

## San Dieguito River Park Joint Powers Authority Policy for Use of “Other Power-Driven Mobility Devices” on San Dieguito River Park Trails

### PURPOSE

To comply with the Americans with Disabilities Act of 1990, this policy addresses the use of “other power-driven mobility devices” (OPDMD) by individuals with mobility disabilities (as defined and governed by 42 U.S.C. 126, Subchapter II, Part A of the Americans with Disabilities Act of 1990, and 28 C.F.R. Part 35, as amended by the final rule published on September 15, 2010) on property owned by the San Dieguito River Park JPA and on JPA-maintained trails. This policy provides guidance for compliance with ADA regulations without fundamentally altering the goals and objectives of the San Dieguito River Park as stated in the SDRP Concept Plan.

### INTRODUCTION

An OPDMD is defined by ADA regulations (Section 35.104) as “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 such as the Segway, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair....”

The Department of Justice issued a final rule on September 15, 2010 that requires public agencies to make reasonable modifications to their policies, practices and procedures to permit the use of OPDMDs on public trails. A public agency may impose limitations and requirements necessary to ensure safety and protect the environment. “However, the public entity must ensure that its safety requirements are based on actual risks, not mere speculation, stereotypes, or generalizations about individuals with disabilities.” (Section 35.130) The final rule applies to trails owned and/or operated by the San Dieguito River Park JPA.

Due to the natural open space character of the San Dieguito River Park and the sensitive habitat and species throughout its planning area, the JPA has developed this policy to address the compatibility of power-driven devices on its trails consistent with the SDRP Concept Plan.

### APPLICATION OF POLICY ON JPA TRAILS AND PROPERTY

The JPA manages over 34 miles of trails within the Focused Planning Area (FPA) and owns approximately 2,976 acres within its boundaries. Most of the property within the FPA is owned by other public entities (e.g., County of San Diego, Cleveland National Forest, City of San Diego); therefore, this policy applies only to trails operated and managed by the JPA and properties owned by the JPA.

The Park Vision expressed in the SDRP Concept Plan is “to create an open space park within the San Dieguito River Valley that will protect its unique resources, while providing compatible recreational opportunities for the San Diego Region”. Objectives to realize this vision include preserving open space, conserving sensitive resources, and protecting water resources while creating recreational and education opportunities.

The trail system within the SDRP is consistent with ADA regulations, although not all of the trails in the SDRP are completely accessible to those with physical disabilities due to steep

terrain or other physical constraints. No vehicles have been permitted on JPA-maintained trails with the exception of official park maintenance and patrol vehicles and emergency vehicles. Vehicles have been determined to be incompatible with trail use due to safety concerns, noise, damage to the trail surface, and incompatibility with the enjoyment of the surrounding open space. In order to address the compatibility of power-driven mobility devices within the SDRP, it is necessary to weigh factors of accessibility, enforcement, and compatibility with SDRP goals and objectives.

The final DOJ rule provides that only one or more of the following assessment factors may be used by a public entity to determine whether a particular class of OPDMD may be allowed in a specific location:

- (a) The type, size, weight, dimensions, and speed of the device;
- (b) The volume of pedestrian traffic;
- (c) The design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors, width of trail, etc.)
- (d) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and
- (e) 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. (Section 35.137(b)(2)).

A public entity is required to “make reasonable modifications in its policies, practices, or procedures to permit the use of OPDMDs by individuals with mobility disabilities”, unless they can demonstrate that the class of OPDMDs cannot be operated in accordance with legitimate safety requirements using the assessment factors listed above.

## COMPATIBILITY OF OPDMDs ON JPA TRAILS AND PROPERTY

Gas powered OPDMDs are not permitted because they create a substantial risk of harm to the environment from the risk of fire due to the heat of gas-fired engines. Trails within the SDRP are surrounded by grasslands and vegetation that is extremely flammable. Additionally, the engine noise of gas powered vehicles creates a significant disturbance to the activities of native wildlife and diminishes the quality of visitor experience.

Although non-motorized mobility devices are permitted on SDRP trails, the use of electric powered OPDMDs would introduce a use that is largely incompatible within the SDRP for reasons stated below. However, in some locations and with limits on size and other specifications electric powered OPDMDs may be compatible.

### Safety Risks

The various trails within the SDRP are between 4 and 12 feet in width, with the average being 8 feet wide. The Coast to Crest Trail is multi-use for pedestrians, bicycles, and horses. However, some spur or secondary trails are limited to one or two user groups. Use of some sections are limited by width, grade, soil stability. Also, some trail segments within the SDRP are heavily

used during certain days of the week and the volume of non-motorized use would be incompatible with motorized vehicles.

#### Damage to Trail Facilities

The design and weight of some power-driven devices could harm existing trail surfaces that are largely dirt or compacted decomposed granite not intended for vehicular use (i.e., not concrete or other hard surface).

#### Incompatibility with Natural Open Space and Sensitive Resources

Noise and dust from power-driven devices could harm the natural open space character of the SDRP, could cause potential harm to the sensitive threatened and endangered species that reside within the native habitat throughout the park and adjacent to the trails, and could diminish the nature experience of other trail users. Several endangered species that are sensitive to noise exist within the FPA boundaries. Non-motorized trail use does not significantly impact these species.

#### PROVISIONS FOR ALLOWING LIMITED OPDMDs

The JPA has assessed its trails and determined that OPDMDs for individuals with mobility disabilities could be safely accommodated on the trails listed below without compromising the goals and objectives of the SDRP or causing compatibility issues listed in this policy.

OPDMDs are only allowed on the trails specified in this policy and are not permitted on JPA-owned property where no public trail exists.

The criteria for size and type of OPDMD and type and location of trail that may allow OPDMDs are:

- a) Internal combustion engine-powered vehicles are not permitted on any trail.
- b) OPDMDs that can be accommodated on the SDRP trails listed below include only electric-powered golf carts or Segways or other electric-powered devices that meet the criteria defined in this policy.
- c) The OPDMD must be operated at a safe speed. When other users are present on a trail, a safe speed is deemed to be the average speed at which the other users are traveling on the trail. The maximum speed for an OPDMD when other users are present is 5 MPH.
- d) The OPDMD should display an ADA placard as credible assurance that the mobility device is required. If no sign is displayed, the user may be asked to provide credible assurance that the OPDMD is required because of the person's disability.
- e) The OPDMD must be able to fit between existing safety vehicle barriers (bollards) at the trail heads, typically 4 feet wide.
- f) The trails listed below have been assessed to be of sufficient width (8 feet minimum) and grade (not to exceed 3 percent) to safely accommodate occasional power-driven mobility devices without the potential to cause substantial risk to trail users or endanger a sensitive resource (e.g., cultural site). Additional trails may be added or deleted should it be determined on a case-by-case basis that they can safely accommodate OPDMDs.

- g) The OPDMD must remain on the trail at all times and must be capable of being turned around within the trail tread in a safe manner.
- h) Noise emitted by OPDMDs may not exceed 65 decibels.

OPDMDs are allowed on the following trail segments within the parameters listed in this policy. This list may be revised as trail segments are added or modified:

- Lagoon Trail from I-5 east to trail end at Horsepark. OPDMDs are not permitted west of I-5 nor on the boardwalk trail.
- North Shore Trail from Sunset Drive staging area to Hodges Bike/Ped Bridge. OPDMDs are not permitted west of the Hodges Bridge.
- Hodges Bike/Ped Bridge and bike path along West Bernardo Drive to Bernardo Bay Natural Area parking lot.
- Piedras Pintadas trail from the parking lot accessing the utility road to the concrete vault located on the shore of Lake Hodges.
- Mule Hill Trail to west base of raptor ridge.
- San Pasqual Trail between the east base of raptor ridge to staging area at Bandy Canyon Road/Hwy 78.

The policy may be revised as SDRP trails are further assessed or as new facts and circumstances arise.

By adopting this Policy, the JPA is not representing that trails within the San Dieguito River Park are safe for use by an OPDMD and it is not assuming any liability. Certain risks are inherent in the use of trails and all users must exercise reasonable care.