

MEMORANDUM

		Agenda Item No. 7(C)	
		(Second Reading 6-2-21)	
TO:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	DATE:	April 20, 2021
FROM:	Geri Bonzon-Keenan County Attorney	SUBJECT:	Ordinance relating to film and photo production; amending sections 2-11.14, 8CC-10 and 30B-5(2) of the Code; regulating photo production, modifying the definition of film, providing for a definition of photo, and altering the requirement and exceptions to obtain a permit; providing for enforcement by revocation of permit, removal from County property, and civil penalty for failure to obtain a film or photo permit

Ordinance No. 21-44

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsors Commissioner Raquel A. Regalado and Senator Javier D. Souto.


Geri Bonzon-Keenan
County Attorney

GBK/smm

Memorandum



Date: June 2, 2021

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Film and Photo Production

The implementation of this ordinance will have a negative fiscal impact to Miami-Dade County's Department of Regulatory and Economic Resources Film and Entertainment Office (Film Office) and Parks, Recreation and Open Spaces (PROS) Department. The Film Office estimates that the potential impact to the collection of film/photo permit application fees will be approximately \$10,000 annually. Additionally, park film/photo fees are estimated to decrease by five percent, approximately \$8,600 per year. There are many variables that affect the attraction of production projects, therefore a certain loss value estimate for both the Film Office and PROS is difficult to determine at this time.



Jimmy Morales
Chief Operations Officer

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Date: June 2, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Social Equity Statement for Ordinance Relating to Film and Photo Production

The proposed ordinance amends sections 2-11.14, 8CC-10 and 30B-5(2) of the Code of Miami-Dade County (Code) relating to film and photo production. The proposed amendments provide for updated technological language, altering the requirement and exceptions to obtain a permit and providing for enforcement by revocation of permit, removal from County property and/or civil penalty for failure to obtain a permit.

The ordinance amends the basis for determining whether a film/photo permit is necessary. Instead of requiring film/photo permits for “commercial” productions, the determination will be made for the necessity of a permit based on the production’s impact on public property.

The implementation of the proposed ordinance will be beneficial to smaller productions because projects will not be required to obtain permits. The amendments allow productions with a small footprint to utilize County property without a permit. Additionally, Civil penalties will allow for better enforcement of permits by the Office of Film and Entertainment, Miami-Dade Police Department and Park, Recreation and Open Spaces.

There is no other social equity benefit that can be determined at this time.



Jimmy Morales
Chief Operations Officer

210765



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: June 2, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(C)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(C)
6-2-21

ORDINANCE NO. 21-44

ORDINANCE RELATING TO FILM AND PHOTO PRODUCTION; AMENDING SECTIONS 2-11.14, 8CC-10 AND 30B-5(2) OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REGULATING PHOTO PRODUCTION, MODIFYING THE DEFINITION OF FILM, PROVIDING FOR A DEFINITION OF PHOTO, AND ALTERING THE REQUIREMENT AND EXCEPTIONS TO OBTAIN A PERMIT; PROVIDING FOR ENFORCEMENT BY REVOCATION OF PERMIT, REMOVAL FROM COUNTY PROPERTY, AND CIVIL PENALTY FOR FAILURE TO OBTAIN A FILM OR PHOTO PERMIT; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Miami-Dade County is a world class production hub for film, television, commercial and digital media; and

WHEREAS, Miami-Dade County is currently home to 200 production companies, 15 soundstages, 15 recording studios, three Spanish-language production facilities and many businesses that support photography, motion pictures, and videos; and

WHEREAS, in a continuous effort to coordinate cities and make Miami-Dade County more film-friendly, the Miami-Dade County Office of Film and Entertainment offers a one-stop permitting process for all film, photo and video productions that take place on County-owned property and property owned by municipalities that have interlocal agreements with the County; and

WHEREAS, to consistently regulate activity in film and photo production and to reflect the technological advances in film and media, changes to Miami-Dade County's permitting regulations are necessary,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 2-11.14 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-11.14. Film >>and photo<< production on publicly-owned or controlled property.

Legislative purpose. The purpose of this section shall be to provide for the coordination of film >>and photo<< production on publicly-owned or controlled property to serve the public interest.

(a) *Definitions.* The following terms shall have the meanings ascribed to them below for the purposes of this section:

Film. Still, live or motion picture production whether made on or by film, ~~[[electronic tape,]]~~ >>video, digital<< or any other electronic device used to produce theatrical motion pictures, television >>and streaming<< entertainment motion pictures, industrial motion pictures, television commercials, >>social media, internet-based content, animation,<< or print media>>, regardless of platform<<.

>>Handheld devices. Film, still, video, digital, or television cameras or other electronic device or equipment which are held in the photographer's or filmmaker's hand and carried at all times with the photographer or filmmaker during the course of photography or filming.<<

Participating municipalities. Those municipalities located within Miami-Dade County which have executed interlocal agreements with Miami-Dade County with regard to the coordination of film >>and photo<< permitting.

>>Photo. A picture or likeness obtained by using a camera.<<

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(b) *Film >>and photo<< permits.*

(1) *Required.* >>Except as provided below, no<<[[~~No~~]] person shall film >>or take photos<< within a publicly-owned >>or controlled<< site, facility or right-of-way within the participating incorporated or unincorporated area of Miami-Dade County without first obtaining a permit. Within the unincorporated area of Miami-Dade County, the County [[~~Manager~~]] >>Mayor or County Mayor's designee<< shall establish the criteria and procedures to be followed for film >>and photo<< permits. Within the participating incorporated areas, the municipality having jurisdiction shall establish the criteria and procedures to be followed for film >>and photo<< permits through interlocal agreement with Miami-Dade County. Permits shall be authorized by the governmental body having jurisdiction over the public site. >>Students and faculty who do not meet the exceptions below may obtain a film or photo permit free of charge if production is exclusively for educational purposes and the institution provides proof of said purpose.<<

(2) *Exceptions.* Nothing in this section shall require any permit from:

(i) Individuals filming>>, taking photos,<< or video taping >>while using a hand-held camera, one camera on one tripod (with the exception of such use on public transit and public transit platforms), hand-held props and/or hand-held equipment with a cast, crew, and personnel size of less than three people who are (1) not asserting exclusive use of County owned or controlled property; (2) not using prop weapons, fire, pyrotechnics, animals, prop vehicles, stunts, or actors in police uniform; (3) not requesting parking privileges for production vehicles; (4) not fighting, whether real or simulated; (5) not using or projecting noise with profane, vulgar, or indecent language or other language in public that are likely to incite violence or panic; (6) not creating noise which is frequent, habitual or long, and plainly audible at a distance of one hundred (100) feet from the area where the individual is located; (7) not filming or taking photos at County owned or controlled property subject to contract by a private

party; (8) not simulating the use or sale of drugs; and (9) not otherwise requesting an exemption from the County's rules and regulations or engaging in conduct that would require an exemption from the County's rules and regulations.<<[[~~only for their own personal or family use.~~]]

(ii) Employees of print or electronic news media when filming ~~[[on-going]]~~>>breaking<< news events >>whether or not such news media meets the criteria provided in section (i) above<<. >>The term "breaking news" is defined as an event that is currently occurring or developing.<< This exception shall not apply to simulations or re-enactments orchestrated by print or electronic news media>>, pre-arranged interviews or any scripted content<<.

~~[[~~(iii) Students and faculty filming exclusively for educational purposes.~~]]~~

(3) *Permit application.* The permit application shall >>at a minimum<< (i) identify the applicant; (ii) demonstrate the public liability insurance provided by the applicant in the amount established by the governmental body having jurisdiction; (iii) identify the number and type of locations to be utilized for filming >>and photographing<< and the agencies to provide assistance. Each participating municipality may establish additional permit requirements.

(4) *Procedures.* Procedures for the collection of required fees and reimbursements, if any, shall be established through administrative orders in connection with County locations and through interlocal agreements in connection with participating municipal locations.

(5) *Permit criteria.* The permit shall be granted unless the County ~~[[Manager's]]~~ >>Mayor's<< designee finds that the proposed film production:

(i) Unduly impedes governmental business or public access; or

(ii) Conflicts with previously scheduled activities; or

(iii) Imperils public safety; or

(iv) Violates the provisions of applicable interlocal agreement.

(6) *Appeals*. Any person aggrieved by the terms of a permit issued by the County, by the decision not to issue a permit or by a revocation of a permit issued by the County may, within ten (10) days of the decision, appeal to the County ~~[[Manager]]~~ >>Mayor<<, whose decision will be >>based on a preponderance of the evidence and will be<< final.

(c) *Authority of County* ~~[[Manager]]~~ >>Mayor<<. The County ~~[[Manager]]~~ >>Mayor<< shall designate an individual who shall be authorized to facilitate and coordinate the use of publicly-owned sites within the incorporated and unincorporated areas of Miami-Dade County for the ~~[[filming and]]~~ production of film >>and photo<< projects. In this regard the ~~[[Manager's]]~~ >>County Mayor's<< designee shall be responsible for:

(1) Negotiating interlocal agreements with municipalities to provide that the County may issue municipal film >>and photo<< permits on behalf of the participating municipality, which shall conform to the requirements of all applicable municipal ordinances and written regulations, and shall set out the procedures by which the County shall facilitate film production within the municipality.

(2) Establishing by administrative order the criteria for film >>and photo<< permits issued with regard to sites owned or controlled by the County.

(3) Issuing, denying or revoking permits pursuant to this section, administrative order or interlocal agreements.

(4) Coordinating proposed film production schedules to minimize conflicts and to monitor compliance with applicable rules and regulations of the County and of the participating municipalities, and coordinating with the police and fire departments having jurisdiction to determine those services reasonably necessary to protect the life, safety and welfare of the public, as well as property.

(5) Facilitating execution of appropriate permits for the provision of special police, fire or other public services as may be required. In connection with these arrangements, the County may collect all necessary fees and deposits on behalf of the County and participating municipalities and shall remit municipal fees collected in accordance with the interlocal agreement with the participating municipality. Municipal fees shall be determined by each participating municipality.

(6) Supporting public programs and private initiatives that enhance Miami-Dade County as a location for film production and post-production facilities.

(7) Developing and disseminating a comprehensive listing of all related available resources including but not limited to companies dealing with film production to assist in the expansion and enhancement of the film production industry and related industries in Miami-Dade County.

>>(d) Enforcement. Failure to comply with the provisions of section 2-11.14(b) above shall constitute a violation. Each violation shall be deemed a separate offense. Violations of this section may be punished by revocation of permit, removal from County owned or controlled property, as well as fines and penalties in accordance with chapter 8CC.<<

Section 2. Section 30B-5(2) of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 30B-5. Commercial Activities.

* * *

~~[[(2) Commercial photography or recording. No person, unless authorized in writing by MDTA or the County Manager when appropriate under Section 2-11.14 of this Code, shall take still, motion, or sound motion pictures or sound records or recordings of voices or otherwise for commercial, training or educational purposes, other than news coverage anywhere in the transit system.]]~~

~~[[3]]~~>>(2)<< Building construction and improvements. No person, unless authorized in writing by MDTA, shall construct or cause to be constructed any buildings or structures, including signs, utility connection, or any improvements, modifications, or additions to any such buildings or structures, or any pavings, excavations, removal of oil or fill material anywhere on the transit system.

~~[[4]]~~>>(3)<< Advertising. No person, unless authorized in writing by MDTA, shall post or distribute commercial signs, advertisements, literature, circulars, pictures, sketches, drawings, handbills, or any other form of printed or written commercial matter or material anywhere within the transit system.

~~[[5]]~~>>(4)<< Vending in public areas. No person shall vend services, including but not limited to amusements and food and beverages, anywhere within the transit system, unless authorized in writing by MDTA.

~~[[6]]~~>>(5)<< Signs. No person unless authorized in writing by MDTA, shall construct or install any sign or device anywhere on the transit system.

Section 3. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby

amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

* * *

Code Section	Description of Violation	Civil Penalty
2-8.1	Disclosing false information	500.00
>>2-11.14	<u>Failure to obtain a film or photo permit</u>	<u>200.00</u> <<
2-100(d)	Illegal object(s) in the right-of-way not conforming with Public Works Manual	200.00
* * *		

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

June 2, 2021

Approved by County Attorney as
to form and legal sufficiency:

GKS for GBK

Prepared by:

APP

Altanese Phenelus

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsors: Commissioner Raquel A. Regalado
Senator Javier D. Souto