


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE BY ESTABLISHING A FILM REBATE PROGRAM TO REIMBURSE A PERCENTAGE OF FILM PERMITEES' EXPENSES IN THE CITY OF OAKLAND PROVIDED FUNDING IS AVAILABLE FOR THIS PURPOSE; AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, recent economic reports prepared by Olsberg SPI and BAYVC Media indicate that the Bay Area has regional assets to attract film productions, including investors, technology, storytellers, universities, and private foundations, but the current high cost of production as compared to other jurisdictions discourages film production in the Bay Area; and

WHEREAS, currently, the City of Oakland (City) permits film pursuant to Oakland Municipal Code 5.24; and

WHEREAS, The City lacks financial incentives to encourage film productions to take place in Oakland, resulting in only a small number of film productions to consider filming in Oakland each year; and

WHEREAS, introducing a rebate program to reimburse a percentage of film productions' Oakland expenses offers an opportunity of a "win-win-win" of generating local employment and business opportunities, attracting new tax revenues to support City services, and providing outlets for artistic expression; and

WHEREAS, staff recommends that the film rebate program consist of a minimum expenditure amount to maximize limited staff time processing rebate applications; and

WHEREAS, staff recommends that the film productions provide Oakland residents with free training to qualify for the rebate program and that rebates consist of a ten percent (10%) reimbursement on any items or services purchased or rented in Oakland and wages of Oakland residents hired by film productions; and

WHEREAS, staff further recommends providing additional two and a half percent (2.5%) rebate on hiring Oakland residents living in Oakland zip codes with the highest levels of unemployment; and

WHEREAS, staff further recommends providing another two and a half percent (2.5%) rebate on spending on Oakland businesses in Oakland zip codes with the highest levels of unemployment;

WHEREAS, launching the film rebate program as a pilot will allow the City to evaluate the impact of the program and make any needed adjustments based on lessons learned through implementation; and

WHEREAS, incorporating the film rebate program into Oakland Municipal Code Chapter 5.24 ensures that provisions related to filming within the City of Oakland are centralized, utilizing the established definitions within Chapter 5.24; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and an integral part of the Council's decision to enact this legislation, and hereby adopts and incorporates them into this ordinance.

SECTION 2. Adoption of Oakland Municipal Code Section 5.24.190

Oakland Municipal Code Section 5.24.190 is hereby adopted as follows:

5.24.190 Film Rebate Program.

A. Establishment and Purpose. This section establishes the City of Oakland Film Rebate Program and authorizes the City Administrator to process rebate applications and award such rebates to film permittees who meet the eligibility criteria described herein for expenses eligible for rebate, to the extent that funding exists within the Film Rebate Program established herein. The purpose of the City of Oakland Film Rebate Program is to increase the number of film productions occurring within the City of Oakland with the benefits of generating local employment and business opportunities, attracting new tax revenues to support City services, and providing outlets for artistic expression.

B. Film Rebate Program. The Film Rebate Program is hereby created. Monies appropriated or otherwise deposited into the Film Rebate Program shall be used only for the purposes listed in this Section 5.24.190. The City Administrator shall administer the funds for these purposes. Additional monies may be deposited into the Film Rebate Program through voluntary donations made to the Program.

1. Each fiscal year the City Administrator shall make no less than ten percent of Film Rebate Program funds available to film permittees with expenditures between fifty thousand dollars (\$50,000) and two-hundred and fifty thousand dollars (\$250,000). Film permittees producing commercial advertising shall not be eligible for a rebate under this subparagraph 1.

- C. Eligibility Criteria. An applicant who has received a film permit under this Chapter, herein referred to as film permittees, must satisfy the following criteria to qualify for a rebate of eligible City of Oakland expenses:
 - 1. The filming activity and production thereof shall have a minimum aggregate expenditure of two-hundred and fifty thousand dollars (\$250,000) unless the film permittee applies for funding pursuant to Section 5.24.190 (B)(1); and
 - 2. The film permittee shall provide film skills and training to Oakland residents in a form to be determined by the Film Development Office.
- D. Eligible Expenses. The following expenses paid by the film permittee or its agent are eligible under the Film Rebate Program:
 - 1. Any item or service purchased or rented from a business located within the City of Oakland.
 - 2. The hourly pay or salaries of City of Oakland residents during filming activity or post-production.
- E. Rebate Amounts. The City may provide rebates to film permittees that received a film permit after the effective date of this section and that satisfy the eligibility criteria described in Section 5.24.190(C) for eligible expenses as described in Section 5.24.190(D) as follows:
 - 1. A ten percent (10%) rebate on all eligible expenses.
 - 2. An additional two and a half percent (2.5%) rebate on hourly pay or salaries of Oakland residents from the Oakland zip codes with the top five highest levels of unemployment as determined annually by the Economic and Workforce Development Department.
 - 3. An additional two and a half percent (2.5%) rebate on expenses from businesses located in the top five Oakland zip codes with the highest levels of unemployment as determined annually by the Economic and Workforce Development Department.
 - 4. An additional two and a half percent (2.5%) rebate on expenses from worker-owned cooperative businesses as defined by the Economic and Workforce Development Department.
- F. Effective Only If Funding Is Available. The Film Rebate Program outlined in this section shall only be effective if funding is available within the Film Rebate Program.
- G. Authority to Promulgate Regulations. The Film Development Office shall establish regulations outlining the application process and how to qualify for a rebate pursuant to this section.

SECTION 3. Acceptance of Donations. The City Administrator is authorized to accept and appropriate donations for the Film Rebate Program in Miscellaneous Trusts Fund (7999), Film Rebate Project (1007498) without returning to City Council.

SECTION 4. California Environmental Quality Act. The City Council independently finds and determines that this action does not constitute a “project” within the meaning of CEQA based on: (1) CEQA Guidelines, 14 California Code of Regulations, Section 15060(c)(2) because

there is no potential that the legislation will result in a direct or reasonably foreseeable indirect physical change in the environment and (2) CEQA Guidelines, 14 California Code of Regulations, Section 15378 because it has no potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment. Even if this action does comprise a project for CEQA analysis, the following CEQA Guidelines, 14 California Code of Regulations, exemptions apply to this action: (1) CEQA Guidelines Section 15061(b)(3) (general rule exemption), and (2) CEQA Guidelines section 15301 (existing facilities exemption), each of which provides a separate and independent basis for CEQA clearance and when viewed together provide an overall basis for CEQA clearance. The City's Environmental Review Officer or designee shall file a Notice of Exemption with the appropriate state agencies.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 6. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE BY ESTABLISHING A FILM REBATE PROGRAM TO REIMBURSE A PERCENTAGE OF FILM PERMITEES' EXPENSES IN THE CITY OF OAKLAND PROVIDED FUNDING IS AVAILABLE FOR THIS PURPOSE; AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

This Ordinance amends the Oakland Municipal Code, Chapter 5.24 – Filming Permits, to establish a film rebate program to reimburse ten percent of Oakland-based eligible expenses, as defined therein, with two additional two-and-a-half percent reimbursements available when eligible expenses are made in high unemployment Oakland zip codes. The Ordinance specifies that reimbursements will be made while funding remains available, and additionally authorizes the City Administrator to accept donations for film rebate purposes and to set those dollars in a project account for that purpose. The Ordinance finds and determines that the program is not a project under, and in the alternative is exempt from, the California Environmental Quality Act.