

TDL/VOL WAIVER AND RELEASE (See also Kayak Check-out rules on reverse side)

I, _____ (“I” or “Kayaker”), wish to participate in the program (“Program”) offered by Tamarack District Library and the Village of Lakeview, whereby I may check out a kayak. Tamarack District Library and Village of Lakeview are individually and collectively called “TDL/VOL.”

I have fully read and understood the Kayak Check-Out rules on the reverse side which are incorporated into this WAIVER AND RELEASE by reference.

I am a competent kayak operator, and am sufficiently physically fit to safely operate a kayak. Use of a kayak is a physical activity. Like any physical activity, Use of a kayak may cause minor or major injuries or discomfort, and may worsen or complicate underlying medical conditions or diseases. By choosing to use a TDL/VOL kayak, I assume all responsibility for all such injuries or other medical conditions. I have received any necessary medical clearances for such physical activity. TDL/VOL is not responsible for injury, damage or liability resulting from my misrepresentation of competence or physical fitness to safely operate a kayak.

In order to induce TDL/VOL to allow me to participate in the Program, I HEREBY WAIVE AND RELEASE, indemnify, hold harmless and forever discharge TDL/VOL and each of their agents, employees, officers, directors, affiliates, successors and assigns, as well as all other Program participants, of and from any and all claims, demands, debts, contracts, expenses, causes of action, lawsuits, damages and liabilities, of every kind and nature, whether known or unknown, in law or equity, including without limitation for any personal injuries, property damage or death, that I ever had or may have, arising from or in any way related to my participation in the Program, provided that this WAIVER AND RELEASE does not apply to any acts of gross negligence, or intentional, willful, or wanton misconduct. If my use of a TDL/VOL kayak causes injury or damage to another person or property, I may be liable for such injury or damage and associated expenses. By choosing to use a kayak, I assume all responsibility for the risks, hazards, and dangers that it involves.

The nature of the activities has been fully disclosed and any flyer, advertisement, rules, or brochure relating to the activities is expressly made a part of this WAIVER AND RELEASE. TDL/VOL is not responsible for any injury or damage resulting from (a) any of the risks, hazards and dangers described herein, (b) my failure to comply with my agreements herein or (c) my failure to wear a Personal Floatation Device (PFD) while using a TDL/VOL kayak.

I understand and agree that neither the Program providers nor the personnel arranging the Program are qualified to determine my physical condition or health and that it is my responsibility to consult a physician prior to my participation in the Program. I understand that kayaking should be engaged in only by persons in good health. On behalf of myself, my heirs, assigns and next of kin, I waive all claims for damages, injuries and death sustained to me, or property, that I may have against TDL/VOL related to such activity. I relinquish any right which I might otherwise have for payment of medical costs or other losses beyond whatever insurance I personally purchase or maintain.

This WAIVER AND RELEASE contains the entire agreement between the parties, and supersedes any prior written or oral agreements between them concerning the subject matter of this WAIVER AND RELEASE. The provisions of this WAIVER AND RELEASE may be waived, altered, amended or repealed, in whole or in part, only upon the prior written consent of all parties, including an authorized officer of TDL/VOL. The provision of this WAIVER AND RELEASE will continue in full force and effect even after the termination of the activities conducted by, on the premises of, or for the benefit of TDL/VOL whether by agreement, by operation of law, or otherwise.

I have read, understand and fully agree to the terms of this WAIVER AND RELEASE. I understand and confirm that by signing this WAIVER AND RELEASE that I have given up considerable future legal rights. I have signed this Agreement freely, voluntarily, under no duress or threat of duress, without inducement, promise or guarantee being communicated to me other than the opportunity for me to participate in the Program. My signature is proof of my intention to execute a complete and unconditional WAIVER AND RELEASE of all liability to the full extent of the law. I understand that each of TDL/VOL is relying upon this WAIVER AND RELEASE in allowing me to participate in the Program.

I have read the above terms carefully. I understand that this is an important legal document. I am entering this agreement of my own free will. I am at least 18 years old and have the right, capacity, and ability to contract in my own name. I UNDERSTAND AND AGREE THAT THIS WAIVER AND RELEASE APPLIES TO EVERY USE OF TDL/VOL KAYAKS BY ME DURING 2017 WITHOUT RE-EXECUTING THIS WAIVER AND RELEASE PRIOR TO EACH FUTURE USE IN 2017, and I agree to all applicable terms. I acknowledge that TDL/VOL has never expressly or impliedly assumed any responsibility for me or my actions in connection with my use of TDL/VOL kayaks. Any controversy or claim arising out of this contract or breach thereof shall be settled by binding arbitration administered by the American Arbitration Association.

Date / Printed Name

Signature

Tamarack District Library – Kayak Check-Out Rules

Tamarack District Library (“TDL”) is a lending library offering kayaks for check-out in accordance with its mission to meet the recreational and educational needs of its service area. **Village of Lakeview**, (“VOL”) is, by arrangement with TDL, providing a storage location for the kayak fleet with input to Tamarack Lake. **Kayaker** is a person 18 years old or older.

- Using a kayak involves risks, dangers and hazards. These risks, dangers, and hazards may result in injury or death to me or others, as well as damage to property. There are risks associated with the use of any kayak which cannot be predicted or avoided and which are the sole responsibility of the Kayaker.
- Before renting a kayak, I am required to consent to a “Waiver and Release Agreement,” which completely releases TDL and VOL from any liability in connection with the rental of kayaks.
- State and local laws require me to obey the rules of the water while using a kayak. There are state and local laws applying specifically to Kayakers, including the use of a PFD. I will follow all applicable state and local laws.
- Kayaks are vessels that may malfunction, and such malfunctions may cause injury. Malfunctions may occur unexpectedly even if a kayak is maintained properly. Before using a TDL/VOL kayak, I will conduct a safety inspection of the kayak which includes inspection and checking for the following: integrity of hull, trueness of paddles, fit and condition of PFD (life jacket), and any signs of damage, excessive wear, or other problems or maintenance needs. I will not use the kayak if I notice any problem or other safety issue; I will notify TDL/VOL of the problem.
- Wearing a PFD, properly fitted and fastened, while kayaking may protect against some injury, or lessen the severity of an injury, caused by capsizing of the kayak. PFDs are not 100% effective, will not protect against drowning in every instance, and do not protect against other injuries. TDL/VOL recommends that all Kayakers wear a PFD which has been properly sized and fitted according to the manufacturer’s instructions.
- I must report all accidents and injuries involving a TDL/VOL kayak to competent authorities and to the TDL branch from which the kayak was borrowed as soon as possible. I understand that:
- TDL/VOL does not provide, or maintain, waterways on which to use kayaks. Lakes, ponds, and rivers are inherently dangerous and may become more dangerous due to weather or other hazards.
- TDL/VOL provides no warranties, express or implied, for the kayaks it makes available.
- TDL/VOL requires that users agree to follow certain rules while using TDL/VOL kayaks. These rules are intended to promote the safe use of TDL/VOL kayaks by TDL/VOL Kayakers. The rules shall not be construed as a waiver by TDL/VOL of any term in this agreement. Kayakers are solely responsible for the safe operation of TDL/VOL kayaks at all times. Kayakers may need to take safety measures or precautions not specifically addressed in this Agreement.
- I will not ride a TDL/VOL kayak while wearing or carrying anything that impedes my ability to operate the kayak safely.
- I will not carry a second person on a TDL/VOL kayak.
- I will not dismantle or modify a TDL/VOL kayak in any way. (This does not apply to use of the seat adjustment feature on TDL/VOL kayaks.)
- I will not use a text messaging device, portable music player, or any other device which may distract me from safely operating a kayak while using a TDL/VOL kayak.
- I will not operate a TDL/VOL kayak while under the influence of alcohol, drugs or any other substance that could impair my ability to operate a kayak.
- I will not use a TDL/VOL kayak in weather conditions, including but not limited to rain, snow, extreme heat, high winds, or electrical storms, which make it more dangerous to operate a kayak.
- I will not attempt to transport a TDL/VOL kayak to any other body of water, or operate it elsewhere than on Tamarack Lake.
- I will not allow others to use a TDL/VOL kayak that I check out. I understand that when I check out a TDL/VOL kayak, it is to be used by me, and by me only.
- I may not use or operate a TDL/VOL kayak without signing the WAIVER AND RELEASE AGREEMENT attached hereto.

By signing below, I acknowledge that I have fully read and understood the Kayak Check-Out Rules above.

Date/Printed Name

Signature