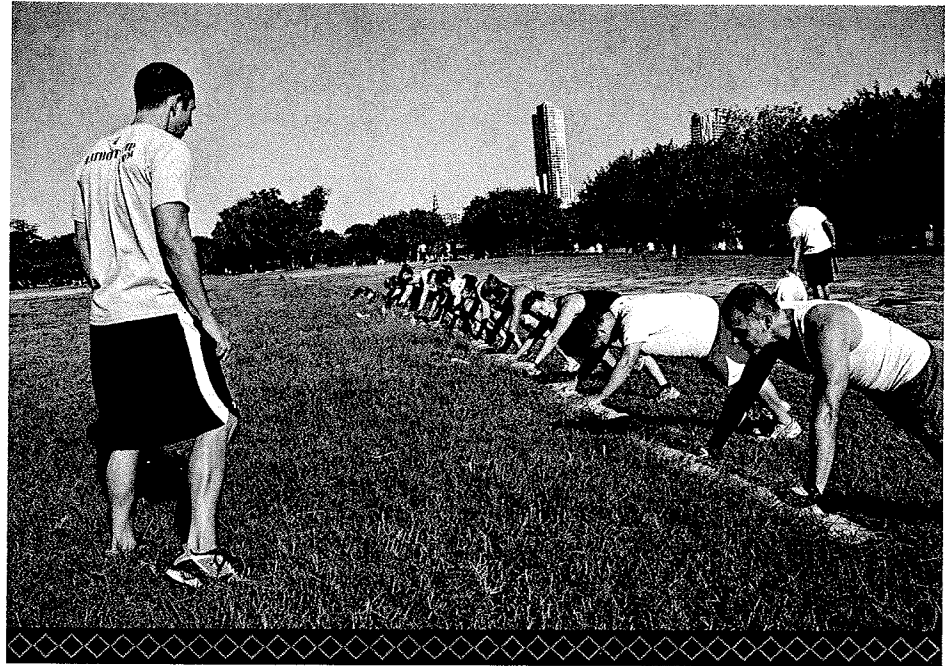


Few who visit Austin in the fall—or any season for that matter—are likely to overlook the vibrant fitness culture our residents enjoy. Unlike almost any other city in the country, health and fitness is literally interwoven into the cultural fabric of where we live.



Just take a casual stroll across the Lamar pedestrian bridge or an afternoon jog around the hike and bike trail and you'll see it all playing out in front of you. Group running, Tai Chi workouts, outdoor boot camps and stand up paddling are just a few of the recreational activities thousands of Austinites enjoy on a weekly basis.

Yet many members of the fitness community are concerned by a new proposal by Austin Parks and Recreation Department (PARD) that could affect our uniquely active atmosphere. The changes would impact trainers who provide classes (free and for-profit) in Austin's city parks, potentially limit options and perhaps raise prices on clientele. In the broader sense, some fear that new policy could disrupt much of what makes Austin such an attractive locale.

The proposed changes are more or less two-fold. The first would require fitness instructors to apply for a temporary concession permit (for a bi-annual fee) in exchange for access to public green space; the second would designate certain areas of city parks as "fitness zones," which could ostensibly be reserved on a first-come, first-serve basis. Parks not included on the city's approved list (which presently does not include Auditorium Shores,

Butler or Pease Parks) would simply be off-limits for any commercial group workouts.

PARD cites complaints from area neighborhoods and general park-users as the impetus for this new proposal. It also suggests that fees and enforcement are the best ways to ensure safety and reduce wear and tear on city property.

Meanwhile, many in the fitness community see the current proposal as a heavy-handed, out-of-touch approach. What's more, there seems to be growing concern that by charging a fee, the city would be imposing a tax on health and fitness.

In writing this feature, we've done our best to get perspective from all sides. We've met with more than a dozen local trainers, solicited responses from public officials and attended a city-sponsored community meeting where a wide array of concerns and potential compromises were made public. We've also spent a considerable amount of time polling you — our readers — to find out what you think should be done about all of this. So, we'll start by touching on the broader points of the current proposal, while revealing what many of you, in the fitness community, seem to think about the whole thing.

The Model (pg. 36) | The Fee (pg. 40) | Fitness Zones (pg. 44) | Enforcement (pg. 45) | What's Next? (pg. 46)



↑ **BOOTCAMP ACTION.** HEAT Bootcamp and Camp Gladiator get their workouts going on a typical Saturday morning at Auditorium Shores.



Due to the boom in outdoor fitness business over the last five years, there has been a noticeable uptick in recreational park use. As a result, PARD has become more mindful of the condition of public green space, overall park accessibility and overuse, as well as political pressures to regulate fitness businesses operating on city property.

While the concept of charging local fitness companies to operate in the parks is not a new one – legislation was first proposed years ago (including a fee structure to mitigate excessive wear and tear) – the public’s reception to a fee-based model has been tepid.

However, in mid-September, PARD proposed a temporary concession permit as the preliminary model for regulating commercial fitness use.

“We know that this is probably not the most effective approach but it seemed like the best place to start,” says PARD Director Sara Hensley. “We realize that it’s already in the fee structure and not just applicable to food concessionaires. In our park rules, it states very clearly that no commercial use of parks can be authorized without permission from PARD. People need to understand we’re just trying to look at this from the park use perspective.”

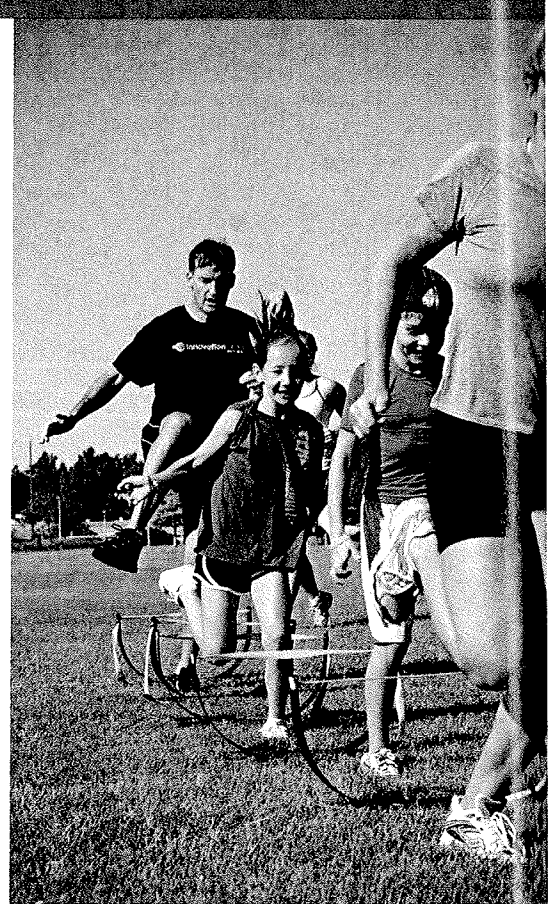
While supporters cite this type of permit as the closest analogue currently being used by the city to regulate business on park property, there is wide disagreement about which types of businesses actually fall under the “temporary concession” category.

To begin, many reject the notion of comparing a stationary, money-

exchanging retail business (like a snow-cone stand), to that of a free-ranging, service-oriented fitness group. The former has a static footprint, operates exclusively on public space and depends upon public traffic to generate most, if not all its revenue. The latter is fundamentally dynamic in nature, is not resident on public space and does not garner its business from park traffic. As the current ordinance is written, it’s like comparing apples to oranges.

While there’s a precedent for fitness companies (such as the Texas Rowing Center and Rowing Dock) to pay for use of park land, these businesses do differ from boot camps, personal trainers and martial arts instructors. They have permanent structures, have exclusivity at their locations and depend almost entirely on occupation of public green space for their business. In the case of Texas Rowing Center, it could be argued that they’re paying for their fixture on public property, not every time their customers take a kayak out on Town Lake.

And so the logic follows that a fitness class or personal trainer might only be charged a similar fee if their business is a permanent, exclusive fixture in the parks, not simply because their clientele uses the space to work out.



David Braswell, certified personal trainer and owner of Outright Fitness, makes the point another way.

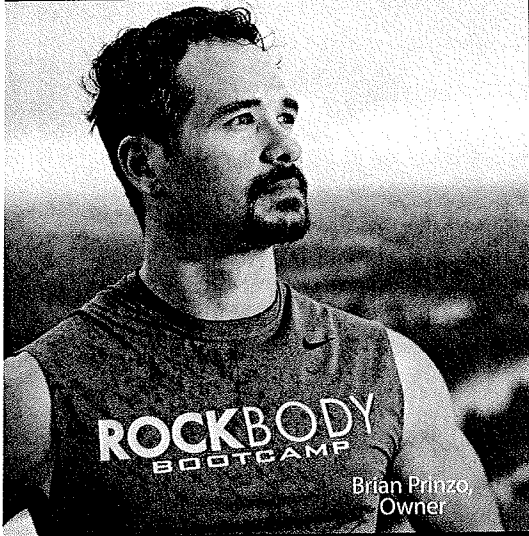
“To reserve park space, you currently have to pay a fee,” he says. “And the Austin Public Library is no different. To reserve a conference room in the library you also have to pay a fee. But if I’m a paid private tutor and there’s space available in the library, I can teach a group of students at no charge.”

Others claim that while the library may not charge a fee, it has the right to ask a paid tutor and his group to leave at any time.

Next, the temporary concession permit is targeted at entities soliciting business from park users, rather than those using parks to conduct their business. Unlike food vendors or boat rental companies, fitness groups attract customers independently from their presence in the park; they simply use park land as a venue for their workouts. If the park is the reason a business is able to generate its revenue, then the temporary concession permit would apply. However, the argument that this model fits fitness groups is tenuous at best.

Cody Butler, personal trainer and owner of HEAT Boot Camp in Austin, points out that PARD’s proposal aligns closely with

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The Model



↑ HIGH KNEES

Cody Butler takes his morning group through a grueling exercise routine with downtown Austin as the backdrop.

*WE KNOW THAT THIS IS PROBABLY NOT THE MOST EFFECTIVE APPROACH BUT IT SEEMED LIKE THE BEST PLACE TO START."*

— PARD DIRECTOR SARA HENSLEY

approaches being implemented in three of the nation's fattest cities — Houston, Dallas and San Antonio.

"In putting together their proposal, PARD has taken information from these other Texas cities. Austin is a unique place and what we have works well for us," he says. "In my opinion, we shouldn't be deferring to these cities, but rather creating our own model, so they look to us. It's clear regulations in these cities restrain health and fitness; we need to be the place where an active culture flourishes."

Hensley is largely in agreement. While she says there needs to be

oversight on commercial park use, she claims Austin is ripe to become the primer for other cities, rather than adopt a "me-too" model. In her opinion, Austin has a chance to be the fittest city in the country.

"We're not Dallas, and that's not what we want," she says. "Instead, we're actually going to partner with these fitness groups — small, medium and large. We want to link them to our Web site, work with them and really collaborate. In my mind, this is an opportunity to do it right — to benefit Austin citizens, the entrepreneurial spirit and fully realize what our parks should be."



## The Fee

As the current proposal is written, the city would charge fitness groups anywhere from \$1,000 to \$3,000 a year for their use of park space.



Or more specifically, \$500 every six months for local district parks and \$1,500 every six months for metropolitan parks. And as it stands now, this fee would be assessed on a per park basis. So, a typical Austin boot camp which currently conducts classes at five different public locations could be required to pay as much as \$15,000 a year to keep its operations going.

This fee structure is identical to the one used in the “temporary concession” permit and includes parks okayed on a city-approved list; a list which currently (and some say conveniently) omits Austin’s more visible, convenient and popular locations, such as Auditorium Shores and Pease Park.

“As a certified personal trainer who runs an intentionally small-scale outdoor circuit training class, I’m not at all in favor of this fee,” says fitness entrepreneur Karen Shopoff Roof. “I keep my classes small so clients get personal attention, and there’s no way I can pass this onto them, particularly in a way that won’t also seriously affect my income. I just won’t be able to run my class anymore.”

Fitness business owners are largely in agreement. Most see the proposed fee as arbitrary and punitive, rather than scalable and facilitative. And others see it as a slippery slope; a precedent in which the city would have its hand in how private business is run. Most fitness entrepreneurs contend they would not be able to absorb the charge, but would be forced to pass it onto their clientele, resulting in higher prices for the same service.

Supporters of the fee, however, claim that unregulated use of the parks presents a slippery slope in the other direction — one in which taxpayers bear the brunt of park upkeep while fitness businesses maximize their profit margins.

“I think it’s a very good idea to charge a license fee to those operating a business on city-owned land,” says Austin resident Paul Gosselin. “The park is their place of business and there should be a cost of overhead attached to that. The people of Austin have to pay for the upkeep of the parks and those who are using it for their financial gain should have to pay a little extra since they are making money off of the park use.”

If a fee is enacted, there seems to be broad agreement on at least one thing: the money should be directed back to the parks. As a result, some have suggested involvement of a third party, such as the Austin Parks Foundation, for stewardship of discretionary funds.

“Generally, we’d been advocating that any fees be put into funds that pay for improvements or maintenance and operations of heavily used parks,” says Charlie McCabe, executive director for Austin Parks Foundation. “But the way the city budget works, unless you’re an enterprise fund (sports fields and golf courses in parks, Austin Energy, Convention Center, etc.), it all goes to the general fund. We’re pleased to offer the ability to take and hold donations for specific parks, like we do with over 64 community groups who have adopted and work to improve specific parks.”

However, Hensley contends that PARD can actually track revenue back to a particular park and make sure it’s used for specific items like re-seeding, signage, benches or even outdoor exercise equipment.

“The proposed fee structure is probably not going to be applicable; in fact, I don’t see the final fee being a lot of money,” she explains. “More importantly, I think we can come up with a solution where the money raised from fees can go directly back to the park from which it was raised. We have the mechanism to be able to handle this, above and beyond our normal revenue obligations.”

While wear and tear created by fitness groups is widely disputed and even more difficult to track, trainers we spoke with seemed to agree with the idea of giving back to the parks, provided their money goes where it’s supposed to.

“I’m not opposed to a fee imposed on for-profit groups based on a per user fee,” says local resident Cathy Kyle. “However, this should not be one more way for the city to make money off its citizens. The money raised should go directly back into maintaining and improving the parks. Without these limitations, the fee is a terrible idea and a significant impediment to our access to public spaces.”

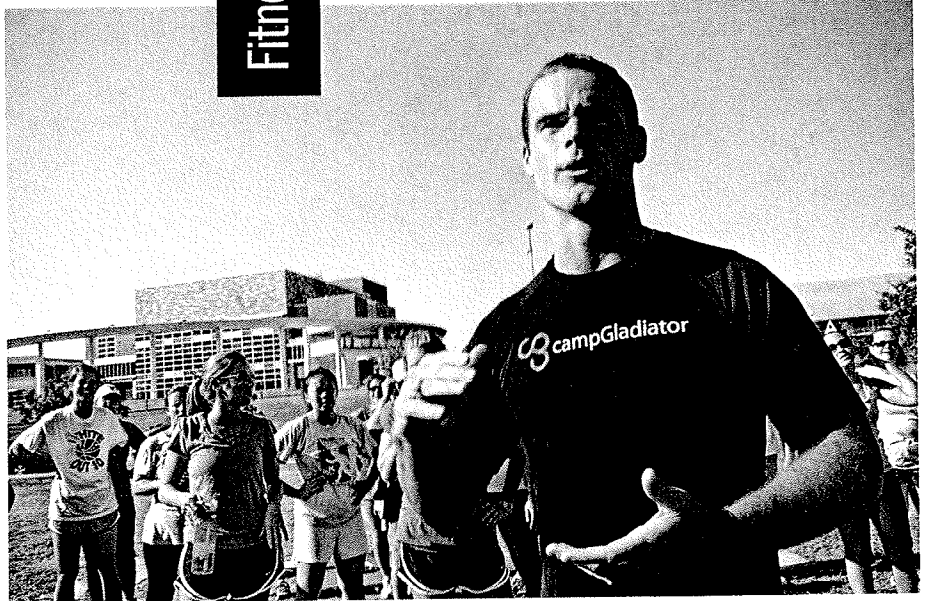
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## Fitness Zones



The other major piece of the proposal is the establishment of “activity zones” in public parks. This would require fitness businesses to reserve specific parks or designated areas of green space to carry out their operations.

Hensley explains that the idea of “fitness zones” was first brought to the table by PARD as a deterrent for overuse — not just of parkland, but also parking spaces, pedestrian bridges and common areas. For instance, she says her department has fielded complaints from regular park users who can’t find a place to park, due to the influx of boot camps and running groups that are already there.

“People need to understand that we already have conflicts of use,” Hensley says. “There are so many people out there and it’s become so entrepreneurial. In fact, general park users have been run-off by these fitness groups and we have evidence of it. The fitness groups aren’t being rude in any way, but they’re telling people they’ll have to wait to use certain areas because they’re teaching a class.”

While the concept of designating “fitness zones” may seem simple enough, many in the fitness community claim it’s a complicated restriction rife with potential problems.

For example, how would these zones be set up, how much space would they occupy, which parks would have them, how many would be allocated per park and how restrictive would they be?

Furthermore, a “zone” implies that the type of activities many of these fitness groups are engaged in are confined to specific areas, which is often not the case.

“There are still so many unanswered questions with this proposal that I doubt the city has thought through,” says Austinite Lisa Barden. “If the goal is to ‘efficiently and effectively manage growing demand,’ then restricting the space that can be used will not meet that objective. Charging a fair annual fee for commercial use of the parks is one thing, but restricting when and where parks are used is going too far, in my opinion. Where do you draw the line? If running groups then decide to move their runs to the streets, do you force them to get permits to run on public roads?”

Ally Davidson, who heads up Camp Gladiator in Austin says she fears the idea of fitness zones more than a permit fee. This is partly because the current list of designated parks excludes Auditorium Shores, but also because she sees the restriction seeping into the city’s broader culture of health and fitness.

“Right now, we have a wonderful atmosphere that Dallas doesn’t have. It’s Austin,” she says.

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Another resident, Sara Brown, recognizes that some change is necessary, but disputes the viability of establishing "fitness zones."

"I'm not particularly opposed to a fee for 'for-profit' fitness camps, but I am opposed to the idea of 'fitness zones,'" she says. "I think this will have an adverse impact on the quality of the workouts and eventually on the number of people that work out."

While quarantining fitness activity is one way to address conflicts of use, Hensley cautions that the PARD proposal

is still in its early stages and will no doubt be revised. In fact, she acknowledges that the "fitness zone" model may not work well in Austin.

"The concept of 'fitness zones' may not be acceptable and may end up having lots of holes in it," she says. "We're just trying to optimize public park access and use. At the end of the day, we really want to capitalize on a partnership, a collaborative approach with these fitness groups...and find a model of how to make it work for everyone."

## Enforcement

A final concern about PARD's proposal is the controversial issue of enforcement; specifically, how the city will carry out its rules, the degree of vigilance it will apply and how successful it will be in establishing a fair and equal playing field for all commerce on parkland.

Enforcement seems to be a particularly dicey issue for PARD, not only because of the breadth and scope of its more than 250-park system, but because existing rules and regulations are not well imposed today. Some in the fitness community say this is evidence that the proposed changes would not be an effective way to mend wear and tear resulting from park use.

Davidson sees enforcement as an Achilles heel for PARD, since it's tied both to commercial use fees and "activity zones." Her concerns lie not only with PARD's ability to enforce the city's rules, but to do so with the proper amount of fairness and consistency. In

her mind, larger boot camps could easily be singled out, while smaller, more casual fitness businesses would likely fall through the cracks.

"The city will have no trouble enforcing these changes on larger, more visible groups like ours," she says. "And with no official body for enforcement, we might receive a penalty that a smaller fitness group would be able to escape."

However, Hensley sees the issue of enforcement as a distraction from the broader point. Since many Austin businesses are already paying to occupy public space, she believes there has to be some level of accountability for fitness groups, too. Besides the liability of not knowing which entities are insured or qualified to give instruction, PARD says it simply can't ignore a double standard that undermines rules and regulations already in place. All that said, Hensley admits the practical challenges of what's currently being proposed.

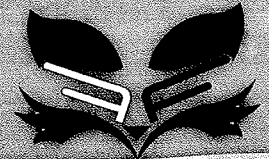
"It would be a lie to say we could strictly enforce this," she says. "In my mind, we'll end up with an honor system so to speak, where a park ranger might randomly ask groups to show their proof of permit. We're certainly not going to be heavy-handed in enforcement. I look at this as a win-win opportunity for everyone. We can work with these groups so we know when they're out there, and they can help us get more support for our parks."



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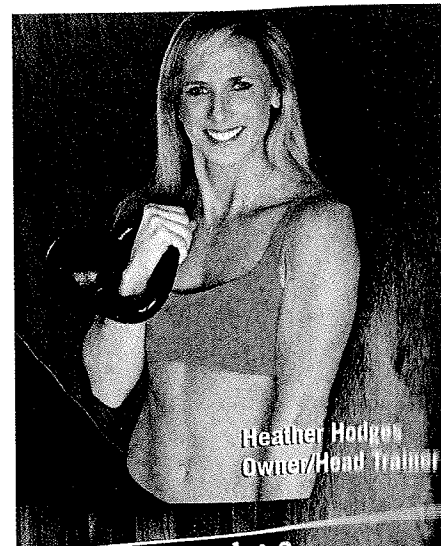


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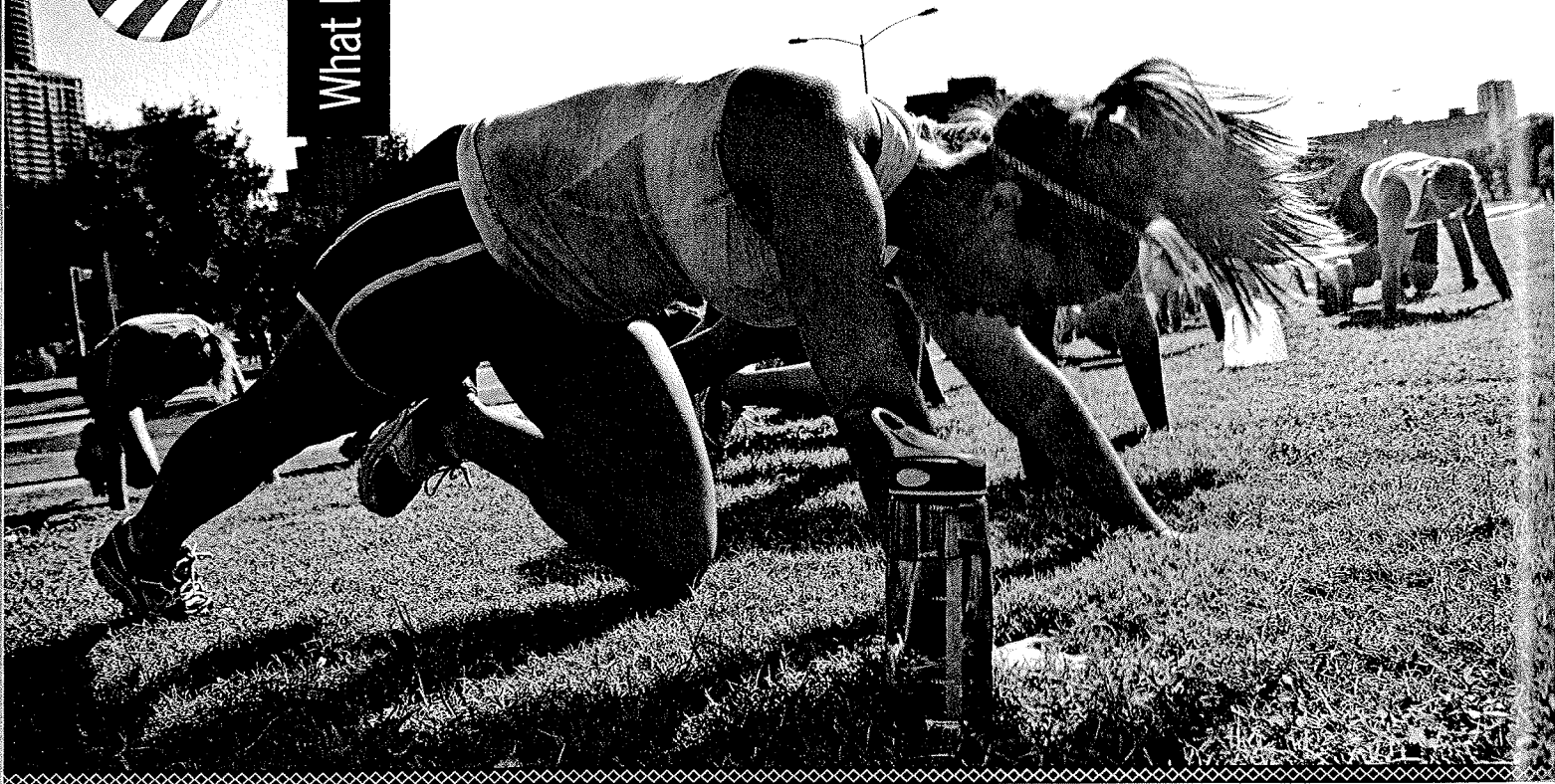
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## What Next?



Can Austin's fitness community meet PARD in the middle? It may be possible, as most in the fitness community recognize the importance of requiring those who turn a profit to carry a permit. Also, tightening down on responsible park use to reduce wear and tear would be beneficial to all park goers.

Perhaps PARD will implement a standard permitting or licensing program? Something that would legitimize trainers as well as increase responsible park use with minimal cost to fitness businesses. And the fees associated with obtaining a permit could be more nominal — perhaps akin to those charged for a fishing or driver's license.

Many in the Austin fitness community, however, see the implications of PARD's proposal as broader than simply mandating a fee-based permit to use public space. For many, the changes could endanger the very essence of what makes Austin such a great place for fitness. And it begs the question: Will Austin still lead the nation as a fit city?

Davidson — and others to be sure — fear the current proposal will make it more difficult.

"If you can't work out at Auditorium Shores, the what kind of culture of fitness do we really have," she says. "I know I wouldn't vote for us for fittest city."

Nevertheless, Hensley is optimistic that PARD can work with

fitness groups to develop a superior model than what's currently being proposed — one unique to Austin that sets a new standard for other cities. In fact, she says she's committed to guiding the discussion there.

"I really believe this can be a win-win for everybody," she explains. "We're not going to cram this down anyone's throat. We want to cooperate with the fitness community so we can say we're able to work together in providing wellness to everybody. Let's work together to protect our parks and build allies for our parks. And what better way than to use these fitness groups?" -Jim

**A COUPLE CITY OFFICIALS GET THE LAST WORD**  
*In putting together this piece, we contacted Mayor Leffingwell, Austin's six city council members as well as the city manager for comment.*

**Here's who we heard from and what they had to say:**

"We've been working closely with our Parks Department and stakeholders on this issue. I believe we'll find a solution that promotes fitness in Austin while respecting those who use our parks for other activities."

*~ Mayor Lee Leffingwell*

"We have a public interest in promoting healthy activities, and in keeping our parks active. Any fees need to be tailored carefully with those interests in mind."

*~ Councilmember Chris Riley*