

Commercial Fitness Training Activities on Community Land

Policy Type:	Council Policy
Reference Number:	COU 121
Responsible Department:	Community
Responsible Officer:	General Manager Community
Legislation	Local Government Act 1999
Relevant Delegations:	Not applicable
Related Policies and Procedures	Not applicable
Community Goal	<p>1.1 Enhance community wellbeing, quality of life and social development through the provision of quality recreational and sporting opportunities.</p> <p>1.4 Enhance the health and wellbeing of the community through facilitating and regulating the provision of appropriate services and facilities.</p> <p>3.7 Ensure the long term management of all Council assets.</p>
Council Resolution:	28 November 2011, Item 82/11 CSP 8 Oct (139/12) C 22 Oct (564/12)
Date Adopted:	22 October 2012
Review Date:	2014

1. POLICY STATEMENT

The purpose of this policy is to provide a framework for managing and allocating the use of community land by commercial fitness groups.

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. Additionally, the fitness training has experienced strong growth in recent years, and there is an increasing trend for fitness trainers to undertake these activities outdoors, using community land owned and/or managed by Council.

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.

This policy does not apply to other commercial activities on community land. This policy also does not apply to fitness training activities that are not of a commercial nature, and fitness training activities that are not conducted on community land (with the exception of the Village Green which is not community land), however the policy provides guidelines for these activities to encourage 'best practice'.

2. PRINCIPLES

The following principles apply to the management of commercial fitness training activities on community land, in accordance with this policy.

- 2.1 Commercial fitness training activities conducted on community land are to be managed in accordance with section 200 of the *Local Government Act 1999*, and Council's *Community Land Management Plans*.
- 2.2 Community land is primarily for community use and any commercial use of community land should not overly restrict community use.
- 2.3 Council will ensure permits for conducting of commercial fitness training on community land are granted through a fair and equitable process, in accordance with the procedures contained in this policy.

3. POLICY OBJECTIVES

- 3.1 To establish a framework for the management of commercial fitness training activities using community land.
- 3.2 To ensure that community use of community land remains the priority use, and to define what locations, activities, and group sizes are appropriate for such activities.
- 3.3 To resolve any issue arising from the use of community land for commercial fitness training activities in an efficient and effective manner.
- 3.4 To ensure a consistent approach to the management of commercial fitness training activities on community land.
- 3.5 To 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.

4. DEFINITIONS

Commercial

An activity that results in financial profit to the organiser of the activity.

Community land

Community land is defined in *The Local Government Act 1999* as, 'All local government land (except roads) that is owned by a council or is under the council's care, control and management'.

Fitness training activity

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.

Fitness trainer

An individual who facilitates and/or assists others to participate in fitness training activities.

5. REFERENCES

Local Government Act 1999

City of Unley, *Community Plan 2015*

City of Unley, *Open Space Recreation Strategy 2004-2014*

City of Unley, *Community Land Management Plans, 2004*

City of Unley, *Recreation Policy, 2010*

City of Unley, *Open Space Policy, 2010*

City of Unley, *Hire of Civic Centre and Town Hall Policy, 2007*

Recreation SA, *Code of Conduct for the use of local government land by commercial fitness groups & personal trainers, 2008*

Fitness Australia, *Position Statement: Provision of Fitness Training Services in Public Areas, 2010*

6. PROCEDURES

The policy will be implemented according to the following procedures:

6.1 Permit System

A permit will be issued to commercial fitness trainers/leaders in accordance with the following steps:

- 1) Commercial fitness trainers will complete a *Commercial Fitness Training Activities – Application Form* by 1 May, to apply for a permit for the following financial year (from July to June each year).
- 2) Council Administration staff will assess the form, and a 12-month permit will be issued, providing that the fitness trainer pays the relevant fee, and meets the requirements outlined in the Fitness Training Activity Guidelines (Appendix A).
- 3) Fitness trainers will 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.
- 4) Where fitness trainers/leaders make application to Council after the 1 May deadline, a permit will be granted where the request can be accommodated in accordance with this policy.

To establish a fair and equitable process, fitness trainers must apply annually for the 12-month permit.

Existing fitness trainers will be given priority to book their desired location and times, and Council reserves the right to change bookings after review.

6.2 Policy Administration and Review

- The Administration may make any alterations when necessary to the Fitness Training Activity Guidelines (Appendix A) without requiring formal Council approval.
- The Chief Executive Officer (or delegate) is authorised to issue permits to commercial fitness trainers in accordance with this Policy.

APPENDIX A

Fitness Training Activity Guidelines

1. Permit Period

Approved bookings will be issued with a permit to use a specific location for the maximum period of **12 months**.

2. Size of Fitness Groups

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

3. Times of Use

- Fitness training activities are not to commence before 6.30am (or 6.00am at some selected parks) 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.

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

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
- Activities starting before 6.30am (or 6.00am in selected parks, refer section 11 'Approved Locations')
- Boxing and martial arts (may be permitted in selected parks, refer section 11 'Approved Locations')
- The use of equipment that may damage the reserve (e.g. logs, tyres, heavy ropes)

6. First Aid

The trainer must hold a current senior first aid certificate (workplace level 2).

7. Insurance

The trainer must hold current public liability insurance for a minimum of \$10 million and professional indemnity insurance for a minimum of \$2 million, and provide evidence of these to Council staff.

8. Qualification

All trainers (including secondary trainers) must hold a minimum qualification of Certificate 4 in Fitness, and provide evidence of this to Council staff.

9. Permit Fees

An annual fee will apply to undertake commercial fitness activities 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 activities will be set as part of this process. No discounts to this fee will be available.

Refer to Council’s Fees and Charges register for an up-to-date list of fees.

10. Booking Cancellations

Fitness trainers must advise Council of any booking cancellations as soon as practicable.

11. Approved Locations

The reserves listed below may be used for commercial fitness training activities. Reserves not included on the list are not permitted to be used for commercial fitness training activities 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 area	20	Yes	Yes
Scammell Reserve	20	Yes	Yes
Soutar Park	20	Yes	Yes
Unley Oval	20	Yes	Yes
Village Green	10	Yes	Yes

Conditions of Use

1. Pursuant to the provisions of By-Law No. 3 and Section 202 of the Local Government Act, Council approves the issue of a permit subject to the conditions below.
2. The permit holder, where appropriate, shall ensure that it is licensed, registered or qualified to carry out the activity authorised the issuing of this permit.
3. 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.
4. The permit holder shall comply with and give all notices required by any Act of Parliament, Ordinance, Regulation By-law relating to the activity.
5. 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 do so may result in cleaning fees being charged.
6. In relation to debris removal, this specifically includes removal of all skewers, bottle ring pull tops, beer bottle/drink tops and ice cream sticks.
7. Non Council BBQs are permitted onsite subject to the BBQs being operated by a competent adult, and the BBQ containing safe: gas temperature controls; hoses; in service gas bottles and gas bottle fitted regulators. BBQs shall be located on level ground and sheltered from wind and away from flammable sources.

8. 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.
9. No spikes or stakes are to be driven into the ground without specific directions from Unley Council.
10. All umbrellas shall be suitably anchored to prevent 'wind lift off' and will be in a safe condition with no protruding spines/spikes.
11. 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.
12. The consumption and sale of alcohol is permitted subject to the permit holder complying with the requirements of the Liquor Licensing Act 1935.
13. Subject to clause 11 above, as a permit holder having a licence or permit to serve alcohol, you acknowledge that you have some responsibility for your patron's alcohol consumption and behaviour, therefore alcohol consumption on Council property should be served in non-glass containers and the consumption of alcohol should be monitored by the permit holder.
14. The permit holder will not promote any discriminating, insulting, offensive, threatening or vulgar behaviour or displays.
15. The permit holder accepts that the use of 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.
16. 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.
17. 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.
18. 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.
19. 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).
20. 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.
21. The permit holder must exercise all reasonable care to ensure that disturbance by way of noise or other activities to the residents or other occupiers of the area is minimal. The Council shall in its discretion determine whether such disturbance has exceeded minimal standards.
22. 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.
23. The permit holder must ensure that the general public is not denied reasonable access to areas of the reserve not being utilised.
24. The permit holder agrees to indemnify and to keep indemnified City of Unley (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 negligent act or omission in relation to the issuing of the permit.
25. 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.

26. 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.
27. 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 ten (10) million dollars (\$10,000,000).
28. 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.
29. Council may revoke the permit if the permit holder fails to comply with the conditions of the permit.