

COU0025: COMMERCIAL FITNESS TRAINING ON COMMUNITY LAND

Policy Type:	Council
Responsible Department:	City Development
Responsible Officer:	Manager City Design
Related Policies and Procedures	<ul style="list-style-type: none"> • C0U0013: Sport & Recreation Policy
Community Plan Link	<p><i>Community Living:</i> 1.1 Our Community is active, healthy and feels safe</p> <p><i>Economic Prosperity:</i> 3.1 Unley is recognised as an easy place to do business.</p>
Date Adopted	28 November 2011: C293/11
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Next review date	October 2022
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ECM Doc set I.D.	1840111

1. PREAMBLE

- 1.1. Due to the low amount of open space available for recreation, community land in the City of Unley is in high demand for community and commercial use and this use and demand is anticipated to increase substantially in the future. Growth within the fitness training industry has led to an increasing trend for fitness trainers to undertake activities outdoors, using community land owned and/or managed by Council.

2. SCOPE

- 2.1. This Policy establishes a framework for the management of commercial fitness training using community land. This Policy is also applicable to the Civic Centre Village Green.
- 2.2. Commercial fitness training conducted on community land is managed in accordance with section 200 of the *Local Government Act 1999*, Council by-laws, and Council's Community Land Management Plans.
- 2.3. Community land is primarily for community use and any commercial use of community land should not overly restrict community use.
- 2.4. Council aims to ensure permits for commercial fitness training on community land are granted through a fair and equitable process, in accordance with the system contained in this policy and the attached Terms and Conditions.

- 2.5. An annual fee will apply to undertake commercial fitness training on community land. Council endorses fees for facility hire annually in conjunction with the Council's Annual budget, and the fee for commercial fitness training will be set as part of this process. No discounts to this fee will be available.
- 2.6. Refer to Council's Annual Fees and Charges Schedule for an up-to-date list of fees. This may be viewed at the Civic Centre or on the Council website; www.unley.sa.gov.au
- 2.7. Commercial fitness training participants are prohibited from using public art works and memorials as part of the exercise routine or for attaching of any equipment.

3. POLICY PURPOSE/OBJECTIVES

- 3.1. The objectives of this Policy are to:
- 3.2. ensure that appropriate community use of community land remains the priority use, and to define what locations, activities, and fitness group sizes are appropriate..
- 3.3. resolve any issue arising from the use of community land for commercial fitness training in an efficient and effective manner.
- 3.4. ensure a consistent approach to the management of commercial fitness training on community land.
- 3.5. ensure fitness trainers/leaders undertaking commercial activities on community land have the relevant qualifications and insurances, to reduce any risk to participants, other reserve users, and Council.
- 3.6. The Permit Terms and Conditions aim to:
 - reduce the potential for harm to persons who are engaging in fitness activities, and
 - protect Council equipment, infrastructure, built and natural assets from misuse and damage.
- 3.7. Where Council infrastructure works and maintenance may be required at the same time as a booked training session, Council Administration will aim to give reasonable advance notice to the fitness activity permit holder.

4. DEFINITIONS

- 4.1. **Commercial activity** is an activity that results in financial profit to the organiser of the activity.
- 4.2. **Community land** is defined in Section 193(1) of the *Local Government Act 1999* as; "All local government land (except roads) that is owned by a council or is under a council's care, control and management".
- 4.3. **Civic Centre Village Green** is open space adjacent to the Civic Centre bounded by Oxford Terrace, Rugby Street and Edmund Avenue.
- 4.4. **Council** is the Corporation of the City of Unley.
- 4.5. **Fitness training** is any activity involving physical exercise with the aim of enhancing or maintaining physical fitness and overall health and wellness. These activities may include strengthening muscles and the cardiovascular system, improving athletic skills, weight loss or maintenance, and for enjoyment.
- 4.6. **Fitness trainer/leader** is a person who facilitates and/or assists others to participate in fitness training.

5. ROLES AND RESPONSIBILITIES

5.1. Permits will be administered on behalf of Council by City Design.

6. POLICY STATEMENT

6.1. This policy provides a framework for managing and allocating the use of community land by commercial fitness groups.

6.2. The City of Unley acknowledges that outdoor fitness training is an appropriate form of recreation and contributes to the health and well-being of Unley residents.

6.3. This policy does not apply to:

- other commercial activities on community land,
- fitness training that is not of a commercial nature.

Permit System

6.4. Use of community land for commercial fitness training purposes is managed through the issuing of Permits. The purpose of the Permit System is:

- 6.4.1. To establish a fair and equitable process, fitness trainers must apply annually for the 12 month permit.
- 6.4.2. Commercial fitness trainers should complete a Commercial Fitness Training – Application Form by 1 May, to apply for a permit for the following financial year (from July to June each year).
- 6.4.3. Council Administration staff will assess the form, and a twelve-month permit will be issued, provided that the fitness trainer pays the relevant fee, and meets the requirements outlined in the Fitness Training Permit Terms and Conditions (Appendix A).
- 6.4.4. Fitness trainers may be allocated a location and times that meet their request and Council requirements. Where a request cannot be met or is not appropriate, Council will negotiate alternative options in accordance with this policy.
- 6.4.5. Where fitness trainers/leaders make application to Council after the 1 May deadline, a permit may be granted where the request can be accommodated in accordance with this policy.
- 6.4.6. Existing fitness trainers may be given priority to book their desired location and times, and Council reserves the right to change bookings after review.
- 6.4.7. While no discount is offered on the annual permit fee, a pro rata amount may be charged for a permit issued part way through the financial year.
- 6.4.8. When requested by an Authorised Officer of Council, Fitness trainers/leaders are required to produce their Council permit.
- 6.4.9. Permit holders may apply for multiple locations on a single permit and fee as long as there is not concurrent location use.
- 6.4.10. Groups of more than 20 people may be accommodated in parks subject to Council review and approval.

7. POLICY DELEGATIONS

- 7.1. The Administration may make minor alterations when necessary to the Fitness Training Permit Terms and Conditions (Appendix A) without requiring formal Council approval.
- 7.2. The Chief Executive Officer (or delegate) is authorised to issue permits to commercial fitness trainers in accordance with this policy.

8. LEGISLATION + PLANS

Local Government Act 1999

City of Unley By-laws:

No. 1; Permits and Penalties

No. 3; Local Government Land

City of Unley; *Community Land Management Plans, 2007*

City of Unley; *Sport and Recreation Plan 2015-2020*

9. AVAILABILITY OF POLICY

- 9.1. The Policy is available for public inspection during normal office hours at:

The Civic Centre,

181 Unley Road, Unley SA 5061.

A copy may be purchased for a fee as determined annually by Council.

It is also available for viewing, download and printing free of charge from the Council's website www.unley.sa.gov.au.

10. DOCUMENT HISTORY

Date	Ref/Version No.	Comment
23 May 2011	C135/11: V1	Draft endorsed for public consultation
28 November 2011	C293/11: V2	New policy adopted by Council
22 October 2012	C564/12: V3	
14 December 2015	C334/15: V4	Was policy number COU121
23 September 2019	C0117/19: V5	

APPENDIX A

FITNESS TRAINING PERMIT

TERMS AND CONDITIONS and APPLICATION FORM

1. Permit Period

Approved bookings will be issued with a permit to use a specific location for the maximum period of **12 months** for the full financial year or pro rata basis.

2. Size of Fitness Groups

The size of a fitness group will be no more than **20 people unless otherwise approved by Council**, however, please refer to attached list outlining the size of groups permitted at each reserve.

3. Times of Use

- Fitness training is not to commence before 6.30am (or 6.00am at some selected parks – refer clause 11 ‘Approved Locations’) and must conclude by 8.00pm.
- Times of use will be assessed by Council and approved on a site by site basis.
- Personal trainers are required to provide sufficient lighting when using reserves outside of daylight hours, and only battery-powered lights are approved. Sports floodlights are not permitted.
- Council cannot guarantee that toilet facilities in parks will be available before 7.00am.
- Toilet facilities are automatically locked at 8.00pm every day.

4. Permissible Activities

- Gym sessions (with or without weights, medicine balls, jump and balance activities).
- Aerobic activities – sprints, obstacle, speed and agility courses.
- Core strength and mat activities (such as Yoga, Tai Chi, and Pilates).
- Circuit training.
- Non-exclusive use of public outdoor gym and fitness equipment.

5. Excluded Activities

- Aggressive and intimidating activities that involve shouting, loud voice calls or instructions.
- The use of amplified music or amplified audio (voice) equipment (e.g. loud hailers).
- Activities in play grounds or in other locations where appropriately marked or signed.
- Boxing and martial arts (may be permitted in selected parks, refer clause 11 ‘Approved Locations’).
- The use of equipment (e.g. logs, tyres, heavy ropes, pegs driven into the ground) that may damage the reserve or council infrastructure.
- Commercial fitness training participants are prohibited from using public art works and memorials as part of the exercise routine or for attaching of any equipment.

6. First Aid

The trainer must hold a current Senior First Aid Certificate (Workplace Level 2/Sports First Aid).

7. Insurance

The trainer must hold current public liability insurance for a minimum of \$20 million and professional indemnity insurance for a minimum of \$2 million, and provide copies of relevant documents with their permit application.

8. Qualification

All trainers (including secondary trainers) must hold a minimum qualification of Certificate 4 in Fitness and provide copies of relevant documents with their permit application.

9. Safety

Permit holders must ensure the safe use of Council facilities by their fitness activity participants. Council will not be held liable where injury or damage occurs through unsafe activities or through misuse of Council facilities and/or from using a Council facility for purposes for which it was not designed.

10. Booking Cancellations

Fitness trainers must advise Council of any booking cancellations as soon as practicable, preferably at least one business day prior to the activity occurring.

11. Approved Locations

The reserves listed below may be used for commercial fitness training. Reserves not included on the list are not permitted to be used for commercial fitness training due to land ownership, size, impact on residents, and protection of natural and cultural features.

Council may specify the exact location in a reserve that a fitness training group is to use.

Reserve	Maximum group size	Is a 6.00am start permitted?	Is boxing permitted?
Forestville Reserve	20	Yes	Yes
Fraser Reserve	10	No	No
Fullarton Park	10	Yes	Yes
Goodwood Oval	20	Yes	Yes
Goodwood Oval Hockey	20	Yes	Yes
Hackett Reserve	4	No	No
Henry Codd Reserve	4	No	No
Heywood Park	20	Yes	Yes
Howard Florey Reserve	10	Yes	Yes
North Unley Play Park	10	No	No
Orphanage Park	20	Yes	Yes
Page Park	20	Yes	Yes
Ridge Park – Oval	20+	Yes	Yes
Scammell Reserve	20	Yes	Yes
Soutar Park	20	Yes	Yes
Unley Oval	20	Yes	Yes
Village Green	10	Yes	Yes

Conditions

Pursuant to the provisions of By-Law No. 3 and Section 202 of the *Local Government Act 1999*, Council approves the issue of a permit subject to the conditions below.

1. The permit holder, where appropriate, shall ensure that he/she is licensed, registered or qualified to carry out the activity authorised by the permit.
2. As provided for in section 261 of the *Local Government Act 1999*, a permit holder is required to state their full name and usual place of residence and to produce evidence of their identity when requested to do so by an Authorised Officer of Council.
3. When requested by an Authorised Officer of Council, Fitness trainers/leaders are required to produce their Council permit.
4. Written approval from Council is required to transfer the permit to another trainer. The names and contact details of all secondary or assistant trainers must be listed on the permit application form.
5. The permit holder shall comply with and give all notices required by any Act of Parliament, Ordinance, Regulation, By-law relating to the activity.
6. The permit holder shall ensure that its site or sites are left in a clean and tidy condition at the end of the event. Failure to do so may result in cleaning fees being charged.
7. The permit holder shall ensure there is no damage to any area of the reserve including all grassed and/or paved areas, footpaths and kerbs.
8. No spikes or stakes are to be driven into the ground without specific directions from Unley Council.
9. All umbrellas shall be suitably anchored to prevent 'wind lift off' and will be in a safe condition with no protruding spines/spikes.
10. Neither the permit holder nor any member or person claiming under them shall injure, damage or destroy or cause or permit the injury, damage or destruction of any tree, shrub, fence, earthwork fixture or any other part or portion of the site. No earthworks shall be carried out on the site unless it is with the prior written approval of Council.
11. The permit holder will not promote any discriminating, insulting, offensive, threatening or vulgar behaviour or displays.
12. The permit holder accepts that shelters or tents are to be installed in such a way as to not excessively obstruct the view of other reserve patrons. Ropes are to be highlighted with warning containment tape. Pegs are not to be used to anchor shelters; however, weights may be used and shall be highlighted accordingly.
13. No building or fixture shall be erected, fixed or placed on the site without the prior written approval of Council and then on such terms and conditions as Council may in its discretion determine.
14. Where the Council determines that damage or destruction has occurred on or in relation to the site or facilities, the permit holder shall be deemed to be responsible and therefore shall be liable to pay to Council the whole of the costs incurred by Council in the repair of such damage or destruction. Such costs shall be payable at the expiration of seven (7) days from the date on which written notice thereof is given to the permit holder and Council may further in its discretion revoke the permit.
15. Permit holders may only use the site and facilities for their own activities and such activities must always be suitable and appropriate to the site and facilities provided.
16. Permit holders must ensure that at all times they have sufficient numbers of qualified persons (over the age of 18 years) available to properly supervise and manage all activities on the site or facilities (including amenities buildings).
17. No vehicle may be driven upon or over any part of the reserve other than upon a defined carriageway for vehicles or be permitted to remain stationary upon any portion of the reserve without the prior written approval of Council. All vehicles on or about the site or facilities or associated therewith shall be parked in areas on or near the reserve designated for the parking of vehicles.
18. The permit holder must exercise all reasonable care to ensure that there is minimal disturbance by way of noise or other activities to the residents or other occupiers of the area. The Council shall in its discretion determine whether such disturbance has exceeded minimal standards.

19. The permit holder must ensure that Council has received prior notification of any large scale events, to in turn ensure that Event Emergency Plan/Procedures are in place.
20. The permit holder must ensure that the general public is not denied reasonable access to areas of the reserve not being utilised.
21. The permit holder agrees to indemnify and to keep indemnified the Council, its servants and agents and each of them from and against all actions, costs, claims, charges and expenses whatsoever which may be brought or made or claimed against them or any of them, arising out of any permit holder's negligent act or omission in relation to the issuing of the permit.
22. The permit holder accepts that Council has no responsibility whatsoever for any bodily injury to the permit holder or any other person at the facility or to any damage to or loss of property and equipment owned by the permit holder or any other person at the facility. Consequently, the permit holder accepts the responsibility for any negligence arising from the use of the facility that the facility permit holder has reasonable control over.
23. The permit holder accepts that Council's Public Liability Insurance does not cover any claims that arise out of negligent actions or omissions of the permit holder arising from the use of the facility.
24. The permit holder shall take out and keep current during the period of this permit a general public liability insurance policy in a form approved by the Council, insuring for a minimum sum of \$20 million.
25. Confirmation of this permit approval shall be provided by the condition that this permit, signed by a Council Officer, has been returned to the permit holder.
26. Council may revoke the permit if the permit holder fails to comply with the conditions of the permit.
27. Penalties apply for breach of Council by-laws and permit conditions.