

BOARD of SUPERVISORS



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MEMORANDUM

TO: Villy Wang, President, Film Commission
Mohammed Nuru, Director, Public Works
Ed Reiskin, Executive Director, Municipal Transportation Agency

FROM: *el for* Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: May 22, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Supervisor Stefani on May 15, 2018:

File No. 180518

Ordinance amending the Administrative Code to modify the daily use fees to engage in film production, to extend the Film Rebate Program through 2028, to correspondingly increase the authorized funding cap for the Film Rebate Project Account from \$4,000,000 to \$14,000,000; and to add administrative penalties for violations of requirements of Film Commission programs.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Matt Stiker, Film Commission
David Steinberg, Public Works
Jeremy Spitz, Public Works
Jennifer Blot, Public Works
Lena Liu, Public Works
Janet Martinsen, Municipal Transportation Agency
Kate Breen, Municipal Transportation Agency
Dillon Auyoung, Municipal Transportation Agency
Viktoriya Wise, Municipal Transportation Agency

1 [Administrative Code - Film Commission Programs]

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3 **Ordinance amending the Administrative Code to modify the daily use fees to engage in**
4 **film production, to extend the Film Rebate Program through 2028, to correspondingly**
5 **increase the authorized funding cap for the Film Rebate Project Account from**
6 **\$4,000,000 to \$14,000,000; and to add administrative penalties for violations of**
7 **requirements of Film Commission programs.**

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

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

16 Section 1. The Administrative Code is hereby amended by revising Section 57.1, to
17 read as follows:

18 **SEC. 57.1. DEFINITIONS.**

19 *For purposes of this Chapter 57, the following terms shall have the following meanings:*

- 20 (a) "City" means the City and County of San Francisco.
- 21 (b) "Commission" means the Film Commission of the City and County of San
22 Francisco.
- 23 (c) "Film" means feature motion pictures, video tapes, television programs,
24 commercials, still photography, documentaries, travelogues, music videos, web videos, web
25 series, and other visual art forms; provided however, that "film" shall not mean films or video

1 tapes for private-family use or films by any news service or similar entity engaged in on-the-
2 spot print media, publishing, or broadcasting, of news events.

3 ~~(d)~~ "Film company" means any individual, corporation, firm, partnership, or other
4 organization however organized engaged in film production.

5 ~~(e)~~ "Film production" means the activity of making a film for commercial or
6 noncommercial property where that activity (1) requires the use of City employees or
7 equipment or (2) interferes with the ordinary use, safety, and enjoyment of public right-of-ways
8 or other property under the jurisdiction of the City.

9 "Season" means the initial exhibition of a set of interrelated new episodes within a 12-month
10 period.

11
12 Section 2. The Administrative Code is hereby amended by revising Section 57.5, to
13 read as follows:

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

17 (a) Use Contracts; Deposit of Funds. The Executive Director may enter into use
18 contracts with organizations seeking to engage in film production. The Executive Director shall
19 be the sole City representative authorized to negotiate use contracts. Such contracts shall, at
20 a minimum, provide for the full recovery of costs incurred by the various City departments in
21 providing the use of City employees, equipment, and rental facilities or rental properties.
22 Funds to reimburse City departments for costs incurred by those departments for the
23 deployment of personnel or equipment or use of rental facilities or rental properties shall be
24 paid directly to those departments for deposit subject to the budget and fiscal provisions of the
25 Charter.

1 * * * *

2 (c) **Schedule of Costs.** In addition to the reimbursement of City departments for the
3 costs incurred by those departments in deploying personnel or equipment, the Film
4 Commission may, consistent with Charter Section 2.109, charge daily use fees to film
5 companies seeking to engage in film production. The use fees are as follows:

6 (1) Still photography: \$100 a day.

7 (2) A commercial, corporate media, industrial media, videos, ~~short subject~~, or web
8 video: \$200 a day.

9 (3) A television series (each episode), web series (each episode), movie, pilot, short
10 subject, or documentary:

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

12 (B) For a production with a budget of \$100,000 to less than \$500,000: \$100 a
13 day.

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

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

19 (d) **Sidewalk Closures and Sign-Posting.** The Film Commission may require that
20 film companies use City personnel or City-approved vendors to post notice of the closure of
21 City streets and sidewalks for film production, and may establish minimum sign-posting
22 requirements. Notwithstanding anything to the contrary in Section 724 of the Public Works
23 Code, the Executive Director may authorize the temporary occupancy of public sidewalks for
24 film production, with the consent of the Department of Public Works, subject to all
25 requirements and conditions of the Department of Public Works and *Department of Parking and*

1 ~~Traffic~~ the San Francisco Municipal Transportation Agency. Street closures for film production
2 shall be governed by applicable provisions of the Transportation Code.

3
4 Section 3. The Administrative Code is hereby amended by revising Section 57.8, to
5 read as follows:

6 **SEC. 57.8. FILM REBATE PROGRAM.**

7 * * * *

8 (c) **Rebate Program.**

9 (1) **Allowance of Rebate.** A qualified low-budget film production or qualified film
10 production that pays qualified production costs shall be entitled to a rebate, to be calculated
11 as provided herein, provided that the qualified production has entered into a first source hiring
12 agreement with the City that demonstrates good faith efforts to hire economically
13 disadvantaged individuals referred by the San Francisco Workforce Development System to
14 work for the qualified production. Good faith efforts shall include, at a minimum, consulting
15 with the First Source Hiring Administration ("FSHA") for the purpose of preparing a list of
16 positions for which individuals referred by the City might qualify, providing that list to the FSHA
17 at least two weeks prior to the first day of shooting, and documenting efforts to contact and
18 interview job candidates referred by the City to fill the positions listed.

19 (2) **Amount of Rebate.** ~~Effective~~ *Starting* July 1, 2015, the City shall pay one dollar
20 for each dollar the qualified low budget film production or qualified film production paid in
21 qualified production costs not to exceed ~~\$414,000,000~~ by ~~July 1, 2019~~ June 30, 2028, provided
22 that such rebate payment shall not exceed \$600,000 for each such production. No television
23 series or web series shall qualify for more than \$600,000 in rebate payments per season. The rebates
24 shall be paid from the project account that the Controller has set aside for Film Rebate
25 Program funds (the "Film Rebate Project Account"). The rebates shall not be paid from funds

1 dedicated under bond or other legal financing covenants. Rebates paid under this Section
2 57.8 shall be paid only to those qualified low budget film productions or qualified film
3 productions whose filming commenced on or after May 20, 2006.

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

11 * * * *

12 (f) Expiration of Section. The Film Rebate Program shall expire on June 30, ~~2019~~
13 2028, unless extended by ordinance. If the Film Rebate Program is not extended, the City
14 Attorney shall cause this Section to be removed from the Administrative Code.

15
16 Section 4. The Administrative Code is hereby amended by adding Section 57.9, to
17 read as follows:

18 **SEC. 57.9. ADMINISTRATIVE PENALTIES.**

19 (a) The Executive Director or his or her designee may issue a citation imposing an
20 administrative penalty in an amount of up to three times the applicable use fee under Section 57.5(c) of
21 this Chapter 57 to any person that has violated this Chapter. The amount of such administrative penalty
22 will be based on the impact of the violation on the community, the impact of the violation on the City,
23 the amount of staff time needed to investigate and address such violations, and such other factors as
24 justice may require.
25

1 (b) Except as provided in subsection (a), setting forth the amount of administrative fines,
2 Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as
3 may be amended from time to time, is hereby incorporated in its entirety and shall govern the
4 procedure for imposition, enforcement, collection, and administrative review of administrative citations
5 issued by the Executive Director or his or her designee to enforce this Chapter 57.

6 (c) If a film company did not enter into a use contract to engage in film production and is
7 seeking a certification that the film was made in compliance with the laws of the jurisdiction where it
8 was filmed, the film company will receive a certification of compliance upon payment of the
9 administrative penalty, evidence of insurance as required by the City Risk Manager, if such insurance
10 was in effect at the time of filming, and upon signing an agreement to hold the City harmless for any
11 costs associated with any loss or claim attributable to any of the activities of the film production in
12 connection with the filming.

13 (d) The Executive Director may require a film company seeking to engage in film production to
14 pay any unpaid administrative fines imposed under this Section 57.9 prior to entering into any further
15 use contracts.

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17 Section 5. Effective Date. This ordinance shall become effective 30 days after
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
20 of Supervisors overrides the Mayor's veto of the ordinance.

21
22 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

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additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 
LAUREN CURRY
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Film Commission Programs]

Ordinance amending the Administrative Code to modify the daily use fees to engage in film production, to extend the Film Rebate Program through 2028, to correspondingly increase the authorized funding cap for the Film Rebate Project Account from \$4,000,000 to \$14,000,000; and to add administrative penalties for violations of requirements of Film Commission programs.

Existing Law

Existing law provides for the Film Rebate Program. The purpose of the Film Rebate Program is to increase the number of qualified film productions being made in San Francisco, increase the number of City residents employed in the filmmaking industry, and encourage the resulting economic benefits from increased filmmaking in San Francisco. Under the Film Rebate Program, the City pays one dollar for each dollar a “qualified low budget film production” or “qualified film production” pays in certain production costs to the City, not to exceed the \$4,000,000 cap on the Film Rebate Project Account.

The Film Rebate Program is scheduled to sunset on June 30, 2019.

Administrative Code Chapter 57, which establishes the City’s Film Commission, does not provide for any penalties if a film production violates the requirements of Film Commission programs.

Amendments to Current Law

The proposed ordinance provides that the sunset date for the Film Rebate Program is extended to June 30, 2028, and the cap on the Film Rebate Project Account is increased to \$14,000,000.

The proposed ordinance also provides for administrative penalties in an amount up to three times the applicable use fee to any person who has violated the requirements of Film Commission programs. A film production seeking certification that a film was made in compliance with the laws of the jurisdiction where it was filmed, but that did not enter into a use contract at the time of filming, could receive a certification of compliance upon payment of the administrative penalty and upon signing an agreement to hold the City harmless for any costs associated with any loss or claim attributable to any of the activities of the film production in connection with the filming.

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