



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Licensing and By-law Services Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 10, 2018
SUBJECT/REPORT NO:	By-law to Prohibit Driving School Instruction in Restricted Areas (PED17179(a)) (Ward 5) (Outstanding Business List Item)
WARD(S) AFFECTED:	Ward 5
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SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the By-law, attached as Appendix "A" to Report PED17179(a), prohibiting Provincially Licensed Driving School Instructors from providing driving lessons on Municipal streets used as DriveTest examination routes within the City of Hamilton, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (b) That the item respecting legislative options and alternatives related to the regulation of driving schools be identified as complete and removed from the Planning Committee Outstanding Business List.

EXECUTIVE SUMMARY

On July 14, 2017, Council approved Planning Committee Report 17-012 Item (g)(i) requesting staff report back to Committee with legislative options and alternatives related to the regulation of driving schools in Hamilton that seeks to address the practise areas utilized by driving schools and individual driving inspectors, and that the information contained in the Report include, but not be limited to, legislation adopted by neighbouring municipalities who have adopted driving school rules and regulations.

Resulting from the research collected in preparation of this Report, staff recommends creating a Driving School Instruction Area By-law prohibiting driving school instructors from operating on the same Provincially-approved streets as the DriveTest exam routes

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and not to regulate the industry further through a Municipal licensing program to avoid duplication of Provincial licensing legislation and duplication of licensing fees.

This approach would provide the most cost-effective way to address the extra vehicular traffic experienced by residents from driving school instructors who practise on the same routes that DriveTest Examiners use.

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FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The installation of signs to identify three Driving School Instructor prohibited zones will be required. The total cost of signs required to facilitate the prohibited driving instruction areas would be approximately \$1,600 and would be paid for from Account No. 59035-817006.

Staffing: Enforcement of the prohibited area can be accomplished with existing staff.

Legal: Pursuant to subsection 27(1) of the *Municipal Act*, 2001, the City has authority to pass by-laws in respect of a highway where it has jurisdiction over the highway.

Pursuant to Sections 8, 9 and 10 of the *Municipal Act*, 2001, the City of Hamilton is authorized to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 6 and 8 of subsection 10(2) authorize by-laws respecting the health, safety and well-being of persons and the protection of persons and property.

HISTORICAL BACKGROUND

On August 9, 2006 Council approved Committee of the Whole Report 06-018, Information Item (i), directing staff to investigate the possibility of licensing driving schools.

On November 28, 2007, Council approved Economic Development and Planning Committee Report 07-020, Item 13, recommending that the Hamilton DriveTest Centre post signage in their location advising that beginner drivers and driving school instructors refrain from using the residential area surrounding the DriveTest Centre for practice on their exam routes. Staff also sent out correspondence to driving schools in the Hamilton area requesting that they refrain from using the residential area surrounding the DriveTest Centre.

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On November 7, 2017, the DriveTest Centre issued the letter advising driving school instructors not to train on the same streets as the exam routes. This was initiated as part of a communication strategy because new Ministry of Transportation (MTO) approved exam routes were introduced and they wanted to remind the driving school industry to refrain from using the same approved exam routes in hopes of mitigating the amount of vehicular traffic in these new areas.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Legal Services, DriveTest Hamilton, Ministry of Transportation – Driver Programs Office, Ministry Approved Driving School Stakeholders, City of Hamilton Traffic Operations – Public Works - and the Ward 5 Councillor were consulted in the preparation of this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Staff engaged with various stakeholders to obtain a complete understanding and overview of the driving school industry which helped staff identify the best course of action to pursue while avoiding over regulation and duplication of Provincial licensing requirements.

Shortly after the DriveTest began operating, via the Ward 5 Councillor, residents have objected to the additional vehicular traffic generated by the facility as well as the driving school instructors it attracts.

Driver examination and testing is conducted in Ontario by a third-party company (Serco Canada Inc.) who are licensed by MTO to operate as DriveTest. Through this License Agreement they are an extension of the MTO and not subject to Municipal regulations. DriveTest Centres have more than 50 locations throughout the Province and the one located in Hamilton is at 370 Kenora Avenue, Hamilton. All Provincially-approved road tests/exams are carried out on neighbourhood streets in the vicinity of the DriveTest Centre.

Through a contractual agreement and operating under the authority of the MTO, DriveTest Centre Examiners are mandated to perform testing on Ministry approved routes. Although the City cannot prevent DriveTest from conducting driver examinations on residential streets, staff can restrict driving school instructors from using certain areas within the City to provide lessons to students.

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The current Provincial licensing program regulates the driving school industry but does not restrict where driving school lessons can occur. The reason for this is because the MTO approved exam routes are changed for operational reasons from time to time and they do not have the resources to ensure only DriveTest examiners use the approved exam routes.

Staff recommends implementing driving school instruction prohibited areas, enacted under the authority of the *Municipal Act, 2001*, that would be enforced by Municipal Law Enforcement (MLE) Officers. The prohibition would apply to Provincially-licensed driving school instructors who use the same routes as the DriveTest examiners while providing instruction to students.

Through consultations with various municipalities, staff believe this to be the most appropriate course of action and would achieve a positive result for residents with little to no negative impact on the driving school industry. This approach was also supported by the various groups consulted, including the Ward 5 Councillor.

In consultation with Hamilton DriveTest staff, the residential streets contained within the three proposed restricted areas as outlined in Appendix "A" to this Report would capture the majority of examination test routes.

Under this Recommendation, the City would create restricted areas where driving school instructors would be prohibited from operating except where the instructor is picking up and/or dropping off a student who lives within the defined restricted area. It is important to note that the proposed By-law would not impact a resident from using the street within the restricted area for providing driving instruction, provided such instruction is not carried out as a commercial enterprise.

Staff recommends that the By-law come into force and effect on the date of passage but will provide a grace period of two months for public education followed by re-active enforcement strategy for By-law contraventions. This option will require the installation of regulatory signs in residential areas advising that driving school instruction is prohibited.

ALTERNATIVES FOR CONSIDERATION

A licensing program that includes the licensing of driving schools, driving school instructors and the vehicles used by the instructors or any combination thereof, would require amendments to the Licensing By-law 07-170, additional administrative staff, additional enforcement staff, and additional equipment and vehicles. To be full cost recovery, a licensing fee would be applied to the chosen licensing program.

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If Council opted for a licensing program, staff would recommend the inclusion of a restricted area within the licensing schedule where driving instructors would be prohibited from operating.

This alternative is not recommended because it duplicates the existing Provincial regulations. It causes undue financial hardships and place additional burdens on the driving school industry to comply with additional Municipal regulations and inspections.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A”: Proposed By-law to Prohibit Driving School Instructing in the Restricted Areas

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