

**CITY OF NEW YORK
MAYOR'S OFFICE OF FILM, THEATRE & BROADCASTING**

**NOTICE OF PUBLIC HEARING AND OPPORTUNITY TO COMMENT
ON RULE RELATING TO PERMITS ISSUED BY THE MAYOR'S OFFICE OF
FILM, THEATRE & BROADCASTING**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Mayor's Office of Film, Theatre & Broadcasting ("MOFTB") by sections 389(b) and 1043 of the New York City Charter, that the Mayor's Office of Film, Theatre & Broadcasting proposes to adopt an amendment to Chapter 9 of Title 43 of the Rules of the City of New York, governing the issuance of permits issued by such agency. The proposed rule was not included in the Department's regulatory agenda because the changes to be established by the rule were not anticipated at the time the regulatory agenda was to be published.

Written comment regarding this proposed amendment may be sent to the Mayor's Office of Film, Theatre & Broadcasting, 1697 Broadway, New York, NY 10019 on or before June 1, 2010. Such comments may be submitted electronically to applicationfee@film.nyc.gov. A hearing for public comment will be held on June 3, 2010, at 125 Worth Street, 2nd floor auditorium at 2 pm. Persons seeking to testify are requested to notify Dean McCann at (212) 489-6710 or by email at applicationfee@film.nyc.gov no fewer than five (5) business days prior to the hearing. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are asked to notify Mr. McCann at the Mayor's Office of Film, Theatre & Broadcasting, 1697 Broadway, New York, New York 10019 no later than two weeks prior to the hearing.

New material is indicated by underlining. Deletions are indicated by brackets.

§ 1. Paragraph (1) of subdivision (b) of section 9-02 of Chapter 9 of Title 43 of the Rules of the City of New York is amended to read as follows:

(1) The following [two] steps shall be taken to obtain a scouting, rigging, and/or shooting permit:

a. Submission of a New Project Account application to MOFTB. (i) For any activity needing a Required Permit, a New Project Account application shall be valid for the duration of continuous photography. (ii) For a television series, such application shall be valid for no more than one season. (iii) For a special event produced by a television program, including but not limited to a concert or street event involving an outdoor public audience, a separate New Project Account application shall be required. If such special event requires a Premiere Permit as set forth in chapter 8 of this title, a separate New Project Account application will not be required.

b. A New Project Account application, when submitted in connection with a Required Permit, shall be accompanied by a non-refundable fee of \$300.00, paid in the form of a certified check or money order and made payable to "New York City Department of Finance." An applicant may make a request for a waiver of such fee, which shall accompany the application when submitted. MOFTB shall have the authority to waive such fee where the applicant is able to demonstrate unreasonable hardship. The burden of demonstrating unreasonable hardship shall be on the applicant.

c. At the same time, or some time thereafter, an applicant shall seek a scouting, rigging, and/or shooting permit.

d. At the same time, or prior thereto, the applicant shall have obtained and provided to MOFTB a certificate of insurance for a policy that reflects the requirements contained in § 9-03 of this chapter.

§ 2. Subdivision (b) of section 9-03 of Chapter 9 of Title 43 of the Rules of the city of New York is amended to read as follows:

(b) Every holder of a Required Permit shall maintain, during the entire course of its operations, commercial general liability insurance with a limit of at least one million dollars (\$1,000,000) per occurrence. Such insurance shall include a policy endorsement naming the City of New York as an additional insured with coverage at least as broad as provided by Insurance Services Office (ISO) form CG 20 [12] 26 [(07/98 ed.)]. The applicant shall provide proof of such insurance prior to the issuance of the permit [in the form of an original certificate of insurance signed in ink to which a copy of the required endorsement is attached] by submitting a Certificate of Insurance in a form acceptable to the Commissioner certifying compliance with the foregoing requirements, accompanied by a duly executed Certification by Broker in the form required by the Commissioner. Acceptance by the Commissioner of any purported proof of insurance shall not be deemed to constitute a waiver of the permittee's obligation to ensure that insurance fully consistent with these requirements is secured and maintained, and the permittee shall be liable to the City of New York for any failure to do so. For currently enrolled film students, proof of insurance through their school and the student's current attendance shall satisfy this requirement. This insurance requirement does not apply to any person or entity holding an Optional Permit issued in accordance with § 9-01(b)(4).

§ 3. Subdivision (d) of section 9-03 of Chapter 9 of Title 43 of the Rules of the City of New York is amended to read as follows:

(d) (1) MOFTB shall have the authority to waive the insurance required by subdivision (b) of this section where the applicant is able to demonstrate that such insurance cannot be obtained without imposing an unreasonable hardship on the applicant. Any request for a waiver of the insurance required by subdivision (b) of this section shall be included by the applicant in the application submitted to MOFTB under § 9-02 of this chapter. The burden of demonstrating unreasonable hardship shall be on the applicant, and may be demonstrated by a showing, for

example, that the cost of obtaining insurance for the permitted activity exceeds twenty-five percent (25%) of the applicant's budget for such activity that is the subject of the application. MOFTB shall take into consideration the applicant's projections of budget as well as the budget projections for comparable productions of similar size and duration in determining whether the cost of obtaining insurance exceeds twenty-five percent (25%) of the budget. MOFTB may also take into consideration its determination that the permitted activity may increase the potential for injury to individuals and/or damage to property. In the event that MOFTB denies a waiver of the insurance requirement, the applicant may thereafter respond to the denial and appeal such denial pursuant to the provisions of § 9-02 of this chapter.

(2) If an applicant requests and is granted a waiver of the insurance required by subdivision (b) of this section because it would impose an unreasonable hardship, such applicant shall be deemed to qualify for a waiver of the \$300.00 fee required by subparagraph b of paragraph (1) of subdivision (b) of § 9-02 of this chapter in the event such applicant makes a request for a waiver of the \$300.00 fee.

Statement of Basis and Purpose

MOFTB has been, for over forty years, the office providing one-stop clearance and permit operations for film and television productions in the City. As part of these services, the office continues to coordinate and provide free police assistance, free parking privileges and access to most exterior locations free of charge. Because the City faces unprecedented budget challenges, the office is proposing a permit application processing fee. This proposed fee would allow the office to continue to provide these permitting services to the public, while offsetting

budget cuts. The new fee was determined by analyzing the administrative and personnel costs incurred by MOFTB for processing the initial application page of any new project that would be subject to this New Project Account application fee of \$300.00. A New Project Account application would be valid for the duration of continuous photography for any scouting, rigging and/or shooting activity that requires a permit. For a television series, a single project application would be valid for the duration of one season. If a television series hosts a special outdoor event with a public audience, a New Project Account application would be needed unless the event requires a Premiere permit. The fee would apply to the application process for each project, and is not a location fee; the majority of City-owned exterior locations would remain free of charge, including its 300 square miles of streets.

In addition, the revisions relating to insurance requirements set forth in §9-03(b) would ensure that those seeking a Required Permit (1) secure adequate insurance to protect both themselves and the City, and (2) provide documentation that adequately evidences the existence of such insurance. Notwithstanding the Commissioner's approval of such documentation, such permittees would remain fully responsible for ensuring compliance with the requirements of § 9-03. The optional permit remains free of charge and does not require insurance.