

***City of Missoula Parks & Recreation
Mobility Assisting Devices on City Trails Policy***

ADA PROGRAM CHANGES ADOPTED AND EFFECTIVE JUNE 14, 2012

I. INTRODUCTION

On September 15, 2010 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. Additionally, the DOJ recognized “Other Power-Driven Mobility Devices” (OPDMD) to be used by “individuals with mobility disabilities.” The DOJ requires public land owners to make reasonable modifications to public access policies and establish procedures to allow the use of OPDMD devices by individuals with mobility disabilities.

The changes to ADA law offer those who require mobility devices greater access to City of Missoula recreation facilities, amenities, and trails. In order to comply with the new rules, Missoula Parks & Recreation has completed an assessment of the trails and other assets owned by the City of Missoula and has determined which OPDMD devices are authorized for use in specific recreation areas. Information provided herein will describe which OPDMD devices can be used within and on City of Missoula park facilities. The adoption of this policy does not represent an endorsement that City of Missoula parks and trails facilities are safe for the use of an OPDMD or wheelchair. Users must exercise reasonable caution and care in deciding to use any particular trail or other park facility and while operating such devices within the Missoula park system.

As technology advances and new devices are developed, public use patterns change, and if impacts to natural and cultural resources are re-evaluated, this policy may be modified to address the type of OPDMD permissible within specific facilities on specific trails as necessary.

II. DOJ RULES – 28 CFR § 35.137

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 both indoor and outdoor locomotion.

OPDMD Devices

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 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.

Mobility Devices

(a) 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.

(b)(1) **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).

(2) **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 (b)(1) 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.

III. DEFINITIONS

Electric-powered mobility devices include: Any mobility device powered by batteries, including multiple passenger carts (three or four wheels), electronic personal assistance mobility devices (EPAMDs - such as the Segway PT), battery-powered bikes (two or three wheels) and single passenger scooters (three or four wheels).

Gas-powered mobility devices include: Any mobility device powered by a gas-fueled engine using natural gas, gasoline, diesel, synthetic or bio fuel or combination thereof, including all-terrain vehicles, carts (three or four wheels), off-road bikes (two or three wheels), motor scooters (two or three wheels), motor cycles (two wheels), tractors and vehicles (four wheels).

Tandem wheel device: A two, three or four-wheeled mobility device where the wheel alignment is parallel along one or more axles.

In-line wheel device: A two-wheeled mobility device where the wheel direction of travel are aligned in the same plane.

IV. PERMISSIBLE OR NON-PERMISSIBLE OPDMD & SPEED LIMITS

Gas-powered mobility devices are not permitted in any Missoula City park, trail greenway, or conservation land/ open space. Electric-powered OPDMD are permitted on trails and bikeways under specific trail type categories set forth below. City Parks Department staff or police officers may ask for credible assurance that that the device is being used because of an individual's mobility disability. All OPDMDs cannot exceed 15 mph on any type of trail and must stay on designated trails or bikeways at all times. All OPDMDs must slow down to 5 mph when passing other trail users.

Justification: § 35.137 Mobility Devices Assessment Factors (iii, iv and v). The above restrictions are imposed to protect the safety of other trail users. Additionally, parks and open spaces possess significant natural and ecological conservation values that are to be managed to support a broad range of plant and animal populations. Some City open space trails pass through Federal Forest Service lands that do not allow motorized uses and are not subject to these DOJ rules. Additionally, the exclusion of gas-powered mobility devices, as compared to electric-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 the gas-fired engine. In addition, engine noise of gas powered vehicles produces a significant zone of disturbance to the activities of native wildlife and can negatively impact the visitor experience. The Missoula Conservation Lands Mgt Plan envisioned the open spaces would provide relief from an increasingly urban environment. Noise does not preclude recreation activities but does diminish the enjoyment of the overall experience. Furthermore, the noise from gas-powered mobility devices poses a health risk to adjacent recreationalist when it exceeds 70 dB. The World Health Organization has set 70 dB as a maximum safe noise level in the work place. Most gas-powered vehicles, such as ATVs and gas-driven motor bikes, exceed this noise level.

V. TRAIL ASSESSMENTS AND LIMITATIONS

Parks Staff conducted a comprehensive trail assessment based on DOJ guidelines. Trails can be categorized into four different types, with specific limitations and justifications as listed below.

NOTE: Nothing in this policy is intended to conflict with Montana state law, MCA 61-8-376, which provides: **Authorized operation of electric personal assistive mobility devices.** Electric personal assistive mobility devices, as defined in 61-1-101, are permitted to operate on sidewalks, unless they are prohibited by official traffic control devices, on bike paths, and on roads and streets that have a speed limit of 35 miles an hour or less. MCA 61-1-101 defines "Electric personal assistive mobility device" as "a device that has two non-tandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour." This definition specifically allows Segways to be used on paved bike trails whether or not a person has a disability.

1. Paved Bike/Pedestrian Trails 8-10' wide with shoulder (examples include the Milwaukee Trail & the Bitterroot Branch Trail). Paved trails are shown on the City of Missoula Parks, Open Space & Trails Map as "Paved Multi-Use."

OPDMD type allowed: In-line & Tandem Devices that meet the following standards:

- motors on electric devices are 250 watts or less;
- device weighs less than 150 pounds;
- device is no more than three feet wide;
- device is not powered by an internal combustion engine; and
- no device shall be capable of being operated at a speed greater than 15 miles-per-hour.

Justification: § 35.137 Mobility Devices Assessment Factors (i, ii, iii, and iv). Characteristics of the device could affect other trail users, based on the volume of pedestrian traffic and operational characteristics of the trail. These trails are high capacity two-way traffic areas, where a width restriction allows for safe passing of OPDMD devices, bicycles and pedestrians. The City's network of riverfront, greenway, and park system pathways are designed and constructed for bicycling, walking, and skating, and in some instances cross-country skiing. The popularity of the pathway system is verified by heavy volume of local, regional, national, and

international visitors. Pathway users have come to expect a safe, pedestrian-friendly, and exclusive environment without the concerns related to automobile centric spaces and the hustle and bustle of an urban environment. Missoula's pathway system users range in age from infants to young children, adults and seniors. Walkers use the pathway system singly and in company with others. Families walk or bicycle together including parents with baby strollers and seniors. Outdoor enthusiasts' regularly use the pathway system to cycle, hike, jog, walk their dogs, and roller blade. The pathway system has become a part of the fabric of the City, its neighborhoods, and its public open spaces. To preserve the safety and pathway experience of all users, the City is obligated to limit the sound, potential emissions, size, weight, power and speed of pathway use devices.

2. Multiuse Unpaved Road generally 10-12' wide (examples include unimproved fire and ranch roads on Mt. Jumbo and Mt. Sentinel and the Kim Williams Trail).

OPDMD type allowed: In-line & Tandem Devices not to exceed 36" inch maximum width with the same standards as set forth above for paved bike/pedestrian trails. Although this policy allows the use of OPDMD devices due to the width of the multiuse roads, there are many sections of such roads that are over 5% grade, of a rocky substrate, and have uneven surfaces with deep ruts and potholes, and thus are not safe for OPDMD devices. It is thus recommended that trail users who need to employ such devices for mobility and are otherwise unfamiliar with the trail, first contact the Missoula Parks Department Conservation Land Manager for local trail conditions. The user is ultimately responsible for deciding if a trail is appropriate and safe for their OPDMD.

Justification: § 35.137 Mobility Devices Assessment Factors (i, iv, and v) Characteristics of the device create a substantial risk of substantial harm to the environment or natural resources. These trails are typically wide enough for one-way vehicle traffic, and this width restriction allows for safe passing of OPDMD devices, bicycles and pedestrians on unpaved roads.

3. Multiuse Trail dirt or gravel generally 2-5' wide - narrow gauge trail, suitable for multiple activities, including hiking, mountain biking or equestrian riding. These trails are shown on the City of Missoula Parks, Open Space & Trails Map as "Natural Surface Multi-Use."

OPDMD type allowed: In-line Devices not to exceed 24" inch maximum width and a maximum wheel width of 6". Motors on electric devices must be 250 watts or less, the device weighs less than 150 pounds, and no device shall be capable of being operated at a speed greater than 15 miles-per-hour. Again, due to the steepness and rough condition of many segments of these trails, potential trail users who need to use an in-line device should first contact the Missoula Parks Department Conservation Land Manager for local trail conditions. The user is ultimately responsible for deciding if a trail is appropriate and safe for their OPDMD.

Justification: § 35.137 Mobility Devices Assessment Factors (i, iv, and v) Characteristics of the device create a substantial risk of substantial harm to the environment or natural resources. These are narrow trails where two-way traffic would require pedestrians to step off the trail and harm natural resources when allowing passage of OPDMD devices larger than 24" wide. The restrictions are also intended to protect other trail users.


4. Pedestrian Single Track Trail dirt or gravel generally 18"-3' wide - narrow gauge trail suitable for hiking only.

OPDMD type allowed: No OPDMD devices are permitted on these trails.

Justification: § 35.137 Mobility Devices Assessment Factors (i, iv, and v). This type of trail is located in natural areas and steep terrain where environmental or topographic constraints require no user impact to natural resources. Trail users are required to stay within the authorized trail footprint to avoid harm to natural or cultural resources. There are so many steep and rocky sections on these trails that OPDMDs would be unsafe to use to both the rider and other trail users.

This policy is adopted this 14th day of June by the City of Missoula's Department of Parks & Recreation and by the Missoula Parks & Recreation Board.

Missoula Parks & Recreation Board

By: 
Dale Harris, Chair

Missoula Parks & Recreation Department

By: 
Donna Gaukler, Director

