Recommendation

1. That Report TR-CW-42-18 regarding updates to the Minimum Maintenance Standards be received; and

2. That the Maintenance Standards and Transportation Services Protocol be updated in the Grey County Winter Control Operator Handbook and that a by-law be brought forward for Council’s consideration.

Executive Summary

On May 3, 2018, Ontario Regulation 366/18 was released under the Municipal Act, 2001 as an amendment to Ontario Regulation 239/02 (Minimum Maintenance Standards for Municipal Highways). As part of this amendment, substantive changes were made to the Minimum Maintenance Standards. The notable changes are:

- Removal of the word Minimum from the title of Minimum Maintenance Standards.
- The ability for municipalities to declare a significant weather event with implications for winter maintenance on roadways, bicycle lanes and sidewalks during the duration of the event.
- The introduction of winter maintenance standards for bicycle lanes.
- The introduction of winter maintenance standards, including patrol obligations for sidewalks.
Background and Discussion

Significant Weather Event

The amendments to the Maintenance Standards include the introduction of the concept of a significant weather event, which is defined as an approaching or occurring weather hazard with the potential to pose a significant danger to users of the highways within a municipality. Weather Hazard is also a defined term and means the weather hazards determined by Environment Canada as meeting the criteria for the issuance of an alert under its Public Weather Alerting Program.

The following sections will be applicable under the new Maintenance Standards throughout the duration of a significant weather event:

- Snow accumulation on roadways (Section 4.1)
- Snow accumulation on bicycle lanes (Section 4.3)
- Icy roadways (Section 5.1)
- Snow accumulation on sidewalks (Section 16.4)
- Icy sidewalks (Section 16.6)

Transportation Services Protocol

A significant weather event is to be declared by the Director of Transportation Services or his/her designate. The event area will be determined and notifications will be provided to the Public (Road Conditions Web Page/Municipal511).

Transportation Services may declare a significant weather event when the weather forecast or observed weather condition includes one or more of the following conditions:

1. Snow accumulation of 250 millimeters or more during a 24 hour period.
2. Ice formation is forecasted to last more than a 12 hour period.
3. Sustained wind speeds in excess of 40 kilometres per hour causing reductions in visibility to 400 metres or less, over a 4 hour period.
4. Rainfall accumulation of 25 millimeters or more during a 24 hour period.

In each case, during the course of a declared significant weather event, the standard for addressing winter maintenance is to monitor the weather and to deploy resources to address the issue starting from the time that the municipality deems appropriate to do so. Once the significant weather event is declared to have been concluded, the municipality shall address the issue pursuant to the regular standards for maintenance.

Transportation Services will notify the Public of the start and end of a significant weather event. This notice will provide information to the travelling Public that will assist them in making informed travel decisions. The notification will be completed in one or more of the following ways:

1. Grey County website;
2. Social media platform (i.e. Twitter);
3. Radio media;
4. Municipality’s police services.

Bicycle Lanes

A Bicycle Lane is now defined in the Maintenance Standards as (a) a portion of a roadway that has been designated by pavement markings or signage for the preferential or exclusive use of cyclists or (b) a portion of a roadway that has been designated for the exclusive use of cyclists by signage and a physical or marked buffer.

The Maintenance Standards now also includes specific sections outlining winter maintenance standards for snow accumulation in bicycle lanes. Addressing snow accumulation on a bicycle lane includes:

1. Plowing the bicycle lane;
2. Salting the bicycle lane;
3. Applying abrasive materials to the bicycle lane;
4. Applying other chemical or organic agents to the bicycle lane;
5. Sweeping the bicycle lane;
6. Any combination of the methods described in (1) to (5).

Section 35 of the Municipal Act allows a municipality to pass a by-law removing or restricting the common law right of passage by the public over a highway. This same procedure can be applied to bicycle lanes.

Grey County has bicycle lanes on Grey Roads 1 and 19 and various roads with paved shoulders, which may be used as bicycle lanes by cyclists. The Transportation Services Department cannot reasonably maintain these bicycle lanes and paved shoulders in the winter season to the level required by the new Maintenance Standards. As per legal advice obtained by the County on this question, Transportation Services Staff recommends that the bicycle lanes on Grey Roads 1 and 19 and any paved shoulders that may be used as bicycle lanes by cyclists be closed for the winter season each year.

Due to the substantial number of signs required in order to have all roads with paved shoulders posted with this information and the associated costs, it has been decided that signage will not be installed. This information however, will be posted on the County of Grey website and updated regularly.

Sidewalks

The Maintenance Standards now provides a definition for a sidewalk as the part of the highway specifically set aside or commonly understood to be for pedestrian use, typically consisting of a paved surface but does not include crosswalks, medians, boulevards, shoulders or any part of the sidewalk where cleared snow has been deposited.

Grey County does not maintain any sidewalks that meet the definition described above, with one exception being the paved shoulder in the village of Maxwell, within the Municipality of Grey Highlands. This is delineated with pavement markings to provide a walking path for pedestrians to access the public
school. At this location, the County will adhere to Sections 16.3 to 16.7 of the new Maintenance Standards (Ontario Regulation 366/18) regarding sidewalk maintenance during the winter months.

Transportation Services Staff has consulted with the member municipalities in Grey, and surrounding Counties, and all have advised that they are currently undertaking a review of the new Maintenance Standards, but that it is not clear at this time what, if any, changes will occur in their operations.

Transportation Services Staff will update its Grey County Winter Control Operator Handbook to reflect the information contained in this Report upon approval by County Council.

Legal and Legislated Requirements

The legal and legislated requirements are included in the Municipal Act Section 8(1) Section 11(2) and (3) Section 35, Ontario Regulation 366/18 and Ontario Regulation 239/02.

Financial and Resource Implications

Minimal increases in sand and salt usage will be required in order to maintain the 350 metres of sidewalk in Maxwell.

Minimal internal labour costs will be produced as a result of declaring a Significant Weather Event.

Relevant Consultation

X Internal – Clerks Department

X External – Charles Painter, Paterson MacDougall LLP, Frank Cowan Company, Ontario Good Roads Association, Member Municipalities, County of Bruce, County of Dufferin, County of Huron, County of Simcoe, Donnelly & Murphy Law

Appendices and Attachments

Draft By-Law
Ontario Regulation 239/02
Ontario Regulation 366/18
WHEREAS the Council of the County of Grey adopted the recommendation of the Committee of The Whole at its October 25, 2018 meeting regarding not providing winter maintenance on bicycle lanes and paved shoulders on Grey County roads.

AND WHEREAS Section 35 of The Municipal Act 2001, as amended, allows a municipality to pass a by-law removing or restricting the common law right of passage by the public over a highway.

AND WHEREAS the Council of the County of Grey is desirous of specifying that bicycle lanes and paved shoulders on Grey County roads will not be subject to winter maintenance as defined in this by-law.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE COUNTY OF GREY ENACTS AS FOLLOWS:

1. DEFINITIONS

   1.1. Winter Maintenance Period means the period from October 15 to April 15 inclusive.

   1.2. Paved Shoulder and Bicycle Lane Winter Maintenance means winter maintenance activities associated with maintaining the paved shoulders and bicycle lanes in a condition that permits passage by bicyclists during the Winter Maintenance Period, including but not limited to activities such as snow plowing and ice control.

2. No Paved Shoulder and Bicycle Lane Winter Maintenance shall occur on the following:

   2.1. Grey Road 1 from the intersection at East Linton Sideroad West north to the intersection of Kemble Rock Road.

   2.2. Grey Road 1 from 300 metres east of the intersection at Skinner’s Bluff to the westerly boundary of Grey County.

   2.3. Grey Road 19 from the intersection of Grey Road 119 to the intersection of Highway 26.

   2.4. The paved shoulders on all Grey County roads within the County of Grey.

3. This By-law shall come into full force and effect upon the date of final passing thereof.

ENACTED AND PASSED this _____ day of __________, 2018.

___________________________  ______________________________
WARDEN: Stewart Halliday   CLERK: Heather Morrison
Municipal Act, 2001  
Loi de 2001 sur les municipalités

ONTARIO REGULATION 239/02  
MINIMUM MAINTENANCE STANDARDS FOR MUNICIPAL HIGHWAYS

Consolidation Period: From May 3, 2018 to the e-Laws currency date.
Last amendment: 366/18.
Legislative History: 288/03, 613/06, 23/10, 47/13, 366/18.
This Regulation is made in English only.

Definitions

1. (1) In this Regulation,
   “bicycle facility” means the on-road and in-boulevard cycling facilities listed in Book 18 of the Ontario Traffic Manual;
   “bicycle lane” means,
   (a) a portion of a roadway that has been designated by pavement markings or signage for the preferential or exclusive use of cyclists, or
   (b) a portion of a roadway that has been designated for the exclusive use of cyclists by signage and a physical or marked buffer;
   “cm” means centimetres;
   “day” means a 24-hour period;
   “encroachment” means anything that is placed, installed, constructed or planted within the highway that was not placed, installed, constructed or planted by the municipality;
   “ice” means all kinds of ice, however formed;
   “motor vehicle” has the same meaning as in subsection 1 (1) of the Highway Traffic Act, except that it does not include a motor assisted bicycle;
   “non-paved surface” means a surface that is not a paved surface;
   “Ontario Traffic Manual” means the Ontario Traffic Manual published by the Ministry of Transportation, as amended from time to time;
   “paved surface” means a surface with a wearing layer or layers of asphalt, concrete or asphalt emulsion;
   “pothole” means a hole in the surface of a roadway caused by any means, including wear or subsidence of the road surface or subsurface;
   “roadway” has the same meaning as in subsection 1 (1) of the Highway Traffic Act;
   “shoulder” means the portion of a highway that provides lateral support to the roadway and that may accommodate stopped motor vehicles and emergency use;
   “sidewalk” means the part of the highway specifically set aside or commonly understood to be for pedestrian use, typically consisting of a paved surface but does not include crosswalks, medians, boulevards, shoulders or any part of the sidewalk where cleared snow has been deposited;
   “significant weather event” means an approaching or occurring weather hazard with the potential to pose a significant danger to users of the highways within a municipality;
   “snow accumulation” means the natural accumulation of any of the following that, alone or together, covers more than half a lane width of a roadway:
   1. Newly-fallen snow.
   2. Wind-blown snow.
   3. Slush;
   “substantial probability” means a significant likelihood considerably in excess of 51 per cent;
“surface” means the top of a sidewalk, roadway or shoulder;

“utility” includes any air, gas, water, electricity, cable, fibre-optic, telecommunication or traffic control system or subsystem, fire hydrants, sanitary sewers, storm sewers, storm sewers, property lines and survey monuments;

“utility appurtenance” includes maintenance holes and hole covers, water shut-off covers and boxes, valves, fittings, vaults, braces, pipes, pedestals, and any other structures or items that form part of or are an accessory part of any utility;

“weather” means air temperature, wind and precipitation.

“weather hazard” means the weather hazards determined by Environment Canada as meeting the criteria for the issuance of an alert under its Public Weather Alerting Program. O. Reg. 239/02, s. 1 (1); O. Reg. 239/10, s. 1 (1); O. Reg. 47/13, s. 1; O. Reg. 366/18, s. 1 (1), 2

(2) For the purposes of this Regulation, every highway or part of a highway under the jurisdiction of a municipality in Ontario is classified in the Table to this section as a Class 1, Class 2, Class 3, Class 4, Class 5 or Class 6 highway, based on the speed limit applicable to it and the average daily traffic on it. O. Reg. 239/02, s. 1 (2); O. Reg. 366/18, s. 1 (3).

(3) For the purposes of subsection (2) and the Table to this section, the average daily traffic on a highway or part of a highway under municipal jurisdiction shall be determined,

(a) by counting and averaging the daily two-way traffic on the highway or part of the highway; or

(b) by estimating the average daily two-way traffic on the highway or part of the highway. O. Reg. 239/02, s. 1 (3); O. Reg. 239/10, s. 1 (2); O. Reg. 366/18, s. 1 (3).

(4) For the purposes of this Regulation, unless otherwise indicated in a provision of this Regulation, a municipality is deemed to be aware of a fact if, in the absence of actual knowledge of the fact, circumstances are such that the municipality ought reasonably to be aware of the fact. O. Reg. 366/18, s. 1 (4).

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
<th>Column 6</th>
<th>Column 7</th>
<th>Column 8</th>
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<tr>
<td></td>
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<td>81 - 90 km/h</td>
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<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>6</td>
</tr>
</tbody>
</table>

O. Reg. 366/18, s. 1 (5).

Application

2. (1) This Regulation sets out the minimum standards of repair for highways under municipal jurisdiction for the purpose of clause 44 (3) (f) of the Act. O. Reg. 288/03, s. 1.

(2) REVOKED: O. Reg. 239/10, s. 2.

(3) This Regulation does not apply to Class 6 highways. O. Reg. 239/02, s. 2 (3).

Purpose

2.1 The purpose of this Regulation is to clarify the scope of the statutory defence available to a municipality under clause 44 (3) (f) of the Act by establishing maintenance standards which are non-prescriptive as to the methods or materials to be used in complying with the standards but instead describe a desired outcome. O. Reg. 366/18, s. 2.

MAINTENANCE STANDARDS

2
3. (1) The standard for the frequency of patrolling of highways to check for conditions described in this Regulation is set out in the Table to this section. O. Reg. 23/10, s. 3 (1); O. Reg. 366/18, s. 3 (2).

(2) If it is determined by the municipality that the weather monitoring referred to in section 3.1 indicates that there is a substantial probability of snow accumulation on roadways, ice formation on roadways or icy roadways, the standard for patrolling highways is, in addition to that set out in subsection (1), to patrol highways that the municipality selects as representative of its highways, at intervals deemed necessary by the municipality, to check for such conditions. O. Reg. 47/13, s. 2; O. Reg. 366/18, s. 3 (2).

(3) Patrolling a highway consists of observing the highway, either by driving on or by electronically monitoring the highway, and may be performed by persons responsible for patrolling highways or by persons responsible for or performing highway maintenance activities. O. Reg. 23/10, s. 3 (1).

(4) This section does not apply in respect of the conditions described in section 10, subsections 11 (0.1) and 12 (1) and section 16.1, 16.2, 16.3 or 16.4. O. Reg. 23/10, s. 3 (1); O. Reg. 366/18, s. 3 (3).

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Patrolling Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3 times every 7 days</td>
</tr>
<tr>
<td>2</td>
<td>2 times every 7 days</td>
</tr>
<tr>
<td>3</td>
<td>once every 7 days</td>
</tr>
<tr>
<td>4</td>
<td>once every 14 days</td>
</tr>
<tr>
<td>5</td>
<td>once every 30 days</td>
</tr>
</tbody>
</table>

O. Reg. 23/10, s. 3, Table; O. Reg. 23/10, s. 3 (2).

Weather monitoring

3.1 (1) From October 1 to April 30, the standard is to monitor the weather, both current and forecast to occur in the next 24 hours, once every shift or three times per calendar day, whichever is more frequent, at intervals determined by the municipality. O. Reg. 47/13, s. 3; O. Reg. 366/18, s. 4.

(2) From May 1 to September 30, the standard is to monitor the weather, both current and forecast to occur in the next 24 hours, once per calendar day. O. Reg. 47/13, s. 3; O. Reg. 366/18, s. 4.

Snow accumulation, roadways

4. (1) Subject to section 4.1, the standard for addressing snow accumulation on roadways is,

(a) after becoming aware of the fact that the snow accumulation on a roadway is greater than the depth set out in the Table to this section, to deploy resources as soon as practicable to address the snow accumulation; and

(b) after the snow accumulation has ended, to address the snow accumulation so as to reduce the snow to a depth less than or equal to the depth set out in the Table within the time set out in the Table,

(i) to provide a minimum lane width of the lesser of three metres for each lane or the actual lane width, or

(ii) on a Class 4 or Class 5 highway with two lanes, to provide a total width of at least five metres. O. Reg. 47/13, s. 4; O. Reg. 366/18, s. 5 (1).

(2) If the depth of snow accumulation on a roadway is less than or equal to the depth set out in the Table to this section, the roadway is deemed to be in a state of repair with respect to snow accumulation. O. Reg. 47/13, s. 4.

(3) For the purposes of this section, the depth of snow accumulation on a roadway and, if applicable, lane width under clause (1) (b), may be determined in accordance with subsection (4) by a municipal employee, agent or contractor, whose duties or responsibilities include one or more of the following:

1. Patrolling highways.
2. Performing highway maintenance activities.
3. Supervising staff who perform activities described in paragraph 1 or 2. O. Reg. 47/13, s. 4; O. Reg. 366/18, s. 5 (2).

(4) The depth of snow accumulation on a roadway and lane width may be determined by,

(a) performing an actual measurement,

(b) monitoring the weather, or

(c) performing a visual estimate. O. Reg. 47/13, s. 4; O. Reg. 366/18, s. 5 (3).

(5) For the purposes of this section, addressing snow accumulation on a roadway includes,

(a) plowing the roadway,
b) salting the roadway;
(c) applying abrasive materials to the roadway;
(d) applying other chemical or organic agents to the roadway;
(e) any combination of the methods described in clauses (a) to (d). O. Reg. 366/18, s. 5 (4).

(6) This section does not apply to that portion of the roadway,
(a) designated for parking;
(b) consisting of a bicycle lane or other bicycle facility; or
(d) used by a municipality for snow storage. O. Reg. 366/18, s. 5 (4).

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Depth</th>
<th>Time</th>
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<tr>
<td>1</td>
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<tr>
<td>2</td>
<td>5 cm</td>
<td>6 hours</td>
</tr>
<tr>
<td>3</td>
<td>8 cm</td>
<td>12 hours</td>
</tr>
<tr>
<td>4</td>
<td>8 cm</td>
<td>16 hours</td>
</tr>
<tr>
<td>5</td>
<td>10 cm</td>
<td>24 hours</td>
</tr>
</tbody>
</table>

Snow accumulation on roadways, significant weather event

4.1 (1) If a municipality declares a significant weather event relating to snow accumulation, the standard for addressing snow accumulation on roadways until the declaration of the end of the significant weather event is,
(a) to monitor the weather in accordance with section 3.1; and
(b) if deemed practicable by the municipality, to deploy resources to address snow accumulation on roadways, starting from the time that the municipality deems appropriate to do so. O. Reg. 366/18, s. 7.

(2) If the municipality complies with subsection (1), all roadways within the municipality are deemed to be in a state of repair with respect to snow accumulation until the applicable time in the Table to section 4 expires following the declaration of the end of the significant weather event by the municipality. O. Reg. 366/18, s. 7.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,
(a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and
(b) address snow accumulation on roadways in accordance with section 4. O. Reg. 366/18, s. 7.

Snow accumulation, bicycle lanes

4.2 (1) Subject to section 4.3, the standard for addressing snow accumulation on bicycle lanes is,
(a) after becoming aware of the fact that the snow accumulation on a bicycle lane is greater than the depth set out in the Table to this section, to deploy resources as soon as practicable to address the snow accumulation; and
(b) after the snow accumulation has ended, to address the snow accumulation so as to reduce the snow to a depth less than or equal to the depth set out in the Table to this section to provide a minimum bicycle lane width of the lesser of 1 metre or the actual bicycle lane width. O. Reg. 366/18, s. 7.

(2) If the depth of snow accumulation on a bicycle lane is less than or equal to the depth set out in the Table to this section, the bicycle lane is deemed to be in a state of repair in respect of snow accumulation. O. Reg. 366/18, s. 7.

(3) For the purposes of this section, the depth of snow accumulation on a bicycle lane and, if applicable, lane width under clause (1) (b), may be determined in the same manner as set out in subsection 4 (4) and by the persons mentioned in subsection 4 (3), with necessary modifications. O. Reg. 366/18, s. 7.

(4) For the purposes of this section, addressing snow accumulation on a bicycle lane includes,
(a) plowing the bicycle lane;
(b) salting the bicycle lane;
(c) applying abrasive materials to the bicycle lane;
(d) applying other chemical or organic agents to the bicycle lane;
(e) sweeping the bicycle lane; or
(f) any combination of the methods described in clauses (a) to (e). O. Reg. 366/18, s. 7.

### TABLE

**SNOW ACCUMULATION – BICYCLE LANES**

<table>
<thead>
<tr>
<th>Column 1: Class of Highway or Adjacent Highway</th>
<th>Column 2: Depth</th>
<th>Column 3: Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2.5 cm</td>
<td>8 hours</td>
</tr>
<tr>
<td>2</td>
<td>5 cm</td>
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<tr>
<td>3</td>
<td>8 cm</td>
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<tr>
<td>4</td>
<td>8 cm</td>
<td>24 hours</td>
</tr>
<tr>
<td>5</td>
<td>10 cm</td>
<td>24 hours</td>
</tr>
</tbody>
</table>

O. Reg. 366/18, s. 7.

**Snow accumulation on bicycle lanes, significant weather event**

4.3 (1) If a municipality declares a significant weather event relating to snow accumulation, the standard for addressing snow accumulation on bicycle lanes until the declaration of the end of the significant weather event is,

(a) to monitor the weather in accordance with section 3.1; and

(b) if deemed practicable by the municipality, to deploy resources to address snow accumulation on bicycle lanes, starting from the time that the municipality deems appropriate to do so. O. Reg. 366/18, s. 7.

(2) If the municipality complies with subsection (1), all bicycle lanes within the municipality are deemed to be in a state of repair with respect to snow accumulation until the applicable time in the Table to section 4.2 expires following the declaration of the end of the significant weather event by the municipality. O. Reg. 366/18, s. 7.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,

(a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and

(b) address snow accumulation on bicycle lanes in accordance with section 4.2. O. Reg. 366/18, s. 7.

**Ice formation on roadways and icy roadways**

5. (1) The standard for the prevention of ice formation on roadways is doing the following in the 24-hour period preceding an alleged formation of ice on a roadway:

1. Monitor the weather in accordance with section 3.1.

2. Patrol in accordance with section 3.

3. If the municipality determines, as a result of its activities under paragraph 1 or 2, that there is a substantial probability of ice forming on a roadway, treat the roadway, if practicable, to prevent ice formation within the time set out in Table 1 to this section, starting from the time that the municipality determines is the appropriate time to deploy resources for that purpose. O. Reg. 366/18, s. 8.

(2) If the municipality meets the standard set out in subsection (1) and, despite such compliance, ice forms on a roadway, the roadway is deemed to be in a state of repair until the applicable time set out in Table 2 to this section expires after the municipality becomes aware of the fact that the roadway is icy. O. Reg. 366/18, s. 8.

(3) Subject to section 5.1, the standard for treating icy roadways is to treat the icy roadway within the time set out in Table 2 to this section, and an icy roadway is deemed to be in a state of repair until the applicable time set out in Table 2 to this section expires after the municipality becomes aware of the fact that a roadway is icy. O. Reg. 366/18, s. 8.

(4) For the purposes of this section, treating a roadway means applying material to the roadway, including but not limited to, salt, sand or any combination of salt and sand. O. Reg. 366/18, s. 8.

(5) For greater certainty, this section applies in respect of ice formation on bicycle lanes on a roadway, but does not apply to other types of bicycle facilities. O. Reg. 366/18, s. 8.

### TABLE

**ICE FORMATION PREVENTION**

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>6 hours</td>
</tr>
<tr>
<td>2</td>
<td>8 hours</td>
</tr>
<tr>
<td>3</td>
<td>16 hours</td>
</tr>
<tr>
<td>4</td>
<td>24 hours</td>
</tr>
<tr>
<td>5</td>
<td>24 hours</td>
</tr>
</tbody>
</table>

O. Reg. 366/18, s. 8.
### TABLE 2
TREATMENT OF ICY ROADDWAYS

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3 hours</td>
</tr>
<tr>
<td>2</td>
<td>4 hours</td>
</tr>
<tr>
<td>3</td>
<td>8 hours</td>
</tr>
<tr>
<td>4</td>
<td>12 hours</td>
</tr>
<tr>
<td>5</td>
<td>16 hours</td>
</tr>
</tbody>
</table>

O. Reg. 366/18, s. 8.

**Icy roadways, significant weather event**

5.1 (1) If a municipality declares a significant weather event relating to ice, the standard for treating icy roadways until the declaration of the end of the significant weather event is,

(a) to monitor the weather in accordance with section 3.1, and

(b) if deemed practicable by the municipality, to deploy resources to treat icy roadways, starting from the time that the municipality deems appropriate to do so. O. Reg. 366/18, s. 8.

(2) If the municipality complies with subsection (1), all roadways within the municipality are deemed to be in a state of repair with respect to any ice which forms or may be present until the applicable time in Table 2 to section 5 expires after the declaration of the end of the significant weather event by the municipality. O. Reg. 366/18, s. 8.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,

(a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and

(b) treat icy roadways in accordance with section 5. O. Reg. 366/18, s. 8.

**Potholes**

6. (1) If a pothole exceeds both the surface area and depth set out in Table 1, 2 or 3 to this section, as the case may be, the standard is to repair the pothole within the time set out in Table 1, 2 or 3, as appropriate, after becoming aware of the fact. O. Reg. 366/18, s. 6 (1); O. Reg. 366/18, s. 8 (1).

(1.1) For the purposes of this section, the surface area and depth of a pothole may be determined in accordance with subsections (1.2) and (1.3), as applicable, by a municipal employee, agent or contractor whose duties or responsibilities include one or more of the following:

1. Patrolling highways.
2. Performing highway maintenance activities.
3. Supervising staff who perform activities described in paragraph 1 or 2. O. Reg. 366/18, s. 8 (2).

(1.2) The depth and surface area of a pothole may be determined by,

(a) performing an actual measurement; or

(b) performing a visual estimate. O. Reg. 366/18, s. 8 (2).

(1.3) For the purposes of this section, the surface area of a pothole does not include any area that is merely depressed and not yet broken fully through the surface of the roadway. O. Reg. 366/18, s. 8 (2).

(2) A pothole is deemed to be in a state of repair if its surface area or depth is less than or equal to that set out in Table 1, 2 or 3, as appropriate. O. Reg. 369/02, s. 6 (2); O. Reg. 47/13, s. 6.

### TABLE 1
POTHOLES ON PAVED SURFACE OF ROADWAY

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Surface Area</th>
<th>Depth</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>600 cm²</td>
<td>8 cm</td>
<td>4 days</td>
</tr>
<tr>
<td>2</td>
<td>800 cm²</td>
<td>8 cm</td>
<td>4 days</td>
</tr>
<tr>
<td>3</td>
<td>1000 cm²</td>
<td>8 cm</td>
<td>7 days</td>
</tr>
<tr>
<td>4</td>
<td>1000 cm²</td>
<td>8 cm</td>
<td>14 days</td>
</tr>
<tr>
<td>5</td>
<td>1000 cm²</td>
<td>8 cm</td>
<td>30 days</td>
</tr>
</tbody>
</table>

O. Reg. 239/02, s. 6, Table 1.
TABLE 2
POTHOLES ON NON-PAVED SURFACE OF ROADWAY

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Surface Area</th>
<th>Depth</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>1500 cm²</td>
<td>8 cm</td>
<td>7 days</td>
</tr>
<tr>
<td>4</td>
<td>1500 cm²</td>
<td>10 cm</td>
<td>14 days</td>
</tr>
<tr>
<td>5</td>
<td>1500 cm²</td>
<td>12 cm</td>
<td>30 days</td>
</tr>
</tbody>
</table>

O. Reg. 239/02, s. 6, Table 2.

TABLE 3
POTHOLES ON PAVED OR NON-PAVED SURFACE OF SHOULDER

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Surface Area</th>
<th>Depth</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1500 cm²</td>
<td>8 cm</td>
<td>7 days</td>
</tr>
<tr>
<td>2</td>
<td>1500 cm²</td>
<td>8 cm</td>
<td>7 days</td>
</tr>
<tr>
<td>3</td>
<td>1500 cm²</td>
<td>8 cm</td>
<td>14 days</td>
</tr>
<tr>
<td>4</td>
<td>1500 cm²</td>
<td>10 cm</td>
<td>30 days</td>
</tr>
<tr>
<td>5</td>
<td>1500 cm²</td>
<td>12 cm</td>
<td>60 days</td>
</tr>
</tbody>
</table>

O. Reg. 239/02, s. 6, Table 3.

Shoulder drop-offs

7. (1) If a shoulder drop-off is deeper than 8 cm, for a continuous distance of 20 metres or more, the standard is to repair the shoulder drop-off within the time set out in the Table to this section after becoming aware of the fact. O. Reg. 366/18, s. 9 (1).

(2) A shoulder drop-off is deemed to be in a state of repair if its depth is less than 8 cm. O. Reg. 366/18, s. 9 (1).

(3) In this section, “shoulder drop-off” means the vertical differential, where the paved surface of the roadway is higher than the surface of the shoulder, between the paved surface of the roadway and the paved or non-paved surface of the shoulder. O. Reg. 239/02, s. 7 (3).

TABLE
SHOULDER DROP-OFFS

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4 days</td>
</tr>
<tr>
<td>2</td>
<td>4 days</td>
</tr>
<tr>
<td>3</td>
<td>7 days</td>
</tr>
<tr>
<td>4</td>
<td>14 days</td>
</tr>
<tr>
<td>5</td>
<td>30 days</td>
</tr>
</tbody>
</table>

O. Reg. 366/18, s. 9 (2).

Cracks

8. (1) If a crack on the paved surface of a roadway is greater than 5 cm wide and 5 cm deep for a continuous distance of three metres or more, the standard is to repair the crack within the time set out in the Table to this section after becoming aware of the fact. O. Reg. 366/18, s. 10 (1).

(2) A crack is deemed to be in a state of repair if its width or depth is less than or equal to 5 cm. O. Reg. 366/18, s. 10 (1).

TABLE
CRACKS

<table>
<thead>
<tr>
<th>Column 1 Class of Highway</th>
<th>Column 2 Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>90 days</td>
</tr>
<tr>
<td>2</td>
<td>90 days</td>
</tr>
<tr>
<td>3</td>
<td>60 days</td>
</tr>
<tr>
<td>4</td>
<td>180 days</td>
</tr>
<tr>
<td>5</td>
<td>180 days</td>
</tr>
</tbody>
</table>

O. Reg. 366/18, s. 10 (2).
Debris

9. (1) If there is debris on a roadway, the standard is to deploy resources, as soon as practicable after becoming aware of the fact, to remove the debris. O. Reg. 239/02, s. 9 (1); O. Reg. 366/18, s. 11.

(2) In this section,

“debris” means any material (except snow, slush or ice) or object on a roadway,

(a) that is not an integral part of the roadway or has not been intentionally placed on the roadway by a municipality; and

(b) that is reasonably likely to cause damage to a motor vehicle or to injure a person in a motor vehicle. O. Reg. 239/02, s. 9 (2); O. Reg. 47/13, s. 9.

Luminaires

10. (0.1) REVOLED: O. Reg. 366/18, s. 12

(1) The standard for the frequency of inspecting all luminaires to check to see that they are functioning is once per calendar year, with each inspection taking place not more than 16 months from the previous inspection. O. Reg. 366/18, s. 12.

(2) For conventional illumination, if three or more consecutive luminaires on the same side of a highway are not functioning, the standard is to repair the luminaires within the time set out in the Table to this section after becoming aware of the fact. O. Reg. 366/18, s. 12.

(3) For conventional illumination and high mast illumination, if 50 per cent or more of the luminaires on any kilometre of highway are not functioning, the standard is to repair the luminaires within the time set out in the Table to this section after becoming aware of the fact. O. Reg. 366/18, s. 12.

(4) Despite subsection (2), for high mast illumination, if all of the luminaires on consecutive poles on the same side of a highway are not functioning, the standard is to repair the luminaires within the time set out in the Table to this section after becoming aware of the fact. O. Reg. 366/18, s. 12.

(5) Despite subsections (1), (2) and (3), for conventional illumination and high mast illumination, if more than 50 per cent of the luminaires on any kilometre of a Class 1 highway with a speed limit of 90 kilometres per hour or more are not functioning, the standard is to deploy resources as soon as practicable after becoming aware of the fact to repair the luminaires. O. Reg. 366/18, s. 12.

(6) Luminaires are deemed to be in a state of repair,

(a) for the purpose of subsection (2), if the number of non-functioning consecutive luminaires on the same side of a highway does not exceed two;

(b) for the purpose of subsection (3), if more than 70 per cent of luminaires on any kilometre of highway are functioning;

(c) for the purpose of subsection (4), if one or more of the luminaires on consecutive poles on the same side of a highway are functioning;

(d) for the purpose of subsection (5), if more than 50 per cent of luminaires on any kilometre of highway are functioning. O. Reg. 366/18, s. 12.

(7) In this section,

“conventional illumination” means lighting, other than high mast illumination, where there are one or more luminaires per pole;

“high mast illumination” means lighting where there are three or more luminaires per pole and the height of the pole exceeds 20 metres;

“luminaire” means a complete lighting unit consisting of,

(a) a lamp, and

(b) parts designed to distribute the light, to position or protect the lamp and to connect the lamp to the power supply. O. Reg. 239/02, s. 10 (7).

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>7 days</td>
</tr>
<tr>
<td>2</td>
<td>7 days</td>
</tr>
<tr>
<td>3</td>
<td>14 days</td>
</tr>
<tr>
<td>4</td>
<td>14 days</td>
</tr>
<tr>
<td>5</td>
<td>14 days</td>
</tr>
</tbody>
</table>
O. Reg. 239/02, s. 10, Table.

**Signs**

11. (0.1) The standard for the frequency of inspecting signs of a type listed in subsection (2) to check to see that they meet the retro-reflectivity requirements of the Ontario Traffic Manual is once per calendar year, with each inspection taking place not more than 16 months from the previous inspection. O. Reg. 23/10, s. 7 (1); O. Reg. 47/13, s. 11 (1); O. Reg. 366/18, s. 13.

(0.2) A sign that has been inspected in accordance with subsection (0.1) is deemed to be in a state of repair with respect to the retro-reflectivity requirements of the Ontario Traffic Manual until the next inspection in accordance with that subsection, provided that the municipality does not acquire actual knowledge that the sign has ceased to meet these requirements. O. Reg. 47/13, s. 11 (2).

(1) If any sign of a type listed in subsection (2) is illegible, improperly oriented, obscured or missing, the standard is to deploy resources as soon as practicable after becoming aware of the fact to repair or replace the sign. O. Reg. 239/02, s. 11 (1); O. Reg. 23/10, s. 7 (2); O. Reg. 366/18, s. 13.

(2) This section applies to the following types of signs:

1. Checkerboard.
2. Curve sign with advisory speed tab.
3. Do not enter.

3.1 Load Restricted Bridge.
3.2 Low Bridge.
3.3 Low Bridge Ahead.
4. One Way.
5. School Zone Speed Limit.
6. Stop.
7. Stop Ahead.
8. Stop Ahead, New.
11. Wrong Way.
12. Yield.
14. Yield Ahead, New. O. Reg. 239/02, s. 11 (2); O. Reg. 23/10, s. 7 (3).

**Regulatory or warning signs**

12. (1) The standard for the frequency of inspecting regulatory signs or warning signs to check to see that they meet the retro-reflectivity requirements of the Ontario Traffic Manual is once per calendar year, with each inspection taking place not more than 16 months from the previous inspection. O. Reg. 23/10, s. 8; O. Reg. 47/13, s. 12 (1); O. Reg. 366/18, s. 13.

(1.1) A regulatory sign or warning sign that has been inspected in accordance with subsection (1) is deemed to be in a state of repair with respect to the retro-reflectivity requirements of the Ontario Traffic Manual until the next inspection in accordance with that subsection, provided that the municipality does not acquire actual knowledge that the sign has ceased to meet these requirements. O. Reg. 47/13, s. 12 (2).

(2) If a regulatory sign or warning sign is illegible, improperly oriented, obscured or missing, the standard is to repair or replace the sign within the time set out in the Table to this section after becoming aware of the fact. O. Reg. 23/10, s. 8; O. Reg. 366/18, s. 13.

(3) In this section, “regulatory sign” and “warning sign” have the same meanings as in the Ontario Traffic Manual, except that they do not include a sign listed in subsection 11 (2) of this Regulation. O. Reg. 23/10, s. 8.

**TABLE**

REGULATORY AND WARNING SIGNS

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>7 days</td>
</tr>
<tr>
<td>2</td>
<td>14 days</td>
</tr>
</tbody>
</table>
Traffic control signal systems

13. (1) If a traffic control signal system is defective in any way described in subsection (2), the standard is to deploy resources as soon as practicable after becoming aware of the defect to repair the defect or replace the defective component of the traffic control signal system. O. Reg. 239/02, s. 13 (1); O. Reg. 366/18, s. 13.

(2) This section applies if a traffic control signal system is defective in any of the following ways:

1. One or more displays show conflicting signal indications.
2. The angle of a traffic control signal or pedestrian control indication has been changed in such a way that the traffic or pedestrian facing it does not have clear visibility of the information conveyed or that it conveys confusing information to traffic or pedestrians facing other directions.
3. A phase required to allow a pedestrian or vehicle to safely travel through an intersection fails to occur.
4. There are phase or cycle timing errors interfering with the ability of a pedestrian or vehicle to safely travel through an intersection.
5. There is a power failure in the traffic control signal system.
6. The traffic control signal system cabinet has been displaced from its proper position.
7. There is a failure of any of the traffic control signal support structures.
8. A signal lamp or a pedestrian control indication is not functioning.
9. Signals are flashing when flashing mode is not a part of the normal signal operation. O. Reg. 239/02, s. 13 (2).

(3) Despite subsection (1) and paragraph 8 of subsection (2), if the posted speed of all approaches to the intersection or location of the non-functioning signal lamp or pedestrian control indication is less than 80 kilometres per hour and the signal that is not functioning is a green or a pedestrian “walk” signal, the standard is to repair or replace the defective component by the end of the next business day. O. Reg. 239/02, s. 13 (3); O. Reg. 366/18, s. 13.

(4) In this section and section 14, “cycle” means a complete sequence of traffic control indications at a location; “display” means the illuminated and non-illuminated signals facing the traffic; “indication” has the same meaning as in the Highway Traffic Act; “phase” means a part of a cycle from the time where one or more traffic directions receive a green indication to the time where one or more different traffic directions receive a green indication; “power failure” means a reduction in power or a loss in power preventing the traffic control signal system from operating as intended; “traffic control signal” has the same meaning as in the Highway Traffic Act; “traffic control signal system” has the same meaning as in the Highway Traffic Act. O. Reg. 239/02, s. 13 (4).

Traffic control signal system sub-systems

14. (1) The standard is to inspect, test and maintain the following traffic control signal system sub-systems once per calendar year, with each inspection taking place not more than 16 months from the previous inspection:

1. The display sub-system, consisting of traffic signal and pedestrian crossing heads, physical support structures and support cables.
2. The traffic control sub-system, including the traffic control signal cabinet and internal devices such as timer, detection devices and associated hardware, but excluding conflict monitors.
3. The external detection sub-system, consisting of detection sensors for all vehicles, including emergency and railway vehicles and pedestrian push-buttons. O. Reg. 239/02, s. 14 (1); O. Reg. 47/13, s. 13 (1); O. Reg. 366/18, s. 13.

(1.1) A traffic control signal system sub-system that has been inspected, tested and maintained in accordance with subsection (1) is deemed to be in a state of repair until the next inspection in accordance with that subsection, provided that the municipality does not acquire actual knowledge that the traffic control signal system sub-system has ceased to be in a state of repair. O. Reg. 47/13, s. 13 (2).

(2) The standard is to inspect, test and maintain conflict monitors every five to seven months and at least twice per calendar year. O. Reg. 239/02, s. 14 (2); O. Reg. 47/13, s. 13 (3); O. Reg. 366/18, s. 13.
(2.1) A conflict monitor that has been inspected, tested and maintained in accordance with subsection (2) is deemed to be in a state of repair until the next inspection in accordance with that subsection, provided that the municipality does not acquire actual knowledge that the conflict monitor has ceased to be in a state of repair. O. Reg. 239/02, s. 13(4).

(3) In this section, “conflict monitor” means a device that continually checks for conflicting signal indications and responds to a conflict by emitting a signal. O. Reg. 239/02, s. 14(3).

**Bridge deck spalls**

15. (1) If a bridge deck spall exceeds both the surface area and depth set out in the Table to this section, the standard is to repair the bridge deck spall within the time set out in the Table after becoming aware of the fact. O. Reg. 239/02, s. 15 (1); O. Reg. 366/18, s. 13.

(2) A bridge deck spall is deemed to be in a state of repair if its surface area or depth is less than or equal to that set out in the Table. O. Reg. 239/02, s. 15 (2); O. Reg. 47/13, s. 14.

(3) In this section, “bridge deck spall” means a cavity left by one or more fragments detaching from the paved surface of the roadway or shoulder of a bridge. O. Reg. 239/02, s. 15(3).

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Surface Area</th>
<th>Depth</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>600 cm²</td>
<td>8 cm</td>
<td>4 days</td>
</tr>
<tr>
<td>2</td>
<td>800 cm²</td>
<td>8 cm</td>
<td>4 days</td>
</tr>
<tr>
<td>3</td>
<td>1,000 cm²</td>
<td>8 cm</td>
<td>7 days</td>
</tr>
<tr>
<td>4</td>
<td>1,000 cm²</td>
<td>8 cm</td>
<td>7 days</td>
</tr>
<tr>
<td>5</td>
<td>1,000 cm²</td>
<td>8 cm</td>
<td>7 days</td>
</tr>
</tbody>
</table>

O. Reg. 239/02, s. 15, Table.

**Roadway surface discontinuities**

16. (1) If a surface discontinuity on a roadway, other than a surface discontinuity on a bridge deck, exceeds the height set out in the Table to this section, the standard is to repair the surface discontinuity within the time set out in the Table after becoming aware of the fact. O. Reg. 23/10, s. 9; O. Reg. 366/18, s. 13.

(1.1) A surface discontinuity on a roadway, other than a surface discontinuity on a bridge deck, is deemed to be in a state of repair if its height is less than or equal to the height set out in the Table to this section. O. Reg. 47/13, s. 15.

(2) If a surface discontinuity on a bridge deck exceeds five centimetres, the standard is to deploy resources as soon as practicable after becoming aware of the fact to repair the surface discontinuity on the bridge deck. O. Reg. 23/10, s. 9; O. Reg. 366/18, s. 13.

(2.1) A surface discontinuity on a bridge deck is deemed to be in a state of repair if its height is less than or equal to five centimetres. O. Reg. 47/13, s. 15.

(3) In this section, “surface discontinuity” means a vertical discontinuity creating a step formation at joints or cracks in the paved surface of the roadway, including bridge deck joints, expansion joints and approach slabs to a bridge. O. Reg. 23/10, s. 9.

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Height</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5 cm</td>
<td>2 days</td>
</tr>
<tr>
<td>2</td>
<td>5 cm</td>
<td>2 days</td>
</tr>
<tr>
<td>3</td>
<td>5 cm</td>
<td>7 days</td>
</tr>
<tr>
<td>4</td>
<td>5 cm</td>
<td>21 days</td>
</tr>
<tr>
<td>5</td>
<td>5 cm</td>
<td>21 days</td>
</tr>
</tbody>
</table>

O. Reg. 239/02, s. 16, Table.

**Sidewalk surface discontinuities**

16.1 (1) The standard for the frequency of inspecting sidewalks to check for surface discontinuity is once per calendar year, with each inspection taking place not more than 16 months from the previous inspection. O. Reg. 23/10, s. 10; O. Reg. 47/13, s. 16 (1); O. Reg. 366/18, s. 13.
(1.1) A sidewalk that has been inspected in accordance with subsection (1) is deemed to be in a state of repair with respect to any surface discontinuity until the next inspection in accordance with that subsection, provided that the municipality does not acquire actual knowledge of the presence of a surface discontinuity in excess of two centimetres. O. Reg. 47/13, s. 16 (2).

(2) If a surface discontinuity on or within a sidewalk exceeds two centimetres, the standard is to treat the surface discontinuity within 14 days after acquiring actual knowledge of the fact. O. Reg. 366/18, s. 14.

(2.1) REVOKED: O. Reg. 366/18, s. 14.

(3) A surface discontinuity on or within a sidewalk is deemed to be in a state of repair if it is less than or equal to two centimetres. O. Reg. 366/18, s. 14.

(4) For the purpose of subsection (2), treating a surface discontinuity on or within a sidewalk means taking reasonable measures to protect users of the sidewalk from the discontinuity, including making permanent or temporary repairs, alerting users’ attention to the discontinuity or preventing access to the area of discontinuity. O. Reg. 366/18, s. 14.

(5) In this section, “surface discontinuity” means a vertical discontinuity creating a step formation at any joint or crack in the surface of the sidewalk or any vertical height difference between a utility appurtenance found on or within the sidewalk and the surface of the sidewalk. O. Reg. 366/18, s. 14.

Encroachments, area adjacent to sidewalks

16.2 (1) The standard for the frequency of inspecting an area adjacent to a sidewalk to check for encroachments is once per calendar year, with each inspection taking place not more than 16 months from the previous inspection. O. Reg. 366/18, s. 15.

(2) The area adjacent to a sidewalk that has been inspected in accordance with subsection (1) is deemed to be in a state of repair in respect of any encroachment present. O. Reg. 366/18, s. 15.

(3) For greater certainty, the area adjacent to a sidewalk begins at the outer edges of a sidewalk and ends at the lesser of the limit of the highway, the back edge of a curb if there is a curb and a maximum of 45 cm. O. Reg. 366/18, s. 15.

(4) The area adjacent to a sidewalk is deemed to be in a state of repair in respect of any encroachment present unless the encroachment is determined by a municipality to be highly unusual given its character and location or to constitute a significant hazard to pedestrians. O. Reg. 366/18, s. 15.

(5) If a municipality determines that an encroachment is highly unusual given its character and location or constitutes a significant hazard to pedestrians, the standard is to treat the encroachment within 28 days after making such a determination, and the encroachment is deemed to be in a state of repair for 28 days from the time of the determination by the municipality. O. Reg. 366/18, s. 15.

(6) For the purpose of subsection (4), treating an encroachment means taking reasonable measures to protect users, including making permanent or temporary repairs, alerting users’ attention to the encroachment or preventing access to the area of the encroachment. O. Reg. 366/18, s. 15.

Snow accumulation on sidewalks

16.3 (1) Subject to section 16.4, the standard for addressing snow accumulation on a sidewalk after the snow accumulation has ended is,

a) to reduce the snow to a depth less than or equal to 8 centimetres within 48 hours; and

b) to provide a minimum sidewalk width of 1 metre. O. Reg. 366/18, s. 15.

(2) If the depth of snow accumulation on a sidewalk is less than or equal to 8 centimetres, the sidewalk is deemed to be in a state of repair in respect of snow accumulation. O. Reg. 366/18, s. 15.

(3) If the depth of snow accumulation on a sidewalk exceeds 8 centimetres while the snow continues to accumulate, the sidewalk is deemed to be in a state of repair with respect to snow accumulation until 48 hours after the snow accumulation ends. O. Reg. 366/18, s. 15.

(4) For the purposes of this section, the depth of snow accumulation on a sidewalk may be determined in the same manner as set out in subsection 4 (4) and by the persons mentioned in subsection 4 (3) with necessary modifications. O. Reg. 366/18, s. 15.

(5) For the purposes of this section, addressing snow accumulation on a sidewalk includes,

(a) plowing the sidewalk;

(b) salting the sidewalk;

(c) applying abrasive materials to the sidewalk;

(d) applying other chemical or organic agents to the sidewalk; or

(e) any combination of the methods described in clauses (a) to (d). O. Reg. 366/18, s. 15.
Snow accumulation on sidewalks, significant weather event

16.4 (1) If a municipality declares a significant weather event relating to snow accumulation, the standard for addressing snow accumulation on sidewalks until the declaration of the end of the significant weather event is,

(a) to monitor the weather in accordance with section 3.1; and
(b) if deemed practicable by the municipality, to deploy resources to address snow accumulation on sidewalks starting from the time that the municipality deems appropriate to do so. O. Reg. 366/18, s. 15.

(2) If the municipality complies with subsection (1), all sidewalks within the municipality are deemed to be in a state of repair with respect to any snow present until 48 hours following the declaration of the end of the significant weather event by the municipality. O. Reg. 366/18, s. 15.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,

(a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and
(b) address snow accumulation on sidewalks in accordance with section 16.3. O. Reg. 366/18, s. 15.

Ice formation on sidewalks and icy sidewalks

16.5 (1) Subject to section 16.6, the standard for the prevention of ice formation on sidewalks is,

(a) monitor the weather in accordance with section 3.1 in the 24-hour period preceding an alleged formation of ice on a sidewalk; and
(b) treat the sidewalk if practicable to prevent ice formation or improve traction within 48 hours if the municipality determines that there is a substantial probability of ice forming on a sidewalk, starting from the time that the municipality determines is the appropriate time to deploy resources for that purpose. O. Reg. 366/18, s. 15.

(2) If ice forms on a sidewalk even though the municipality meets the standard set out in subsection (1), the sidewalk is deemed to be in a state of repair in respect of ice until 48 hours after the municipality first becomes aware of the fact that the sidewalk is icy. O. Reg. 366/18, s. 15.

(3) The standard for treating icy sidewalks after the municipality becomes aware of the fact that a sidewalk is icy is to treat the icy sidewalk within 48 hours, and an icy sidewalk is deemed to be in a state of repair for 48 hours after it has been treated. O. Reg. 366/18, s. 15.

(4) For the purposes of this section, treating a sidewalk means applying materials including salt, sand or any combination of salt and sand to the sidewalk. O. Reg. 366/18, s. 15.

Icy sidewalks, significant weather event

16.6 (1) If a municipality declares a significant weather event relating to ice, the standard for addressing ice formation or ice on sidewalks until the declaration of the end of the significant weather event is,

(a) to monitor the weather in accordance with section 3.1; and
(b) if deemed practicable by the municipality, to deploy resources to treat the sidewalks to prevent ice formation or improve traction, or treat the icy sidewalks, starting from the time that the municipality deems appropriate to do so. O. Reg. 366/18, s. 15.

(2) If the municipality complies with subsection (1), all sidewalks within the municipality are deemed to be in a state of repair with respect to any ice which forms or is present until 48 hours after the declaration of the end of the significant weather event by the municipality. O. Reg. 366/18, s. 15.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,

(a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and
(b) address the prevention of ice formation on sidewalks or treat icy sidewalks in accordance with section 16.5. O. Reg. 366/18, s. 15.

Winter sidewalk patrol

16.7 (1) If it is determined by the municipality that the weather monitoring referred to in section 3.1 indicates that there is a substantial probability of snow accumulation on sidewalks in excess of 8 cm, ice formation on sidewalks or icy sidewalks, the standard for patrolling sidewalks is to patrol sidewalks that the municipality selects as representative of its sidewalks at intervals deemed necessary by the municipality. O. Reg. 366/18, s. 15.

(2) Patrolling a sidewalk consists of visually observing the sidewalk, either by driving by the sidewalk on the adjacent roadway or by driving or walking on the sidewalk or by electronically monitoring the sidewalk, and may be performed by persons responsible for patrolling roadways or sidewalks or by persons responsible for or performing roadway or sidewalk maintenance activities. O. Reg. 366/18, s. 15.
Closure of a highway

16.8 (1) When a municipality closes a highway or part of a highway pursuant to its powers under the Act, the highway is deemed to be in a state of repair in respect of all conditions described in this Regulation from the time of the closure until the highway is re-opened by the municipality. O. Reg. 366/18, s. 15.

(2) For the purposes of subsection (1), a highway or part of a highway is closed on the earlier of,

(a) when a municipality passes a by-law to close the highway or part of the highway; and

(b) when a municipality has taken such steps as it determines necessary to temporarily close the highway or part of a highway. O. Reg. 366/18, s. 15.

Declaration of significant weather event

16.9. A municipality declaring the beginning of a significant weather event or declaring the end of a significant weather event under this Regulation shall do so in one or more of the following ways:

1. By posting a notice on the municipality’s website.

2. By making an announcement on a social media platform, such as Facebook or Twitter.

3. By sending a press release or similar communication to internet, newspaper, radio or television media.

4. By notification through the municipality’s police service.

5. By any other notification method required in a by-law of the municipality. O. Reg. 366/18, s. 15.

Review

17. (1) The Minister of Transportation shall conduct a review of this Regulation and Ontario Regulation 612/06 (Minimum Maintenance Standards for Highways in the City of Toronto) made under the City of Toronto Act, 2006 every five years. O. Reg. 613/06, s. 2.

(2) Despite subsection (1), the first review after the completion of the review started before the end of 2007 shall be started five years after the day Ontario Regulation 23/10 is filed. O. Reg. 23/10, s. 11.

18. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 239/02, s. 18.
ONTARIO REGULATION 366/18
made under the
MUNICIPAL ACT, 2001

Made: May 2, 2018
Filed: May 3, 2018
Published on e-Laws: May 3, 2018
Printed in The Ontario Gazette: May 19, 2018

Amending O. Reg. 29/02
(MINIMUM MAINTENANCE STANDARDS FOR MUNICIPAL HIGHWAYS)

1. (1) The definition of “surface” in subsection 1 (1) of Ontario Regulation 239/02 is amended by striking out “roadway or shoulder” and substituting “sidewalk, roadway or shoulder”.

(2) Subsection 1 (1) of the Regulation is amended by adding the following definitions:
“bicycle facility” means the on-road and in-boulevard cycling facilities listed in Book 18 of the Ontario Traffic Manual;
“bicycle lane” means,
(a) a portion of a roadway that has been designated by pavement markings or signage for the preferential or exclusive use of cyclists, or
(b) a portion of a roadway that has been designated for the exclusive use of cyclists by signage and a physical or marked buffer;
“enroachment” means anything that is placed, installed, constructed or planted within the highway that was not placed, installed, constructed or planted by the municipality;
“pothole” means a hole in the surface of a roadway caused by any means, including wear or subsidence of the road surface or subsurface;
“sidewalk” means the part of the highway specifically set aside or commonly understood to be for pedestrian use, typically consisting of a paved surface but does not include crosswalks, medians, boulevards, shoulders or any part of the sidewalk where cleared snow has been deposited;
“significant weather event” means an approaching or occurring weather hazard with the potential to pose a significant danger to users of the highways within a municipality;
“utility” includes any air, gas, water, electricity, cable, fiber-optic, telecommunication or traffic control system or subsystem, fire hydrants, sanitary sewers, storm sewers, property bars and survey monuments;
“utility appurtenance” includes maintenance holes and hole covers, water shut-off covers and boxes, valves, fittings, vaults, braces, pipes, pedestals, and any other structures or items that form part of or are an accessory part of any utility;
“weather hazard” means the weather hazards determined by Environment Canada as meeting the criteria for the issuance of an alert under its Public Weather Alerting Program.

(3) Subsections 1 (2) and (3) of the Regulation are amended by striking out “annual” wherever it appears.

(4) Subsection 1 (4) of the Regulation is revoked and the following substituted:

(4) For the purposes of this Regulation, unless otherwise indicated in a provision of this Regulation, a municipality is deemed to be aware of a fact if, in the absence of actual knowledge of the fact, circumstances are such that the municipality ought reasonably to be aware of the fact.

(5) The Table to section 1 of the Regulation is revoked and the following substituted:

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
<th>Column 6</th>
<th>Column 7</th>
<th>Column 8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Daily Traffic (number of motor vehicles)</td>
<td>90 - 100 km/h speed limit</td>
<td>71 - 80 km/h speed limit</td>
<td>61 - 70 km/h speed limit</td>
<td>51 - 60 km/h speed limit</td>
<td>41 - 50 km/h speed limit</td>
<td>1 - 40 km/h speed limit</td>
<td></td>
</tr>
<tr>
<td>53,000 or more</td>
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<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
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<td>23,000 - 52,999</td>
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<td>2</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>15,000 - 22,999</td>
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<td>1</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>

October 25, 2018
2. The Regulation is amended by adding the following section:

Purpose

2.1 The purpose of this Regulation is to clarify the scope of the statutory defence available to a municipality under clause 44 (3) (c) of the Act by establishing maintenance standards which are non-prescriptive as to the methods or materials to be used in complying with the standards but instead describe a desired outcome.

3. (1) The heading before section 3 of the Regulation is amended by striking out “MINIMUM” and substituting “MAINTENANCE”

(2) Subsections 3 (1) and (2) of the Regulation are amended by striking out “minimum” wherever it appears.

(3) Subsection 3 (4) of the Regulation is amended by striking out “section 16.1” and substituting “section 16.1, 16.2, 16.3 or 16.4”.

4. Subsections 3.1 (1) and (2) of the Regulation are amended by striking out “minimum” wherever it appears.

5. (1) Subsection 4 (1) of the Regulation is amended by striking out the portion before clause (a) and substituting the following:

Snow accumulation, roadways

(1) Subject to section 4.1, the standard for addressing snow accumulation on roadways is,

(2) Subsection 4 (3) of the Regulation is amended by adding “and, if applicable, lane width under clause (1) (b),” after “roadway” in the portion before paragraph 1.

(3) Subsection 4 (4) of the Regulation is amended by adding “and lane width” after “roadway” in the portion before clause (a).

(4) Subsections 4 (5) and (6) of the Regulation are revoked and the following substituted:

(5) For the purposes of this section, addressing snow accumulation on a roadway includes,

(a) plowing the roadway;
(b) salting the roadway;
(c) applying abrasive materials to the roadway;
(d) applying other chemical or organic agents to the roadway;
(e) any combination of the methods described in clauses (a) to (d);
(f) This section does not apply to that portion of the roadway,

(a) designated for parking;
(b) consisting of a bicycle lane or other bicycle facility; or
(d) used by a municipality for snow storage.

(5) The heading of the Table to section 4 of the Regulation is revoked and the following substituted:

SNOW ACCUMULATION - ROADWAYS

7. The Regulation is amended by adding the following sections:
Snow accumulation on roadways, significant weather event

4.1 (1) If a municipality declares a significant weather event relating to snow accumulation, the standard for addressing snow accumulation on roadways until the declaration of the end of the significant weather event is,

(a) to monitor the weather in accordance with section 3.1; and
(b) if deemed practicable by the municipality, to deploy resources to address snow accumulation on roadways, starting from the time that the municipality deems appropriate to do so.

(2) If the municipality complies with subsection (1), all roadways within the municipality are deemed to be in a state of repair with respect to snow accumulation until the applicable time in the Table to section 4 expires following the declaration of the end of the significant weather event by the municipality.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,

(a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and
(b) address snow accumulation on roadways in accordance with section 4.

Snow accumulation, bicycle lanes

4.2 (1) Subject to section 4.3, the standard for addressing snow accumulation on bicycle lanes is,

(a) after becoming aware of the fact that the snow accumulation on a bicycle lane is greater than the depth set out in the Table to this section, to deploy resources as soon as practicable to address the snow accumulation; and
(b) after the snow accumulation has ended, to address the snow accumulation so as to reduce the snow to a depth less than or equal to the depth set out in the Table to this section to provide a minimum bicycle lane width of the lesser of 1 metre or the actual bicycle lane width.

(2) If the depth of snow accumulation on a bicycle lane is less than or equal to the depth set out in the Table to this section, the bicycle lane is deemed to be in a state of repair in respect of snow accumulation.

(3) For the purposes of this section, the depth of snow accumulation on a bicycle lane and, if applicable, lane width under clause (1) (b), may be determined in the same manner as set out in subsection 4 (4) and by the persons mentioned in subsection 4 (3), with necessary modifications.

(4) For the purposes of this section, addressing snow accumulation on a bicycle lane includes,

(a) plowing the bicycle lane;
(b) salting the bicycle lane;
(c) applying abrasive materials to the bicycle lane;
(d) applying other chemical or organic agents to the bicycle lane;
(e) sweeping the bicycle lane; or
(f) any combination of the methods described in clauses (a) to (e).

TABLE

<table>
<thead>
<tr>
<th>Snow Accumulation – Bicycle LANES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column 1</td>
</tr>
<tr>
<td>Class of Highway or Adjacent Highway</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>5</td>
</tr>
</tbody>
</table>

Snow accumulation on bicycle lanes, significant weather event

4.3 (1) If a municipality declares a significant weather event relating to snow accumulation, the standard for addressing snow accumulation on bicycle lanes until the declaration of the end of the significant weather event is,

(a) to monitor the weather in accordance with section 3.1; and
(b) if deemed practicable by the municipality, to deploy resources to address snow accumulation on bicycle lanes, starting from the time that the municipality deems appropriate to do so.

(2) If the municipality complies with subsection (1), all bicycle lanes within the municipality are deemed to be in a state of repair with respect to snow accumulation until the applicable time in the Table to section 4.2 expires following the declaration of the end of the significant weather event by the municipality.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,
(a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and
(b) address snow accumulation on bicycle lanes in accordance with section 4.2.

8. Section 5 of the Regulation is revoked and the following substituted:

Ice formation on roadways and icy roadways

5. (1) The standard for the prevention of ice formation on roadways is doing the following in the 24-hour period preceding an alleged formation of ice on a roadway:

1. Monitor the weather in accordance with section 3.1.
2. Patrol in accordance with section 3.
3. If the municipality determines, as a result of its activities under paragraph 1 or 2, that there is a substantial probability of ice forming on a roadway, treat the roadway, if practicable, to prevent ice formation within the time set out in Table 1 to this section, starting from the time that the municipality determines is the appropriate time to deploy resources for that purpose.

(2) If the municipality meets the standard set out in subsection (1) and, despite such compliance, ice forms on a roadway, the roadway is deemed to be in a state of repair until the applicable time set out in Table 2 to this section expires after the municipality becomes aware of the fact that the roadway is icy.

(3) Subject to section 5.1, the standard for treating icy roadways is to treat the icy roadway within the time set out in Table 2 to this section, and an icy roadway is deemed to be in a state of repair until the applicable time set out in Table 2 to this section expires after the municipality becomes aware of the fact that a roadway is icy.

(4) For the purposes of this section, treating a roadway means applying material to the roadway, including but not limited to, salt, sand or any combination of salt and sand.

(5) For greater certainty, this section applies in respect of ice formation on bicycle lanes on a roadway, but does not apply to other types of bicycle facilities.

<table>
<thead>
<tr>
<th>TABLE 1</th>
<th>ICE FORMATION PREVENTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class of Highway</td>
<td>Time</td>
</tr>
<tr>
<td>1</td>
<td>6 hours</td>
</tr>
<tr>
<td>2</td>
<td>8 hours</td>
</tr>
<tr>
<td>3</td>
<td>16 hours</td>
</tr>
<tr>
<td>4</td>
<td>24 hours</td>
</tr>
<tr>
<td>5</td>
<td>24 hours</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TABLE 2</th>
<th>TREATMENT OF ICY ROADWAYS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class of Highway</td>
<td>Time</td>
</tr>
<tr>
<td>1</td>
<td>3 hours</td>
</tr>
<tr>
<td>2</td>
<td>4 hours</td>
</tr>
<tr>
<td>3</td>
<td>8 hours</td>
</tr>
<tr>
<td>4</td>
<td>12 hours</td>
</tr>
<tr>
<td>5</td>
<td>16 hours</td>
</tr>
</tbody>
</table>

Icy roadways, significant weather event

5.1 (1) If a municipality declares a significant weather event relating to ice, the standard for treating icy roadways until the declaration of the end of the significant weather event is,
(a) to monitor the weather in accordance with section 3.1; and
(b) if deemed practicable by the municipality, to deploy resources to treat icy roadways, starting from the time that the municipality deems appropriate to do so.

(2) If the municipality complies with subsection (1), all roadways within the municipality are deemed to be in a state of repair with respect to any ice which forms or may be present until the applicable time in Table 2 to section 5 expires after the declaration of the end of the significant weather event by the municipality.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall, 
   (a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and
   (b) treat icy roadways in accordance with section 5.

8. (1) Subsection 6 (1) of the Regulation is amended by striking out “minimum”.

(2) Section 6 of the Regulation is amended by adding the following subsections:

(1.1) For the purposes of this section, the surface area and depth of a pothole may be determined in accordance with subsections (1.2) and (1.3), as applicable, by a municipal employee, agent or contractor whose duties or responsibilities include one or more of the following:

1. Patrolling highways.
2. Performing highway maintenance activities.
3. Supervising staff who perform activities described in paragraph 1 or 2.

(1.2) The depth and surface area of a pothole may be determined by,

(a) performing an actual measurement, or

(b) performing a visual estimate.

(1.3) For the purposes of this section, the surface area of a pothole does not include any area that is merely depressed and not yet broken fully through the surface of the roadway.

9. (1) Subsections 7 (1) and (2) of the Regulation are revoked and the following substituted:

Shoulder drop-offs

(1) If a shoulder drop-off is deeper than 8 cm, for a continuous distance of 20 metres or more, the standard is to repair the shoulder drop-off within the time set out in the Table to this section after becoming aware of the fact.

(2) A shoulder drop-off is deemed to be in a state of repair if its depth is less than 8 cm.

(2) The Table to section 7 of the Regulation is revoked and the following substituted:

<table>
<thead>
<tr>
<th>Class of Highway</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4 days</td>
</tr>
<tr>
<td>2</td>
<td>4 days</td>
</tr>
<tr>
<td>3</td>
<td>7 days</td>
</tr>
<tr>
<td>4</td>
<td>14 days</td>
</tr>
<tr>
<td>5</td>
<td>30 days</td>
</tr>
</tbody>
</table>

10. (1) Subsections 8 (1) and (2) of the Regulation are revoked and the following substituted:

Cracks

(1) If a crack on the paved surface of a roadway is greater than 5 cm wide and 5 cm deep for a continuous distance of three metres or more, the standard is to repair the crack within the time set out in the Table to this section after becoming aware of the fact.

(2) A crack is deemed to be in a state of repair if its width or depth is less than or equal to 5 cm.

(2) The Table to section 8 of the Regulation is revoked and the following substituted:

<table>
<thead>
<tr>
<th>Column 1: Class of Highway</th>
<th>Column 2: Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column 1</td>
<td>Column 2: Time</td>
</tr>
</tbody>
</table>
11. Subsection 9 (1) of the Regulation is amended by striking out “minimum”.

12. Subsections 10 (0.1), (1), (2), (3), (4), (5) and (6) of the Regulation are revoked and the following substituted:

Luminaires

(1) The standard for the frequency of inspecting all luminaires to check to see that they are functioning is once per calendar year, with each inspection taking place not more than 16 months from the previous inspection.

(2) For conventional illumination, if three or more consecutive luminaires on the same side of a highway are not functioning, the standard is to repair the luminaires within the time set out in the Table to this section after becoming aware of the fact.

(3) For conventional illumination and high mast illumination, if 30 per cent or more of the luminaires on any kilometre of highway are not functioning, the standard is to repair the luminaires within the time set out in the Table to this section after becoming aware of the fact.

(4) Despite subsection (2), for high mast illumination, if all of the luminaires on consecutive poles on the same side of a highway are not functioning, the standard is to deploy resources as soon as practicable after becoming aware of the fact to repair the luminaires.

(5) Despite subsections (1), (2) and (3), for conventional illumination and high mast illumination, if more than 50 per cent of the luminaires on any kilometre of a Class 1 highway with a speed limit of 90 kilometres per hour or more are not functioning, the standard is to deploy resources as soon as practicable after becoming aware of the fact to repair the luminaires.

(6) Luminaires are deemed to be in a state of repair,

(a) for the purpose of subsection (2), if the number of non-functioning consecutive luminaires on the same side of a highway does not exceed two;

(b) for the purpose of subsection (3), if more than 70 per cent of luminaires on any kilometre of highway are functioning;

(c) for the purpose of subsection (4), if one or more of the luminaires on consecutive poles on the same side of a highway are functioning;

(d) for the purpose of subsection (5), if more than 50 per cent of luminaires on any kilometre of highway are functioning.

13. The Regulation is amended by striking out “minimum” wherever it appears in the following provisions:

1. Sections 11 to 16.

2. Subsection 16.1 (1).

14. Subsections 16.1 (2), (2.1), (3) and (4) of the Regulation are revoked and the following substituted:

(2) If a surface discontinuity on or within a sidewalk exceeds two centimetres, the standard is to treat the surface discontinuity within 14 days after acquiring actual knowledge of the fact.

(3) A surface discontinuity on or within a sidewalk is deemed to be in a state of repair if it is less than or equal to two centimetres.

(4) For the purpose of subsection (2), treating a surface discontinuity on or within a sidewalk means taking reasonable measures to protect users of the sidewalk from the discontinuity, including making permanent or temporary repairs, alerting users’ attention to the discontinuity or preventing access to the area of discontinuity.

(5) In this section, “surface discontinuity” means a vertical discontinuity creating a step formation at any joint or crack in the surface of the sidewalk or any vertical height difference between a utility appurtenance found on or within the sidewalk and the surface of the sidewalk.

15. The Regulation is amended by adding the following sections.

Encroachments, area adjacent to sidewalk

16.2 (1) The standard for the frequency of inspecting an area adjacent to a sidewalk to check for encroachments is once per calendar year, with each inspection taking place not more than 16 months from the previous inspection.
(2) The area adjacent to a sidewalk that has been inspected in accordance with subsection (1) is deemed to be in a state of repair in respect of any encroachment present.

(3) For greater certainty, the area adjacent to a sidewalk begins at the outer edges of a sidewalk and ends at the lesser of the limit of the highway, the back edge of a curb if there is a curb and a maximum of 45 cm.

(4) The area adjacent to a sidewalk is deemed to be in a state of repair in respect of any encroachment present unless the encroachment is determined by a municipality to be highly unusual given its character and location or to constitute a significant hazard to pedestrians.

(5) If a municipality determines that an encroachment is highly unusual given its character and location or constitutes a significant hazard to pedestrians, the standard is to treat the encroachment within 28 days after making such a determination, and the encroachment is deemed to be in a state of repair for 28 days from the time of the determination by the municipality.

(6) For the purpose of subsection (4), treating an encroachment means taking reasonable measures to protect users, including making permanent or temporary repairs, alerting users’ attention to the encroachment or preventing access to the area of the encroachment.

Snow accumulation on sidewalks

16.3 (1) Subject to section 16.4, the standard for addressing snow accumulation on a sidewalk after the snow accumulation has ended is,

a) to reduce the snow to a depth less than or equal to 8 centimetres within 48 hours; and

b) to provide a minimum sidewalk width of 1 metre.

(2) If the depth of snow accumulation on a sidewalk is less than or equal to 8 centimetres, the sidewalk is deemed to be in a state of repair with respect to snow accumulation.

(3) If the depth of snow accumulation on a sidewalk exceeds 8 centimetres while the snow continues to accumulate, the sidewalk is deemed to be in a state of repair with respect to snow accumulation, until 48 hours after the snow accumulation ends.

(4) For the purposes of this section, the depth of snow accumulation on a sidewalk may be determined in the same manner as set out in subsection 4 (4) and by the persons mentioned in subsection 4 (3) with necessary modifications.

(5) For the purposes of this section, addressing snow accumulation on a sidewalk includes,

a) plowing the sidewalk;
b) salting the sidewalk;
c) applying abrasive materials to the sidewalk;
d) applying other chemical or organic agents to the sidewalk; or
e) any combination of the methods described in clauses (a) to (d).

Snow accumulation on sidewalks, significant weather event

16.4 (1) If a municipality declares a significant weather event relating to snow accumulation, the standard for addressing snow accumulation on sidewalks until the declaration of the end of the significant weather event is,

a) to monitor the weather in accordance with section 3.1; and

b) if deemed practicable by the municipality, to deploy resources to address snow accumulation on sidewalks starting from the time that the municipality deems appropriate to do so.

(2) If the municipality complies with subsection (1), all sidewalks within the municipality are deemed to be in a state of repair with respect to any snow present until 48 hours following the declaration of the end of the significant weather event by the municipality.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,

a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and

b) address snow accumulation on sidewalks in accordance with section 16.3.

Ice formation on sidewalks and icy sidewalks

16.5 (1) Subject to section 16.6, the standard for the prevention of ice formation on sidewalks is to,

a) monitor the weather in accordance with section 3.1 in the 24-hour period preceding an alleged formation of ice on a sidewalk; and
(b) treat the sidewalk if practicable to prevent ice formation or improve traction within 48 hours if the municipality determines that there is a substantial probability of ice forming on a sidewalk, starting from the time that the municipality determines is the appropriate time to deploy resources for that purpose.

(2) If ice forms on a sidewalk even though the municipality meets the standard set out in subsection (1), the sidewalk is deemed to be in a state of repair in respect of ice until 48 hours after the municipality first becomes aware of the fact that the sidewalk is icy.

(3) The standard for treating icy sidewalks after the municipality becomes aware of the fact that a sidewalk is icy is to treat the icy sidewalk within 48 hours, and an icy sidewalk is deemed to be in a state of repair for 48 hours after it has been treated.

(4) For the purposes of this section, treating a sidewalk means applying materials including salt, sand or any combination of salt and sand to the sidewalk.

**Icy sidewalks, significant weather event**

**16.6** (1) If a municipality declares a significant weather event relating to ice, the standard for addressing ice formation or ice on sidewalks until the declaration of the end of the significant weather event is,

(a) to monitor the weather in accordance with section 3.1; and

(b) if deemed practicable by the municipality, to deploy resources to treat the sidewalks to prevent ice formation or improve traction, or treat the icy sidewalks, starting from the time that the municipality deems appropriate to do so.

(2) If the municipality complies with subsection (1), all sidewalks within the municipality are deemed to be in a state of repair with respect to any ice which forms or is present until 48 hours after the declaration of the end of the significant weather event by the municipality.

(3) Following the end of the weather hazard in respect of which a significant weather event was declared by a municipality under subsection (1), the municipality shall,

(a) declare the end of the significant weather event when the municipality determines it is appropriate to do so; and

(b) address the prevention of ice formation on sidewalks or treat icy sidewalks in accordance with section 16.5.

**Winter sidewalk patrol**

**16.7** (1) If it is determined by the municipality that the weather monitoring referred to in section 3.1 indicates that there is a substantial probability of snow accumulation on sidewalks in excess of 8 cm, ice formation on sidewalks or icy sidewalks, the standard for patrolling sidewalks is to patrol sidewalks that the municipality selects as representative of its sidewalks at intervals deemed necessary by the municipality.

(2) Patrolling a sidewalk consists of visually observing the sidewalk, either by driving by the sidewalk on the adjacent roadway or by driving or walking on the sidewalk or by electronically monitoring the sidewalk, and may be performed by persons responsible for patrolling roadways or sidewalks or by persons responsible for or performing roadway or sidewalk maintenance activities.

**Closure of a highway**

**16.8** (1) When a municipality closes a highway or part of a highway pursuant to its powers under the Act, the highway is deemed to be in a state of repair in respect of all conditions described in this Regulation from the time of the closure until the highway is re-opened by the municipality.

(2) For the purposes of subsection (1), a highway or part of a highway is closed on the earlier of,

(a) when a municipality passes a by-law to close the highway or part of the highway; and

(b) when a municipality has taken such steps as it determines necessary to temporarily close the highway or part of a highway.

**Declaration of significant weather event**

**16.9.** A municipality declaring the beginning of a significant weather event or declaring the end of a significant weather event under this Regulation shall do so in one or more of the following ways:

1. By posting a notice on the municipality’s website.
2. By making an announcement on a social media platform, such as Facebook or Twitter.
3. By sending a press release or similar communication to internet, newspaper, radio or television media.
4. By notification through the municipality’s police service.
5. By any other notification method required in a by-law of the municipality.

**Commencement**

16. This Regulation comes into force on the day it is filed.