

To:	Warden McQueen and Members of Grey County Council
Committee Date:	November 12, 2020
Subject / Report No:	TR-CW-16-20
Title:	Level of Service Policy
Prepared by:	Steven Dollmaier, Maintenance Manager
Reviewed by:	Pat Hoy, Director of Transportation Services
Lower Tier(s) Affected:	Member Municipalities
Status:	Recommendation adopted by Committee as presented per Resolution CW199-20; Endorsed by County Council November 26, 2020 per Resolution CC93-20;

Recommendation

1. That Report TR-CW-16-20 Maintenance Level of Service Policy be received; and
2. That all previous policies related to Level of Service, including ROADS04-10, MS-TS-0006 and Roads 01-08 be rescinded; and
3. That Policy 12-3 being the Maintenance Level of Service Policy be endorsed.

Executive Summary

The purpose of this staff report is to review the amendments to the Minimum Maintenance Standard for Municipal Highways (Ontario Regulation 239/02) and update the Level of Service Policy, bringing it into compliance with current provincial legislation.

Background and Discussion

Changes were made to the Provincial Minimum Maintenance Standards for Municipal Highways (Ontario Regulation 239/02) made under the Municipal Act, 2001. These came into effect on May 3, 2018 but have not yet been formally incorporated into the County's Maintenance Level of Service Policy. The revised Minimum Maintenance Standard Regulation is attached with the recent amendments highlighted.

The 2018 amendments to the Minimum Maintenance Standard Regulation include:

1. The introduction of winter maintenance standards for bicycle lanes;

2. The ability for municipalities to declare a “significant weather event” with implications for winter maintenance on roadways, and bicycle lanes for the duration of the event;
3. Pothole repairs;
4. Road classification system.

The proposed revised Maintenance Level of Service Policy is attached and matches or exceeds, the amendments to the Minimum Maintenance Standard Regulation.

The Minimum Maintenance Standard Regulation is designed to provide municipalities with a due diligence defense in the event of a vehicular accident, slips, trips and falls, or other incidents. The standards outlined in the Minimum Maintenance Standard Regulation are not mandatory. If the County cannot meet the Minimum Maintenance Standard Regulation as set out, it can still use Section 44 (1) of the Municipal Act to demonstrate that the service provided was reasonable in the circumstances for both the weather and road conditions. In short, the County can set its own Maintenance Standards based on its needs and resources.

The County has an obligation to maintain its road network at an appropriate safe level of service. To achieve this, the County utilizes the Minimum Maintenance Standard Regulation as a framework and benchmark for determining the County’s maintenance standards and to ensure that appropriate maintenance practices are developed and implemented to meet the Common Law test of reasonableness.

It is important to clarify that the proposed Policy is not a reduction in service from previous years, but that the proposed Policy ensures residents and visitors will continue to receive the same level of service that has historically been provided.

It should be noted that compliance with the Minimum Maintenance Standard Regulation or a municipal established level of service policy is not an absolute defense against litigation and/or liability, but instead shows due diligence and proactive consideration of winter maintenance challenges. There is marginal enhanced risk associated with not fully complying with the Minimum Maintenance Standard Regulation, but in the end is a balance between the level of risk and the increased cost.

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 Section 44, Ontario Regulation 366/18 and Ontario Regulation 239/02.

Financial and Resource Implications

There are no financial and/or resource implications resulting from this Report, as the County is currently providing the prescribed Level of Service outlined in the proposed policy.

Relevant Consultation

- Internal
Clerks Department, Legal Department

- External
Paterson MacDougall LLP, Frank Cowan Company, Marsh, Ontario Good Roads Association, Member Municipalities, County of Bruce, County of Dufferin

Appendices and Attachments

[Minimum Maintenance Standards Comparison 2018 to 2013](#)

Level of Service Policy

Level of Service Policy

Approved By:

Policy: 12-3

By-Law: None

Date Approved:

Replaces: ROADS-04-10, MS-TS-006,
Roads-01-08

Last Revision Date:

Section: Municipal Services

Scheduled For Review By: 2025

Policy Statement

This Level of Service Policy allows the Transportation Services Department to identify what it will do to attempt to meet public expectations for maintenance of its roads and bridges and how it will respond to a summer/winter maintenance event, considering the available resources and local historic experience with normal summer/winter events.

Purpose

The Minimum Maintenance Standards is designed to provide municipalities with a “due diligence” defense in the event of a vehicular accident, slips, trips and falls, or other incidents. The standards outlined in the Minimum Maintenance Standards Regulation are not mandatory. As such, the County does not need to explicitly follow the Minimum Maintenance Standards Regulation. If the County does not meet the Minimum Maintenance Standards Regulation as set out, it will still satisfy Section 44 of the Municipal Act when it can demonstrate that the service provided was reasonable in all the circumstances, including weather and road conditions.

Scope

This Policy shall apply to all roads and bridges within the jurisdiction of the County of Grey. Transportation Services will work to meet the Minimum Maintenance Standards in all circumstances that are provided in the Municipal Act, 2001, S.O. 2001, c. 25 and the Minimum Maintenance Standards O. Reg. 239/02, as amended. The summer and winter maintenance work will be completed as outlined in the Standard Operating Guidelines for road maintenance established by the Transportation Services Department to meet the standards.

Inherent within the standards is the expectation that drivers and all other road users will act responsibly and will use the road and operate their vehicles (if any), at all times, reasonably with due regard for the prevailing weather and roadway conditions.

Attachments

[O. Reg. 366-18 Minimum Maintenance Standards For Municipal Highways](#)