

THE CORPORATION OF THE CITY OF KITCHENER

BY-LAW NO.

BEING A BY-LAW TO ADOPT MINIMUM MAINTENANCE STANDARDS AND DELEGATED AUTHORITY TO DECLARE A SIGNIFICANT WEATHER EVENT

WHEREAS Section 23 of the Municipal Act authorizes a municipality to delegate its powers and duties under this or any other Act to a person or body subject to the restrictions set out in the Municipal Act provided Council is of the opinion that the power being delegated is of a minor nature;

AND WHEREAS Council has deemed that certain routine administrative and legislative powers are of a minor nature, and the delegation of these powers would contribute to the efficient management of the municipality while still adhering to the principles of accountability and transparency;

AND WHEREAS Section 44(1) of the Municipal Act, R.S.O. 2001, states that municipalities shall keep all highways and bridges in a state of repair that is reasonable in the circumstances including the character and location of the highway and bridge;

AND WHEREAS Section 44(2) of the Municipal Act, R.S.O. 2001, states that a municipality that defaults in complying with subsection (1) is, subject to the Negligence Act, liable for all damages any person sustains because of the default.

AND WHEREAS Section 44(3) of the Municipal Act, R.S.O. 2001, states that despite subsection (2), a municipality is not liable for failing to keep a highway or bridge in a reasonable state of repair if,

- (a) it did not know and could not reasonably have been expected to have known about the state of repair of the highway or bridge;
- (b) it took reasonable steps to prevent the default from arising; or
- (c) at the time the cause of action arose, minimum standards established under subsection (4) applied to the highway or bridge and to the alleged default and those standards have been met. 2001, c. 25, s. 44(3).

AND WHEREAS Section 44(4) of the Municipal Act, R.S.O. 2001, states that The Minister of Transportation may make regulations establishing minimum standards of repair for highways and bridges or any class of them.

AND WHEREAS Section 44(5) of the Municipal Act, R.S.O. 2001, states that the minimum standards may be general or specific in their application.

AND WHEREAS Section 3 (1) of the Occupiers' Liability Act, states that an occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises.

AND WHEREAS the Region has jurisdiction over regional roadways that are located within the boundaries of the local municipality:

AND WHEREAS The Regional Municipality of Waterloo and The Corporation of the City of Kitchener have agreed to the terms and conditions set forth in the Region of Waterloo Transportation Division Maintenance Agreement with Local Municipalities, that the City of Kitchener shall provide certain road maintenance services on selected sections of the said roadways;

AND WHEREAS The Region of Waterloo delegates authority to the local municipality to administer operations on regional roadways located within the boundaries of the local municipality in accordance with Ontario Regulation 239/02: MINIMUM MAINTENANCE STANDARDS FOR MUNICIPAL HIGHWAYS

NOW THEREFORE BE IT RESOLVED THAT all prior Municipal By-laws, policies, procedures, and practices related to the maintenance and service levels for municipal highway, bridge, (as defined in Section 44 of Municipal Act) road, sidewalk, bike lane, recreational or multi-use trail, and any other land or property under the management of the Corporation of the City of Kitchener are hereby repealed and the Corporation of the City of Kitchener ("The City") enacts as follows:

1. The City adopts Ontario Regulation 239/02: MINIMUM MAINTENANCE STANDARD FOR MUNICIPAL HIGHWAYS (MMS) as the minimum level of service provided on municipal highways, bridge, roads, sidewalks, bike lanes, recreational or multi-use trails, and any other land or property under the management of the City of Kitchener staff.
2. Council delegates the authority to the Director, Operations – Roads & Traffic – or designate, to declare and communicate a "Significant Weather Event" when applicable under Schedule 1.
3. This By-law comes into force and takes effect immediately upon being passed.

PASSED at the Council Chambers in the City of Kitchener this day of October,
A.D. 2023.

Mayor

Clerk

SCHEDULE 1 ANTICIPATED TRIGGERS FOR SIGNIFICANT WEATHER EVENT DECLARATION

As required by the MMS, the weather hazard triggers match those identified by Environment Canada as meeting the criteria for the issuance of an alert under its Public Weather Alerting Program; and are common to the geographic area within the Region of Waterloo.

The following is a list of triggers upon which a Significant Weather Event (SWE) can be declared when any or all the following is forecast or occurring:

1. Greater than 20cm of snow accumulation expected or occurring during the next 24 hours.
2. Greater than 20mm of ice accretion from a freezing rain event lasting longer than 12 hours.
3. Sustained winds above 60km/hr that will reduce visibility.