


CITY OF SAN JOSE
PARKS, RECREATION AND NEIGHBORHOOD SERVICES

SUBJECT: **URBAN TRAIL NETWORK - OTHER POWER-DRIVEN MOBILITY DEVICES
(OPDMD) POLICY**

APPROVED: 

EFFECTIVE DATE: 01/08/16
REVISED DATE: n/a

This policy establishes a set of rules for use of Other Power-Driven Mobility Devices (OPDMD) and is consistent with the ADA to permit persons requiring a mobility device to access San Jose's urban Trail Network.

The policy supports the City's compliance with the United States Department of Justice (DOJ) revised rules to the Americans with Disabilities Act (ADA) effective March 15, 2011. These rules allow a mobility device defined by DOJ rules as a wheelchair, to be permitted in any areas open to pedestrian use. The policy sets conditions for use of power-driven devices to ensure access and public safety for all users.

Per the San José Municipal Code, the Director of Parks, Recreation and Neighborhood Services should seek the input of the Parks and Recreation Commission prior to approval and implementation of new policy. On November 4, 2015, PRNS staff brought the draft policy to the commission for consultation. The commission supported the policy.

POLICY

AUTHORIZATION

The Director of Parks, Recreation & Neighborhood Services (the "Director") is authorized to promulgate rules and regulations regarding the public's use of city parks pursuant to San José Municipal Code Section 13.44.030.A. The term "parks" is understood to mean trails found within the City's defined urban trail network.

BACKGROUND

1. The DOJ recognized "Other Power-Driven Mobility Devices" (OPDMD) to be used by "individuals with mobility disabilities." The DOJ requires land owners and land managers to make reasonable modifications to public access policies and establish procedures to allow the use of OPDMD devices by individuals with mobility disabilities.
2. The City of San Jose Department of Parks, Recreation, and Neighborhood Services (PRNS) is committed to enabling the use and enjoyment of the City's urban Trail Network. The changes to ADA law offer those who require mobility devices greater access to trails. PRNS Trail Program staff has completed an assessment of the San Jose Trail Network and has determined which OPDMD devices are authorized for use.
3. PRNS develops, maintains and operates trails upon City-owned land as well as properties made available through leases, easement and joint use agreements. The trails that traverse these various properties are intended to be operated in a consistent manner per this policy.

4. San Jose's Multi-use trails (Class I Trails) are developed with either paved and/or gravel surfaces. Paved trails are understood to include the paved surface and compacted gravel shoulders when they exist. All trails within the City of San Jose urban Trail Network¹ fit within this classification.
5. Wheelchairs and manually-powered mobility aids are allowed by right in all areas where foot traffic is allowed.
6. Trails in the City's Trail Network are two-way traffic areas shared by trail users moving at differing speeds and travelling by foot, bike, skates, equestrian and other means.

POLICY (for OPDMD)

1. Persons with a mobility disability may use Class I or Class II² Electric Assist Bicycle (EAB) or Electric Personal Assistance Mobility Device (EPAMD) that has maximum power-driven speed equal or less than 20 mph, is no wider than 36 inches, and has a stopping mechanism that enable the operator to slow and stop in a prudent and manner per California Vehicle Code. The specified width restriction is intended to allow for safer trail sharing and passing by OPDMD devices, bicycles and pedestrians.
2. No other OPDMD may be used, including but not limited to any electric, gas or combustible fuel-powered device or motorcycle.
3. The person using the OPDMD shall carry at all times documentation or provide credible assurances as authorized by the ADA to warrant the use of such vehicle.
4. Users of OPDMDs shall comply with the Trail Network's 15 MPH speed limit and all other posted trail rules, City ordinances, and State and Federal laws.

DEFINITIONS

Wheelchair: A wheelchair is 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.

Electrical Assisted Bicycle (EAB): An EAB device is a vehicle with two wheels, operable pedals, an electric motor not exceeding 750 watts, with a top speed of 20 miles per hour.

Electric Personal Assistive Mobility Device (EPAMD): An EPAMD device is a self-balancing vehicle that is powered solely by an electric motor not exceeding 750 watts, designed to transport one person. A common example of an EPAMD is a Segway scooter.

¹ Trails are listed on the Trail Program web site and exclude Alum Rock Park hiking trails and other natural trails through rural open space.

² Classification of E-Bikes per California A.B. 1096

Motorcycle: A motorcycle is a motor vehicle that uses handlebars to steer and that is designed to travel on not more than two wheels in contact with the ground.

Other Power Driven Mobility Device (OPDMD): An OPDMD device is 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. This includes, but is not limited to, electric assisted bikes (EABs), motorcycles, golf carts, electronic personal assistance mobility devices (EPAMDs), such as the Segway PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this section.

Class I Electric Assist Bicycle: or “low-speed pedal-assisted electric bicycle,” is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

Class II Electric Assist Bicycle: or “low-speed throttle-assisted electric bicycle,” is a bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

JUSTIFICATION

REGULATORY FRAMEWORK: ADA Rules § 35.137, Mobility Devices

§ 35.137 Mobility Devices Assessment Factors (iii, iv, and v)

- **The exclusion of fuel-powered mobility devices is due to the substantial risk of serious harm to the immediate environment from the fire danger created by the heat of a fuel-powered engine.**
- Most trail mileage within the City’s Trail Network is located within riparian corridors and other environmentally sensitive areas. Engine noise of gas-powered and similar vehicles produces a significant zone of disturbance to the activities of native wildlife.
- The exclusion of electric-powered mobility devices for persons without a documented mobility need is due to trails being developed primarily for active recreation. The inclusion of modes beyond foot travel, the traditional bike and equestrian has the potential to make trails a testing ground or preferred route for non-traditional vehicles that can not necessarily be contemplated at this time.
- The Trail Network provides relief from the surrounding urban environment. Noise does not preclude recreation activities, but does potentially diminish enjoyment of the visitor experience.

1. Use of wheelchairs and manually-powered mobility aids. A public entity shall permit individuals with mobility disabilities to use wheelchairs and manually-powered mobility aids, such as walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility disabilities in any areas open to pedestrian use.

2. Use of other power-driven mobility devices. A public entity shall make reasonable modifications in its policies, practices, or procedures to permit the use of other power-driven mobility devices by individuals with mobility disabilities, unless the public entity can demonstrate that the class of other power-driven mobility devices cannot be operated in accordance with legitimate safety requirements that the public entity has adopted pursuant to § 35.130(h).

3. Assessment factors. In determining whether a particular other power-driven mobility device can be allowed in a specific facility as a reasonable modification under paragraph (2) of this section, a public entity shall consider:

- (i) The type, size, weight, dimensions, and speed of the device;
- (ii) The facility's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- (iii) The facility's design and operational characteristics (e.g., 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);
- (iv) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and
- (v) Whether the use of the other power-driven mobility device 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.

4. Inquiry about disability. A public entity shall not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability.

5. Inquiry into use of other power-driven mobility device. A public entity may ask a person using any other power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability. A public entity that permits the use of any other power-driven mobility device by an individual with a mobility disability 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 other power-driven mobility device 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, a public entity shall accept as a credible assurance a verbal representation, not contradicted by observable fact, that the other power-driven mobility device is being used for a mobility disability. A "valid" disability placard or card is one that is presented by the individual to whom it was issued and is otherwise in compliance with the State of issuance's requirements for disability placards or cards.