



## Municipal Streets, Sidewalks, and Trails By-Law M-089-24

Effective Date:  
June 26, 2024

### Part 1 Purpose

- 1.1 The purpose of this by-law is to provide guidelines regarding activities or conditions affecting municipal *streets, sidewalks, trails* and other property owned by the *Municipality*.

### Part 2 Definitions

- 2.1 **“Abutter”** means the owner, lessee or occupier of any premises or lot in the *Municipality* which abuts a *street, roadway or trail*;
- 2.2 **“CAO”** means the Chief Administrative Officer of the *Municipality* of Yarmouth;
- 2.3 **“Curb”** means a rim, especially of joined stones or concrete, along a *street or roadway*, forming an edge for a *street* or sidewalk;
- 2.4 **“Director of Public Works”** means the *Director of Public Works* for the *Municipality* of Yarmouth;
- 2.5 **“Engineer”** means the Municipal *Engineer* and includes a person acting under the supervision and direction of the *Engineer*;
- 2.6 **“Heavy Load”** means loads of over 9923 lbs or 4501kg;
- 2.7 **“Municipal Infrastructure”** includes infrastructure that supports the provision of Municipal services and without restricting the generality of the foregoing includes public *streets, sewer, sidewalks, street lighting, trails, traffic signs* and other municipal signs;
- 2.8 **“Municipal Sewer”** means a sewer owned and operated by the *Municipality*;
- 2.9 **“Municipality”** means the *Municipality* of the District of Yarmouth;
- 2.10 **“Roadway”** means that portion of a Municipal *street* between the *curb* lines or the traveled portion of a *street* designed for vehicular traffic;
- 2.11 **“Sidewalk”** means that portion of a *street* with a hard surface (e.g. asphalt or concrete) between the *curb* line and adjacent property line or any part of the *street* especially set aside for pedestrian travel and separated from the *roadway*;
- 2.12 **“Street”** means, for the purposes of this by-law, a Municipal *street, highway, road, lane, sidewalk, thoroughfare, bridge, square* and the *curbs, gutters, culverts* and retaining



## Municipal Streets, Sidewalks, and Trails By-Law M-089-24

Effective Date:  
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walls in connection therewith and, without restricting the generality of the foregoing, includes the full right-of-way width.

- 2.13 “**Trail**” means, for the purposes of this by-law, a non-motorized multi-use trail or path alongside a *roadway* that is physically separated from motorized traffic by an open space or barrier. They are intended for activities such as walking, cycling, horseback riding, and other non-motorized forms of transportation.

### Part 3 Removal of Ice and Snow from *Sidewalks*

- 3.1 *Abutters* whose property has snow, icicles or ice overhanging or abutting a *sidewalk* which is a safety hazard or poses a threat, shall remove such snow, icicles or ice before it falls or is likely to fall onto a *sidewalk*.
- 3.2 When an *abutter* fails to remove snow, ice or icicles from *sidewalks* or structures as required by this by-law, the *Director of Public Works* may give to the *abutter* an order to remove the snow and ice within twenty-four (24) hours of OR forthwith upon service of such notice.
- 3.3 If the remedial work ordered pursuant to *Section 3.2* is not made within the time provided for by the order, the *Director of Public Works* may make or cause to be made such snow, ice or icicle removed.
- 3.4 The *Municipality* may recover the expense incurred in making snow, ice or icicle removals pursuant to *Section 3.3*, together with costs and pre-judgment interest by action in any court of competent jurisdiction, or may charge and collect same as a first lien on the property.
- 3.5 In clearing of snow from Municipal *sidewalks* and public *roadways*, private driveways may be filled with snow as a consequence of snow removal, either before or after a property owner and or occupant has cleared their driveway. The *Municipality* does not take responsibility for removing snow from these driveways when this occurs.
- 3.6 Nothing in this by-law creates a duty upon the *Municipality* to inspect or become aware of hazardous conditions created by snow or ice on, near, or overhanging *sidewalks*. *Council* hereby declares, having regard to the resources and fiscal priorities of the *Municipality*, that it is the express policy of the *Municipality*:
- 3.6.1 to only carry out inspections upon receiving a complaint about such conditions in respect of a specific location; and
- 3.6.2 that such complaints shall be deemed to be remedied upon the removal or remediation of the hazardous condition that existed at the time of the making of the complaint.



**Municipal Streets, Sidewalks, and Trails By-Law M-089-24**

Effective Date:  
June 26, 2024

**Part 4 Encroaching Vegetation**

- 4.1 *Abutters* shall trim the branches of trees, hedges, bushes or other shrubbery which encroach from the abutting property over a *street, sidewalk or trail* so as to prevent such tree, hedge, bush or other shrubbery:
  - 4.1.1 from interfering with pedestrian traffic on a *sidewalk or trail*;
  - 4.1.2 from interfering with or affecting the sight lines of any person on a bicycle or in a motor vehicle traveling on the *roadway* up to a minimum height of 2.25-meters; or
  - 4.1.3 from interfering with any structure on or in a *street*.

**Part 5 Nuisance**

- 5.1 No *abutter* shall place, permit to be placed, or permit to escape from the *abutter's* property or driveway, dirt, dust, or other nuisance onto the *street, sidewalk, or trail*.

**Part 6 Damage**

- 6.1 No person shall:
  - 6.1.1 move any *heavy load* over or deposit any *heavy load* on any *sidewalk or trail* unless the *sidewalk or trail* has first been protected by covering with boards of adequate thickness to prevent any visible damage or disturbance to the surface of the *sidewalk or trail*, or
  - 6.1.2 otherwise cause or permit any visible damage or disturbance to the surface of a *sidewalk or trail*,
  - 6.1.3 except as authorized by a *Street Disturbance Permit* (see Part 8).
- 6.2 No person shall:
  - 6.2.1 drag or cause or permit any load or part of a load to drag on any *roadway* in such a manner as to cause any visible damage or disturbance to the surface of the *roadway*, or
  - 6.2.2 otherwise cause or permit any visible damage or disturbance to the surface of a *roadway*,



**Municipal Streets, Sidewalks, and Trails By-Law M-089-24**

Effective Date:  
June 26, 2024

6.2.3 except as authorized by a *Street Disturbance Permit* (see Part 8).

6.3 No person shall drive over a *curb* with a *heavy load* or otherwise cause any visible damage or disturbance to the surface of the *curb*, except as authorized by a *Street Disturbance Permit* (see Part 8).

**Part 7 Gates**

7.1 No person shall construct or permit to be used any gate or barriers that open into or encroach upon any portion of the any *street, sidewalk, or trail* that may in any way impede pedestrian or vehicular traffic.

**Part 8 Street Disturbance Permit**

8.1 No person shall:

8.1.1 make any excavation in a *street, sidewalk, or trail*;

8.1.2 cause or permit the breaking of the surface of a *street, sidewalk, or trail*, or other physical damage to a *street, sidewalk, or trail* by construction activities in or near a *street*; or

8.1.3 otherwise engage in construction activity or other temporary activity that is likely to obstruct pedestrian or vehicular traffic in a *street, sidewalk, or trail* without first obtaining a *Street Disturbance Permit* from the *Municipality* of the District of Yarmouth.

8.2 Every application for a *Street Disturbance Permit* shall include:

8.2.1 a non-refundable fee in the amount specified in the Fees Policy when the Permit is required solely because of an obstruction of one month or less to the pedestrian or vehicular traffic in a *street, sidewalk, or trail*, without breaking or damaging the surface or subsurface of a *street, sidewalk, or trail*, or to *Municipal infrastructure* or property in, on or under a *street, sidewalk, or trail*;

8.2.2 a non-refundable fee in the amount specified in the Fees Policy in all other cases; and

8.2.3 where an excavation or other construction activity is involved that may, in the opinion of the *Engineer*, cause damage to a *street, sidewalk, or trail*, a security deposit in the amount specified in the Fees Policy.

8.3 The security deposit required under *Section 8.2.3* shall be retained as security that the applicant will properly perform and complete the work for which the permit is granted,



**Municipal Streets, Sidewalks, and Trails By-Law M-089-24**

Effective Date:  
June 26, 2024

and restore and keep the surface of the *street, sidewalk, or trail* and other Municipal property when such work is done, to a good condition to the satisfaction of the *Engineer* for a period of twelve (12) months after the completion of the work.

- 8.4 If the *Engineer* is of the opinion that the surface of the *street, sidewalk, or trail* or other Municipal property is not restored and kept in good condition for the twelve (12) month period, they may, upon advance notice to the Permit holder and the owner of the property for the benefit of which the work was done, perform such work in respect of the *street, sidewalk, or trail* as they consider necessary and the cost shall be deducted from the deposit, and the balance, if any, returned upon the expiry of the twelve (12) month period. If the cost of such work exceeds the deposit, the *Municipality* may recover the balance, together with costs and pre-judgment interest, by action in any court of competent jurisdiction from the Permit Holder, or may charge and collect the balance as a first lien on the property for whose benefit the work was undertaken.
- 8.5 In the event of an emergency arising at the location of the excavation, the *Engineer* may immediately fill or direct the filling of the excavation at the expense of the Permit Holder.
- 8.6 Every person obtaining a *Street Disturbance Permit* to make any excavation or opening in any *street, sidewalk, or trail* shall:
- 8.6.1 sufficiently and continuously light the excavation at night;
  - 8.6.2 enclose and secure the excavation by a fence or barrier at least one meter in height; and
  - 8.6.3 comply with any standards relating to excavations in the Occupational Health & Safety Act or Regulations or any other applicable statutes or regulations.
- 8.7 In addition to any other conditions imposed by the *Engineer* for the granting of a *Street Disturbance Permit*, all permits shall be subject to the following conditions:
- 8.7.1 the *Engineer* may stipulate the hours of work;
  - 8.7.2 the Permit Holder shall keep the work site at all times safe with respect to vehicular and pedestrian traffic, including direction of traffic, barricades, lights, signs, and supply of properly equipped and trained traffic control personnel for protection of traffic, in accordance with the latest edition of the Nova Scotia Temporary Workplace Traffic Control Manual or other standards in force pursuant to the Occupational Health and Safety Act;
  - 8.7.3 the *Engineer* may order additional precautions, work stoppages and restorations of the *street, sidewalk, or trail* should circumstance warrant and upon the failure of the Permit Holder to comply within twenty-four (24) hours with such order, or immediately in the event of an emergency, the *Municipality* may undertake any



**Municipal Streets, Sidewalks, and Trails By-Law M-089-24**

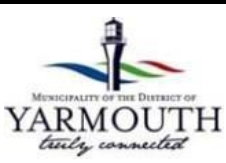
Effective Date:  
June 26, 2024

necessary action at the expense of the Permit Holder;

- 8.7.4 the Permit Holder shall ensure that the *street, sidewalk, or trail* is kept free from nuisance, dirt and dust;
- 8.7.5 the Permit Holder shall dispose of, store, or haul away any clean material suitable for use as structural fill excavated from a *street, sidewalk, or trail* in accordance with the directions of the *Engineer* and the material may, at the *Engineer's* discretion, remain Municipal property;
- 8.7.6 the Permit Holder shall ensure that all excavations are backfilled and restored in such manner and with such material as is approved by the *Engineer* and that advance notice of a minimum of twenty-four (24) hours of the backfilling operation shall be provided to the *Engineer* so that it may be properly inspected;
- 8.7.7 the Permit Holder shall comply and ensure compliance by any agents, contractors or employees, with:
  - 8.7.7.1 the *Nova Scotia Department of Pubic Works* Standard Specifications for Highway Construction and Maintenance in cases where the construction activity involved construction, repair or alteration of driveway access points into a *street*;
  - 8.7.7.2 the *Nova Scotia Department of Public Works* Standard Specifications for Highway Construction and Maintenance where the construction activity involved excavation or other penetration or damage to the surface or subsurface of a *street, sidewalk, or trail*;
  - 8.7.7.3 any other Policies or Standards of the *Municipality*, regarding design or construction standards applicable to *municipal infrastructure* or property in, on, under or near a *street, sidewalk, or trail*;
  - 8.7.7.4 the provision of an indemnity in favour of, and in form satisfactory to, the *Municipality* for the defence and indemnification of any claims arising out of or in relation to the proposed *street, sidewalk, or trail* disturbance activities; and
  - 8.7.7.5 the permit shall be valid for a period of 6 months from date of issuance, but where work has commenced the permit shall expire twelve (12) months after the date of issuance; and
  - 8.7.7.6 any other condition in respect of safety or preservation of Municipal property interests that the *Engineer* may impose.



MUNICIPALITY OF THE DISTRICT OF YARMOUTH



**Municipal Streets, Sidewalks, and Trails By-Law M-089-24**

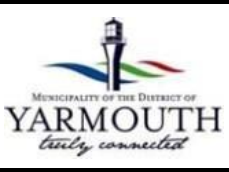
Effective Date:  
June 26, 2024

- 8.8 In the event of an emergency requiring the immediate excavation of the *street, sidewalk, or trail*, the *Engineer* may give verbal permission for such excavation on the condition that a *Street Disturbance Permit* is applied for and obtained on the first working day subsequent to the granting of such permission.
- 8.9 The *Director of Public Works and/or Engineer* may refuse to issue, renew or amend, or may revoke or suspend a *Street Disturbance Permit*, upon reasonable notice to an applicant or Permit Holder, when:
- 8.9.1 the *Director of Public Works and/or Engineer* is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit Holder have adequately protected or will adequately protect the *Municipality's* property;
  - 8.9.2 the *Director of Public Works and/or Engineer* is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit Holder have minimized or will minimize the obstruction to pedestrian or vehicular traffic in the *street, sidewalk, or trail*;
  - 8.9.3 the *Director of Public Works and/or Engineer* is not satisfied that the steps taken, or proposed steps to be taken, by the applicant or Permit Holder have achieved or will achieve compliance with any applicable Policies or Standards of the *Municipality*;
  - 8.9.4 this Policy or the terms or conditions of a Permit have been contravened; or
  - 8.9.5 for any other reason in the public interest.
- 8.10 A person aggrieved by a decision of the *Director of Public Works and/or Engineer* pursuant to *Section 9.9* may appeal that decision to *Council* within fifteen (15) days of the decision by written notice of appeal to the CAO.
- 8.11 After the hearing of an appeal, *Council* may confirm, rescind or vary the decision of the *Director of Public Works and/or Engineer*.

**Part 9 Penalties**

- 9.1 Any person who contravenes any part of this By-law is guilty of an offence punishable on summary conviction by a fine of not less than one hundred (\$100) dollars and not more than ten thousand (\$10,000) dollars;
- 9.2 each day that a person commits an offence under this By-law constitutes a separate offence.

MUNICIPALITY OF THE DISTRICT OF YARMOUTH




**Municipal Streets, Sidewalks, and Trails By-Law M-089-24**

Effective Date:  
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**Part 10 Repeal**

10.1 This By-Law hereby repeals and replaces Streets and Sidewalks By-law S-089-22.

<b>Chief Administrative Officer’s Annotation for Official By-Law Book</b>	
Date of First Reading	May 29, 2024
Date of Advertisement of Notice of Intent to Consider	May 31, 2024
Date of Second Reading	June 26, 2024
Date of Advertisement of Passage of By-law	August 6, 2024
Date of Mailing to Minister a Certified Copy of By-law	August 6, 2024
I certify that this Municipal Streets and Sidewalks By-law M-089-24 was adopted by Council and published as indicated above.	
 _____ Chief Administrative Officer	<u>August 6, 2024</u> Date

**Date last reviewed by Council: June 26, 2024**

**Date last amended: June 26, 2024**



MUNICIPALITY OF THE DISTRICT OF YARMOUTH



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**Schedule A  
Municipal Sidewalk Locations**

Arcadia from Civic #	10094 Highway 3	to	10270 Highway 3
Brooklyn from Civic #	402 Brooklyn Rd	to	547 Brooklyn Rd
Carleton from Civic #	3980 Highway 340 17 Carleton Triangle Rd 14 Highway 203	to	4014 Highway 340 71 Carleton Triangle Rd 32 Highway 203
Grove Road/Main Shore Road Civic #	20 Highway 304 25 Main Shore Rd	to	86 Highway 304 89 Main Shore Rd
Hebron from Civic #	932 Highway 1 552 Highway 1	to	1558 Greenville Rd 426 Highway 1
Greenville Rd Civic #	552 Highway 1	to	1541 Greenville Rd
Kemptonville from Civic #	2076 Highway 203	to	2175 Highway 203
Port Maitland Civic #	3030 Intersection of Richmond Rd & Highway 1	to	3269 Highway 1
South Ohio from Civic #	802 Highway 340	to	854 Highway 340



**Municipal Streets, Sidewalks, and Trails By-Law M-089-24**

Effective Date:  
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**Schedule B  
Municipal Street Locations**

Lake Estates Court	Hebron
Park Drive (Municipal Portion)	Brooklyn
Seeland Avenue	Brooklyn
County Crescent (Municipal Portion)	Greenville



**Municipal Streets, Sidewalks, and Trails By-Law M-089-24**

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**Schedule C  
Municipal Trails**

Rockville/Kelly's Cove Trail

Civic 1510 to 1833, Chebogue Road