

**SUBJECT: Use of Power-Driven Mobility Devices on Trails by
Individuals with Mobility Disabilities**

DATE:

EFFECTIVE PERIOD: Until superseded

REVIEW SCHEDULE: Annually

PURPOSE: For compliance with ADA Part 35 (Title II) Regulations concerning use of power-driven mobility devices by Individuals with Mobility Disabilities, for consistent response to inquiries about the use and for enforcement of policies of power driven mobility devices on trails managed by the Larimer County Natural Resources Department.

SCOPE: All Natural Resource Department Employees

RESPONSIBILITY: Director; Natural Resources Department Staff

BACKGROUND:

Effective March 15, 2011, the Department of Justice (DOJ) revised its rules effectuating Subtitle A of Title II of the Americans With Disabilities Act of 1990 with respect to the use of power-driven mobility devices by individuals with mobility disabilities on lands owned by public entities.

Larimer County Natural Resources Department (LCDNR) completed an assessment of all trails it manages to determine reasonable modifications to its policies and practices to allow the use of power-driven mobility devices (PDMDs) by persons with mobility disabilities and to define the types and classes of devices that are appropriate. Information about PDMDs that may and may not be used on LCDNR managed trails will be posted on the Departmental website. Larimer County desires to accommodate individuals with mobility disabilities while ensuring that power-driven mobility devices do not have a significant negative impact on the immediate environment, natural or cultural resources or visitor safety and experiences. A number of assessment factors were used to evaluate the types of PDMDs acceptable on LCDNR-managed trails including type, size and speed of device, environmental, natural and cultural resource impacts, visitor safety and experience.

DEFINITIONS:

For purposes of this policy:

Mobility Device means Power-Driven Mobility Device (PDMD) and Wheelchair collectively.

Power-Driven Mobility Device (PDMD) means any mobility device powered by battery, electricity, 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, e-bikes, 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.

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.

POLICY:

1. Except as provided in Sections 2 and 3 below, individuals with mobility disabilities shall be allowed to use the following on LCDNR-managed trails:
 - a. Wheelchairs;
 - b. Manually-powered mobility aids (e.g., walkers, crutches, canes, braces or similar devices designed for use by individuals with mobility disabilities); and
 - c. Power-Driven Mobility Devices (PDMDs)
2. The following may not be used on LCDNR-managed trails:
 - a. Gas-powered Power-Driven Mobility Devices (PDMDs);
 - b. Devices heavier than 500 pounds;
 - c. PDMDs that have an outside wheel width between left and right side wheels that exceeds the existing designed width of the trail (or any trail providing access to another trail of wider width) thereby causing the wheel(s) to roll over vegetation and resulting in potential environmental and/or cultural resource damage.
3. PDMDs may not be used on LCDNR-managed trails if such use causes damage to the trail tread, trail infrastructure or facilities.
4. PDMDs must travel on low-pressure tires, remain on designated trails, and be capable of turning around within the trail tread in a safe manner.
5. Wheelchairs and PDMDs may not be operated at speeds greater than 5 (five) miles per hour (mph) and must be designed to have a maximum speed of 20 mph or less.
6. PDMDs may be used only on LCDNR-managed natural and paved surface trails where bicycles are also allowed unless specifically noted on-site or on the LCDNR website.
7. Only the person with the mobility disability is allowed on the Mobility Device.

8. PDMDs may not exceed a 55 decibel (dBA) maximum sound level as heard 25 feet from the device.
9. A person using a Mobility Device may be asked to provide a “credible assurance” that the Mobility Device is required because of the person’s disability. Credible assurance may include showing a valid State-issued disability parking placard or card or other State-issued proof of disability. In lieu of a valid State-issued disability parking placard or card or other State-issued proof of disability, a verbal representation, not contradicted by observable fact, that the Mobility Device is being used for a mobility disability shall constitute credible assurance.
10. A person using a Mobility Device may not be asked about the nature and extent of the person’s disability.
11. The Mobility Device user, or a competent assistant to the user, should be advised that even though sections of trail may appear to be passable with a Mobility Device, there is no assurance that it can be done safely. Trails are subject to the weather and other environmental conditions and change over time.
12. Safe use of any approved Mobility Device is the user’s responsibility. The Mobility Device must not be operated in a dangerous or reckless manner that jeopardizes the safety of others.
13. The Natural Resources Department accepts no responsibility for storage of the Mobility Device.
14. The Natural Resources Department accepts no liability for damage to the Mobility Device or injury to the user under any circumstance.
15. The Natural Resources Department accepts no liability for damage or injury to others caused by the use of a Mobility Device.
16. The Natural Resources Department reserves the right to suspend the use of a Mobility Device on LCDNR-managed trails or facilities if such suspension is necessary to meet a management objective of the Department or for violation of policies and regulations.
17. Users of Mobility Devices are subject to all other LCDNR policies and regulations to the extent such policies and regulations are not inconsistent with this Policy.
18. This Policy may be amended at its annual review date or any other time the Natural Resources Department, in its discretion, determines such amendment to be necessary or appropriate.
19. Larimer County will post on the Natural Resources Department website the specific trails or areas where PDMDs are allowed.

20. Special needs not addressed in this Policy or requests for exceptions will be addressed through the Natural Resources Department Special Event Application Process.

21. A. Grievance. Any person with a mobility disability who believes he/she has been aggrieved by the application of this Policy may file a grievance using the following procedure:

Step 1. File the Grievance

1. Within ten days following the incident giving rise to the grievance, the grievant shall submit a written grievance to the Director of the Department of Natural Resources. The grievance shall include at least the following information:

- a. Name, address and phone number of the person filing the grievance.
- b. Name, address, and phone number of the person alleging a violation of this Policy, if other than the person filing the grievance.
- c. Description of the alleged violation, including date of the incident, names of persons involved, and details of the incident.
- d. Description of the remedy sought.
- e. Whether a complaint has been filed with the Department of Justice or other federal or state civil rights agency or court and if so, provide the name of the court or agency, name and address of a contact person, the date the charge or case was filed and the charge or case number.

Step 2. Acknowledgement

Within 5 working days of receipt of the grievance, LCDNR will send a written acknowledgement to the grievant that the grievance has been received.

Step 3. Informal Resolution

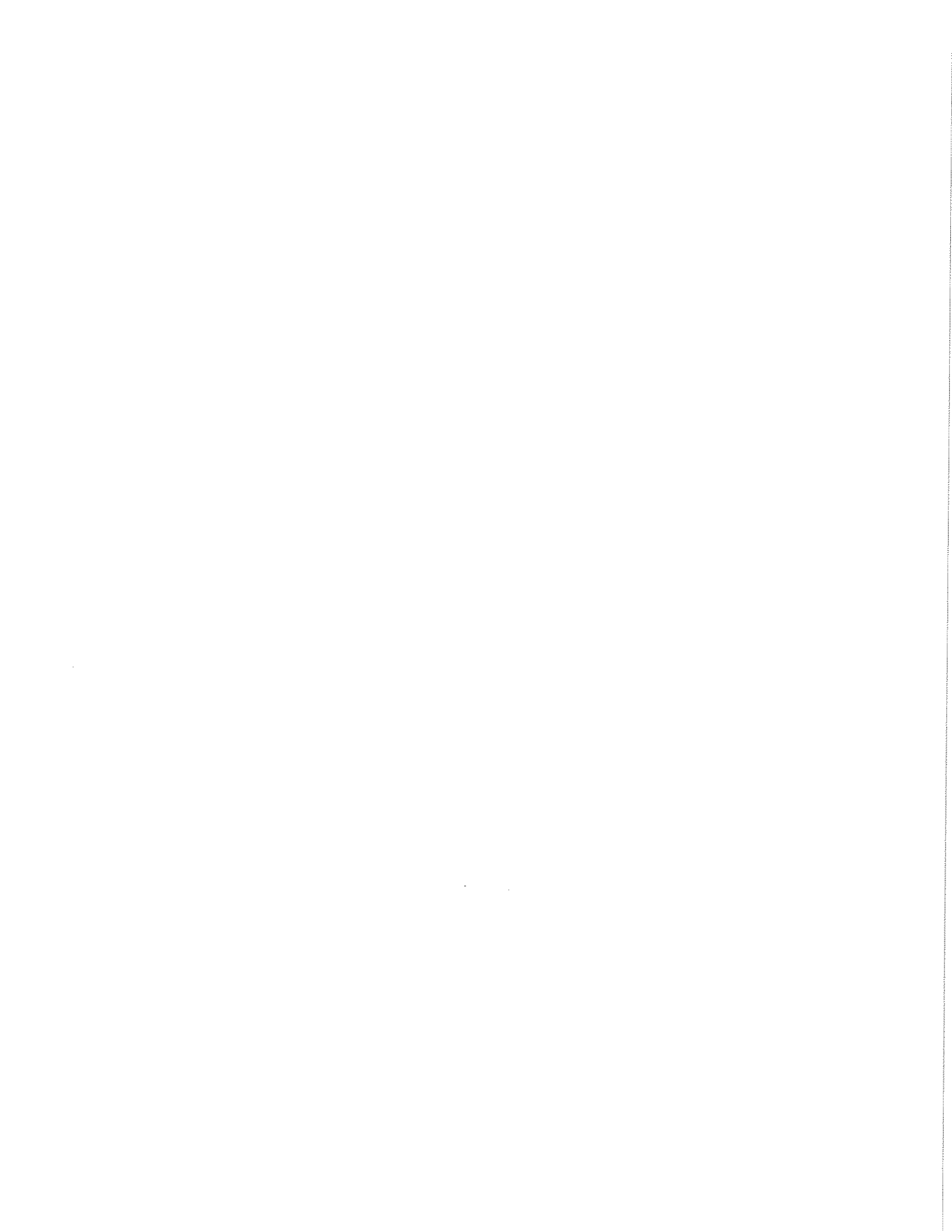
Within 30 calendar days of receipt of the grievance, LCDNR will conduct and complete such investigation as it deems necessary to determine the validity of the alleged violation. If appropriate, the LCDNR Director will arrange to meet with the grievant to discuss the matter and attempt to reach an informal resolution of the grievance. Any informal resolution of the grievance shall be documented in writing and the case will be closed.

Step 4. Written Determination

If an informal resolution of the grievance is not reached in Step 3, within 45 calendar days of receipt of the grievance, the LCDNR Director will issue a written determination as to the validity of the grievance, and a description of the resolution. The Director shall mail a copy of the determination to the grievant by both first class mail, postage prepaid and by certified mail, return receipt requested.

Step 5. Review of Determination

If the grievant is not satisfied with the LCDNR Director's written determination, the grievant may, within fifteen calendar days of the date of the grievance,



file an appeal with the Director of Community Planning, Infrastructure and Resources (CPIR). The appeal shall describe all facts, circumstances and law which grievant asserts support grievant's contention that the LCDNR Director is in error.

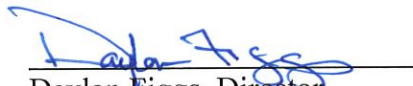
Within fifteen calendar days of receipt of the appeal, the County Manager shall issue a written determination. The County Managers written determination shall be final.

B. Considerations:

Resolution of any specific grievance will require consideration of varying circumstances, such as the specific nature of the disability; the nature of the access to the service or facility at issue, the health and safety of the grievant and others, the degree to which an accommodation would constitute a fundamental alteration in the service or facility or cause an undue hardship to the County. Accordingly, the resolution by the County of any one grievance does not constitute a precedent upon which the County is bound or upon which other complaining parties may rely.

For questions or more information regarding this policy, please contact the LCDNR Director at (970) 679-4570.

DISTRIBUTION: Natural Resource Managers

APPROVAL: 
Daylan Figgs, Director

7/13/2024
Date

COMPUTER FILE

LOCATION: