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**THE COUNCIL**

**COMMITTEE REPORT**

**OF THE**

**GOVERNMENTAL AFFAIRS DIVISION**

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**COMMITTEE ON FIRE AND EMERGENCY MANAGEMENT**

**Joseph C. Borelli, Chairman**

February 25, 2021

**PROP. INT. NO. 1849-A**: By Council Members Borelli, Cornegy, Powers, Maisel, Cabrera, Holden, and Brannan

**TITLE**: A Local Law to amend the New York city fire code, in relation to establishing fire safety provisions for film production locations and requiring production location fire safety managers for certain rigging, filming and production activities

**PROP. INT. NO. 1852-A:** By Council Members Cornegy, Borelli, Powers, Koslowitz, Cabrera, Kallos, Holden and Ayala

**TITLE:** A Local Law to amend the New York city fire code, in relation to fire safety at film production locations and to providing the fire department and local firehouses with information about field conditions at film production locations

1. **Introduction**

On February 25, 2021, the Committee on Fire and Emergency Management, Chaired by Joseph C. Borelli, voted on two pieces of legislation related to film production site safety: Proposed Int. No. 1849-A and Proposed Int. No. 1852-A. The Committee voted in favor of both bills by a vote of five affirmatives, none opposed, and no abstentions. The Committee previously held a hearing on earlier versions of these bills on October 19, 2020 and received testimony from the City’s Fire Department (“FDNY”), the Mayor’s Office of Film, Theatre and Broadcasting (“MOME”), the Uniformed Firefighters Association and other interested members of the public.

1. **Background**

*New York City Fire Department*

In addition to fighting traditional structural fires and providing pre-hospital care, as well as other emergency services, the FDNY conducts inspections that examine buildings, structures, facilities, vehicles and other locations in New York City to ensure that laws, rules and regulations are enforced. These inspections are conduction through the FDNY’s Bureau of Fire Prevention (“BFP”). The BFP ensures fire protection of residential and commercial occupancies through direct inspections of locations and enforcement of local laws and regulations. The BFP supports the Department’s Bureau of Operations through the exchange of essential information on locations, buildings, and special events. The BFP is also responsible for conducting inspections of fire alarms, smoke detectors and sprinkler systems.[[1]](#footnote-1)

*New York City Film Based Production and Required Permitting*

New York City is a major hotspot for media and entertainment production. As a center of literature and journalism, New York City hosts morning and evening talk shows, a flourishing independent movie scene, and the largest concentration of documentary film production in the United States.[[2]](#footnote-2) New York City’s iconic skyline and diversity of locations make it an attractive location for film and television shoots.[[3]](#footnote-3) For the last several years, mainstream film and television productions have expanded in the City.[[4]](#footnote-4) The number of movies filmed in the City has been growing steadily.[[5]](#footnote-5) For example, in 2012, 162 movies were filmed in New York City; in 2018, that number rose to over 330.[[6]](#footnote-6) The number of episodic television series filmed in New York City has also continued to grow. In 2016, MOME announced a record-breaking 52 episodic television series were filmed in New York City during the 2015-2016 television season, an increase of 15% over the prior season’s record year.[[7]](#footnote-7) MOME indicated that 67 television shows[[8]](#footnote-8) were filmed in New York City during the 2018-2019 television season, a new City record.[[9]](#footnote-9)

In most circumstances, prior to beginning filming or production in New York City, entities must obtain permits from the MOME to authorize such activities. Specifically, permits are required when equipment, more elaborate than tripods or vehicles, are used by a production, or where exclusive use of City property is required.[[10]](#footnote-10) Such permits have a $300 application fee and an insurance requirement, which can be waived for those who can demonstrate unreasonable hardship, and provide productions with free police assistance and parking privileges, as well as access to most outdoor locations, including City parks—without charge, although some locations may require additional permission from controlling entities.[[11]](#footnote-11)

Separately, the New York City Fire Code requires permits be obtained for certain special effects used in film productions. Specifically, permits must be obtained for the storage, discharge, or use “of any material, article or device of an explosive, flammable or combustible nature used to create a special effect, including fireworks . . . and pyrotechnic materials, articles or devices.”[[12]](#footnote-12)

*Tragic Death of Firefighter Michael Davidson*

In March of 2018, FDNY Firefighter Michael Davidson was killed while responding to a fire in a Harlem brownstone being used as a movie production site.[[13]](#footnote-13)  According to an FDNY investigation, a non-functioning sprinkler system and certain alterations of the brownstone resulted in heavy fire and smoke conditions that contributed to Firefighter Davidson’s death. Specifically, the location was altered for filming, including the construction of temporary fake walls, highly flammable scenery and blocked means of egress.[[14]](#footnote-14) Additionally, the building where the filming occurred allegedly had outstanding safety violations prior to the issuance of a filming permit.[[15]](#footnote-15)

1. **Analysis of Prop. Int. No. 1849-A**

As introduced, Int. No. 1849 would require the Fire Department to establish fire safety provisions governing activities at certain film production locations. In doing so, the Department would consider the condition of the production site location and the nature of the production activities, including the proposed use of pyrotechnics or other special effects, to determine circumstances requiring Department inspection or supervision, or the presence of a production location fire safety manager. Additionally, the bill requires the designation of a production location fire safety manager whenever a permit for scouting, rigging or production activities is obtained from MOME. This bill would take effect 120 days after becoming law.

Since introduction, this bill has been amended as follows. First, the scope of covered production locations was amended to clarify that such provisions do not apply to soundstages, production studios or approved production facilities, as such locations already must comply with standards established by the National Fire Protection Association (NFPA). Additionally, the bill was amended to exclude permits issued for scouting activities that do no present heightened fire safety risks. Finally, changes were made to ensure that the presence of working sprinklers systems and the lack of alterations to mean of egress at a production location would be considered factors in forthcoming rule making.

1. **Analysis of Prop. Int. No. 1852-A**

As introduced, Int. No. 1852 would require that prior to conducting any film production activities authorized by a permit obtained from MOME, an entity must provide the fire commissioner and the local firehouse with blueprints of the proposed location; which shall include information on structural alterations of such location, such as false walls and presence of potential fire hazards. Additionally, the bill requires that prior to being issued a permit for scouting, rigging or production activities, an entity must clear or close any health and safety violations at the location where such production activities will take place. This bill would take effect 120 days after becoming law.

Since introduction, this bill has been amended as follows. First, requirements that entities provide local firehouses with blueprints of proposed film locations was removed in response to the FDNY testimony on the limited utility of such blueprints to the Department and the burden that creating such blueprints would have on the film industry. Next, the scope of violations to be cleared prior to issuance of permits were limited to include only certain life safety violations issued by FDNY or the Department of Buildings. Finally, the amended bill established requirements for real-time information sharing between FDNY and MOME regarding permit applications to ensure the Department and local firehouses receive vital information on permitted film activities.

Prop. Int. No. 1849-A

By Council Members Borelli, Cornegy, Powers, Maisel, Cabrera, Holden and Brannan

..Title

A Local Law to amend the New York city fire code, in relation to establishing fire safety provisions for film production locations and requiring production location fire safety managers for certain rigging, filming and production activities

..Body

Be it enacted by the Council as follows:

Section 1. Section 202 of the New York city fire code is amended by adding a new definition of “production location” in alphabetical order to read as follows:

**PRODUCTION LOCATION.** Premises associated with any location approved for activities conducted in connection with motion picture, television or commercial production by the Mayor’s Office of Film, Theatre and Broadcasting, or an officer, employee or unit of the Department of Small Business Services as may be authorized to issue permits in accordance with paragraph r of subdivision 1 of section 1301 of the charter or pursuant to its rules.

§ 2. Chapter 3 of the New York city fire code is amended by adding a new section FC 325 to read as follows:

**SECTION FC 325**

**PRODUCTION LOCATIONS**

**325.1 Scope.** This section shall govern the protection of fire safety at production locations used for filming and rigging, except for soundstages, production studios and approved production facilities, as those terms are defined in NFPA 140.

**325.2 Fire safety at production locations.** The department shall promulgate rules addressing fire safety at production locations. Such rules shall establish fire safety standards, procedures and requirements in consideration of such location’s occupancy, construction and condition, including factors such as whether means of egress are impeded and a working sprinkler system exists, and the nature of the production activities to take place at such location, including set construction or other alterations, and whether pyrotechnic or other special effects will be conducted. Such rules may require the following fire safety measures:

1. The presence of one or more production location fire safety managers, to be designated by the permit holder, during production activities determined by the department to require such supervision. Production location fire safety managers shall have such qualifications and duties as set forth in FC325.3 and the rules.

2. The presence of department representatives or standby fire apparatus during production activities, as determined by the department.

3. Directing the cessation of filming activities when an unsafe condition arises that is detrimental to fire safety, until such time as such condition is corrected.

4. Such other fire safety measures as the department may require.

**325.3 Production location fire safety manager.** When required by the rules, production locations shall be under the personal supervision of one or more production location fire safety managers, each of whom shall hold the required certificate of fitness. The permit holder shall designate such production location fire safety managers before the commencement of the activity authorized by a permit for rigging and shooting pursuant to 43 RCNY § 9-01.

**325.3.1 Fire safety manager duties.** The production location fire safety manager shall have such duties and responsibilities as set forth in the rules, including but not limited to:

1. Ensuring compliance with the requirements of this code and other laws, rules and regulations enforced by the department.

2. Personally inspecting and monitoring the production location, confirming that permits or other required approvals have been obtained, and completing fire safety surveys or other recordkeeping.

3. Notifying the permit holder of any conditions detrimental to fire safety in accordance with the rules.

§ 3. This local law takes effect 120 days after it becomes law, except that the fire commissioner may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Prop. Int. No. 1852-A

Council Members Cornegy, Borelli, Powers, Koslowitz, Cabrera, Kallos, Holden and Ayala

..Title

A Local Law to amend the New York city fire code, in relation to fire safety at film production locations and to providing the fire department and local firehouses with information about field conditions at film production locations

..Body

Be it enacted by the Council as follows:

Section 1. Section 325 of the New York city fire code, as added by a local law of the city of New York for the year 2021, relating to establishing fire safety provisions for film production locations and requiring production location fire safety managers for certain rigging, filming and production activities, as proposed in introduction number 1849-A, is amended to read as follows:

**325.2 General.** Production locations shall comply with the fire safety measures required by this section and by NFPA 140, as applicable.

**325.3 Permits.** Permits shall be required as set forth in FC105.6.

**325.4 Interagency coordination.** The department shall develop and establish, in consultation with the Mayor’s Office of Film, Theatre and Broadcasting, or an officer, employee or unit of the Department of Small Business Services as may be authorized to issue permits in accordance with paragraph r of subdivision 1 of section 1301 of the charter or pursuant to its rules, and such other agencies as the department determines to be necessary and appropriate, a protocol and other processes to:

1. Provide to the department real-time access to information submitted to the Mayor’s Office of Film, Theatre and Broadcasting, or an officer, employee or unit of the Department of Small Business Services as may be authorized to issue permits in accordance with paragraph r of subdivision 1 of section 1301 of the charter or pursuant to its rules, in connection with permit applications;

2. Provide notification to the local firehouse each time a permit for filming or rigging is issued for activities that occur at a production location within the area of response for such firehouse.

3. Enable the department to evaluate relevant fire safety considerations at production locations, familiarize local firehouses or other members of the department with field conditions, including alterations being performed at such locations, in advance of and during the course of rigging and filming, and provide additional production location information in a timely manner to firefighters and other emergency response personnel during fire and non-fire emergencies; and

4. Coordinate approval of permit applications to allow the department to determine whether any premises associated with the proposed production location is subject to any outstanding department or Department of Buildings violation that the department determines constitutes a life safety hazard sufficient to warrant denial of the application. The Mayor’s Office of Film, Theatre and Broadcasting, or an officer, employee or unit of the Department of Small Business Services as may be authorized to issue permits in accordance with paragraph r of subdivision 1 of section 1301 of the charter or pursuant to its rule, shall deny such permit application when the department makes such a determination.

**325.5 Fire safety at production locations.** The department shall promulgate rules addressing fire safety at production locations. Such rules shall establish fire safety standards, procedures and requirements in consideration of such location’s occupancy, construction and condition, including factors such as whether means of egress are impeded and a working sprinkler system exists, and the nature of the production activities to take place at such location, including set construction or other alterations, and whether pyrotechnic or other special effects will be conducted. Such rules may require the following fire safety measures:

1. The presence of one or more production location fire safety managers, to be designated by the permit holder, during production activities determined by the department to require such supervision. Production location fire safety managers shall have such qualifications and duties as set forth in [FC325.3] FC325.6 and the rules.

2. The presence of department representatives or standby fire apparatus during production activities, as determined by the department.

3. Directing the cessation of filming activities when an unsafe condition arises that is detrimental to fire safety, until such time as such condition is corrected.

4. Such other fire safety measures as the department may require.

**[325.3] 325.6 Production location fire safety manager.** When required by the rules, production locations shall be under the personal supervision of one or more production location fire safety managers, each of whom shall hold the required certificate of fitness. The permit holder shall designate such production location fire safety managers before the commencement of the activity authorized by a permit for rigging and shooting pursuant to 43 RCNY § 9-01.

**[325.3.1] 325.6.1 Fire safety manager duties.** The production location fire safety manager shall have such duties and responsibilities as set forth in the rules, including but not limited to:

1. Ensuring compliance with the requirements of this code and other laws, rules and regulations enforced by the department.

2. Personally inspecting and monitoring the production location, confirming that permits or other required approvals have been obtained, and completing fire safety surveys or other recordkeeping.

3. Notifying the permit holder of any conditions detrimental to fire safety in accordance with the rules.

**325.7 Means of egress.** Means of egress shall be maintained free from obstruction at production locations. Prior approval of the Department of Buildings and/or the department shall be obtained in accordance with applicable laws, rules and regulations for any alteration or obstruction of the means of egress.

**325.8 Housekeeping.** All production locations shall be maintained free of accumulation of combustible waste in accordance with FC304.

**325.9 Portable fire extinguishers.** The permit holder responsible for a production location shall provide one or more portable fire extinguishers when required by the rules.

§ 2. This local law takes effect on the same date that a local law amending the New York city fire code, relating to establishing fire safety provisions for film production locations and requiring production location fire safety managers for certain rigging, filming and production activities, as proposed in introduction number 1849-A, takes effect, provided that the fire commissioner may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

1. FDNY Inspections at <https://www1.nyc.gov/site/fdny/business/inspections/inspections.page> [↑](#footnote-ref-1)
2. *Media and Entertainment Industry in NYC Report*, The Boston Consulting Group, p 4., Oct. 2015, <http://www.nyc.gov/html/film/downloads/pdf/bcg-report-10.15.pdf>. [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. *Id.* [↑](#footnote-ref-4)
5. Except for a 7.4% decrease from 2015-2016. *See* Number of movies filmed in NYC, <https://mycrains.crainsnewyork.com/stats-and-the-city/2017/entertainment/how-many-movies-have-been-filmed-in-nyc>. [↑](#footnote-ref-5)
6. *See id.*; Matthew Haag, *De Niro and Netflix Bet That New York Can Be a New Hollywood*, New York Times, July 10, 2019, <https://www.nytimes.com/2019/07/10/nyregion/robert-de-niro-studio-queens.html>. [↑](#footnote-ref-6)
7. *Surging Television Production in New York City Breaks New Record*, <https://www1.nyc.gov/site/mome/news/tv-series-announce-5-23-16.page>. [↑](#footnote-ref-7)
8. *Id*. [↑](#footnote-ref-8)
9. *Mayor de Blasio Appoints Anne del Castillo as Commissioner of the Mayor's Office of Media and Entertainment*, <https://www1.nyc.gov/site/mome/news/04172019-anne-del-castillo-commissioner.page> [↑](#footnote-ref-9)
10. 43 RCNY §9-01. [↑](#footnote-ref-10)
11. When a Permit is Required, *Mayor’s Office of Media and Entertainment,* available at: <https://www1.nyc.gov/site/mome/permits/when-permit-required.page>. [↑](#footnote-ref-11)
12. FC 105.6 [↑](#footnote-ref-12)
13. <https://www.nydailynews.com/new-york/nyc-crime/ny-confusion-communications-issues-move-set-materials-contributed-to-20190328-4w5kzafkxnfljlpigsnivanuey-story.html> [↑](#footnote-ref-13)
14. *Id.* [↑](#footnote-ref-14)
15. <https://www.nydailynews.com/new-york/manhattan/ny-manhattan-lawsuit-ed-norton-firefighter-20200512-kqw7kmkkbbad7ii56twt2xlc74-story.html> [↑](#footnote-ref-15)