

**THE CITY OF NEW YORK**  
**MAYOR'S OFFICE OF FILM, THEATRE AND BROADCASTING**  
**ADOPTION OF RULES RELATING TO PERMITS ISSUED BY THE MAYOR'S**  
**OFFICE OF FILM, THEATRE & BROADCASTING**

**Executive Summary**

The Mayor's Office of Film Theatre & Broadcasting ("MOFTB") has for over forty years issued permits in connection with various film production activities. In general, City agencies' procedures for the issuance of permits must be set forth in formally adopted rules, which occurs after publication of the rules for public comment and hearing. The purpose of these new permit rules is to provide clear guidance to the persons and entities engaged in filming activities as to when they need permits, and when they do not.

MOFTB first published proposed permit rules in the City Record on May 25, 2007, held a public hearing regarding the rules on June 28, 2007, and received extensive comments through August 3, 2007. MOFTB then republished the rules for comment on October 30, 2007, received additional extensive comments, and held another public hearing on December 13, 2007.

MOFTB has considered comments received -- including from amateur and professional people involved in a variety of film-related endeavors -- and has clarified the definitions set forth in the rules that have been adopted regarding the use of public space requiring (or not requiring) a permit.

Established in 1966 as the first film commission in any locality in the nation, MOFTB has always offered free permits requiring only liability insurance under certain circumstances. In addition, if warranted by the activity, it has also offered free police assistance to assist with filming in New York City. The permit has served as the filmer's authorization to interact with, and stage production activity, on City property.

*The new film permit rules are intended to formalize a process that addresses the extent to which public space is used by those engaged in certain filming activities.*

Under the new film permit rules:

1) *A permit to film would be required if:*

- a) vehicles and/or equipment (as defined) are being used; and/or
- b) someone engaged in filming activity asserts exclusive use of City property (as defined).

In both instances, insurance would be required.

2) *A permit to film would **not** be required if:*

- a) activity involves only handheld equipment or tripods;
- b) activity does not involve the assertion of exclusive use of City property (as defined); and
- c) activity does not involve vehicles and/or equipment (as defined)
- d) activity involves the filming of a parade, rally protest or demonstration (except if using equipment or vehicles, which would necessitate obtaining a permit).

3) If a permit is not required based on the parameters above, individuals may still obtain an "optional" permit. In this instance, insurance is not required.

4) Standing on a street, walkway of a bridge, sidewalk, or other pedestrian passageway while using a handheld device and not otherwise asserting exclusive use of City property is not activity that requires a permit.

5) If a permit is required and the applicant demonstrates that they cannot afford it, a waiver of the insurance requirement may be issued.

**(1) Who will need a permit to conduct a photo shoot or to film on City property?**

*A permit is required in two scenarios: a) if equipment/vehicles are being used as defined; and /or b) if filming activity asserts exclusive use of City property as defined.*

a) As a threshold matter, just as in the originally proposed rules, we require a permit for filming activities where *vehicles or equipment are being used* as defined or requested.

- "Equipment" is defined, as before, to include but not be limited to television, photographic, film cameras or videocameras or transmitting television equipment, including radio remotes, props, sets, lights, electric and grip equipment, dolly tracks, screens, or microphone devices, and all production related materials.

This definition has been clarified to provide that "equipment" does not include "hand-held devices" (such as hand-held film, still or television cameras and videocameras, and tripods that are used to support film, still, television cameras or videocameras). Moreover, "equipment" does not include vehicles used solely to transport people engaged in filming or photography from within a vehicle that is proceeding with the general flow of traffic.

b) A permit would be required if filming activity would either (1) assert by any means the exclusive use of one or more lanes of a street or walkway of a bridge; or (2) result in either less than eight feet, or one-half the width of the sidewalk or pedestrian passageway (whichever is greater) being otherwise available for pedestrian use.

- This does not mean that filming activities cannot take place on a sidewalk if there is room for pedestrian traffic flow. Asserting exclusive use, including physical or verbal, of City property refers to use of streets, walkways of a bridge, and sidewalks. If no vehicles or equipment are used, and the person filming does not assert exclusive use of City property, no permit is required.

**Examples:**

This standard means that in effect there must always be a minimum of eight feet available for pedestrian sidewalk traffic in order for filming activities (that assert exclusive use of City property) to take place without a permit. However, where a sidewalk is narrower -- for example, four or five feet wide -- and a filming activity asserts exclusive use of City property as defined, then a permit is required. (That is, people are actually prevented from reasonably using the sidewalk because the person filming has asserted exclusive control over the sidewalk.)

Example: If someone's filming activity will interfere with pedestrian or vehicular traffic such that he/she asserts exclusive use of one or more lanes of a street or walkway to a bridge, a permit would be required.

Example: If a particular sidewalk or pedestrian passageway is ten feet wide, and the filming activity results in pedestrians being prevented from using six feet of the sidewalk and only four feet of the sidewalk space remains available, a permit would be required.

Example: If a particular sidewalk or passageway is ten feet wide and someone will assert exclusive use of over only two feet for filming activity, no permit would be required because there would remain eight feet of unobstructed pedestrian passage.

### **Still Photography?**

If either equipment or vehicles (as defined in the rules) are used, a permit will always be required. If hand-held devices are being used and a photographer does not assert exclusive use of the City property where filming is taking place, a permit will not be required. As to parades, rallies, protests, or demonstrations, a permit will not be required unless someone uses vehicles or equipment.

### **Hand-helds?**

In general, permits are not needed when only hand-held devices are used. However, if someone uses a hand-held device, a permit will be needed if (1) the person filming asserts exclusive use of one or more lanes of a street or walkway of a bridge, or (2) the

filming activity results in less than eight feet of unobstructed sidewalk use as a result of the filmmaker's assertion of exclusive control over the portion of the sidewalk they occupy. Hand-held devices do not include cables or any other item or equipment not carried by the photographer or filmmaker at all times during the course of photography, filming or transmission.

As to parades, rallies, protests or demonstrations filmed with a handheld device, a permit will not be required.

### **Use of tripods?**

In general, because tripods are defined as "hand-held devices", permits would not be needed. However, a permit will be needed by someone using a tripod if (1) the person filming asserts exclusive use of one or more lanes of a street or walkway of a bridge, or (2) the filming activity results in less than eight feet of unobstructed sidewalk use as a result of the tripod user's assertion of exclusive control over the portion of the sidewalk they occupy.

As to parades, rallies, protests or demonstrations, no permits are required when one uses a tripod.

### **(2) How does someone apply for a permit? What must they show? When could a permit be denied? What happens if the permit application is denied?**

One completes an MOFTB new project account application to get a scouting, rigging or shooting permit. One must include identifying information, such as their mailing address, a photo ID, dates and times of shooting – and, if available, e-mail address and telephone number. Film school students will have to provide a letter from their schools confirming insurance coverage and current enrollment.

More detail would be required thereafter for the scouting, rigging and/or shooting permit application: dates/times/locations of the activity; any special circumstances about the activity; scouting permits will also have to include a letter from the applicant's producing/financing entity verifying the project and identifying the on-site production contact person.

Those who receive permits from MOFTB must have the permit in their possession on location, and must also make it available for inspection by an employee of the NYPD or other government agency.

*As in the earlier proposal, permits could be denied if one or more of the following issues exist:*

- conditions that might pose a danger or threat to participants, onlookers or the public;
- the location sought is not suitable because the use cannot reasonably be accommodated in that location;
- the date and time requested is not available for that location either because a permit has previously been issued for such date and time, or another City agency has issued a permit for that date and time;
- MOFTB has concluded, based on specific information, that the applicant is unlikely to comply with the material terms of the requested permit;
- the use of the location or activity at the location would otherwise violate any law or rule;
- the use of the location would interfere unreasonably with the operation of City functions.

If a permit application is denied, the applicant may appeal that determination by submitting a written request to the MOFTB appeals officer. Under the new film permit rules, there are specific time frames within which MOFTB must issue the decision, as well as time frames for someone to appeal and MOFTB to consider that appeal.

**(3) Is insurance required to obtain a permit? What if they can't afford it?**

Liability insurance in the amount of at least \$1 million is required only of people required to get a permit (i.e., they use equipment or vehicles OR are asserting exclusive use of roadways/sidewalks).

MOFTB can determine that a higher amount is appropriate, depending on, for example, the number of people involved and the location and nature of the activity.

If a permit applicant can demonstrate to MOFTB that obtaining such insurance would impose an unreasonable hardship, it can be waived. Such applicant can demonstrate this by, for example, showing that the cost of obtaining insurance exceeds 25% of the project's budget. In considering the waiver request, MOFTB would review the projected budget of the project, factoring in comparable productions of similar size and duration. MOFTB may also consider the potential for injury to individuals and/or damage to property.

Denial of a waiver request may be appealed to MOFTB's appeals officer as provided in the rules.

People who obtain an "Optional Permit" will not need to obtain such liability insurance.

**(4) What if someone isn't actually required to have a permit under these rules, but wants to get one anyway?**

People can get an "Optional Permit" under the new film permit rules. Sometimes there has been confusion as to whether or not a permit is required. As a result, and as an accommodation to filmmakers, MOFTB has routinely issued permits in those instances where a permit is not required. The rules are consistent with this longstanding practice.

They would need to present much of the same documentation as those persons seeking a Required Permit (e.g., request for dates, times and locations and contact information) but would not have to show photo ID or obtain insurance.

**(5) How will the new film permit rules affect tourists or visitors who want to take pictures or videotape themselves and their families on City sidewalks? What about in Parks? How will the adopted rules affect the press?**

These rules are not intended to apply to tourists who take pictures of themselves or City sights. It is assumed that large groups of tourists will understand the need to allow pedestrian and vehicular traffic flow to be maintained. Where overcrowding of public spaces exists so that there is pedestrian and vehicular obstruction, a police officer is likely to ask the group to move so that traffic flow can be smooth. We will provide copies of the rule to the NYPD so that its members become aware of the new film permit rules.

Parks Rule 1-05(e) provides that commercial filmmakers must get an MOFTB permit. That means that it is the MOFTB rules which establish the criteria for determining who requires a film permit to film in a park.

When someone uses a press pass issued by the New York City Police Department (“NYPD”) in accordance with Chapter 11 of Title 38 of the Rules of the City of New York (“Press Credentials”), where they are acting in furtherance of the activity authorized by such press pass, and is engaged in filming as defined in these rules, a permit need not be obtained from MOFTB.

**(6) What happens if someone acts in violation of these rules?**

MOFTB or the NYPD may suspend any permit where public health or safety risks are found or where exigent circumstances warrant such action. If someone fails to abide by the MOFTB permit, it may be revoked at any time.

It has been the law for many years that those who engage in filming activities without a permit are subject to a fine of not more than \$500 or imprisonment of no more than 90 days, or both. This law is enforceable by members of the NYPD.

If any of the foregoing conduct involves rules or laws enforced by other City agencies, those agencies can take appropriate action.