



Midpeninsula Regional
Open Space District

R-15-93
Meeting 15-16
June 24, 2015

AGENDA ITEM 7

AGENDA ITEM

New Other Power-Driven Mobility Device Policy and amended Trail Use Policies

GENERAL MANAGER'S RECOMMENDATION *KSW (for SEA)*

The General Manager recommends that the Board approve the following recommendations from the Planning and Natural Resources Committee:

1. Adopt the draft "Other Power-Driven Mobility Device Policy"
2. Adopt the amended "Trail Use Policies"

SUMMARY

The Americans with Disabilities Act (ADA- Title II Regulations, 28 C.F.R. Part 35) requires that people with mobility related disabilities be allowed to use Other Power-Driven Mobility Devices to access public facilities. Other Power-Driven Mobility Device use can be limited by policy to those areas that are safe for such use and do not unreasonably interfere with others' use of the facility. Approval of the draft policy would allow people with disabilities to use Other Power-Driven Mobility Devices on District lands while at the same time instituting limitations for safety and resource protection. The Planning and Natural Resources Committee reviewed this topic on April 14, 2015, and unanimously supports the recommendations for the full Board's consideration.

DISCUSSION

An Other Power-Driven Mobility Device (OPDMD) is a battery, fuel or other engine-powered mobility device that is used by individuals with mobility disabilities for the purpose of locomotion. Examples of OPDMDs include electric golf carts, personal assistance mobility devices (EPAMDs) such as a Segway® PT, ATVs, electric bicycles or other mobility devices designed to operate in areas without routes designed for disabled access. The "other" in Other Power-Driven Mobility Devices is used to distinguish a wide range of potential power driven devices from wheelchairs and mobility scooters. By federal law wheelchairs and mobility scooters are generally allowed to go any place that pedestrians are allowed. In the absence of a Board approved policy, people with disabilities that affect their mobility are allowed to use a variety of devices including gas powered devices and devices larger than can be accommodated on District trails.

The Americans with Disabilities Act requires that people with mobility related disabilities be allowed to use OPDMDs and also allows public agencies to institute reasonable restrictions.

In evaluating the types of restrictions that are reasonable for OPDMD use, the rules require that the agency conduct an assessment that includes an evaluation regarding:

- The type, size, weight, dimensions, and speed of the device.
- The facility's volume of pedestrian traffic, which may vary at different times of the day, week, month or year.
- The facility's design and operational characteristics (i.e., whether its service, program or activity is conducted indoors; its square footage; the density and placement of stationary devices; and the availability of storage for the device, if requested by the user).
- The establishment of legitimate safety requirements to permit the safe operation of the OPDMD in the specific facility.
- The consideration as to whether the use of the OPDMD creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with federal land-management laws and regulations.

The draft policy was developed using the above criteria and by reviewing the policies of other parks and open space agencies that have established OPDMD policies, including East Bay Regional Park District, Santa Clara County Parks, Santa Clara County Open Space Authority, California State Parks and Orange County Parks. All of these policies are very similar, generally only allow zero emission devices, and have size and weight restrictions for safety. All of the policies except state parks allow for the use of electric bicycles in the same manner as self propelled bicycles. The draft District policy follows the same guidelines, including allowing the use of electric bicycles as OPDMDs.

There is also a related conforming amendment to the Board's Trail Use Policies, a minor change to include a reference to allowing OPDMDs. Without the amendment the Trail Use Policies would be in conflict with the OPDMD policy and the Americans with Disabilities Act because there is a prohibition on all motorized vehicles in the policy which would exclude OPDMDs.

FISCAL IMPACT

There is no fiscal impact associated with the General Manager's Recommendation.

BOARD COMMITTEE REVIEW

The District's Planning and Natural Resources Committee held a meeting on April 14, 2015. The Committee approved recommending the approval of the draft "Other Power-Driven Mobility Device Policy" and the amended "Trail Use Policies" to the full Board of Directors by a 3-0 vote.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act. Notifications were also sent to parties interested in access for persons with disabilities and parties interested in trail use.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

If the Board approves the General Manager's recommendation, the Other Power Driven Device Policy will be adopted as a Board Policy and be posted on the District's web site. The Trail Use Policies will be amended and the web site updated with the amendments.

Attachments

1. Draft Board Policy 4.10 *Other Power Driven Mobility Devices*
2. Amended Board Policy 4.07 *Trail Use*
3. Assessment Factors
4. Comparison of OPDMD Policies
5. U.S. Dept. of Justice ADA Fact sheet Wheelchairs, Mobility Aids, and Other Power-Driven Mobility Devices

Responsible Department Head:
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Prepared by:
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Board Policy Manual

<p>Other Power-Driven Mobility Devices</p>	<p>Policy 4.10 Chapter 4 – Acquisition & Maintenance of District Lands</p>
<p>Effective Date: 6/24/15</p>	<p>Revised Date: N/A</p>
<p>Prior Versions: N/A</p>	

Introduction

The Midpeninsula Regional Open Space District (“District”) accommodates recreational opportunities for people with mobility disabilities by allowing the use of other power-driven mobility devices (“OPDMD”) in areas where they can be operated safely, without posing risk of serious harm to natural and cultural resources, and in conformity with federal land management laws and regulations.

To ensure that OPDMD operation does not pose significant safety risks or fundamentally alter the nature of services, programs, and activities provided by the District, all OPDMDs operated on District Lands must meet the standards below. (See Section IV)

This policy applies only to OPDMD (non-wheelchair) usage. In accordance with federal law, wheelchairs including mobility scooters and manually powered mobility aids, such as walkers, crutches, canes, braces, and other similar devices are permitted anywhere in the District where pedestrian travel is allowed.

Due to the variety of OPDMDs available and the fact that most District trails were not designed for such use, visitors with mobility impairments should use their judgment in assessing the practicality of using their device on a particular trail. Due to slope, surface condition, or many other factors OPDMD use may be physically impossible or unsafe even when allowed.

Purpose

The purpose of this policy is to provide guidelines for use of OPDMDs on District Lands, trails, and facilities pursuant to the U.S. Department of Justice regulations amending the Americans with Disabilities Act (“ADA”), Title II regulations, 28 C.F.R., Part 35.

OPDMD Defined

Other power-driven mobility device means any mobility device powered by batteries, fuel, or other engines—whether or not designed for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway PT, or any

mobility device designed to operate in areas without defined pedestrian routes (defined pedestrian routes are those routes that are required to be wheelchair and disability accessible such as routes from parking to restrooms and public facilities), but that is not a wheelchair.

Standards and Areas of Authorized Use

A. Size

OPDMDs shall not be wider than 36" or longer than 48", except for electric bicycles which may exceed 48" in length. OPDMDs shall not exceed 550 lbs. including the operator.

B. Gas Powered OPDMDs Prohibited

OPDMDs shall not exceed zero emissions during use. Only manually or battery/electricity operated devices are permitted. The use of gas or other fuel powered mobility devices is prohibited.

C. Speed Limit

1. Trails: No person shall operate an OPDMD at a speed in excess of 5 miles per hour, except for electric powered bicycles which must comply with all the regulations for bicycles, including the 5 mph maximum on blind turns and when passing and 15 mph maximum speed.
2. Basic Speed Limit: Notwithstanding the above speed limits, no person shall operate an OPDMD at a speed greater than is reasonable or prudent having due regard for trail sight-lines, trail traffic, and the surface and width of a trail, or at a speed which endangers the safety of persons or property.

D. Areas of Authorized Use

OPDMDs are authorized on/in:

1. "Paths of travel" (e.g., sidewalks, driveways, parking lots, ramps, and restrooms)
2. Trails designated as Easy Access (e.g., typically surfaced trails designed for accessibility)
3. Paved Trails
4. Wide unimproved or surfaced trails.
5. Although OPDMDs are generally authorized in these areas, they may be restricted in specific circumstances due to design limitations or operational

characteristics of the trail/facility. OPDMDs must stay on designated trails at all times.

6. Electric powered bicycles are authorized where bicycles are allowed including narrow width unpaved trails.

Restrictions and Limitations

A. Closed/Restricted Areas

OPDMDs are not permitted in areas that are closed or restricted to the general public due to safety concerns or for resource protection.

B. Trails

OPDMDs are not permitted on the following:

1. Narrow width unpaved trails except for electric powered bicycles which may go where bicycles are allowed.
2. Trails where the width of the OPDMD exceeds half the trail width.

C. Interpretive/Visitor Centers; Reservable Facilities; Public Buildings (“Facility”)

Due to design characteristics, the District may restrict OPDMDs in certain interpretive/visitor centers, reservable facilities, and public buildings. Individuals are encouraged to contact the facility prior to their visit to determine if there are any restrictions or limitations. The District reserves the right to further restrict the use of OPDMDs during special events or during periods of high volume pedestrian traffic.

Use and Inquiry into Use of OPDMD

Only individuals with a mobility disability may use OPDMDs on District lands. The District may stop individuals who are using an OPDMD because all powered devices except wheelchairs are prohibited under District ordinance.

The District shall not ask an individual using a wheelchair or OPDMD questions about the nature and extent of the individual’s disability. If a person using an OPDMD states they are using the device due to a mobility disability the District may ask them to provide credible assurance that the mobility device is required because of the person’s disability. The District shall accept the presentation of a valid, state-issued, disability parking placard or card, or other state-issued proof of disability as a credible assurance that the use of the OPDMD is for the individual’s mobility disability. In lieu of a valid, state-issued disability parking placard or card, or state-issued proof of disability, the District shall accept as a credible assurance a verbal representation, not contradicted by observable fact, that the OPDMD is being used for a mobility disability. A “valid” disability placard or card is one that is presented by the person to

whom it was issued and is otherwise in compliance with the state of issuance's requirements for disability placards or cards.

Variance Procedure

Persons desiring to use an OPDMD which does not meet the standards for types of devices allowed or for use in a location where OPDMDs are prohibited, may request a change of use by submitting the request in writing to the District's Americans with Disabilities Act Coordinator addressed as follows:

Midpeninsula Regional Open Space District
Attention: Americans with Disabilities Act Coordinator
330 Distel Circle
Los Altos, CA 94022

by email to info@openspace.org, or by calling (650) 691-1200. The requested variance shall be evaluated by District staff and a decision shall be communicated to the person(s) requesting the variance within ten business days.

If there is a physical barrier that prevents the use of an OPDMD a visitor may use the same process to request an accommodation to allow their use.

Revisions

This policy may be revised as trails and facilities are further assessed to determine the extent of physical constraints, resource protection criteria, and safety concerns for all trail users.

Governing Authority

Americans with Disabilities Act, Title II regulation, 28 C.F.R. Part 35.

Board Policy Manual

Trail Use	Policy 4.07 Chapter 4 – Acquisition & Maintenance of District Lands
Effective Date: 11/14/90	Revised Date: 6/24/15
Prior Versions: 11/14/90, 7/12/00, 11/13/13	

PREAMBLE

One of the District’s basic policy statements is that it will “follow a land management policy that provides proper care of open space land, allowing access appropriate to the nature of the land and consistent with ecological values.” As a result of the rapidly increasing level of trail use and the increased types of trail use, it is necessary to adopt more specific policies on trail use in order to effectively implement this basic policy statement.

The District is concerned both with the safety of all trail users and the enjoyment of their open space experience. The purpose for which people use open space trails varies depending on individual or group needs. Visitors may come to observe nature in a protected environment, experience tranquility, exercise in a non-urban setting, or any combination of these. The means by which visitors use trails also varies—be it hiking, running, on bicycle, on horseback, or in a wheelchair. Motorized vehicles are prohibited, except electric wheelchairs and other power-driven mobility devices as further set out in the Board Policy on Other Power Driven Mobility Devices.

The combination of trail conditions, level of use, and the mix of uses may lead to conflicts. Conflicts result in negative environment impacts, unpleasant user experiences, or unsafe situations. Conflicts are related to several factors, including:

- The relative speeds of different users
- Existing trail conditions, such as poor line-of-sight, narrowness, steep slopes and wide-open stretches of trail that might encourage excessive speed.
- A lack of knowledge of, or disregard for, trail use etiquette and regulations by all types of users
- A high concentration of use in certain areas

This set of policies is intended as a guide in establishing trail use designations throughout the District which will promote safe and enjoyable experiences for all who use the District lands. These policies are not intended to restrict who may use the District trails, but they may restrict how, or under what conditions, the trails are to be used.

POLICIES

1.0 The District will endeavor to provide a variety of satisfying trail use opportunities on open space preserves throughout the District. More specifically, the District will endeavor to:

1.1 Provide multiple use on individual trails where such use is consistent with the balance of these policies.

1.2 Protect the opportunity for tranquil nature study and observation, especially in those areas identified as providing a unique wilderness experience.

2.0 The District will designate appropriate use(s) for each trail. Uses will be allowed that are consistent with District's objectives for sound resource management and safe and compatible use. More specifically, the District will:

2.1 Allow trail use appropriate to the nature of the land and consistent with the protection of the natural, scenic and aesthetic values of open space.

2.2 Within budgetary and staffing constraints, make reasonable efforts to provide safe conditions for trail users.

2.3 Evaluate trail user needs, concerns, quality of experience, impacts, and the compatibility of various uses. Those uses creating the least conflict among trail users and the least environmental impact will be given greatest preference in trail use planning.

2.4 Ensure that all District trails will be accessible to hiking. When consistent with this policy, if a non-hiking use adversely impacts user safety, the use may be restricted or redirected. The intention is not to restrict access by any individual, but rather to limit incompatible uses and means of travel.

2.5 The District will strive to provide multi-use trail access (including bicycles) to dedicated sections of the Bay Area Ridge Trail and other regional trails by allowing exceptions to preserve bicycle closures for the Ridge Trail. The District will also strive to provide multi use trail access to regional trails connecting urban areas to the Ridge Trail. Access to such regional connecting trails will be evaluated on a case-by-case basis, including consideration of availability of suitable regional trailhead staging, the availability of other alternative multi-use trail connections in the same region, and the completion of the CEQA process.

The district will encourage other agencies to provide Ridge Trail and regional trail connections on the same basis.

3.0 The Board of Directors will adopt qualitative and quantitative trail use guidelines to aid the Board and staff in determining trail use designations in the implementation of these policies.

3.1 As a planning tool to aid the Board and staff in determining future trail use designations, the District will consider, along with the Trail Use Guidelines and these

Policies, a guideline target trail use designation ratio of 60% to 65% multi- use trails (including bicycles) to 35% to 40% hiking or hiking-and-equestrian trails (excluding bicycles). This will not be a quantitative restriction, but a flexible planning tool to consider. Actual use designation of trails and preserves will only be established after the Use and Management Planning Process and CEQA process have been completed.

4.0 Specific trail use designations will be established and reviewed periodically through the Use and Management Planning Process, and will be subject to adopted Public Notification Procedures. Trail use designations may change if use patterns develop that are in conflict with these policies.

4.1 In extreme cases where there is not sufficient time to comply with the Use and Management Planning Process, the Board of Directors or General Manager may make an interim decision to limit use while providing an evaluation process and timeline for final determination of the designated use.

5.0 The District will endeavor to provide trail access for a variety of physical capabilities and user needs (including persons with physical limitations) in a manner consistent with resource protection goals, budgetary constraints, and state and federal regulations.

6.0 The District will carry out management programs necessary for the implementation of these trail use policies. The designation of appropriate trail use as a method of minimizing trail use conflicts and environmental impacts will require a significant increase in trail use measures such as education, physical improvements to trails, and enforcement of trail use regulations. More specifically, the District will:

6.1 Support trail use actions with a strong educational program. The District recognizes that education in proper trail etiquette and low-impact use is a key measure towards the reduction of negative trail use impacts.

6.2 Monitor trail use conditions on a regular basis. The purpose of a monitoring program will be to evaluate current conditions and to determine whether or not trail management programs, including maintenance, reconstruction, education, and use regulations, are effective in addressing user conflicts and environmental impacts, and to recommend changes if necessary.

6.3 Include implementation costs in determining the feasibility of trail use designations and regulations.

7.0 The District will work with other agencies, interest groups, and private landowners in an effort to promote an interconnecting trail system throughout the region. The District recognizes that connections should be compatible with other jurisdiction designations and land owner objectives as well as these policies and trail use guidelines.

8.0 The District recognizes that existing trail use characteristics such as the types of use, conflicts, and impacts may change over time so that certain policies may no longer be

appropriate or a new policy may be required. Hence, these policies will be subject to review and revision as deemed necessary by the Board of Directors, following adopted Public Notification procedures.

Assessment Factors for the Development of a Draft Policy on the Use of Other Power-Driven Mobility Devices

Assessment Factors	Proposed District Standards/ Restrictions/Limitations	Authority: Americans with Disabilities Act, Title II Regulation, 28 C.F.R., Part 35	Justification
Size	OPDMDs shall not be wider than 36" or longer than 48" except for electric bicycles which may exceed 48" in length. OPDMDs shall not exceed 550lbs including the weight of the operator.	Section 35.137(b)(2)(i)	<p>The District's trails vary in width. The 36 inch or half of trail width maximum width will allow for safe passage in the opposite direction, allow for the OPDMD to be turned safely on most trails, and permit other users to pass.</p> <p>The weight limit is designed to limit heavier loads for two reasons. Heavier loads may cause damage to trails. Heavier devices may also be unstable on District trails which are primarily un-compacted dirt surfaces that may not be able to accommodate heavier loads safely.</p>
Gas Powered	OPDMDs shall not exceed zero emissions during use. The use of gas or other fuel-powered mobility devices is prohibited.	Section 35.137(b)(2)(i) to (v)	<ol style="list-style-type: none"> 1) Gasoline engine exhausts produces particulate matter and exhaust fumes which pose an increased health risk for the recreational user¹; 2) District trails provide a cleaner air alternative by providing recreation and a green transportation commute corridor away from exposure to exhaust fumes; 3) Spilled or leaked fuel or oil poses a safety risk to other users, especially bicyclists and runners, and in natural areas poses an environmental hazard; 4) Heat from a gas fired engine creates a fire danger in natural areas; 5) Engine noise from gas powered vehicles disturbs and diminishes the experience for other users and disturbs wildlife; 6) Gasoline operated devices would fundamentally alter the natural and recreational values of District trails; and 7) The terms of conservation easements, regulations, and other permit conditions on certain District lands may prohibit the use of motor vehicles for recreational purposes.

¹ Study by Transport Research Institute at Hasselt University in Belgium found that bicyclists inhale 5 times more toxic nano-particles than pedestrians. A 2007 study published in *New England Journal of Medicine* that pedestrians exposed to exhaust fumes suffered from asthma symptoms, reduced breathing capacity and lung inflammation. A 2010 study published in the journal of *Environmental Health Perspectives* showed a link between heavy traffic and heart health risks, with cyclists having irregularities in the hours after their exposure to a variety of air pollutants on busy roads.

Assessment Factors for the Development of a Draft Policy on the Use of Other Power-Driven Mobility Devices

Assessment Factors	Proposed District Standards/ Restrictions/Limitations	Authority: Americans with Disabilities Act, Title II Regulation, 28 C.F.R., Part 35	Justification
Speed Limit: Paved and Unpaved Trails	No person shall operate an OPDMD at a speed in excess of 5 miles per hour or at a speed greater than is safe under existing trail conditions except for electric powered bicycles which must comply with all the regulations for bicycles, including the 5mph maximum on blind turns and when passing and the maximum speed limit of 15 mph.	Section 35.137(b)(2)(i); Section 35.137(b)(2)(iv)	OPDMDs are comprised of a variety of different devices. The variety of designs and configurations, combined with trails that were not designed for vehicle travel, limit the speed at which an OPDMD can travel safely. Five MPH or the maximum safe speed for conditions allows for access but limits the potential for accidents. Electric powered bicycles have maneuverability and control similar to self propelled bicycles and therefore should follow the same speed regulations.
Closed and Restricted Areas	OPDMDs are not permitted in areas that are closed or restricted to the general public due to safety concerns or for resource protection.	Section 35.137(b)(2)(v)	When areas are closed to all use the same rational for restricting access applies, regardless of the mode of transportation.
Closed Trails	OPDMDs are not permitted on narrow track unpaved trails except for electric powered bicycles which may go where bicycles are allowed. OPDMDs are not permitted on trails where the width of the OPDMD exceeds half the trail width.	Section 35.137(b)(2)(i) to (v)	These are trail areas that are by definition narrow and where two-way traffic is limited. Exceeding the trail width poses a risk of substantial harm to the environment and natural resources. Narrow trails also are in natural areas where steep terrain and trail conditions are unsuitable for OPDMDs.
Electric bicycles	Electric powered bicycle OPDMDs are restricted to the areas where self propelled bicycles are allowed.	Section 35.137(b)(2)(i) to (v)	Trails that allow bicycles have been designed or evaluated for the suitability of such use. Trails where bicycles are prohibited are not appropriate for such use.

Comparison of Other Power-Driven Mobility Devices Policies for Local Agencies with Comparable Lands

Assessment Factors	Proposed District Policy	Santa Clara County Parks	Santa Clara County Open Space Authority	California State Parks	East Bay Regional Parks
Size	<p>OPDMDs shall not be wider 36" or longer than 48" except for electric bicycles which may exceed 48" in length.</p> <p>OPDMDs shall not exceed 550lbs including the weight of the operator.</p>	<p>OPDMDs shall not be wider than 36" or longer than 48", except for electric bicycles which may exceed 48" in length.</p>	<p>OPDMDs shall not be wider than 36" or longer than 48", or weigh more than 550 pounds.</p>	<p>OPDMDs shall not be wider than 36" or longer than 48".</p> <p>The overall weight of the device and user(s) shall not exceed 550 pounds.</p>	<p>OPDMDs shall not be wider than 36" or longer than 48", except for electric bicycles which may exceed 48" in length.</p>
Gas Powered	<p>OPDMDs shall not exceed zero emissions during use. The use of gas or other fuel-powered mobility devices is prohibited.</p>	<p>In order to ensure zero emissions, only manually or battery/electricity operated devices are permitted. The use of gas powered mobility devices is prohibited.</p>	<p>In order to ensure zero emissions, only manually or battery powered OPDMDs are permitted.</p>	<p>OPDMDs shall not exceed zero emissions during use.</p> <p>OPDMDs shall not produce noise levels in excess of 70 decibels.</p>	<p>OPDMDs shall not exceed zero emissions during use.</p> <p>Only manually or battery/electricity operated devices are permitted. The use of gas powered mobility devices is prohibited.</p>
Speed Limit: Paved and Unpaved Trails	<p>No person shall operate an OPDMD at a speed in excess of 5 miles per hour or at a speed greater than is safe under existing trail conditions except for electric powered bicycles which must comply with all the regulations for bicycles, including the 5mph maximum on blind turns and when passing and the maximum speed limit of 15 mph.</p>	<p>No person shall operate an OPDMD at a speed in excess of 10 miles per hour. Electric bicycles shall not be operated in excess of the posted speed limit or 15 miles per hour. Notwithstanding the above speed limits, no person shall operate an OPDMD at a speed greater than is reasonable or prudent having due regard for trail sight-lines, the traffic on, and the surface and width of a trail, nor at a speed which endangers the safety of persons or property.</p>	<p>No person shall operate an OPDMD at a speed in excess of 10 miles per hour. Notwithstanding this speed limit, no person shall operate an OPDMD at a speed greater than is reasonable and prudent having due regard for other users, trail sight-lines, and the surface of the trail.</p>	<p>OPDMDs shall not be operated at speeds in excess of 5 miles per hour. Devices capable of exceeding speeds of 5 mph will not be prohibited from use but individuals observed exceeding the speed limit will be subject to citation and penalties.</p>	<p>No person shall operate an OPDMD at a speed in excess of 10 miles per hour. Electric bicycles shall not be operated in excess of the posted speed limit or 15 miles per hour. Notwithstanding the above speed limits, no person shall operate an OPDMD at a speed greater than is reasonable or prudent having due regard for trail sight-lines, the traffic on, and the surface and width of a trail, nor at a speed which endangers the safety of persons or property.</p>

Comparison of Other Power-Driven Mobility Devices Policies for Local Agencies with Comparable Lands

Assessment Factors	Proposed District Policy	Santa Clara County Parks	Santa Clara County Open Space Authority	California State Parks	East Bay Regional Parks
Closed Trails	<p>OPDMDs are not permitted on narrow unpaved trails except for electric powered bicycles which may go where bicycles are allowed.</p> <p>OPDMDs are not permitted on trails where the width of the OPDMD exceeds half the trail width.</p>	<p>OPDMDs are not permitted on narrow single track trails (except for electric bicycles which are permitted under this policy anywhere bicycles are allowed).</p> <p>OPDMDs are not permitted on trails where the width of the OPDMD exceeds half the trail width.</p>	<p>OPDMDs are not permitted on single-track trails within the Authority's preserves, except for electric bicycles as specified above. Electric bicycles are prohibited on single-track trails where other bicycles are excluded due to safety concerns and for the protection of natural resources.</p>	<p>OPDMDs are not permitted in areas other than those listed is prohibited. Areas of authorized use are listed as designated Class I accessible or multiple use trails, access roads open to multiple recreation use, accessible pathways in campgrounds and picnic areas, and exterior routes of travel designed for pedestrian use within developed public use areas.</p>	<p>OPDMDs are not permitted on narrow track trails (except for electric bicycles which are permitted under this policy anywhere bicycles are allowed).</p> <p>OPDMDs are not permitted on trails where the width of the OPDMD exceeds half the trail width.</p>
Closed and Restricted Areas	<p>OPDMDs are not permitted in areas that are closed or restricted to the general public due to safety concerns or for resource protection.</p>	<p>OPDMDs are not permitted in areas that are closed or restricted to the general public due to safety concerns or for resource protection.</p>	<p>OPDMDs are not permitted in areas that are closed to the general public.</p>	<p>List of areas where they are allowed which does not include areas generally closed to the public.</p>	<p>OPDMDs are not permitted in areas that are closed or restricted to the general public due to safety concerns or for resource protect</p>
Electric bicycles	<p>Electric powered bicycle OPDMDs are restricted to the areas where self propelled bicycles are allowed.</p>	<p>Electric bicycles which are permitted under this policy anywhere bicycles are allowed.</p>	<p>Electric bicycles used by persons with mobility disabilities are permitted on single track multi-use trails that are open to other bicycles.</p>	<p>Not specifically addressed but almost all adult bicycles exceed 48" in length.</p>	<p>Electric bicycles which are permitted under this policy anywhere bicycles are allowed.</p>



Wheelchairs, Mobility Aids, and Other Power-Driven Mobility Devices

Overview

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

People with mobility, circulatory, respiratory, or neurological disabilities use many kinds of devices for mobility. Some use walkers, canes, crutches, or braces. Some use manual or power wheelchairs or electric scooters. In addition, advances in technology have given rise to new devices, such as Segways®, that some people with disabilities use as mobility devices, including many veterans injured while serving in the military. And more advanced devices will inevitably be invented, providing more mobility options for people with disabilities.

This publication is designed to help title II entities (State and local governments) and title III entities (businesses and non-profit organizations that serve the public) (together, “covered entities”) understand how the new rules for mobility devices apply to them. These rules went into effect on March 15, 2011.

- Covered entities must allow people with disabilities who use manual or power wheelchairs or scooters, and manually-powered mobility aids such as walkers, crutches, and canes, into all areas where members of the public are allowed to go.
- Covered entities must also allow people with disabilities who use other types of power-driven mobility devices into their facilities, unless a particular type of device cannot be accommodated because of legitimate safety requirements. Where legitimate safety requirements bar accommodation for a particular type of device, the covered entity must provide the service it offers in alternate ways if possible.

Other Power Driven Mobility Devices

- The rules set out five specific factors to consider in deciding whether or not a particular type of device can be accommodated.

ity, different rules apply under the ADA than when it is being used by a person without a disability.

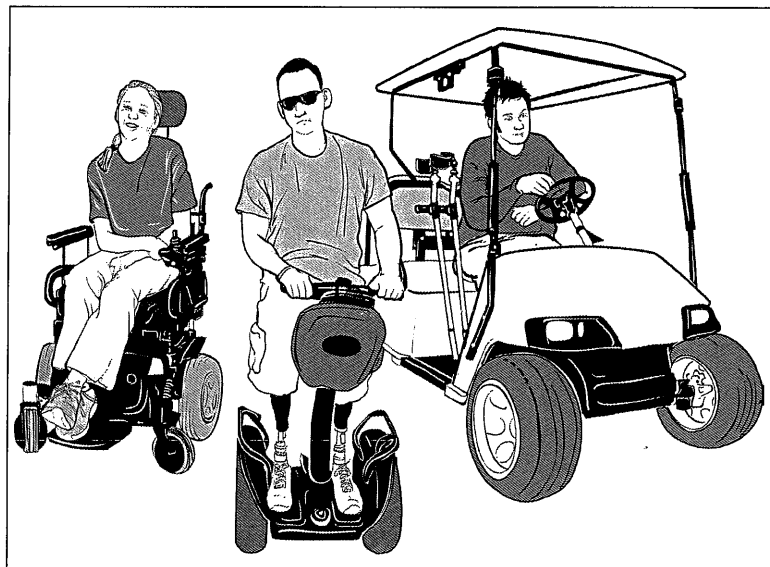
Wheelchairs

Most people are familiar with the manual and power wheelchairs and electric scooters used by people with mobility disabilities. The term "wheelchair" is defined in the new rules as "a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or of both indoor and outdoor locomotion."

Other Power-Driven Mobility Devices

In recent years, some people with mobility disabilities have begun using less traditional mobility devices such as golf cars or Segways®. These devices are called "other power-driven mobility device" (OPDMD) in the rule. OPDMD is defined in the new rules as "any mobility device powered by batteries, fuel, or other engines . . . that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices . . . such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair." When an OPDMD is being used by a person with a mobility disability,

People with disabilities have the right to choose whatever mobility device best suits their needs. For example, someone may choose to use a manual wheelchair rather than a power wheelchair because it enables her to maintain her upper body strength. Similarly, someone who is able to stand may choose to use a Segway® rather than a manual wheelchair because of the health benefits gained by standing. A facility may be required to allow a type of device that is generally prohibited when being used by someone without a disability when it is being used by a person who needs it because of a mobility disability. For example, if golf cars are generally prohibited in a park, the park may be required to allow a golf car when it is being used because of a person's mobility disability, unless there is a legitimate safety reason that it cannot be accommodated.



Other Power Driven Mobility Devices

Requirements Regarding Mobility Devices and Aids

Under the new rules, covered entities must allow people with disabilities who use wheelchairs (including manual wheelchairs, power wheelchairs, and electric scooters) and manually-powered mobility aids such as walkers, crutches, canes, braces, and other similar devices into all areas of a facility where members of the public are allowed to go.

In addition, covered entities must allow people with disabilities who use any OPDMD to enter the premises unless a particular type of device cannot be accommodated because of legitimate safety requirements. Such safety requirements must be based on actual risks, not on speculation or stereotypes about a particular type of device or how it might be operated by people with disabilities using them.

- For some facilities -- such as a hospital, a shopping mall, a large home improvement store with wide aisles, a public park, or an outdoor amusement park -- covered entities will likely determine that certain classes of OPDMDs being used by people with disabilities can be accommodated. These entities must allow people with disabilities using these types of OPDMDs into all areas where members of the public are allowed to go.
- In some cases, even in facilities such as those described above, an OPDMD can be

accommodated in some areas of a facility, but not in others because of legitimate safety concerns. For example, a cruise ship may decide that people with disabilities using Segways® can generally be accommodated, except in constricted areas, such as passageways to cabins that are very narrow and have low ceilings.

- For other facilities -- such as a small convenience store, or a small town manager's office -- covered entities may determine that certain classes of OPDMDs cannot be accommodated. In that case, they are still required to serve a person with a disability using one of these devices in an alternate manner if possible, such as providing curbside service or meeting the person at an alternate location.

Covered entities are encouraged to develop written policies specifying which kinds of OPDMDs will be permitted and where and when they will be permitted, based on the following assessment factors.



Other Power Driven Mobility Devices

Assessment Factors

In deciding whether a particular type of OPDMD can be accommodated in a particular facility, the following factors must be considered:

- the type, size, weight, dimensions, and speed of the device;
- the facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- the facility's design and operational characteristics (e.g., whether its business is conducted indoors or outdoors, its square footage, the density and placement of furniture and other stationary devices, and the availability of storage for the OPDMD if needed and requested by the user);

- whether legitimate safety requirements (such as limiting speed to the pace of pedestrian traffic or prohibiting use on escalators) can be established to permit the safe operation of the OPDMD in the specific facility; and
- whether the use of the OPDMD creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations.

It is important to understand that these assessment factors relate to an entire class of device type, **not** to how a person with a disability might operate the device. (See next topic for operational issues.) All types of devices powered by fuel or combustion engines, for example, may be excluded from indoor settings for health or environmental reasons, but may be deemed acceptable in some outdoor settings. Also, for safety reasons, larger electric devices such as golf cars may be excluded from narrow or crowded settings where there is no valid reason to exclude smaller electric devices like Segways®.

Based on these assessment factors, the Department of Justice expects that devices such as Segways® can be accommodated in most circumstances. The Department also expects that, in most circumstances, people with disabilities using ATVs and other combustion engine-driven devices may be prohibited indoors and in outdoor areas with heavy pedestrian traffic.



Other Power Driven Mobility Devices

Policies on the Use of OPDMDs

In deciding whether a type of OPDMD can be accommodated, covered entities must consider all assessment factors and, where appropriate, should develop and publicize rules for people with disabilities using these devices.

Such rules may include –

- requiring the user to operate the device at the speed of pedestrian traffic;
- identifying specific locations, terms, or circumstances (if any) where the devices cannot be accommodated;
- setting out instructions for going through security screening machines if the device contains technology that could be harmed by the machine; and
- specifying whether or not storage is available for the device when it is not being used.

verbally that the OPDMD is being used because of a mobility disability, that also must be accepted as credible assurance, unless the person is observed doing something that contradicts the assurance. For example, if a person is observed running and jumping, that may be evidence that contradicts the person's assertion of a mobility disability. However, it is very important for covered entities and their staff to understand that the fact that a person with a disability is able to walk for a short distance does not necessarily contradict a verbal assurance -- many people with mobility disabilities can walk, but need their mobility device for longer distances or uneven terrain. This is particularly true for people who lack stamina, have poor balance, or use mobility devices because of respiratory, cardiac, or neurological disabilities. A covered entity cannot ask people about their disabilities.

Credible Assurance

An entity that determines it can accommodate one or more types of OPDMDs in its facility is allowed to ask the person using the device to provide credible assurance that the device is used because of a disability. If the person presents a valid, State-issued disability parking placard or card or a State-issued proof of disability, that must be accepted as credible assurance on its face. If the person does not have this documentation, but states



Other Power Driven Mobility Devices

Staff Training

Ongoing staff training is essential to ensure that people with disabilities who use OPDMDs for mobility are not turned away or treated inappropriately. Training should include instruction on the types of OPDMDs that can be accommodated, the rules for obtaining credible assurance that the device is being used because of a disability, and the rules for operation of the devices within the facility.

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January 2014