

Access Policy for Use of Natural Area Trails and other Public Use Facilities by Persons with
Mobility Disabilities
July 15, 2011

Palm Beach County (County) welcomes all visitors to utilize the trails and other public use facilities on its natural areas and to enjoy the natural beauty and wonder of these environmentally-sensitive lands. For the safety of all visitors and the natural environment, we request that you read and adhere to this Access Policy.

1. General Information

A. Purpose of this policy. The purpose of this Access Policy is to provide guidelines for adhering to the United States Department of Justice (DOJ) final regulations revising the rule that implements Title II of the Americans with Disabilities Act as it relates to nondiscrimination on the basis of disability in State and local government services. The March 15, 2011 DOJ revision requires State and local governments that manage trails that are open to the public to conduct an assessment to determine if individuals with mobility disabilities can reasonably be accommodated on all or portions of the trails using “other power-driven mobility devices” (OPDMDs) as defined in 28 CFR PART 35, Subpart A, Subsection 35.104. The rule adopts a two-tiered approach to mobility devices and clearly distinguishes between wheelchairs and OPDMDs [Subsection 35.137 (a) and (b), respectively]. Using the assessment factors identified in Subsection 35.137 (b)(2), the County has determined that use of certain OPDMDs by individuals with mobility disabilities may be accommodated on specific County natural area trails and other pedestrian-accessible public use facilities as described and limited in this policy.

B. Purpose of the County’s natural areas system/public use considerations. The County’s natural areas were selected on the basis of their biological characteristics and were acquired to preserve the rare and diverse native ecosystems present on these sites and the endangered, threatened, and rare species of plants and animals that live there. Although the County’s natural areas are open to the public for passive, resource-based recreation, environmental education, and scientific research, public use shall not take precedence over ecosystem protection. Public uses must take into account the specific environmental conditions of each natural area, and may be modified in response to changing environmental conditions. While Palm Beach County strives to accommodate individuals with mobility disabilities’ use of the natural areas, this must be done in a way that does not have a detrimental impact on the natural, historical or cultural resources of the natural areas and does not jeopardize the safety of persons using the natural areas, including those with a mobility disability. The County has determined that the unregulated use of OPDMDs on the County’s natural areas would create a substantial risk of serious harm to individuals

using the natural areas and to the natural, historical and cultural resources on these lands and would fundamentally alter the nature of the County's natural areas program.

- C. Trail use protocols.** All non-equestrian users must come to a complete stop and yield to riders on horseback; bicyclists and OPDMD users must yield to pedestrians and wheelchair users.
- D. Use of natural areas trails/accessways is at your own risk.** Many of Palm Beach County's natural area trails and accessways consist of unimproved surfaces containing soft mucky soils, uneven terrain, steep grades, roots, rocks, vegetation, and debris found in the natural environment. Each individual should carefully evaluate his/her ability to safely use any of the County's natural area trails and/or accessways given their rugged condition. Use of a trail/accessway constitutes an acknowledgment by the individual that he/she accepts full responsibility for his/her own safety. Many portions of the County's larger natural areas are in remote areas and have very limited or possibly no cell phone reception. Visitors to the County's natural areas must keep in mind that emergency personnel/vehicles may have difficulty accessing remote portions of the site and should act accordingly.
- 2. Use of wheelchairs and manually-powered mobility aids.** Individuals with mobility disabilities may use wheelchairs (including electric wheelchairs) and manually-powered mobility aids such as walkers, crutches, canes, braces or similar devices, as defined in 28 CFR PART 35, Subpart A, Subsection 35.104, on any natural area trail or public use facility that is open to pedestrian use and that can accommodate their entry.
- 3. Use of OPDMDs on County natural areas.**

 - A. Use of fuel-powered OPDMDs is prohibited on the County's natural area trails and other pedestrian-accessible public use facilities.** The County has determined that the use of fuel-powered OPDMDs on the County's natural area trails and other pedestrian-accessible public use facilities would create a substantial risk of serious harm to individuals using these facilities and to the immediate natural, historical and cultural resources. The use of fuel-powered OPDMDs would also fundamentally alter the nature of the natural areas program and is therefore prohibited. Notwithstanding the foregoing, both fuel- and electric-powered OPDMDs may be used within designated natural area parking lots/areas and designated public vehicular access driveways/roads.
 - B. Conditional use of electric-powered mobility devices is permitted.** An individual with a mobility disability may utilize an electric-powered OPDMD on County natural area trails and other pedestrian-accessible public use

facilities provided the OPDMD meets the size, weight, length, speed and trail use restrictions specified in this policy. The use of electric-powered OPDMDs is prohibited on trails where the use of such devices could pose a substantial risk of harm to the operator or other individuals, have a significant adverse impact on native plants and/or animals or historical or cultural resources, or could cause degradation of the trail. A list of trails on which the use of OPDMDs is prohibited can be found at <http://discover.pbcgov.org/erm/Publications/OPDMDRestrictedTrails.pdf> or by calling 561-233-2400, and at the kiosk located in the natural area parking lot.

- i. **Use of electric-powered OPDMDs that are 30 inches or less in width.** Individuals with mobility disabilities who wish to use electric-powered OPDMDs which, in combination with the operator, are 30 inches or less in width are not required to obtain a permit to utilize an electric-powered OPDMD on any natural area trail or public use facility that is designed and constructed for use by pedestrians and that can accommodate their entry.

- ii. **No-fee permit for electric-powered OPDMDs that are between 31 and 48 inches in width.** In order to protect the natural resources from vandalism, harm, harassment, poaching and wildfire and for the protection of trail users from the unauthorized use of motor vehicles, natural area management accessway gates are kept locked at all times. Individuals with mobility disabilities who wish to use an electric-powered OPDMD which exceeds 30 inches in width but is less than 48 inches in width on designated natural area multi-purpose trails/management accessways may contact the Palm Beach County Department of Environmental Resources Management at 561-233-2400 or go online to <http://discover.pbcgov.org/erm/Publications/OPDMDpermitapplication.pdf> to apply for a no-fee mobility disability permit. Individuals who submit a completed mobility disability permit application along with a copy of a valid, state-issued, disability parking placard or card, or signed affidavit of need shall be issued an OPDMD permit which will allow the permitted individual to use an electric-powered OPDMD over 30 inches in width but is less than 48 inches in width on designated multi-purpose trails and management accessways as provided and restricted herein. By accepting an OPDMD permit, an individual with a mobility disability agrees to immediately lock all gates they pass through, to utilize only those trails and accessways that have been designated for such use, and to limit their use of natural area trails/accessways from sunrise to sunset.

OPDMDs used on multi-purpose trails/management accessways pursuant to a permit issued by the County shall not exceed 48 inches in width, 110 inches in length or 2,000 pounds total weight including the weight of the OPDMD and all

passengers.

C. Use of OPDMDs on County natural areas is restricted to individuals with mobility disabilities, except as provided herein. OPDMDs, as allowed pursuant to this Access Policy, may only be used by an individual with a mobility disability; however a caregiver or minor child of a person with a mobility disability may accompany a mobility disabled person in an OPDMD, if designed to hold more than one person. The person operating the OPDMD shall not operate the OPDMD in a manner that would cause the OPDMD to tip or become unstable, cause harm to the occupants of the OPDMD or others on the trail, or cause harm to the trail itself or to the surrounding sensitive natural resources.

D. Inquiry into use of OPDMD. County staff and law enforcement officers may ask a person using an OPDMD to provide a credible assurance that the mobility device is required because of the person's disability. County staff and law enforcement officers 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 OPDMD 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, County staff and law enforcement officers shall accept as a credible assurance a verbal representation, not contradicted by observable fact, that the OPDMD 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.

4. Limitations for use of electric-powered OPDMDs on County natural areas.

A. Nature trails (including concrete and boardwalk portions), observation platforms, overlooks, shade shelters, boat docks and piers were designed and constructed for use by pedestrians and individuals with mobility disabilities who utilize wheelchairs or manually-powered mobility aids. An individual with a mobility disability may use an electric-powered OPDMD on any concrete or boardwalk trail, observation platform, overlook, shade shelter, boat dock or pier provided that the OPDMD, in combination with the operator, does not exceed 30 inches in width or 800 pounds total weight and is operated at a speed that does not exceed 5 miles per hour (mph).

B. Natural-surface hiking trails are narrow, unimproved trails designed and constructed for use by pedestrians. Hiking trail surfaces may contain very fine, soft or mucky soils, uneven surfaces, steep grades, roots, rocks and/or vegetation debris; they may also go through areas that hold standing water during rain events and/or

during the rainy season. Although not specifically designed for wheelchair use, hiking trails may be used by individuals with mobility disabilities who utilize wheelchairs or manually-powered mobility aids. Individuals with mobility disabilities may use an electric-powered OPDMD on natural surface hiking trails provided that the mobility device, in combination with the operator, does not exceed 30 inches in width, is designed for use on soft, uneven surfaces and is operated at a speed that does not exceed 5 mph. **Individuals with mobility disabilities should carefully consider whether their mobility device can safely operate given the existing trail conditions.**

- C. Equestrian trails** are narrow, natural-surfaced, unimproved trails that were specifically designed and constructed for use by equestrians. Equestrian trail surfaces may contain very fine, soft or mucky soils, uneven surfaces, steep grades, roots, rocks and/or vegetation debris; they may also go through areas that hold standing water during rain events and/or during the rainy season. Although not specifically designed for foot traffic, equestrian trails may be used by pedestrians and individuals with mobility disabilities who utilize wheelchairs or manually-powered mobility aids. **The use of OPDMDs is prohibited on equestrian trails due to a substantial risk to equestrians and other trail users. Individuals with mobility disabilities who wish to access equestrian trails using a wheelchair or manually-powered mobility aid should carefully consider whether their mobility device can safely operate given the existing trail conditions and the trail's primary purpose as an equestrian trail.**
- D. Multi-purpose trails** are improved/hardened trails that have been specifically designated, designed and constructed for use by more than one trail user type such as pedestrians, persons with mobility disabilities, bicyclists and equestrians. All multi-purpose trails may be used by pedestrians and individuals with mobility disabilities who utilize wheelchairs, manually-powered mobility aids or electric-powered OPDMDs that, in combination with the operator, do not exceed 30 inches in width. With a permit issued by the County, individuals with mobility disabilities may use electric-powered OPDMDs that, in combination with the operator, are between 31 inches and 48 inches in width on designated multi-purpose trails. All OPDMD's used on a multi-purpose trail must be operated at a speed that does not exceed 15 mph.
- E. Management accessways** were designed and constructed for use by County staff and authorized land management contractors during prescribed burns, exotic vegetation control and other land management activities. Management accessways are not improved and may contain very fine, soft or mucky soils, uneven surfaces, steep grades, roots, rocks, ruts and/or vegetation debris; they may also go through areas which may hold more than 1 foot of standing water during rain events and/or during the rainy season. Although not specifically designed for foot traffic, management

accessways may be used by pedestrians and individuals with mobility disabilities who utilize wheelchairs, manually-powered mobility aids or electric-powered OPDMDs that, in combination with the operator, do not exceed 30 inches in width. With a permit issued by the County, individuals with mobility disabilities may use electric-powered OPDMDs that, in combination with the operator, are between 31 inches and 48 inches in width on designated management accessways provided that the devices are designed for use on soft, uneven surfaces. All OPDMD's used on a management accessway must be operated at a speed that does not exceed 10 mph. **Individuals with mobility disabilities should carefully consider whether their mobility device can safely operate under these types of conditions and whether or not they have the specialized training/experience necessary to safely use their mobility device under these extreme conditions.**

5. **Violations.** The following shall constitute violations under this Access Policy and shall result in permanent cancellation of an OPDMD permit and/or prosecution under applicable federal, state or county laws and/or the County's Natural Areas Ordinance (Ordinance 94-13) to the maximum extent allowed by law.
 - A. **Falsification of documents/misrepresentation of disability.** Anyone who falsely identifies themselves as having a mobility disability in order to utilize an OPDMD on a natural area is in violation of this Access Policy.
 - B. **“Off-trail” use of OPDMDs, use of an OPDMD in a manner that is in violation of this policy, damaging native vegetation and/or harassing/killing wildlife is prohibited.** Anyone found using an OPDMD “off-trail” (i.e., not on a designated trail or management accessway), in a manner that is not authorized under this policy, or in a manner that damages native vegetation and/or harasses/kills wildlife is in violation of this Access Policy.
 - C. **Use of OPDMDs while intoxicated or in a reckless manner is prohibited.** Anyone found operating an OPDMD while intoxicated, in a dangerous or reckless manner that jeopardizes the safety of the operator, County staff, or any other person, or in violation of the speed limits set forth in this Access Policy is in violation of this Access Policy.
6. **Liability.** By adopting this Access Policy, the County is not representing that the trails and accessways mentioned herein are designed, maintained, managed or safe for use by any particular person, manually-powered mobility aid, or OPDMD. Certain risks are inherent in the use of any trail or accessway, and the County assumes no liability for the user's decision to traverse any particular trail or accessway. The County does not accept liability for injury to a disabled person or for damage to a manually powered mobility aid

