

June 29, 2007

City May Seek Permit and Insurance for Many Kinds of Public Photography

By RAY RIVERA

Some tourists, amateur photographers, even would-be filmmakers hoping to make it big on YouTube could soon be forced to obtain a city permit and \$1 million in liability insurance before taking pictures or filming on city property, including sidewalks.

New rules being considered by the Mayor's Office of Film, Theater and Broadcasting would require any group of two or more people who want to use a camera in a single public location for more than a half hour to get a city permit and insurance.

The same requirements would apply to any group of five or more people who plan to use a tripod in a public location for more than 10 minutes, including the time it takes to set up the equipment.

Julianne Cho, assistant commissioner of the film office, said the rules were not intended to apply to families on vacation or amateur filmmakers or photographers.

Nevertheless, the New York Civil Liberties Union says the proposed rules, as strictly interpreted, could have that effect. The group also warns that the rules set the stage for selective and perhaps discriminatory enforcement by police.

"These rules will apply to a huge range of casual photography and filming, including tourists taking snapshots and people making short videos for YouTube," said Christopher Dunn, the group's associate legal director.

Mr. Dunn suggested that the city deliberately kept the language vague, and that as a result police would have broad discretion in enforcing the rules. In a letter sent to the film office this week, Mr. Dunn said the proposed rules would potentially apply to tourists in places like Times Square, Rockefeller Center or ground zero, "where people routinely congregate for more than half an hour and photograph or film."

The rule could also apply to people waiting in line to enter the Empire State Building or other tourist attractions.

The rules define a "single site" as any area within 100 feet of where filming begins. Under the rules, the two or more people would not actually have to be filming, but could simply be holding an ordinary camera and talking to each other.

The rules are intended to set standards for professional filmmakers and photographers, said Ms. Cho, assistant commissioner of the film office, but the language of the draft makes no such distinction.

"While the permitting scheme does not distinguish between commercial and other types of filming, we anticipate that these rules will have minimal, if any, impact on tourists and recreational photographers,

including those that use tripods," Ms. Cho said in an e-mail response to questions.

Mr. Dunn said that the civil liberties union asked repeatedly for such a distinction in negotiations on the rules but that city officials refused, ostensibly to avoid creating loopholes that could be exploited by professional filmmakers and photographers.

City officials would not confirm that yesterday. But Mark W. Muschenheim, a lawyer with the city's law department, which helped draft the rules, said, "There are few instances, if any, where the casual tourist would be affected."

The film office held a public hearing on the proposed rules yesterday, but no one attended. The only written comments the department received were from the civil liberties group, Ms. Cho said.

Ms. Cho said the office expected to publish a final version of the rules at the end of July. They would go into effect a month later.

The permits would be free and applications could be obtained online, Ms. Cho said. The draft rules say the office could take up to 30 days to issue a permit, but Ms. Cho said she expected that most would be issued within 24 hours.

Mr. Dunn says that in addition to the rules being overreaching, they would also create enforcement problems.

"Your everyday person out there with a camcorder is never going to know about the rules," Mr. Dunn said. "It completely opens the door to discriminatory enforcement of the permit requirements, and that is of enormous concern to us because the people who are going to get pointed out are the people who have dark skin or who are shooting in certain locations."

The rules were promulgated as a result of just such a case, Mr. Dunn said.

In May 2005, Rakesh Sharma, an Indian documentary filmmaker, was using a hand-held video camera in Midtown Manhattan when he was detained for several hours and questioned by police.

During his detention, Mr. Sharma was told he was required to have a permit to film on city property. According to a lawsuit, Mr. Sharma sought information about how permits were granted and who was required to have one but found there were no written guidelines. Nonetheless, the film office told him he was required to have a permit, but when he applied, the office refused to grant him one and would not give him a written explanation of its refusal.

As part of a settlement reached in April, the film office agreed to establish written rules for issuing permits. Mr. Sharma could not be reached for comment yesterday.

Mr. Dunn said most of the new rules were reasonable. Notably, someone using a hand-held video camera, as Mr. Sharma was doing, would no longer have to get a permit.

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