

City of Duluth Parks and Trails Commercial Operations Permit Application (Fitness or Athletic Instruction, Classes, or Boot Camps)



Applicant Information:

BUSINESS NAME: _____

CONTACT PERSON: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: (____) _____ EMAIL ADDRESS: _____

WEBSITE ADDRESS: _____

Commercial Operations Description of Use:

Types of services offered (please include descriptions of offerings, cost, targeted customers, equipment to be used in the park, frequency, etc....):

Application Submission Date

Applications will be accepted for review starting December 1 for the following year's season. Applications must be submitted no later than 30 days prior to permit use.

(For Office Use Only)

APPLICATION RECEIVED BY:	Date:
◇ Proof of Insurance with Additionally Insured Endorsement:	Expiration Date:
◇ Defense, Indemnity and Hold Harmless Agreement:	



PERMIT FEES, REQUIREMENTS AND RULES

Permit Fee Options

- ◇ Annual Permit Rates
 - ◇ \$500 per calendar year for Duluth residents; \$750 per calendar year for non-residents
- ◇ Monthly Permit Rates
 - ◇ \$150 per month for Duluth residents; \$200 per month for non-residents
- ◇ Fees are not pro-rated, refundable, or transferable.

Commercial Operator Application Requirements

Applicant must provide documentation of the following prior to application approval:

- ◇ Completed and signed application form
- ◇ Certificate of insurance meeting the requirements of the City of Duluth, as stated within this packet.
- ◇ Execute “Defense, Indemnity and Hold Harmless Agreement”

Permit Requirements

- ◇ A City authorized permit is required to conduct commercial operations for compensation in parks pursuant to Sec. 35-9(a)(2) of the Duluth City Code.
- ◇ All permittees will be required to provide a yearend report by December 15 showing the following information:
 - ◇ Total quantity of classes or tours that were put on during that calendar year.
 - ◇ Total quantity of participants that attended the permitted offerings.
 - ◇ List of Parks infrastructure that were used for the permitted offering.
- ◇ Permittee must have a copy of his/her annual permit in their possession during each use to enforce its privileges.

Permit Rules

I. Definitions:

- ◇ Commercial Operations – Sec. 35-9(a)(2): No commercial enterprise of any kind, including those involving the sale or leasing of any personal property or service, shall be allowed in any public park without a permit. The director of parks and recreation may impose reasonable restrictions on hours of operation, types of goods or services sold or leased, stands and other physical apparatus used, and any other aspect of the operation he deems necessary to restrict. Such permits shall grant only nonexclusive use of park space.
- ◇ Commercial Operations permittees will be granted non-exclusive use of Parks infrastructure for the purposes of offering fitness classes, tours, athletic instruction, boot camps, and other similar activities. This permit does not extend to use of pavilions. Should you wish to use a pavilion you can do so under the special event permitting structure.

2. Commercial operations may be conducted in any official City park or trail between the hours of 6AM – 10PM, except for the following:

- ◇ Lakewalk (Due to construction planned during 2019, no commercial use is permitted from the Pier to Leif Erikson Park)

- ◇ Superior Hiking Trail
- ◇ Munger Trail
- ◇ Snowmobile Trails

3. It is understood that Commercial Operations Permittees shall relocate to accommodate any permitted private, wedding, or special events or any City sponsored activity.

4. Applications will be accepted for review starting December 1 for the following year. Applications must be submitted no later than 30 days prior to permit use. Applications will be approved or declined based on guidelines met and previous years track record (if applicable).

5. Permits issued for Commercial Operations may be revoked if Permittee fails to:

- ◇ Maintain current and valid proof of insurance satisfying the requirements set forth below;
- ◇ Maintain any and all state or local licensure applicable to permitted operations; and
- ◇ Demonstrate conduct of a professional manner and upholding of the guidelines of this permit.

6. A Commercial Operations Permittee shall keep a copy of its City-issued Permit on site during permitted operations, and shall make the Permit available for inspection by City staff upon request.

7. Permittee shall follow City staff instructions in relocating commercial operations in order to avoid damage to City property and facilities, and to avoid interference with any ongoing maintenance activities.

8. Prohibited:

- ◇ Permittee shall not vend or sell goods or services within City parks or trails, other than the cost of the fee to participate in the activity for that session.
- ◇ Permittee shall not use any park equipment or infrastructure for its non-intended use. This includes, but is not limited to, light poles, playground equipment, drinking fountains, public art, bleachers, pavilions, picnic tables, benches, railings, fencing, signs, bike racks, and barbeque grills.
- ◇ Permittee shall not place any equipment or object used for fitness or athletic activity weighing more than twenty-five pounds within any City park.
- ◇ Permittee shall not store athletic, sports or other equipment within any park unless otherwise lawfully authorized to do so.
- ◇ Permittee shall not use any form of sound amplification equipment, boom boxes, bullhorns, or whistles. If sound amplification is desired, the Permittee must acquire a Special Event Permit pursuant to Duluth City Code Sec 35-9(a)(3).
- ◇ Permittee shall not use their commercial operations permit to do joint business events with non-approved commercial operators.
- ◇ Commercial Operation permits are not to be used for special events. It is the intent that these permits are being used for day-to-day commercial offerings, not larger scale singular events. Larger scale is defined as 40 or more people in attendance. If regularly scheduled commercial events of 40 or more people are expected, approval will be required by the Parks and Recreation Manager. If commercial operators are found to be doing special events under this permit they may have their permit revoked, under the discretion of the Parks and Recreation Division Manager.

PERMITTEE INSURANCE REQUIREMENTS

**INSURANCE, INDEMNITY AND REVOCATION AGREEMENT BETWEEN
[PERMITTEE]
AND THE CITY OF DULUTH**

THIS AGREEMENT ("Agreement") is made by and between the CITY OF DULUTH, a municipal corporation under the laws of the State of Minnesota ("the City"), and [PERMITEE] ("Permittee"), a [ENTITY TYPE] (referred to collectively hereinafter as "the Parties"). This Agreement shall be effective as of the date of execution by Permittee's duly authorized agent below.

WHEREAS, Permittee requests issuance of a Commercial Operations Permit ("Permit") from the Director of the City's Parks Division ("the Director") to conduct commercial activities using City property and facilities; and

WHEREAS, pursuant to the authority granted by Duluth City Code Sec. 35-9(a)(2), as may be amended, the Director may issue the Permit upon confirmation that Permittee has satisfied all requirements relating to the proposed activity, including (a) maintenance of an adequate policy of insurance, naming the City as an additional insured and, satisfying the terms and limits set forth below, and (b) execution of this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties hereto agree as follows:

ARTICLE I – INSURANCE

1.1 Permittee shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form in limits of not less than One Million Dollars and No/100s (\$1,000,000.00) per occurrence for personal bodily injury and death, and limits of One Million Dollars and No/100s (\$1,000,000.00) for premises damage liability. If person limits are specified, they shall be for not less than One Million Dollars and No/100ths (\$1,000,000.00) per person and be for the same coverages. The City shall be named as an additional insured on the policy. Insurance shall cover:

- Public liability, including premises and operations coverage;
- Personal injury;
- Owned, non-owned and hired vehicles; and
- Contractual liability covering the indemnity obligations set forth herein;

1.2 Requirements for All Insurance.

All insurance required shall be taken out and maintained through responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota.

1.3 Representations; Certificates of Insurance.

The City does not represent or guarantee that these types or limits of coverage are adequate to protect Permittee's interests and liabilities. Permittee shall provide a Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation, non-renewal or material change provisions included and shall further provide that failure to give such notice to the City will render any such change or changes in said policy or coverages ineffective as against the City.

ARTICLE II – HOLD HARMLESS AND INDEMNITY

2.1 Permittee shall defend, indemnify and hold harmless the City, its officers, agents and employees from any and all claims, suits, demands, liability, judgments, costs, damages and expenses, including attorneys' fees, resulting from or arising out of the activities of Permittee or its employees, agents, volunteers, invitees or attendees associated with Permittee's use of City property or facilities in connection with the Permit referenced herein. Upon ten (10) days written notice, Permittee will appear and defend all claims and lawsuits against the City growing out of any action with respect to which Permittee is required to indemnify the City.

ARTICLE III – PERMIT SUSPENSION, REVOCATION, PENALTIES, & ENFORCEMENT

The director of parks and recreation or the authorized designee may suspend or revoke this permit for any violation of the conditions of this permit, Chapter 35 of the Duluth City Code, or any other applicable local, state, or federal law. Pursuant to Section 31-3(a) of the Duluth City Code, the city may further deny issuance of any subsequent permits until all applicable Duluth City Code or permit requirements are met, and any fees, charges, penalties or other debts or obligations to the city are satisfied, except as may be waived pursuant to Section 31-3(b) of the Duluth City Code.

Any person violating any provision of Chapter 35 or other applicable provision of the Duluth City Code while engaging in a commercial enterprise pursuant to this permit shall be guilty of a misdemeanor and may be cited and fined as provided in Section 1-7 or Section 12-6 of the Duluth City Code.

Notwithstanding the grant of this permit, any violation of its terms, Chapter 35, or other applicable provision of the Duluth City Code is deemed a per se public nuisance authorizing the city to seek abatement through injunctive relief or any other appropriate remedy from a court of competent jurisdiction. All city approvals and permits shall be suspended until abatement of the nuisance condition(s).

Notwithstanding the grant of this permit, nothing shall preclude the city from concurrently seeking enforcement of any provision of the Code by criminal prosecution or administrative fine.

I, as the duly authorized representative with authority to bind the Permittee, certify that the information submitted on this application is true and correct and that I have read, understand, and agree to abide by all Permit requirements, rules or other conditions stated herein. I agree that, if the Permittee violates or otherwise fails to abide by all Permit requirements, the City may, at its discretion, direct the Permittee to leave the permitted premises, suspend or revoke the Permit, or pursue any other appropriate remedy available under State or local law.

Permittee

Signature

Date

Print Name

Title

DATA PRACTICES ACT:

All data collected, created, received, maintained or disseminated as part of this application and permitting process shall be governed by the provisions of the Minnesota Government Data Practices Act, Minn. Stat. §§ 13.01 et seq. (“the Data Practices Act”). The data collected is public and is available upon request to the general public. It is being collected to determine your eligibility for a City of Duluth Parks and Trails Commercial Operations permit and to administer the permit. Furnishing the information is voluntary, but if you refuse to supply the requested information, we may not be able to process your permit application.