

Update on Film By- Law Review Process

Presented to Community Services Committee: December 2, 2019

Summary

On September 11, 2018, staff reported to Council on plans to conduct a public input process to gather feedback from film stakeholders, local businesses and residents. This is in advance of the expiry of the current Film *By-law* 2015-227 on January 31, 2020.

The results of this review are being presented to Council to seek direction on updates to the current Film By-law and related policies as outlined below:

- Update the Film By-Law to focus on film permit applicability and jurisdiction. Direct operational matters to the filming guidelines.
- Update delegated authority to issue or revoke film permits from the Director of Assets to the Director of Economic Development.
- Direct staff to update the associated User Fee By-law to remove the current film permit fees.
- Direct staff to amend the Zoning By-Law to clarify the definitions of Filming Events and Audio/Visual Studios.
- Direct staff to implement filming policies that support Greater Sudbury's position as a filming destination.

Background

Greater Sudbury City Council has identified the growth of the local film industry as a priority area for economic development.

- In 2012 the City serviced nine productions with a combined total of 366 film days and direct local spending of \$11.2M.
- In comparison, the City serviced 15 productions in 2018 with a combined total of 580 film days and direct local spending of \$35.9M.

Tracking of annual film activity indicates that Greater Sudbury is attracting larger and longer running productions, many of which are series returning for future seasons as a result of positive filming experiences.

Over the years the City of Greater Sudbury has gained experience in supporting local film activity and gleaned expertise from regular contact with other film centres.

- Since the current Film By-Law was introduced in 2015 the City has serviced an additional 82 film and television productions with a combined total of 3,489 film days.
- This has resulted in a combined \$122.2M in reported direct local spending since 2015 and further ripple effects and job creation within the local economy.

In an assessment of the Northern Ontario film industry, Cultural Industries Ontario North (CION) reported that there were an estimated 2,360 full-time equivalent jobs and an estimated total Gross Domestic Product of over \$153.2M resulting from this industry (cited in *An Assessment of Northern Ontario's Film & Television Production Infrastructure*, March 2017). As well the report noted an extensive list of new businesses started specifically to service film productions.

Filming continues to take place throughout the City of Greater Sudbury. There are many elements that are taken into account when considering the city's competitiveness in film investment attraction – such as provincial and

federal incentives, available infrastructure and talented local crew. Among this, a city's willingness to accommodate film productions and support on-location filming remains one of the draws to filming in the city.

On-location filming can have a varied impact on a neighbourhood depending on the footprint of the production and length of filming. While the majority of on-location filming has proceeded without issue, concerns have been raised in specific cases where a production is in a certain location for extended periods of time, when the on-set etiquette or permit agreements are not upheld or when there is insufficient communication between the production and neighbouring residents and businesses.

Upon prior direction from Council, the existing Film By-Law 2015-227:

- Regulates filming on municipal property only
- Requires complete film permit applications to be received between four and 30 days in advance of the filming event, depending on the complexity of the film shoot
- Resides under the authority of the Director of Assets for issuing of film permits, who has the ability to suspend, amend, revoke or refuse permits
- Includes standard conditions, with the possibility of applying additional conditions to the permit as required, including security deposits, etc.
- Requires a film permit to be issued, in addition to other potentially required permits and approvals, such as Road Occupancy or Closure Permits, Noise By-Law exemptions, Facility Usage Agreements, etc.

Where filming takes place on private property and does not require other permits or approvals, the City is often aware of the activity, and may recommend notification to the area, but does not have the authority to permit the filming.

The City of Greater Sudbury works with the film industry across several department areas, with coordination support provided by staff in Economic Development. Filming guidelines are summarized in the *Filming Handbook*, which also includes templates for neighbourhood notification and a code of conduct for cast and crew.

The filming guidelines are updated periodically to reflect the current Film By-Law and related municipal by-laws and policies. An online permitting portal was introduced earlier this year with the goal of streamlining the application process for the multiple permits that may be required for filming and to coordinate communications among CGS departments. However, the actual film permitting process has been cumbersome in its implementation and administration given existing resources. Based on the prescriptive and complex By-Law it has been challenging to determine the instances that require an actual film permit, as well as coordinating the appropriate inter-departmental approval processes and associated fees, a process which sometimes requires more leadtime than is often realistic for most productions. It also does not reflect the variety of filming scenarios that may require a case-by-case approach.

Filming and the Zoning By-Law

In 2016 City Council approved an amendment to section 4.40 of the Zoning By-Law 2010-100Z (By-Law 2016-70Z) to permit filming in all zones of the city, provided the use meets the definition of a Filming Event which is separate and distinct from a permanent Audio/Visual Studio.

While the Zoning By-Law currently permits on-location filming events across all zones, audio/visual studios are permitted only in C2, C5, C6, M1-1, M1 and M2 zones. Further distinction between the two uses would provide greater clarity.

Industry Scan of Best Practices

Staff undertook a review of municipal film policies across 25 jurisdictions (see list below) to assess Greater Sudbury's film policies in comparison to others. This review included in-person and phone interviews as well as

participation in a survey of 28 respondents in film-servicing communities (lead by the City of Brantford). Online materials relating to guidelines, handbooks, by-laws and permitting processes were reviewed where possible.

Municipalities surveyed throughout 2019:

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| 1. City of North Bay | 14. City of Burlington |
| 2. City of Toronto | 15. City of Ottawa |
| 3. City of Kingston | 16. City of Oshawa |
| 4. City of Moncton | 17. City of Orillia |
| 5. City of Sault Ste. Marie | 18. City of Cambridge |
| 6. City of Timmins | 19. Municipality of North Grenville |
| 7. Region of Durham | 20. Brant County |
| 8. City of Hamilton | 21. Haldiman County |
| 9. City of London | 22. City of Mississauga |
| 10. Town of Oakville | 23. City of Abbotsford |
| 11. City of Brampton | 24. Dufferin County |
| 12. Town of Milton | 25. City of Peterborough |
| 13. Simcoe County | |

Staff also consulted with industry stakeholders such as Cultural Industries Ontario North, the local not-for-profit organization dedicated to supporting film and music industries across Northern Ontario. Cinéfest Film Festival and the Toronto International Film Festival were further opportunities to dialogue with producers, film service providers, film union representatives, post-secondary institutions, the Northern Ontario Heritage Fund Corporation, the Canadian Media Producers Association and Ontario Creates as the provincial film commission.

The following were overarching themes resulting from this industry scan:

- **Not all municipalities have formal film by-laws.** Most of those that do have film by-laws govern filming on municipal property only. Those that do not have film by-laws will regulate filming activity by applying other related by-laws and approval requirements, such as facility agreements, noise exemptions, road occupancy, etc and use general guidelines or handbooks to summarize those policies and requirements.
- **The film industry is constantly changing** with new production companies, studio spaces, environmental standards, community expectations, governmental incentives, a unionized workforce, etc. By-laws should be broad in scope, but point to specific policies that take this into account and allow the flexibility for periodic updates as the industry grows.
- **A single department to act as the primary point of contact is convenient** for both the film production and the multiple municipal departments involved. Where volume warrants it, some municipalities have invested in dedicated staff roles to support this work. Often this is within Economic Development, however in other cases it is within Parks & Recreation.
- **Film productions vary** in terms of size and come with different types of requests from the municipality and neighbourhoods. Those productions that maintain positive relations in the community have good communication with the municipality and residents. Complaints related to parking obstruction, clean up, traffic interruptions and noise are often mitigated by maintaining standards of cast and crew etiquette.
- **Scalable guidelines support film-friendliness.** Given the variety of productions' requests, in order for a municipality to maintain its film-friendliness, it is important to adapt policies in a way that is scaled to the request. Having ways to determine different classifications or tiers of requests is helpful.
- **Investment attraction is key.** Industry development hinges on the city's ability to attract infrastructure and services to accommodate filming, not solely on the municipality having film-friendly by-laws and policies.

Public Input

As outlined in the September 11, 2018 report to Council, staff undertook a public input process in fall 2019, which included the following steps:

- A public service announcement (PSA) was distributed to the media regarding the update of the existing Film By-law, outlining the channels for public input.
- This PSA was also shared on City social media along with the links to the relevant information on the City's website.
- Paper copies of the input form were circulated to all Citizen Service Centres.
- Electronic copies of the input form were available on the City's Over to You webpage.
- Staff hosted a public meeting at Tom Davies Square to present the highlights of the Proposed Draft By-laws and to solicit input. Invitation details of this meeting were sent to film stakeholders, the Business Improvement Association and through the media to the general public.

Staff in Economic Development conducts regular outreach with the business community and the Downtown Sudbury Business Improvement Association (BIA), and acts as a point of contact for the general public for filming as per the neighbourhood notification letters circulated by the production companies. The BIA has noted to staff that there is a big range in the standards of communication and notification from production to production – where some are very efficient at keeping the neighbourhood apprised of their filming activities and will endeavour to mitigate concerns before they arise, others are less so. Also, while overall businesses are welcoming to films being shot in the downtown core, it was noted that due to recent developments causing parking reductions in the downtown there has been an increase in parking related concerns raised by BIA members during filming events, ranging from one to three calls per film production in the downtown.

- During filming that took place from 2015 to 2017 staff noted residential concerns on three (3) accounts.
- In comparison, during filming that took place from 2018 to 2019 there has been a reduction in concerns raised.
- Considering there were no changes made to the Film By-Law 2015-227 throughout this stretch of time, this could indicate that staff's role in mitigating filming issues has been helpful based on operational procedures alone.
- However, it could also be indicative of growing positive relationships between residents and film productions directly.

The public input that was collected through this process, with 28 comments, is included in *Appendix*. The comments provided suggest a need to maintain an "open for business" reputation in order to attract film investments to the city. Several citizens indicated that the city is currently too stringent when it comes to by-laws governing filming and there was concern mentioned that this could be driving productions to film in other communities. Other concerns revolve around issues that could be addressed in filming guidelines more adequately than in a by-law.

Departmental Input

Meetings were held with those CGS departments that are regularly involved in filming requests, including By-Law, Legal Services, Leisure Services and Transportation.

A meeting of the full Special Events Interdepartmental Team was also held to discuss processes around servicing events, including film events, in the community. Below is a summary of what processes are working well and where improvements can be made.

- Administration of the Film By-law must be responsive to the time-sensitive nature of film productions. In order to streamline the process, as Economic Development is the primary contact for film production requests, it is suggested that the responsibility for issuing or revoking Film Permits should be changed from its current placement with the Director of Assets to the Director of Economic Development.
- The municipal policy of cost recovery and fees is inconsistently applied given the varying nature of filming requests.
- Currently the City derives fees from facility agreements.

- In 2018 Leisure Services reported 27 facility bookings for filming, which resulted in \$16,321.24 in revenues for the City.
- Lead time requirements for issuing a noise by-law exemption is 20 days and, as such, is usually unable to accommodate film requests due to their time sensitivity.
 - It should be noted that there have been no film-related noise complaints received to date.
- Road occupancy and closure permits are required in each instance where a film production parks on the side of the road or interrupts traffic (pedestrian or vehicular) flow.
 - In 2018 there were 80 road occupancy permits issued for filming events, as compared to 30 in 2019.
 - In 2018 there were 2 road closure permits issued for filming events, as compared to 0 in 2019.
 - Traffic control and parking plans need to be dealt with on a case-by-case basis to determine impact on individual neighbourhoods or road maintenance.
 - It is preferable to issue intermittent road occupancy, rather than full closure, permits where possible in order to avoid disruption to traffic flow.
- Neighbourhood notification processes have improved in recent years and there are fewer resulting complaints.
- Limitations on downtown parking is a recurring concern for businesses. Only essential film vehicles should be located in the downtown core, with alternate parking and shuttle in where possible.
- While the Zoning By-Law currently permits on-location filming events across all zones, audio/visual studios are permitted only in C2, C5, C6, M1-1, M1 and M2 zones. Further distinction between the terms “filming event” and “audio/visual studio” is needed in order to provide greater clarity.

This feedback was taken into account in the staff recommendations below. Continuous dialogue among departments will be required in order to implement any potential policy, by-law or process changes and to monitor areas for continuous improvement.

Staff Recommendations

Pending direction from Council, staff recommends updating the current Film By-Law, related by-laws and policies to reflect the following changes:

- **Update the Film By-Law to focus on film permit applicability and jurisdiction. Direct operational matters to the filming guidelines.**
 - This would condense and simplify the Film By-Law itself, which would continue to require film permits on municipal property only.
 - In alignment with best practices from other film centres, the filming guidelines contained in the *Filming Handbook* would include process and operational considerations on how permits are issued. They would also include notification requirements and allow for case-by-case restrictions to be imposed upon appropriate approvals. Policies that are not part of the Film By-Law, such as those developed to ensure safe use of drones or chemicals, would be included as well.
 - The filming guidelines and updated Film By-Law would be brought back to Council in January 2020.
- **Delegate authority to issue or revoke film permits from the Director of Assets to the Director of Economic Development.**
 - Currently staff from Economic Development field permitting requests, and coordinate approvals with other departments as appropriate. By centralizing the film permitting process within the same department that acts as the point of contact for productions, process efficiencies would be generated.
 - Coordination with other departments for applicable approvals would continue to be facilitated through Economic Development. The film permit would take into account items contained in the filming guidelines, where applicable to filming on municipal property, and would be conditional on issuance of other approvals such as road occupancy, facility agreements, etc.

- The Director of Economic Development would have the authority to update the filming guidelines on a regular basis to ensure they are in line with industry standards and the interests of citizens and businesses.
- **Direct staff to update the associated User Fee By-Law to remove the current film permit fees.**
 - The current user fee by-law stipulates a \$39 fee to issue a film permit and \$11 fee to amend or extend a film permit.
 - Given the administrative burden to recover this nominal revenue, and that film companies are required to cover other fees related to road occupancy, facility usage and other out-of-pocket expenses, staff recommends omitting this additional fee requirement.
- **Direct staff to amend the Zoning By-Law to clarify the definitions of Filming Events and Audio/Visual Studios.**
 - In order to provide greater clarity between uses, and to emphasize the temporary nature of recording that takes place outside an Audio/Visual Studio, the following revisions are recommended:
 - Indicate that a Filming Event encompasses the temporary use of land, buildings and structures for recording.
 - A statement that a Filming Event does not include the premises of an Audio/Visual Studio (i.e.: a permanent use in the form of a production facility).
- **Direct staff to implement filming policies that support Greater Sudbury's position as a filming destination.**
 - As appropriate, this would involve a review of current processes in permitting and approvals related to filming. The goal would be to apply policies that are seen as fair, consistent, competitive and scalable to the various types of film projects that the City services.
 - This review would include the use of online tools that would facilitate and expedite interdepartmental coordination and reporting. It would also involve a review of the municipality's policy on cost recovery for filming, and propose categories to required permit/agreement fees when warranted.
 - The goal would be to seek efficiencies in administrative processes, while still ensuring a high level of due diligence in film permitting. This would enable existing staff resources to be further involved in other areas of film investment attraction.

Conclusion

The goal of updating the current Film By-Law and processes is to work within existing service levels to further support the development of a thriving film industry while taking into account interests of citizens and businesses. A community that is supportive of on-location filming is essential to ensuring the film-friendliness of the city, which is why future changes to municipal by-laws, fees and internal processes should streamline communication where possible.

The policies being suggested allow for the application of permitting requirements that reflect the various types of scenarios seen in this industry. Centralizing film permitting to Economic Development would further clarify points of contact for productions and for the public. By pushing operational requirements of the Film By-Law to related guidelines, staff would be better equipped to accommodate filming requests with a periodic review of process improvements. These approaches are in line with the best practices noted from other municipalities and reflective of stakeholder and citizen input.

Pending direction from Council, staff would update the Film By-Law and filming guidelines and bring these proposed changes to Council for endorsement in early 2020.

Relevant Links for Further Information

1. City Council meeting of September 11, 2018

Staff report: Update on Film By-law Review Process

<https://agendasonline.greatersudbury.ca/index.cfm?pg=agenda&action=navigator&id=1246&itemid=15525&lang=en>

2. City Council meeting of August 22, 2017

Council motion directing staff to conduct a review of the existing By-Law in 2019

<http://agendasonline.greatersudbury.ca/index.cfm?pg=agenda&action=navigator&id=1132&itemid=13384&lang=en>

3. City Council meeting of April 25, 2017

Council motion requesting a staff report on ways to mitigate negative impacts of filming

<http://agendasonline.greatersudbury.ca/?pg=agenda&action=navigator&lang=en&id=1126#agendaitem13135>

4. Planning Committee meeting of April 11, 2016

Staff report: Housekeeping amendments to zoning By-Law – addition of filming events as permitted activities in all zones

<http://agendasonline.greatersudbury.ca/?pg=agenda&action=navigator&lang=en&id=983&itemid=11102>

5. Community Services Committee meeting of October 5, 2015

Staff report: Update on film By-Law development – draft By-Law for review & details of public consultation

<http://agendasonline.greatersudbury.ca/?pg=agenda&action=navigator&lang=en&id=834&itemid=10311>

6. Community Services Committee of August 10, 2015

Staff report: Update on film By-Law development – draft for review

<http://agendasonline.greatersudbury.ca/index.cfm?pg=agenda&action=navigator&id=832&itemid=10092&lang=en>

7. Community Services Committee meeting of May 4, 2015

Staff report: Update on film By-Law development & overview of private/public property implications

<http://agendasonline.greatersudbury.ca/?pg=agenda&action=navigator&lang=en&id=829&itemid=9591>