

	Commission Policy	Date Adopted: 05-02-2012	Dated Revised: 09-04-2013	Policy # C12-001 Page 1 of 7
		Other Power-Driven Mobility Device Policy – to Comply with Americans with Disabilities Act (ADA)		

I. INTRODUCTION.

On September 15, 2010 the United States Department of Justice amended the regulations governing nondiscrimination on the basis of disability in state and local government services, effective March 15, 2011. 28 CFR § 35.137. This regulation requires public entities to permit use of wheelchairs and other manually-powered mobility aids by individuals with mobility disabilities and to make reasonable modifications to its policies to permit use of other power-driven mobility devices (OPDMD) by individuals with mobility disabilities in areas open to pedestrian use.

II. PURPOSE.

The purpose of this policy is to address the use of OPDMDs by individuals with mobility disabilities on trails or pathways located on the following: (1) properties owned and operated by OCPRC and (2) properties managed by OCPRC under a lease, easement or use agreement.

Based on the criteria set forth in the regulation, OCPRC staff completed a comprehensive assessment and review of each trail and pathway on OCPRC property to determine which types of OPDMDs are appropriate for use on each route. Information provided herein describes the types of OPDMDs that are authorized for use on OCPRC trails and pathways.

III. PROCEDURE.

A. Definitions.

1. Wheelchair means “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.” 28 CFR § 35.104.
2. Electric Personal Assistive Mobility Device (EPAMD) means a self-balancing non-tandem, two-wheeled device, designed to transport only one person at a time, having an electrical propulsion system with average power of 750 watts or one horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour (Michigan Vehicle Code Act #300 of the Public Acts of 1949, 257.13c). A common example of an EPAMD is a Segway scooter, or an Electrical Assisted Bicycle (EAB).

	Commission Policy	Date Adopted: 05-02-2012	Dated Revised: 09-04-2013	Policy # C12-001 Page 2 of 7
		Other Power-Driven Mobility Device Policy – to Comply with Americans with Disabilities Act (ADA)		

3. Other Power-Driven Mobility Device (OPDMD) means any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily 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 Personal Transporter or an electrical assisted bicycle, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair, as defined herein (28 CFR § 35.104).
 4. Valid Disability Placard or Card means a card presented by the person to whom it was issued and is in compliance with the state of issuance’s requirements for disability placards or cards (28 CFR § 35.137).
- B. Assessment Factors. The following assessment factors were considered in determining whether a particular OPDMD would be allowed in a specific area as a reasonable accommodation:
1. The type, size, weight, dimensions, and speed of the OPDMD;
 2. The area’s volume of pedestrian traffic;
 3. The area’s design and operational characteristics;
 4. Whether legitimate safety requirements can be established to permit the safe operation of the OPDMD in the specific area; and
 5. Whether the use of the OPDMD creates a substantial risk of serious harm to the immediate environment, natural or cultural resources, or creates a conflict with Federal land management laws and regulations.
- C. Eligibility for Operation of OPDMD.
1. The operator or passenger of an OPDMD must be an individual with a mobility disability and, upon request of an OCPRC employee or volunteer, must provide credible assurance that the OPDMD is required because of the individual’s mobility disability. Credible assurance may be provided by either of the following:
 - a) A valid, state-issued, disability parking placard or card or other state-issued proof of disability; or
 - b) A verbal representation, not contradicted by observable fact, that the OPDMD is being used for a mobility disability.
 2. OCPRC employees or volunteers shall not ask an individual using an OPDMD about the nature and extent of the individual’s disability.

	Commission Policy	Date Adopted: 05-02-2012	Dated Revised: 09-04-2013	Policy # C12-001 Page 3 of 7
		Other Power-Driven Mobility Device Policy – to Comply with Americans with Disabilities Act (ADA)		

D. OPDMD Rules.

1. Prohibited Devices. The following devices are prohibited on OCPRC trails and pathways:¹
 - a) Gas or combustible fuel-powered devices because: (1) exhaust and noise emissions from the devices will disturb or damage OCPRC natural or cultural resources or the out-of-doors experience for other park patrons; (2) use of these devices on park trails by a park patron would cause a legitimate safety concern for other trail users; and (3) the trail surface damage that would occur from the tires and high-power capabilities of these devices. These devices may be used by OCPRC employees or volunteers only when necessary for operational and maintenance purposes, so as to minimize any unnecessary negative effect on the trail environment and aesthetic or safety impact to trail users.
 - b) Electric-powered devices, such as electric motorcycles and mopeds (except for EPAMDs and EABs), because of: (1) the typical high speeds at which these devices are driven; (2) the likely damage that will result to OCPRC trail and pathway surfaces from their tires; and (3) some devices may only be permitted on roads or private property by State law.
 - c) OPDMDs more than 48 inches wide because: (1) the width of many OCPRC trails and pathways are about 8 feet wide; and (2) OPDMDs wider than 48 inches are potentially dangerous to users coming from the opposite direction or from someone trying to pass the OPDMD from behind.
2. Speed of OPDMDs. For the safety of all individuals using OCPRC trails and pathways, OPDMDs must be operated at the following speeds:
 - a) 5 mph (maximum) when other users are present; and
 - b) 10 mph (maximum) when other users are not present.
3. An OPDMD must remain on OCPRC trails and pathways permitted for OPDMD use at all times because leaving such trails or pathways could pose serious danger to the OPDMD operator or other persons on OCPRC property.
4. An OPDMD must be capable of being turned around within the trail or pathway tread in a safe manner.

¹ With the exceptions noted in Section E.4.of this policy.

	Commission Policy	Date Adopted: 05-02-2012	Dated Revised: 09-04-2013	Policy # C12-001 Page 4 of 7
		Other Power-Driven Mobility Device Policy – to Comply with Americans with Disabilities Act (ADA)		

5. Operators of permitted OPDMDs must yield the right-of-way to persons on foot, horseback, or non-motorized devices (e.g., bicycles) and announce their presence before passing another trail or pathway user.
 6. An OPDMD must have the capacity to safely navigate trail and pathway features and obstructions such as steps and other vertical displacements, ponded water, loose gravel, and rocks.
 7. The OPDMD shall not be operated in a manner that would poses danger to the OPDMD operator(s), OCPRC employees or volunteers, the public, or that may cause damage to OCPRC property.
 8. OCPRC reserves the right to restrict OPDMD use during special events or during times of heavy traffic on OCPRC trails or pathways, if such limitation is required, in the opinion of OCPRC, to protect the public health, safety and welfare of park patrons.
- E. Trail and Pathway Rules. Based on the OCPRC review and assessment, trail and pathways can be categorized into five different types, with specific limitations and justifications as listed below:
1. Multi-Use Trails or Pathways – Paved or Unpaved. This type of trail or pathway may be open to, but not limited to, users such as hikers, bicyclists, skaters, cross-country skiers and/or equestrians.
 - a) Individuals with a mobility disability may use an OPDMD (as permitted by OCPRC’s OPDMD rules), wheelchairs and other manually-powered mobility aids.
 - b) Assessment Factors. Characteristics of some types of OPDMDs could affect other trail or pathway users, based on the volume of traffic and operational characteristics of the trail or pathway. These trails or pathways are typically high capacity, two-way traffic areas, where width and speed restrictions must allow for safe passing of OPDMDs, bicycles, equestrians and pedestrians.
 2. Singletrack Mountain Bike Trail. This type of trail is typically three-to-four feet wide and is one-way directional. Mountain bikers are the primary user group for this trail and they often travel at high speeds (relative to other types of trail users).

	Commission Policy	Date Adopted: 05-02-2012	Dated Revised: 09-04-2013	Policy # C12-001 Page 5 of 7
		Other Power-Driven Mobility Device Policy – to Comply with Americans with Disabilities Act (ADA)		

- a) Due to the existing design and user limitations, the only type of OPDMD allowed on this trail is an electrical assisted bicycle (EAB).
 - b) **Assessment Factors.** Characteristics of most OPDMDs create a substantial risk of serious harm to this type of trail, the surrounding environment and/or natural resources. These are narrow trails where two-way traffic would harm natural resources when allowing the passage of an OPDMD, other than a narrow-width electric bicycle. Use of other OPDMDs would conflict with the intended use and purpose of the trail for high-speed mountain bike traffic.
3. Trails *only* open to equestrian use, hikers and cross-country skiers (trails not groomed).
 - a) Persons with a mobility disability may use an OPDMD (as permitted by OCPRC's OPDMD rules, *with the exception of an electrical assisted bicycle*), wheelchairs and manually-powered mobility aids on this type of trail or pathway.
 - b) **Assessment Factors.** Regular (non-motorized) bicycles are excluded from this type of trail so that equestrians can have a recreational trail experience with only having to be aware of pedestrians as other users of the trail. Therefore, electrical assisted bicycles are not permitted.
4. Paved Golf Cart Pathways at OCPRC Golf Courses.
 - a) Persons with a mobility disability may use an OPDMD (as permitted by OCPRC's OPDMD rules), wheelchairs, or other manually-powered mobility aids on golf cart pathways if the device is to be used for the purpose of golf recreation.
 - b) **Assessment Factors.** Golf course paths are located in recreational settings that are not appropriate for other trail devices, such as bicycles, horses, or OPDMDs other than those suited/used for golfing use.
5. Seasonally Restricted Use Trails.
 - a) OPDMDs may not be used on these trails due to other predominant trail uses or for the protection of the trail and surrounding environment.
 - b) **Assessment Factors.** In the winter months when snow conditions permit, some park trails are groomed and used only for cross-country skiing, precluding

	Commission Policy	Date Adopted: 05-02-2012	Dated Revised: 09-04-2013	Policy # C12-001 Page 6 of 7
		Other Power-Driven Mobility Device Policy – to Comply with Americans with Disabilities Act (ADA)		

all other uses for that seasonal time, such as hiking, snowshoeing or dog-walking. In other cases, intermittent closures may be required for trails that seasonally flood or are susceptible to damage due to poor soil conditions.

IV. RESPONSIBILITY.

- A. The OPDMD operator or passenger is responsible for ensuring the OPDMD works properly, per manufacturer's instructions.
- B. OCPRC shall not provide battery charging or emergency retrieval of the OPDMD.
- C. OCPRC shall not transport the OPDMD to and/or from OCPRC property.
- D. OCPRC shall not store any privately-owned OPDMD.
- E. The OPDMD operator assumes all risks of operating the OPDMD on OCPRC property and shall operate the OPDMD in a safe manner at all times.
- F. OCPRC recommends that an OPDMD user contact OCPRC at 248-858-0906 to confirm that an OPDMD is permitted on a particular trail or pathway.
- G. OCPRC does not represent that OCPRC Properties are safe for use by an OPDMD and does not assume any liability for operation of the OPDMD. Certain risks are inherent in the use of OPDMDs on OCPRC Properties.

V. UPDATES TO THIS POLICY. OCPRC may modify this policy from time to time as it deems necessary or as required by law. It is the user's responsibility to ensure that they are in conformance with this policy.

- A. Change to this policy, shall be posted on the OCPRC website, DestinationOakland.com , in advance of their adoption.
- B. A hard copy of the most current OPDMD policy will be available for public review upon request at the OCPRC Administrative Office and on the OCPRC website.

	Commission Policy	Date Adopted: 05-02-2012	Dated Revised: 09-04-2013	Policy # C12-001 Page 7 of 7
		Other Power-Driven Mobility Device Policy – to Comply with Americans with Disabilities Act (ADA)		

Change Control Record

Revision Date	Owner	Description of Change
05-02-12		New Policy Adopted
05-06-13	S. Loria	‘III D. 1. a.) removed “fuel leaks and/or sparks may result in pollution or fires on the largely forested and/or grassy OCPR trails or pathways”
		‘III D. 1. a.) added “(2) use of these devices on park trails by a park patron would cause a legitimate safety concern for other trail users; and (3) the trail surface damage that would occur from the tires and high-power capabilities of these devices.”
		‘III D. 1. a.) added “so as to minimize any unnecessary negative effect on the trail environment and aesthetic or safety impact to trail users.”
		‘III D. 1. c.) changed the width of OPDMD’s permitted from 36 to 48 inches
		‘III E. 1 clarified possible user types on a multi-use trail
		‘III E. 2 clarified that mountain bikers are the primary trail user for singletrack mountain bike trails
		‘III E. 4. a.) deleted “on only these types of trails or pathways individuals may operate OPDMDs wider than 36 inches”. Clarified that an OPDMD may be used on golf cart pathways if the device is to be used for the purpose of golf recreation.
		‘IV. F deleted “due to varying conditions on OCPR property and to ensure safety and natural resource protection...”.