File No	Committee Item No. 6 Board Item No. 13
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Committee: Budget & Finance Comm	ittee Date September 20, 2018
Board of Supervisors Meeting	Date October 2, 2018
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Date _ Date_

Completed by: Linda Wong
Completed by: Linda Wong

AMENDED IN COMMITTEE 9/20/18 ORDINANCE NO.

FILE NO. 180518

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[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 \$44<u>13</u>,000,000; and to add administrative penalties for violations of requirements of Film Commission programs.

Unchanged Code text and uncodified text are in plain Arial font.

Additions to Codes are in single-underline italics Times New Roman font.

Deletions to Codes are in strikethrough italics Times New Roman font.

Board amendment additions are in double-underlined Arial font.

Board amendment deletions are in strikethrough Arial font.

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

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

SEC, 57.1. DEFINITIONS.

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

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

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

- (d) "Film company" means any individual, corporation, firm, partnership, or other organization however organized engaged in film production.
- (e) "Film production" means the activity of making a film for commercial or noncommercial property where that activity (1) requires the use of City employees or equipment or (2) interferes with the ordinary use, safety, and enjoyment of public right-of-ways or other property under the jurisdiction of the City.

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

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

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

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

. (c) **Schedule of Costs**. In addition to the reimbursement of City departments for the costs incurred by those departments in deploying personnel or equipment, the Film

Commission may, consistent with Charter Section 2.109, charge daily use fees to film companies seeking to engage in film production. The use fees are as follows:

- (1) Still photography: \$100 a day.
- (2) A commercial, corporate media, industrial media, videos, *short subject*, or web video: \$200 a day.
- (3) A television series <u>(each episode)</u>, web series <u>(each episode)</u>, movie, pilot, <u>short</u> <u>subject,</u> or documentary:
 - (A) For a production with a budget of less than \$100,000: \$50 a day.
- (B) For a production with a budget of \$100,000 to less than \$500,000: \$100 a day.
 - (C) For a production with a budget of \$500,000 or greater: \$300 a day.

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

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

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

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

SEC. 57.8. FILM REBATE PROGRAM.

(c) Rebate Program.

- (1) Allowance of Rebate. A qualified low-budget film production or qualified film production that pays qualified production costs shall be entitled to a rebate, to be calculated as provided herein, provided that the qualified production has entered into a first source hiring agreement with the City that demonstrates good faith efforts to hire economically disadvantaged individuals referred by the San Francisco Workforce Development System to work for the qualified production. Good faith efforts shall include, at a minimum, consulting with the First Source Hiring Administration ("FSHA") for the purpose of preparing a list of positions for which individuals referred by the City might qualify, providing that list to the FSHA at least two weeks prior to the first day of shooting, and documenting efforts to contact and interview job candidates referred by the City to fill the positions listed.
- (2) Amount of Rebate. Effective Starting July 1, 2015, the City shall pay one dollar for each dollar the qualified low budget film production or qualified film production paid in qualified production costs not to exceed \$41413,000,000 by *July 1, 2019 June 30, 2028*, provided that such rebate payment shall not exceed \$600,000 for each such production. *No television series or web series shall qualify for more than \$600,000 in rebate payments per season.* The rebates shall be paid from the project account that the Controller has set aside for Film Rebate Program funds (the "Film Rebate Project Account"). The rebates shall not be paid from funds

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

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

* * * *

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

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

SEC. 57.9. ADMINISTRATIVE PENALTIES.

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

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

(c) If a film company did not enter into a use contract to engage in film production and is seeking a certification that the film was made in compliance with the laws of the jurisdiction where it was filmed, the film company will receive a certification of compliance upon payment of the administrative penalty, evidence of insurance as required by the City Risk Manager, if such insurance was in effect at the time of filming, 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.

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

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

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

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:

Deputy City Attorney

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FILE NO. 180518

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 \$13,000,000; 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 \$13,000,000.

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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Item 6	Department:	
File 18-0518	Mayor's Office	

EXECUTIVE SUMMARY

Legislative Objectives

• The proposed ordinance would amend the Administrative Code to modify (a) daily use fees to engage in film production, (b) extend the Film Rebate Program from July 1, 2015 through June 30, 2028, for a total of 13 years, (c) increase the authorized funding cap for the Film Rebate Project Account from \$4,000,000 to \$14,000,000, and (d) add administrative penalties for violations of requirements of the Film Commission Programs.

Key Points

- In 2006, the Board of Supervisors approved the Film Rebate Program, which allows film
 production companies, who produce qualified film productions, to receive a rebate of up
 to 100 percent of qualifying costs previously paid to the City.
- In 2015, the Board of Supervisors approved amending the ordinance to extend the Film Rebate Program from July 1, 2015 through June 30, 2019, and establish a funding cap of \$4,000,000 over the four year period for the total amount of rebates to be paid by the City to qualified film production companies.

Fiscal Impact

- The Film Rebate Program has paid \$5,522,876 in rebates between FY 2006-07 and FY 2017-18. To date, 27 films and TV shows have used the film rebate program.
- The total Film Rebate Program appropriations between FY 2015-16 and FY 2017-18 were \$2,400,000 and total rebates were \$1,827,014, for total funds carried forward from FY 2017-18 of \$577,124. The Board of Supervisors appropriated \$800,000 to the Film Rebate Program in FY 2018-19, for total available funds of \$1,377,124.
- The proposed ordinance would increase the authorized funding cap for the Film Rebate Program by \$10,000,000 from \$4,000,000 to \$14,000,000, and extend the program by nine years through June 30, 2028. However, according to the Film Commission, the Film Rebate Program needs funding of \$1,000,000 per year, totaling \$9,000,000 for the nine-year period from July 1, 2019 through June 30, 2028. Therefore, the funding cap should be \$13,000,000 (or \$9,000,000 more than the current cap of \$4,000,000) rather than \$14,000,000, as stated in the proposed ordinance. The proposed ordinance should be amended to reduce the funding cap from \$14,000,000 to \$13,000,000.
- The proposed ordinance does not set a minimum or maximum amount that the Board of Supervisors would be required to appropriate to the Film Rebate Program each year.

Recommendations

- Amend the ordinance to reduce the funding cap from \$14,000,000 to \$13,000,000.
- Approval is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

According to City Charter Section 2.105, the Board of Supervisors shall only act by written ordinance or resolution, except that it may act by motion on matters over which the Board of Supervisors has exclusive jurisdiction.

BACKGROUND

In April of 2006, the Board of Supervisors approved the Film Rebate Program (File 06-0065), which allows film production companies, who produce qualified film productions or qualified low-budget film productions, to receive a rebate of up to 100 percent of qualifying costs previously paid to the City. Qualifying costs include:

- Taxes paid to the City, not including hotel or sales tax;
- City departments' costs for the use of the departments' equipment, property or employees' time;
- Film Commission's daily use permit fees;
- Police officers' time, up to four police officers per day for a maximum of 12 hours per day per police officer; and
- Property lease costs, when alternative City property is not available.

Administrative Code Section 57.8 states that the purpose of the Film Rebate Program is to increase the (a) number of film productions in San Francisco, (b) number of City residents employed in the filmmaking industry, and (c) resulting economic benefits to San Francisco. Administrative Code Section 57.8(c)(2) initially specified that the total amount of rebates paid by the City to the film production companies shall not exceed \$1,800,000 through June 30, 2009.

In 2009, the Board of Supervisors approved a two-year extension to the Film Rebate Program, through June 2012 (File 09-0627).

In 2012, the Board of Supervisors approved extending the Film Rebate Program for two additional years, through June 30, 2014, and increasing the total amount of available funds up to \$2,000,000 for film rebates during that period (File 12-0406).

In 2013, the Board of Supervisors approved extending the Film Rebate Program for one additional year, through June 30, 2015, and increasing the total amount of available funds up to \$3,000,000 (File 13-0937).

In April 2015, the Board of Supervisors approved amending the ordinance to extend the Film Rebate Program from July 1, 2015 through June 30, 2019, and establish a funding limit of \$4,000,000 over the four year period for the total amount of rebates to be paid by the City to qualified film production companies, subject to appropriation approval by the Board of Supervisors (File 15-0463). In addition, the Administrative Code provides that film production companies must demonstrate good faith efforts to hire San Francisco residents through the City's First Source hiring program.

Qualified film productions include any feature length film, documentary, docudrama, television film, television pilot, reality program or each episode of a television series or web series where 65 percent of the days are filmed in the City. Qualified low-budget film productions include any feature length film, documentary, docudrama, television film, television pilot, reality program or each episode of a television series or web series where at least 55 percent of the days are filmed in the City and the total budget is \$3,000,000 or less.

To date, 27 films and TV shows have used the film rebate program.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Administrative Code to modify (a) daily use fees to engage in film production, (b) extend the Film Rebate Program from July 1, 2015 through June 30, 2028 for a total of 13 years, (c) increase the authorized funding cap for the Film Rebate Project Account from \$4,000,000 to \$14,000,000, and (d) add administrative penalties for violations of requirements of the Film Commission Programs.

Daily Use Fees

The proposed ordinance would allow low-budget short films to qualify for the low budget production daily use fee. Currently, short films must pay \$200 per day for filming, which, according to Ms. Susannah Robbins, Executive Director of the San Francisco Films Commission, is prohibitively expensive for small budget short films. The proposed changes to the ordinance would allow short films to qualify for daily permit fees of between \$50 and \$100.¹

The proposed ordinance would also allow exemptions of fees for productions created by or for entities that are tax exempt under section 501(c)(3) of the Internal Revenue Code.

Extension through 2028

The current program's sunset date is June 30, 2019. The proposed ordinance would extend the program by an additional nine years to June 30, 2028. In the past, the program has been extended by smaller increments. According to Ms. Robbins, many productions begin to budget two years prior to filming. The longer extension will give producers more confidence that the rebate program will remain for projects that extend over many years.

Administrative Penalties

The proposed ordinance establishes administrative penalties of up to three times the applicable user fee for any person in violation of Chapter 57, which details the Film Rebate Program. The amount of the administrative penalty will be based on the impact of the violation on the community, the amount of staff time needed to investigate and address such violations, and such other factors as justice may require. In addition, 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

¹ If the total production budget is under \$100,000, the production would qualify for \$50 daily permit fee. If the budget is under \$500,000, the production would qualify for \$100 daily permit fee.

compliance upon payment of the administrative penalty. There are currently no administrative penalties.

FISCAL IMPACT

The Film Rebate Program has paid \$5,522,876 in rebates between FY 2006-07 and FY 2017-18, as shown in Table 1 below.

Table 1: Actual Expenditures on Film Rebate Program

Fiscal Year	Actual Expenditures		
FY 06-07	\$42,151		
FY 07-08	-		
FY 08-09	171,049		
FY 09-10	535,212		
FY 10-11	164,277		
FY 11-12	627,131		
FY 12-13	231,025		
FY 13-14	831,501		
FY 14-15	1,097,654		
FY 15-16	800,000		
FY 16-17	800,000		
FY 17-18	222,876		
Total	\$ 5,522,876		

Source: Film Commission

As shown in Table 1 above, annual expenditures ranged from \$0 to \$1,097,654 per year. All unspent funds are carried forward to the new fiscal year. The Film Rebate Program currently has a fund balance of \$577,124 from FY 2017-18.

Annual appropriation to the Film Rebate Program

The Film Rebate Program funds are General Fund monies subject to Board of Supervisors approval. The Board of Supervisors allocated \$1.8 million to the program in 2006 and \$2 million to the program in 2012. In 2014, the Board of Supervisors extended Film Rebate Program for four years from FY 2015-16 to FY 2018-19. The Board of Supervisors set the program not-to-exceed amount at \$4 million over the four-year period, and has appropriated \$3,200,000 through FY 2018-19.

The total Film Rebate Program appropriations between FY 2015-16 and FY 2017-18 were \$2,400,000 and total rebates were \$1,827,014, for total funds carried forward from FY 2017-18 of \$577,124. The Board of Supervisors appropriated \$800,000 to the Film Rebate Program in FY 2018-19, for total available funds of \$1,377,124.

Proposed Reduction in Funding Cap

The proposed ordinance would increase the authorized funding cap for the Film Rebate Program by \$10,000,000 from \$4,000,000 to \$14,000,000, and extend the program by nine years through June 30, 2028. However, according to Ms. Robbins, the Film Commission needs Film Rebate Program funding of \$1,000,000 per year, totaling \$9,000,000 for the nine-year period from July 1, 2019 through June 30, 2028. Therefore, the funding cap should be \$13,000,000 (or \$9,000,000 more than the current cap of \$4,000,000) rather than \$14,000,000, as stated in the proposed ordinance. The proposed ordinance should be amended to reduce the funding cap from \$14,000,000 to \$13,000,000.

The proposed ordinance does not set a minimum or maximum amount that the Board of Supervisors would be required to appropriate to the Film Rebate Program each year.

POLICY CONSIDERATION

The Film Commission estimates that the Program has generated \$28,908,205 in spending in San Francisco since June 2013

Based on data pertaining to the film rebate program provided by the Film Commission, Table 2 below shows the estimated direct spending in the San Francisco economy generated by film productions for which rebates were paid in the past five completed fiscal years. As shown below, every dollar the City expended on film rebates between FY 2013-14 and FY 2017-18 generated between \$3.58 and \$11.69 in direct spending in San Francisco. This assumes that these productions would not film in San Francisco were it not for the Film Rebate Program.

Fiscal Year	Direct Spending*	Rebate	Economic Multiplier
FY 13-14	\$4,997,669	\$831,501	\$6.01
FY 14-15	12,826,828	1,097,654	11.69
FY 15-16	3,058,390	799,700	3.82
FY 16-17	7,210,915	800,000	9.01
FY 17-18	814,403	227,876	3.65
Total	\$28,908,205	\$3,751,731	\$6.84

Table 2: Direct spending generated by film rebate program

The legislation previously approved by the Board of Supervisors authorizing the Film Rebate Program requires that the Director of the Film Commission provide the Board of Supervisors with an annual report on the implementation of the film rebate program. The Budget and Legislative Analyst has confirmed that these reports were submitted to the Board of

^{*}Direct Spending includes San Francisco wages

Supervisors for all fiscal years except FY 2015-16.² According to Ms. Robbins, the Film Commission plans to submit the annual report for FY 2017-18 by December 31st.

RECOMMENDATIONS

- 1. Amend the ordinance to reduce the funding cap from \$14,000,000 to \$13,000,000.
- 2. Approval is a policy matter for the Board of Supervisors.

² According to Ms. Susannah Robbins, Executive Director of the San Francisco Film Commission, the report was finalized but never published.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO:

Villy Wang, President, Film Commission

Mohammed Nuru, Director, Public Works

Ed Reiskin, Executive Director, Municipal Transportation Agency

FROM:

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

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED BOARD OF SUPERVISORS SAN FRANCISCO

2018 HAY 15 of Meeting date

hereby submit the following item for introduction (select only one):	Contraction on the l
1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).	
2. Request for next printed agenda Without Reference to Committee.	
3. Request for hearing on a subject matter at Committee.	
4. Request for letter beginning: "Supervisor	inquiries"
5. City Attorney Request.	
6. Call File No. from Committee.	
7. Budget Analyst request (attached written motion).	
8. Substitute Legislation File No.	
9. Reactivate File No.	
10. Question(s) submitted for Mayoral Appearance before the BOS on	
Please check the appropriate boxes. The proposed legislation should be forwarded to the following: Small Business Commission Youth Commission Ethics Commission Planning Commission Building Inspection Commission Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative F	sion
Sponsor(s):	
Supervisor Catherine Stefani	·
Subject:	
Administrative Code - Film Commission Programs	
The text is listed:	
Ordinance amending the Administrative Code to modify the daily use fees to engage in film production. Film Rebate Program through 2028, to correspondingly increase the authorized funding cap for the Forest Account from \$4,000,000 to \$14,000,000, and to add administrative penalties for violations of Film Commission programs.	ilm Rebate
Signature of Sponsoring Supervisor	

For Clerk's Use Only

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