
TO: GENERAL COMMITTEE

SUBJECT: REVIEW OF RESTRICTING DRIVING SCHOOLS FROM TRAINING IN NEIGHBOURHOODS USED FOR THE PROVINCIAL DRIVE-TEST

WARD: ALL

PREPARED BY AND KEY CONTACT: R. OSBORNE, SUPERVISOR OF ENFORCEMENT SERVICES
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SUBMITTED BY: W. COOKE, CITY CLERK / DIRECTOR OF LEGISLATIVE AND COURT SERVICES

GENERAL MANAGER APPROVAL: D. McALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That Driving School Operators and Driving Instructors licensed to operate in the City of Barrie be sent correspondence outlining of the concerns of residents in the area of the Provincial Drive Test Routes and advised that further resident complaints will be directed to the Ministry of Transportation for action.
2. That residents be provided with the Ministry of Transportation's contact information for complaints related to driving instructors training in the residential neighbourhoods utilized for Provincial Drive Test Routes.

PURPOSE & BACKGROUND

Report Overview

3. The purpose of this Staff Report is to provide information in response to the direction to investigate the feasibility of restricting driving schools from training in neighbourhoods used for the Provincial Drive-Test. This report will also review licence fees for the industry as they pertain to Driving Instructors and Driving School Operators, as Driving School Instructors raised this matter previously at a Finance and Corporate Services Committee meeting.
4. On October 23, 2017, City Council adopted motion 17-G-254 regarding the Restriction of Driving Schools in Neighbourhoods used for Provincial Drive Test, as follows:

"That staff in the Enforcement Services Branch of the Legislative and Court Services Department investigate the feasibility of restricting driving schools from training in neighbourhoods used for the Provincial Drive-Test and report back to General Committee."
5. Section 11 (6) of the *Municipal Act, 2001*, c. 25, as amended, allows a municipality to pass by-laws in the interest of the health, safety and well-being of its residents.

ANALYSIS

6. In accordance with the direction and deputations from City Council on October 23, 2017 (17-A-111) regarding Motion 17-G-254 concerning Restriction of Driving Schools in Neighbourhoods used for Provincial Drive –Test, staff have reviewed the concerns of residents and approaches utilized in other municipalities.
7. Both staff and residents acknowledge that driving instruction is a necessary part of ensuring safe communities as people acquire the skills necessary to operate a motor vehicle safely. Both the Ministry of Transportation and the City of Barrie license Driving School Operators and Driving Instructors in order to help ensure the industry is kept safe for the instructors, students and the public.
8. Citizens living in residential neighbourhoods that are used for the Provincial Drive-Test have expressed concerns over the number of driving instructors using the area for instruction. While there appears to be no clear evidence that driving instruction itself presents a safety hazard to the community, staff acknowledge that it may be a nuisance to area residents when conducted regularly.
9. Staff have consulted with the Ministry of Transportation regarding the concerns of Council and the residents. The Ministry representatives initially refused to provide the Provincial Drive-Test routes. Although the seven routes have now been provided to staff, the Ministry has advised that the designated routes are confidential and as a result, the specific routes do not form part of this report. Seven (7) routes are currently established within the City of Barrie. The individual routes are not in condensed areas and in some cases, a single route extends across the boundaries of Wards 2, 6, 7 and 8.
10. Municipal Law Enforcement Officers attended a selection of the streets included or in the area of the Provincial Drive Test Routes over a four day span, at various times of day, with each visit lasting a minimum of an hour, for a total of 14 hours of observation. A total of 19 vehicles with two people in the vehicle and identified as driving school instruction vehicles were noted during that time.
11. It is not known if actual instruction was taking place during the period of time observed although it is assumed that this was taking place. Other reasons for two individuals to be in the vehicle could be picking up or dropping off students from lessons or actual driving tests being conducted as the Provincial Examiners will utilize the driving school instructor vehicle for such tests.
12. During the visit periods, the following observations were made:
 - Most of the activity related to “parking training” - i.e. parallel parking that took place along sideyard boulevards or open spaces.
 - The Officers did not witness the individuals in driving school instruction vehicles attempting to park near driveways or within close proximity to residential homes.
 - The Officers did not observe the individuals in driving school instruction vehicles blocking traffic or driveways at any time.
 - All vehicles noted were licensed to operate with the City.
 - The only area where an Officer noted activities other than simple “driving” was along the open space at the dead end of the Thrushwood Drive where the individuals in driving school instruction vehicles practiced parking.
 - The Officer also noted that three driving school instruction vehicles were present along Thrushwood Drive within a two and half hour window.

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13. Ministry of Transportation representatives have indicated that Driving Instructors are not permitted to conduct instruction along a designated test route. When speaking with the Ministry representatives, they indicated that they will address any Driving Instructor found conducting instruction along a designated route by way of a cautionary meeting with that instructor to cease the actions. The Ministry may also consider altering the Provincial Drive-Test Routes to address resident concerns. The Ministry representatives indicated that Barrie residents should be encouraged to contact the Ministry to report such matters.
 14. By-law 2006-266, Sections 32.2.7.0.0 (d) and 33.2.6.0.0 (c) allow for Council to pass a resolution restricting the operation of the driving school and driving instructors within designated areas as may be amended from time to time.
 15. It must be noted that should Council wish to prohibit instruction within these routes it would have to do so by prohibiting instruction within large areas which may encompass numerous streets within each impacted Ward; not select streets as the Ministry maintains that the routes are confidential. Given the nature of the routes, the boundaries of the restricted areas would be quite extensive.
 16. Should Council wish to restrict the areas in which Driving Instructors may conduct instruction, it would prove challenging for municipal staff to enforce as Municipal Law Enforcement Officers do not have the authority to stop motor vehicles or demand identification from drivers. If a complaint was received regarding a violation pertaining to driving instruction in a prohibited area, a Municipal Law Enforcement Officer would have to observe the violation, determine the identity of the violator and attempt to locate them once the vehicle has come to a stop at some point in the lesson. If that is not possible during the course of the apparent lesson, Municipal Law Enforcement staff would have to follow up with the Driving School Operator in the hopes of issuing a caution to the Instructor believed to have been operating in the prohibited area. This may or may not actually address the violation that was to be believed to have taken place.
 17. In speaking with other municipalities, where they have locations designated as prohibited training areas, it was noted that many driving instructors have simply removed the roof lights and identifiers in an attempt to avoid being observed by Municipal Law Enforcement Officers. As a result, it would be challenging for the Officer to prove in a court that it wasn't simply a parent providing instruction to their child.
 18. Barrie Police Service do have the authority to stop motor vehicles and demand identification for various offences and could respond to such complaints, however, they have limited resources available to deal with by-law matters.
 19. A survey of seven comparator municipalities (Burlington, Guelph, Hamilton, London, Newmarket, Oshawa and Waterloo) revealed that three municipalities (Guelph, Burlington and Newmarket) restrict streets in which driving instruction can occur. Only the City of Guelph incorporates this restriction along with the requirement to license the business of driving instruction. The cities of Burlington and Newmarket have stand alone by-laws restricting the location of driving instruction.
 20. Of the seven comparator municipalities listed, none of the municipalities currently license Driving Schools and only Guelph licenses Driving Instructors. At the time of writing this report, two municipalities (Hamilton and Oshawa) were reviewing their licensing by-law in regards to Driving Schools and Driving Instructors.

21. In speaking with the seven comparator municipalities, enforcement of the driving area restrictions is limited to educating or cautioning the alleged violator and has not resulted in any fines associated with such violation. In order to lay a charge against a violator, the Officer would need to be able to prove in a court that the violator was not picking up or dropping off of a student, it wasn't a parent/friend teaching another individual to drive or it wasn't an actual test. Staff have concern that passing a by-law that is unable to be enforced effectively creates a community expectation that is not realistic.

Driving School Operations and Instructors Business Licence Fees

22. On April 26, 2017 by Mr. Zurawski and Ms. Webster, representatives of Young Drivers of Canada provided an Open Delegation to the Finance and Corporate Services Committee regarding the Business Licensing Fees for Driving Instructors. At the meeting held on April 26, 2017, staff in the Legislative and Court Services Department were asked to provide additional information at a future meeting regarding licensing and enforcement related to Driving Instructors for the past five years. A memorandum was provided to the Finance and Corporate Services Committee on May 24, 2017. A copy of the memorandum is included as Appendix "A" to this Staff Report. At the May 24, 2017 meeting, staff were asked to further consult with representatives of the driving school industry.
23. After a number of attempts by staff to consult with the representatives, staff met with representatives of the driving school industry on November 14, 2017. Their main concern was the cost of their business licence. Driving School Operations and Instructors have voiced a concern regarding what they perceive as excessive municipal licence fees. They noted that in addition to the actual licence fee, the cost of the vehicle safety certificate has also risen to \$140.00 and is required as part of the licence application each year. As part of the business licence application, a driving instructor must provide proof of identification, a vehicle safety certificate, a valid Ontario's Driver's Licence as well as their Ministry of Transportation – Driver Instructor's Permit. The current licence fee set at \$217.00 (2017 rate).
24. Licence fees are established to work towards a cost recovery process in which the licence fee charged is reflective of the time necessary to administer and enforce the licensing regime. The licence application is accepted by the Enforcement Services Clerk and then all documents are reviewed by the Officers assigned to enforce the Licensing By-law. Once the documents are approved, and inspections are completed, the licence is prepared for final review and signature of the Issuer of Licenses. Enforcement of the provisions of the By-law relating to Driving School Operators and Instructors can be time consuming as the industry is quite active and competitive. Therefore staff are not recommending any change to the current licence fees. Driving Instructors have however, expressed concerns that they currently require a Provincial Driving Instructor Licence and therefore should not need a municipal licence as well.
25. It is predicted that enforcement will become more demanding and pose a significant challenge, if restrictions are put in place to deal with driving instruction in non permitted areas of the City. Enforcement Services currently have two Officers assigned to administer and enforce all licensing regulations throughout the City. Annually, this equates to the review, inspection and processing of 1,835 licences. Dependant on the licensing category, inspection and review times vary from one hour to over four hours per business. This is reflective of the fees currently charged for the licences.
26. During the review of comparator municipalites, it was noted that the City of Guelph is the only other municipality that currently licenses Driving Instructors at a rate of \$120.00 for the renewal of a Driving Instructor licence.

ENVIRONMENTAL MATTERS

27. There are no environmental matters related to the recommendation.

ALTERNATIVES

28. The following alternatives are available for consideration by General Committee:

Alternative #1

General Committee could alter the proposed recommendation by passing a motion that restricts driving instruction from taking place on selected streets (to be named) or within selected Wards in their entirety, as noted in this report, to be added as a condition of a business licence.

This alternative is not recommended as Council and members of the community already have a means to address the concerns with the Ministry of Transportation and request that routes be amended and or cautions be provided to those instructors utilizing various streets. The municipalities that have such restrictions in place have only educated or cautioned instructors regarding restrictions as they have indicated that they are unable to achieve sufficient evidence to lay a charge.

Alternative #2

General Committee could recommend that a stand alone by-law restricting the location of driving instruction within the City be prepared and the requirement to license Driving School Operators and Driving Instructors be eliminated from By-law 2006-266 as they are provincially licensed and regulated.

Although this alternative is available and it would address the concerns of the Driving School Operators and Instructors related to the overall cost of their licensing, it is not recommended as it would adversely affect staff's overall ability to enforce the activity of driving schools and driving instruction should the licensing category be removed in its entirety.

FINANCIAL

29. There are no direct financial impacts associated with the recommendations.

LINKAGE TO 2014-2018 STRATEGIC PLAN

30. The recommendation(s) included in this Staff Report not specifically related to the goals identified in the 2014-2018 Strategic Plan



Appendix "A"

Memorandum to Finance and Corporate Services Committee concerning Business Licensing and Enforcement – Driving Instructors and Operators

TO: TO: FINANCE AND CORPORATE SERVICES COMMITTEE

**FROM: R. OSBORNE, SUPERVISOR OF ENFORCEMENT SERVICES AND T. BANTING,
MANAGER OF ENFORCEMENT SERVICES**

NOTED: D. MCALPINE, CITY CLERK/DIRECTOR OF LEGISLATIVE AND COURT SERVICES

P. ELLIOTT-SPENCER, MBA, CPA, CMA, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES

C. LADD, CHIEF ADMINISTRATIVE OFFICER

RE: BUSINESS LICENSING AND ENFORCEMENT - DRIVING INSTRUCTORS AND OPERATORS

DATE: MAY 24, 2017

The purpose of this memorandum is to provide further information regarding the Open Delegation on April 26, 2017 by Mr. Zurawski and Ms. Webster, representatives of Young Drivers of Canada regarding the Business Licensing Fees for Driving Instructors. At the meeting held on April 26, 2017, staff in the Legislative and Court Services Department was asked to provide additional information regarding licensing and enforcement related to Driving Instructors for the past five years.

Number of Licences Issued

The following chart identifies the number of licences issued in the Driving Instructor and Driving School Operator Categories for the period of 2011-2016:

Licensing Year	Driving Instructor Licenses Issued	Driving School Operator Licenses Issued
2011	33	7
2012	31	10
2013	34	11
2014	38	13
2015	32	13
2016	34	11
Total	202	65

** Each application received above requires an inspection by Enforcement Staff

Overview of Licensing Process

The requirements of an applicant for a Driving Instructor or Driving School Operator Business Licence are identified below:

CATEGORY	INSPECTIONS/APPROVALS
Driving Instructor	<input type="checkbox"/> Two pieces of identification (one photographic identification) <input type="checkbox"/> Ministry of Transportation -Driver Instructor's Permit <input type="checkbox"/> Province of Ontario Driver's Licence
Driving School Operator	<input type="checkbox"/> Zoning * (new licences only, not required for renewals) <input type="checkbox"/> Finance * (new licences only, not required for renewals) <input type="checkbox"/> Liability Insurance-\$2,000,000 <input type="checkbox"/> List of current vehicles used for instruction (make, model and licence plate #) <input type="checkbox"/> Written Statement of Rates and Charges <input type="checkbox"/> MLEO

Each Licence application received is reviewed by licensing staff to ensure the application is complete. All supporting documents are reviewed to ensure they are valid for the date of application. Examples of such are Vehicle Safety Standards Certificate, Driving Instructor Licence issued by the Ministry of Transportation, Commercial Liability Insurance, Zoning approval, registry of all vehicles and drivers operating, submission of rates and charges, etc.

Following that review, inspections are conducted of both the operating location and the vehicle. Those inspections include but are not limited to verifying the following:

- Vehicle: Review operating criteria with licensee, inspect vehicle to ensure separate breaking equipment is in place and in good working order, ensure vehicle is equipped with signage including name, address and phone number of business, ensure licensing decal issued is in place, etc.
- Business Location: Ensure previous licence is posted, instructors are aware of operating criteria, statement of rates is provided, a registry of all driving instructors providing the service is maintained, signage depicts name, address and phone number of business, etc.

Upon completion of the above inspections for each application, it is then processed and reviewed by the Issuer of Licences, approved and issued.

Enforcement Activities

Staff were asked to provide details related to enforcement activities undertaken during the previous five years. The following chart describes violations noted as well as inspections and/or follow activities undertaken (in addition to the initial licensing application review):

Licensing Year	Violations Noted / Failed to Renew	Inspections / Follow ups Conducted
2011	5	6
2012	7	15
2013	4	8
2014	12	15
2015	13	18
2016	2	8
TOTAL	33	70

** Above items are not included in the "proactive enforcement" noted below

In addition, over the past few years, as time and resources permit, several “blitz” enforcement measures have taken place. During that time, 41 proactive inspections and reviews were conducted related to Driving Instructors. Enforcement staff attended the Driver Examination Centre and reviewed licensing requirements with all instructors noted, issued several requirements to license (for businesses that were not licensed at the time) as well as a few verbal cautions related to general sections of the by-law.

In addition to the above, 2 complaints were received specifically related to this industry, which were addressed by staff.

Summary

When reviewing any individual licensing category, it is prudent to review the whole picture as it relates to enforcement of Barrie’s licensing by-laws. In total, the City of Barrie has three licensing by-laws which govern 70 classifications of licences within the community. Each of the 70 classifications has different operating criteria and require reviews and inspections as noted in the above details.

The following chart identifies the number of business licenses issued in each of the 70 classifications:

Year	Total Licenses Issued
2011	2138
2012	2116
2013	2104
2014	2124
2015	2044
2016	2096

Enforcement itself comes in many forms, as can be seen in the above details. It may include administrative type enforcement, various inspections, verbal cautions, proactive responses and lastly, as needed, legal action. Enforcement activities are carefully measured to create a general deterrent for non-compliance while ensuring that the legally operated business is allowed to flourish with minimal government interference.

Licensing staff continue to enforce the requirements of the by-laws while responding to the needs of the business community and the citizens of Barrie.

Please contact Ron Osborne, Supervisor of Enforcement Services, Tammy Banting, Manager of Enforcement Services or Dawn McAlpine, City Clerk/Director of Legislative and Court Services, should you have any questions or require further information.