

The Corporation of the Town Of Essex

By-Law #1790

**Being a By-Law To
Regulate Heavy Traffic**

**Within The Municipal Limits Of The
Corporation of the Town Of Essex**

WHEREAS Section 11 (3)(1) of the Municipal Act, 2001, and amendments thereto, provides that a lower-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting matters within spheres of jurisdiction respecting highways, including parking and traffic on highways;

AND WHEREAS, Section 27(1) of the Municipal Act 2001, and amendments thereto provides that except as otherwise provided in this Act, a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

AND WHEREAS Section 110 (1) of the Act provides that a Municipality may grant a permit for the use of a Highway it has jurisdiction over by a vehicle or combination of vehicles in excess of the weight limits set out in Part VIII of the Act

AND WHEREAS Section 122 (1) of the Highway Traffic Act, R.S.O 1990, Chapter H.8 and regulations thereto, as amended (the "Act") provides that during a reduced load period no commercial motor vehicle or trailer, other than a public vehicle or a vehicle referred to in subsection (2), shall be operated or drawn upon any designated highway where the weight upon an axle exceeds 5,000 kilograms;

AND WHEREAS Section 122 (7) of the Act, provides that a municipal corporation having jurisdiction over a highway may by by-law designate reduced load restrictions and the highway (s) or portion thereof under its jurisdiction to which the designation applies;

AND WHEREAS the Council of the Corporation of the Town of Essex deems it expedient to prohibit heavy traffic on certain highways;

Now Therefore The Council Of The Corporation Of The Town Of Essex Enacts As Follows:

Part 1 –DEFINITIONS

For the purpose of this By-Law:

- a) **Applicant:** shall mean those persons (including corporations) who are applying for a Special Permit for Heavy Traffic use on any municipally owned highways not designated in Schedule "A" to this By-law.

- b) **Heavy Traffic** means the use of a highway by a vehicle, object or contrivance for moving loads, having a gross weight upon an axle, including the vehicle, object or contrivance and load that is in excess of 5,000 kilograms.
- c) **Highway(s) or Municipally Owned Highway** is a common and public highway, street, avenue, parkway, driveway, square, place, viaduct or trestle, designated and intended for or used by, the general public for the passage of vehicles which is owned by and assumed by the Corporation of the Town of Essex and does not include any highway owned by or assumed by the County of Essex or the Province of Ontario.
- d) **Town** shall mean the Corporation of the Town of Essex.
- e) **Authorized Heavy Truck Routes** includes those highways listed in Schedule "A" attached hereto.
- f) **Vehicle** includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and any vehicle drawn, propelled or driven by any kind of power.
- g) **Person** includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law.
- h) **Provincial Offences Officer** means the Ontario Provincial Police or an individual appointed by by-law or other agencies designated by the Council of the Town of Essex who are responsible for the enforcement of this by-law.
- i) **Director of Infrastructure or Director** means the Director of Infrastructure for the Town of Essex or authorized designate (s) thereof.

PART 2-Designations:

1. When suitable signs have been erected and are on display, the Highways listed and displayed in Schedule "A" attached hereto and forming part of this By-Law shall be designated as "**Authorized Heavy Truck Routes**" within the municipal limits of the Corporation of the Town of Essex.

PART 3-General Prohibitions:

1. Subject to Part 3 Section 2 below, no person shall otherwise operate or cause to be operated a heavy traffic vehicle or combination of heavy traffic vehicles on any Municipally Owned Highways (including those designated as Class "B" highways) except on those designated as "Authorized Heavy Truck Routes" pursuant to Schedule "A" of this By-law. For greater certainty this By-law does not have application to any highways owned or assumed by the County of Essex or the Province of Ontario .
2. No person shall operate or cause to be operated a heavy traffic vehicle or combination of heavy traffic vehicles on any other municipally owned highways

not designated as a Authorized Heavy Truck Route in Schedule "A" to this By-law, unless and until a **Special Permit** has been granted and remains in good standing subject to the provisions of this By-law.

3. Notwithstanding any other provisions of this by-law, no sign or other indication need to be placed on a highway which is not an Authorized Heavy Truck Route pursuant to Schedule "A" of this by-law, to indicate or to warn parties using the highway that Heavy Traffic or combination of Heavy Traffic on said highway is not permitted unless a Special Permit has been granted and remains in good standing subject to the provisions of this By-law.
4. The provisions of this By-law shall apply within the municipal limits of the Corporation of the Town of Essex from January 1st to December 31st in each year.
5. For the purposes of this by-law a heavy traffic vehicle shall mean any vehicle, object or contrivance for moving loads, having a gross weight upon an axle , including the vehicle, object or contrivance and load, that is in excess of (five) 5,000 kilograms.
6. Notwithstanding subsection 2 of this Part 3, the requirement of a Special Permit relating to heavy traffic vehicles on municipally owned highways not designated in Schedule A shall be waived if a Fill Permit has already been issued and remains in good standing pursuant to the provisions of Town of Essex By-Law 1799 (as may be amended from time to time), being a By-law to provide for the regulation of the placing or dumping of Fill, alternation of the grade of, removal of topsoil from land in the municipality.

PART 4-Special Permit Requirements:

1. No person shall operate or cause to be operated a heavy traffic vehicle or combination of heavy traffic vehicles on any municipally owned highways not designated in Schedule "A" to this By-law, unless and until a Special Permit has been granted under this part by the Director of Infrastructure and said Special Permit has not expired in accordance with the terms and conditions of its issuance.
2. Any person seeking a Special Permit pursuant to this Part shall apply to the Director of Infrastructure by way of application in the form and manner required by the Director of Infrastructure and as amended from time to time. The Special Permit requirements shall include the specified requirements of Part 4 of this By-law and the additional Special Permit requirements specified in Schedule B to this By-law.

3. Any person seeking a Special Permit pursuant to this Part shall apply a minimum of three (3) working days and no more than Five (5) working days prior to commencing the heavy traffic movement for which the Special Permit is being applied (hereinafter the "event").
4. Notwithstanding anything in this by-law, the Director of Infrastructure may at his or her sole discretion acting reasonably grant or refuse to grant any Special Permit applied for on an event by event basis and shall make the issuance of any such Special Permit subject to such terms and conditions as the Director of Infrastructure acting reasonably may designate as being appropriate on an event by event basis. Any breach by the Applicant of any of the terms and conditions of the issued Special Permit shall render the Special permit null and void ;
5. Every person seeking a Special Permit under this part shall provide a written description and drawing of the proposed route of travel to the Director of Infrastructure as part of the application and upon request, shall provide a scale drawing of the vehicle illustrating the number of, and dimensions between each axle, and specifying the loading on each axle.
6. Every person issued a Special Permit under this part, shall, forty-eight (48) hours before commencing movement for which the Special Permit has been issued, give notice in the manner required to the departments, companies, agencies and utility companies as may set out in the Special Permit, indicating the route to be traveled and the time of commencement of such the movement.
7. In all instances, the application for a Special Permit described in this By-law shall be accompanied by:
 - a) The name and address of the Applicant
 - b) The date and period of time for which the Special Permit is sought.
 - c) The names of the roads affected by the proposed route of travel.
 - d) Payment of the applicable fee (s) for the Special Permit, and any other fees or charges that may be as set out in Schedule "B" to this By-law which schedule may be amended from time to time;
 - e) A road damage undertaking agreement in the form and manner deemed appropriate by the Director of Infrastructure (acting reasonably) and duly signed by the Applicant providing that if a Special Permit is granted the Applicant acknowledges and agrees that it shall be responsible and/or it shall indemnify the Town for any and all damages that may be caused to the Highway(s) by reason of the driving operating or moving of any such Heavy Traffic Vehicle pursuant to the provisions of this by-law.

- f) If required by the Director of Infrastructure as a condition of the granting of a Special Permit, a deposit or such other financial security or deposit (the "Security"), in an amount determined as appropriate by the Director of Infrastructure (acting reasonably) but to be based upon a reasonable estimate of the cost which may be incurred to reinstate the highway and for other services provided by the Town in connection with the remediation of any and all damages that may be caused to the Highway(s) by reason of the driving, operating or moving of any such Heavy Traffic Vehicle pursuant to the provisions of this by-law. The Security shall further be provided in accordance with the requirements of Schedule B to this by-law.; and
- g) Proof of appropriate liability Coverage or public liability and property damage insurance of not less than \$2,000,000 for bodily injury including death, personal injury and property damage arising from any one accident or occurrence or such other higher amounts or coverage as may be requested, for the entire duration of the Special Permit.

9 Application Fees

All applications for a Special Permit shall be accompanied by a non-refundable application fee payable in the amount set out in Schedule "B" to this By-law which schedule may be amended from time to time, said Application fees to be charged on an event by event basis.

PART 5-Severability:

1. If any section, clause, or provision of this By-law is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or any part thereof, other than the section, clause, or provision so declared to be invalid and it is hereby declared to be the intention that if any section, clause, or provision of this By-law is declared invalid, that all the remaining sections, clauses, or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof shall have been declared to be invalid.

PART 6-Penalty:

1. Penalty

Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, be liable to a fine as set out under the *Provincial Offences Act*, R.S.O. 1990, and Chapter P.33 and as further described in Schedule C attached hereto as may be duly amended from time to time.

2. Upon a conviction being entered for any offence under this by-law, the Court may, in addition to any other remedy or penalty imposed, make an Order prohibiting the continuation or repetition of the offence by the person convicted.

PART 7-Administration and Enforcement:

The provisions of this by-law shall be administered by the Town of Essex officials as may be designated from time to time including its By-law enforcement officials.

The provisions of this By-law shall be enforced by the Ontario Provincial Police or such other persons who may be designated as a Provincial Offences Officer for the purposes of this by-law.

PART 8-Exemptions:

1. This by-law does not apply to:

a) Ambulances, Fire and Police vehicles, hearses, and buses which are designed for carrying ten or more passengers and used for the transportation of persons;

b) Public utility emergency vehicles;

c) Municipal vehicles and vehicles owned by firms providing contractual service to The Corporation of the Town of Essex such as garbage and recycle collection vehicles and such other vehicles as approved in writing from time to time by the Director of Infrastructure.

d) Limited exemptions granted in writing by the Director of Infrastructure (acting at his or her sole discretion acting reasonably) which Limited exemption shall provide that the Heavy Traffic Vehicle movements of a specified business or commercial operation on a road(s) that is not an Authorized Heavy Truck Route shall be permissible subject to any such terms and conditions that may be specified in that written limited exemption

e) Recreational Vehicles, meaning a motor vehicle designed, constructed, modified or equipped as a temporary dwelling place, living abode or sleeping place;

f) The operation of a Heavy Traffic Vehicle for the purpose of making a delivery or supplying a service to or at a residential premise or location that is not on a Authorized Heavy Truck Route for a purpose or relating to a purpose for which a building permit is not required to be issued, or for the purpose of removing merchandise or material from any residential premise or location that is not on a Authorized Heavy Truck Route, provided such Heavy Traffic Vehicle movement is made on the roadways which form the most direct and accessible connection from or between an Authorized Heavy Truck Route and a delivery point, service point, or the collection point for merchandise or

material, as the case may be, and then shall also use such roadways when returning to the Authorized Heavy Truck Route. When the operation of a Heavy Traffic Vehicle pursuant to this exemption involves multiple or a series of Heavy Traffic Vehicle movements for the same or similar purposes for which this exemption is being relied upon, then in such cases the Director reserves the right at its sole and final discretion acting reasonably to review such Heavy Traffic Vehicle movements and make a binding determination as to if this exemption can be relied upon.

g) A Heavy Traffic Vehicle that is housed at a location off of a Authorized Truck Route on a residential property, such Vehicle may be operated to and from the place where it is housed, and in so doing, shall drive it on a roadway forming the most direct accessible connection between the location where the Vehicle is housed and an Authorized Heavy Truck Route.

h) The operation of a Heavy Traffic Vehicle on a road that is not designated as a Authorized Heavy Truck Route but is located in an area identified as Rural in Schedule "A" to this By-law but only when such operation is part of or incidental to the operation of a normal agricultural practice. The Director of Infrastructure (acting reasonably), reserves the right to make a determination as to whether any given Heavy Traffic Vehicle movement(s) or operation(s) is part of or incidental to the operation of a normal agricultural practice.

PART 9-General:

1. That By-law 810 and all amendments thereto are hereby repealed as of the first date that the set-fines as described in Schedule C (as maybe duly amended from time to time) to this By-law 1790 have been duly approved pursuant to the *Provincial Offences Act*, R.S.O. 1990, and Chapter P.33.

2. That this by-law shall come into force and take effect on the date of final passing.

Read a first and a second time and provisionally adopted on July 2, 2019.

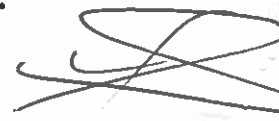


Mayor



Clerk

Read a third time and finally passed on August 6, 2019.



Mayor



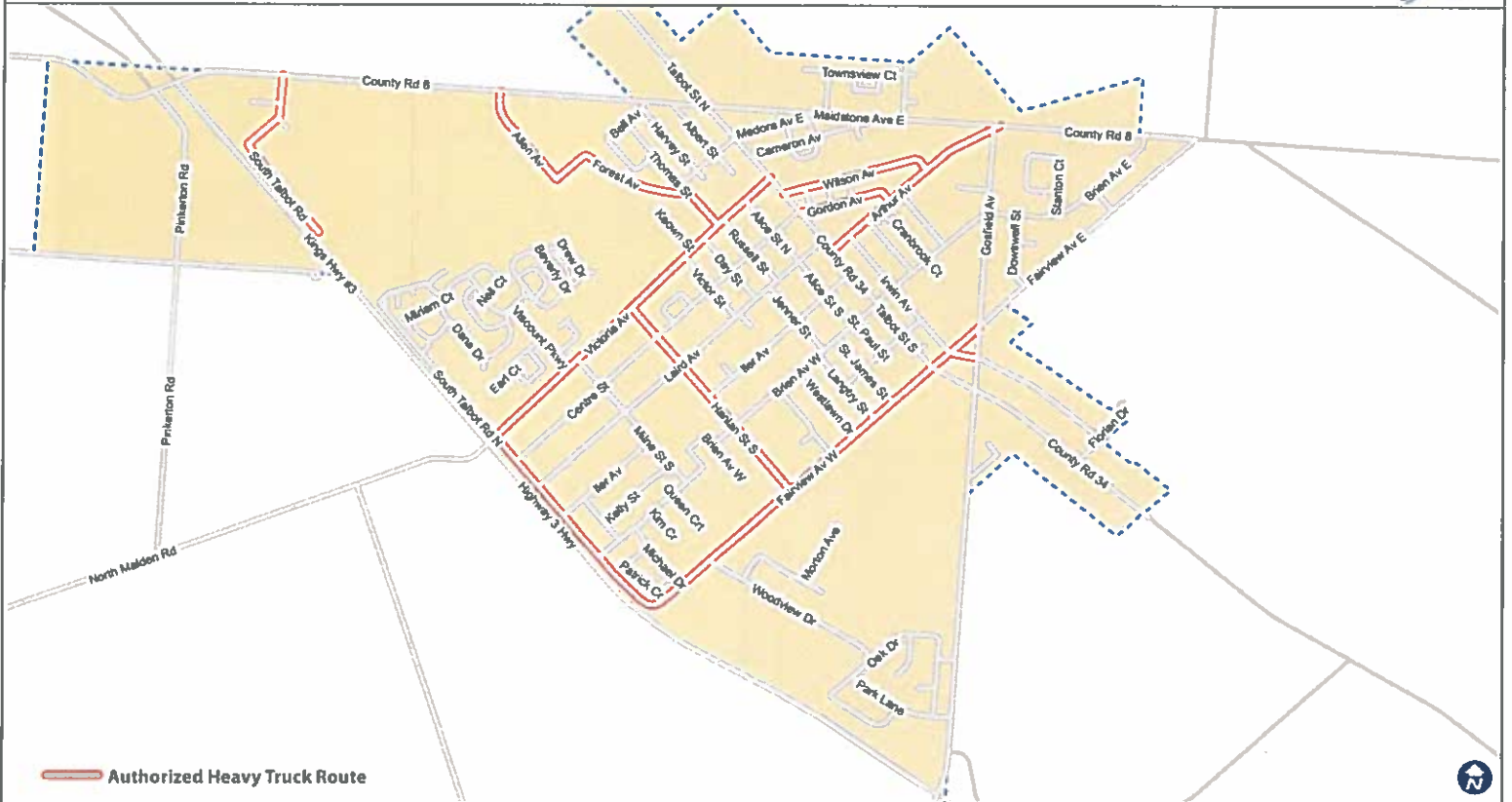
Clerk

Schedule "A"

Authorized Truck Routes and Maps

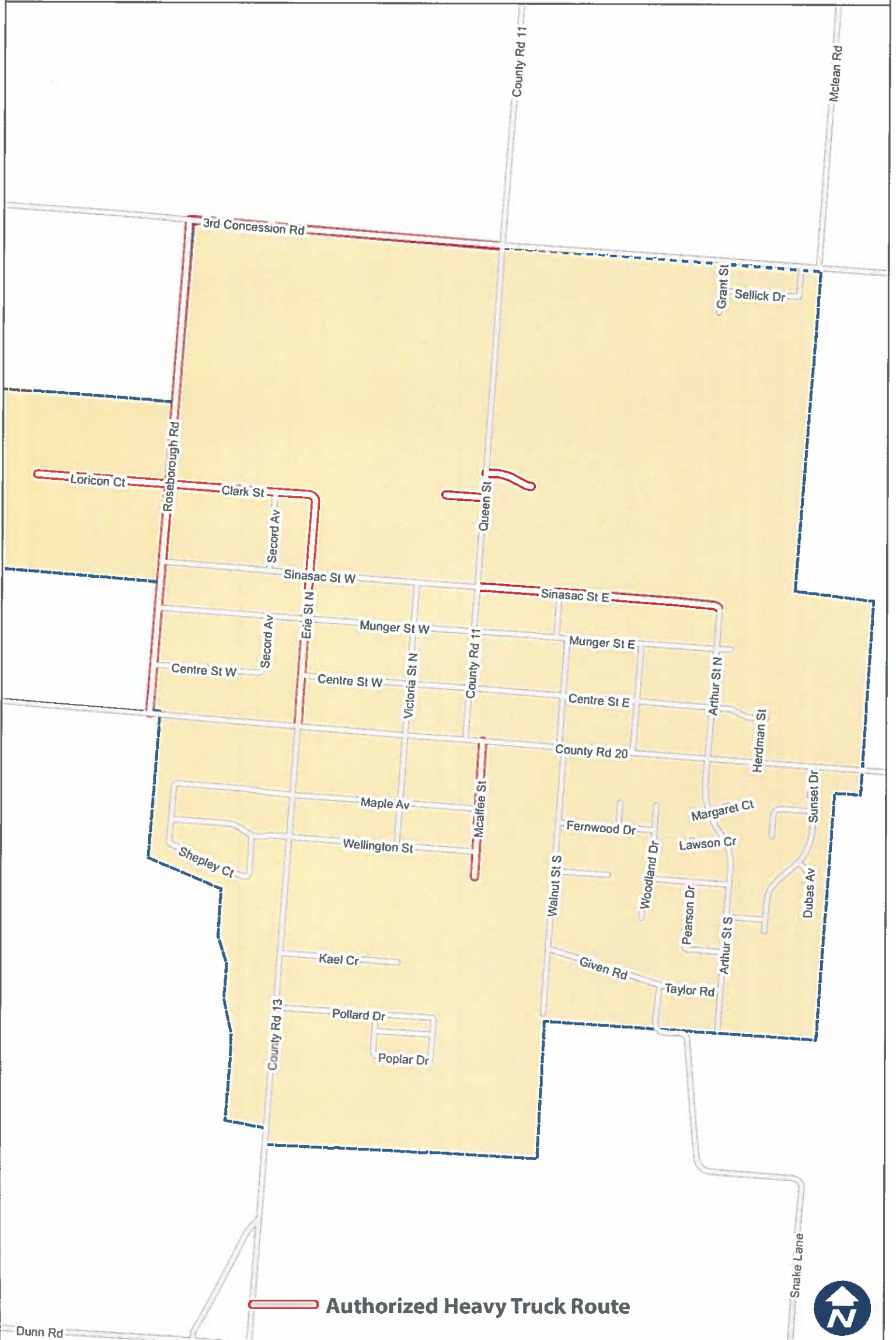
Street Listing	From	To
Victoria Avenue	Talbot Street North	Highway # 3
South Talbot Road	Victoria Avenue	Michael Drive
Fairview Avenue	Michael Drive	County Road # 23
Arthur Avenue	County Road # 8	Talbot Street South
Gordon Street	Talbot Street North	Arthur Avenue
Wilson Street	Talbot Street North	Arthur Avenue
Allen Avenue	County Road # 8	Bell Street
Bell Street	Allen Avenue	Forest Avenue
Forest Avenue	Thomas Street	Bell Street
Thomas Street	Victoria Avenue	Forest Avenue
Loricon Court	Roseborough Road	Dead End of Loricon Court
Irwin Avenue	Fairview Avenue	Gosfield Avenue
3 rd Concession Road	Roseborough Road	County Road 11
Sinasac Street	County Road 11 (Queen St.)	Easterly Limit of Sinasac St. E (Northbound travel on Sinasac not authorized)
Erie Street	King Street	Clark Street
Clark Street	Erie Street	Roseborough Road
Roseborough Road	King Street	3 rd Concession Road
Delta Street	Queen Street	Westerly Limit
Colio Drive	Queen Street	Easterly Limit
McAffee Street	King Street	Southerly Limit
South Talbot Road	County Road #8	Dead End of South Talbot
Hanlan Road	Victoria	Fairview

Essex Urban Centre Authorized Heavy Truck Routes



AD

Harrow Urban Centre Authorized Heavy Truck Routes



Urban / Rural Areas Bylaw #1790

 Urban Zone
 Rural Zone



Schedule B
Additional Special Permit Requirements

Schedule of Fees:

Non-Refundable Special Permit Application Fee

1. (a) The Special Permit application fee of \$100 shall be paid at the time of application for a Special Permit.

Non-Refundable Special Permit Transfer Fee

2. A Special Permit transfer fee of \$100 shall be paid at the time of application for transfer of a Special Permit.

1. **Security Deposit Amount and Additional Requirements**

- a) The security deposit shall be lodged with the Director of Infrastructure ("Director") prior to a Special Permit being issued. The Security shall be in the amount specified by the Director acting reasonably and shall be in the form of cash, certified cheque, letter of credit or such other form of Security acceptable to the Director.
- b) Any letter of credit or such other Security must remain in effect for the full duration of the Special Permit. Any letter of credit or such other Security and its subsequent renewals if applicable shall contain a clause stating that thirty (30) days written notice must be given to the Town prior to its expiry or cancellation thereof.
- c) In the event that the Town receives notice that a letter of credit or such other Security is expiring and will not be renewed, or if further or additional securities are not provided within the said thirty (30) days, the Town may draw on the current letter of credit at the discretion of the Director acting reasonably.
- d) Any interest accruing on realized cash security shall belong to the Town and not the Special Permit holder.
- f) The Security may be reduced from time to time at the discretion of the Officer, but shall otherwise be held pending the completion of all travel pursuant to the Special Permit issued under this by-law.
- (j) When the provisions of this by-law have been complied with and all travel pursuant to the Special Permit has been completed the Town shall release the applicant's security.

**Part 1 Provincial Offences Act
THE CORPORATION OF THE TOWN OF ESSEX
Schedule C to By-Law 1790**

**BEING A BY-LAW TO PROHIBIT HEAVY TRAFFIC
WITHIN THE MUNICIPAL LIMITS OF THE
CORPORATION OF THE TOWN OF ESSEX**

COLUMN 1	COLUMN 2	COLUMN 3
ITEM	OFFENCE CREATING PROVISION OR DEFINING OFFENCE	SET FINE
1. Operating a heavy traffic vehicle on an undesignated highway without a Special Permit	Part 4, Section 1	\$500.00
2. Causing a heavy traffic vehicle to be operated on a undesignated highway without a Special Permit	Part 4, Section 1	\$500.00
3. Operating a heavy traffic vehicle to be operated on a undesignated highway with an expired Special Permit	Part 4, Section 1	\$500.00
4. Causing a heavy traffic vehicle to be operated on a undesignated highway with an expired Special Permit	Part 4, Section 1	\$500.00

Penalty provisions for the offences indicated above is Part 4 of By-Law #1790, a certified copy of which has been filed.