



Midpeninsula Regional
Open Space District

PLANNING & NATURAL RESOURCES COMMITTEE

R-15-63
April 14, 2015

AGENDA ITEM 2

AGENDA ITEM

Draft “Other Power-Driven Mobility Device Policy”

GENERAL MANAGER’S RECOMMENDATION

Recommend the Approval of the Draft “Other Power-Driven Mobility Device Policy” to the Full Board.

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.

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 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 and generally only allow zero emission devices, and have size and weight restrictions for safety. All 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.

FISCAL IMPACT

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

PUBLIC NOTICE

Public notice was provided as required by the Brown Act. Notifications were also sent to parties interested in access for disabled persons.

CEQA COMPLIANCE

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

NEXT STEPS

If the committee approves the General Manager's recommendation, the draft Other Power Driven Mobility Device will be brought to the Board of Directors for consideration.

Attachment(s)

1. Draft Other Power Driven Mobility Device Policy
2. Assessment Factors
3. Comparison of OPDMD Policies
4. [U.S. Dept. of Justice ADA Fact sheet Wheelchairs, Mobility Aids, and Other Power-Driven Mobility Devices](#)

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MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

OTHER POWER-DRIVEN MOBILITY DEVICES POLICY

Adopted by the Board of Directors XXXX

I. 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.

II. 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.

III. 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.

IV. 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 (generally trails that are greater than 10 feet wide.)
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.

V. 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 (e.g., unpaved trails that are generally less than 10 feet wide) 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.

VI. 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.

VII. 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.

VII. 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.

VIII. GOVERNING AUTHORITY

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

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 (e.g., unpaved trails that are generally less than 10 feet wide) 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 (e.g., unpaved trails that are generally less than 10 feet wide) 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>