

CITY OF HAMILTON
BY-LAW NO. 18-199

A By-law to Prohibit Driving School Instructing in the Restricted Areas

WHEREAS subsection 10(2) of the Municipal Act, 2001 permits a single-tier municipality to pass by-law respecting the health, safety and well-being of persons and the protection of persons and property;

WHEREAS subsection 128(1) of the Municipal Act, 2001 permits a municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

WHEREAS in the interest of nuisance control, and in order to protect against the danger to health and safety presented by having an abundance of driving school vehicles providing instruction in particular neighbourhoods, and in order to promote health and safety by ensuring that student drivers are tested in an unfamiliar area, to ensure more accurate evaluation of the students' driving ability, Council for the City of Hamilton considers it desirable to regulate and govern the training of persons by a Driving School Instructor in designated restricted areas;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

DEFINITIONS AND INTERPRETATION

1. For the purposes of this By-law, the following definitions shall apply:

"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;

"Director" means the Director of Licensing and By-law Services or any successor thereof, or their designate;

"Driving School" means any business or establishment which employs Driving School Instructors, to teach persons to operate Motor Vehicles;

"Driving School Instructor" means a Person who for compensation teaches others to drive a Motor Vehicle as a driving instructor and who is employed by a Driving School Operator or is self-employed in the business of teaching persons to operate a Motor Vehicle;

“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 which is equipped with a properly functioning service brake actuator that may be operated by the driving instructor;

“Driving School Operator” means a person who runs, operates or carries on the business of a Driving School;

“Driving School Permit” means a valid driving school licence issued by the Province of Ontario pursuant to the Highway Traffic Act;

“DriveTest Examiner” means a person employed by a DriveTest Centre who evaluates individual driving skills on Ministry of Transportation approved routes and provides a pass/fail report;

“Highway” includes a common and public highway, street, avenue, parkway, driveway, 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 property 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 responsible for the enforcement of the provision of this By-law;

“Person” means an individual, firm, corporation, association or partnership;

“Residential Local Road” means an Urban Residential Local Road as described in the City’s Transportation Master Plan; and

“Restricted Area” means the areas outlined on Appendix 1 to this By-law.

GENERAL PROHIBITIONS

- 2.(1) No Driving School Instructor providing driving lessons shall operate or permit the operation of a motor vehicle on any Highway listed in Appendix 2 and located within a “Restricted Area”.
- 2.(2) No Driving School Operator shall cause or permit the operation of a motor vehicle providing driving lessons on any Highway listed in Appendix 2 and located within a “Restricted Area”.
- 2.(3) Notwithstanding Sections 2(1) and 2(2) a motor vehicle used by a Driving School Instructor for providing driving lessons may be operated within the “Restricted Area” provided that:
 - (a) the student to whom Driving School instruction is being provided lives within the “Restricted Area”; and

- (b) while in the “Restricted Area” the student carries proof of residence and presents such proof of residence to an Officer upon demand; and
- (c) the Driving School Instructor proceeds to and from the student’s residence using the most direct route to and from the closest area outside the “Restricted Area”.

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.

PENALTY

- 4.(1) Every Person who contravenes any provision of this By-law is guilty of an offence.
- 4.(2) Every Person who is convicted of an offence is liable to a fine under the *Municipal Act*, 2001.
- 4.(3) Every Person who is convicted of an offence is liable to a fine under the *Provincial Offences Act*, of not more than \$5,000.00, exclusive of costs.

GENERAL PROVISIONS

- 5. If a court of competent jurisdiction declares any provision or part of a provision of this By-law invalid, the provision or part of a provision is deemed severable from this By-law and it is the intention of Council that the remainder of this By-law shall continue to be in force.

ENACTMENT

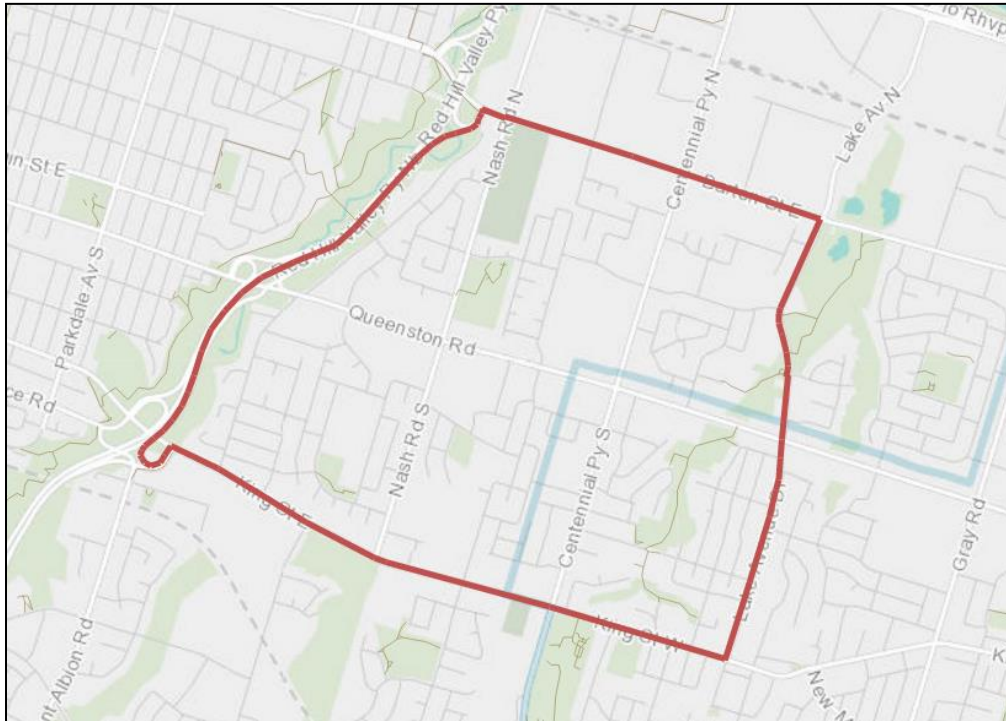
- 6. This By-law comes into force on the date of its passing.

PASSED this 13th day of July, 2018

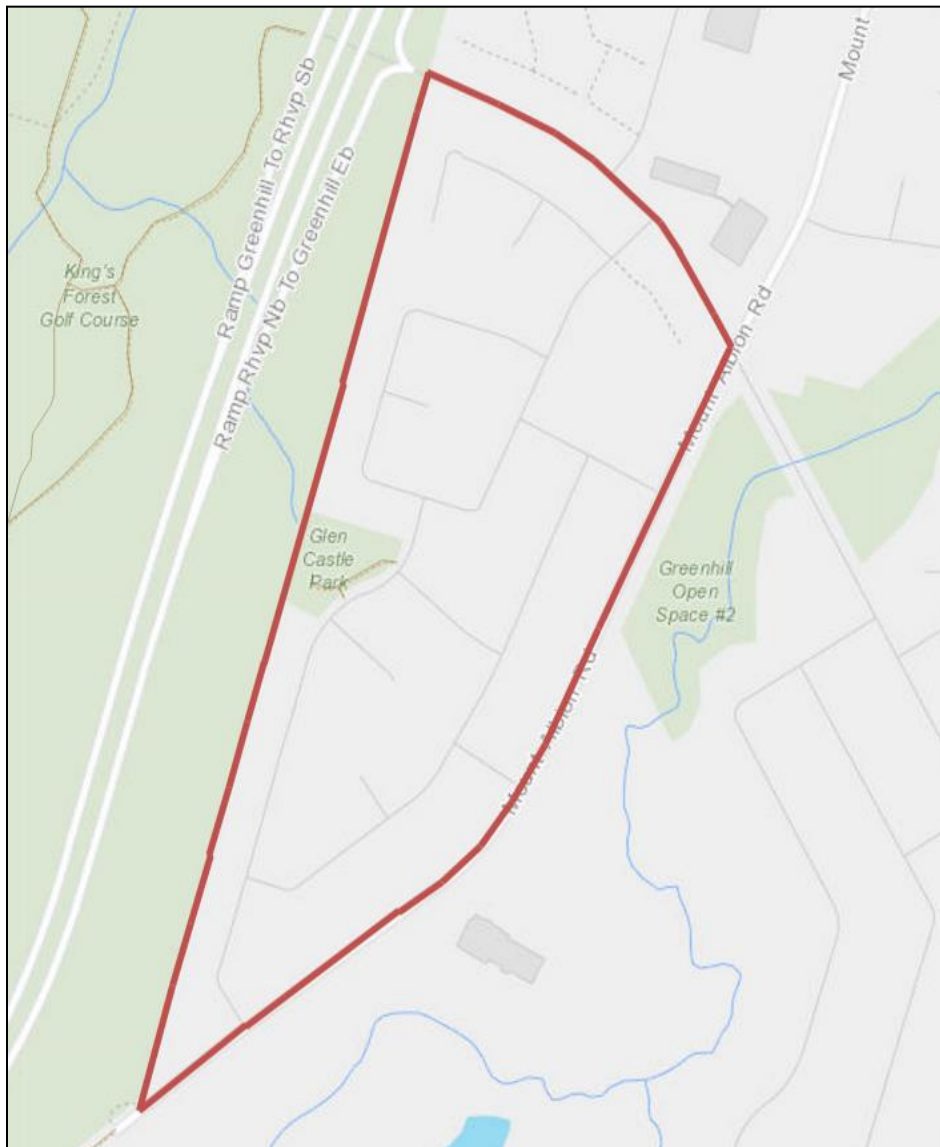
F. Eisenberger
Mayor

J. Pilon
Acting City Clerk

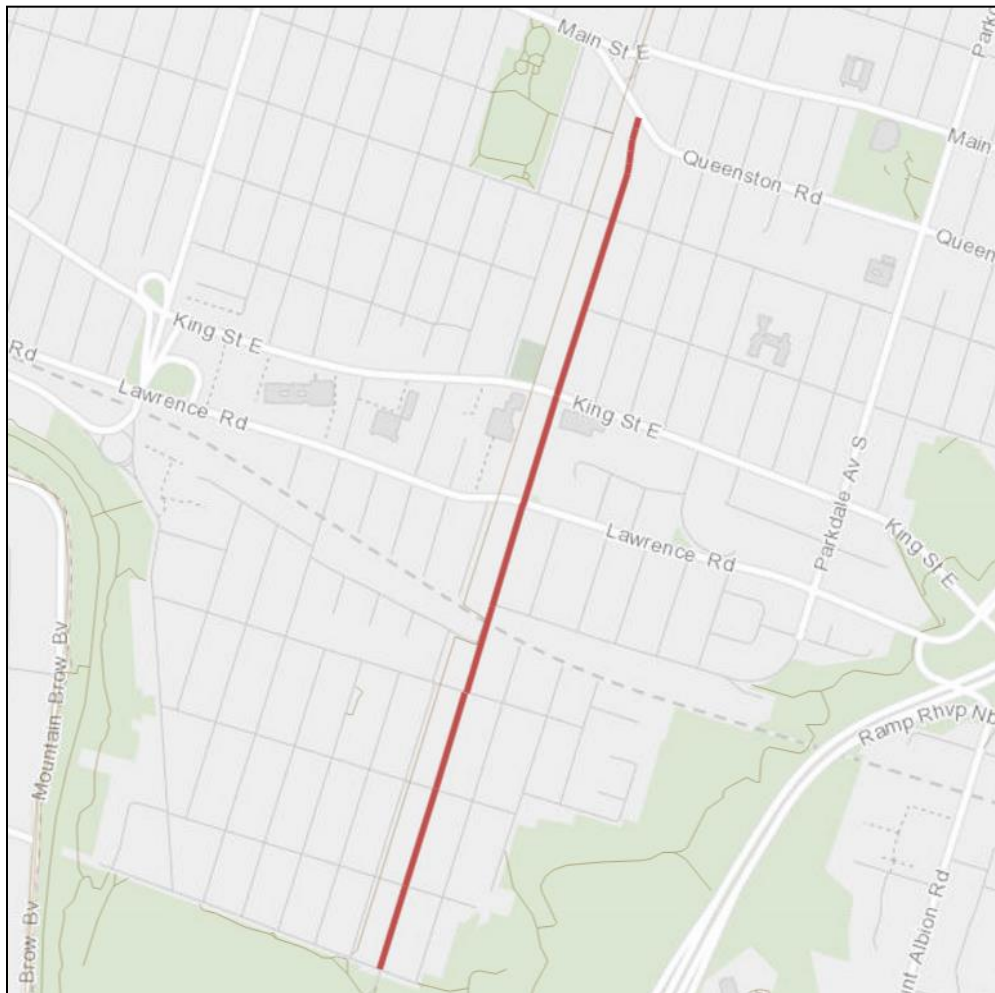
Appendix “1”



_____ RESTRICTED AREA



_____ RESTRICTED AREA



_____ RESTRICTED AREA

Appendix “2”

Nugent Drive
Crawford Drive
Kentley Drive
Oakland Drive
Ellingwood Avenue
Janet Court
Pottruff Road North
Violet Drive
Grandville Avenue
Delawana Drive
Lake Avenue North
Village Drive
Fairington Crescent
Cochrane Road
Rainbow Drive
Woodman Drive
Glen Castle Drive
Kingswood Drive
Forest Hill Crescent