

**CITY OF BLACK DIAMOND
GYM RENTAL AGREEMENT**

This Gym Rental Agreement (hereafter the "Agreement") is made this ____ day of _____, 20____, by and between the City of Black Diamond, a Washington municipal corporation ("City"), and _____ ("User").

1. PREMISES

This Agreement authorizes User to use the City of Black Diamond Gym ("Gym") and the City-owned parking lot at the Gym property located at 25511 Lawson Street, Black Diamond, WA ("Premises") solely for the purposes described below.

2. PERMITTED USES

- A. User may use the Premises for _____ hours on each the following days _____, between the hours of _____ and _____, for the Term described in Section 3 below.
- B. User may use the Premises solely for the purpose of _____.
- C. In carrying out its activities on the Premises, User shall comply with all applicable federal, state, and local laws and regulations, including the Rules and Regulations for use of the Gym, attached hereto.
- D. The City may occasionally need to use the Gym for vital City functions, which will take precedence over and pre-empt User's scheduled use of the Premises. In that event, the City will give User as much advance notice as is reasonable under the circumstances and will pro-rate the User's Rent (see below) for the time that the User was unable to use the Premises as planned or may extend the rental Term by an equivalent amount at User's option.

3. TERM AND RENEWAL

This Agreement gives User the right to use the Premises for a period of _____ [months/weeks][circle one], commencing _____, 20____ (hereafter, "Term"). User has the option to renew this Agreement for one additional consecutive period of _____ [months/weeks] by providing the City with written notice of User's intent to renew by no later than 30 days before the expiration of the initial Term.

4. GENERAL UPKEEP OF THE FACILITY

The City provides routine maintenance and repair for the Premises. However, User agrees to keep the Premises in a neat and clean condition during its use. At the end of each daily use, User will put away any equipment used by User, tidy up the used area, and lock up the Gym upon leaving the Premises unless otherwise still in use by others. User agrees to comply with the use and cleanup requirements set forth in the General Rental Information for the Black Diamond Community Gym, included in the Rental Application packet.

5. RENTAL FEE AND DEPOSIT

User shall pay the City a rental fee of \$_____ per _____ during the Term of this Agreement, and for any renewal Term. Rental fees are due no later than the 15 days prior to the beginning of the rental Term, and for rental Terms extending across more than one month, each month's rental fee is due 15 days before the beginning of that month. (For example, a User who rents the Gym once per week for 3 months starting October 1 shall pay the entire first month's rental fee by no later than September 15, and shall pay the next two monthly rental payments by October 16 and November 16.) Late payments will accrue interest at the rate of 1% per month until paid in full. User shall also pay a deposit of \$200.00 upon execution of this Agreement, which will be refunded at the conclusion of the Term (or any renewal Term), less any unpaid rent or any damages caused by User's use of the Premises.

6. NO EMPLOYMENT OR AGENCY RELATIONSHIP

User and the City agree that User is solely responsible for its acts and for the acts of its agents, employees, members, volunteers, or representatives during the Term of this Agreement and User's use of the Premises. Nothing in this Agreement shall be considered to create the relationship of employer/employee or principal/agent between the parties hereto, nor entitle User or any of User's agents, employees, members, volunteers, or representatives to any of the benefits of City employment.

7. INDEMNIFICATION

User shall defend, indemnify, and hold harmless the City and its officers, officials, employees, and volunteers from and against any and all claims, suits, actions, or liabilities for injury to or death of any person, or for loss or damage to property, which arises out of or results from User's use of the Premises, User's members' participation in activities on the Premises, or the negligence of User or its employees, agents, volunteers, or members, or from any act or omission by User or its employees, agents, volunteers, or members on or about the Premises. User assumes all responsibility for User's own negligent acts and omissions involving its employees, agents, members, and volunteers. User's obligation to defend, indemnify, and hold the City harmless includes the obligation to pay the City's reasonable attorney fees and litigation expenses, but does not extend to injuries or damages caused by the sole negligence of the City. In no event shall User be responsible for any injury or damage caused by the intentional or willful misconduct of the City, its employees, agents, volunteers, or consultants.

8. COPYRIGHTS

User agrees to refrain from the improper use or infringement of copyrighted materials (such as musical compositions and sound recordings) and to otherwise abide by all laws relating to the use of copyrighted materials in the performance of this Agreement. User agrees to indemnify and defend the City against any claims, actions, or liabilities arising out of the improper use or infringement of copyrighted materials by User.

9. INSURANCE

- A. User shall procure and maintain in force for the Term of the Agreement and any renewal Term, and without cost to the City, a broad-form comprehensive general liability

insurance policy covering claims for bodily injury and property damage that may arise from or in connection with User's use or occupancy of the Premises. Such insurance policy shall have liability limits of not less than \$1,000,000 per occurrence, \$2,000,000 annual aggregate, unless a lower amount is approved by the Mayor.

- B. User's insurance shall be written on an "occurrence" form, with a company that has a current A.M. Best rating of at least A-VII or better, and is licensed to do business in the State of Washington. The City shall be named by endorsement as an additional insured.
- C. User's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of User's insurance and shall not contribute with it.
- D. User's insurance shall include a provision that it may not be cancelled or modified by either party except after thirty (30) days' prior written notice has been given to the City.
- E. User shall furnish the City with a certificate of such insurance, including a copy of any amendatory endorsements, before commencing use of the Premises under this Agreement.

10. TERMINATION

The City may immediately terminate this Agreement and/or stop a use in progress if User fails to comply with any applicable provisions of the Black Diamond Municipal Code or otherwise violates any of the Rules and Regulations applicable to this Agreement. The City may also immediately terminate this Agreement and/or stop a use in progress if User fails to secure necessary permits, disregards a lawful order of an authorized representative of the City, or engages in activity that may cause injury to the public or damage to the Premises or other public or private property. This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation or nonperformance of any provisions of this Agreement or to abate or enjoin a public nuisance or disturbance of the peace. An uncured breach of any term of this Agreement constitutes grounds for immediate termination.

11. DISCRIMINATION PROHIBITED

The City does not discriminate on the basis of race, creed, national origin, religion, gender, marital status, age, sexual orientation, political affiliation, or sensory, mental, or physical disability, or any other unlawful basis. Any persons or group using City facilities must follow the same non-discriminatory policy.

12. ASSIGNMENT AND SUBCONTRACT

User may not assign or subcontract any portion of its rights or obligations under this Agreement without the prior written consent of the City.

13. DAMAGE TO PREMISES

User agrees to pay costs of repair or replacement for any and all damages of whatever origin or nature arising from User's use of the Premises which may have occurred during the Term of this Agreement (or any renewal Term) in order to restore the Premises to a condition at least equal to the condition of the Premises at the start of the Term. In such event, the City will provide detailed billing and accounting to User when such restoration is completed. User shall

immediately report any damages that may occur to the designated agent of the City. The City is authorized to retain User's deposit until any damage is satisfactorily repaired, or the City may use the deposit to make the necessary repairs if User fails to do so.

14. NOTICES

Notices to the City shall be sent to the following address:

Black Diamond City Hall
Attn: City Mayor
P.O. Box 599
Black Diamond, WA 98010
(360) 851-4500

Notices to User shall be sent to the following address (insert User's street and email addresses):

15. APPLICABLE LAW; VENUE; ATTORNEYS' FEES.

This Agreement is governed by and shall be construed in accordance with the laws of the State of Washington, without reference to its conflict-of-laws rules. King County, Washington, is the exclusive venue for any suit, arbitration, or other legal proceeding instituted to interpret or enforce any term of this Agreement. The prevailing party in any such action is entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge or neutral party hearing the case, and such fee shall be included in the judgment or award.

16. ENTIRE AGREEMENT.

This Agreement, together with the General Rental Information for the Black Diamond Community Gym, the Rental Reservation Request form, the Youth Sports Head Injury Policy (if applicable), and Waiver of Liability (if applicable) constitutes the entire agreement between the parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement exist or bind either of the parties. Either party may request changes to the Agreement. Changes that are mutually agreed upon shall be incorporated by written amendments to this Agreement, executed under signatures of all parties.

17. SEVERABILITY.

In the event any provision or part of this Agreement is found to be void or unenforceable under any law or regulation, all remaining provisions shall continue to be valid and binding upon the City and User, who both agree that the Agreement shall be reformed to replace such void or unenforceable provision or part with a valid and enforceable provision that comes as close as reasonably possible to expressing the intent of the void or unenforceable provision.

18. WAIVER OF LIABILITY FOR ATHLETIC PARTICIPATION.

If User is renting the Gym for purposes of conducting team sports practices or competition, then the coach or manager must submit signed Waiver of Liability forms for each participant on the team(s) that will be practicing or competing. The Waiver of Liability form is included with the Rental Application Packet supplied by the City. Additionally, if the User is renting the Gym for activities involving youth sports, then a signed copy of the Youth Sports Head Injury Policy must be signed and returned with this Agreement.

AGREED TO AND ACKNOWLEDGED BY:

CITY OF BLACK DIAMOND:

USER: _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

RULES AND REGULATIONS

1. User is responsible for the safety and conduct of its participants and spectators. User further acknowledges that it is responsible for apprising any participants as to any inherent or known risks from the activity or venue and ensuring that they understand such risks prior to participating. If the activity(ies) will involve youth sports, the applicant shall complete the Youth Sports Head Injury compliance form and include it with the signed Agreement.
2. Satisfactory sponsorship and adequate adult supervision must be provided by the User. Security may be required for some activities. If security is required it will be provided by the User at no cost to the City of Black Diamond.
3. All events will be required to not exceed the occupancy load, and fire and safety regulations of the City of Black Diamond and the State of Washington Building and Fire Codes.
4. Use of tobacco, and/or illegal drugs is prohibited. Profane language and/or other objectionable conduct may result in barred use of facilities.
5. Firearms or other dangerous weapons are prohibited on City of Black Diamond grounds as defined by law.
6. Games of chance, lotteries, and giving of door prizes are not allowed except where permitted by law and then only with proper clearances.
7. Access to facilities and services, except as otherwise addressed in these rules, shall be limited to that specified on the application.
8. Alterations to the facility are prohibited without prior written approval. Alterations may include such things as hanging signs, erecting structures, marking fields, using masking tape on walls and floors etc.
9. City of Black Diamond-owned equipment shall not be removed from the facility or loaned to any individual or organization unless prior written approval by the City of Black Diamond has been granted. Groups or individuals cannot use City of Black Diamond-owned expendable supplies.
10. Applicants are responsible for special set-up requirements and cleanup unless specifically exempted in the application. Users shall be responsible for returning the facility to its original condition immediately following the event.
11. Appropriate shoes for the activity are required for any activities on any City of Black Diamond-owned multi-purpose or gymnasium floor.

12. Facility use is cancelled when facility/building is closed due to an emergency.
13. The City of Black Diamond reserves the right to refuse or revoke any authorization issued for the use of a City of Black Diamond building or grounds, and if rental has been paid, to refund such rental less expense incurred by the City in connection therewith.