

COMMERCIAL USE AUTHORIZATIONS

Does the National Park Service consider you a commercial entity?

Your organization is considered a commercial entity if you provide goods, services, activities, or other things to the public using National Park Service (NPS) lands and you receive any form of compensation for the things you provide. The NPS does distinguish between commercial and non-profit organizations. A non-profit organization is one that has been determined by the Internal Revenue Service to be exempt from federal income taxation as a nonprofit or not-for-profit organization under the terms of the Internal Revenue Code. If an organization can provide documentation that it will derive no taxable income from activities in the park, a CUA will not be required. However, a non-profit organization is required to obtain a Special Use Permit for the activity and pay any required associated cost recovery when engaging in activities on park lands.

What are the criteria for the Commercial Use Authorization?

First of all, does the activity fit the park? It must be appropriate to the mission of the park, compliment resource protection, visitor protection and interpretation goals, and not pose any potential for derogation of values or purpose for which the park was established. The activities must be consistent with the park's future plans as well as present operations. They should be compatible with the planning documents for the park.

The park will not normally limit the number of organizations that offer similar services or activities. However, the Superintendent will not issue more CUAs than are consistent with the preservation and proper management of park resources and values. If the demand for the activity is overwhelming, the NPS may establish controls. Some examples of controls include designation of areas for commercial use, or establishment of area carrying capacities or a reservation system. If needed, the NPS may also establish procedures to assure a balance between commercial and non-commercial use. Additionally, the park cannot guarantee that park facilities will be available every day for every CUA holder and may establish group size limitations.

Types of CUAs.

In-park services refer to an operation with annual gross receipts of not more than \$25,000 from commercial services originating and provided solely within a park area.

Out-of-park services refer to the incidental use of park area resources by operations that provide commercial services originating and terminating outside of the park area. A CUA of this type does not authorize solicitation of customers, sales or payment for commercial services to take place within the park area – all of these activities must occur outside of the park area. Unlike a CUA for in-park services, there is no cap on the annual gross receipts that may be generated by the authorized services under an out-of-park CUA. Compensation or payment for services (even tipping) may not occur on NPS lands.

CUAs do not authorize the construction of structures on NPS lands, either temporary or permanent.

What costs are involved?

The cost for issuing a Commercial Use Authorization is \$200.00, and the authorization in effect for one year. Short-term CUAs are available to long-distance entities for a three-month period at a cost of \$50.00.

If the NPS incurs costs as a result of the authorized activities, the CUA holder is held responsible for reimbursement of those costs. For group use or special events other than authorized on an approved CUA, the CUA holder obtains a Special Use Permit and pays the same application/administrative charge and monitoring costs as other special event permittees.

If the activity has a potential for resource disturbance or damage, the NPS may require the CUA holder to post a refundable performance bond. The bond is set at an amount adequate to cover the cost of cleanup or repair of damage to resources, including personnel or contract costs. At the end of the authorization year, the bond is returned if it was not needed.

What is involved in the CUA?

Each Commercial Use Authorization includes the following provisions:

Copy of Certificate of Liability Insurance coverage is required with the United States of America named as Additionally Insured.

The CUA holder must meet all state, county and local agency requirements for permits, licenses and business operations. All food and beverage services must meet public health standards.

CUA holder is required to provide IRS taxpayer identification number on the CUA application.

The NPS requires prior approval of out-of-park advertising for activities to occur on park lands. The CUA holder shall not use advertising that attempts to portray them as agents of the NPS, or to use NPS symbols, seals, or other items of identity.

Solicitation and commercial advertising is prohibited on park lands, including hanging or posting signs, banners and flyers.

The organization/CUA holder will provide the superintendent a statement of its monthly gross receipts, visitor use statistics and resource impact assessments. Go to <http://www.nps.gov/neri/planyourvisit/upload/4-CUA-Monthly-Use-Reporting-Form.pdf> to print the report form.

The NPS will designate an individual to whom the CUA holder will report any accidents, injuries or damages related to the authorization. The NPS liaison will be the individual providing the CUA holder with NPS emergency or site closure information.

The CUA holder will provide a method for NPS field personnel to quickly and easily identify the CUA holder's staff when on NPS property.

Some activities authorized under a CUA must be scheduled in advance to avoid conflict with other park uses.

The CUA will indicate the areas of the park in which the CUA holder may conduct activities and the types of activities covered in the CUA.

What are some examples of activities which may be permitted under a Commercial Use Authorization?

Rock climbing services (go to <http://www.nps.gov/neri/planyourvisit/upload/3-CUA-Application-Climbing-Services.pdf> for climbing CUA application/group size limitations/guide certification guidelines) Bicycle rentals and tours

Hiking tours

Horseback riding tours/services

Tours

Swiftwater rescue training

Where can I get more information?

Contact the office of the Program Specialist for Commercial/Special Park Uses at 304-465-6517 to request a Commercial Use Authorization application or go to <http://www.nps.gov/neri/planyourvisit/upload/2-CUA-Applicaton-General.pdf> to print the Commercial Use Authorization application form.

SPECIAL USE PERMITS

Special events range from company picnics and family reunions to weddings, races/marathons, filming, demos/training, reserved group camping, GPS-based activities, group/guided climbing and establishment of new climbing route requests.

How do I schedule my event or activity?

The parks accommodate both regular park visitors and special events or group activities at the same time by such means as to avoid the scheduling of more than one event per day for each site with the exception of group climbing. Most events and activities are scheduled during daytime hours with the exception of group camping and some races/marathons. Please contact the park as far in advance as possible to request a park area for a special event or activity. Requests are taken first come, first served. To inquire about the necessity for a Special Use Permit or to reserve a date for your event, contact the office of the Program Specialist for Commercial/Special Park Uses at 304-465-6517.

What costs are involved?

The authority for the NPS to recover and retain costs associated with managing special park uses is found at 16 U.S.C. 3a. The NPS is required to recover all costs related to special park use permits (31 U.S.C. 9701). Recoverable costs include site preparation, use, restoration costs, utility costs, event personnel costs and supplies and materials. The NPS is also required to recover the costs of administering the permit, providing planning assistance and costs associated with preliminary consideration of proposed events.

The event producer/sponsor may be required to post a bond to assure compliance with permit conditions as well as site restoration and clean-up after the event. The bond is refundable if all permit conditions are met.

The cost for using an NPS site varies with the complexity of the activity. Factors include the number of people involved, whether there will be food and beverage service, and the amount of time you will be on-site, including deliveries and pick-ups, preparation and clean-up. You can get a rough estimate of the costs by describing the event to the park's Program Specialist and completing an

Application for Special Use Permit, providing complete details of your proposed event. Exact costs will be calculated based on your application. Modifications to your plans may impact the permit costs.

When you submit your written application, you will pay a **non-refundable application/administrative charge**. The cost recovery/monitoring charge is due prior to approval of the permit. If any additional costs are incurred or if you fail to complete clean-up after the event, you will be billed at the conclusion of the event. Go to <http://www.nps.gov/neri/planyourvisit/upload/5-Special-Use-Permit-Application.pdf> to print the Special Use Permit application form.

What are some events that may or will require a Special Use Permit?

Non-guided group climbing at designated climbing areas for non-commercial groups of 10 or more (guided group climbing requires a permit regardless of group size) (go to <http://www.nps.gov/neri/planyourvisit/upload/5-Climbing-Group-Size-and-Guide-Certification.pdf> for size limitations/guide certification guidelines)

Establish new/update existing climbing anchor route (go to <http://www.nps.gov/neri/planyourvisit/upload/9-New-or-Update-Climbing-Route-Permit-Application.pdf> for new route permit application and guidelines)

Group camping at Burnwood or Dunglen

Picnic shelter reservations at Burnwood, Dunglen and Grandview

Organized hiking event at designated hiking areas for non-commercial organized groups of 22 or more

Organized biking event at designated biking areas for non-commercial organized groups of 22 or more

Horseback riding on designated horse trails for non-commercial organized groups of 22 or more

Tours in areas of the parks for non-commercial organized groups of 22 or more

Events which involve staging support personnel in a park area

Events which charge a fee for participation (may be subject to a Commercial Use Authorization)

Demos/training sessions (land and water-based)

Races and/or marathons (land and water-based)

GPS-based activities (go to <http://www.nps.gov/neri/planyourvisit/upload/7-GPS-Based-Activity-Permit-Application-Complete.pdf> for permit application, guidelines and sample completed permit application)

Weddings

First Amendment activities

Agricultural Use

Rights-of-Way (go to <http://www.nps.gov/neri/planyourvisit/upload/10-ROW-Transportation-and-Utilities-Form-SF-299.pdf> for ROW application)

Examples of some activities for which a Special Use Permit is required include, but are not limited to, the following along with the designated Application/Administrative Charge:

<u>Activity</u>	<u>Application/Administrative Charge</u>
Group/Guided Climbing (non-commercial)	\$50.00/four months; \$150.00/one year
New/Update Existing Climbing Route	\$50.00
Group Camping (Dunglen and Burnwood)	\$50.00/night – includes pavilion/shelter use
Wedding	\$50.00
Race/Marathon	\$100.00
Public Assembly (<u>non-First Amendment</u>)	\$50.00/day
Filming/Photography	\$100.00
Demo/Training	\$50.00
GPS-based activities	\$0.00
First Amendment activities	\$0.00
Memorial/Scatter Ashes	\$0.00
Organized Hiking Event (non-commercial)	\$50.00
Organized Biking Event (non-commercial)	\$50.00
Picnic Shelter Reservation (Dunglen and Burnwood)	\$50.00/day
Picnic Shelter Reservation (Grandview)*	\$70.00/day for Shelter #1 and #3 \$75.00/day for Shelter #2 and #4 \$90.00/day for Playground shelter

In addition, the Park is required to recover any operational costs caused by your activity once the permit has been issued. Costs will be charged at the rate of \$40.00 per hour per employee **if** monitoring of your event is determined to be necessary.

Groups must schedule each event in advance by contacting the park's Program Specialist at 304-465-6517.

*For shelter reservations at Grandview, please contact the park's Grandview Shelter Reservationist at 304-465-6555. Go to <http://www.nps.gov/neri/planyourvisit/upload/7-GV-Shelter-Reservations-Application.pdf> for Grandview shelters permit application. For shelter reservations at Burnwood or Dungen, please contact the park's Program Specialist at 304-465-6517.

Please note some restrictions apply to wedding ceremonies at overlook areas of the parks. Wedding ceremonies must not interfere with normal visitation of the overlooks, and park visitors cannot be denied access during the ceremony. With the exception of the North Grandview Overlook, wedding ceremonies at park overlook/boardwalk areas will be limited to a total of 25 participants, including the wedding party, for a maximum of 30 minutes for the ceremony and photographs. At the North Grandview Overlook, wedding ceremonies will be limited to a total of 15 participants for a maximum of 30 minutes. During high visitation times from April 1 through October 31, it may be a requirement to schedule wedding ceremonies at overlooks/boardwalks to occur before 11:00 AM. Decorations and the showering of the wedding couple with rice, birdseed, confetti, and bubbles are prohibited, as well as the release of balloons or birds are not allowed.

How is a site and date reserved?

First, visit the parks to see which site meets your needs. Then call the office of the Program Specialist for Commercial/Special Park Uses at 304-465-6517 to see if the site is available for your preferred date. If it is and your activity is an appropriate activity to occur on park lands, we will send you the application and hold the date for 15 working days to allow you time to complete the application and send it to us along with the **non-refundable application/administrative charge**. If the application and administrative charge are not returned within 15 work days (three weeks), the site and date are released for other requests. Go to <http://www.nps.gov/neri/planyourvisit/upload/5-Special-Use-Permit-Application.pdf> to print the Special Use Permit application form.

Once the completed Application for Special Use Permit is received by the park, with all details of requests for the event provided, the park requires at least ten (10) business days for reviewing and processing the request. Based on the information in your application, we will write the permit and calculate the cost recovery permit costs and send to you for review and signature. You will have 10 working days (two weeks) to review and sign the permit and return it, along with the balance of the permit costs (additional administrative and/or monitoring charges). Once we have received the signed permit, we will return a copy of the approved permit to you.

Approximately two weeks before the actual event, you should contact the Program Specialist at 304-465-6517 for a pre-event review. If you have made modifications in your event plans, we will review the permit and cost calculation and make any needed adjustments.

Are there any other requirements?

Some events require liability insurance from your own insurance company. The amount, like the cost, is related to complex events with a higher potential for safety issues. For family events, the liability insurance can be based on homeowner's (not renter's) insurance. We will provide you with information for your insurance agent.

The permittee must meet all state, county and local agency requirements for permits, licenses and business operations. All food and beverage service must meet public health standards.

IRS taxpayer identification number for the permittee/organization is required to be provided on the permit application.

The NPS requires prior approval of out-of-park advertising for events to occur on NPS lands. The permittee shall not use advertising that attempts to portray them as agents of the National Park Service, or to use NPS symbols, seals, or other items of identity.

You are expected to provide event staff to make your event run smoothly without interfering with other park visitors. You will need to designate event staff for site clean-up and dispose of all trash in receptacles or dumpsters. You may also need to designate an individual to monitoring event parking.

Depending on the complexity of your event, we may assign an NPS monitor to be on-site during your event.

Are alcoholic beverages allowed?

Alcoholic beverages are prohibited for most activities under Special Use Permit. Please contact the park's Program Specialist at 304-465-6517 to determine if alcoholic beverages are allowed. Alcoholic beverages are prohibited at the Dungen, Stone Cliff, Thayer and Grandview areas of New River Gorge National River and all areas within the Bluestone National Scenic River.

What is not allowed at special events or group activities?

Commercial advertising is prohibited, including hanging or posting signs, banners and flyers

Cutting, destroying, digging, removing or possessing any tree, shrub, or other plant

Digging holes, moving rocks, or constructing platforms or structures

Affixing anything to trees, bushes or structures

Loud audio devices and fireworks

Helium or water balloons

Wading pools or dunk tanks

Mechanical rides or petting zoos

Activities or games that involve food such as egg toss, throwing rice or birdseed

Any form of gambling or gambling devices (including raffles or lotteries)

Firearms or weapons

Open fires unless in designated fire ring

Collection of fees or donations

Smoking in buildings, on boardwalks or in vegetated areas

Writing on or discoloring any natural feature or structure

Off-road vehicle use

Pets must be secured on a leash not to exceed six feet

Any proposed sales of goods or services on park lands during special events are subject to the issuance of a Commercial Use Authorization.

Are permits required for festivals and/or fundraisers?

Yes, and the festival must be open to the public and have a central theme or goal related to park values. The event may include a mixture of entertainment, food, activities, and informational booths. Although a festival may be sponsored by a non-profit organization, there may be commercial elements to the event, such as entrance fee, participation fees, sale of food and beverages, or sale of festival-related items, which are subject to the issuance of a Commercial Use Authorization. Events which are held strictly for profit or do not relate to NPS values and purposes are not appropriate to be held inside the park.

It is important that the site selected for a festival is appropriate for the level and type of activities. Park areas may not be closed to other visitors during festivals or fundraisers. Trails and other facilities will remain open. The collection of fees associated with the event is prohibited on park lands.

Are permits required for First Amendment activities?

Yes, if requesting park area other than designated First Amendment area or for groups consisting of more than 25 participants. Freedom of speech, press, religion, and assembly are rights protected by the First Amendment of the Constitution of the United States. People may exercise these rights in national parks, but the NPS still retains its responsibility to protect park resources and prevent conflict among park visitors. Therefore, the NPS establishes guidelines under a Special Use Permit for setting the time, place and manner (number of participants, use of facilities and type of equipment) for the events to occur.

By law, the NPS has established places in parks where First Amendment activities can be accommodated. These areas are visible to the general visiting public without interfering with the public's enjoyment of the park. These areas are identified in the Superintendent's Compendium (go to <http://www.nps.gov/neri/planyourvisit/upload/11-Designated-First-Amendment-Area-Maps.pdf> for list and maps of designated park First Amendment areas). While the NPS regulates aspects of the activity to protect park resources, it never regulates the content of the message. Permits are issued for First Amendment activities, but there are no costs, and no insurance is required for the activities. All requests for similar activities are treated equally. As long as permit criteria and requirements are met, no group wishing to assemble lawfully will be discriminated against or denied the right of assembly.

Types of First Amendment activities may include:

Religious services or ceremonies

Press conferences

Press coverage of breaking news

Voter registration

Collecting signatures on petitions or voter initiatives

Public demonstrations, picketing, assembly or rally for expressing opinion and view

Sale or distribution of printed material related to free expression of opinion

Types of activities that are NOT covered by the First Amendment:

Church picnic or social gathering

Wedding ceremonies or receptions

Political fundraiser or other invitation-only political activity or event

Solicitation of donations

Community parades, athletics or sporting events

Sale of message-bearing clothing, arts and crafts, or similar merchandise

Some of these activities may be accommodated through a Special Use Permit for which cost recovery may be charged.

When is a filming permit required?

Filming and commercial activities – whether commercial or noncommercial – will be allowed provided that activities do not cause unacceptable impacts to park resources or public use. All commercial filming requires a permit. Commercial filming is defined as digital or film recording of a visual image or sound recording by a person, business, or other entity for a market audience, such as for a documentary, television of feature film, advertisement, or similar project. It does not include news coverage or visitor use.

Still photography activities, whether commercial or noncommercial, require a permit when: (a) the activity takes place at location(s) where or when members of the public are generally not allowed; or (b) the activity uses model(s), sets(s), or prop(s) that are not a part of the location’s natural or cultural resources or administrative facilities; or (c) the park would incur additional administrative costs to monitor the activity; or (d) the park needs to provide management and oversight to (1) avoid impairment or incompatible use of the resources and values of the park, or (2) limit resource damage, or (3) minimize health or safety risks to the visiting public.

News coverage does not require a permit, for either filming or still photography, but is subject to time, place, and manner restrictions, if warranted, to maintain order and ensure the safety of the public and the media, and to protect natural and cultural resources.

All commercial filming and still photography activities requiring a permit are subject to cost recovery charges and a location fee. No waivers are allowed. Cost recovery charges for all commercial and still photography permits will include costs incurred in receiving the request/application, reviewing the application, writing the permit, monitoring the activity, providing protection services, restoring park areas, or otherwise supporting the filming or photography activities. This application/administrative cost recovery charge is \$100.00. Location fees are determined by the type of activity (commercial filming versus still photography), and the number of people on park lands associated with the permitted activity. Location fees are calculated per day and are based on the following schedule:

	<u>Commercial/Filming/Videos</u>	<u>Still Photography</u>
1-2 people with camera and tripod <u>only</u> , working in areas open to the public	\$-0-	\$-0-
	3 – 10 people \$150.00/day	3 – 10 people \$50.00/day
	11 – 30 people \$250.00/day	11 – 30 people \$150.00/day
	31 – 49 people \$500.00/day	Over 30 people \$250.00/day
	Over 50 people \$750.00/day	

Liability insurance will be required with the United States of America named as Additional Insured. In some circumstances, posting of a bond may be required.

The NPS will encourage and may actively assist filming and photography activities that promote public understanding and appreciation of the park or the national park system. NPS employees, while on duty or in uniform, will not be employed by filming permittees. Identifiable NPS equipment, uniforms, or insignia must not be portrayed in any way that would imply NPS endorsement of a product or service.

If you are uncertain whether your project requires a permit or not, contact the park’s Program Specialist at 304-465-6517 for additional information. If you already know that your project does not require a permit, please call the office to check the permit schedule in order to avoid conflicts with other activities. If your project does require a permit, please contact the Program Specialist as far in advance as possible to request and complete a film permit application. Please note that, after the park receives your completed Application for Commercial Filming/Still Photography Permit, the park requires **at least** ten (10) business days for reviewing and processing the request. Go to <http://www.nps.gov/neri/planyourvisit/upload/6-Film-Permit-Application-Form.pdf> print the Application for Photography/Filming Permit.

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