

BOARD of SUPERVISORS



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October 1, 2013

File No. 130937

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On September 24, 2013, Supervisor Farrell introduced the following proposed legislation:

File No. 130937

Ordinance amending the Administrative Code to reduce the daily use fee for film productions with budgets less than \$100,000 from \$100 per day to \$50 per day; expand the definition of film productions and low-budget film productions eligible for the Film Rebate Program to include episodes of a web series; and extend the Film Rebate Program expiration date from June 30, 2014, to June 30, 2015, and correspondingly increase the current funding cap from \$2,000,000 to \$3,000,000 subject to annual appropriation; and making environmental findings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Victor Young".

By: Victor Young, Committee Clerk
Budget and Finance Committee

Attachment

c: Monica Pereira, Environmental Planning
Nannie Turrell, Environmental Planning

*Statutory exemption pursuant
to CEQA Guidelines,
Section 15273 Rates,
Tolls, Fees, Charges,
Mannix R. Turrell
10/16/2013*

1 [Administrative Code - Film Production Daily Use Fees; Film Rebate Program]

2

3 Ordinance amending the Administrative Code to reduce the daily use fee for film
4 productions with budgets less than \$100,000 from \$100 per day to \$50 per day;
5 expand the definition of film productions and low-budget film productions eligible for
6 the Film Rebate Program to include episodes of a web series; and extend the Film
7 Rebate Program expiration date from June 30, 2014, to June 30, 2015, and
8 correspondingly increase the current funding cap from \$2,000,000 to \$3,000,000
9 subject to annual appropriation; and making environmental findings.

10 NOTE: Unchanged Code text and uncodified text are in plain Arial font.
11 Additions to Codes are in *single-underline italics Times New Roman font*.
12 Deletions to Codes are in *strikethrough italics Times New Roman font*.
13 Board amendment additions are in double-underlined Arial font.
14 Board amendment deletions are in ~~strikethrough Arial font~~.
15 Asterisks (* * * *) indicate the omission of unchanged Code
16 subsections or parts of tables.

14

15 Be it ordained by the People of the City and County of San Francisco:

16

17 Section 1. Findings.

18 The Planning Department has determined that the actions contemplated in this
19 ordinance comply with the California Environmental Quality Act (California Public Resources
20 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
21 Supervisors in File No. ___ and is incorporated herein by reference.

22

23 Section 2. The Administrative Code is hereby amended by revising Section 57.5 and
24 57.8, to read as follows:

25

1 **SEC. 57.5. AUTHORIZATION TO ENTER INTO USE CONTRACTS AND**
2 **COORDINATE CITY DEPARTMENTS REGARDING FILM COMPANIES; CONSENT OF**
3 **RELEVANT DEPARTMENTS; COST RECOVERY; SIDEWALK CLOSURE AND POSTING.**

4 (a) Use Contracts; Deposit of Funds. The Executive Director may enter into use
5 contracts with organizations seeking to engage in film production. The Executive Director
6 shall be the sole City representative authorized to negotiate use contracts. Such contracts
7 shall, at a minimum, provide for the full recovery of costs incurred by the various City
8 departments in providing the use of City employees, equipment and rental facilities or rental
9 properties. Funds to reimburse City departments for costs incurred by those departments for
10 the deployment of personnel or equipment or use of rental facilities or rental properties shall
11 be paid directly to those departments for deposit subject to the budget and fiscal provisions of
12 the Charter.

13 (b) Consent of Departments or Mayor. Where film production is to take place on
14 property under the jurisdiction of City departments, the Executive Director's permission to use
15 such property is subject to the consent of the department head or his or her designee or the
16 Mayor or Mayor's designee.

17 (c) Schedule of Costs. In addition to the reimbursement of City departments for the
18 costs incurred by those departments in deploying personnel or equipment, the Film
19 Commission may, consistent with Charter Section 2.109, charge daily use fees to film
20 companies seeking to engage in film production. ~~Until a new schedule of use fees is approved by~~
21 ~~the Board of Supervisors, the use fees effective January 1, 2012~~ are as follows:

- 22 (1) Still photography: \$100 a day;
- 23 (2) A commercial, corporate media, industrial media, video, short subject, or
24 web video: \$200 a day;
- 25 (3) A television series, movie, pilot, or documentary:

1 (A) For a production with a budget of less than \$100,000: \$50 a day.

2 (AB) For a production with a budget of \$100,000 to less than \$500,000:
3 \$100 a day.

4 (BC) For a production with a budget of \$500,000 or greater: \$300 a day.

5 Public service announcements, qualifying student productions, and productions created
6 by entities that are tax-exempt under section 501(c)(3) of the Internal Revenue Code are
7 exempt from the above-listed use fees. The revenue generated by such use fees shall be
8 deposited in the San Francisco Film Production Fund.

9 (d) Sidewalk Closures and Sign-Posting. The Film Commission may require that film
10 companies use City personnel or City-approved vendors to post notice of the closure of City
11 streets and sidewalks for film production, and may establish minimum sign-posting
12 requirements. Notwithstanding anything to the contrary in Section 724 of the Public Works
13 Code, the Executive Director may authorize the temporary occupancy of public sidewalks for
14 film production, with the consent of the Department of Public Works, subject to all
15 requirements and conditions of the Department of Public Works and Department of Parking
16 and Traffic. Street closures for film production shall be governed by applicable provisions of
17 the Traffic Code.

18
19 **SEC. 57.8. FILM REBATE PROGRAM.**

20 (a) Purpose. The purpose of the Film Rebate Program is to increase the number of
21 qualified film productions being made in San Francisco, increase the number of City residents
22 employed in the filmmaking industry, and encourage the resulting economic benefits to
23 increased filmmaking in San Francisco.

24 (b) Definitions. As used in this Section, the following terms shall have the following
25 meanings:

1 “Principal photography” means the time period and phase of film production during
2 which the main photography occurs.

3 “Qualified film production” means a feature-length film, documentary film, docudrama
4 film, television film, television pilot, “reality” program or each episode of a television series *or*
5 *web series*, regardless of the medium used to create or convey it, that is created by a film *or*
6 *production* company that expends at least 65 percent of the total principal photography days
7 exclusively in the City. “Qualified film production” shall not include:

8 (1) a news or current affairs program, interview or talk program, instructional
9 film or program, film or program consisting primarily of stock footage, sporting event or
10 sporting program, game show, award ceremony, film or program intended primarily for
11 industrial, corporate or institutional end-users, fundraising film or program, commercials, or
12 music videos; or

13 (2) a production for which records are required under Title 18 United States
14 Code Section 2257, to be maintained with respect to any performer in such production.

15 “Qualified low-budget film production” means a feature-length film, documentary film,
16 docudrama film, television film, television pilot, “reality” program or each episode of a
17 television series *or web series*, regardless of the medium used to create or convey it, that is
18 produced by a film *or production* company that expends at least 55 percent of the total
19 principal photography days exclusively in the City and has a total budget of no more than
20 \$3,000,000. “Qualified low-budget film production” shall not include:

21 (1) a news or current affairs program, interview or talk program, instructional
22 film or program, film or program consisting primarily of stock footage, sporting event or
23 sporting program, game show, award ceremony, film or program intended primarily for
24 industrial, corporate or institutional end-users, fundraising film or program, commercials, or
25 music videos; or

1 (2) a production for which records are required under Title 18 United States
2 Code Section 2257, to be maintained with respect to any performer in such production.

3 "Qualified production cost," means the following expenses of a qualified low-budget film
4 production or a qualified film production:

5 (1) Any taxes, with the exception of hotel or sales taxes, paid to the City, or any
6 of its constituent departments, the proceeds of which are placed in the general fund;

7 (2) Any moneys paid to the City, or any of its constituent departments, for the
8 use of City property, equipment, or employees other than police services as described in
9 Chapter 10B of this Administrative Code except as authorized in subsection (5) below;

10 (3) Any moneys paid to the City, or any of its constituent departments, for the
11 use of property leased by the City;

12 (4) Any daily use fees charged by the Film Commission, pursuant to Section
13 57.5 of the Administrative Code, to engage in film production in the City; and

14 (5) Police services as described in Chapter 10B of this Administrative Code,
15 provided that such services do not exceed 4 Police Officers per day for a total of 12 hours
16 maximum per day per officer.

17 (c) Rebate Program.

18 (1) Allowance of Rebate. A qualified low-budget film production or qualified film
19 production that pays qualified production costs shall be entitled to a rebate, to be calculated
20 as provided herein, provided that the qualified production has entered into a first source hiring
21 agreement with the City that demonstrates good faith efforts to hire economically
22 disadvantaged individuals referred by the San Francisco Workforce Development System to
23 work for the qualified production. Good faith efforts shall include, at a minimum, consulting
24 with the FSHA for the purpose of preparing a list of positions for which individuals referred by
25 the City might qualify, providing that list to the FSHA at least two weeks prior to the first day of

1 shooting, and documenting efforts to contact and interview job candidates referred by the City
2 to fill the positions listed.

3 (2) Amount of Rebate. Effective July 1, 2012, the City shall pay one dollar for
4 each dollar the qualified low budget film production or qualified film production paid in qualified
5 production costs not to exceed \$~~23~~ million dollars by June 30, 2014~~5~~, subject to annual
6 appropriation. The rebate shall be paid from the project account that the Controller has set
7 aside for Film Rebate Program funds (the "Film Rebate Project Account"). In no event shall
8 the amount of any rebate paid for a single production after April 1, 2009 exceed \$600,000.00.
9 The rebate shall not be paid from funds dedicated under bond or other legal financing
10 covenants. Rebates paid under this Ordinance shall be paid only to those qualified film
11 productions whose filming commenced on or after the effective date of this Ordinance.

12 (3) Implementation. After holding a public hearing, the Executive Director of the
13 Film Commission, in consultation with the Controller, shall promulgate rules and regulations to
14 establish the procedures for implementation of the Film Rebate Program. Such rules shall
15 include provisions describing the application process, the standards used to evaluate the
16 applications, the documentation that will be required to substantiate the amount of the rebate,
17 the appeal process, and any such other provisions as deemed necessary and appropriate to
18 carry out the Film Rebate Program.

19 (d) Authority to Lease Private Property for Film Company Use. Subject to the
20 Controller's certification of funds in the Film Rebate Project Account or other available funding
21 source ("Controller's Certification"), the Director of Property of the Department of Real Estate,
22 in consultation with the Executive Director of the Film Commission, shall have the authority to
23 lease property and sublease such property to film companies for film-related activities
24 including, but not limited to filming, editing, film production office space, and stage space uses
25 ("Film Production Leases") when the Executive Director determines, in consultation with the

1 Director of Property, that no suitable alternative City property is available. Notwithstanding
2 any other provision of the Municipal Code, including Administrative Code Sections 23.26 and
3 23.31, where a proposed Film Production Lease is for a year-to-year or shorter tenancy and
4 has received the Controller's Certification under this subsection (d), the Director of Property
5 may enter into such Film Production Lease, including any corresponding sublease with a film
6 company subtenant, regardless of whether the monthly rent exceeds \$5,000, without action of
7 the Board of Supervisors unless otherwise required by the City Charter.

8 (e) Reports.

9 (1) Annual Reports. The Executive Director shall report annually to the Board
10 of Supervisors on the implementation of the Film Rebate Program. The report shall include a
11 list of each qualified film production, residency of employees, and the total of qualified
12 production costs submitted and paid to each film production. The Controller shall perform an
13 annual assessment and review of the effect of the Film Rebate Program. Based on such
14 assessment and review, the Controller shall prepare and submit an analysis to the Board of
15 Supervisors. The Analysis shall be based on criteria deemed relevant by the Controller, and
16 may include but is not limited to data contained in the annual reports to the Board of
17 Supervisors submitted by the Director of the Film Commission.

18 (2) 2013 Report. By December 31, 2013, the Film Commission, working with
19 the Controller's Office, shall submit a report to the Board of Supervisors on the current results
20 of the Film Rebate Program, addressing the objectives of the Program. The report should
21 include a list of all film production companies that have had permits with the Film Commission,
22 the number of qualified film productions, the number of San Francisco residents employed on
23 such film productions, verification of the number of jobs and the salaries paid to economically
24 disadvantaged San Francisco residents hired through the City's Workforce Development
25 Program, the amount of the rebates paid to the film production companies, and the overall

1 economic impact from the City's Film Rebate Program since the last Film Commission report
2 to the Board of Supervisors.

3 (f) Expiration of Section. The Film Rebate Program shall expire on June 30, 2014⁵,
4 unless extended by ordinance. If the Film Rebate Program is not extended, the City Attorney
5 shall cause this Section to be removed from the Administrative Code.

6
7 Section 3. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor's veto of the ordinance.

11
12 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
13 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
14 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
15 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
16 additions, and Board amendment deletions in accordance with the "Note" that appears under
17 the official title of the ordinance.

18
19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21 By: _____
22 ADINE VARAH
23 Deputy City Attorney

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