

Commercial Fitness or Athletic Instruction, Classes or Camps 2020 - 2021 Permit Application During COVID Emergency



Department of Community Services Community
Recreation Division
1401 Olympic Blvd., Santa Monica, CA 90405
Phone: 310-458-8237 | communityrecreation@smgov.net

Application Submission Dates:

Applications for 2020-2021 permits will be accepted beginning **October 1, 2020** and processed as received, except for Palisades Park and Reed Park Small, Medium and Large Group permits.

Applications for 2020-2021 Palisades Park and Reed Park permits will be accepted **October 1, 2020**. A maximum of 15 small group permits and a maximum of 15 medium or large group permits will be issued for Palisades Park. A maximum of 15 small, medium or large group permits will be issued for Reed Park. If more applications are received during the priority application period than available permits, a lottery will be held for issuance of permits. Permits remaining following the priority application period, if any, will be issued from applications received on a first-come, first-serve basis until filled.

Type of Permit Requesting:

- Small Group Instruction (not more than 2 participants excluding instructor(s) and spectator(s))
- Medium Group Instruction (not more than 10 participants excluding instructor(s) and spectator(s))
- Large Group Instruction (more than 10 participants excluding instructor(s) and spectator(s))
- Type of activity: _____

Estimate the average number of hours you intend to conduct business in each location per month through December 31, 2021:

Locations			
Location	# Hrs.		Location
Airport Park			Marine Park
Barnard Linear Way Park (small and medium groups only)			Memorial Park
Beach Green			Ocean View Park
Beach Park 1			Palisades Park
Clover Park			Reed Park
Crescent Bay Park (small groups only)			South Beach Park
Gandara Park			Virginia Avenue Park (small and medium groups only)
Hotchkiss Park			South Beach Park
Ken Genser Square			Santa Monica State Beach

Note: Commercial Fitness or Athletic Instruction, Classes or Camps is prohibited in City parks not listed above. Additional restrictions and fees/charges apply for instruction in Palisades Park. Commercial activities at Virginia Avenue Park are limited to no more than 2 participants on weekends.

Applicant Information:

BUSINESS NAME: _____

CONTACT PERSON: _____

ADDRESS: _____

CITY: _____ ZIP: _____

PHONE: () _____ CELL: () _____ FAX: () _____

EMAIL ADDRESS: _____

WEBSITE ADDRESS: _____

LIST INSTRUCTORS FOR THIS BUSINESS (maximum 7 plus permittee)

- (Permittee) _____ 1) _____
2) _____ 3) _____
4) _____ 5) _____
6) _____ 7) _____

Completed applications are to be sent to the address below:

Mailing address:
City of Santa Monica
Community Recreation Division
1401 Olympic Blvd.
Santa Monica, CA 90405
Attn: Thomas Carpenter

Email address/Fax Number:
thomas.carpenter@smgov.net or
communityrecreation@smgov.net
Phone: 310.458.8237

I, representing the Permittee, certify the information on this application is correct and that I have read and agree to abide by the permit requirements, rules, and all other conditions, including those stated in the Twenty-Sixth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency.

Signature

Date

Print Name

Title

(For Office Use Only)

APPLICATION RECEIVED BY: _____ **DATE:** _____

Proof of Insurance: Expiration Date _____

Additional Insured Endorsement: Expiration Date _____

Workers' Compensation Coverage Exemption Form, if Applicable

Defense, Indemnity and Hold Harmless Agreement

Santa Monica Business License: Business Name _____ # _____

Permit Fee: Amount _____ Check _____ Cash _____ Credit Card _____ Date _____

Quarterly Use Charge

Jan– Mar: Amount _____ Check _____ Cash _____ Credit Card _____ Date _____ Initials _____

Apr – Jun: Amount _____ Check _____ Cash _____ Credit Card _____ Date _____ Initials _____

Jul - Sept: Amount _____ Check _____ Cash _____ Credit Card _____ Date _____ Initials _____

Oct - Dec: Amount _____ Check _____ Cash _____ Credit Card _____ Date _____ Initials _____



City of Santa Monica
DEFENSE, INDEMNITY, AND HOLD HARMLESS AGREEMENT
 (Commercial Fitness or Athletic Instruction, Classes or Camps Permit)

_____,
 (NAME)

whose address is _____

_____, California,

hereinafter "Permittee," in consideration of receiving a Commercial Fitness or Athletic Instruction, Classes or Camps Permit for (specify name, date, and location):

Permittee agrees to the following terms and conditions:

Permittee shall indemnify, protect, hold harmless and defend the City of Santa Monica, its City Council, boards and commissions of the City of Santa Monica, and any of its officers, employees, agents, and volunteers (collectively "the City") from and against any and all demands, claims, actions, lawsuits, damages, judgments, liabilities, cost and expenses, including reasonable attorney's fees and other reasonable professional fees (collectively the "Claims") for death or injury to any person, or damage or destruction of property to the extent arising from and related to any of the following: (i) the operation or activities of the Permittee, or any of its officers, agents, volunteers or employees (collectively the "Permittee") related to the Commercial Fitness or Athletic Instruction, Classes or Camps Permit ; (ii) any breach or default in the performance of any obligation on the part of the Permittee under the terms of the Commercial Fitness or Athletic Instruction, Classes or Camps Permit ; (iii) any negligent or wrongful act or omission of Permittee; and (iv) the furnishing or supplying of services, materials, equipment or supplies by Permittee's contractors or vendors. Permittee shall have no obligation to indemnify, protect, defend or hold harmless the City to the extent such Claim arises from the sole active negligence or willful misconduct of the City.

IN WITNESS WHEREOF, this Agreement is executed on the _____ day of _____,
 20____.

Permittee

By _____

PERMIT REQUIREMENTS AND RULES DURING COVID EMERGENCY

Permit Requirements

Applicant must provide documentation of the following prior to Permit execution:

- Completed and signed application form
- Proof of insurance as stated under Instructor Insurance Requirements
- Provide separate "Additional Insured Endorsement form"
- Workers' Compensation Coverage Exemption Form, if Applicable
- Execute "Defense, Indemnity and Hold Harmless Agreement" – details below
- Copy of current Santa Monica Business License
- Payment of required permit fee and quarterly use charge
- Completed Los Angeles County Department of Public Health Reopening Protocol for Gyms and Fitness Establishment

A City authorized permit is required to conduct fitness or athletic instruction, classes or camps for compensation in parks and at the beach pursuant to Ordinance 4.55.030 and the Twenty-Sixth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency.

Permit Rules

1. Definitions:
 - **Small Group:** Not more than 2 participants excluding instructor(s) and/or spectators.
 - **Medium Group:** Not more than 10 participants excluding instructor(s) and/or spectator(s).
 - **Large Group:** More than 10 participants excluding instructor(s) and/or spectator(s).
 - **Approved Instructor:** An instructor, approved by the City, that works as an employee or contractor, under the supervision and responsibility of the Permittee.
2. Small Group, Medium Group and Large Group fitness or athletic instruction, classes or camps may be conducted at the beach and in the following parks:
 - Airport Park
 - Beach Green
 - Beach Park #1
 - Clover Park
 - Douglas Park
 - Gandara Park
 - Hotchkiss Park
 - Ken Genser Square
 - Marine Park
 - Memorial Park
 - Ocean View Park
 - Palisades Park (with special annual group permit as described below)
 - Reed Park
 - South Beach Park
 - Stewart Street Park
 - Tongva Park
3. Small Group commercial fitness or athletic instruction, classes or camps may be conducted in the following parks daily, with Medium Groups allowed Monday through Friday only:
 - a) Virginia Avenue Park
4. Only Small Group and Medium Group fitness or athletic instruction, classes or camps may be conducted at the beach and in the following parks:
 - Barnard Way Linear Park
5. Only Small Group fitness or athletic instruction, classes or camps may be conducted in the following parks:
 - Crescent Bay Park
6. No commercial fitness or athletic instruction, classes or camps may occur in the following parks:
 - Ashland Park
 - Beach Park #4
 - Chess Park
 - Euclid Park
 - Goose Egg Park
 - Joslyn Park
 - Muscle Beach Park
 - Ozone Park

- Pacific Street Park
- Park Drive Park

- Schader Park

- Permits for fitness or athletic instruction, classes or camps for compensation are issued on a calendar year basis. (January 1 – December 31), except for permits issued from October 1, 2020 – December 31, 2020, which will expire on December 31, 2021.
- A maximum of 7 Approved Instructors are allowed per permit, in addition to the Permittee.
- Permits issued for fitness or athletic instruction, classes or camps for compensation shall become invalid if the permittee fails to:
 - pay all applicable City fees and charges;
 - maintain a current and valid general liability insurance as required by the City;
 - execute a required Indemnity and Hold Harmless Agreement;
 - maintain a current and valid Santa Monica Business License;
 - submit quarterly reports including hours of instruction by location, as required by the City; and comply with the social distancing and infection control protocols imposed by applicable State Executive Orders, State Health Officer Orders, and the County Safer at Home Order.
- Permittees and/or Approved Instructors must visibly wear a City-issued badge or display card at all times while conducting commercial fitness or athletic instruction, classes or camps and have the City issued Permit available for immediate inspection by City staff upon request. *(Permits and City-issued badges are non-transferable.)*
- Permittees and/or Approved Instructors shall follow City staff instructions in siting or relocating commercial fitness or athletic instruction, classes or camps, in order to avoid damage to City facilities or turf areas, and to avoid interference with maintenance activities and closures including but not limited to closures related to rain events.
- Permittees and Approved Instructors shall not operate within 10 feet of any tree trunk, and shall, at all times, ensure that participants, students, fitness equipment or personal belongings are at least 10 feet away from tree trunks.
- No Permittee or Approved Instructor shall reserve or hold any space in any park or on the beach prior to the commencement of the fitness or athletic instruction, class or camp.
- Permittees and/or Approved Instructors must site commercial fitness or athletic instruction, classes or camps at least 200 feet away from all City operated classes and/or camps.
- Permittees and/or Approved Instructors shall not use amplification equipment, boom boxes, bull horns or whistles.
- Permittees and Approved Instructors shall not conduct commercial fitness or athletic instruction, classes or camps in any City park or on the beach between 9pm and 6am except Saturdays in Palisades Park where permits are not valid until 7am.
- Permittees and/or Approved Instructors shall not require park or beach users to relocate to accommodate a commercial fitness or athletic instruction, class or camp.
- Permittees and/or Approved Instructors shall relocate to accommodate City permitted activities, including City approved Community Events and City approved Filming.

19. No Permittee or Approved Instructor shall display, place or distribute, or cause the display, placement or distribution of, any commercial advertising or signage, including but not limited to cards, flyers, brochures, signs or banners, in any City park or park parking lots and at the beach or beach parking lots.
20. No person shall conduct any commercial fitness or athletic instruction, class or camp north of Marguerita Avenue in Palisades Park.
21. No person shall conduct any commercial fitness or athletic instruction, class or camp in Palisades Park on Sundays.
22. Palisades Park Medium and Large Group Permits
 - A maximum of 15 permits will be issued on a first-come first-served basis.
 - If more than 15 qualified applications are received during the application period, then a lottery or other allocation process will be used to fairly allocate permits.
 - No Permittee or Approved Instructor shall conduct any commercial fitness or athletic instruction, class or camp containing more than 15 participants.
 - Permittees and/or Approved Instructors of Medium and Large Groups shall not operate outside of the four Zones designated by the City.
 - a) Zone #1: Palisades Avenue north to Alta.
 - b) Zone #2: Montana Avenue north to Palisades Avenue
 - c) Zone #3: Immediately north of Idaho Avenue
 - d) Zone #4: Wilshire Boulevard north to the public restroom
 - No more than two Medium or Large Groups may occupy a single Zone at any one time. No Permittee or Approved Instructor shall commence operation of a Medium or Large Group in any Zone that already contains two Groups of either Medium or Large size.
 - Medium or Large Groups shall occupy zones on a first-come first-served basis. No Permittee and/or Approved Instructor shall reserve or hold any space in any Zone prior to the commencement of the fitness or athletic instruction, class or camp.
 - These requirements shall not apply to any group only traversing through Palisades Park.
23. Palisades Park Small Group Permits
 - A maximum of 15 permits will be issued on a first-come first-served basis.
 - If more than 15 qualified applications are received during the application period, then a lottery or other allocation process will be used to fairly allocate permits.
24. Reed Park Small, Medium or Large Groups Permits
 - A maximum of 15 permits will be issued on a first-come first-served basis.
 - If more than 15 qualified applications are received during the application period, then a lottery or other allocation process will be used to fairly allocate permits.
25. Park equipment and installations, including but not limited to light poles, drinking fountains, public art, bleachers, pergolas, picnic tables, benches, railings, fencing, signs, bike racks, and barbeque grills, shall not be used for exercise activity, except for equipment specifically designated by signage for exercising.
26. Pursuant to Ordinance 4.55.130, no person shall place any equipment or object used for fitness or athletic activity weighing more than twenty-five pounds within any City park without prior

authorization by the Director. This prohibition shall not be applicable at Airport Park, Clover Park and Reed Park.

27. A City-issued field permit, consistent with the City's field permitting guidelines, is required for commercial use of a field. The sports facility rental charge fee is waived for use of a field at Memorial Park between 8 am and 2 pm Monday through Friday while the Twenty-Sixth Supplement is in effect.
28. Commercial Fitness Trainers with a valid permit for Airport Park may use the area painted by the City for temporary use by commercial fitness trainers in the Airport Park parking lot located off Donald Douglas Loop and north of the multi-purpose sports field until the multi-purpose sports field reopens in 2021
29. A court reservation permit is required for basketball, volleyball or tennis instruction for compensation.
30. No person shall place any exercise weights or any other exercise equipment, with the exception of mats, on the basketball courts.
31. No person shall place any exercise weights or any other exercise equipment, with the exception of mats, on tennis courts. This regulation does not apply to ball machines and ball sweeps.
32. No person shall store athletic, sports or other equipment within any park unless otherwise lawfully authorized to do so.
33. Permittees and/or approved instructors must abide by the following Code of Conduct
 - a) Permittees and Approved Instructors shall be respectful of park and beach users
 - b) Permittees and Approved Instructors shall be respectful of City staff
 - c) Permittees and Approved Instructors shall be respectful of other instructors and their clients
 - d) Permittees and Approved Instructors shall be respectful of residents and businesses

Permit Revocation and Penalties:

Pursuant to Section 4.55.420 (c) of the SMMC, any person violating any rule for this permit shall be guilty of a misdemeanor which shall be punishable by a fine not exceeding one thousand dollars per violation, or imprisonment in the County jail for a period not exceeding six months, or by both fine and imprisonment, or shall be guilty of an infraction which shall be punishable by a fine not exceeding two hundred fifty dollars.

Destruction, removal or injury to any park facility or park foliage may require restitution in an amount necessary to reimburse the Department for investigative costs and for the value of the item or material destroyed, defaced, removed or damaged as well as labor required to replant or restore the area, item or material affected.

Any person violating any rule or regulation of this permit may be subject to administrative citations.

The City may revoke, suspend or deny the issuance of a permit if the permittee or applicant has violated applicable Federal, State, or City laws, or rules or regulations.

PERMIT CONDITIONS: FEES, CHARGES AND REPORTS DURING COVID EMERGENCY

Each Permittee shall pay a yearly use charge in the form of a flat rate in accordance with the following terms and conditions:

1. PERMIT FEE:

Payment of a permit fee is required prior to issuance of an annual permit. Fees are \$121.77 per calendar year and \$182.66 per calendar year for medium and large group permits for Palisades Park if a lottery or other allocation process is required. Fees are not pro-rated or refundable.

2. QUARTERLY USE CHARGE:

Prior to issuance of the permit, the Permittee agrees to pay the City a quarterly flat rate use charge for any quarter in which such charges are imposed. Pursuant to the Twenty-Sixth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency, for any quarter or portion thereof during which the County Safer at Home Order prohibits the Permittee, a gym and fitness establishment, from operating indoors at an occupancy rate greater than 50%, the Permittee is not required to pay the quarterly use charge unless the Permittee operates at Palisades Parks for which a reduced quarterly use rate shall apply. Charges are determined by the number of participants in the group. The quarterly flat use charges are not pro-rated or refundable.:

For any quarter, or portion thereof, where gym and fitness establishments are prohibited from operating indoors at an occupancy greater than 50%, the following quarterly flat use charges apply

Commercial Fitness or Athletic Instruction, Classes or Camp Permit – The Beach and All Parks other than Palisades Park

- Fee Waived: Small Group (not more than 2)
- Fee Waived: Medium Group (not more than 10)
- Fee Waived: Large Group (more than 10)

Commercial Fitness or Athletic Instruction, Classes or Camps Permit – Palisades Park

- \$450 per quarter: Small Group (not more than 2)
- \$900 per quarter: Medium Group (not more than 10)
- \$1,350 per quarter: Large Group (more than 10)

For any quarter where, for the entire duration of the quarter, gym and fitness establishments are allowed to operate indoors at an occupancy greater than 50%, the following quarterly flat use charges apply:

Commercial Fitness or Athletic Instruction, Classes or Camp Permit – Reed Park Exclusively

- Fee Waived: Small Group (not more than 2)
- Fee Waived: Medium Group (not more than 10)
- Fee Waived: Large Group (more than 10)

Commercial Fitness or Athletic Instruction, Classes or Camps Permit – General Parks & Beach

- \$450 per quarter: Small Group (not more than 2)
- \$900 per quarter: Medium Group (not more than 10)
- \$1,350 per quarter: Large Group (more than 10)

Commercial Fitness or Athletic Instruction, Classes or Camps Permit – Palisades Park

- \$675 per quarter: Small Group (not more than 2)
- \$1,350 per quarter: Medium Group (not more than 10)
- \$2,025 per quarter: Large Group (not more than 15)

3. **FAILURE TO PAY USE CHARGE:**

Quarterly flat rate use charge is due for each calendar quarter any such fee is owed, as set forth in Section 2 above. Permittee will receive a new sticker to attach to the City-ID badge upon payment of the charge. If the charge is not paid, the Permittee's permit will not be valid that quarter until the charge is paid. A list of Permittees whose quarterly use charge has not been paid will be distributed to enforcement staff each quarter.

4. **QUARTERLY USE REPORT:**

Permittee must deliver to the City a Quarterly Use Report, regardless of whether any quarterly use charges are owed for that quarter. A written Quarterly Use Report signed by the Permittee or by an authorized officer or agent of Permittee, showing location(s) and hours of instruction in the previous calendar quarter is required by the following dates: **April 15th, July 15th, October 15th, January 15th**. A separate sheet is required for each month of the quarter. Such report shall be submitted on the City's report form (attached) or other City-approved instrument. Reports are to be sent to:

City of Santa Monica, Community Recreation Division
1401 Olympics Blvd., Santa Monica, CA 90405
Attn: Thomas Carpenter
Email: thomas.carpenter@smgov.net

PERMITTEE INSURANCE REQUIREMENTS

Permittee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder and the results of that work by the Instructor, its agents, representatives, employees or subcontractors.

Minimum Scope/Limits of Insurance

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering GCL on an "occurrence" basis, including products-completed operations and personal & advertising injury, with limits of no less than \$1,000,000 per occurrence.

Workers' Compensation and Employer's Liability Insurance: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease. Workers' Compensation insurance is not required if the Permittee does not have employees. The Permittee must, however, execute the City's Workers' Compensation Coverage Exemption Form.

If the Permittee maintains higher limits than the minimums shown above, the City of Santa Monica requires and shall be entitled to coverage for the higher limits maintained by the Permittee.

Other Insurance Provisions

1. The insurance policies are to contain, or be endorsed to contain, the following provisions:
 - a. **Additional Insured Status (CGL policy):** The City of Santa Monica, its officers, officials, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Permittee including materials, parts or equipment furnished in connection with such work or operations.
 - b. **Primary Coverage (all policies):** For any claims related to this contract, the Permittee's insurance shall be primary as respects the City of Santa Monica, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City of Santa Monica, its officers, officials, employees or volunteers shall be in excess of the Permittee's insurance and shall not contribute with it.
 - c. **Notice of Cancellation (all policies):** Each insurance policy required herein shall state that coverage shall not be cancelled except after notice has been given to the City of Santa Monica.
 - d. **Waiver of Subrogation (all policies):** Permittee hereby grants to the City of Santa Monica a waiver of any right of subrogation which any insurer of said Permittee may acquire against the City of Santa Monica by virtue of payment of any loss. Permittee agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City of Santa Monica has received the a waiver of subrogation endorsement from the insurer.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise acceptable to the City of Santa Monica.

Verification of Coverage

Permittee shall furnish the City of Santa Monica with original certificates and amendatory endorsements or copies of the applicable policy language providing the insurance coverage required herein. All certificates and endorsements are to be received and approved by the City of Santa Monica before work commences. However, failure to obtain required documents prior to the work beginning shall not waive the Permittee's obligation to provide them. The City of Santa Monica reserves the right to require complete, certified copies of all required insurance policies, including the endorsements required herein, at any time.



City of Santa Monica

**WORKERS' COMPENSATION COVERAGE
EXEMPTION DECLARATION**

The undersigned (hereinafter referred to as "I" or "Me") hereby declares that the following is true and correct:

I am an individual or a company that has entered, or will be entering, into an agreement with the City of Santa Monica to provide goods or services.

I am familiar with the terms of said agreement which require Me to maintain workers' compensation coverage as required by California Law.

I am familiar with the workers' compensation laws of California (generally contained in section 3700 of the Labor Code), including those provisions which provide for specific exemptions from the requirement that all employers must carry workers' compensation insurance, and I am exempted under the law from the requirement to maintain workers' compensation insurance coverage.

In addition, during the term of any work for the City of Santa Monica under said agreement, (i) I will not employ any person in any manner so as to become subject to the workers' compensation laws of California, or (ii) should I become subject to the workers' compensation provisions of Section 3700 of the Labor Code for any reason, I shall forthwith comply with those provisions and send evidence of financial compliance to the City of Santa Monica.

Date: _____

Name: _____ **Name:** _____
(print or type) (signature)

Company Name (if any): _____
(print or type)

Title: _____ **Telephone:** _____
(print or type)

Warning: In California, failure to secure workers' compensation coverage is unlawful and shall subject an employer to criminal penalties and civil fines up to one hundred thousand dollars (\$100,000). In addition to the cost of compensation, damages may be assessed as provided for in Section 3706 of the Code, including, but necessarily limited to, interest and attorney's fees.