

In response to the changes regarding Title II of the Americans with Disabilities Act as it relates to the use of "Other Power-Driven Mobility Devices", Thurston County Public Works Department has conducted a preliminary assessment of our public Shared-Use Path system, using the provided DOJ Assessment Factors. By doing so it is our intent to continue to encourage the use of appropriate mobility devices, while ensuring the safety of all path users and the surrounding natural resource from the inappropriate use of vehicles.

Motor vehicles or motorized scooters are not permitted on recreational trails and shared use pathways operated by Thurston County. Motor vehicles or motorized scooters are permitted on designated roadways or parking areas. On March 15, 2011, new Department of Justice rules/amendment to the ADA (Americans with Disabilities Act) Title II will allow certain "other power-driven mobility devices" to be used on shared use paths and recreational trails by individuals with mobility disabilities.

### 1. What is an "other power-driven mobility device (OPDMD)?"

An "other power-driven mobility device" is defined in the rules 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 cars, 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"***.

### 2. What is a 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"***.

Any device that meets the definition of a wheelchair above is not an OPDMD and must be allowed to be used anywhere, with no exceptions.

### 3. What is Documentation of Assessment:

The DOJ rules require an entity open to the public to make reasonable modifications in its policies, practices, or procedures to allow the use of OPDMD by individuals with mobility disabilities, UNLESS: that entity can document that it has completed an assessment of the facility, trail, route, or area, before the person requesting use of the device arrived onsite, and the entity found that class of other power-driven mobility device could not be used in that location due to one or more of the following DOJ assessment factors:

- (a) The type, size, weight, dimensions, and speed of the device;
- (b) The volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- (c) The 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);
- (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.”

Those are the only factors a public entity or accommodation is to use in determining whether a particular class of other power-driven mobility device may be allowed in a specific location.

If one of those issues prevents the use of a specific class of other power-driven mobility device, that device may be denied use in the section of trail or area where that is an issue.

#### **4. Who will post the information?**

Thurston County Parks will post information about the devices that may not be used. Information will be posted where the public can easily access it before entering the trail. Information will be posted on the information kiosks.

#### **5. Who is allowed to use the other power-driven mobility devices?**

The DOJ rules say anyone who has a mobility disability can use an OPDMD. A person using an OPDMD may be asked to provide a “credible assurance” that the mobility device is required because of the person's disability. That credible assurance can be showing a valid, State-issued, disability parking placard or card, or other State-issued proof of disability.