

For Comment

CITY OF CAPE TOWN: FILMING BY-LAW, 2023



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

To repeal the City of Cape Town By-law relating to Filming 2005, to provide for the regulation of filming activities on private and public property; to enable an environment for the development of the filming sector within the jurisdiction of the City of Cape Town; and to provide for similarly connected matters.

Preamble

WHEREAS Section 156 of the Constitution, read with local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 of the Constitution, empowers a municipality with the authority to make by-laws for effective administration and exercise of any power concerning a matter reasonably necessary for, or incidental to the effective performance of its functions;

WHEREAS the City aims to balance economic activities such as filming with other rights contemplated in Chapter 2 of the Constitution and thereby intends to regulate short term public nuisances linked to filming;

WHEREAS the City recognises the important role that filming plays in the economy of the City of Cape Town and the promotion of the human right of freedom of expression and is committed to simplifying permission processes in relation to filming within its jurisdiction; and

WHEREAS the City intends to provide a one-stop accessible facility for the processing of applications for filming while acting within the parameters of the Constitution and existing applicable legislation;

AND NOW THEREFORE, BE IT ENACTED by the Council of the City of Cape Town, as follows: –

Definitions

1. In this By-Law, unless inconsistent with the context –

“applicant” means a natural or juristic person who applies for permission to conduct filming activities in the City;

“abutting or affected properties” means properties that share a common boundary or properties in close proximity that, while not sharing a common boundary, may be impacted by film-related activity;

“authorised official” means an employee of the City responsible for carrying out any duty or function or exercising any power in terms of this By-law and includes an employee delegated to carry out or exercise such duties, functions or powers;

“City” means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the Local Government: Municipal Structures Act, 1998, or any structure or employee of the City acting in terms of delegated authority;

“filming” means: (i) the preparation of public and private property for the recording of sound and images as well as the recording of sound and images moving or still, whether on film or video tape, electronically, digitally or by any other means and includes all activities related to the filming location where there is an impact on public or private property, which may require the services of the City, or may have any adverse implications for public safety, the environment and local communities;

(ii) student film projects where there is an impact on public property, which may require the services of the City or may have any adverse implications for public safety, the environment and local communities;

(iii) the recording of digital media on public property on mobile devices such as smartphones, tablet computers, handheld cameras for the creation or sharing of information for commercial gain via virtual communities and social networks;

but excludes:

(iv) the recording of a private wedding ceremony or other private celebration or event for the purpose of making a recording thereof for its participants for private purposes;

(v) electronic news gathering or the recording of current affairs or news for immediate broadcast or release;

(vi) the recording of digital media on mobile devices such as smartphones, tablet computers and handheld cameras for personal use where there is no impact on the public or any public amenity;

(vii) purpose-built film facilities and other film suitable facilities, including filming facilities at educational institutions, where there is no impact on the public or any public amenity;

“Film Permit Office” means the unit responsible for coordinating film permit applications, the approval and rejection of filming and film-related activities in accordance with the Film Policy, this bylaw and any other applicable legislation and for issuing of permits with appropriate conditions;

“film shoot” means the process or activity of filming, photographing or recording of sound and images for the production of film material or digital media for commercial productions or documentaries and includes the preparation of property for filming;

“film suitable facility” means a film studio or any other facility or premises, including filming facilities at educational institutions that meets minimum requirements to obtain:

- a) pre-authorization or certification, and
- b) registration with the Film Permit Office as a film-suitable facility and to be exempt from repeated film permit applications for a defined period;

“location” means any area or place, used for filming activity other than a sound stage or backlot adjoining a movie studio or purpose-built film facility. This area or place may be erected or demarcated by temporary or permanent structures;

“permit” means a written permission granted for filming by the City in terms of this By-Law;

“permit holder” means a person, whether natural or juristic, or their representative, that has been granted a permit to conduct filming in terms of this By-law;

“person” means any natural person or juristic person recognized by law as the subject of rights and duties;

“public place” includes –

(a) a public road, parking area, square, park, recreation ground, sports ground, sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has –

- (i) been provided, reserved or set apart for use by the public; or
- (ii) been dedicated to the public; and

(b) public transportation operated by service providers for the City,
but does not include public land that has been leased by the City;

“purpose-built film facility” means a place, studio, facility, or property designed and built or converted for filming activities including any sound stage or backlot adjoining such facility, with all necessary approvals from the City; and

“shoot type” means a micro, small, medium, large or very large filming activity as described in Schedule 1.

Application

2. This By-law applies to all filming activities undertaken within the jurisdiction of the City of Cape Town.

Exemptions

3. (1) Purpose-built film facilities and film suitable facilities registered in terms of section 5(8), within the jurisdiction of the City, are exempted from having to apply for film permits, except when filming activities spill outside of the erf boundaries of any such facility or onto public property, provided that film suitable facilities must apply for exemption on an annual basis.

(2) An applicant applying for a micro shoot permit is exempt from having to submit proof of no objections to filming to the City.

(3) Owners of properties contained in the list developed in terms of section 5(8) are exempt from having to submit proof of consultation for filming activities on their properties for the duration of the exemption.

(4) The following types of filming activities do not require a film permit:–

- (a) The filming of private wedding ceremonies, or other private celebrations or events for the purpose of making a recording thereof for its participants for private purposes.
- (b) Electronic news gathering and the recording of current affairs or news for immediate broadcast or release; and
- (c) The recording of digital media on mobile devices such as smartphones, tablet computers, handheld cameras for personal use where there is no impact on the public or public amenity is exempt from having to apply for a film permit.

Application for filming permit

4. (1) Subject to the exemptions set out in section 3, no person may conduct filming within the jurisdiction of the City without a permit from the City.

(2) An application for a permit to conduct filming must be submitted to the City –

(a) after registration in terms of section 6 ; and

(b) in accordance with the application requirements for different shoot types as set out in Schedule 1 prior to the commencement of the intended filming activities.

(3) The applicant must inform the City of any changes, new developments or any relevant information pertaining to the shoot or its impact once the use of any location has been confirmed.

(4) The city authorised official may approve, vary or refuse a permit application for filming in terms of the provisions of this By-law.

(5) The City may impose:

(a) written conditions to be fulfilled by the applicant during the film permit application process; and

(b) additional written conditions on the permit upon issue.

(6) A permit issued in terms of this By-law is not transferable.

(7) The City reserves the right to, at its own discretion, amend any condition on any permit or revoke the permit in its entirety at any time should it come to the attention of the City that the filming activity has the potential to contravene any legislation, cause harm or injury to members of the public, damage municipal property or infrastructure, or negatively impact the natural environment.

Community Consultation

5. (1) A person who intends to apply for a permit to film must first deliver a written notice of intention for filming to occupiers of the abutting and affected properties, in terms of subsection (2), before submitting an application for filming to the City.

(2) The written notice of intention for filming must –

- (a) be in a format approved by the City;
- (b) communicate the intention of the applicant to submit an application for permission to conduct filming activities at a particular address, location or area;
- (c) provide the occupiers of abutting and affected properties an opportunity to declare on the prescribed form that they have no objection to the intended filming;
- (d) advise the occupiers of the abutting and affected properties of their right to submit any objections to the City;
- (e) contain the name and contact details of the film company; and
- (f) contain the dates and times of intended filming activities.

(3) where the occupiers of abutting and affected properties cannot be reached a person who intends to apply for a permit to film must demonstrate to the authorised official that reasonable steps have been taken to contact such occupiers.

(4) The proof of notification or consultation with occupiers of abutting and affected properties that has been obtained in accordance with Schedule 1 must be submitted to the City's Film Permit Office at the time of submission of the application for filming.

(5) A person impacted by intended filming activity may submit an objection to the intended filming directly to the Film Permit Office for consideration during the permit application decision-making process.

(6) The Film Permit Office will inform an objector in writing of the outcome of the objection.

(7) The City may require further consultation between the film company, abutting and affected residents and businesses, prior to the permit being issued should there be any changes, new developments or information pertaining to a shoot or its impact once an applicant has confirmed the use of any location.

(8) Subject to subsection (9), the City may annually consult on and publish a list of properties which may be used for filming activities without the need for further consultation with occupiers of abutting and affected properties for the period set out on the published list.

(9) The City may determine conditions in publishing the list of properties referred to in subsection (8).

Requirements for processing of applications for filming

6 (1) Any person or production company who intends to conduct filming must –

- (a) register with the City in terms of its Standard Operating Procedures; and
- (b) apply to the City for a permit to conduct filming, in terms of Section 4.

(2) The submitted application must include –

- (a) the name, address, electronic mail address, telephone and cellular phone contact numbers and occupation of the applicant;
- (b) the name of the production company to which the application relates;
- (c) particulars and contact details of the person who will be in charge of the actual filming, if such person is not the applicant, as contemplated in Section 6 (2)
 - (a);
- (d) an alternative forwarding address within the jurisdiction of the City of Cape Town for the receipt of any notices, accounts or correspondence;
- (e) details of locations of intended filming activity, the proposed dates and times, the number of people intended to be part of the filming project and general details of the purpose of the intended filming; and

- (f) a detailed description of the filming activities and the apparatus to be used, which may include:
 - (i) devices or equipment that may cause light, noise or air pollution;
 - (ii) generators, energy transformers or converters;
 - (iii) vehicles, cranes, any other apparatus or devices, unmanned aerial vehicles, drones or similar devices requiring special permissions;
 - (iv) temporary structures, tripods or dollies, specialised rigs or equipment; or
 - (v) special effects, stunts, explosives or simulated gunfire.
- (3) The City may require payment of a fee before considering an application to conduct filming.
- (4) The applicant must provide proof to the satisfaction of the Film Permit Office of:
 - (a) appropriate indemnity cover; and
 - (b) appropriate specialised risk insurance and blanket liability or cover where the filming activity would involve stunts, special effects, explosives or similar activities, cranes, drones or unmanned aerial vehicles or any other apparatus or equipment requiring special permission.

Criteria for assessing applications

7. (1) The Film Permit Office, when considering an application and determining conditions as contemplated in section 4(5), must assess –

- (a) the duration and location of the filming activity;
- (b) whether the filming activity has the potential to cause unreasonable disturbance or harm to any person in the form of noise, light or air pollution;
- (c) whether the filming activity would unreasonably interfere with or disrupt normal activities in a public place or have a negative impact on –

- (i) general traffic in public places;
 - (ii) pedestrian traffic in public places;
 - (iii) public parking;
 - (iv) access to any private property;
 - (v) municipal property or infrastructure;
 - (vi) the natural environment, or
 - (vii) safety of members of the public;
- (d) the potential impact of the filming activity on the surrounding community;
- (e) whether the occupiers of abutting and affected properties have been given notice of the intended filming; and
- (f) any objections from occupiers of abutting and affected properties.

Decisions on Film Permits

8. (1) The City must approve or decline an application for a film permit in terms of this By-law, within a time period applicable to an event as set out in Schedule 1.

(2) Once a decision has been taken in terms of subsection (1) the applicant must be informed thereof in writing.

(3) Where an application for a film permit has been approved, the City must issue a permit with conditions.

(4) If an application for a filming permit has been declined the Film Permit Office must provide a notice to the applicant that contains –

(a) written reasons for declining the application;

(b) notification of their right, in terms of section 10, to appeal the decision to decline the application, and

- (c) information relating to the procedures and timeframes within which to lodge an appeal against the decision to decline their application for filming.

Compliance notices

9. (1) An authorised official may issue and serve a compliance notice to the permit holder when a provision of this By-law is contravened or when a condition imposed in terms of this By-law has not been fulfilled by the permit holder.

(2) An authorised official may serve a written compliance notice to the permit holder in the form of an appropriate electronic notification if there are time constraints or the need for urgent intervention.

(3) A compliance notice issued and served in terms of subsection (1) must state —

- (a) the provision of the By-law that is being contravened or which will be contravened if the filming activity continues;
- (b) the condition that must be complied with;
- (c) the measures that must be taken to rectify the contravention or non-compliance with any conditions which may have been imposed;
- (d) the time period within which the notice must be complied with, and
- (e) the consequences of non-compliance.

(4) The City may take any steps necessary to ensure compliance, which may include —

- (a) entry into the relevant property in order to investigate matters related to this By-law;
- (b) cancellation and withdrawal of the permit ;
- (c) stopping any filming activities;
- (d) seizure and impoundment of vehicles and equipment without a warrant by an authorised official on grounds of a contravention of this By-law or any applicable law or by-law; and

- (e) the authorized official, at the time of the impoundment, must give the holder of the seized and impounded vehicles and equipment a copy of a notice setting out –
 - (i) the reason for the impoundment;
 - (ii) the description of the vehicles and equipment being impounded;
 - (iii) the address and contact details of the designated pound;
 - (iv) The conditions for the release of the impounded goods and the payment of any costs related to impoundment;
 - (v) the possibility of the impounded vehicles or equipment being forfeited to the City and sold to recover costs, and
 - (vi) the name and office number of a council official to whom any representation regarding the impoundment may be made.

- (5) A compliance notice is sufficiently and effectively served on the permit holder –
 - (a) when it has been delivered personally;
 - (b) when it has been left at his or her place of residence or business in the jurisdiction of the City with a person apparently over the age of 16 years of age;
 - (c) when it has been placed in a conspicuous place on the property to which it relates; or
 - (d) when it has been delivered to the forwarding address or email address of the permit holder provided to the City in terms of section 8 (2) of this By-law.

Right of Appeal

10. (1) The applicant may appeal against a decision where their application has been declined as referred to in section 5(6).

(2) An appeal must be lodged in writing in terms of Section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), within 21 days of the notification of the notification of the decision.

Offences and Penalties

11. (1) A person is guilty of an offence if the person –

- (a) contravenes any provision of this By-law;
- (b) fails to comply with a condition imposed in terms of this By-law; or
- (c) fails to comply with a compliance notice issued in terms of this By-law.

(2) A person found guilty of an offence in terms of this By-law is liable to a fine, and upon conviction to a period of imprisonment not exceeding two years, or to both such fine and imprisonment.

(3) The City may decline to consider applications for filming activity –

- a) for a period of up to 3 months where a person has reneged on the conditions of a film permit; and
- b) for a period of up to 6 months where a person has been convicted of an offence in terms of this By-law.

12. The City May Act and Recover Costs

(1) Notwithstanding any other provision of this By-law, the City may –

(a) take measures it considers appropriate to remedy the situation where a person or permit holder on whom a compliance notice was issued under section 9 fails to comply, or has complied inadequately to the compliance notice;

(b) recover costs, in terms of its Credit Control and Debt Collection Policy and its Credit Control and Debt Collection By-law, for the measures to be undertaken under subsection (a) and for all costs incurred as a result of acting under subsection (a) from all persons on whom the compliance notice was issued.

(2) Any person who fails to comply with a notice in terms of subsection 9(1) may be fined in terms of this by-law, and the City may, take action against the offender and take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

Indemnity

13. The City or any authorised official is not be liable to a third party for any damage caused by anything lawfully done or omitted by the City or any authorised official in carrying out any function or duty in terms of this By-law.

Repeals

14. The City of Cape Town By-law relating to Filming, as promulgated in Provincial Gazette No. 6277 on 24 June 2005, is hereby repealed.

Short title

15. This By-law is called the City of Cape Town: Filming By-law, 2022.

SCHEDULE 1

Shoot Type	Shoot Size/Description	Conditions	Application Requirements	Consultation/Notification Requirements (Prior to submission of permit application)
Micro Shoot	1 - 3 vehicles and/or 8 or less cast & crew and duration of 1 day	<ul style="list-style-type: none"> • small, mobile shoots • no generators, lights, structures • no road closures 	2 working days prior to shoot day	*No requirement for the delivery of Notice of intention for filming to adjacent properties.
Small Shoot	4 - 6 vehicles and/or 9 - 15 cast & crew	<ul style="list-style-type: none"> • small stills shoots /commercials • small pick-up shots • minimal generators, lights, structures • no special effects and/or stunts • no road closures 	2 working days prior to shoot day	<p>* <i>subject to nature and impact of shoot</i></p> <p>** Community notification/consultation may be required, and if required, the type and extent of notification/consultation is to be determined by the City.</p> <ul style="list-style-type: none"> • Proof of delivery of Notice of intention for filming to abutting and affected properties to be submitted to Film Office
Medium Shoot	7 - 15 vehicles and/or 16 - 30 cast & crew	<ul style="list-style-type: none"> • big stills shoots, small commercials & features * • minor/moderate generators, lights, sets, structures • minor special effects and/or stunts • traffic assistance required • minor lane/road closures • minimal noise impact, early morning or night shoots** <p><i>NB – with major lane/road closures, diversions, CAA or other approvals, etc. Large Shoot timeframes become applicable</i></p>	<p>5 working days* prior to shoot day</p> <p>* <i>subject to nature and impact of shoot</i></p> <ul style="list-style-type: none"> • Remote Base camp may be required – especially if shoot is in a residential areas 	<p>* <i>subject to nature and impact of shoot</i></p> <p>** Community notification/consultation may be required, and if required, the type and extent of notification/consultation is to be determined by the City.</p> <ul style="list-style-type: none"> • Proof of delivery of Notice of intention for filming to abutting and affected properties to be submitted to Film Office

Shoot Type	Shoot Size/Description	Conditions	Application Requirements	Consultation/Notification Requirements (Prior to submission of permit application)
Large Shoot	16 - 30 vehicles and/or 30-60 cast & crew	<ul style="list-style-type: none"> • large stills shoots, commercials, features * • moderate/substantial generators, lights, sets, structures • special effects and/or stunts • traffic assistance required • major lane/road closures, diversions, etc. • moderate noise impact, early morning or night shoots** <p><i>NB – with major lane/road closures, diversions, CAA or other approvals, etc. Very Large Shoot timeframes will become applicable</i></p>	<p>5+ working days* prior to shoot day</p> <p><i>* subject to nature and impact of shoot</i></p> <ul style="list-style-type: none"> • A shoot schedule may be required • Traffic diversion plan/s may be required • Remote Base camp may be required – especially if shoot is in a residential areas 	<p>** Community notification/consultation may be required by the City and if required, the type and extent of consultation is so to be determined by the City.</p> <ul style="list-style-type: none"> • Proof of delivery of Notice of intention for filming to abutting and affected properties to be submitted to Film Office
Very Large Shoot	31 or more vehicles and/or 61 or more cast & crew	<ul style="list-style-type: none"> • Very large, high-impact shoots, commercials & features* • Extensive generators, lights, sets, structures • large special effects and/or stunts • traffic assistance required • major lane/road closures • considerable noise impact, early morning or night shoots** <p><i>NB – with major lane/road closures, diversions, CAA or other approvals, etc. additional planning time may be required.</i></p>	<p>10+ working days* prior to shoot day</p> <p><i>* subject to nature and impact of shoot</i></p> <ul style="list-style-type: none"> • A shoot schedule may be required - Traffic diversion plan/s required • Remote Base camp may be required – especially if shoot is in a residential areas 	<p>** Community consultation may be required by the City and if so required, the extent of consultation is so to be determined by the City.</p> <ul style="list-style-type: none"> • Proof of delivery of Notice of intention for filming to abutting and affected properties to be submitted to Film Office.