



# **Guidelines and Conditions for the Use of Public Open Space for Personal Training**

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## 1. Introduction

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The City of Maribyrnong manages approximately 139 open space reserves. These spaces incorporate a number of different components which include formal sportsgrounds, open parklands and informal recreation spaces. These areas provide valuable places for both residents and visitors to participate in sport and/or leisure activities within the City of Maribyrnong

The City of Maribyrnong recognises that these areas are attracting increased and changing use by the community such as dog walking, formal exercising groups, events and get-together's with family and friends. With this increased use there are greater demands on Council to provide facilities which are suitable for these activities. Increasingly commercial businesses want to utilise public open space to run activities such as personal training groups. The City of Maribyrnong is committed to providing physical activity and recreation opportunities to the local community and sees benefit in these types of activities. However it is also important to maintain the original intent of these spaces as areas open, free and accessible for all the community to utilise.

These Guidelines define the use of public open space situated within the City of Maribyrnong for commercial fitness groups and personal fitness trainers and the need to regulate the use of Council facilities for this purpose.

In implementing these Guidelines, Council aims to:

- Promote active and healthy communities
- Ensure equity of access to public open space
- Reduce the impact of commercial fitness activities on asset condition and maintenance
- Ensure operators are appropriately covered by public liability and professional indemnity.
- Ensure the orderly and proper conduct of activities in a Council open space.

## **2. Definition**

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The following definitions will be used in the context of these guidelines:

### **2.1 Parks, Open Space and Reserves**

A park and/or public open space is defined as a “Reserve” as defined in Part 1 No.7 General Local Law 2005, “any land within the Municipal District that is owned, occupied or controlled by the Council and dedicated or used for cultural, recreation or entertainment purposes”. Excluding those areas designated by Council as “sportsgrounds”.

### **2.2 Commercial Fitness Training Activity**

A commercial fitness training activity is initiated for commercial gain and aimed at attracting visitors for which fees are charged. Similarly commercial activity includes any organisation or individual (“the operator”) using a public park in order to deliver a product from which that organisation will derive income or profit.

### 3. Application for Use of Open Space for Personal Training Activities

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#### 3.1 Application Process

All operators conducting commercial fitness activities with groups of persons (3 or more) are required to submit an 'Application for Use of Public Open Space for Personal Training form' to the Community Recreation Officer at Maribyrnong City Council.

No Personal Training activities may take place prior to the operator receiving written approval for the commencement of activities and a council issued authorisation card.

#### 3.2 Approved Locations

The use of public open space for personal training will only be permitted within the following locations:

##### **Parks and Reserves**

- Braybrook Park
- Coulson Gardens
- Cruickshank Park
- Footscray Park
  - Zone 1
  - Zone 2
  - Zone 3
- McIvor Reserve
- Robert Barrett Reserve

##### **Crown Land**

- Yarraville Gardens

No organised sporting activities or commercial fitness training are permitted in the following areas or sites of high pedestrian activity; horticultural, cultural, or environmental significance; or areas designated for children's play and or family amenity. Specific areas where these activities are prohibited include, but are not limited to, the following:

- Playgrounds
- Picnic and BBQ facilities
- Public exercise stations
- Memorials
- Environmentally sensitive areas such as bushland
- Cemeteries
- Any designated sports field without a formal booking
- Stairways within open spaces and on public footpaths may be transited but not used for static or circuit training.

Council reserves the right to nominate other areas during the life of these Guidelines as it sees fit.

### 3.3 Permits

Permits will be issued for the use of public open space on a seasonal basis in line with current Winter and Summer sportsground allocations. Permits will be issued for each six month period.

- Summer Season – 1 October – 31 March
- Winter Season – 1 April – 30 September

A Permit will authorise each Operator to use Council and/or Crown Land for fitness activities in accordance with these Guidelines and Conditions on a non-exclusive basis with a maximum of 4 sessions (maximum 2 hours per session) per park per week. Any applications for extra sessions beyond this limit will be assessed on the allocation criteria in section 3.5 with fees applied on a pro rata rate accordingly.

### 3.4 Permit Fees

An permit fee is applicable to all use of Open Space for Personal Training activities. The fee specified for the use of public open space is as follows.

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| Category 1 | 3-5 participants<br>(not including instructor)   | \$184.60 (six month fee)  |
| Category 2 | 6-15 participants<br>(not including instructor)  | \$505.30 (six month fee)  |
| Category 3 | 16-40 participants<br>(not including instructor) | \$1,449.90 (six month fee)  |
| Category 4 | Crown Land Use                                   | \$105.06 (six month fee)<br>* Crown Land Use permit fees are set by the Department of Environment, Land, Water and Planning |

Permit fees must be paid prior to any personal training authorisation cards being issued and sessions commencing at the allocated park or open space.

### **3.5 Allocation Criteria**

Criteria for the allocation of public open space will include but not be limited to the following:

- The provision of opportunities for specific target groups such as women, young people, older adults, people with disabilities and people from diverse backgrounds.
- The usage demand and intensity of use of the areas and times requested.
- The number of approved Operators already using the area.
- Other activities (passive and active) being undertaken in the area.
- The type of activities to be undertaken, the number of participants and the potential impact on other users and neighbouring residents during the time requested.
- Whether the activities will contribute to increasing congestion or user conflict in the area requested.
- Percentage of Maribyrnong residents participating in activities.
- All operators are advised that a maximum of one personal fitness training group will be allocated at a park/reserve at any one time

### **3.6 Evaluation and Review**

During the allocated permit season, Council will continue to monitor the area closely and record any complaints, breaches and conduct of the Operator during this time.

At the end of each seasonal period Council will review and evaluate the permit agreement made with operators. At this time and with the consent of both parties Council may offer the operator another 6 month seasonal agreement.

### **3.7 Termination or Withdrawal of Permit**

Council reserves the right to terminate its agreement with an operator or withdraw the use of a designated area without notice:

- If in its sole opinion it has determined that the trainer has failed to comply with the reasonable direction of its staff.
- Has breached the terms of the permit or the terms of Council's Guidelines on the use of Open Space for personal training activities.
- Should Council receive a high level of complaints about a particular group/trainer or site; Council reserves the right to restrict or cancel permit.
- If Park/Reserve is unsafe for personal training activities or is required to undertake surface repairs and/or redevelopment works;
- Park/Reserve is required for a Council approved community event;

## **4. Terms and Conditions**

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#### **4.1 Operators**

The following criteria must be met to be eligible for a permit to provide commercial fitness training activities within the City of Maribyrnong's public open spaces. Evidence of the following must be provided at the time of application:

- Operators must be a registered professional with Kinect Australia, Fitness Australia or other recognised peak body association membership and which membership 'Conditions' require all fitness trainers to be fully qualified
- Operators must have a documented Emergency and Risk Management Plan for all sessions which identifies how each risk will be managed and person/s responsible for ensuring that all risks are managed (refer to application form for example)
- Current public liability insurance which indemnifies Maribyrnong City Council to a minimum of \$20 million
- Operators must be appropriately qualified and have relevant first aid certification

#### **4.2 General Conditions of Permit and Operation**

- No signage is permitted outside the park or training area. Any operator wishing to erect signage in or around the permitted training area must seek council approval prior to doing so.
- Training may only take place throughout valid daylight hours.
- Groups are to be no larger than 40 participants
- The use of whistles, mega-phones and any amplified music is strictly prohibited
- The Operator shall ensure that the requirements of the Health Act, Local Government Act, any Local Law or regulations or any other applicable legislative instruments, including those pertaining to water usage restrictions are met. Fitness Trainer will be liable for any breach of such Acts, Local Laws or regulations.
- The Operator has a duty of care towards any person participating in their activities to ensure that it is run in an orderly manner and does not place any person or property at risk to injury or damage.
- It is the duty of the Operator to report any incident that may lead to some action being brought against them or Council in the course of their use of the facility. The Operator shall indemnify the Maribyrnong City Council and keep the Maribyrnong City Council indemnified from and against all actions, suits, proceedings, claims, demands, damages and costs whatsoever brought, prosecuted or made (as the case may be).
- The rights conferred by this Agreement upon the Operator are exclusive and must not purport to sub-let or assign authority to any other party.
- The sale of clothing, merchandise, equipment, refreshments, goods, services or products is not permitted



- Activities are restricted to those which they are suitably qualified for and that are approved by Council
- Activities are only to operate in the areas and at the times specified by Council in the permit
- The Operator must cooperate with Council to manage their activities to minimise wear and tear on grassed areas