

CITY OF PALM DESERT ADMINISTRATIVE PROCEDURES	
Subject:	Other Power-Driven Mobility Devices
Policy #:	ADA-001
Council Approval:	August 22, 2024

1. 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. According to 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. It also mandates reasonable modifications to policies to allow the use of other power-driven mobility devices (OPDMDs) by individuals with mobility disabilities in areas open to pedestrian use.

In accordance with the Americans with Disabilities Amendments Act and subsequent regulations, it is the policy of City of Palm Desert that mobility devices used by individuals with disabilities are generally permitted in all facilities and programs.

The City of Palm Desert will make reasonable modifications to allow individuals with mobility disabilities to use OPDMDs at City events and in City facilities, provided that the operation of these devices does not pose significant safety risks. This includes adhering to safe speed limits and being cautious around pedestrians. Additionally, the use of these devices must not fundamentally alter the nature of the services, programs, and activities provided by the City.

2. DEFINITIONS

- a) **Wheelchair** refers to 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 both indoor and outdoor locomotion as defined in 28 CFR § 35.104.
- b) **Manually Powered Mobility Aids** refers to walkers, crutches, canes, braces, or similar device designed for use by individuals with mobility impairments.
- c) **Other Power-Driven Mobility Device (OPDMD)** refers to any mobility device powered by batteries, fuel, or other engines, whether or not designed primarily for use by individuals with mobility disabilities. These devices are used by individuals with mobility disabilities for locomotion and include golf cars, electronic personal assistance mobility devices (EPAMDs) such as the Segway Personal Transporter or an electric-assisted bicycle, or any mobility device designed to operate in areas without defined pedestrian routes. This definition excludes wheelchair as defined in 28 CFR § 35.104.
- d) **Credible Assurance** means a valid state-issued disability parking placard or card, or state-issued proof of disability, presented by the person to whom it was issued and compliant with the state's requirements for disability placards or cards, as defined in 28 CFR § 35.137. Additionally, a verbal statement indicating that the device is being used due to a mobility disability, provided it does not contradict observable facts, also constitutes credible assurance.

3. PURPOSE

The purpose of this guideline is to address the use of OPDMDs by individuals with mobility disabilities on pathways or trails (paved or unpaved) located in the following areas:

- a. Properties/facilities owned and/or operated by City of Palm Desert (City).
- b. Properties and facilities managed by the City under a lease, easement, or use agreement.
- c. City events.

4. ELIGIBILITY

Manually Powered Mobility Aids refers to walkers, crutches, canes, braces, or similar device designed for use by individuals with mobility impairments. The operator or passenger of an OPDMD must be an individual with a mobility disability. Upon request from a staff member, usher, or employee, the individual must provide credible assurance that the OPDMD is required due to the individual's mobility disability. City staff, ushers, or employees will not inquire about the nature or extent of an individual's 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.

5. ASSESSMENT FACTORS

Any OPDMD operated on City-owned and operated properties or facilities, as well as properties managed under a lease, easement, or use agreement, or at City events, must meet the following assessment factors. These factors are used to determine whether a particular OPDMD is allowed be allowed in a specific area as a reasonable accommodation:

- a. The type, size, weight, dimensions, and speed of the OPDMD;
- b. The area's volume of pedestrian traffic;
- c. The area's design and operational characteristics;
- d. Whether legitimate safety requirements can be established to permit the safe operation of the OPDMD in the specific area; and
- e. Whether the use of the OPDMD creates a substantial risk of serious harm to the immediate environment, natural or cultural resources, or the safety of occupants and visitors.

6. REQUIREMENTS

- a. To ensure the safety of all individuals using City pathways, trails (paved or unpaved), properties, and facilities, OPDMDs must not exceed a typical walking speed of three (3) mph when operated in these areas or at outdoor events.
- b. The OPDMD shall not be operated in an unsafe manner or cause damage to City property. The OPDMD operator assumes all risks associated with operating the OPDMD on City property. City does not represent that City-owned 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 City-owned properties.
- c. An OPDMD must be capable of being turned around safely within the trail or pathway tread.
- d. OPDMD operators are prohibited from the using any substance that could impair their judgment or mobility, including but not limited to alcohol, prescription medications, or illegal narcotics.
- e. The OPDMD operator or passenger is responsible for ensuring the OPDMD functions properly according to the manufacturer's instructions. The operator is also responsible for adhering to the manufacturer's operating and protective equipment requirements.
- f. Operators of permitted OPDMDs must yield the right-of-way to persons on foot, horseback, or using non-motorized devices (e.g., bicycles) and must announce their presence before passing another trail or pathway user.

- g. An OPDMD must be capable of safely navigating trail and pathway features and obstructions such as steps, vertical displacements, ponded water, loose gravel, and rocks. The characteristics of certain types of OPDMDs may impact other pathway or trail users, depending on the volume of traffic and the operational characteristics of the pathway or trail. These pathways or trails typically accommodate high-capacity, two-way traffic, where width and speed restrictions must allow for the safe passing of OPDMDs, bicycles, equestrians, and pedestrians.
- h. City Golf Courses: Persons with mobility disabilities must use an accessible cart, wheelchairs, or other manually powered mobility aids if the device is to be used for the purpose of golf recreation. Golf course paths are located in recreational settings that are not appropriate for other trail devices, such as bicycles, horses, or OPDMDs not suited for golfing use

7. LIMITATIONS

- a. Wheelchairs and any OPDMDs are not permitted on escalators in City facilities.
- b. The City shall not provide battery charging or emergency retrieval services for OPDMDs.
- c. The City shall not transport OPDMDs to or from City property.
- d. The City shall not store any privately-owned OPDMDs.
- e. The City reserves the right to restrict OPDMD use during special events or during times of heavy traffic on City pathways or trails if such limitations are deemed necessary, in the opinion of the City, to protect the public health, safety, and welfare of patrons.
- f. The weight of an OPDMD may not be supported on certain pedestrian routes or undeveloped areas due to natural features. This could pose a serious danger to the OPDMD operator or other persons on City property or facilities.

8. PROHIBITED DEVICES

The following devices are prohibited on City pathways, trails (paved or unpaved), and in properties and facilities:

- a. **Gas or combustible fuel-powered devices** are prohibited because: (1) fuel leaks and/or sparks may result in pollution or fires on the largely forested and/or grassy City pathways, trails, and properties/facilities; and (2) exhaust and noise emissions from the devices can disturb or damage natural or cultural resources of the City's pathways, trails, and properties/facilities, as well as disrupt the outdoor experience for other park patrons, building occupants, and visitors. These devices may only be used by City staff, ushers, or employees when necessary for operational and maintenance purposes.
- b. **Other types of electric-powered devices**, such as electric motorcycles and mopeds (except for EPAMDs and EABs), are prohibited due to the following reasons: (1) the typical high speeds at which these devices are operated; (2) the potential damage to City pathways, trails and properties surfaces caused by their tires, such as those with tractor-like, steel threads, or off-road designs; (3) some devices may only be permitted on roads or private property according to State law; and (4) OPDMDs with two or fewer wheels are prone to tipping.
- c. **OPDMDs exceeding 36 inches** in width are prohibited because: (1) many City pathways and trails are less than 8 feet wide; and (2) OPDMDs wider than 36 inches can pose a potential danger to users approaching from the opposite direction or to those attempting to pass the OPDMD from behind.

9. GUIDELINES AND RECOMMENDATIONS

- a. Due to varying conditions on City property and to ensure safety and the protection of natural resource, the City recommends that OPDMDs users contact the City at: 760-776-6450 (TTY: California Relay Service 7-1-1) to confirm whether an OPDMD is permitted on a particular trail or pathway.
- b. The City may modify these guidelines from time to time as it may deem necessary or as required by law. It is the user's responsibility to ensure that they are in conformance with these guidelines.
- c. Requests for Modifications to OPDMD Policy. The City will consider requests for reasonable accommodation from individuals with disabilities who wish to use OPDMDs that do not meet the criteria listed above and/or in an area not previously authorized for use.
- d. A copy of the most current OPDMD Guidelines will be available for public review upon request via the ADA/504 Coordinator.