



TOWN OF NEWMARKET
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April 27, 2017

CORPORATE SERVICES REPORT – LEGISLATIVE SERVICES 2017-07

TO: Committee of the Whole
SUBJECT: Restricted Area for Driving Schools and Instructors
ORIGIN: Licensing Officer

RECOMMENDATIONS

- 1) That Corporate Services Report – Legislative Services 2017-07 dated April 27, 2017 regarding “Restricted Area for Driving Schools and Instructors” be received; and,
- 2) That Council provide direction regarding the Options contained in this report.

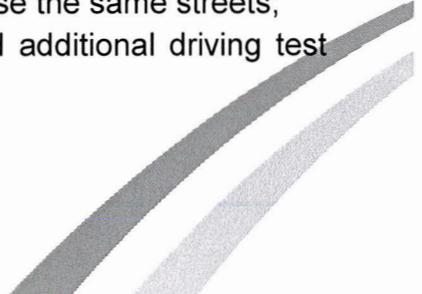
COMMENTS

Background and Discussion

In August 2016, Report 2016-17 (attached as **Appendix “A”**) was presented to Council regarding the potential regulation of driving school instructors in the Town of Newmarket. Council directed staff to host a Public Information Centre to seek Council, public and industry input. This Report came forward in response to complaints from Newmarket residents who were experiencing increased traffic on residential streets. The traffic increase was a result of the DriveTest Centre, being relocated to 320 Harry Walker Parkway from the Town of Aurora.

Public Information Centre

On December 6th, 2016 a Public Information Centre was held and staff presented information on the Town’s authority to:

- create a “Restricted Area” so that driving instructors cannot use the same streets;
 - request that DriveTest/Ministry of Transportation (MTO) add additional driving test routes to alleviate traffic on streets used for driving tests;
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- create regulations for Driving School Instructors to decrease the number of additional vehicles using the test route streets on a daily basis;
- inquire with the MTO about future plans to develop another DriveTest Centre location in York Region.

Staff also advised residents that the Town does not have jurisdiction to:

- impose changes to the DriveTest Exam routes, or require DriveTest examiners to use different streets when conducting driving tests;
- impose restrictions on where and when DriveTest can operate;
- move the DriveTest Centre to another location or municipality.

In attendance were Driving School Instructors, staff from the local Member of Provincial Parliament's (MPP) Office and DriveTest Centre.

Residents and driving school instructors supported a "Restricted Area" by-law and would like it to be in effect at all times not just during DriveTest business hours, and that the driving school instructors be permitted in the Restricted Area when picking up or dropping off students who reside in that area. Staff distributed letters, information packages and feedback forms to numerous driving school businesses in Newmarket and York Region.

Further Consultation Meetings

In December 2016 and January 2017 Town staff, residents, driving instructors and DriveTest management attended meetings at MPP Chris Ballard's Office. Residents expressed their concerns and raised questions which were directed to the MTO, including:

- test route locations;
- route requirements (such as distance, time of test and qualifications for test route streets);
- number of DriveTest Centre's in York Region;
- Driving Instructor/School/Vehicle certification by the MTO;
- use of non-residential roads for testing.

The MTO has advised that they have no current plans for an additional DriveTest Centre elsewhere in York Region but has indicated that routes may be amended if there are safety concerns. The Ministry also indicated that it is a requirement for tests to take place on residential streets.

Information was also gathered from several municipalities throughout the Greater Toronto Area with DriveTest Centre's in their areas. These municipalities have faced similar challenges with traffic on residential streets in close proximity to the DriveTest Centre.

The City of Burlington recently passed a similar By-law to the one proposed in this report, as Option One. This includes a “Restricted Area” that prohibits driving instruction in the area for the purpose of decreasing traffic on the streets identified as driving test route streets.

Actions To Date

The DriveTest Centre has implemented a process to evenly distribute driving tests between each of the test routes within the designated area. Even distribution among the test routes should decrease the level of traffic to approximately 25% of the experienced traffic levels in each area. Previously a disproportionate number of DriveTest examiners were using the same route which resulted in an increased level of traffic on specific streets along that route.

The DriveTest Centre has also issued warning letters to Driving School businesses, indicating that Driving Instructors are not permitted on the streets used by DriveTest for driving exams (see **Appendix “B”**). Should Driving Schools/Instructors not abide by this warning, DriveTest can ban the instructor from using the DriveTest Centre for 30 days. This warning and potential ban is an effective method of deterrence and enforcement should Driving Schools or Instructors continue to over use the test routes streets.

Staff conducted traffic studies in February and March to determine if the changes made by DriveTest (assigning test routes to examiners and sending formal warning letters to driving schools) have impacted the traffic levels. Parking officers observed various streets in the proposed Restricted Area for one hour time periods ranging from morning (9:00 AM) to evening (8:30 PM) on weekdays and various times throughout the day on Saturday and Sunday. On streets with observations, the average number of vehicles observed was two (including unmarked vehicles and driving school vehicles) per hour.

However, the majority of logs indicated that officers did not observe any vehicles practicing driving maneuvers on the street during the hour they were present. Twelve out of the twenty-one logs indicated that no vehicles were observed practicing driving maneuvers during the various hour time periods. The highest number of vehicles observed per hour was five, from 3:00 PM to 4:00 PM on a weekday.

Options

Option 1 - Restricted Area By-law

Implement a “Restricted Area By-Law”. This By-law would prohibit driving instruction in the restricted area, which would encompass the DriveTest Driving exam routes. See **Appendix “C”** for a map of the proposed Restricted Area.

- Staff will undertake a communication and education program for driving schools and instructors regarding the “Restricted Area”;
- Signs will be posted on the streets in the proposed Restricted Area.

Option 2 – No Regulation

The DriveTest Centre is governed by Provincial Regulations, the concerns with respect to the DriveTest Centre be directed to the MTO or DriveTest Centre Management.

The Ministry of Transportation certifies driving schools and driving instructors with the following requirements:

- Holds a valid Ontario driver's licence (other than class G1, G2, M1, M2, or M(L);
- Be 18 years of age or older;
- Have no demerit points on their driver's record;
- Pass a terminal check at the DriveTest Centre to ensure they meet licensing requirements;
- Meet MTO vision standards;
- Pass a G1 knowledge test (there is a one-year wait period following two unsuccessful attempts);
- Pass a Class G road (highway) test (there is a one-year wait period following two unsuccessful attempts);
- Pass a vulnerable sector check;
- Complete a MTO-approved driving instructor's course.

Staff does not recommend licensing driving schools and instructors as the licence requirements would be very similar to the MTO and would be a change in the level of service currently provided, resulting in budget impacts (as outlined in Report 2016-17, attached as **Appendix "A"**).

Next Steps

Should Council approve Option 1 "Restricted Area By-Law" (attached as **Appendix "D"**):

- A By-law will be brought to the June 6th, 2017 Council meeting with Notice given;
- Staff will undertake a communication and education program for Driving Schools and Driving Instructors, including brochures, create content for Town's website and social media posts;
- Place signs in the perimeter of the "Restricted Area" to indicate that driving instruction is prohibited in the area;
- Enforcement would take the form of enforcement blitzes in the "Restricted Area" and complaint-based responses.

Should Council approve Option 2:

- Staff will continue to monitor complaints and communicate with DriveTest Centre.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

This report relates to the “Well Equipped and Managed” link of the Town’s community vision implementing policy and processes that reflect sound, accountable governance.

CONSULTATION

Staff consulted with and reviewed the input of a sample of driving schools operating in Newmarket, affected residents, the Ministry of Transportation, the MPPs office, and other municipalities in the preparation of this report.

HUMAN RESOURCE CONSIDERATIONS

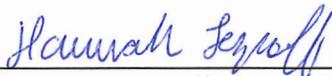
Communications, education, administration and enforcement activities associated with the “Restricted Area By-Law” are accommodated within existing staff levels.

BUDGET IMPACT

The costs, including education and enforcement will be accommodated with the 2017 budget and existing staff levels. The cost for signs is approximately \$50.00 per sign.

CONTACT

For more information on this report, please contact Florence DiPassio, Licensing Officer at fdipassio@newmarket.ca, or at 905 953-5300, ext. 2206.



Hannah Leznoff, Council Committee Coordinator



Florence DiPassio, Licensing Officer



Lisa Lyons, Director, Legislative Services/Town Clerk



Esther Armchuk, Commissioner of Corporate Services

August 12, 2016

**CORPORATE SERVICES REPORT –
LEGISLATIVE SERVICES 2016-17**

TO: Committee of the Whole

SUBJECT: Potential Regulation of Driving School Instructors Operating in the
Town of Newmarket

ORIGIN: Director, Legislative Services/Town Clerk & Supervisor, By-law
Enforcement

RECOMMENDATIONS

a) THAT Corporate Services Report – Legislative Services 2016-17 dated August 12, 2016 regarding “Potential Regulation of Driving School Instructors Operating in the Town of Newmarket” be received and the following recommendations be adopted:

1. THAT staff host a Public Information Centre (PIC) in November, 2016 to seek public and industry input on the potential regulation of driving school instructors operating in the Town of Newmarket;
2. AND THAT staff continue to work with the Ontario Ministry of Transportation (MTO) and driving school instructors operating in the Town of Newmarket to mitigate traffic and perceived safety concerns raised by residents;
3. AND THAT staff bring back a report in the first quarter of 2017 regarding the potential regulation of driving school instructors operating in the Town of Newmarket.

Corporate Services Department

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COMMENTS

Background

Currently, the Town does not license or otherwise regulate driving schools or driving school instructors.

With the introduction of the MTO DriveTest Centre on Harry Walker Parkway, the Town has received complaints from residents about increased traffic and perceived driving/property safety concerns as a result of MTO DriveTest Centre driving examiners and driving school instructors using the same residential streets on a regular basis (see map in Appendix "A"). At its June 7, 2016 meeting, Council requested staff review potential regulatory options to address the complaints.

- The MTO pre-approves and pre-designates the Drive Test examination routes to ensure consistent and fair testing practices.
- To staff's knowledge, several driving schools operating in the Town of Newmarket for training and to attend the MTO DriveTest Centre, which test students from across the GTA (no restriction on residence exists). There are approximately five (5) driving schools which operate directly out of Newmarket.
- The examination routes include residential areas used by drivers to demonstrate specific maneuvers such as parallel parking, 3-point turns and various stops. Testing normally occurs Monday through Friday between 8:30 a.m. and 5:00 p.m.
- According to information provided by the MTO, the designated routes generally within the boundaries of Wards 2 and 3. MTO has indicated that the precise routes are normally kept confidential to the public.
- With the assistance of MPP Chris Ballard's office, the MTO has agreed to additional examination routes will be added, which should assist to relieve disruption to residents in Wards 2 and 3.
- Staff can identify up to 10 resident complaints associated with the introduction of the MTO DriveTest Centre (additional complaints may have been brought directly to the attention of Members of Council).
- Driving school instructors and their vehicles are regulated by the MTO for the purpose of ensuring consistent instruction methods and the safety of students being trained. In order to effectively regulate and enforce where

driving schools are operating in the Town of Newmarket, municipal regulation of driving school instructors would be most appropriate.

- Staff feel it is important to strike a balance between mitigating disruption to residents as a result of driving school instructors using the same residential streets on a regular basis with a social obligation to ensure new drivers receive adequate training to become safe drivers in their community.
- Like any new regulation, it is important to ensure broad public and industry feedback has been taken into consideration before regulations are enacted. A “level playing field” for all driving school instructors must be established in order to demonstrate fairness.

Regulation of Driving School Instructors Operating in the Town of Newmarket

The Town may regulate driving school instructors operating in the Town of Newmarket to restrict their use of any designated MTO DriveTest route, as approved from time to time. This restriction must exclude driving school instructors using the route on their own and when driving students to and from the MTO DriveTest Centre. Driving school vehicles would be used during testing itself by uniformed MTO DriveTest staff. The Town may also consider excluding the use of designated MTO DriveTest routes by driving school instructors during non-testing hours to ensure students have practice prior to their test.

It would be impractical to regulate training routes used throughout the Town by driving school instructors; however, staff can continue to work collaboratively with driving schools to encourage spreading training routes throughout the municipality at varying times.

Driving school instructors operating outside the terms of approved regulations can be subject to a fine (to be determined, up to \$1,000.00). Following a period of industry education on regulatory requirements, enforcement would take the form of licensing inspections by parking officers at the MTO DriveTest Centre, enforcement blitzes in MTO testing routes and complaint-based responses. Staff will explore the potential for technology to assist with complaints – online reporting, for example.

In addition to enforcement, signage can be placed in test route areas to reinforce regulations, provided test routes do not regularly change or expand, in which case signage becomes ineffective and unsightly.

Pros

- ✓ Where driving school instructors comply with regulations, addresses resident concerns in MTO DriveTest Centre vicinity;

- ✓ Should the regulations exclude use of test routes during non-testing hours, allows students to practice in advance of their test; and,
- ✓ Test routes will only be used by uniformed MTO DriveTest staff during testing hours, reducing traffic and perceived safety concerns.

Cons

- ✓ Municipal regulatory fees associated with licensing will be required, which may be onerous for some driving school instructors;
- ✓ Municipal regulatory fees may be passed on to students;
- ✓ If a driving test instructor relies heavily on training students in MTO DriveTest routes, regulations may have effect of creating similar resident complaints in other Wards associated with additional traffic and perceived driving/property safety concerns;
- ✓ New level of service required to be accommodated by Town's enforcement team; and,
- ✓ Effectiveness and precise costs of regulations, enforcement model and signage is unknown and will need to be evaluated.

Regulation of MTO DriveTest routes occurs in Aurora (MTO DriveTest Centre currently closed), Brampton, Guelph, Mississauga and Oakville with success.

Many municipalities where MTO DriveTest Centres are located do not regulate driving schools and instead encourage driving schools to spread training routes throughout their municipality at varying times and limit the use of approved MTO DriveTest route throughout operating hours to mitigate disruption to residents, wherever practical. This model may be possible, but is dependent on the willingness of driving school instructors to comply and lacks any authority for municipal enforcement.

Next Steps

Staff will:

- ✓ Meet with MTO and confirm current and planned test routes;
- ✓ Draft regulations for input from the industry and public at a PIC to be held November, 2016;
- ✓ Bring back a report in the first quarter of 2017 regarding the potential regulation of driving school instructors operating in the Town of Newmarket. The timeframe was established based on existing Legislative Services priorities, including the Ward 5 By-election. An Information Report will be issued outlining a revised timeframe for the review of existing and proposed regulations; and,

- ✓ Continue to work with the Ontario Ministry of Transportation (MTO) and driving school instructors operating in the Town of Newmarket to mitigate traffic and perceived safety concerns raised by residents.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

This report relates to the “Well Equipped and Managed” link of the Town’s community vision implementing policy and processes that reflect sound, accountable governance.

CONSULTATION

Staff consulted with and reviewed the input of a sample of driving schools operating in Newmarket, affected residents, the MTO and other municipalities in the preparation of this report.

HUMAN RESOURCE CONSIDERATIONS & BUDGET IMPACT

Regulation of driving school instructors will create a new level of service to be delivered by the enforcement team.

In terms of administration of the regulations, application forms, information pamphlets/website content would need to be developed and correspondence and in-person appointments with driving school instructors would need to be coordinated over the course of several weeks. The Town has the option of implementing a multi-year licence (similar to what was recently introduced under the Taxi Cab Licensing By-law), which may reduce the burden on the Town and the industry.

In terms of enforcement of regulations, as indicated, following a period of industry education on regulatory requirements, enforcement would take the form of licensing inspections by parking officers at the MTO DriveTest Centre (monthly, up to ½ day), enforcement blitzes in MTO testing routes (monthly, up to ½ day initially then quarterly, depending on compliance rate) and complaint-based responses. Staff have submitted a request for consideration of one (1) new enforcement officer as part of the 2017 budget process which may assist to support new administrative and enforcement requirements, should the regime be approved. Staff will explore the potential for technology to assist with complaints – online reporting, for example.

Prior to the PIC, more information will be gathered to assess reasonable regulatory fees and requirements based on the scope of work required to administer and enforce the regime, in consultation with the industry and affected

residents. The framework staff is considering is to keep administrative (licensing) fees reflective of cost recovery and fines high with the intent to focus on correcting non-compliant instructors' behavior.

CONTACT

For more information on this report, please contact Lesley Long, Supervisor of By-law Enforcement at llong@newmarket.ca, or at 905 953-5300, ext. 2222.

Lesley Long, Supervisor of Bylaw Enforcement

Andrew Brouwer, Director, Legislative Services/Town Clerk

Esther Armchuk, Commissioner of Corporate Services

Appendix “B” – DriveTest Centre Warning Letter



NOTICE TO ALL DRIVING SCHOOL OPERATORS AND DRIVING INSTRUCTORS



Use of residential streets in the area surrounding the Newmarket DriveTest Centre;

There is a noticeable increase in the number of driving instructors practicing driving with students during business hours on residential streets in the area surrounding our DriveTest Centre at 320 Harry Walker Parkway South in the town of Newmarket.

Local residents have expressed concerns with the increased volume of traffic using their residential streets to practice driving, many of which are the residential streets we conduct our road tests. At times our driver examiners have experienced delays while conducting road tests due to driving instructors practicing driving with students on portions of our test routes.

Local residents continue to file complaints with DriveTest, The Town of Newmarket, and the Ministry of Transportation regarding this matter.

Use of the parking lot at the Newmarket DriveTest Centre;

The Newmarket DriveTest Centre parking lot located at 320 Harry Walker Parkway South in the town of Newmarket is available to DriveTest customers Monday to Friday during normal business hours.

Driving School Operators and Driving Instructors are restricted from using the parking lot to provide driving instruction during or outside our normal business hours including evenings, weekends, and holidays. At times our driver examiners have experienced delays while conducting road tests due to driving instructors practicing driving with students in our parking lot.

.....
DriveTest requests your cooperation in refraining from providing driving instruction/practicing driving with students on the residential streets surrounding our DriveTest Centre in the area bounded by Travis Drive/Leslie Valley Drive to the north, Leslie Street to the east, Gorman Street to the south, and Prospect Street/Bayview Drive to the east, in an effort to reduce the traffic volumes on the residential streets in the this area. We also request your cooperation in refraining from providing driving instruction/practicing with students in our parking lot.

Driving school operators and driving instructors observed providing driving instruction/practicing with students on the residential streets in the area outlined above, or in our parking lot during or outside our normal business hours, including evenings, weekends, and holidays, may be subject to further actions such as written warnings, suspended road test booking privileges, and banning from the Newmarket DriveTest Centre for a specific period of time.

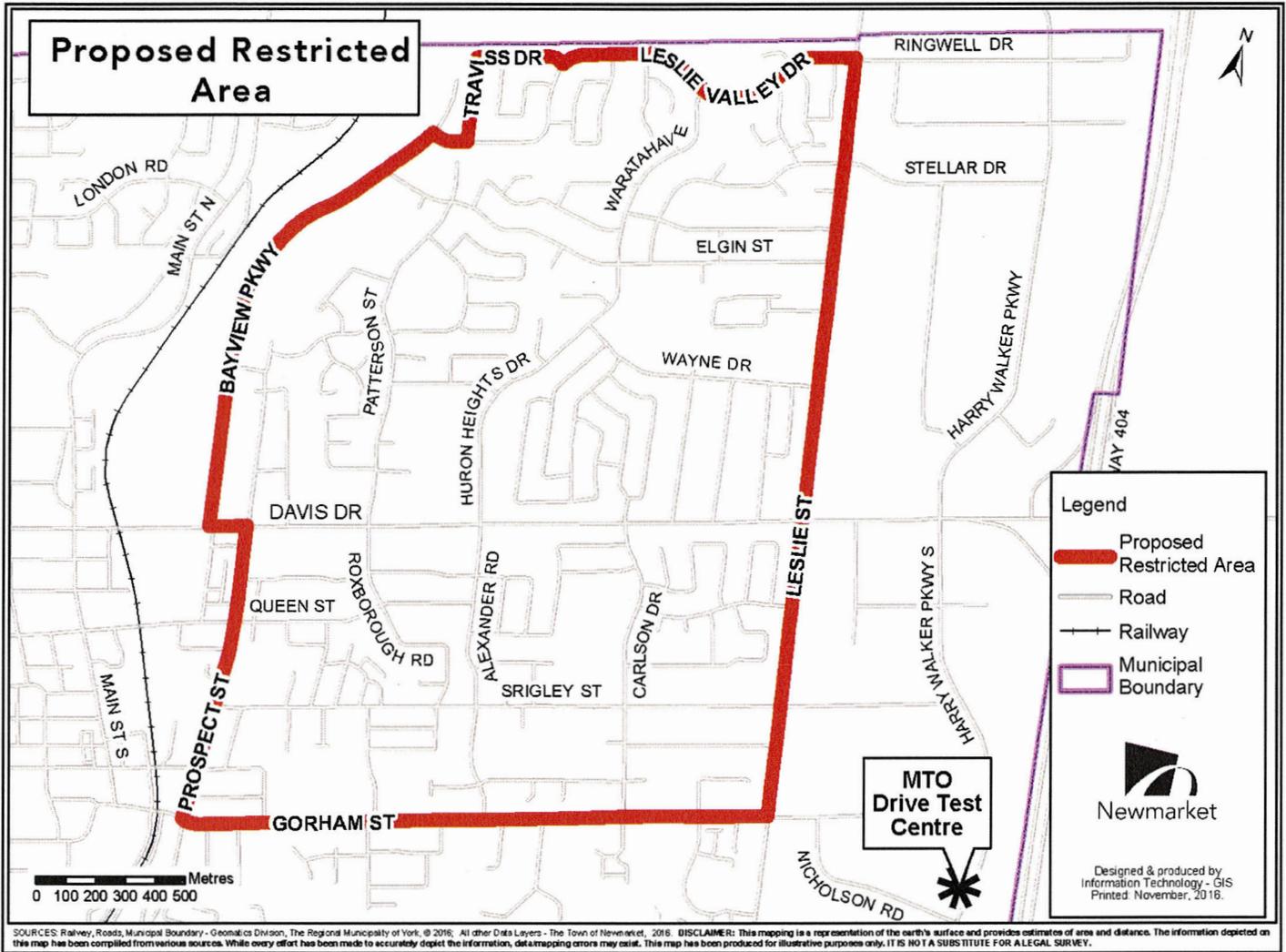
DriveTest is committed to maintaining positive business relationships with all Driving School Operators and Driver Instructors that conduct business at our Drivetest Centres across Ontario, as well as the residents in the areas we provide services.

We anticipate and appreciate your ongoing and full cooperation in this matter. Should you have any questions concerning this matter, please contact the Centre Supervisor at our Newmarket DriveTest Centre.

DriveTest Management

December 07, 2016

Appendix "C" - Proposed Restricted Area





CORPORATION OF THE TOWN OF NEWMARKET

BY-LAW NUMBER 2017-24

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 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 Legislatives 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- 24 shall come into force and effect upon its adoption.

ENACTED THIS DAY of 2017.

Tony Van Bynen, Mayor

Lisa Lyons, Town Clerk