



**MEETING:** City Council

**DATE:** Monday, June 17, 2019

*Reference No. CC - 28/50*

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**OPEN SESSION in the S.H. Blake Memorial Auditorium immediately following Committee of the Whole**

City Council  
Chair: Mayor B. Mauro

***OPENING CEREMONIES***

Prayer or One Minute of Silence

***DISCLOSURES OF INTEREST***

***CONFIRMATION OF AGENDA***

Confirmation of Agenda - June 17, 2019 - City Council

With respect to the June 17, 2019 City Council meeting, we recommend that the agenda as printed, including any additional information and new business, be confirmed.

***PETITIONS AND COMMUNICATIONS***

**Defeat of a By-Law - Procedure - Designated Truck Route By-law 35-2019**

Memorandum dated June 7, 2019 from Ms. K. Power, Deputy City Clerk, relative to the above noted.

***BY-LAWS***

**BL 35/2019 - Designated Truck Route**

A by-law to establish a Designated Truck Route through the City of Thunder Bay

## **By-law Resolution -June 17, 2019**

A by-law to establish a Designated Truck Route through the City of Thunder Bay

THAT the following By-law be introduced, read, dealt with individually, engrossed, signed by the Mayor and Clerk, sealed and numbered:

1. A by-law to establish a Designated Truck Route through the City of Thunder Bay

By-law Number: BL 35/2019

## ***NEW BUSINESS***

### ***CONFIRMING BY-LAW***

#### **BL 69/2019 - Confirming By-law - June 17th, 2019**

A By-law to confirm the proceedings of a meeting of Council, this 17th day of June, 2019.

#### **Confirming By-law Resolution - June 17, 2019 - City Council**

THAT the following By-law be introduced, read, dealt with individually, engrossed, signed by the Mayor and Clerk, sealed and numbered:

1. A By-law to confirm the proceedings of a meeting of Council, this 17th day of June, 2019  
By-law Number: BL 69/2019

## ***ADJOURNMENT***



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***MEETING DATE***     06/17/2019 (mm/dd/yyyy)

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***SUBJECT***             Confirmation of Agenda

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***SUMMARY***

Confirmation of Agenda - June 17, 2019 - City Council

***RECOMMENDATION***

With respect to the June 17, 2019 City Council meeting, we recommend that the agenda as printed, including any additional information and new business, be confirmed.



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***MEETING DATE***      06/17/2019 (mm/dd/yyyy)

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***SUBJECT***              Defeat of a By-Law - Procedure - Designated Truck Route By-law 35-  
2019

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***SUMMARY***

Memorandum dated June 7, 2019 from Ms. K. Power, Deputy City Clerk, relative to the above noted.

***ATTACHMENTS***

1. DTR Memo - Final - dated June 7 2019

## **Memorandum**

*Office of the City Clerk*  
**Fax:** 623-5468  
**Telephone:** 625-2230

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**TO:** Members of Council

**FROM:** Krista Power, Deputy City Clerk

**C.C.:** John S. Hannam, City Clerk, Norm Gale, City Manager, Mike Grimaldi, Solicitor

**DATE:** Friday, June 7, 2019

**SUBJECT:** Defeat of a By-law – Procedure – Designated Truck Route By-law 35-2019  
City Council - June 17, 2019

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This memorandum strives to provide clarity and answers for City Council and the public relative to the upcoming presentation of By-law 35-2019 being a By-law to Designate A Truck Route in the City of Thunder Bay.

By e-mail dated April 10, 2019, John Hannam City Clerk advised Council that the by-law, “is simply the means by which the decision of Council is carried out.”

Mr. Hannam also indicated that “Defeating the by-law will only mean that Administration will then seek the direction of Council as to what changes are required in the by-law wording so that it can be re-presented. If Council wishes to reconsider its decision on the Designated Truck Route then the appropriate procedural path is available.”

Because the Procedural By-law (By-law 128-2012) approved by City Council is silent on the process for defeat of a by-law, the Office of the City Clerk has relied on several procedural indicators in providing the above noted advice.

Firstly, in reviewing the Procedural By-law there is a clear and direct mechanism for City Council to rely upon when required to change their direction or rescind or amend previous decisions. (Article 9.02 - Revisiting Prior Decisions of Council). If it is City Council’s intent to change the direction that has been ratified, this is the process to be used.

The Office of the City Clerk also reached out to the Legal Services Division to consult and receive advice prior to providing this memorandum. Legal Services provided an opinion on the interpretation of the Procedural By-law based upon an application of relevant statutory interpretation principles. Legal Services supports the opinion of the Office of the City Clerk that if Council defeats the by-law this does not overturn the prior decision of City Council.

In addition to consulting with Legal Services the City Clerk also reached out to Clerks in other municipalities of similar size and was provided with opinion and expert advice that supports the direction provided within this memorandum. Several municipalities provide for clear and direct wording within their procedural by-laws that offer more clarity relative to the defeat of by-laws. Going forward, this would be an item of consideration for the Coordinating Committee to review and discuss if changes are necessary for the City of Thunder Bay's procedural by-law.

In closing, Administration stands by the opinion provided via email on April 10, 2019.



## *Memorandum*

Corporate By-law Number BL 35/2019

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**TO:** Office of the City Clerk **FILE: 400.047**

**FROM:** Ryan Love  
Infrastructure & Operations - Engineering & Operations

**DATE:** 3/20/2019

**SUBJECT:** Designated Truck Route

**MEETING DATE:** City Council - 6/17/2019 (mm/dd/yyyy)

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**By-law Description:** A By-law to establish a Designated Truck Route through the City of Thunder Bay

**Authorization:** Report No. R 130/2018 (Engineering) – Committee of the Whole – October 15, 2018 and March 4, 2019.

**By-law Explanation:** The purpose of this By-law is to establish a Designated Truck Route through the City of Thunder Bay

**Schedules and Attachments:**

Schedule “A” – Designated Truck Routes  
Schedule “B” – 15,000kg Weight Restricted Streets  
Schedule “C” – 28,000kg Weight Restricted Streets  
Schedule “D” – 15,000kg Weight Restricted Streets Time Limit  
Designated Truck Route Map  
Load Restricted Streets Map

**Amended/Repealed By-law Number(s):**



THE CORPORATION OF THE CITY OF THUNDER BAY  
BY-LAW NUMBER BL 35/2019

A By-law to establish a Designated Truck Route through the  
City of Thunder Bay

Recitals

1. Section 35 of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended authorizes municipalities to remove or restrict the common law right of passage by the public over a highway.
2. Regulating weight limits on highways is a practical and expedient way to maintain the City's investment in highway infrastructure.
3. Designating certain highways as truck routes limits truck traffic in residential areas, which increases safety and reduces negative impacts for residents.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF  
THUNDER BAY ENACTS AS FOLLOWS:

1. **Definitions:** Wherever a term set out below appears in the text of this By-law with its initial letters capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this By-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.
  - a) "By-law" means this By-law, including its recitals and schedules, which form integral parts of it. Where the term "by-law" is capitalized but followed by a number, the term refers to the by-law of the Corporation which corresponds with that number, and not to this By-law.
  - b) "Corporation" means The Corporation of the City of Thunder Bay. Where the context allows, the term includes its officers and employees.
  - c) "Designated Truck Route" means the highway and/or series of highways designated by this By-Law and more particularly described in Schedule "A".
  - d) "Municipal Act, 2001" means the *Municipal Act, 2001* S.O. 2001 c.25 as amended, the main statute governing the creation, administration and government of municipalities in the Canadian province of Ontario, other than the City of Toronto.



- e) “Municipal Law Enforcement Officer” means a person appointed by the Corporation to enforce its by-laws.
  - f) “Registered Gross Weight” means the weight for which a permit has been issued under the *Highway Traffic Act*, R.S.O. 1990 c. H8 as amended, based upon the weight of the Vehicle, or combination of Vehicles and load. The Registered Gross Weight applies for the purposes of this By-law, regardless of the actual loaded weight.
  - g) “*Provincial Offences Act*” R.S.O. 1990 c. P33 as amended means a provincial statute that sets out procedures for the prosecution of offences under other provincial statutes and regulations and municipal by-laws.
  - h) “Vehicle” includes: a motor vehicle, trailer, traction engine, farm tractor, road-building machine, any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include a motorized snow vehicle or street car.
  - i) “Weight Restricted Highway” means any highway upon which the Corporation has enacted a weight restriction as more particularly described in Schedule “B” and “C” and includes any highway upon which the Corporation has enacted a time specific weight restriction as more particularly described in Schedule “D”.
2. **Designated Truck Route:** Every driver of a Vehicle having a Registered Gross Weight of fifteen thousand (15,000 kg) kilograms or greater shall drive on the Designated Truck Route and/or on a provincial highway as more particularly described in Schedule “A”.
3. **Exemptions:** Section 2 of this By-Law does not apply to:
- a) Vehicles operated by or on behalf of the Corporation, where the vehicles are actively engaged in highway maintenance, including the carriage and application of abrasives or chemicals to the highway, or removal of snow from highways;
  - b) emergency vehicles;
  - c) Vehicles transporting waste;
  - d) public utility vehicles in the course of their duties;
  - e) passenger buses;

- f) Vehicles delivering or receiving goods, wares, merchandise or materials or in proceeding to or from a garage or other premises for fuel or repair of such Vehicle and provided that
    - (i) such deviation shall be made at a point from one of the Designated Truck Routes nearest by road to where the delivery, and/or service is performed, and
    - (ii) on completion of the conduct of business such vehicle shall return by the shortest route by distance to the nearest Designated Truck Route;
  - g) Vehicles travelling to the residence or business premises of the owner or operator of the Vehicle where the business premises or residence abut a highway to which no Designated Truck Route is available;
  - h) Detours as a result of an emergency response; or
  - i) Approved detours by the Corporation as a result of construction activities or a special event.
4. **Weight Restricted Highways:** Notwithstanding Section 3 no person shall drive a Vehicle on any Weight Restricted Highway where that Vehicle has a Registered Gross Weight greater than the amount set out in Schedule “B” and “C” for the corresponding highway.
5. **Time Specific Weight Restrictions:** Notwithstanding Section 3 no person shall between the hours of 6 p.m. and 7 a.m. the following day drive a Vehicle on any Weight Restricted Highway where that Vehicle has a Registered Gross Weight greater than the amount set out in Schedule “D” for the corresponding highway.
6. **Exemptions:** Sections 4 and 5 of this By-Law do not apply to:
- a) Vehicles while engaged in the construction or maintenance of a Weight Restricted Highway;
  - b) emergency vehicles while in the course of responding to an emergency situation or while in the course of an emergency measures training exercise;
  - c) passenger buses;
  - d) Vehicles transporting waste;

- e) public utility vehicles in the course of their duties;
  - f) Vehicles effecting deliveries to and from premises where no alternative route is available within the limits of the City of Thunder Bay except by traveling on a Weight Restricted Highway;
  - g) Vehicles traveling to the residence or business premises of the owner or operator of the Vehicle where no alternative route is available within the limits of the City of Thunder Bay except by traveling on a Weight Restricted Highway;
  - h) Any Vehicle operating solely within the intersection of any Weight Restricted Highway and any other highway;
  - i) Detours as a result of an emergency response; or
  - j) Approved detours by the Corporation as a result of construction activities or a special event.
7. **Burden of Proving Exemption:** The burden of proving that an exemption prescribed by this By-Law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove the exemption does not operate in favour of the defendant, whether or not it is set out in the information.
  8. **Enforcement:** This By-law may be enforced by Municipal Law Enforcement Officers and police officers.
  9. **Severability:** Should a court of competent jurisdiction declare a part or the whole of any provision of this By-law to be invalid or of no force or effect, the provision or part is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms and to the extent possible under the law.
  10. **Priority:** Where a vehicle having a Registered Gross Weight greater than 15,000kg is also classified as a Dangerous Goods Carrier within the meaning of By-Law 201-1997, as amended, the driver of such a vehicle shall first comply with all applicable provisions of that by-law and, to the extent there is no conflict, shall then comply with the provisions of this By-Law.
  11. **Penalties:** Every person who contravenes any provision of this By-Law is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act* but the minimum fine shall not be less than \$50.

12. **Additional Penalty:** Upon conviction, in addition to any other penalty imposed by this By-Law, the court in which the conviction has been entered and any court of competent jurisdiction may make an Order prohibiting the continuation or repetition of the offence by any person convicted.
13. **General:** Upon the coming into force of this By-Law, By-Law 87-2007 is repealed.
14. **Effect:** This By-law comes into force and takes effect upon the date of the issue of an order by the Regional Senior Justice establishing the set fines for this By-law.

Enacted and passed this 17th day of June, A.D. 2019 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

\_\_\_\_\_  
Bill Mauro

Mayor

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John S. Hannam

City Clerk

| Schedule 'A'            |                   |               |
|-------------------------|-------------------|---------------|
| Designated Truck Routes |                   |               |
| Highway                 | From              | To            |
| Harbour Expressway      | Fort William Road | Highway 11/17 |
| Main Street             | Fort William Road | 106th Street  |
| 106th Street            | West Limit        | 108th Avenue  |

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|--------------|
| Schedule 'B' |
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|                                      |
|--------------------------------------|
| 15,000 kg Weight Restricted Highways |
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| Schedule 'C' |
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|--------------------------------------|
| 28,000 kg Weight Restricted Highways |
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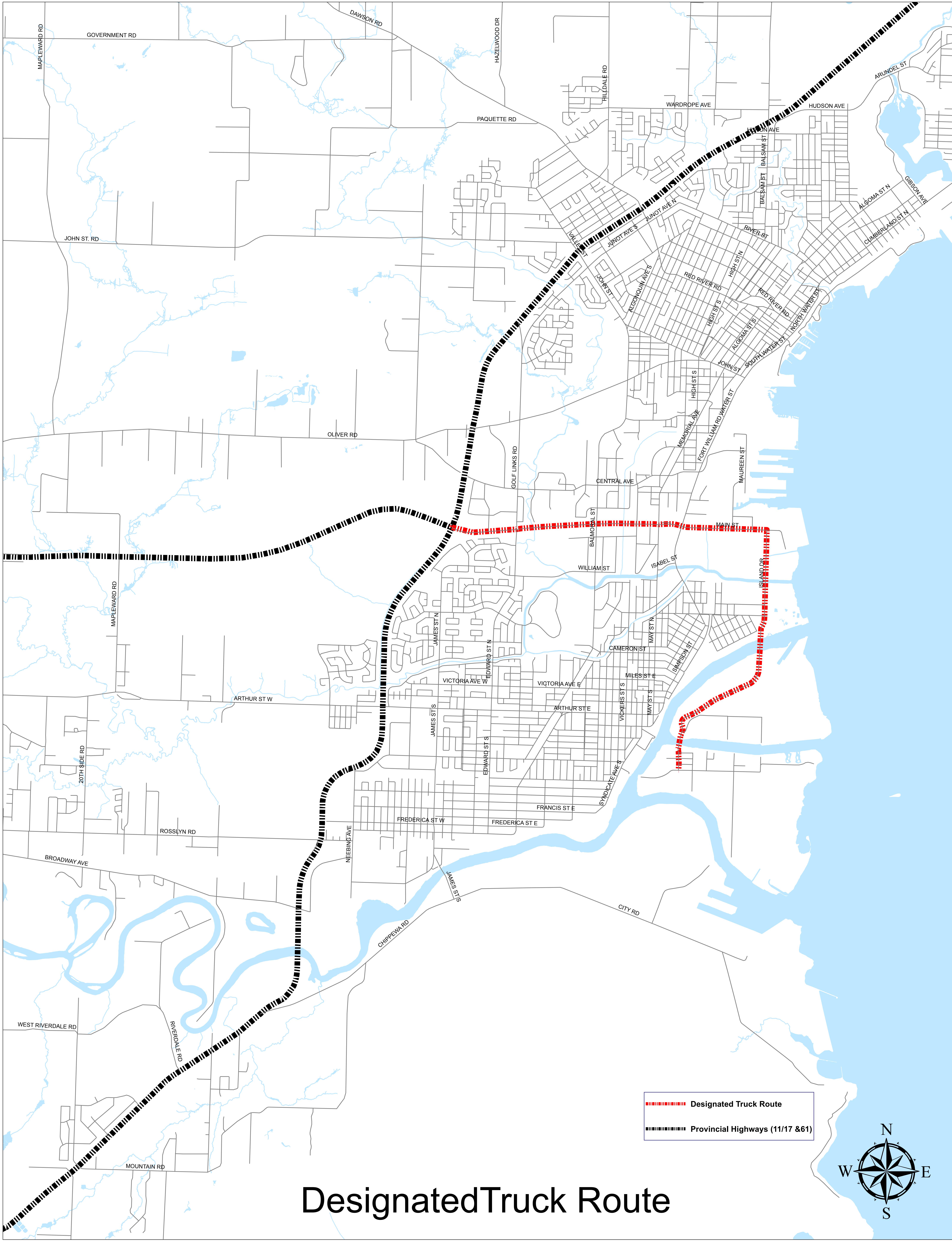
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| Schedule 'D' |
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| 15,000 kg Weight Restricted Highways 6 p.m. - 7 a.m. |
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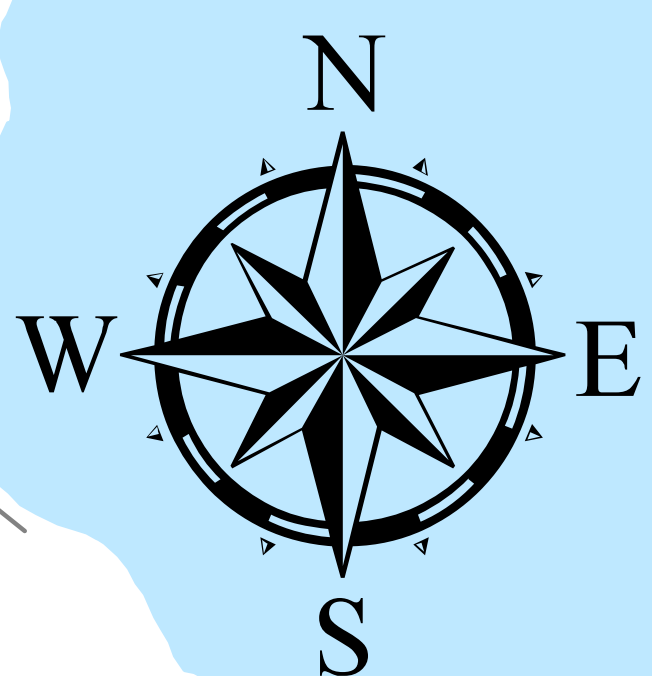




# Designated Truck Route

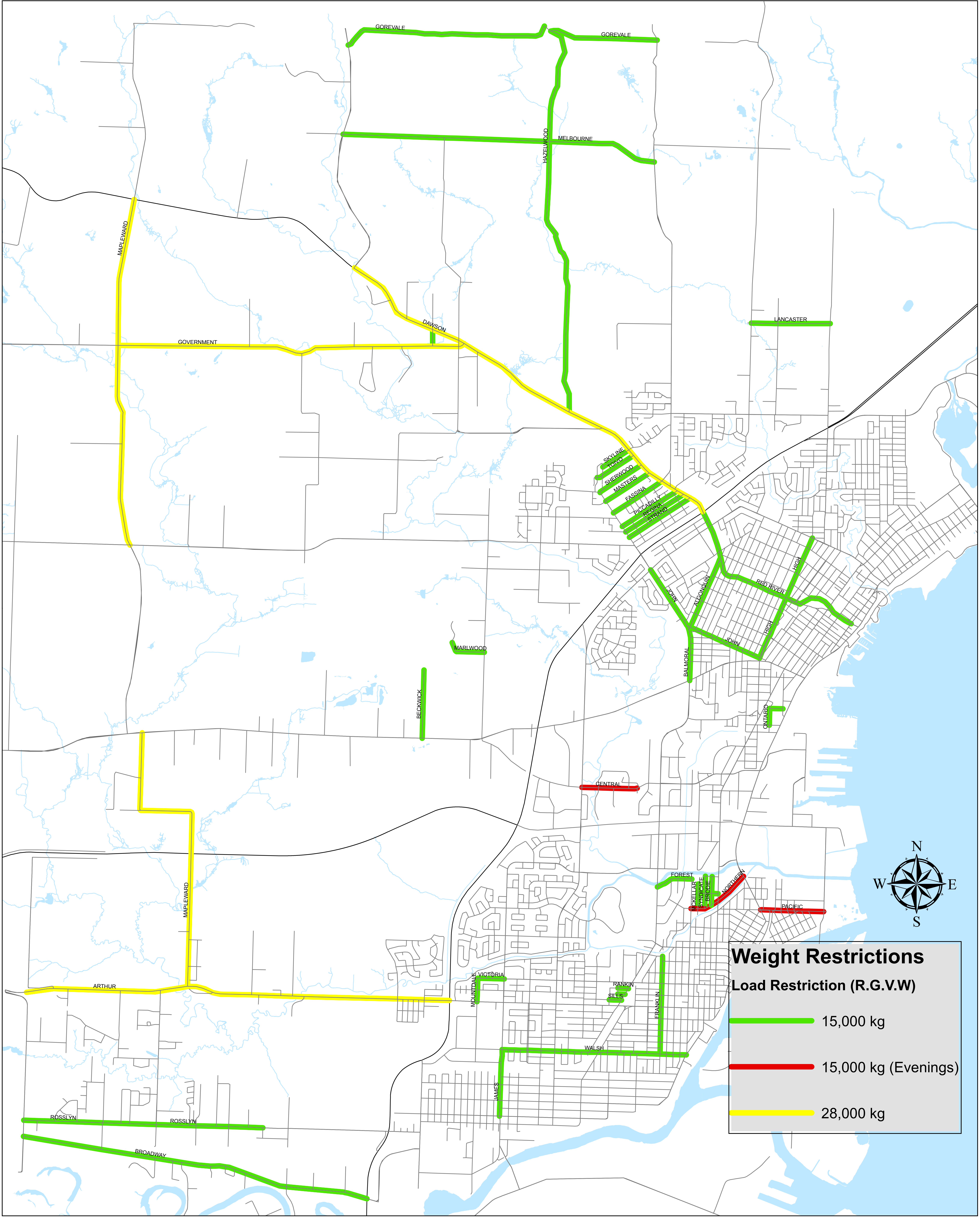
Designated Truck Route

Provincial Highways (11/17 & 61)





# Load Restricted Streets







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**MEETING DATE**     06/17/2019 (mm/dd/yyyy)

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**SUBJECT**             By-law Resolution -June 17, 2019

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***SUMMARY***

A by-law to establish a Designated Truck Route through the City of Thunder Bay

***RECOMMENDATION***

THAT the following By-law be introduced, read, dealt with individually, engrossed, signed by the Mayor and Clerk, sealed and numbered:

1.     A by-law to establish a Designated Truck Route through the City of Thunder Bay

By-law Number: BL 35/2019



## *Memorandum*

Corporate By-law Number BL 69/2019

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**TO:** Office of the City Clerk **FILE:**

**FROM:** Linda Crago  
City Manager's Office - Office of the City Clerk

**DATE:** 06/06/2019

**SUBJECT:** BL 69/2019 - Confirming By-law - June 17th, 2019

**MEETING DATE:** City Council - 06/17/2019 (mm/dd/yyyy)

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**By-law Description:** A By-law to confirm the proceedings of a meeting of Council, this 17th day of June, 2019.

**Authorization:** Committee of the Whole - 2003/02/24

**By-law Explanation:** To confirm the proceedings and each motion, resolution and other action passed or taken by the Council at this meeting is, except where prior approval of the Ontario Municipal Board is required, adopted, ratified and confirmed as if all such proceedings had been expressly embodied in this By-law.

**Schedules and Attachments:**

**Amended/Repealed By-law Number(s):**



THE CORPORATION OF THE CITY OF THUNDER BAY  
BY-LAW NUMBER BL 69/2019

A By-law to confirm the proceedings of a meeting of Council,  
this 17th day of June, 2019.

Recitals

1. Subsection 5(1) of the Municipal Act, 2001, S.O. 2001 c. 25, as amended, provides that the powers of a municipal corporation are exercised by its Council. Subsection 5(3) provides that those powers are to be exercised by by-law.
2. Council considers it appropriate to confirm and adopt its proceedings at this meeting by by-law.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE CITY OF  
THUNDER BAY ENACTS AS FOLLOWS:

1. The actions of the Council at the following meeting:

17th day of June, 2019 OPEN SESSION, CITY COUNCIL MEETING

and each motion, resolution and other action passed or taken by the Council at that meeting is, except where prior approval of the Ontario Municipal Board is required, adopted, ratified and confirmed as if all such proceedings had been expressly embodied in this By-law.

2. The Mayor and the proper officials of The Corporation of the City of Thunder Bay are authorized and directed to do all things necessary to give effect to the actions of the Council referred to in Section 1 of this By-law. In addition, the Clerk is authorized and directed to affix the corporate seal to any documents which require it.
3. This By-law shall come into force on the date it is passed.

Enacted and passed this 17th day of June, A.D. 2019 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

Bill Mauro

Mayor

Krista Power

Deputy City Clerk



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***MEETING DATE***     06/17/2019 (mm/dd/yyyy)

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***SUBJECT***             Confirming By-law Resolution - June 17, 2019 - City Council

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***SUMMARY***

Confirming By-law Resolution - June 17, 2019 - City Council

***RECOMMENDATION***

THAT the following By-law be introduced, read, dealt with individually, engrossed, signed by the Mayor and Clerk, sealed and numbered:

1.     A By-law to confirm the proceedings of a meeting of Council, this 17th day of June, 2019  
By-law Number: BL 69/2019