

### **3.4 MOBILITY DEVICE USE POLICY**

**Purpose:**

A. The Oak Brook Park District (the "District") is a public entity which is subject to the terms and conditions of Title 2 of the Americans with Disabilities Act of 1990, as amended (the "Act").

B. The District is required by the Act to establish and/or modify policies and procedures to avoid unreasonable discrimination in the provision of public services and benefits against persons with mobility disabilities.

C. One class of mobility assistance devices is defined as "Other Power-Driven Mobility Devices".

D. In considering this Mobility Device Use Policy, the Board of Park Commissioners has considered the following factors: (a) the type, size, weight, dimensions, and speed of devices authorized by this Policy; (b) the volume of pedestrian traffic in the District's various indoor and outdoor facilities (which may vary at different times of the day, week, month, or year); (c) the design and operational characteristics of the District's various indoor and outdoor facilities (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 "Other Power-Driven Mobility Devices" in the District's facilities; and (e) whether the use of "Other Power-Driven Mobility Devices" creates a substantial risk of serious harm to the District's patrons' health and welfare, the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations.

E. The corporate authorities desire for this Policy to be read and applied liberally to encourage the use of District facilities by authorized patrons who have mobility disabilities.

**Definitions:**

- A. **Direct Threat:** means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services.
- B. **Electronic Personal Assistance Mobility Devices (EPAMDs):** A Segway® PT, or a battery-powered mobility device with substantially similar characteristics and functionality;
- C. **Other Power-Driven Mobility Device:** means 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, but that is not a wheelchair within the meaning of this Policy.
- D. **Qualified Individual with a Disability:** means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.
- E. **Wheelchair:** means 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.

**Mobility Assistance Devices:**

- A. Use of wheelchairs and manually-powered mobility aids.

The District 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. Use of Other Power-Driven Mobility Devices.

- I. Permitted Users.

Only individuals with mobility disabilities may use Other Power-Driven Mobility Devices in areas designated by the Executive Director within District facilities or on District property.

- a. The District 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.
- b. The District 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. Credible assurance shall include: a valid, State-issued, disability parking placard or card, or other state-issued proof of disability; or 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 requirements of the State of issuance for disability placards or cards.

2. Permitted Other Power-Driven Mobility Device.

Only EPAMDs are permitted to be operated in District facilities or on District property. No combustion engine-powered Other Power-Driven Mobility Devices are allowed to be operated in District facilities or on District property.

3. Variances.

The Executive Director may grant a qualified individual with a disability a variance to allow a combustion engine-powered Other Power-Driven Mobility Device, only at an outdoor facility owned and operated by the District, upon a showing that: (a) application of this restriction would cause an undue hardship on the applicant; and (b) emissions from the combustion engine-powered Other Power-Driven Mobility Device will not have a deleterious impact on the health and safety of other District patrons participating in or observing the relevant activity, service or program. Applications for a variance must be received by the Executive Director at least 48 hours in advance of the relevant program, activity or service to which it shall apply, or the first in a series thereof.

**General Safety Regulations:**

A. Other Power-Driven Mobility Device:

1. Will be allowed in any area of a facility or park in which the general public is allowed, with the exception of stairways and identified hazardous areas;
2. Must be controlled by the person riding the device;

3. Must be operated in compliance with the following guidelines:
  - a. May not exceed 4 mph in an indoor facility or 6 mph at an outdoor park or facility;
  - b. Shall be driven on the right side of the circulation route;
  - c. The total combined height of the EPAMD and the operator may not exceed the height of the lowest immovable building element or park feature located in the area such device is to be operated;
  - d. May not carry another person on the frame, or any object on the frame that may make the EPAMD less stable;
  - e. May not be driven into wet or ecologically sensitive areas which are posted as prohibited areas by the District; and may not be operated in a dangerous or reckless manner that jeopardizes the safety of the operator, District employees, or District participants.

B. Notwithstanding the general safety regulations described above, the Executive Director shall have authority to direct a qualified individual with a disability on the safe operation of a permitted Other Power-Driven Mobility Device in light of the existing conditions at the facility where such individual seeks to operate the device and actual perceived risks related thereto; provided, however, that such directions shall not be based merely on speculation, stereotypes, or generalizations about individuals with disabilities. In giving direction on the safe operation of a permitted Other Power-Driven Mobility Device, the Executive Director may consider the then existing uses at the facility, the volume of pedestrian traffic, the prevailing environmental conditions, the density and placement of stationary devices and the individual's experience with the operation of such device.

C. This Policy does not require the District to permit an individual to participate in or benefit from the services, programs, or activities of the District when that individual poses a direct threat to the health or safety of others. The Executive Director has authority to prohibit an individual from participating in or benefiting from the services, programs, or activities of the District when that individual poses a direct threat to the health or safety of others. In determining whether an individual poses a direct threat to the health or safety of others, the Executive Director must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

**District Not Obligated To Provide Personal Devices And Services:**

This Policy does not require the District to provide to individuals with disabilities personal devices, such as wheelchairs or permitted Other Power-Driven Mobility Devices.

**Notice:**

The District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this Policy and its applicability to the services, programs, or activities of the District in a manner designed to apprise such persons of the protections against discrimination assured them by the Act and this Policy.

**No Liability To District:**

- A. The District accepts no responsibility for storage of any mobility device.
- B. The District accepts no liability for damage to any mobility device, or injury to the operator, whether caused by the operator, another visitor to a District facility or site, the physical conditions of the District facility or site, or any other circumstance.
- C. The District accepts no liability for damage caused by the operator of the device, or injury to others caused by the operator of the device.
- D. The District accepts no liability for any injuries or property damage, to either the operator or others, resulting from the District's failure to enforce this Policy or to supervise the operator of an Other Power-Driven Mobility Device.

**Amendments to this Policy:**

The District reserves the right to change, modify, or amend this Policy at any time.