

TO: PARKS AND RECREATION COMMISSION

FROM: DAREN ANDERSON DEPARTMENT: COMMUNITY SERVICES

DATE: DECEMBER 14, 2021

SUBJECT: OPEN SPACE AND PARKS PHOTOGRAPHY AND FILM POLICY

RECOMMENDATION

The Foothills Nature Preserve Ad Hoc Committee (Ad Hoc) and staff support a Parks and Recreation Commission (PRC) recommendation that City Council adopt the draft Open Space and Parks photography and film policy (Attachment A).

EXECUTIVE SUMMARY

The Ad Hoc drafted a policy that specifies when a permit is required and clarifies what type of activities may be allowed.

- “Photography and Film” is defined as the recording on any medium of still or motion images
- Personal Photography and Film
 - No permit required
 - Non-commercial
 - No impact on vegetation, habitat, wildlife, or visitor use
 - Maximum duration of one hour
- Low-Impact Photography and Film
 - Permit required
 - Generally associated with smaller shoots
 - No significant impact on vegetation, habitat, wildlife, or visitor use
 - Maximum duration of two hours
 - Not permitted on weekends and holidays
- High-Impact Photography and Film
 - Not allowed
 - Generally associated with:
 - Medium/large commercial shoots
 - Significant impact to City-owned property or public right-of-way
 - Traffic control/street closures
 - Shoots with multiple cameras, photographers, assistants, and talent

BACKGROUND

Open Space staff receive approximately 5 to 10 photography and film permit requests per year.

Existing City of Palo Alto Parks and Open Space Regulation on Photography and Film

R1-21A. COMMERCIAL PHOTOGRAPHY AND FILMING

No person shall photograph or film for commercial purposes in City Parks or Open Space except pursuant to a permit authorizing such activity or except for those

activities associated with and supportive of City programs or City-sponsored events. For the purpose of this section, “photograph or film for commercial purposes” means the recording, on any medium, of still or motion images that involves the use of professional models or commercial articles filmed or photographed for the purpose of commercial advertising, or the use professional casts, settings, or crews in any motion picture, television, or similar production. This section shall not apply to the commercial operation of cameras as part of the bona fide reporting of news, or for small photo or film events, consisting of a single photographer or videographer with a total group size of no more than 24 persons (permit is required for exclusive use of any area of park land), as long as all other rules and regulations are followed.

- A. Applications shall be submitted not less than ten (10) working days before the proposed use.
- B. No sound amplification equipment, which will disturb the peace, may be used in connection with any photo shoot, except when used by City employees or safety officers for purposes of crowd control.
- C. No permit shall be granted for any event between the hours of 8:00 PM and 9:00 AM without the prior approval of the Director.
- D. No permit shall be granted when the closure would result in hampering prompt access to an area or location by emergency vehicles.

The current permit process for photography and film in Open Space and Parks is through the Special Event Permit Application: <https://www.cityofpaloalto.org/files/assets/public/community-services/parks-and-open-space/special-event-application-2019.pdf>.

DISCUSSION

The Ad Hoc reviewed the existing photography and film policy as part of their review of multiple policies relating to Foothills Nature Preserve. Because the photography and film policy applies to all open space preserve and parks, this policy was separated as its own agenda item.

In general, the Ad Hoc believes that open space and parks are not appropriate locations for commercial photography and film due to its impact on vegetation, habitat, wildlife, and visitor experience. In addition, limited staff resources cannot provide proper oversight for this type of activity. This could be re-evaluated in the future if appropriate staff resources were available.

The Ad Hoc drafted a policy that specifies when a permit is required and clarifies what type of activities may be allowed.

- “Photography and Film” is defined as the recording on any medium of still or motion images.
- Personal photography and film, which is non-commercial, will not have an impact on vegetation, habitat, wildlife, or visitor use, and has a maximum duration of one hour, is allowed without a permit.
- Low-impact photography and film, which is generally associated with smaller shoots that do not significantly impact City-owned property, the public right-of-way, or vegetation, habitat, wildlife, or visitor use, may be allowed with a permit. Low-Impact photography

and film may be a commercial activity. It is not allowed on weekends or City holidays, and the maximum duration is limited to two hours.

- High-impact photography is not allowed. It is generally associated with medium and large commercial shoots with multiple cameras, photographers, assistants, and talent. It significantly impacts City-owned property or the public right-of-way either by utilizing a large area of City-property, negatively impacting the property, or requiring traffic control/street closures.

The Ad Hoc recommends the following be adopted as the photography and film policy for Open Space and Parks:

Palo Alto Open Space and Parks Photography and Film Policy

Photography and Film Permit overview

- Photography and film is defined as the recording on any medium of still or motion images
- Permits are not required for personal photography and film
- Permits are required for low-impact photography and film
- High-impact photography and film are not permissible
- Please allow a minimum of two weeks (14 calendar days) for permit approval and processing
- Permit fees may apply
- Parking is limited, and vehicles generally are not permitted outside of designated parking lots and roadways
- The use of drones is not permitted
- To protect wildlife and habitat, access is limited to designated trails (see exclusions below) and established use areas such as turf and picnic areas

Personal Photography and Film—No Permit Required

Permits are not required for photography and film that meets all the following requirements:

- Non-commercial (still, motion picture, video, digital, and other)
- No impacts to vegetation, habitat, wildlife, or visitor use
- 24 or fewer people
- Duration of one hour or less
- No exclusive use of parks and preserves (blocking trails, parking spaces, roads, pathways, or any public access)
- In compliance with all municipal codes and park regulations. Municipal Code and Park Regulations may be found here:
<https://www.cityofpaloalto.org/Departments/Community-Services/Open-Space-Parks/Open-Space-Preserves/Rules-Regulations>
- Examples of personal photography and film include photography that does not require additional permits, small professional group shoots with limited subjects and crew (e.g., one photographer, 1-5 subjects) such as an engagement or immediate family photography session, and shoots with no impact to vegetation, habitat, wildlife, or visitor use.

Photography and Film--Permit Required

Low-impact photography and film may be permitted. This is generally associated with smaller shoots that do not significantly impact City-owned property, the public right-of-way, and other visitors use of the park or preserve. Permits cannot be issued for shoots that will have any significant impacts to vegetation, habitat, wildlife, or visitor use.

Low-impact photography or film requires that a completed Photography and Film Permit application be submitted to the manager of the desired park or preserve. The application will be reviewed, and a permit may be granted once all fees and forms have been submitted. Wedding photography and film may, depending on the circumstances, require a permit and fees.

Permits are required for photography and film that includes:

- Commercial shoot (as defined in Palo Alto Open Space and Parks Regulations R1-21A)
- Duration of up to two hours
- Multi-camera shoot
- Additional lighting, sound, and other equipment

Permits for photography and film will not allow the following:

- Commercial shoots that significantly impact City-owned property or the public right-of-way, either by utilizing a large area of City-property, negatively impacting the property, or requiring traffic control/street closures. Typically, these shoots include a crew with multiple photographers/cameras, and assistants and talent.
- Shoots on weekends and City holidays
- Shoots during park closure hours
- Duration of shoot for more than two hours, including set up and tear down
- Exclusive use of a significant area within a park or preserve

Photography and Film Permit Application Conditions

All permit applicants shall accept and agree to comply with the following photography and film general conditions:

1. Utmost care will be exercised to ensure that wildlife, habitat, and natural/historic/cultural resources are not disturbed or impacted.
2. Photography and film of wildlife will be permitted only when such wildlife will not be approached within 100', fed, harmed, or otherwise disturbed from their natural behavior.
3. Drones are not allowed.
4. No employee of the City of Palo Alto may work for the permittee in any capacity whatsoever while in uniform or if directly involved in supervision of the permittee.
5. Amplified sound such as gunfire, sirens, public address systems, and other similar noise-producing equipment are not permitted under any circumstances. Other amplified sound such as music requires an additional noise abatement permit for a level more than fifteen dB above the local ambient at a distance of twenty-five feet or more. PAMC 22.04.180/PAMC 9.10.050 https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-83686#JD_22.04.180

https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-66214#JD_9.10.050

6. Production vehicles shall park according to an approved parking plan.
7. Areas of filming shall be cleared, and the site left as found at end of each day's shooting.
8. Smoking, vaping, or any open flame are not permitted.
9. Exclusive use of any significant areas is not permitted, including:
 - Closing roads and trails
 - Off-trail access
 - Access to trails less than 48" (must allow at least 5' of trail width for other park visitors to pass)
 - Use of generators requires an additional permit and fees (see Special Event Permit Application)
11. Fees will be determined during the permit review process and will be discussed with applicant prior to permit issuance. A refundable deposit of up to \$1,000 may be required to ensure compliance with permit conditions. The amount, if any, to be refunded to the permittee is solely at the discretion of the City of Palo Alto.
12. A permit is required for all groups of 25 people or more <https://www.cityofpaloalto.org/Departments/Community-Services/Open-Space-Parks/Open-Space-Preserves/Rules-Regulations>
13. Permit fees for Parks and Open Space range \$324 - \$2,163 (this is the same range for special event permits)

TIMELINE

- February 2022—Parks and Recreation Commission's recommendation to City Council.

Palo Alto Open Space and Parks Photography and Film Policy

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