



# Risk Management Considerations for Trails in Ontario

A female was walking on a waterfront trail in mid-winter when she slipped and fell on a build up of ice. The trail had neither been sanded nor salted, and had been inspected only once that winter, thus making the City liable. She broke her ankle and had to undergo surgery to repair it.

## Background Information

Recreational trails and pathways have several advantages and the number of trails in Canada is increasing as abandoned railways are converted to trail paths. These trails promote personal health and fitness in society, can reduce automobile pollution when commuters have an opportunity to walk or cycle to work each day, provide greenspace or an “escape” within an urban setting, and they introduce the possibility of economic growth through tourism for the communities involved.

On the other hand, there are additional and potentially negative factors to consider including liability and possible harm to the environment. Your organization has a duty, as an occupier, to keep the equipment and property in a safe condition to accommodate its intended purpose.

Three key considerations for trail management are:

1. The duty of care the municipality owes to users of the trails;
2. The protection of the environment and natural resources;
3. The provision of high quality user experience of the trails.

These three issues are influenced by: trail design, information and education, user involvement, and regulations and enforcement. There are many challenges to the design and maintenance of trails, making it difficult for municipalities to know where to begin. The challenges of trails include:

- There is no province-wide code of trail conduct.
- There are no minimum trail standards.
- There has been a growth in the amount of ATV users with little development of ATV trails.
- Maintaining the integrity of the environment.
- Abandoned rail corridors present huge costs to maintain infrastructure.
- Concerns with protecting aboriginal communities and sacred lands.

Another challenge that municipalities face with trail implementation and design is getting all the necessary permits for implementing trails and creating contracts with various involved parties, including private landowners and conservation authorities. Establishing a risk management strategy can help to quickly and properly deal with these challenges.

### ***Occupier's Liability Act***

Subsection 4. (3) and (4) provide that persons entering on "recreational trails" for recreational purposes and without paying a fee, are deemed to have willingly assumed all risks and are subject only to the reduced duty set in subsection 4 (1).

Section 4 (1) states: "but in that case the occupier owes a duty to the person to not create a danger with the deliberate intent of doing harm or damage to the person or his or her property and not to act with reckless disregard of the presence of the person or his or her property."

This means that if the trail is designated and signed as "recreational", a lower duty of care can be applied.

### **A risk management strategy for trails should include:**

- Build and maintain the trail to a standard.
- Institute a system of inspection.
- Create a system for maintenance.
- Ensure proper signage and barriers are put up.
- Recruit and properly train volunteers.
- Make sure you have in place contracts with landowners and all necessary permits.
- Create an accident/incident report template and ensure that a report is filed and followed up on when an incident does occur.
- Sign appropriate trails as "Recreational Trail".

## **Managing the Risk**

### **1. User Groups**

There is a wide variety of trail user groups, including:

- Walkers
- Joggers
- Mountain bikers

- Cross-country skiers
- Horse riders
- Snowmobiles and ATVs
- Dirt Bikers
- Bird Watchers

The trail needs to be safe for all user groups. Amongst the user groups there are:

- Experienced users
- Inexperienced users
- Coordinated users
- Uncoordinated users
- Elderly people
- Children
- People with restricted mobility

Your community should try to have in place trails that are accessible for a wide variety of user groups and differing skill levels.

### **2. Trail Markings**

- Signs should be posted with the trail name and length of the trail on it.
- The user group the trail is intended for (i.e. hikers, mountain bikes, etc.) should also be prominently displayed.
- Lack of trail markings can cause confusion and potential for injury, which increases liability.

### **3. Conflicting Uses**

- Trails should be designated as either single use (walking trails) or multiple use (biking and walking trails).
- Signs should be prominently posted indicating which activities are allowed on a specific trail and which activities are prohibited.
- It is a good idea to provide different trail uses with different routes, such as one route for walkers and another route for bikers.
- This can help to limit the number of encounters between different user groups and ensure safety for all users.

#### 4. Barriers

- Barriers on trails can serve to prevent unauthorized users from gaining access to the trail.
- They can also be used to protect adjacent fragile and hazardous areas.
- Any barriers used should adhere to local building codes.
- Measures should be in place to ensure that in the case of an accident, emergency vehicles will be able to get through or around the barrier.

#### 5. Inspections and Maintenance

- Inspect trails regularly to ensure they are in good condition.
- Follow an inspection process that includes:
  - Identifying the features/facilities on the trail.
  - Evaluating the current conditions/problems of the trail.
  - Detailing any maintenance work that needs to be done.
  - Providing any expected corrections and the time-frame for them to be completed.
- Document all inspections and maintenance and notes on the above using a standard inspection form/template.
- 80% of big problems were once small problems – deal with them now and save time and costs.
- Perform all maintenance within an appropriate defined time-frame.
- Call in experts or contractors if the maintenance issue is too big for you to handle.

#### 6. Signage

There are 4 main issues with trail signs: design, location, visibility, and maintenance.

##### **Design:**

- Use universal symbols on signs.
- Ensure the colour of the sign stands out and doesn't match the environment.
- Take into account:
  - Glare from the sun.

- Snow build up.
- Vantage point of users.
- Abide by local or provincial sign requirement.

##### **Location:**

- Use STOP signs at intersections or trail crossings.
- Indicate hazards at 30 metres (98 feet).
- Use signs to indicate the presence of:
  - Roads
  - Water
  - Rail Roads
  - Steep Slopes
  - Hazardous Conditions
  - 911 Markings

##### **Visibility:**

- Ensure that text is large enough to read from a short distance.
- Ensure that signs are free from obstructions such as tree branches and shrubs/bushes.

##### **Maintenance:**

- Ensure proper maintenance of signs is frequently carried out.
- Clean signs regularly and after heavy snows or thaws.
- Pay special attention to clean signs that are close to roads. Be sure to regularly trim the environment around signs to ensure visibility.
- Replace signs whenever necessary – this can be frequent.

Don't use signs to convey trail conditions – conditions are constantly changing with weather and trail use.

Don't use signs to convey trail difficulty, as this can also change with trail conditions, and as the term "difficulty" is subjective – moderate difficulty will mean different things to each individual user.

Avoid using "international" symbols to mark the trails. An example of this would be to use ski hill symbols (green circle = easy, blue square = intermediate, etc.) to classify trail difficulty. You can't assume that everyone knows what these symbols will mean.

Be careful when marking anything as “wheelchair accessible”. In order for a building, washroom, etc. to be classified as wheelchair accessible, it has to meet international standards and specifications. Ensure your facility meets these criteria before posting an accessibility sign.

From a risk management perspective, it is very important to:

1. Develop your own risk management policy for your trails.
2. Maintain and adequately repair your trails eliminating any foreseeable hazards.
3. Inspect your trails regularly.
4. Document all processes and procedures.

Measuring the frequency and severity of incidents will help in determining which risks are more of a priority than others. By taking these precautions, you can successfully reduce the risk of accidents and injuries that are common to recreational trails.