rules and Regulations: The Permittee shall, at its sole cost and expense, procure and maintain in full force and effect for the term of this Permit, all further permits, licenses and approvals required by any other governmental authorities having jurisdiction, required for the lawful conduct of its operations under this Permit. In addition, the Permittee shall comply with all applicable Federal, State and local laws, regulations

and orders. The Permittee shall avoid adverse impacts to the peace and tranquility of residents neighboring the permitted location and this shall be considered an obligation of this Permit.

- 13) Conduct of Crew and Cast: Permittee shall control the conduct or demeanor of its officers, agents, employees, subcontractors, invitees or anyone else Permittee allows onto the Permitted Premises, while such persons are on City of Middletown property, and shall insure that all such persons comply with all rules and regulations now or hereafter imposed by the City of Middletown governing the use and conduct of its operations under this Permit, the directions of the City of Middletown authorities and the City of Middletown Police..
- 14) No Guarantee or Warranty: The City of Middletown makes no guarantees or warranties, either express or implied, about the Property or any of the privileges or services provided under this Permit Agreement. As such Permittee agrees to accept same solely on an "as is" basis.
- 15) Permittee's Property: The City of Middletown shall not be responsible for the safety or security of any property, materials or equipment used in connection with the Permitted Activities.
- 16) Prohibited Materials and Practices: The Permittee shall not use or store on or about the City of Middletown property, any pyrotechnics, fire effects materials, explosives, toxic or hazardous chemicals or substances, or flammables including, but not limited to gasoline, oils, turpentine or benzene or any other chemical, substance or material which may cause a hazard to the safety of persons or property, except as are ordinarily used on or in motor vehicles or electrical generators, if used solely for such purposes or unless specifically permitted to do so under the listing of Permitted Activities authorized in this Permit. If the Permittee has received permission from the City of Middletown, the Fire Department and/or the City's Fire Inspector to use pyrotechnics, fire effects material, materials that cause explosions, including simulated and other smoke effects using a substance with a flash point of less than 400 degrees Fahrenheit on the Permitted Premises under the terms of this Permit, the Permittee shall arrange the prior inspection and the supervision of such activities by the local Fire Department, as a condition of the City of Middletown permission to use such materials.
- 17) Inspection: An authorized representative of the City of Middletown shall be entitled to enter onto the Property which is the subject of this Permit for the purpose of inspecting, observing and monitoring any aspect of the operations to be conducted by the Permittee thereon for the purposes of compliance with this Permit. Permittee shall also allow inspection of same by any Federal, State, County or other municipal officer having jurisdiction.
- 18) No Lease: It is expressly understood and agreed that no real or personal property of the City of Middletown is leased to the Permittee and the Permittee's privilege to use and occupy the property designated herein for the operation of this Permit shall continue only so long as the Permittee shall comply with each and every term and condition of this Permit Agreement, unless sooner revoked by a designated official of the C i t y o f M i d d l e t o w n .
- 19) Assignment of Permit: Permittee may not assign, convey, sell, transfer (including, but not limited to an attempt to transfer this Permit pursuant to a sale or transfer of all or part of the Permittee's assets) or otherwise dispose of this Permit, without the City of Middletown's written consent for the duration of this permit.
- 20) Construction/Venue: This Permit shall be construed in accordance with the Laws of the State of New York. Any actions brought by a Party to this Permit shall be brought in the City of Middletown Court and/or the Supreme Court of the County of Orange, Goshen, New York, unless on the basis of federal jurisdiction, in which case in the federal courthouse for the United States District Court for the Southern District of New York located in White Plains, New York.
- 21) No Agency: Nothing herein contained shall create or be construed as creating a co-partnership between the City of Middletown and the Permittee or to constitute the Permittee as agent of the City of Middletown. The City of Middletown and the Permittee each expressly disclaim the existence of such a relationship between them.
- 22) Unauthorized Interference with Operations: Permittee understands and agrees that as a material element of this Permit, no activities over and above those which have already been agreed upon in this contract shall unduly impede or interfere with the normal operation of the City of Middletown facilities. Permittee's failure to comply with this provision may be grounds for the immediate termination of this Permit.

- 23) Hold Harmless: Permittee shall indemnify, defend and hold harmless the City of Middletown, its employees and agents for any unauthorized use or infringement of any such intellectual property by Permittee in connection with its activities under this Permit. Said obligation to defend and/or indemnify the City of Middletown shall apply even if the allegations of infringement are false or without merit. Such duty to defend and indemnify the City of Middletown shall survive the expiration or termination of this Permit Agreement.
- 24) Screen Credit: If at all possible, permittee agrees to acknowledge the support and assistance of the City of Middletown, New York in the “closing credits” of the film.
- 25) Force Majeure: Neither party shall not be deemed in breach of this Permit Agreement if it is prevented from performing any of its obligations hereunder by reason of acts of God, acts of superior governmental authority, strikes or labor disputes, floods, or any similar other circumstance not within its reasonable control.

SCHEDULE "B"

STANDARD INSURANCE PROVISIONS

Permittee shall procure at its sole cost and expense insurance providing coverage to the City of Middletown for claims for damage to property and personal injury, including death, which may arise from the conduct of the Permittee, its agents, employees, contractors and guests and for the performance of any services performed in conjunction with this Permit authorized by the Permittee.

Insurance coverage shall be provided only by an insurer duly licensed in the State of New York. All insurance policies and certificates procured by the Permittee shall name as additionally insured "The City of Middletown" and its commissioners, officers, agents and employees. Designating "The City of Middletown, NY" as a "certificate holder" shall not constitute compliance with this section.

Prior to commencement of any activities under this Permit, the Permittee shall provide a current insurance certificate evidencing the following insurance coverage:

1. Insurance requirements:

CERTIFICATES OF INSURANCE AND WORKERS COMPENSATION

Permittee agrees to provide a policy of insurance to the City which names the City of Middletown as an additional insured. The Policy of Insurance must contain the following minimum requirements:

General Liability Insurance in the amount of \$1,000,000.00 per Occurrence/\$2,000,000.00
Aggregate Limits

Blanket or Designated Additional Insured Endorsement.

Primary & Noncontributory Additional Insured Endorsement.

Workers Compensation & Employers Liability in an amount at least equal to New York Statutory Limits. Workers Compensation to include waiver of subrogation.

Thirty Day Notification Clause to additional insureds for cancellations, termination, or material changes in policy conditions.

2. Any activities involving stunts, vehicular damage, pyrotechnics, explosions, etc. may require additional insurance coverage. This additional coverage will be negotiated prior to the signing of this contract and included here as Schedule "C".