
R-14-08
Meeting 14-03
February 13, 2014

CONSENT ITEM #C1

To: Board of Directors
Open Space Authority

From: Andrea Mackenzie
General Manager

SUBJECT

Approve Draft BRD-038-00 -- Other Power-Driven Mobility Devices Policy for the Santa Clara County Open Space Authority.

BACKGROUND

To comply with regulations promulgated pursuant to the Americans with Disabilities Act (ADA--Title II Regulations, 28 C.F.R., Part 35), the Authority must make reasonable modifications to its policies, practices and procedures to permit the use of Other Power-Driven Mobility Devices (OPDMDs) to increase recreational opportunities for people with mobility disabilities. An 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 electronic personal assistance mobility devices (EPAMDs) such as a Segway® PT, ATVs, electric bicycles or other mobility devices designed to operate in areas without defined pedestrian routes. OPDMDs do not include wheelchairs (manual or power operated) or other manually powered mobility aids such as walkers, crutches, canes, braces, or similar devices designed for use by individuals with mobility disabilities. In accordance with Federal law, wheelchairs and other mobility aids are permitted anywhere pedestrian traffic is permitted.

The policy attached to this report was drafted by Legal Counsel in consultation with Supervising Open Space Technician, Derek Neumann. It was presented to the Use & Management Committee on January 23, 2014, and the Use & Management Committee recommended forwarding the policy, without change, to the full Board for approval. The policy increases recreational opportunities for those with disabilities, where they can be operated safely, without posing a risk of harm to natural and cultural resources. The policy sets forth standards, authorized areas, and rules of use of OPDMDs on Authority lands. Persons without mobility disabilities may not use OPDMDs on Authority lands.

RECOMMENDATION

It is recommended that the Board Approve Draft BRD-038-00 -- Other Power-Driven Mobility Devices Policy.

Prepared by:

William Parkin, Legal Counsel

*Attachments: Resolution 14-03 -- Approve Draft Policy -- Other Power-Driven Mobility Devices
Exhibit A -- Draft Policy -- Other Power-Driven Mobility Devices*

Santa Clara County Open Space Authority

RESOLUTION 14-03

A RESOLUTION OF THE GOVERNING BOARD OF THE SANTA CLARA COUNTY OPEN SPACE AUTHORITY APPROVING OTHER POWER-DRIVEN MOBILITY DEVICES POLICY

WHEREAS, the Santa Clara County Open Space Authority (Authority) manages and provides opportunities for recreation on its open space preserves; and

WHEREAS, to comply with regulations promulgated pursuant to the Americans with Disabilities Act (ADA--Title II Regulations, 28 C.F.R., Part 35), the Authority must make reasonable modifications to its policies, practices and procedures to permit the use of Other Power-Driven Mobility Devices (OPDMDs) to increase recreational opportunities for people with mobility disabilities; and

WHEREAS, an OPDMD is a battery, fuel or other engine-powered mobility device that is used by individuals with mobility disabilities for the purpose of locomotion; and

WHEREAS, a draft policy regarding OPDMDs was presented to the Use & Management Committee on January 23, 2014, and the Use & Management Committee recommended forwarding the policy, without change, to the full Board for approval; and

WHEREAS, the proposed policy increases recreational opportunities for those with disabilities, where they can be operated safely, without posing a risk of harm to natural and cultural resources; and

WHEREAS, the policy sets forth standards, authorized areas of use, and rules of use of OPDMDs on Authority lands; and

WHEREAS, the Board has considered and reviewed the proposed Other Power-Driven Mobility Devices Policy.

NOW THEREFORE, BE IT RESOLVED that the Board approves the Other Power-Driven Mobility Devices Policy.

BE IT FURTHER RESOLVED that the General Manager is hereby authorized and directed, on behalf of the Authority and its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

PASSED, APPROVED AND ADOPTED this 13th day of February, 2014 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Mike Potter, Chairperson
Santa Clara County Open Space Authority

APPROVED AS TO FORM:

ATTEST:

William P. Parkin, Legal Counsel

Lauren Monack, Clerk of the Board

Santa Clara County Open Space Authority Other Power-Driven Mobility Devices Policy Pursuant to the Americans with Disabilities Act

1.0 PURPOSE

The purpose of the Santa Clara County Open Space Authority Other Power-Driven Mobility Devices Policy is to comply with regulations promulgated pursuant to the Americans with Disabilities Act (ADA--Title II Regulations, 28 C.F.R., Part 35)

2.0 REVISION HISTORY

Date	Revision	Modification
XX	N/A	Reviewed and Adopted

3.0 PERSONS AFFECTED/RESPONSIBLE

- This policy applies to the General Manager, Assistant General Manager, Administration Manager, Supervising Open Space Technician and all Field Staff.

4.0 POLICY

A. Introduction

The Santa Clara County Open Space Authority (Authority) hereby makes reasonable modifications to its policies, practices and procedures to permit the use of Other Power-Driven Mobility Devices (OPDMDs) to increase recreational opportunities for people with mobility disabilities. This policy is adopted to comply with regulations promulgated pursuant to the Americans with Disabilities Act ("ADA"). (Title II Regulations, 28 C.F.R., Part 35).

In order to increase recreational opportunities for those with disabilities, it is the policy of the Authority to allow the use of OPDMDs on Authority lands, where they can be operated safely, without posing a risk of harm to natural and cultural resources. Persons without mobility disabilities may not use OPDMDs on Authority lands.

OPDMDs, as defined herein, may be used on Authority lands where their use does not pose significant safety risks, nor fundamentally alter the nature of services, programs, and activities provided by the Authority. OPDMDs used on Authority lands must meet the following definition and standards, and are subject to the rules of use stated below.

EXHIBIT A

B. Definition of OPDMD

An 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 electronic personal assistance mobility devices (EPAMDs) such as a Segway® PT, ATVs, electric bicycles or other mobility devices designed to operate in areas without defined pedestrian routes. OPDMDs do not include wheelchairs (manual or power operated) or other manually powered mobility aids such as walkers, crutches, canes, braces, or similar devices designed for use by individuals with mobility disabilities. In accordance with Federal law, wheelchairs and other mobility aids are permitted anywhere pedestrian traffic is permitted.

C. Standards and Areas of Authorized Use

1. Permitted Size and Weight

OPDMDs shall not be wider than 36" or longer than 48", or weigh more than 550 pounds.

2. Speed

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.

3. Permitted Fuel Source

In order to ensure zero emissions, only manually or battery powered OPDMDs are permitted.

D. Rules of Use

1. Who may use an OPDMD

Pursuant to Federal law, the use of OPDMDs on Authority lands is restricted to people with mobility disabilities. Authority staff may not inquire about the nature or extent of a person's disability, but may request that a person using an OPDMD provide credible assurance that the OPDMD is required because of a disability. Credible assurance may be provided by showing verification, for example:

- a) A valid, state-issued, disability parking placard or card issued to the person using the OPDMD.
- b) Other state-issued proof of disability.
- c) Other Federal-issued proof of disability (e.g., National Parks and Federal Recreational Lands Access Pass).

In lieu of identification, individuals may also provide a verbal representation, not contradicted by observable fact, that the OPDMD is being used for a mobility disability.

EXHIBIT A

2. Areas of Authorized Use

- a) OPDMDs permitted pursuant to this policy are authorized to be used on all dirt roads that are part of the Authority's trail system and open to the general public.
- b) Electric bicycles used by persons with mobility disabilities are permitted on single track multi-use trails that are open to other bicycles.

3. Restricted Areas

- a) 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.
- b) OPDMDs are not permitted in areas that are closed to the general public.

E. Variance Procedure

Those who seek to use an OPDMD which does not meet the standards defined herein, or who seek to use an OPDMD in a location where OPDMDs are not allowed pursuant to this Policy may request a variance. Variance requests should be submitted in writing to the Authority as follows:

U.S. MAIL

Santa Clara County Open Space Authority
6980 Santa Teresa Boulevard, Suite 10
San Jose, CA 95119
Attn: Supervising Open Space Technician

EMAIL

ADA@openspaceauthority.org

The requested variance shall be evaluated and a decision shall be communicated to the applicant of the variance within seven (7) business days from the date of receipt of the request by the Authority.