



Corporation of the Town of Newmarket

By-law Number 2017-32

A By-law to Prohibit Driving Instructors and Driving Schools to Operate in the Restricted Area.

Whereas pursuant to subsection 11(3), of the Municipal Act, 2001, S.O. 2001, c. 25, highways, including traffic on highways, is a sphere of jurisdiction assigned to an upper-tier municipality non-exclusively and therefore, both the upper-tier municipality and its lower-tier municipalities have the power to pass by-laws under that sphere or part; and

Whereas pursuant to subsection 27 (1) of the Municipal Act, 2001, S.O. 2001, c. 25, a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway;

Whereas the Council of the Corporation of the Town of Newmarket deems it advisable to pass such a by-law;

Therefore be it enacted by the Municipal Council of the Corporation of the Town of Newmarket as follows:

Section 1 - Definitions

1.1 In this By-law:

“Authorized Sign” means any sign, pavement marking or other device which has been placed, installed or erected on a Highway under authority of this by-law to designate, regulate and/or enforce the provisions of this By-law;

“Council” means Council of the Corporation of the Town of Newmarket;

“Director” means the Director of Legislative Services of the Town or authorized designate;

“Driving Instructor” means a Person who for compensation teaches others to drive a Motor Vehicle (in a vehicle) as a Driving Instructor and who is employed or self-employed in the business of teaching Persons to operate a Motor Vehicle and duly qualified, licensed or registered under the laws of the Province of Ontario;

“Driving School” means a Driving School which holds a Driving School licence issued by the Ontario Ministry of Transportation;

“Driving School Motor Vehicle” means a Motor Vehicle that is being used by a Driving School Instructor for the purpose of teaching a Person to operate a Motor Vehicle;

“Highway” means 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 lines thereof;

“Motor Vehicle” means an automobile, motorcycle, motor assisted bicycle, unless otherwise indicated in the *Highway Traffic Act*, and any other vehicle propelled or driven otherwise than by muscular power, but does not include a street car, or other Motor Vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine;

“Officer” means a Police Officer or Person designated under the *Provincial Offences Act*;

“Person” means an individual, business, firm, body corporate, corporation, association, or municipality;

“Restricted Area” means the area on Highway used by Drive Test employees for conducting driving tests as contained in Schedule “A” of this By-law; and

“Town” means the Corporation of Town of Newmarket.

Section 2 - Restrictions

- 2.1 No *Driving School* Instructor shall operate or permit the operation of a *Driving School Motor Vehicle* on any *Highway* within the area marked “*Restricted Area*” in Schedule “A” to this By-law.
- 2.2 No *Driving School* Operator shall cause or permit the operation of a *Driving School Motor Vehicle* on any *Highway* within the area marked “*Restricted Area*” in Schedule “A” to this By-law.
- 2.3 Notwithstanding 2.1 and 2.2 a *Driving School Motor Vehicle* may be operated within the area marked “*Restricted Area*” in Schedule “A” provided that:
 - (1) The *Driving Instructor* is picking up and dropping off a student residing in the “*Restricted Area*” for the purpose of giving driving instruction, or;
 - (2) When a *Driving Instructor* is picking up or dropping off a student from a Secondary School located in the “*Restricted Area*.”

Section 3 - Enforcement and Administration

- 3.1 An Officer is hereby vested with the authority to administer and enforce the provisions of this By-law.
- 3.2 The *Director* is hereby authorized to place, erect and maintain such *Authorized Signs* as may be necessary to give effect to the provisions of this By-law or which are authorized by the schedule to this By-law.

Section 4 - Penalty

- 4.1 Every *Person* who contravenes a provision of this By-law is guilty of an offence.
- 4.2 Every *Person* upon conviction of an offence is liable to a fine as provided for under *the Provincial Offences Act*, of not more than \$5000.00, exclusive of costs.

Section 5 - Severability

- 5.1 Where a Court of competent jurisdiction declares any section or part of a section of this By-law invalid, the remainder of this By-law shall continue in force unless the Court makes an order to the contrary.
- 5.2 Where the provisions of this By-law conflict with the provisions of any other by-law, the more restrictive provisions shall apply.

Section 6 - Short Title

- 6.1 This By-law may be referred to as the “Restricted Area for Driving Instructors and Driving Schools By-law”.

Section 7 - Effective Date

- 7.1 By Law Number 2017- 32 shall come into force and effect upon its adoption.

Enacted this 6th day of June, 2017.

Tony Van Bynen, Mayor

Lisa Lyons, Town Clerk