



City of Colorado Springs - Use of Other Power-Driven Mobility Devices (OPDMD) Guidance

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 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. DEFINITIONS

- A. 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.
- B. Manually-Powered Mobility Aids includes “walkers, crutches, canes, braces, or other similar devices designed for use by individuals with mobility impairments.” 28 CFR § 35.137(a).
- C. 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 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,” as defined herein. 28 CFR § 35.104. An electrical assisted bicycle (EAB), as defined herein, may be an OPDMD.
- D. Electrical Assisted Bicycle (EAB) means “a vehicle having two or three wheels, fully operable pedals, and an electric motor not exceeding seven hundred fifty watts of power.” To qualify as an OPDMD under this guidance, EAB’s must normally conform to one of two classes as follows:
 - (a) “Class 1 electrical assisted bicycle” means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour.
 - (b) “Class 2 Electrical Assisted Bicycle” means an electrical assisted bicycle equipped with a motor that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour.
CRS § 42-1-102.
- E. Credible Assurance means a valid Disability Placard or Card that is 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, other state-issued proof of disability, or a verbal statement that does not contradict observation. 28 CFR § 35.137.

III. ELIGIBILITY & NOTIFICATION

The operator or passenger of an OPDMD must be an individual with a mobility disability who has submitted a Notification Form and, upon request must provide Credible Assurance that the OPDMD is required because of the individual's mobility disability. City employees shall not ask an individual using an OPDMD about the nature and extent of the individual's disability.

IV. PURPOSE

The purpose of this guidance is to address the use of OPDMDs by individuals with mobility disabilities on pathways or trails located on the following: (1) properties/facilities owned and operated by the City of Colorado Springs (City) and (2) properties/facilities managed by the City under a lease, easement, use or other agreement. Information provided herein describes the types of OPDMDs that are authorized for use within City properties/facilities, pathways, and trails.

V. REQUIREMENTS

- A. Any OPDMD operated in City-owned and operated properties/facilities or properties managed by the City under a lease, easement, use or other agreement shall utilize the following assessment factors to determine whether a particular OPDMD will be allowed in a specific area as a reasonable policy modification:
 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;
 5. Whether the use of the OPDMD creates a substantial risk of serious harm to the immediate environment, natural or cultural resources; and
 6. Whether the use of the OPDMD poses a direct threat to the health or safety of others in the area, such as other occupants and visitors.

- B. Types of Prohibited Devices. The following devices are normally prohibited on City pathways, trails, and properties/facilities based on legitimate safety requirements:
 1. Gas or combustible fuel-powered devices 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; (2) acceleration/thrust from these devices have a tendency to create environmental damage; and (3) exhaust and noise emissions from the devices will disturb or damage City's pathways, trails and properties/facilities natural or cultural resources or the out-of-doors experience for other park patrons, building occupants and visitors. These devices may be used by City employees, City contractors, or any other individual or business permitted by the City, only when necessary for operational and maintenance purposes.
 2. Other types of electric-powered devices such as electric motorcycles and mopeds (except for EPAMDs and Class 1 of 2 EABs), because of: (1) the typical high speeds at which these devices are driven; (2) the likely damage that will result to City pathways, trails and properties/facilities surfaces from their tires (such as tractors, steel threads, or off-road); (3) some devices may only be permitted on roads or private property by State law; and

3. Size / Maneuverability: Dimensions of OPDMDs must not exceed 40% of a trail width on Tier 1 and Tier 2 trails or so wide as to ensure safe passage of pedestrians and others from going off a Tier 3 or a smaller Multi-Use trail or pathway; and must be able to maneuver around corner radiuses without going off the trail or pathway. Further, OPDMDs and their operators must be capable of adapting to diverse trail conditions, including but not limited to increase/decrease in grade/slope; changes in topography; and variable surfaces and conditions.
 4. No OPDMDs will be allowed on any trails or pathways marked as “hiking only” or at grades greater than manufacturer specifications. All OPDMDs must remain on trails and pathways and not operate in unmarked open spaces where pedestrian use is prohibited or be operated in such way as to impact ecosystems, be a detriment to historical or cultural features or negatively impact other users of the property or neighboring property by physical contact or noise.
- C. Speed of OPDMDs. For the safety of all individuals using City pathways or trails, OPDMDs must be operated at or below the following speeds:
 1. Typical walking speed-3 mph when operated inside City properties/facilities or outdoor events.
 2. 20 mph maximum on Tier 1 or Tier 2 hard surface trails/shared use paths and Tier 3 soft surface trails, or the average speed of others or any posted speed limits if present.
 - D. Certain pedestrian routes or undeveloped areas may not support the weight of an OPDMD due to natural features and could pose serious danger to the OPDMD operator or other persons on City property.
 - E. An OPDMD must be capable of turning around within the trail or pathway in a safe manner.
 - F. The OPDMD shall not be operated in an unsafe manner or cause damage to City property. The OPDMD operator assumes all risks of operating the OPDMD on City property. The City does not represent that City-owned or managed facilities/properties are safe for use by an OPDMD and does not assume any liability for operation of the OPDMD resulting in injury. Certain risks are inherent in the use of OPDMDs on City-owned or managed facilities/properties.
 - G. 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 limitation is required to protect the public health, safety and welfare of patrons.
 - H. The City is not required to provide battery charging or emergency retrieval of any OPDMD.
 - I. The City is not required to transport any OPDMD to and/or from City property.
 - J. Due to varying conditions on City property and to ensure safety and natural resource protection, the City requires that an OPDMD user complete a [Notification Form](#) for modifications for our programs to use an OPDMD at City facilities.
 - K. The OPDMD operator or passenger is responsible for ensuring the OPDMD works properly, per manufacturer’s instructions. The OPDMD operator is responsible to follow the manufacturer’s operating and protective equipment requirements.

- L. Wheelchairs and any type of OPDMD are not permitted on the escalators in City facilities.
- M. City Parks-Multi-Use Trails or Pathways – Paved or Unpaved. This type of trail or pathway may be open to hikers, bikers, and/or equestrians.
 - 1. Individuals with a mobility disability may use an OPDMD (as permitted by the City’s OPDMD guidance), wheelchairs and other manually-powered mobility aids.
 - 2. 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.
 - 3. 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. Characteristics of some types of OPDMDs could affect other pathway or trail users, based on the volume of traffic and operational characteristics of the pathway or trail. These pathways or trails are typically high capacity, two-way traffic areas, where width and speed restrictions must allow for safe passing of OPDMDs, bicycles, equestrians and pedestrians.
 - 4. City Golf Courses. Persons with a mobility disability may use an accessible cart, wheelchair, or other manually-powered mobility aid 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 other than those suited/used for golfing.

VI. UPDATES

- 1. The City may modify this guidance 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 this guidance.
- 2. A copy of the most current OPDMD Guidance and Notification Form will be available for public review upon request with the City Office of Accessibility and shall be made available on the City website www.coloradosprings.gov.