

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

BY-LAW NUMBER 178-2019

A BY-LAW TO PROVIDE FOR WINTER AND HIGHWAY MAINTENANCE

WHEREAS section 10 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS it has been determined by the Corporation that it is desirable to enact this By-law for the purpose of providing winter and Highway maintenance services;

AND WHEREAS it is necessary for Council to develop and evaluate winter and Highway maintenance policies that are effective and efficient in light of the facts that:

- (a) The Municipality of Chatham-Kent is a municipality with the largest geographical territory in southwestern Ontario;
- (b) The Municipality of Chatham-Kent is a rural municipality with several low-population centres;
- (c) The Municipality of Chatham-Kent has an expansive network of low-volume Roadway and Sidewalk infrastructure that together connect these population centres;

AND WHEREAS the Province of Ontario has passed the Minimum Maintenance Standards for Municipal Highways which deals with maintenance of Highways and Sidewalks, among other things;

AND WHEREAS it is intended by Council that this by-law and the level of service herein is a necessary policy decision dictated by financial, economic, social, and political factors, and other constraints;

AND WHEREAS section 447.8 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that a by-law of a municipality or a local board of a municipality may,

- (a) Adopt by reference, in whole or in part, with such changes as the council or board considers appropriate, any code, standard, procedure or regulation as it stands at a specific date, as it stands at the time of adoption or as amended from time to time, and
- (b) Require compliance with any code, standard, procedure or regulation so adopted;

AND WHEREAS section 23.2 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that a delegation of the power to close a Highway temporarily is of a minor nature and may be done in respect of an employee of the Corporation of the Municipality of Chatham-Kent;

AND WHEREAS the Corporation has appointed the Director of Public Works and his or her delegates to administer and enforce this By-law;

AND WHEREAS section 429 of the Municipal Act, 2001, S.O. 2001, c. 25 provides that the Corporation may establish a system of fines for offences under a By-law of the Corporation;

AND WHEREAS the Corporation has established a system of fines for offences under this By-law.

NOW THEREFORE the Council of the Corporation of the Municipality of Chatham-Kent enacts as follows:

**ARTICLE 1
DEFINITIONS**

For the purposes of this By-law:

- 1.1. "Bicycle Lane" means,
 - (a) A portion of a Roadway that has been designated by pavement markings or signage for the preferential or exclusive use of cyclists; or,
 - (b) A portion of a Roadway that has been designated for the exclusive use of cyclists by signage and a physical or marked buffer.

- 1.2. "Corporation" means the Corporation of the Municipality of Chatham-Kent;
- 1.3. "Downtown Business Areas" means those areas outlined on the maps attached hereto as Schedule A;
- 1.4. "Encroachment" means anything that is accumulated, formed, placed, installed, constructed or planted within the Highway that was not accumulated, formed, placed, installed, constructed or planted by the Corporation. For greater certainty, the accumulation of snow or the formation of ice does not constitute an Encroachment;
- 1.5. "Director of Public Works", "Manager of Public Works" and "Supervisors of Public Works" means those officials of the Corporation holding positions with those titles;
- 1.6. "Highway" includes a common and public Highway, street, avenue, parkway, driveway, square, place, bridge viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;
- 1.7. "Occupant", when used in relation to property, means:
 - (a) The tenant of the property or part thereof whose consent shall extend only to control the land of which he or she is tenant and any parking spaces allotted to him or her under a lease or tenancy agreement;
 - (b) The spouse of a tenant; or
 - (c) Any person who is in physical possession of a property or has control of the property.
- 1.8. "Owner" when used in relation to property means
 - (a) The registered Owner of the property;
 - (b) The registered Owner of a condominium unit, whose consent shall extend only to the control of the unit of which is he or she is an Owner and any parking spaces allotted to him by the condominium Corporation or reserved for his exclusive use in the declaration of the property;
 - (c) The spouse of an Owner;
 - (d) Where the property is included in a description registered under the Condominium Act, 1998, S.O. 1998, c. 19, as amended, the board of directors of the condominium Corporation; or
 - (e) A person authorized in writing by the Owner to act on the Owner's behalf;
- 1.9. "Roadway" means the part of the Highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a Highway includes two or more separate Roadways, the term "Roadway" refers to any one Roadway separately and not to all of the Roadways collectively;
- 1.10. "Sidewalk" means the part of the Highway specifically set aside or commonly understood to be for pedestrian use, typically consisting of a paved surface but does not include crosswalks, medians, boulevards, shoulders or any part of the Sidewalk where cleared snow or ice has been deposited;
- 1.11. "Treat" or "Treating" a Sidewalk means applying materials including salt, sand or any combination of salt and sand to the Sidewalk;
- 1.12. "Unreasonably Dangerous Condition" includes the accumulation of snow, the formation of ice on all or part of a Highway, high wind conditions or other conditions that could cause harm to a motorist or a pedestrian and that is not practicable for the Corporation to Treat according to applicable maintenance service levels.

ARTICLE 2
SNOW AND ICE REMOVAL FROM SIDEWALKS

Levels of Service- Downtown Business Area

- 2.1 The Corporation adopts the following winter maintenance service levels as its Sidewalk winter maintenance standard in respect of all Sidewalks located in the Municipality:
- (a) Downtown Business Areas will be plowed to reasonably remove snow and Treated for ice accumulation by the Corporation to the following levels:
 - (i) The Corporation shall reduce the snow to a depth of less than or equal to 7.5 centimeters within 24 hours after the snow accumulation has ended;
 - (ii) The Corporation shall provide a minimum Sidewalk width of 1 metre;
 - (iii) The Corporation shall monitor the weather in accordance with the Minimum Maintenance Standards for Municipal Highways, O. Reg. 239/02 in the 24-hour period preceding an alleged formation of ice on a Sidewalk and Treat the Sidewalk if practicable to prevent ice formation or improve traction within 48 hours if the Corporation determines that there is a substantial probability of ice forming on a Sidewalk, starting from the time that the Director of Public Works determines is the appropriate time to deploy resources for that purpose; and
 - (iv) Treat icy Sidewalks within 24 hours after the Corporation becomes aware of the fact that a Sidewalk is icy.

Level of Service- All Other Areas

- 2.2 (a) For all areas other than Downtown Business Areas:
- (i) The Corporation shall reduce the snow to a depth of less than or equal to 8 centimeters within 48 hours after the snow accumulation has ended;
 - (ii) The Corporation shall provide a minimum Sidewalk width of 1 metre;
 - (iii) The Corporation shall monitor the weather in accordance with the Minimum Maintenance Standards for Municipal Highways, O. Reg. 239/02 in the 24-hour period preceding an alleged formation of ice on a Sidewalk and provide public notice to Owner and Occupants if the Corporation determines that there is a substantial probability of ice forming on a Sidewalk, starting from the time that the Director of Public Works determines is the appropriate time to deploy resources for that purpose. Such public notice will be provided by posting on the Corporation's website, posting on social media, and providing a media release;
 - (iv) The Corporation shall not Treat Sidewalks in areas other than the Downtown Business Areas.
- (b) Every Owner or Occupant, other than those within Downtown Business Areas, shall:
- (i) Treat any Sidewalk abutting his or her buildings or lands on all sides within twenty four (24) hours following notice being released by the Corporation that there is a substantial probability of ice forming on a Sidewalk; and
 - (ii) Treat Sidewalks that are icy within twenty four (24) hour hours of the ice formation.

ARTICLE 3
SNOW AND ICE REMOVAL FROM ROADWAYS

Levels of Service

- 3.1. Except as otherwise laid out in this By-law, the Corporation adopts the Winter Maintenance service levels from the Minimum Maintenance Standards for Municipal Highways, O. Reg. 239/02 in respect of all Highways located in the Municipality of Chatham-Kent.
- 3.2. Due to the large number of low volume Highways and gravel Highways within the Municipality of Chatham-Kent, the Corporation adopts the following standard for Treatment of Roadways for ice formation. Only the Highways shown in Schedule "B" to this By-law will be treated, if practicable, where there is a substantial probability of ice forming on a Roadway.

ARTICLE 4
ENCROACHMENTS

Distinguishing Encroachments

- 4.1. For the purpose of this Bylaw, Council has determined that the Encroachments listed in Schedule C to this Bylaw are highly unusual and/or constitute a significant hazard to pedestrians. Council has further determined that the Encroachments listed in Schedule D to this Bylaw, are not highly unusual and/or do not constitute a significant hazard to pedestrians. Notwithstanding a determination by Council that an Encroachment is not highly unusual and does not constitute a significant hazard, Owners and Occupants are not permitted to encroach upon Corporation property without express permission from the Corporation.

Owner and Occupant Responsibilities

- 4.2. No Owner or Occupant shall install, and every Owner or Occupant shall immediately remove, any Encroachments listed in Schedule C or D installed within 45 centimetres of a Sidewalk abutting their property.
- 4.3. No Owner or Occupant shall obstruct or encumber any Highway or Sidewalk by depositing or permitting to be deposited snow or ice on that Sidewalk.

ARTICLE 5
BICYCLE LANES

Levels of Service

- 5.1. The Corporation adopts the Winter Maintenance service levels from the Minimum Maintenance Standards for Municipal Highways, O. Reg. 239/02 in respect of all Bicycle Lanes located in the Municipality of Chatham-Kent.

ARTICLE 6
HIGHWAY CLOSURE

- 6.1. The General Manager of Infrastructure and Engineering Services, Director of Public Works, Managers of Public Works, and/or Supervisors of Public Works, and other positions delegated authority to close roads under other Bylaws of the Corporation or applicable legislation, may temporarily close any all or part of the Highway if it is determined that an Unreasonably Dangerous Condition exists on that Highway.

- 6.2. Every motorist or pedestrian who uses all or part of the closed Highway does so at his or her own risk.

ARTICLE 7

WEATHER EVENTS

- 7.1. For the purposes of the Minimum Maintenance Standards for Municipal Highways, O. Reg. 239/02, the General Manager of Infrastructure and Engineering Services, Director of Public Works, and/or Managers of Public Works may declare the beginning of a significant weather event when it is determined that Environment Canada has issued a public weather alert in respect of one or more significant weather events.
- 7.2. Those persons described in 7.1, or any one of them, shall determine whether it is practical and appropriate to deploy resources during a significant weather event.
- 7.3. Those persons described in 7.1, or any one of them, shall declare the ending of a significant weather event when it is determined that it is appropriate to do so.
- 7.4. Those persons, or any one of them, shall provide the public with notice of the declaration of the beginning and ending of a significant weather event by
- (a) By posting a notice on the Corporation's website;
 - (b) By making an announcement on a social media platform, such as Facebook or Twitter;
 - (c) By sending a press release or similar communication to internet, newspaper, radio or television media; or
 - (d) By notification to the Chatham-Kent Police Service.

ARTICLE 8

OFFENCES

- 8.1. Every person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a set fine for those contraventions listed in Schedule "E" to this Bylaw, or otherwise to a minimum fine of not less than \$50 and a maximum fine of not more than \$50,000.
- 8.2. In the case of a continuing offence by any person, for each day or part of a day that the offence continues, such person on conviction is liable to a fine not less than \$50 and not more than \$5,000. The total of all daily fines for the offence is not limited to \$100,000.
- 8.3. In the case of a multiple offence, a person found guilty of contraventions of this By-law is liable upon conviction, for each offence included in the multiple offence, to a fine of not less than \$50 and not more than \$10,000. The total of all daily fines for the offence is not limited to \$100,000.

ARTICLE 9

ADMINISTRATION AND ENFORCEMENT

- 9.1. This By-law applies to the entire Municipality of Chatham-Kent.
- 9.2. The Director of Public Works or his or her delegates and bylaw enforcement officers of the Corporation are hereby authorized to carry out inspections in relation to this By-law and are delegated such powers as are within the jurisdiction of the Corporation in order to administer and enforce this By-law.

- 9.3. No person shall obstruct any person when he or she is carrying out an inspection pursuant to this By-law.
- 9.4. If, after inspection, the Director of Public Works, his or her delegates or a bylaw enforcement officer determines that there is a contravention of this By-law, he or she shall notify any person committing the contravention and provide that person with a copy of the notice.
- 9.5. The Director of Public Works or his or her delegates may require any person who has contravened this By-law to:
 - (a) Cease all contraventions of this By-law, and
 - (b) Do all work necessary to eliminate any existing contraventions.

Where reasonably practicable, any requirement to do work to eliminate existing contraventions shall provide the person until 8:00 am the next morning to complete the work. If required in the circumstance, the order may require work to be performed immediately.
- 9.6. An order issued pursuant to this By-law shall be served personally, left in the mail box or posted in a conspicuous place on the property of any person committing a contravention of this By-law.
- 9.7. If any person who contravenes this By-law fails to do the work required by the order within the period specified, the Corporation, in addition to all other remedies it may have, may do the work and for this purpose may enter on the land with its employees or agents or both. The costs incurred by the Corporation in so doing shall be paid by any person who contravened this By-law and may be recovered by the Corporation in like manner as taxes or by civil action.
- 9.8. For the purposes of snow clearing and/or ice Treatment which must be performed by Owners and/or Occupants under Article 2.2 of this Bylaw, Council for the Corporation sets a fee and charge of \$250.00 as a reasonable approximation of the costs of the Corporation for remedying a contravention of that Article. Should an Owner or Occupant fail to remedy a contravention of Article 2.2 within the time period provided in an order required under this Article, that \$250 amount will be charged to the Owner or Occupant regardless of whether the work is completed before the time that the Corporation attends at the property to perform the work.

**ARTICLE 10
SEVERABILITY**

- 10.1. Each section of this By-law is an independent section, and the holding of any section or part of it to be void or ineffective for any clause is not deemed to affect the validity of any other sections of parts of it.

**ARTICLE 11
BY-LAW IN EFFECT**

- 11.1. This By-law will come into full force and effect on the date of passing.

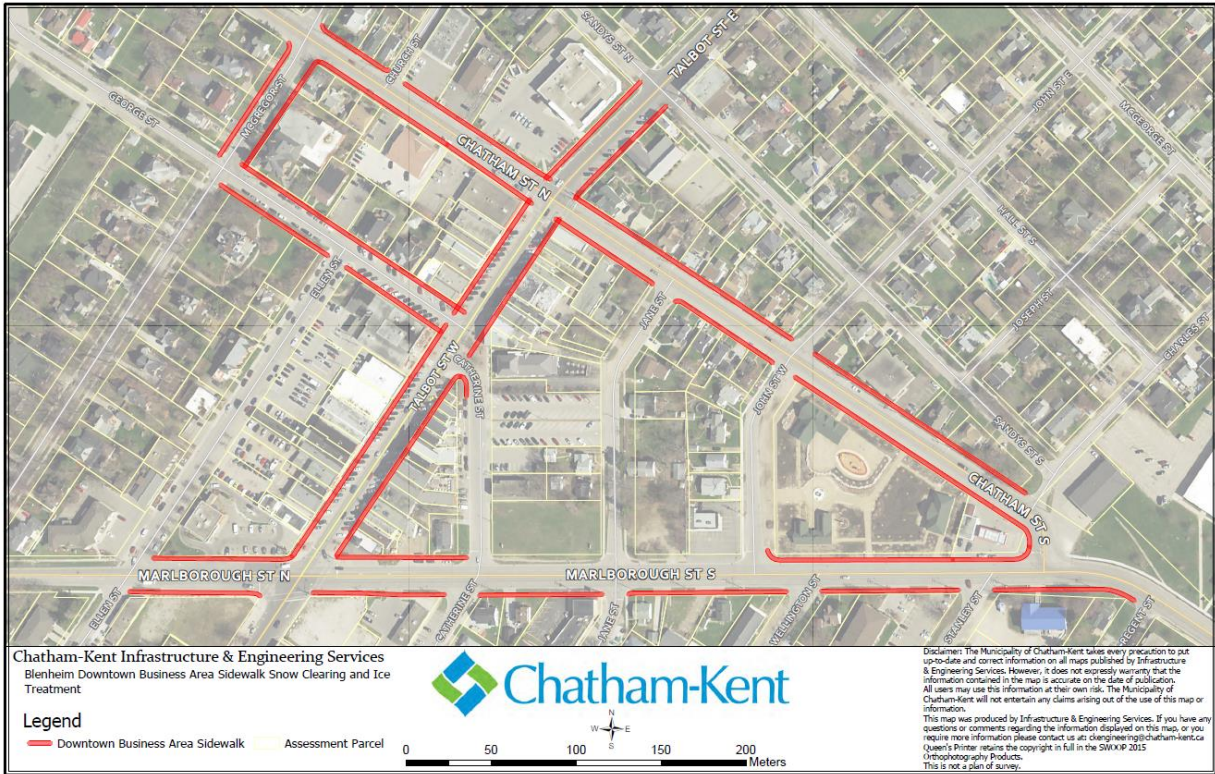
ENACTED AND PASSED this 9th day of December, 2019

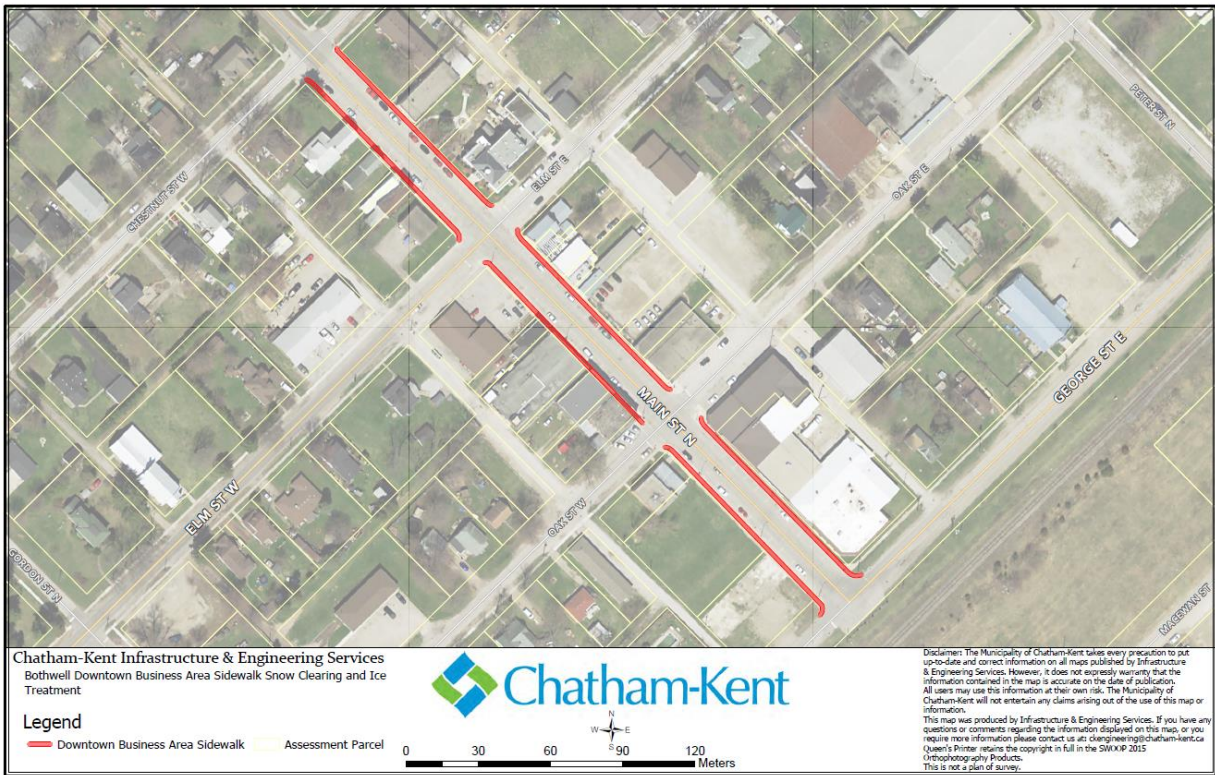
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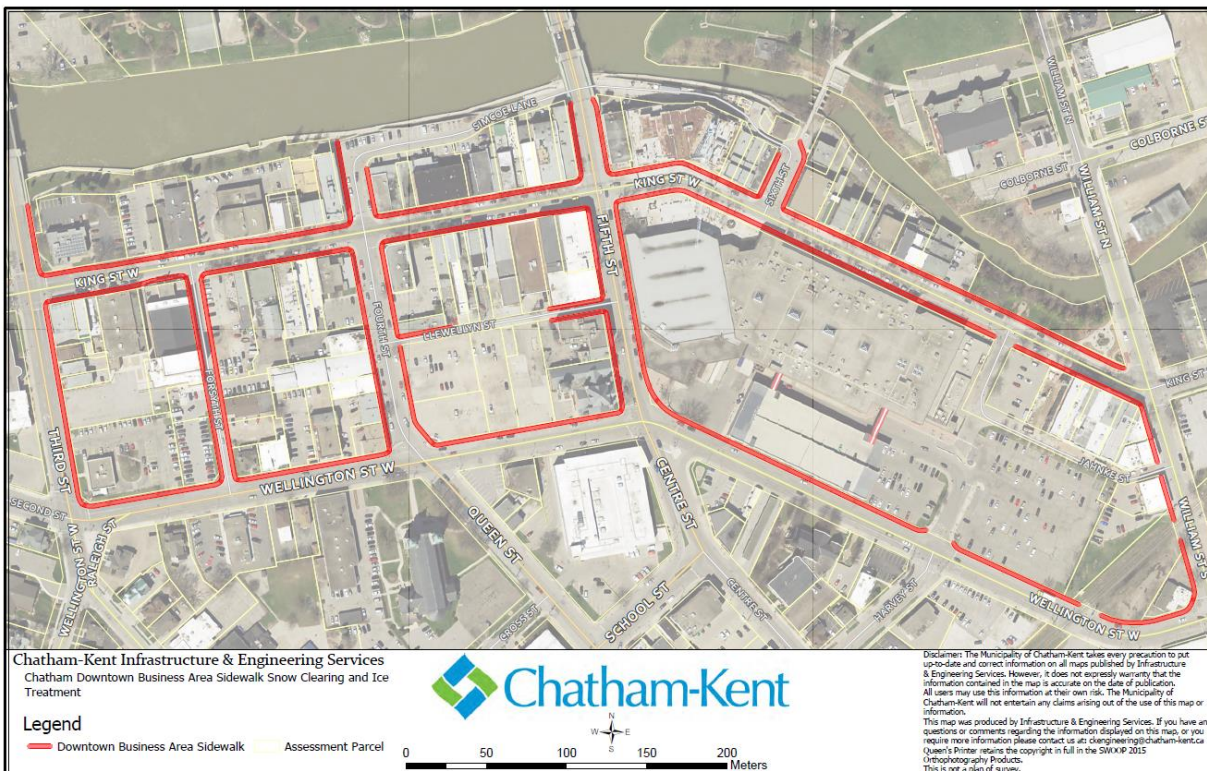
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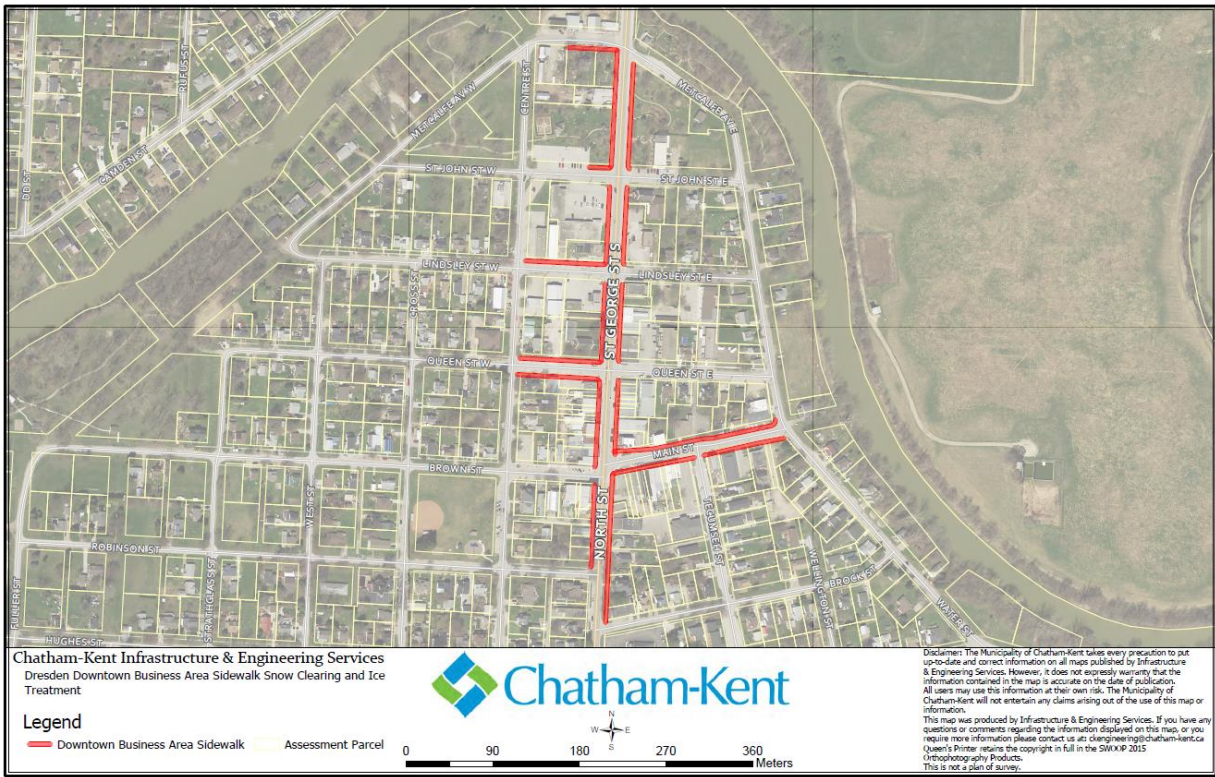
Schedule A

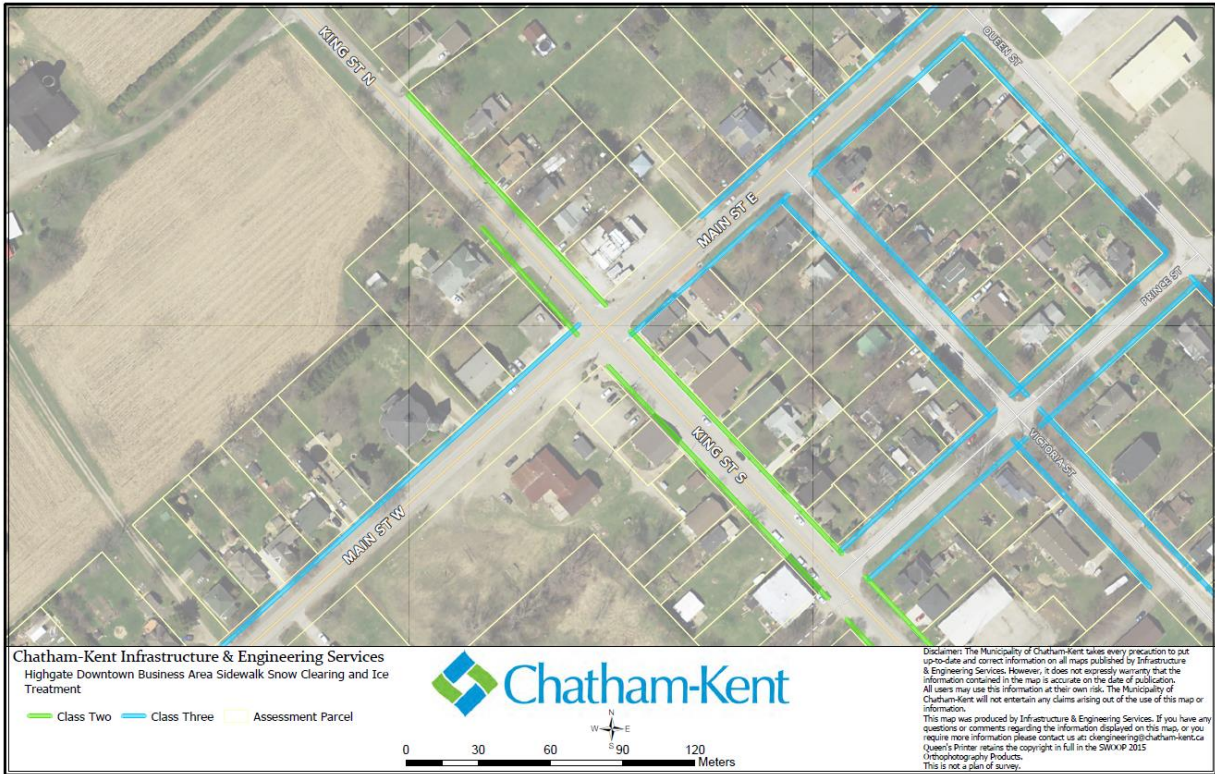
The following Maps show the areas considered "Downtown Business Areas" for the purposes of the Bylaw.

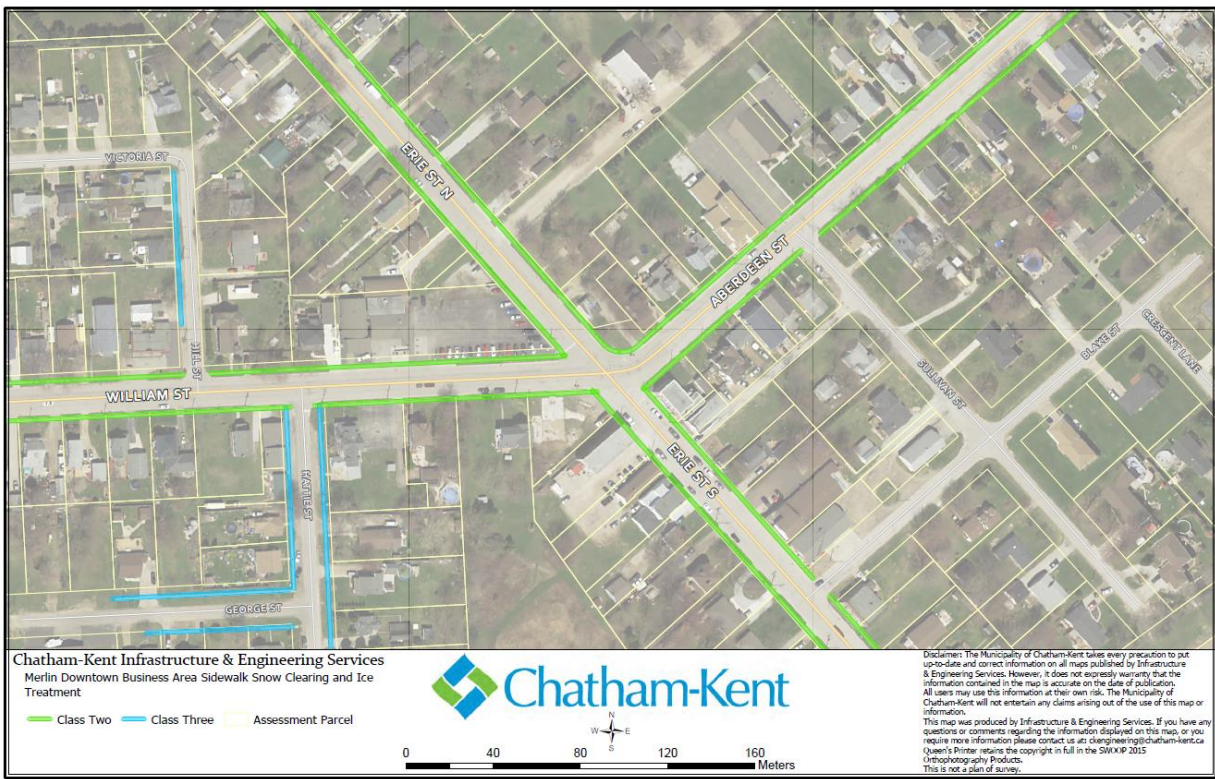


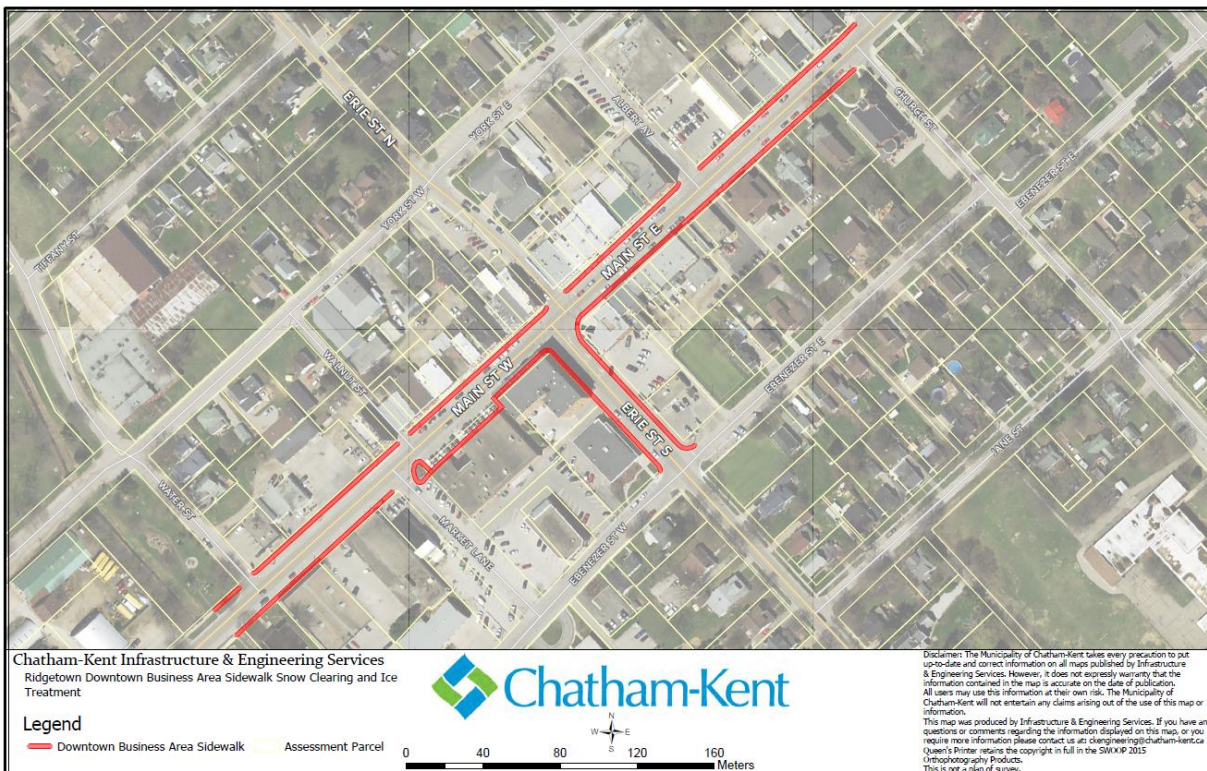


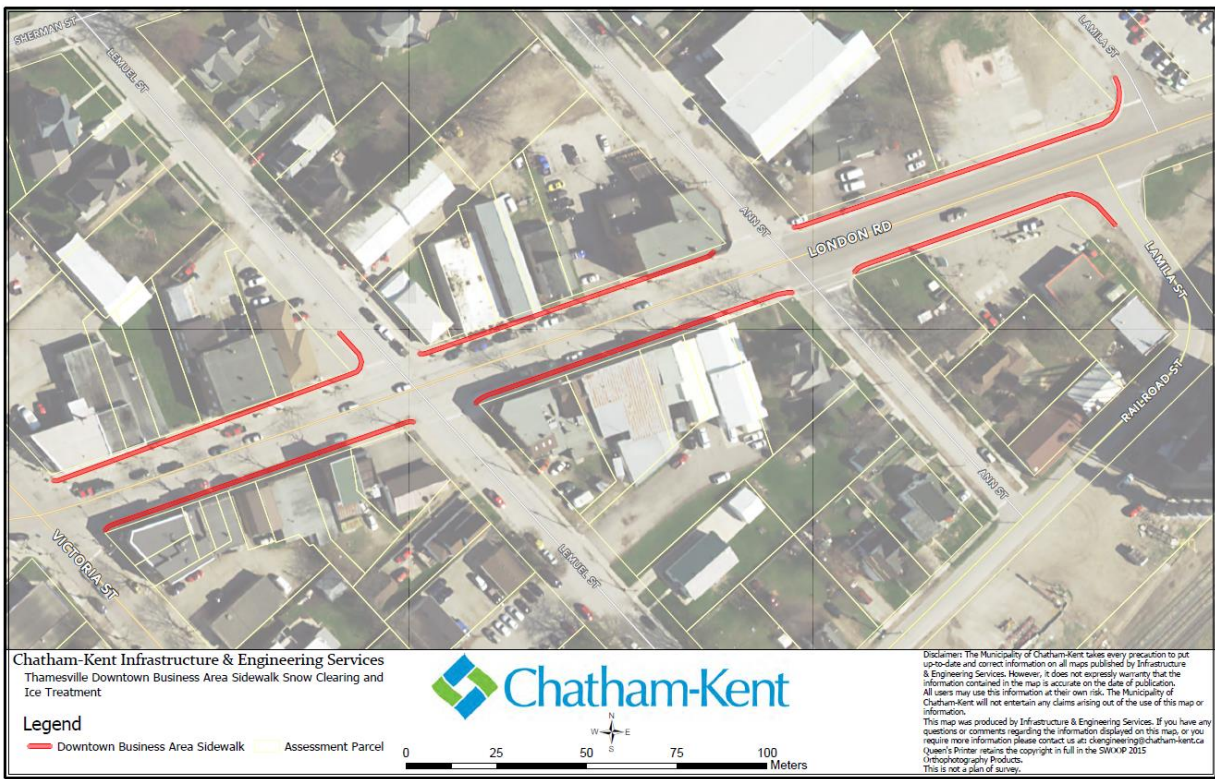


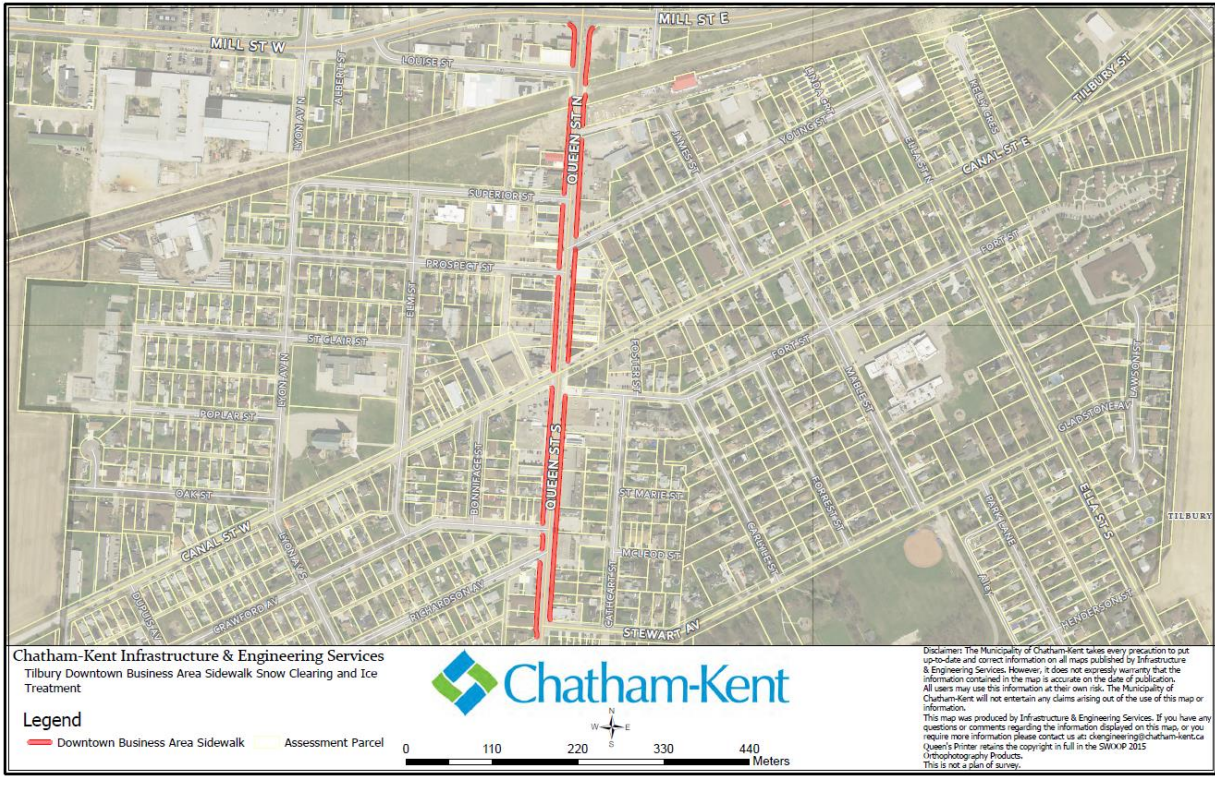


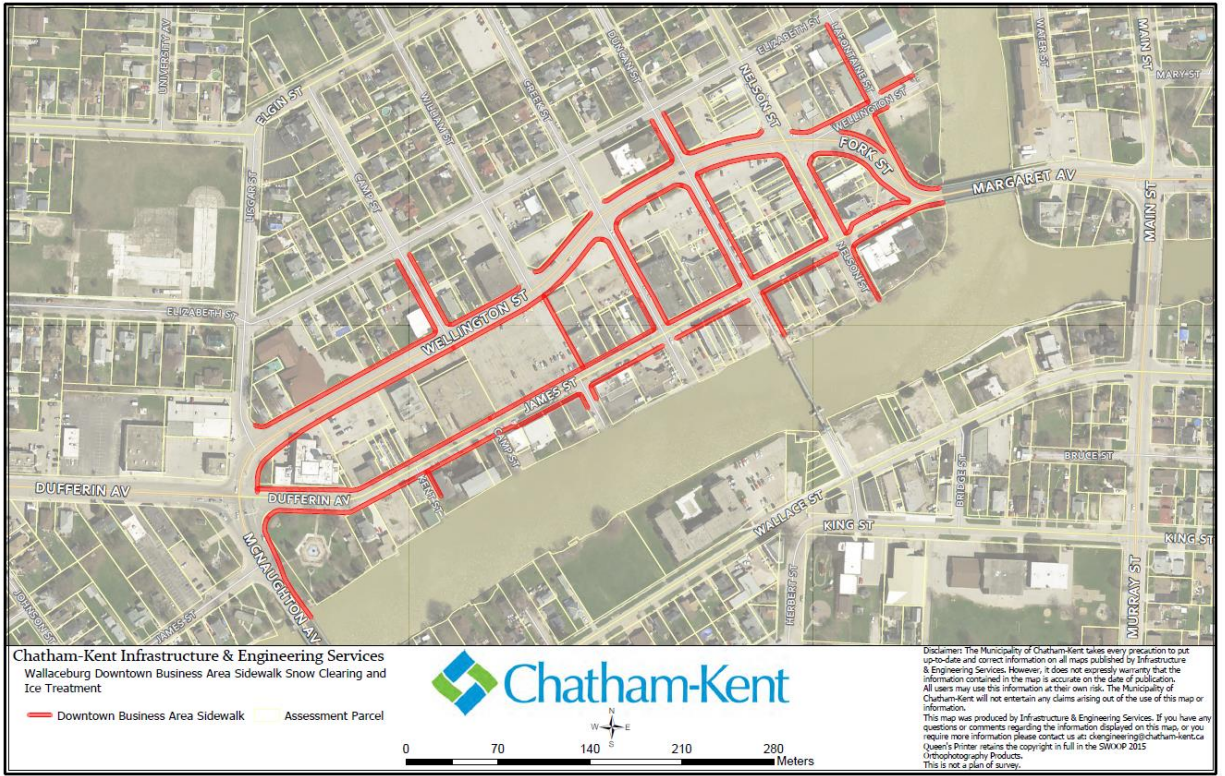


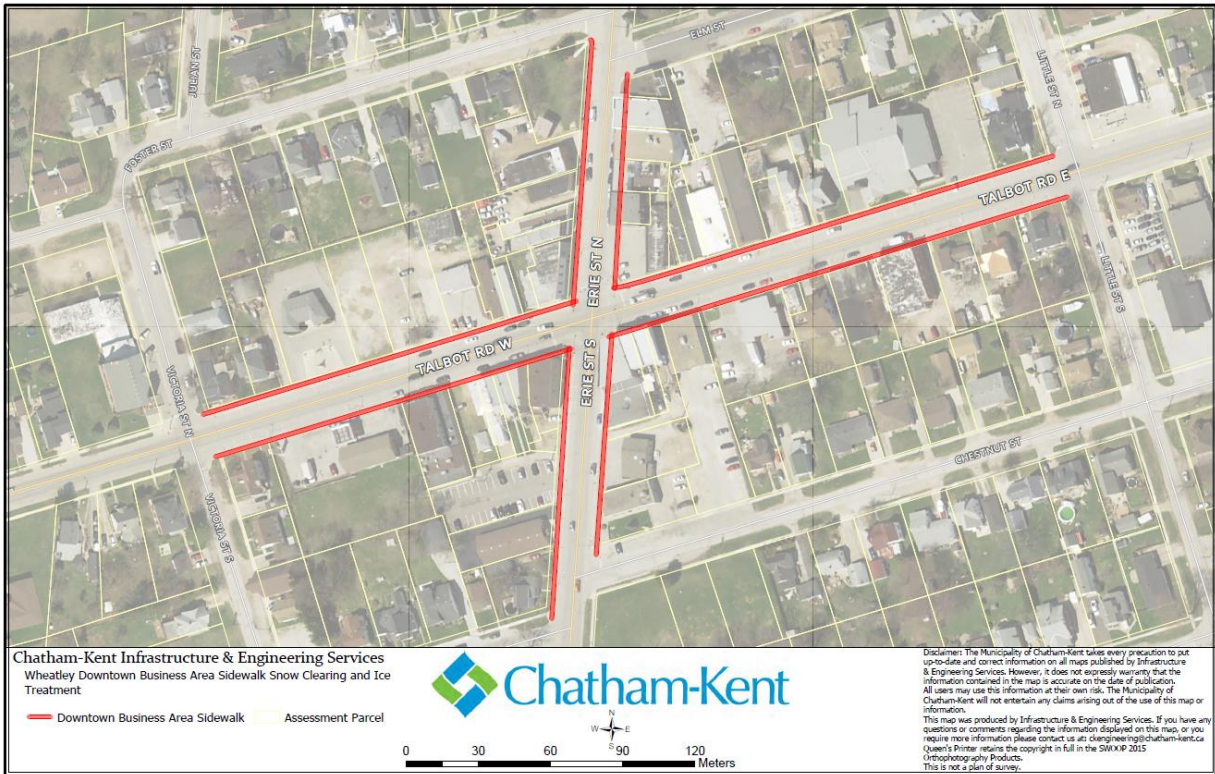












Chatham-Kent Infrastructure & Engineering Services
 Wheatley Downtown Business Area Sidewalk Snow Clearing and Ice Treatment

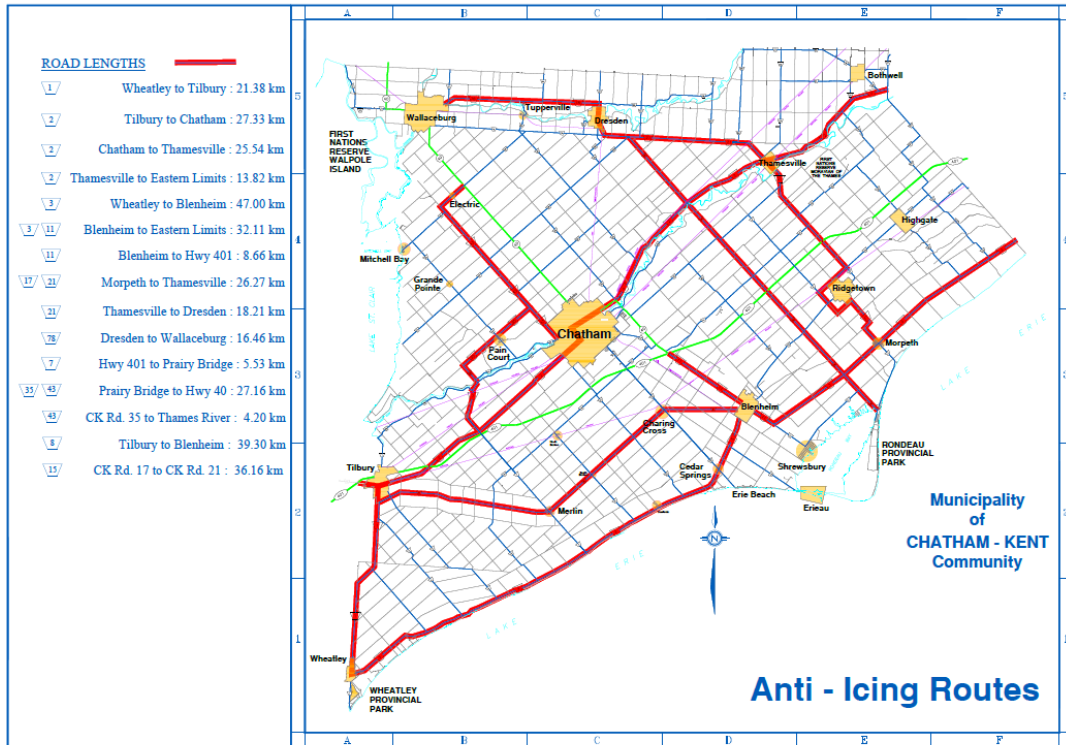
— Downtown Business Area Sidewalk □ Assessment Parcel



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Schedule B

The following roads will be preventatively Treated for ice in accordance with Article 3.2 of the Bylaw.



Schedule C

Highly Unusual and/or Significantly Risky Encroachments

The following are determined by the Corporation to unusual and significantly risky Encroachments:

- Vegetation other than trees and bushes, including decorative plants
- Fences
- Landscape stones, rocks, blocks and bricks (excluding driveway pavers)
- Curbs, walls, posts or poles
- Basketball nets, hockey nets and other similar sporting equipment
- Signs either permanent or temporary that were not installed by the Corporation under the requirements of the Ontario Traffic Manual
- Lawn sprinklers

Schedule D

Not unusual and/or Not Significantly Risky Encroachments

The following could be considered an acceptable Encroachment provided they do not pose a significant hazard to the public. They include but are not limited to:

- Utility poles and guy wires
- Sewer manholes
- Catch basins
- Utility control valves
- Fire hydrants
- Survey bars and Highway monuments
- Signs and posts installed as required by the Ontario Traffic Manual.
- Trees
- Hedges
- Bushes
- Community mailboxes installed by Canada Post Corporation
- Any other Encroachment not listed in Schedule C.

Schedule E

THE CORPORATION OF THE MUNICIPALITY OF CHATHAM-KENT

Part 1 Provincial Offences Act

BY-LAW NUMBER [XX-2019]

A BY-LAW TO PROVIDE FOR WINTER MAINTENANCE

Page 1 of 1

ITEM #	COLUMN 1 Short Form Wording	COLUMN 2 Provision creating or defining offence	COLUMN 3 Set Fine
1	Failure to salt within 24 hours of substantial probability notice	2.2(b)(i)	\$20
2	Failure to salt within 24 hours of ice formation	2.2(b)(ii)	\$20
3	Installation or failure to remove Encroachment	4.2	\$50
4	Deposit Snow or ice on Sidewalk	4.3	\$20

"NOTE: The general penalty provision for the offences listed above is section 8.1 of by-law no __ -2019, a certified copy of which has been filed".