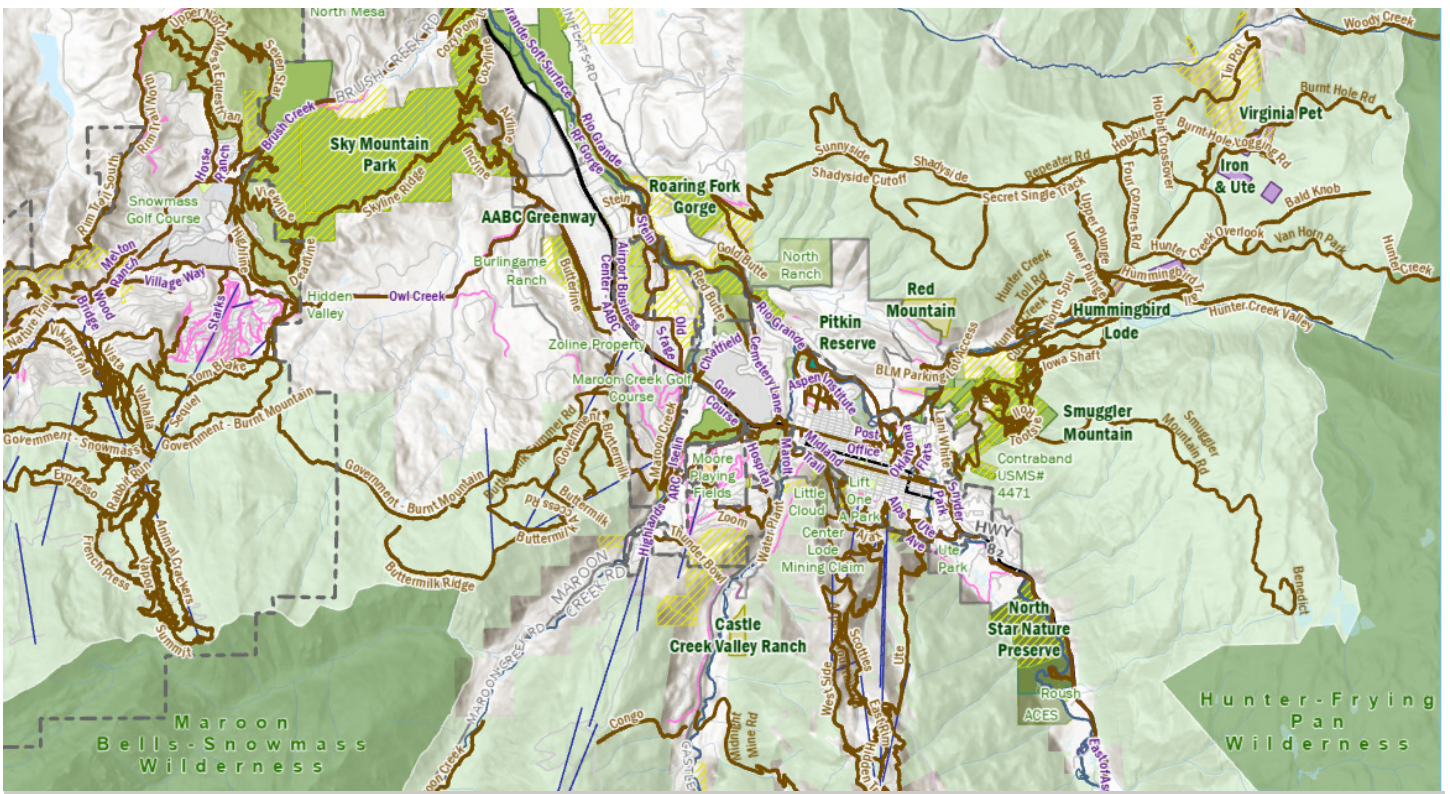


OTHER POWER DRIVEN MOBILITY DEVICE (OPDMD) Management Plan Update

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Pitkin County
Open Space and Trails
530 East Main Street
Aspen, CO 81611

PITKIN COUNTY OPEN SPACE AND TRAILS BOARD OF TRUSTEES MISSION STATEMENT

The mission of the Pitkin County Open Space and Trails Board of Trustees is to acquire, preserve, maintain and manage open space properties for multiple purposes including, but not limited to, recreational, wildlife, agricultural, scenic and access purposes; and to acquire, preserve, develop, maintain and manage trails for similar purposes.

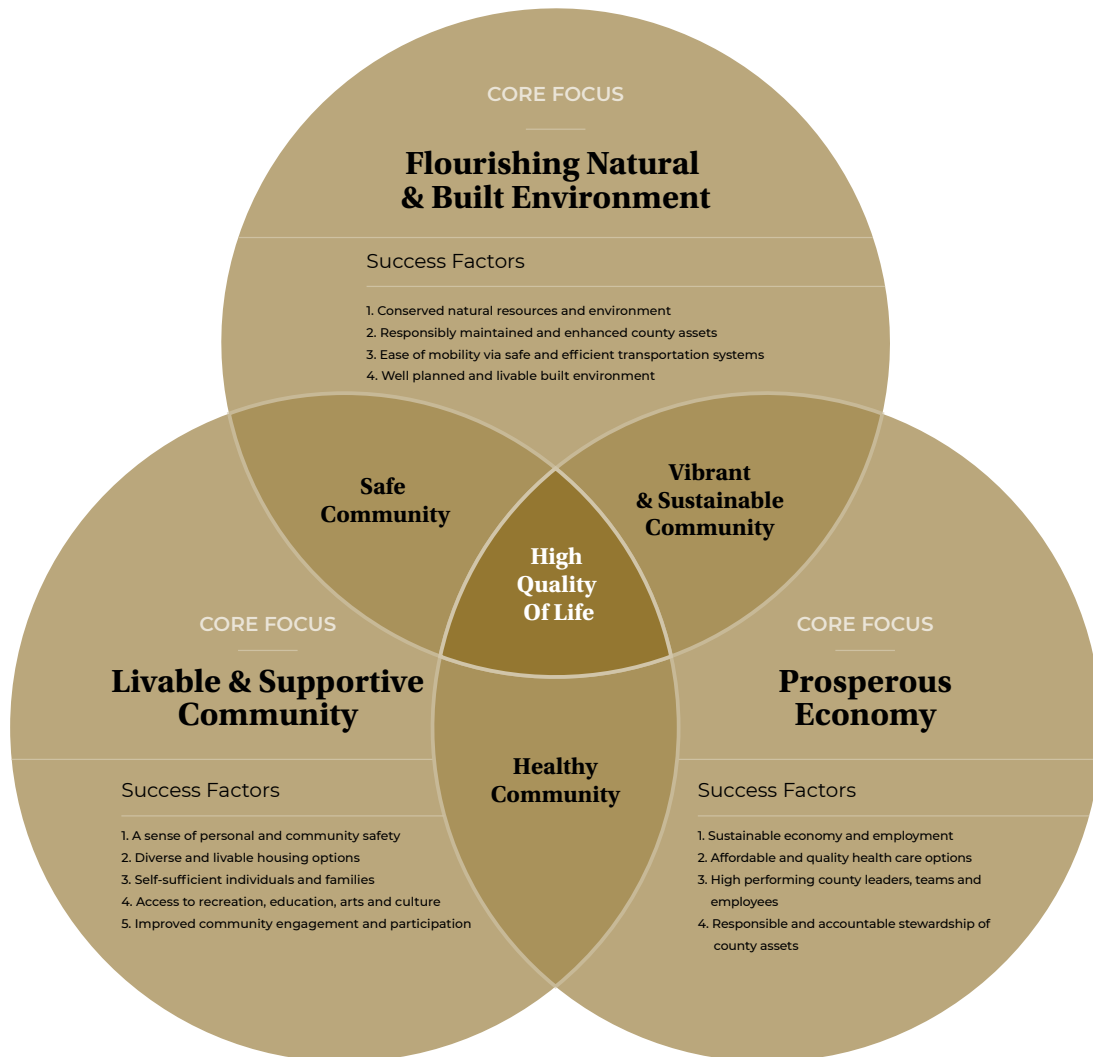
The Pitkin County Home Rule Charter provision authorizing the Open Space and Trails Program defines open space and trails as follows:

“Open Space” shall be defined as primarily undeveloped lands and waters which meet one or more of the following criteria: Within public scenic view planes; bounding or within urbanized areas; incorporating or protecting significant wildlife habitat; preserving historic agricultural and ranching activities; protecting riparian or wetlands areas; protecting other public lands from the impacts of development, and preserving cultural, historic and archaeological resources lying within properties which are otherwise acquired for their customary Open Space characteristics.

“Trails” shall be defined as access ways, either separate from or within County and State Road rights-of-way, meeting one or more of the following criteria: preserving historic routes of ingress and egress to public lands and waterways; providing access to and from recreational or urban destinations; providing transportation or recreational opportunities throughout the Roaring Fork Watershed.

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SUMMARY

On March 15, 2011, the United States Department of Justice (DOJ) revised the Americans with Disabilities Act (ADA), adding and putting into effect Section (35), titled Nondiscrimination on the Basis of Disability in State and Local Government Services. This ruling requires State and Local governments to make reasonable modifications to policies to allow “other power-driven mobility devices (OPDMD)” to be used by “individuals with mobility disabilities” in areas open to pedestrian use. Pitkin County is committed to providing amenities for individuals with mobility disabilities, while promoting the safe use and enjoyment of the County’s recreational routes by a broad spectrum of the public.

The regulations in Section 35 of the ADA also defined assessment factors to use when determining what OPDMD vehicles could be used in which locations. In response, Pitkin County Open Space and Trails (OST) completed an assessment of each trail managed by the OST Department and determined which types of OPDMDs are authorized for use according to trail types and characteristics. Each type of trail has been classified as Open, Restricted or Closed for OPDMD use. OST also developed a set of policies governing OPDMD use on the OST trail system.

As technology advances and new devices are developed, public use patterns change, additional property and property interests are acquired, and impacts to natural and cultural resources are re-evaluated. The County may modify the types of OPDMD permissible on specific trails as necessary. This plan updates the “2011 Other Power-Driven Mobility Device Management Plan” to include properties and trails that have been acquired since the 2011 plan was adopted. This plan defines OPDMD classifications by trail types rather than by specific trails in order to ensure the plan accommodates additions to the trail system over time. Management plans for individual open space properties or trails may identify exceptions to this policy to expand the use of OPDMDs where an evaluation of the assessment factors determine that additional OPDMD uses can be accommodated.

It is the user’s responsibility to ensure that they are in conformance with these policies.

INTRODUCTION AND PLAN PURPOSE

The choice of mobility devices available to individuals with disabilities has increased dramatically and the pace of technological advances has continued to accelerate over the last 15 years. The Department of Justice (DOJ) responded to concerns around which mobility devices should be accommodated in public facilities and under what circumstances by developing a two-tiered mobility device definition that defined the term “wheelchair” separately from other power-driven mobility devices (OPDMDs). Along with this clarification in definition, the DOJ established requirements to allow the use of devices in each definitional category and defined the Assessment Factors to use when determining what mobility device should be used and where, or if an area should be closed to OPDMDs.

The Other Power Driven Mobility Device Management Plan (OPDMD Management Plan) defines policies and procedures for the use of OPDMDs on Pitkin County Open Space and Trails (OST) properties and easements in accordance with the DOJ direction. Part of the mission for OST is to acquire, preserve, maintain and manage properties and easements for recreational and access purposes. OST takes great pride in providing excellent recreational opportunities in breathtaking settings and works to make these opportunities accessible when possible.

DEFINITIONS

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 (§ 35.137). This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

Other Power Driven Mobility Devices (OPDMD)

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, but is not limited to, electric-assisted bikes (EABs), motorcycles, 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. This definition does not apply to Federal wilderness areas; wheelchairs in such areas are defined in section 508(c)(2) of the ADA, 42 U.S.C. 12207(c)(2).

Electrical Assisted Bicycles (EAB)

An EAB device is a vehicle with two wheels, operable pedals, an electric motor not exceeding 750 watts, with a top speed of 20 miles per hour (CRS 42-1-102 (28.5)).

Electric Personal Assistive Mobility Devices (EPAMD)

An EPAMD device is a self-balancing vehicle that is powered solely by an electric motor not exceeding 750 watts, designed to transport one person (CRS 42-1-102 (28.7)). A common example of an EPAMD is a Segway scooter.

Motorcycle

A motorcycle is a motor vehicle that uses handlebars to steer and that is designed to travel with not more than two wheels in contact with the ground (CRS 42-1-102 (55)).

ADA RULES (§ 35.137 MOBILITY DEVICES)

(1) 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.

(2) 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).

(3) 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 (2) 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.

(4) Inquiry about disability. A public entity shall not ask an individual using a wheelchair or other power-driven mobility device questions about the nature and extent of the individual's disability.

(5) Inquiry into use of other power-driven mobility device. A public entity may ask a person using an other power-driven mobility device to provide a credible assurance that the mobility device is required because of the person's disability. A public entity that permits the use of an other power-driven mobility device by an individual with a mobility disability shall accept the presentation of a valid, State-issued, disability parking placard or card, or other State-issued proof of disability, as a credible assurance that the use of the other power-driven mobility device is for the individual's mobility disability. In lieu of a valid, State-issued disability parking placard or card, or State-issued proof of disability, a public entity shall accept as a credible assurance a verbal representation, not contradicted by observable fact, that the other power-driven mobility device is being used for a mobility disability. A "valid" disability placard or card is one that is presented by the individual to whom it was issued and is otherwise in compliance with the State of issuance's requirements for disability placards or cards.

OPEN SPACE AND TRAILS POLICIES:

Open Space and Trails (OST) manages its assets for a variety of users to maintain diverse recreational opportunities and strives to make the recreational experience on Open Space properties as accessible as possible. OST works closely with neighboring trail-management agencies to create as seamless a trail system as possible.

The following policies apply to Other Power Driven Mobility Device (Mobility Device) use on OST managed assets.

- OPDMD use is permitted only if user is mobility impaired.
- No OPDMD use on Nordic ski trails – OST grooms the Nordic system for the specific use of pedestrians and Nordic skiers. The nature of a Mobility Device would adversely affect the groomed surface and therefore adversely impact the environment of the Nordic system and user experience.
- Stay on the trail - Cross-country Mobility Device travel on OST-managed properties is not permitted. Mobility Device use is limited to existing trails to avoid undue resource and environmental damage. This includes properties managed as parks.
- All Title 12 Regulations apply to the use of OPDMDs including, but not limited to:
 - » Respecting trail closures
 - » Travel at safe speeds at all times with a maximum speed limit of 20 mph – Mobility Devices must be operated in a responsible and prudent fashion, with respect to the density and speed of other trail users, and operated at a safe speed for conditions. Where other users are present, a safe speed for a Mobility Device is deemed to be the average speed at which the other trail users are traveling; under no condition shall an OPDMD be operated in excess of 20 mph.
- Comply with OPDMD Trail Designations / Restrictions (Open, Restricted and Closed) (see below)

In accordance with OST Title 12, a violation of the above OPDMD use policies (including use of an OPDMD by an individual without a mobility disability, use of an OPDMD on a Closed trail or an OPDMD device on a Restricted Trail which does not fit the requirements) is a civil infraction and shall result in the following penalties:

- First Offense: Punishable by a fine of \$100.00
- Second Offense: Punishable by a fine of \$500.00
- Third and Subsequent offenses: Punishable by a fine of \$1,000.00

OPDMD ASSESSMENT AND DESIGNATIONS

The Pitkin County Open Space and Trails Department conducted a comprehensive review and assessment of recreational routes to determine permissible or non-permissible OPDMD uses. Based upon this assessment, recreational routes are categorized into three different types, with specific OPDMD limitations and justifications as listed below:

Pitkin County OPDMD Designations:

OPEN: Open to all OPDMD use - device must have brakes that enable the operator to make the wheels skid on dry, level and clean pavement.

CLOSED: Not open to OPDMD use - Wheelchairs and manually-powered mobility aids are allowed.

RESTRICTED: EAB or EPAMDs that meet the following requirements are allowed for persons with a mobility disability:

- a) A width of 32" or less
- b) A design speed of 20 mph or less
- c) Must be electrically powered
- d) Must weigh 60 lbs. or less, not including weight of rider or additional gear.
- e) Have brakes that enable the operator to make the wheels skid on dry, level and clean pavement.

No other OPDMD may be used, including but not limited to any gas- or combustible fuel-powered devices, ATVs, golf carts or motorcycles. Wheelchairs and manually-powered mobility aids are allowed.

Rational:

- A width of 32" or less allows vehicles to safely pass and turn around without the need to leave the trail surface.
- OST trails strive to be designed for vehicles to travel at maximum of 20 mph. Environmental limitations often require exceptions to this design goal and users must operate in a responsible and prudent fashion, at a safe speed for conditions, factoring in the density and speed of other trail users.
- Emissions produced by a gas-powered vehicle would adversely affect other trail users and their experience on the trail system. Electric vehicles do not release emissions from their energy consumption on the trail system.
- 60 lbs. is the high end of vehicle weight currently on the OST trail system. Increasing device weights above this threshold starts to lead to a significant mass differential between the different types of devices on the trail system, resulting in concerning safety issues.

OPDMD Designation: OPEN

ROUTE TYPES: Multi-use County Roads: Unpaved and unimproved logging, fire and ranch roads, typically greater than 8 feet in width where motorized use is allowed.

JUSTIFICATION: § 35.137 Assessment Factors (i, iii, and iv) These roads are typically wide enough for two-way vehicle traffic, allowing for safe passing of OPDMD devices, motor vehicles, bicycles and pedestrians.

OPDMD Designation: CLOSED

ROUTE TYPES: Non-motorized singletrack trails and natural-surface paths of less than six (6) feet in width: Unpaved, narrow-gauge and natural-surface paths or trails suitable for multiple activities, including hiking, mountain biking and equestrian riding.

JUSTIFICATION: § 35.137 Assessment Factors (i, ii, iii, iv and v). Characteristics of motor powered devices create a substantial risk of harm to the trail facility, surrounding environment and/or natural resources. These paths are too narrow, steep and/or highly erosive to provide a safe platform for use of an OPDMD without causing resource damage along the trail. In some cases, use of an OPDMD would conflict with land use regulations, and/or conservation easements provisions prohibiting motorized vehicles or equipment on these routes. Trail segments may lead to areas where motorized use would conflict with local or Federal land management laws and regulations prohibiting motorized use.

OPDMD Designation: RESTRICTED

ROUTE TYPES: Multi-use, improved-surface paved paths or crusher-fine trails built to six (6) foot width or greater.

JUSTIFICATION: § 35.137 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 busy, high-capacity, two-way traffic areas, where width and speed restrictions must allow for safe passing of OPDMDs, bicycles and pedestrians. These routes have adequate space to turn around without leaving trail surface.

*** IMPORTANT NOTES ***

“Know before you go”: It is the user’s responsibility to remain in compliance with Federal, State and Local rules, regulations and policies. If you have any questions, please contact Pitkin County Open Space & Trails in advance to ensure that your particular OPDMD is approved for use on particular routes.

Pitkin County is not representing that facilities are safe for use by an OPDMD and assumes no liability for these uses. Certain risks are inherent in the use of Pitkin County properties and all users must exercise reasonable care.