



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 9, 2019
SUBJECT/REPORT NO:	Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5)
WARD(S) AFFECTED:	Wards 4 and 5
PREPARED BY:	Luis Ferreira (905) 546-2424 Ext. 3087
SUBMITTED BY: SIGNATURE:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SUBMITTED BY: SIGNATURE:	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department

RECOMMENDATION(S)

- (a) That the amending By-law attached as Appendix "A" to Report PED17179(c), being a By-law to amend By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas be enacted by Council;
- (b) That the Administrative Penalty System (APS) By-law 17-225 be amended to include By-law 18-199 as Table 19 to Schedule A as shown in Appendix "B" to Report PED17179(c) be enacted by Council.

SUBJECT: Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5) - Page 2 of 4

EXECUTIVE SUMMARY

Since the passing of By-law 18-199, the By-law to prohibit driving school instructing in the restricted areas, staff have reviewed the current map and wish to repeal and replace it with a more detailed and accurate one. In addition to the more detailed map, staff is also requesting that the APS By-law 17-225 be amended to include contraventions of By-law 18-199 as Table 19 to Schedule A.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The set penalties are consistent to the guiding principles of the APS which is not meant to be punitive in nature but rather encourage compliance and cost recovery.

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 section 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 July 13, 2018, Council enacted By-law 18-199 which was created to prohibit driving school instructing on the same streets that have been designated and approved as DriveTest exam routes by the Ministry of Transportation.

At its meeting of September 27, 2017, Council approved Planning Committee Report 17-015 directing staff to implement APS to by-laws enforced by Animal Services, Licensing and all other applicable municipal by-laws.

SUBJECT: Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5) - Page 3 of 4

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The APS By-law 17-225 will be amended to include the Driving School Instructing in Restricted Areas By-law 18-199 as Table 19 in Schedule A

RELEVANT CONSULTATION

N/A

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

Recommendation (a)

Since the passing of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas, staff have reviewed Appendix “1” (restricted areas map) and wish to repeal and replace it with a more accurate and complete map as prescribed in Appendix “A” of Report PED17179(c). The new map identifies the nine subdivisions inclusive of all streets, identified in Appendix “2” of By-law 18-199, used by the DriveTest Centre to conduct Ministry approved road exams. This map is superior to the previous one and will aid staff with enforcement, the Driving School Operators and Instructors with clear depictions of prohibited zones to avoid contraventions and citizens who wish to educate and report violations.

Recommendation (b)

The APS By-law was first introduced in 2015 and currently holds 18 schedules. These schedules address vehicular parking violations, by-laws enforced by Animal Services, Licensing and By-law Services. Staff are now ready to include By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas as Table 19 to Schedule A of the APS By-law 17-225.

Applying an Administrative Penalty Notice (APN) to contraventions of By-law 18-199 will provide enforcement staff the tool necessary to address minor violations and encourage compliance in a form that is reasonable and non-punitive in nature. More serious offences will still be addressed through the issuance of a Part III summons and disputed through the Provincial Courts.

APS provides a better customer experience with regards to the dispute resolution process of APNs through a quasi-judicial proceeding with a Hearing Officer having final and binding authority over the matter and not subject to judicial review.

SUBJECT: Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5) - Page 4 of 4

The *Municipal Act, 2001*, authorizes the use of APS for designated by-laws. The City of Hamilton's APS By-law has been written as such to allow for inclusion of other Municipal By-laws. Staff is seeking approval to include By-law 18-199 as Table 19 to Schedule A of the APS By-law.

This complies with Council's direction to expand the APS process to by-laws enacted under the *Municipal Act, 2001*.

ALTERNATIVES FOR CONSIDERATION

N/A

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": Amending By-law to Appendix "1" of By-law 18-199, being the By-law to prohibit Driving School Instructing in Restricted Areas

Appendix "B": Amending By-law adding Table 19 to Schedule A of By-law 17-225, being a By-law to Establish a System of Administrative Penalties

KL:BH:st