

By Laws that Enable or Inhibit Active Transportation in Nova Scotia

A summary of Management Without Borders (MWB) Project #18, Dalhousie University - Scan of Active Transportation Municipal Bylaws, Final project report, December 2010

The MWB group found few bylaws in Nova Scotia that directly affect AT. Those that do influence AT will provide communities with guidance on what to implement and what to avoid if possible. The lack of AT-related bylaws leaves room for interpretation of policy in ways that can support or inhibit AT. While many municipalities do not have bylaws that support AT, many of them have expressed the desire to increase their commitment to AT through the implementation of Municipal Planning Strategies (MPS) or in other municipal planning documents such as their Integrated Community Sustainability Plans. Bylaws can help in strengthening the policy framework that supports AT, however municipal strategies and plans have had a stronger impact on AT development in Nova Scotian communities.

See pages 18-24 of the MWB Report for analysis of the role and types of by-laws that enable and inhibit Active Transportation.

Appendix A MWB Municipal AT By-Law spreadsheet includes specific information about municipalities that were included in the study, including relevant bylaws and related sections, and description of how the by-laws enable or inhibit AT. The report summarizes

By-Laws that enable or positively impact AT

By-law Type	Description	Source
Open Space Requirements for subdivisions, mobile home areas and new residential developments	<ul style="list-style-type: none"> Specifies a minimum (usually 5% sometimes 10%) of total land area to be set aside for open space purposes (parklands, recreation areas including trails). (e.g. Municipality of East Hants) By-laws that directly name trails, bicycle paths and multi-purpose corridors facilitate AT. (e.g. Bridgetown) Some by-laws specify that the recreation director approves all open-space proposals (i.e. Bridgewater) 	Land-use
Open space – cash in lieu	<ul style="list-style-type: none"> In some municipalities cash in lieu of land is permitted but in some cases that cash must be used for parks, public spaces. This more often has a negative effect 	Land-use
Open Space requirements for commercial zones	<ul style="list-style-type: none"> This is especially important when it is street front and specifies that it cannot be parking lots (e.g. Town of Amherst) 	Land-use
Areas zoned for recreational trail use	<ul style="list-style-type: none"> Zones where development permits are only issued for indoor sport, active public recreation uses such as active transportation, pedestrian and bicycle trails, playgrounds, fields (e.g. CBRM Green Link) 	Land-use
Development permits are not needed for recreational uses	<ul style="list-style-type: none"> Any area can be developed for recreational uses and permits are not required. 	Land-use
Recreation uses are permitted in all zones	<ul style="list-style-type: none"> Recreation use of land is permitted in all zones. (e.g. Municipality of Colchester) 	Land-use
Walkway connectivity	<ul style="list-style-type: none"> New home areas shall be connected to the park, street or parking space by a walkway 	Land-Use
Traffic impact on pedestrians and cyclists analysis	<ul style="list-style-type: none"> Any non-residential development must have a traffic impact analysis completed in order to assess its potential impact on pedestrian and bicycle traffic as well as parking patterns. (e.g. Pugwash) 	Land-use

Vegetation	<ul style="list-style-type: none"> Ensure that vegetation does not impede pedestrians (e.g. Bridgewater) 	Land-use
Specifications for walking paths in 'Environmental' Zones	<ul style="list-style-type: none"> Walkways and trails permitted in certain environmental zones including, Flood Way Zones, Slopes and Drainage Raines Zone and Watershed Zones (e.g. Town of Truro) 	Land-use
Active Transportation Zone	<ul style="list-style-type: none"> Development in AT zone is very limited: no development permits is to be issued for any use in a Transportation Corridor (TC) zone except for one or more of the following uses: railways, trails, active transportation (e.g. Wolfville) 	Land Use
No drive-thrus in commercial zones	<ul style="list-style-type: none"> Encourages people to get out of their car and walk around (e.g. Wolfville) 	Land-Use
Bicycles are forbidden on sidewalks	<ul style="list-style-type: none"> Ensures that pedestrian are protected from shared-use conflicts (e.g. HRM) 	Land-use
Bicycle parking specifications	<ul style="list-style-type: none"> According to venue bike parking can protect bikes, have good signage, hard surfaces and be well illuminated (e.g. HRM) 	Land-use
Subdivision pedestrian and transportation connection plan	<ul style="list-style-type: none"> Developers must provide supplementary information regarding street layout, pedestrian routes, and connections with existing and proposed transportation links on a local and regional scale. (e.g. Town of Mahone Bay) 	Subdivision
Subdivision Sidewalks	<ul style="list-style-type: none"> A minimum amount of concrete sidewalk (1.5 meters wide) shall be constructed on every street in the proposed subdivisions. Two sidewalks shall be provided in commercial areas, on arterial streets and on major collector streets. (e.g. Yarmouth) 	Subdivision
Abutter and sidewalk interference regulations	<p>Prevents sidewalks from being interrupted by abutters or other interferences)</p> <ul style="list-style-type: none"> Some by-laws specify that abutters cannot have gates or other hindrances to pedestrians/cyclists. Some by-laws require application to Town council for permission to install culverts or excavate any part of a sidewalk. (e.g. Town of Annapolis Royal) 	Streets and Sidewalks By-law (In most municipalities)
Street or Sidewalk maintenance and care	<ul style="list-style-type: none"> Requirement that sidewalks are kept clear from fencing, materials, dirt, etc 	Streets and sidewalks
Sidewalk cafes	<ul style="list-style-type: none"> They are permitted but must provide a passage for pedestrians or create a temporary sidewalk (e.g. Wolfville) 	Streets and Sidewalks
Sidewalk encroachment specifications	<ul style="list-style-type: none"> The town may encroach on streets of sidewalks only if it does not impede the mobility of pedestrians and wheelchairs. (e.g. Wolfville) 	Streets and sidewalks
Specifications for street Vendors	<ul style="list-style-type: none"> Street vendors or trucks must not sell on the sidewalk unless they provide 4 feet of free space for pedestrians (e.g. Yarmouth) 	Sidewalks and streets
Improvements to roads and streets if health concerns exist	<ul style="list-style-type: none"> Municipality may go ahead with altering roads and streets if sufficient if there is a relation to health concerns. (e.g. Cumberland) 	Road and Streets Standards Manual
Snow removal	<ul style="list-style-type: none"> Clarifies who is responsible for removing snow on sidewalks. Good by-laws require snow to be removed within a certain amount of time after a storm or fines will be imposed. In most municipalities it is the responsibility of abutters. (e.g. Bridgewater) 	Streets and sidewalks

	<ul style="list-style-type: none"> For AT it is best if the municipality removes snow as it provides consistency, clear accountability and timeliness that pedestrians can rely on. 	
Superintendent of the streets	<ul style="list-style-type: none"> Superintendent enforces the observance of every by-law in respect to the streets and reports violations to the chairman of the committee on streets (e.g. Town of Trenton) 	Sidewalks and street
Park travel-use specifications	<ul style="list-style-type: none"> Bylaws that specify no vehicles may be used in park except wheel-chairs and bicycles 	Parks
Lighting	<ul style="list-style-type: none"> Lighting required for sidewalk pedestrian areas, streets and some walkways 	
Off-road Vehicle use	<ul style="list-style-type: none"> Determines where and when vehicles on rail corridor, streets, sidewalks, walkways, school grounds, utility service lands, parks or playgrounds can be used. This is to minimize shared-use conflicts. (e.g. Town of Annapolis Royal) 	Off-Road vehicle use
Recreation committee	<ul style="list-style-type: none"> Municipality forms a committee that is consulted whenever it is proposed to acquire, purchase, lease, sell or dispose of any town land that is held for park or recreation purpose. The committee may set rules and regulations for recreation land and facilities, including setting fees where necessary. (e.g. Town of New Glasgow, Municipal District of East Hants) Provides advice regarding development and maintenance of municipal/public space and recreational facilities 	
Active Transportation Committee	<ul style="list-style-type: none"> Municipality forms a committee that is consulted whenever it is proposed to alter infrastructure that facilitate or could facilitate active transportation Committee guides the implementation of the active transportation plan (i.e. CBRM) 	

By-Laws that Deter or Inhibit Active Transportation

By-law Type	Description	Source
Developer are required to accommodate vehicle parking as frontage on a public street	This requires development to prioritize vehicular accessibility but no provisions specified for pedestrians	Land-Use By-Laws
Open Space – cash in lieu of % land requirement	The developer can pay the clerk the equivalent worth of 5% of the land or combination of cash or land, or offer an equivalent parcel of land in another area of the town. (e.g. Town of Trenton)	Land-use
Non-residential developers are permitted to alter pedestrian, bicycle patterns.	If accompanied by a traffic impact analysis non-residential developers can interrupt pedestrians (e.g. Municipality of Cumberland)	Land-use
Recreation use specifications that do not include active transportation	Development permits are not issued for recreation unless it is for community centres, golf courses, market, garden, garden nurseries, public parks and recreation centres. (e.g. Town of Mulgrave)	Land use by laws
Sidewalk building	Abutting property owners much pay up to 50% for new sidewalks; hence it	Streets and

costs shared with residents	can take agreement and funding from a number of sources to build a new sidewalk.	sidewalks
Sidewalk cafes	Seasonal use of sidewalk for cafes is inhibiting to AT if there is not sufficient provision made for pedestrians (e.g. Town of Windsor)	Street and Sidewalks
Prohibition of skateboarding	Prohibition of skateboards from being used on sidewalks (e.g. Liverpool)	Public Property or Streets and Sidewalks by-laws
Restriction in times of park usage	In some urban municipalities parks are not to be used from 10pm to 5pm (e.g. Port Hawkesbury)	Municipal Parks
Prohibition of walking animals in public parks, sidewalks or trails	Prohibition of active forms of transportation in public areas ((e.g. CBRM)	Public Property By-laws
Prohibition of in-line skating, vehicle skateboarding in public spaces, sidewalks or trails	Prohibition of active forms of transportation in public areas. Fines for skateboarding violations are usually disproportionately high. By-laws often do not make reference to where it is permissible to skateboard.	Public Property By-Laws (e.g. CBRM)
Curfew	Prevent youth under the age of 16 to be on street or sidewalk after a specified hour (e.g. Richmond county)	Curfew
Bicycle license	Every person is required to have a license affixed to their bicycle and can be fined for violation. (e.g. Port Hawkesbury, Truro)	
Bicycles are forbidden on sidewalks	Bicycles are not allowed on sidewalk. In areas where on-road infrastructure for cyclists is not sufficient, cyclists are not able to use sidewalk when necessary to be safe. (e.g. Town of Digby)	
Lighting	Land-owners are responsible for lighting sidewalks, etc (e.g. Town of Lunenburg). It would be better if the municipality was responsible for this.	

Source: MWB Project #18 - Scan of Active Transportation Municipal Bylaws, Final project report, December 2010

By-Laws and By-Law Categories that impact Active Transportation

There are a number of recurring themes and patterns in the bylaws. Below are categories identified by the MWB Group 18 as having most significance for AT:

Abutter Responsibilities

A common bylaw among many municipalities was the nature of abutter responsibility. Outlined in most Land Use Bylaws, abutter responsibilities often consist of removing encroaching vegetation as well as ice and snow from sidewalks adjacent to the property. Abutter responsibilities also involve restrictive actions as abutters must not damage sidewalks, place barriers such as gates or signs to the point where they limit pedestrian traffic on the sidewalk or bicycle traffic, and must not block sightlines on the roadway. In Appendix B, we have labelled this as an enabler of AT processes. This is because this outlines the basic responsibilities of private citizens under the assumption that they will act on their assigned responsibilities. Further, this allows the municipality to provide citizens with the opportunity to commute actively without spending money on regulating abutter behaviour. The trouble with this is that no level of standardization can be reached when the municipality relies on private citizens to deliver services. As such, many municipalities outline their responsibility regarding sidewalks as that they do not regulate or monitor sidewalk conditions, but they will act upon complaints. Further, municipalities often will charge the lien of the abutting property the costs of snow or vegetation removal, et cetera. It is because municipalities choose not to monitor and regulate abutter responsibility that this can also be considered as an inhibitor to AT.

Enforcement

The issue surrounding many of the enabling and inhibiting bylaws towards AT is the nature of enforcement. If a bylaw is a great enabler of AT, but is not enforced or encouraged by the municipality, it can become, in practice, an inhibitor. This can be exhibited in the case of abutter responsibility like that mentioned above. Similarly, the reverse can be true of inhibitors—they can become enablers if not enforced. One such example includes the case of bicycle licenses in the Town of Truro. Although the town requires all bicycles to be licensed and to display such licenses on the bicycles, it may not necessarily be enforced given the number of bicycles and the town's size. Many of these factors depend on a municipality's resources and approach to its bylaws. Such approaches are often outlined in a municipality's planning strategy.

Land Use

Another notable issue within a number of municipalities is the utilization of Land Use Bylaws. This is best exemplified within the Halifax Regional Municipality, where there exist twenty different Land Use Bylaws in each of the municipality's twenty planning areas. While this does allow various areas in the municipality to plan in accordance to their own environment and community conditions, it may also prevent municipal-wide plans for AT due to individual area demands. In the case of the Municipality of the District of Digby, using Land Use Bylaws allows it to protect special geographic areas such as the Digby Wellfield Protection Area.

A unique commitment to Active Transportation is outlined in the Municipality of Cumberland's Land Use Bylaw. Outlined within the Pugwash area, any non-residential development must have a traffic impact analysis completed in order to assess its potential impact on pedestrian and bicycle traffic as well as parking patterns. This is a great enabler of AT as it clearly articulates the municipality's commitment to all forms of transportation. The ultimate goal of the restriction is that developers take all forms of transportation into account in order to ensure universal access to the development. Further, this bylaw outlines the commitment the municipality expects from private businesses within its borders. This is also outlined in Cumberland's Municipal Planning Strategy (Section 3.2.1) as well.

Zoning

Zoning is an important, yet complex component of the AT system. Some of the bylaws that most strongly support AT are zoning bylaws. In Wolfville, the Transportation Corridor is a zone where only AT, trails and railway use is allowed. In CBRM, use of the Green Link Trail is limited, but includes active transportation. Some municipalities, such as Yarmouth, allow the development of trails and walkways in any zone. In others locations, development of certain zones, like Open

Spaces for instance, is limited to the type of certain uses that can facilitate AT, like parks, tennis courts, trails, bicycle paths, and multi-purpose corridors. This is the case in Bridgewater. In contrast, one of the acceptable developments of Open Space in Yarmouth is public parking lots. The wide range of zoning bylaws has a significant impact on the degree to which AT is facilitated in any given municipality.

Sub-divisions and Parkland Transfers

In many municipalities, developers are required to provide the town with 5-10% of the land to be developed for use as open space, parks, playground or other public recreational uses. In Westville however, the relevant bylaw (91.2.e) reads that transferred land must “not exceed five percent of the area shown on the final plan subdivision.” In a number of cases, the developer is given the option to provide cash in lieu of the portion of land, equivalent to its worth. A combination of cash and land is also possible. Depending on the wording of each bylaw, Municipal Councils’ appear to have differing levels of authority to approve these substitutions. One concern with allowing the payment of cash or the acceptance of land located outside the sub-development is that the open space, if it is created at all, will not be created in a way that enables AT. For example, if parcels of land are acquired outside residential areas, they may not be easily accessible to residents from their homes. As well, this pattern of development may foster concentrated, larger tracts of open space, and not a diffuse network of public walkways or trails. It is this latter land-use pattern that would be more beneficial to AT users. Town councils may address this problem by requiring sub-developers to include open spaces within residential development, especially connected trails and paths that can be used for AT.

Committees

The use of committees to oversee AT initiatives is becoming increasingly useful in Nova Scotian municipalities. In East Hants, Windsor, and Wolfville, committees have been established with different mandates regarding community health. In the Municipality of the District of East Hants, the Leisure Services Committee is responsible for the maintenance of municipal recreational facilities and other related activities. This is articulated in Bylaw 136: Leisure Services. This committee has been labelled as an enabler of AT as the committee’s clear focus allows for many AT opportunities. The Town of Windsor has gone through a number of changes in order to become more AT-friendly. After repealing the Recreation Council, the town has since adopted a Strategy and Policy Committee of Council. This larger committee, with its broader scope, may have issues completing all its assigned tasks, and as such may be an inhibitor to AT.

Furthermore, the Town of Wolfville provides an interesting point of view on recreational commitment. The town’s Recreation Committee consists of two Council members, two high school students, and one school administrator in order to look at municipal recreational issues in a more comprehensive way. The goal of this committee is to plan and develop parks and trails within the municipality and to advise Council on its actions regarding its policies on trail and recreational development. Due to the inclusive nature of this committee in both its formation and its responsibilities, Wolfville’s Recreation Committee has been listed as an enabler of AT processes. As such, the nature of committees is varied and depends largely on the structure and purpose of the committee itself in order to determine whether or not it actively enables or inhibits processes of AT. Other municipalities with similar committees include New Glasgow, Mahone Bay, and the Town of Trenton.

Bicycles

Bicycles are a key component of AT. Along with walking, cycling is the most common form of AT. According to a 1998 Environics International survey, over 25% of all Canadians cycle “at least sometimes” to a routine destination. This same study also concluded that over 60% of Canadians would like to cycle more often. In the bylaws analyzed, there were many basic enabling factors that promoted the safety of cyclists. For example, most municipalities prohibit damage to street surfaces in any way. Some also prohibit throwing any object that may be dangerous for bicycles on the street (e.g.: Trenton, Wolfville, Inverness, Mulgrave, Mahone Bay and Stellarton). Encroachments onto streets are equally widely prohibited, like the Cumberland’s Streets and Sidewalks Bylaw, which makes abutters responsible for preventing obstacles to cyclists on the road. Trenton specifies that bicycles must be equipped with a bell, and when ridden at night, must have a light attached. These measures increase the safety of cyclists and make collisions with pedestrians or vehicles less likely.

Bike parking is specifically mentioned in the Halifax Regional Municipality. Bicycle parking requirement varies according to the type of building it is associated with, but some examples of requirements are protection of bicycles, good signage, hard surfaces, distance from entrance and sufficient illumination. This is a significant enabling factor for AT as it makes cycling more convenient, but it was not found in any of the other municipalities.

In general, bicycles are not allowed on sidewalks. However, their use of trails and paths varies according to zoning and specific regulations. For instance, Cape Breton Regional Municipality's Public Property Bylaw limits use of bicycles, as well as other self-propelled modes of transportation like skateboards and rollerblades, in parks, on boardwalks and walking trails. In contrast, the Halifax Regional Municipality allows cyclists on park paths. In Trenton, bicycles are allowed on the streets that run through major parks, but not on the footpaths. In Digby, the Public Places Bylaw dictates that bicycles may be ridden on roadways and trails, but not sidewalks and boardwalks.

Truro and Trenton both require permits and number plates for any bicycle ridden in town. Lack thereof can result in fines, which if unpaid, are theoretically punishable by jail time. This bylaw is a clear deterrent to AT, as it complicates the cycling process. However, the degree to which this factor inhibits AT depends on the level of enforcement, which is unknown.

Skateboarding

There is a mix of views on skateboards represented in Nova Scotia municipal bylaws. Skateboarding is not always included in street or sidewalk bylaws. When they are mentioned, they are usually banned on all sidewalks. This is a factor that may be enabling to some users of AT, while being inhibiting for others. Namely, the prohibition of skateboards from sidewalks may be beneficial for pedestrians. On the other hand, it may be a disincentive for skateboarders, especially ones who are not yet comfortable to ride on the street. A further inhibiting factor regarding skateboards is that their status on streets is often omitted from bylaws. This can create confusion for people wanting to use this mode of transportation. Furthermore, some municipalities ban skateboarding within a particular zone of the town. These boundaries are described in the bylaws, but it is unknown if there is sufficient signage on the streets to make skateboarders aware of where they are allowed to be. Also, these zones sometimes account for the whole downtown area, which makes skateboarding an unattractive means of transportation. Lastly, skateboarding fines are higher than for many other municipal offenses. They often start at 50\$ per offense, and can be as high as 1000\$. This seems disproportionately high.

Sidewalk Cafés

Sidewalk cafés were mentioned in a number of the municipal bylaws surveyed, including Truro, Wolfville, Windsor and Yarmouth. The main enabling factor for AT in a Sidewalk Café Bylaw is the inclusion of alternative passage for pedestrians is assured. Not all sidewalk café bylaws make mention of this, in which case the café can become an obstacle for AT. However, if designed carefully, sidewalk cafés may present an opportunity to simultaneously benefit AT and local economic growth, as people may be drawn to walk to the sidewalks of the town and bring business to the cafés.

Aesthetic Value

In theory, aesthetic value of public streets and sidewalks may influence people's propensity for AT. In the 1998 EnviroNics International survey on AT, the main motivating factors for engaging in AT were identified as exercise/health, pleasure, convenience, environmental concern, and saving money. Whereas most of the bylaw categories we assessed relate to convenience, the aesthetic value bylaws may increase the pleasure people take from AT. Some examples of these types of bylaws include abutters' responsibility to keep lawns and vegetation neat and trimmed, and the prohibition of littering or scattering publicity papers on sidewalks. More research is needed in order to ascertain to what degree aesthetic value influences people's choice of AT, although a study by the City of Winnipeg (2005) identified that aesthetics are important because active commuters are willing to go out of their way for a more pleasant route

Limitations of Bylaws and Importance of Other Factors

In the discussion of municipal bylaws and their influence on AT, it is important to discuss the limitations of this type of

jurisdiction. Other mechanisms, like Municipal Planning Strategies and provincial legislation, exert great influence on AT across Nova Scotia. Many of the municipalities reviewed had accepted Municipal Planning Strategies, and some had Community Sustainability Plans. In some instances, these documents speak much more explicitly of AT issues than municipal bylaws (for an example, see Truro). Although these planning documents fell outside the scope of the current project, their importance is demonstrated by the fact that municipal plans may at times prevail over certain bylaws. One example is St. Mary's, where the municipal plan prevails over subdivision and land-use bylaws if there is a conflict. In most cases though, municipal plans are not enforceable to the same extent that bylaws are. Overall, the degree to which AT is represented in municipal plans (e.g.: Amherst) seems to be indicative of the desire of these towns to implement favorable AT conditions. The next step should be the translation of these plans into enforceable bylaws. Municipal bylaws are also heavily connected to provincial legislation. For example, the Nova Scotia Department of Transportation is currently proposing an amendment to the Motor Vehicle Act that would require a minimum distance of one metre between vehicles and bicycles (to read more, see CBC News, 2010). Municipalities have limited power to affect these changes, and yet will be greatly impacted by them.

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