



1. 2016 INFINITI - 39KM.
2. POTHOLE DAMAGE APRIL 19/18 - Wband  
DROVES FRONT  
JUST BEFORE WINTAON-18
3. MAGNITUDE OF CLAIM. - \$3600
4. MAGNITUDE OF DAMAGE - RM, TIRE, BALL JOINT  
ALIGNMENT.
5. SPEED OF TRV. - 80KM/hr.  
- Busy
6. "Tax" on TAXES - UNSAFE TO LEAVE VEHICLE
7. ENDEMIC PROBLEM WITH POTHOLES. 2017 BUS  
→ SPEC ARTICLES APRIL 17/18  
(2 days prior to incident)  
→ Aug 16/18 - over 500 claims
8. Hess + King (SW corner)  
Pothole in curb lane (Driver side) Since MAY/18  
- Still not repaired!

MARTIN MALETZKI



CUSTOMER #: [REDACTED]

17583

**OAKVILLE  
INFINITI**

\*INVOICE\*

2507246 ONTARIO INC. o/a Oakville Infiniti  
2270 South Service Rd. West  
Oakville, ON L6L 5M9  
Telephone: (905) 827-7191  
Fax: (905) 827-7107  
www.oakvilleinfiniti.com

MARTIN M MARETZKI

PAGE 1

HOME [REDACTED] CONT [REDACTED]

BUS: [REDACTED] CELL: [REDACTED]

SERVICE ADVISOR: 243 MAJID MAHMOOD

| COLOUR     | YEAR | MAKE/MODEL   | VIN        | LICENSE | ODOMETER IN/ OUT | TAG   |
|------------|------|--------------|------------|---------|------------------|-------|
| OAB-Majest | 16   | INFINITI Q50 | [REDACTED] |         | 30966/30966      | T0596 |

| IN SERVICE DATE | DEL. DATE | WARR. EXP. | PROMISED     | PO NO. | RATE   | PAYMENT | INV. DATE |
|-----------------|-----------|------------|--------------|--------|--------|---------|-----------|
| 19OCT16 DD      |           |            | WAIT 20APR18 |        | 134.50 | CASHI   | 21APR18   |

| CSO OPENED | CSO CLOSED | OPTIONS:  |
|------------|------------|---|
|            |            | SOLD-STK:Q16062 DLR:43174 TRN:Automatic<br>1)PRESTIGE PLUS 2)OIL 4 LIFE |

| LINE | OPCODE | TECH | TYPE | HOURS | LIST | NET | TOTAL |
|------|--------|------|------|-------|------|-----|-------|
|------|--------|------|------|-------|------|-----|-------|

A tow in -LEFT FRONT TIRE WENT FLAT

DIAG DIAGNOSTIC PROCEDURES - ADVISOR WILL PROVIDE  
DETAILED DESCRIPTION!

462 CPI 0.00

0.00

0.00

,,,30966 rim bent and tire ripped from rim from impact - recommended

,,,rim ,tire, alignment and wheel bearing l/f then re check

\*\*\*\*\*

B\*\* MOUNT AND BALANCE ONE TIRE

TIRES1 MOUNT AND BALANCE ONE TIRE

317 CPI 0.50

49.95

49.95

1 D0C00-4HK9C ROAD WHEEL

1855.18

1855.18

1855.18

1 DU265-021144D TIRE

496.00

479.34

479.34

1 NITRO6 NITRO/CAP

2.00

0.00

0.00

1 1 TIRE/STEWARDSHIP/FEE

4.75

4.75

4.75

,,,30966 0.80 REPLACED LEFT FRONT RIM, TIRE, SWAPPED OVER TIRE

,,,PRESSURE SENSOR AND NUT AND CLEARED TIRE LIGHT.

\*\*\*\*\*

C\*\* INFINITI 4 WHEEL ALIGNMENT - CHECK AND PERFORM ADJUSTMENTS

CAUSE: PERFORM 4 WHEEL ALIGNMENT

4WAI INFINITI 4 WHEEL ALIGNMENT - CHECK AND

PERFORM ADJUSTMENTS

317 CPI 1.50

129.95

129.95

,,,30966 1.50 4-WHEEL LAZER ALIGNMENT.

\*\*\*\*\*

D\*\* REPLACE LEFT FRONT WHEEL BEARING

E REPLACE LF WHEEL BEARING

317 CPI 2.50

336.25

336.25

1 40202-4GE0A HUB

353.51

353.51

353.51

1 40073-0L700 PIN

1.96

1.96

1.96

,,,30966 2.50 REPLACED LEFT FRONT WHEEL BEARING.

\*\*\*\*\*

## STATEMENT OF DISCLAIMER

The Infiniti warranty constitutes all of the warranties with respect to the sale of this Infiniti. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose. Seller neither assumes nor authorizes any other person to assume for a any liability in connection with the sale of this Infiniti.

NOTWITHSTANDING anything herein, until payment in full is acknowledged, the existence of a lien in accordance with the storage and repair act on the vehicle above described in respect to materials supplied and services rendered for the full amount charged. I further acknowledge and agree that on delivery of the vehicle, and before payment in full to Oakville Infiniti, that the lien shall continue in full force and effect and that the subject vehicle shall be subject to repossession by you at your sole discretion and I further do release any claim on such repossession for my agent authorize the above work.

I HEREBY ACKNOWLEDGE MY INDEBTEDNESS IN THE AMOUNT OF

\$\_\_\_\_\_ BEING THE TOTAL AMOUNT

OWING OR THE BALANCE AS SHOWN HEREON

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

You agree by your signature below that Oakville Infiniti may retain any of your personal information we presently have on file and/or any of your personal information set out on this form. You acknowledge and agree that (i) we collect, use such information in order to provide or recommend services to you and/or to communicate with you, including marketing communications and (ii) in order to carry out the foregoing purposes we may share your personal information with (a) our company and marketing service providers, such as CDK Global Co. (b) motor vehicle manufacturers with whom we have a franchise agreement and (c) others as may be specifically allowed by applicable law.

**Thank You  
for Your  
Business!**

R-780853727

X

| DESCRIPTION       | TOTALS |
|-------------------|--------|
| LABOUR AMOUNT     |        |
| PARTS AMOUNT      |        |
| SUBLET AMOUNT     |        |
| MISC. CHARGES     |        |
| TOTAL CHARGES     |        |
| INSURANCE/PAYABLE |        |
| SALES TAX - HST   |        |
| PAY THIS AMOUNT   |        |



INFINITI

CUSTOMER #: [REDACTED]

17583

# OAKVILLE INFINITI

\*INVOICE\*

2507246 ONTARIO INC. o/a Oakville Infiniti  
2270 South Service Rd. West  
Oakville, ON L6L 5M9  
Telephone: (905) 827-7191  
Fax: (905) 827-7107  
www.oakvilleinfiniti.com

MARTIN M MARETZKI

PAGE 2

HOME [REDACTED] CONT [REDACTED]

BUS: [REDACTED] CELL: [REDACTED]

SERVICE ADVISOR: 243 MAJID MAHMOOD

| COLOUR                      | YEAR      | MAKE/MODEL    | VIN          |  | LICENSE | ODOMETER IN/ OUT | TAG       |
|-----------------------------|-----------|---------------|--------------|--|---------|------------------|-----------|
| QAB-Majest                  | 16        | INFINITI Q50  |              |  |         | 30966/30966      | T0596     |
| IN SERVICE DATE             | DEL. DATE | WARR. EXP.    | PROMISED     | PO NO.   | RATE    | PAYMENT          | INV. DATE |
| 19OCT16 DD                  |           |               | WAIT 20APR18 |  | 134.50  | CASHI            | 21APR18   |
| CSO OPENED                  |           | CSO CLOSED    |              | OPTIONS: SOLD-STK:Q16062 DLR:43174 TRN:Automatic |         |                  |           |
|                             |           |               |              | 1)PRESTIGE PLUS 2)OIL 4 LIFE                     |         |                  |           |
| 12:04 19APR18               |           | 09:09 21APR18 |              |  |         |                  |           |
| LINE OPCODE TECH TYPE HOURS |           |               |              |  | LIST    | NET              | TOTAL     |

FOR YOUR CONVENIENCE YOU CAN BOOK ALL YOUR  
APPOINTMENTS ONLINE AT OAKVILLENISSAN.COM/  
OAKVILLEINFINITI.COM.

WE TRULY APPRECIATE YOUR BUSINESS AT OAKVILLE  
INFINITI. IN THE EVENT YOU RECEIVE A SURVEY F  
ROM INFINITI CANADA AND YOU CAN NOT SCORE OUR  
SERVICE A 10, PLEASE CONTACT THE MANAGER.

PST AMOUNT

417.42

**Thank You  
for Your  
Business!**

## STATEMENT OF DISCLAIMER

The below warranty constitutes all of the warranties with respect to the sale of the debits. The dealer hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose. Seller neither assumes nor authorizes any other person to assume for it, any liability in connection with the sale of this item/items.

NOTWITHSTANDING anything herein, until payment in full, I acknowledge the existence of a lien in accordance with the charge and repair act on the vehicle above described in respect to materials supplied and services rendered for the full amount charged. I further acknowledge and agree that on delivery of the vehicle, and before payment in full to Oakville Infiniti, that the lien shall continue in full force and effect and that the subject vehicle shall be subject to repossession by you at your sole discretion and further do release any claim on such repossession. I or my agent authorize the above work.

I HEREBY ACKNOWLEDGE MY INDEBTEDNESS IN THE AMOUNT OF

\$..... BEING THE TOTAL AMOUNT

OWING OR THE BALANCE AS SHOWN HEREON

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

\*You agree by your signature below that Oakville Infiniti may retain any of your personal information we presently have on file and/or any of your personal information set out on this form. You acknowledge and agree that (i) we collect such information in order to provide or recommend services to you and/or to communicate with you, including marketing communications and (ii) in order to carry out the foregoing purposes we may share your personal information with (a) our compiling and marketing service providers, such as CDH Canada Co., (b) motor vehicle manufacturers with whom we have a franchise agreement and (c) others as may be specifically allowed by applicable law.

X

R-780853727

| DESCRIPTION       | TOTALS  |
|-------------------|---------|
| LABOUR AMOUNT     | 516.15  |
| PARTS AMOUNT      | 2694.74 |
|                   | 0.00    |
| SUBLET AMOUNT     | 0.00    |
| MISC. CHARGES     | 0.00    |
| TOTAL CHARGES     | 3210.89 |
| INSURANCE/PAYABLE | 0.00    |
| SALES TAX - HST   | 417.42  |
| PAY THIS AMOUNT   | 3628.31 |



## Driver one of 500-plus pothole claimants in Hamilton this year

News Aug 16, 2018 by **Teviah Moro** (</hamilton-author/teviah-moro/F66F2AEE-9643-4EF3-8691-03117AA544CD/>) [✉ \(mailto:tmoro@thespec.com\)](mailto:tmoro@thespec.com) **The Hamilton Spectator**

Matthew Kelly is holding out to see if city council will cough up the cost of his bent rim after he drove over a pothole this past winter.

"If I get denied, I go to small claims court."

At first, it was about money, he says. Now it boils down to principle.

Kelly is one of more than 500 drivers who have filed claims for pothole-related damage in what has turned out to be a banner year for rutted roads in Hamilton.

The 37-year-old says he was driving his 2014 Hyundai Elantra early one January morning when he hit a crater on Upper Gage Avenue near Mohawk Road.

He had his car towed to a garage, where the mechanic charged him \$674 to repair a bent rim.

In mid-July, the city's legal department told him the municipality would cover half of the bill.

"I said, 'Thanks, but no thanks.'"

One of his options was to make his case before the city's audit, finance and administration committee.

The frost a distant memory, Kelly — wearing short sleeves and shorts — showed up at City Hall Wednesday armed with photos of the warped wheel and the pothole to ask councillors for a reimbursement.

The offer to cover 50 per cent was "very generous," he told councillors. "But who's going to pay the other 50 per cent of the claim?"

Risk manager John McLennan told the committee the winter's manic freeze-and-thaw cycle contributed to more than 500 pothole-related claims. Over the past decade or so, a normal year would see between 100 and 150.

Generally, staff examine road maintenance records and compare them to standards in the Municipal Act to decide if the city was in any way negligent. McLennan said the city rejects 90 per cent of claims.

"In certain instances, we will find that our records will not pass muster in small claims court," he said. "If we make an offer of 50 per cent, it is because we feel we may have some exposure there."

City solicitor Nicole Auty said that doesn't necessarily mean the municipality assumes responsibility for the mishap. It's a question of whether the city can "get to the finish line and successfully defend the claim."

McLennan said there's an expectation that drivers must shoulder some responsibility in trying to avoid potholes or other obstacles such as a piece of lumber.

Kelly said he didn't see the curbside pothole before he hit it. He also said a resident who lives on that particular stretch of Gage told him the pothole regularly rattled cars there.

While responsibility plays into the argument, so do tax dollars.

McLennan said the cost would be substantial if the city reimbursed this season's roughly 500 claims, noting the average is about \$500 to \$750 each.

Such a gesture would also open the floodgates, he suggested. "You'd pretty much be paying claims any time a person has a rim or tire problem."

Coun. Lloyd Ferguson, who had "mixed feelings" about Kelly's situation, said he supported staff's offer of 50 per cent. "The city wasn't negligent. It was the darn weather that caused it."

Coun. Aidan Johnson said the pothole pain is a symptom of changing weather patterns.

"I think it's pointing out what we are talking about are the costs associated with the toll of climate change on our infrastructure."

Councillors opted to back staff on the city's offer to cover half of Kelly's bill.

After his appeal, Kelly said he understands city officials have to scrutinize each case but called the claims process "ridiculous."

"So there were more claims last year ... That's not my problem. That's not everybody else's problem. You pay out more money this year."

On Friday, city council must give final approval to the audit, finance and administration committee's report.

[tmoro@thespec.com](mailto:tmoro@thespec.com)

905-526-3264 | @TeviahMoro

[tmoro@thespec.com](mailto:tmoro@thespec.com) (<mailto:tmoro@thespec.com>)

905-526-3264 | @TeviahMoro

## Driver one of 500-plus pothole claimants in Hamilton this year

### Matthew Kelly, one of 500-plus pothole claimants in Hamilton this year, says he will fight the city at small claims court if it doesn't cover the cost of his bent rim

News Aug 16, 2018 by [Teviah Moro \(/hamilton-author/teviah-moro/F66F2AEE-9643-4EF3-8691-03117AA544CD/\)](#) ✉ (<mailto:tmoro@thespec.com>) The Hamilton Spectator

Matthew Kelly is holding out to see if city council will cough up the cost of his bent rim after he drove over a pothole this past winter.

"If I get denied, I go to small claims court."

At first, it was about money, he says. Now it boils down to principle.

Kelly is one of more than 500 drivers who have filed claims for pothole-related damage in what has turned out to be a banner year for rutted roads in Hamilton.

Council's offer to cover 50 per cent was, "very generous, But who's going to pay the other 50 per cent of the claim?"

*Matthew Kelly*

The 37-year-old says he was driving his 2014 Hyundai Elantra early one January morning when he hit a crater on Upper Gage Avenue near Mohawk Road.

He had his car towed to a garage, where the mechanic charged him \$674 to repair a bent rim.

In mid-July, the city's legal department told him the municipality would cover half of the bill.

"I said, 'Thanks, but no thanks.'"

One of his options was to make his case before the city's audit, finance and administration committee.

The frost a distant memory, Kelly — wearing short sleeves and shorts — showed up at City Hall Wednesday armed with photos of the warped wheel and the pothole to ask councillors for a reimbursement.

The offer to cover 50 per cent was "very generous," he told councillors. "But who's going to pay the other 50 per cent of the claim?"

Risk manager John McLennan told the committee the winter's manic freeze-and-thaw cycle contributed to more than 500 pothole-related claims. Over the past decade or so, a normal year would see between 100 and 150.

Generally, staff examine road maintenance records and compare them to standards in the Municipal Act to decide if the city was in any way negligent. McLennan said the city rejects 90 per cent of claims.

## Road repairs high priority for Hamilton councillors

News Apr 17, 2018 by [Kevin Werner](/hamilton-author/kevin-werner/F7740FF8-81D2-4170-8530-B60E4C793E3A/) (mailto:kwerner@hamiltonnews.com) **Stoney Creek News**

A few of Hamilton's worst deteriorating roads will get a makeover this year after councillors approved spending \$5.9 million on repairs.

Staff identified four high-priority roads for improvement, including Burlington Street from Sherman Avenue to Nikola Tesla Boulevard at a cost of \$3.3 million; Upper Gage Avenue from the Lincoln Alexander Expressway to Mohawk Road at a cost of \$950,000; and Cannon Street from Sherman to James Street at a cost of \$1.6 million.

Other roads on the priority list that could be done this year if city officials receive appropriate pricing include: Barton Street from Gage to Kenilworth avenues for \$1.8 million; Barton from Sanford Avenue to Lottridge Street at a cost of \$1.1 million; Highway 5 from Mill to Evans at a cost of \$2 million; Osler Drive in Dundas at a cost of \$1.3 million, Upper Sherman Avenue from Southampton to Mohawk for \$900,000; Upper James Street from Fennell Avenue to Mohawk Road for \$400,000; and Upper James from Kennedy Avenue to Christopher Drive for \$550,000.

The total cost if all of these road projects are completed is about \$14 million.

Councillors approved \$13.5 million for road repairs earlier this year during budget discussions, targeting neighbourhood streets, and another \$5.9 million devoted to arterial roads.

Councillors did approve raising the property tax by 0.2 per cent to raise \$1.64 million to repay the city's reserve fund over 15 years. The city is planning to borrow the needed \$19.4 million to invest in its road repairs.

Hamilton has a growing annual infrastructure deficit of about \$195 million.

Staff identified 64 high-priority roads that are in desperate need of repairs at a cost of nearly \$40 million.

The \$13.5 million will be allocated among the 15 wards with each councillor receiving \$900,000. But councillors representing wards 1 to 8 will also be using their area-rating reserves to supplement the road projects, putting suburban politicians at a disadvantage, said Ancaster Coun. Lloyd Ferguson.

"The optics doesn't look good," said Ferguson. "The suburbs are being left behind."

Ferguson, who also lamented that \$900,000 "doesn't go very far" for road repairs, is proposing to use his share of the road repair money for a "shave and pave" along Meadowbrook from Wilson Street to Jerseyville Road.

Ward 5 Coun. Chad Collins is proposing to spend his \$900,000, plus another \$430,000 taken from his area-rating reserve to repair the roads along St. Andrews Drive, Fairway Drive, Glen Manor, Chipping Place, Wedgewood Avenue and Nicholas Drive.

Councillors at their April 11 meeting approved a motion from Mountain Coun. Donna Skelly to spend over \$900,000, along with area-rating funds, to fix Upper Sherman, designated by staff as one of the worst roads in the city.

Mountain Coun. Terry Whitehead is also looking at using his allotment to improve a portion of Scenic Drive.

And last month councillors approved spending about \$900,000 to make repairs to Main Street West's deteriorating surface that had vehicles driving almost on gravel. The money was taken from a special Ward 1 reserve fund.

Dan McKinnon, general manager of public works, said the road repair projects that need only a "shave and pave" — replacing the top level of asphalt — could be completed this year. But if sewers, water mains, curbs or other work needs to be done underneath the road the project won't be completed until 2019 or 2020.

The repairs are expected to extend the life of the road by a decade.

Sam Sidawi, manager of asset management, said after 30 years he has never seen road deterioration as bad as it has become.

"This is a climate change issue," he said. "A flash freeze acts like a shovel. We are anticipating more of this."

Staff identified four high-priority roads for improvement, including Burlington Street from Sherman Avenue to Nikola Tesla Boulevard at a cost of \$3.3 million; Upper Gage Avenue from the Lincoln Alexander Expressway to Mohawk Road at a cost of \$950,000; and Cannon Street from Sherman to James Street at a cost of \$1.6 million.

Other roads on the priority list that could be done this year if city officials receive appropriate pricing include: Barton Street from Gage to Kenilworth avenues for \$1.8 million; Barton from Sanford Avenue to Lottridge Street at a cost of \$1.1 million; Highway 5 from Mill to Evans at a cost of \$2 million; Osler Drive in Dundas at a cost of \$1.3 million, Upper Sherman Avenue from Southampton to Mohawk for \$900,000; Upper James Street from Fennell Avenue to Mohawk Road for \$400,000; and Upper James from Kennedy Avenue to Christopher Drive for \$550,000.

The total cost if all of these road projects are completed is about \$14 million.

Councillors approved \$13.5 million for road repairs earlier this year during budget discussions, targeting neighbourhood streets, and another \$5.9 million devoted to arterial roads.

Councillors did approve raising the property tax by 0.2 per cent to raise \$1.64 million to repay the city's reserve fund over 15 years. The city is planning to borrow the needed \$19.4 million to invest in its road repairs.

Hamilton has a growing annual infrastructure deficit of about \$195 million.

Staff identified 64 high-priority roads that are in desperate need of repairs at a cost of nearly \$40 million.

The \$13.5 million will be allocated among the 15 wards with each councillor receiving \$900,000. But councillors representing wards 1 to 8 will also be using their area-rating reserves to supplement the road projects, putting suburban politicians at a disadvantage, said Ancaster Coun. Lloyd Ferguson.

"The optics doesn't look good," said Ferguson. "The suburbs are being left behind."

Ferguson, who also lamented that \$900,000 "doesn't go very far" for road repairs, is proposing to use his share of the road repair money for a "shave and pave" along Meadowbrook from Wilson Street to Jerseyville Road.

Ward 5 Coun. Chad Collins is proposing to spend his \$900,000, plus another \$430,000 taken from his area-rating reserve to repair the roads along St. Andrews Drive, Fairway Drive, Glen Manor, Chipping Place, Wedgewood Avenue and Nicholas Drive.

Councillors at their April 11 meeting approved a motion from Mountain Coun. Donna Skelly to spend over \$900,000, along with area-rating funds, to fix Upper Sherman, designated by staff as one of the worst roads in the city.

Mountain Coun. Terry Whitehead is also looking at using his allotment to improve a portion of Scenic Drive.

And last month councillors approved spending about \$900,000 to make repairs to Main Street West's deteriorating surface that had vehicles driving almost on gravel. The money was taken from a special Ward 1 reserve fund.

Dan McKinnon, general manager of public works, said the road repair projects that need only a "shave and pave" — replacing the top level of asphalt — could be completed this year. But if sewers, water mains, curbs or other work needs to be done underneath the road the project won't be completed until 2019 or 2020.

The repairs are expected to extend the life of the road by a decade.

Sam Sidawi, manager of asset management, said after 30 years he has never seen road deterioration as bad as it has become.

"This is a climate change issue," he said. "A flash freeze acts like a shovel. We are anticipating more of this."

**by Kevin Werner** ([/hamilton-author/Kevin-Werner/f7740ff8-81d2-4170-8530-b60e4c793e3a/](mailto:kwerner@hamiltonnews.com))

Kevin Werner is a Regional Reporter for Hamilton Community News (Ancaster News, Dundas Star News, Mountain News and Stoney Creek News). He can be reached at [kwerner@hamiltonnews.com](mailto:kwerner@hamiltonnews.com) (mailto: [kwerner@hamiltonnews.com](mailto:kwerner@hamiltonnews.com))

Email: [kwerner@hamiltonnews.com](mailto:kwerner@hamiltonnews.com)  
(mailto: [kwerner@hamiltonnews.com](mailto:kwerner@hamiltonnews.com)) [Facebook](#)  
(<https://www.facebook.com/HamiltonCommunityNewsOfficial/>)  
[Twitter](#) (<https://twitter.com/WerkHCN>)

**Cunningham Lindsey**  
235 Martindale Rd.  
St. Catharines, ON L2W 1A5  
Telephone (905) 688-6444 Facsimile (905) 684-5033



May 5<sup>th</sup>, 2018

Martin Maretzki

[REDACTED]

**Subject:** Insured: City of Hamilton  
Our File: [REDACTED]  
Date of Loss: 04/19/2018

---

The City of Hamilton has forwarded your claim for vehicle damage to Cunningham Lindsey Canada (Hamilton Office) for handling in conjunction with the City's Risk Management Services Section (RMS). Hamilton City Council has provided RMS with a mandate to compensate claimants for damages when a liability investigation indicates negligence on the part of the City of Hamilton. The mere fact that damages have occurred on public property (roadway, park, road allowance, etc.) does not in itself constitute negligence. For the City to be considered negligent, damages must be shown to have been caused by a failure to provide a reasonable degree of care in the provision of services or infrastructure. If the investigation indicates negligence on the part of the City, every effort will be made to compensate a claimant fairly. If the investigation does not indicate negligence, a claim will be denied with a detailed explanation of the reason(s) for the denial.

With respect to pothole claims in particular, the provincial government has created a series of guidelines entitled the Municipal Maintenance Standards (MMS) within The Municipal Act. Briefly stated, where potholes are concerned, the MMS are standards related to the inspection and maintenance of roadways. Municipalities are judged for negligence by these standards. If a municipality has satisfied the MMS relative to a given pothole then they will not be found negligent in the provision of the roadway infrastructure to the motoring public. If a municipality has not satisfied the MMS then they would be considered negligent and, consequently, it would be in order to compensate a motorist who has incurred vehicle damage from a pothole.

Roads are classified within the MMS based on speed limit and the amount of daily traffic. As you might expect, roads with the highest speed limits and highest vehicle counts have the highest standards for inspection and maintenance. The following table from the MMS establishes the standards for inspection:



| <b>PATROLLING FREQUENCY</b>    |  |
|--------------------------------|--|
| <b>Class of Highway (Road)</b> | <b>Patrolling Frequency (Inspection)</b> |
| 1                              | 3 time every 7 days                      |
| 2                              | 2 times every 7 days                     |
| 3                              | 1 time every 7 days                      |
| 4                              | 1 time every 14 days                     |
| 5                              | 1 time every 30 days                     |

The MMS also provide standards for pothole repair based on the class of road and the size of the pothole. When a pothole is discovered, either by patrol, or by notification from the public, the MMS establishes the following standards for repair:

| <b>POTHOLES ON PAVED SURFACE OF ROADWAY</b> |                     |              |                                  |
|---|---------------------|--------------|----------------------------------|
| <b>Class of Highway (Road)</b>              | <b>Surface Area</b> | <b>Depth</b> | <b>Time Allowance For Repair</b> |
| 1   | 600 cm squared      | 8 cm         | 4 days                           |
| 2   | 800 cm squared      | 8 cm         | 4 days                           |
| 3   | 1000 cm squared     | 8 cm         | 7 days                           |
| 4   | 1000 cm squared     | 8 cm         | 14 days                          |
| 5   | 1000 cm squared     | 8 cm         | 30 days                          |

When pothole claims are investigated, liability is determined by the standards established by the above two charts. In keeping with the Council designated mandate, pothole claims must be denied when an investigation indicates that the City's Roads Division has satisfied the standards of the two above charts in relation to a specific roadway and pothole.

Please refer to

[http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_020239\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_020239_e.htm) in order to examine the MMS as they are written in The Municipal Act, 2001.

If the investigation indicates negligence, and compensation for damages from a pothole are considered, there will generally be a reduction in the compensation for contributory negligence on the part of the motorist. Contributory negligence stems from the theory that a motorist applying all the principles of defensive driving, in a properly maintained vehicle, should be able to notice and avoid almost any road hazard. For potholes claims a contributory negligence factor of 50% is consistently applied to the reasonable value of repairs.

Regrettably, potholes and similar road irregularities are a fact of life, particularly in northern climates. Hazards such as potholes can develop very quickly, especially during freeze/thaw cycles of weather. It is not reasonable to expect the City to keep its approximate 6500 kilometres of roadway completely hazard free. Again, there is an expectation for motorists to anticipate and avoid such hazards.

Enclosed for your information is a brief description and diagram of how potholes form in the roadway.

The investigation of your claim will generally take 3-5 weeks to complete. The 5 primary areas of the investigation are:

- Classification of roadway
- Patrol history of Roads Division
- Maintenance activity of Roads Division
- Weather conditions
- Other motorist complaints and/or incidents

As you might expect it does take some time to compile all the information necessary to make the most informed decision possible. The investigation depends on the provision of information from the Roads Division whose primary focus at this time of year is understandably on active road maintenance. We respectfully ask for your patience in this regard.

It is very important to remember that your vehicle is your property, and, as such, you bear the responsibility for its maintenance and repair. If you feel your vehicle is unsafe to drive, for whatever reason, you should take it to a licensed mechanic. If you drive your vehicle in an unsafe condition you are risking further damages to your own vehicle and if they occur the repair expenses would be your responsibility alone. You would also be risking injury to yourself, your passengers, pedestrians and other motorists.

Your options for the immediate repair of your vehicle are to pay for the repairs yourself or to make a claim with your automobile insurer. If you make a claim with your insurer, they are likely to pursue the City for repair costs on your behalf if they feel the City has been negligent in the repair of the roadway. Regardless of whether you or your insurer repairs the vehicle, care should be taken to preserve all relevant evidence for your claim.

Please feel free to contact our office with any questions or concerns you may have about your claim or the City of Hamilton claims handling process.