

**Date:** 2024-01-16

**Subject:** Information Report to Council - Proposed Pilot Project - Driving Instruction Zones on City Property

**Contact:** Kevin Lindegaard, Licensing Manager, Enforcement & By-law Services, Legislative Services

**Report Number:** Legislative Services-2024-067

**Recommendations:**

1. That the information report from Kevin Lindegaard, Licensing Manager, Enforcement and By-law Services to the Committee of Council meeting of January 31, 2024, re: Proposed Pilot Project - Driving Instructors and Schools to provide driving instruction, lessons, and practise testing on designated City properties, be received.

**Overview:**

- In December 2022, initial requests were made from a private driving school seeking approval to practise, operate, and instruct on 'parkland' within the City of Brampton (recreational facilities are considered 'parkland' as specified in the Mobile Licensing By-Law).
- On August 9, 2023, Council directed staff from the Legal, Risk, Enforcement and By-Law Services, and Recreation divisions to collaborate and bring forth a report to Council to initiate "Driving Instruction Zones" on City property to determine whether a pilot project could be implemented in support of the driving instruction industry.
- As such, City staff is providing information to Council regarding the recommendation for a pilot project to permit licensed driving instructors and schools to provide driving instruction, lessons, and practise testing on designated City properties.
- There are no immediate financial implications as a result of this information report.

- **If Council approves this initiative, this may result in maximum potential revenues of approximately \$20,625 if all licensed operators opted in. Sufficient funding for signage is available in the Public Works & Engineering Department operating budget. No additional costs to set up and maintain the IT software are expected.**

### **Background:**

In December 2022, a request was made from a private driving school to get clarification about the 'Instruct on Parkland' By-law enforcement provisions. As a result, City staff engaged in preliminary discussions regarding the potential implementation of a pilot project to allow driving school instruction on parkland, as defined in the Mobile Licensing By-Law.

On August 9, 2023, Council directed staff from Legal, Risk, Enforcement and By-Law Services, and Recreation divisions to collaborate on bringing forth a report to Council to initiate "Driving Instructions Zones" on City property. They also directed staff to explore the possibility of implementing a pilot project throughout the City of Brampton in support of the industry.

In September 2023, the working group met to determine the feasibility of implementing a pilot project, examining City liability, and the logistics that would be required to implement this initiative.

### **Current Situation:**

Under the current Mobile Licensing By-Law, the City does not permit the practise or instruction on "parkland" by driving school operators and instructors. Recreational facilities fall within the definition of "parkland" under the current by-law, and there are no provisions that allow driving school operators and instructors to practise on any City-operated properties.

There are currently 825 licensed driving school plates and instructors, and 76 licensed driving schools operating in the City of Brampton.

In 2023, there have been no other requests from the industry asking for instruction zones on City property including recreation facilities.

The working group identified areas of concern and assessed potential risks to the City. These potential risks and concerns can be mitigated through various strategies, including indemnity agreements, user fees, and designated areas.

### **Proposed Pilot Project:**

If a one-year pilot project is implemented, it would allow driving instructors and school operators to provide driving instructions, lessons, and practice testing on designated City properties. Staff are recommending the following:

1. When a driving instructor or school operator applies for a licence or at the time of renewal, City staff will issue an information pamphlet outlining the prohibited areas as defined under the Mobile Licensing By-Law. The pamphlet will also include the proposed designated City properties, permitted times, and a link to the online scheduling platform (Xplor).
2. Licensed driving instructors and school operators will be required to complete an indemnity agreement prior to using the designated City properties. This agreement will help protect the City from liability caused by the user's negligence or breach of contract (see below for further information about the indemnity agreement).
3. Individual driving instructors/operators will be required to pay an annual user fee of \$25 to use the designated spaces. This fee would be paid online through the booking portal software (Xplor) once they register, create a profile and an account as a user. Instructors can be charged applicable fees upon booking. The fees would be used to offset the cost of the signs.
4. Designate the following City locations for use by driving instructors and school operators to provide driving instructions, lessons and practise testing:
  - a. Century Gardens Recreational Centre (Ward 1)
  - b. Susan Fennell Sportsplex (Ward 4)
  - c. Cassie Campbell Community Centre (Ward 6)
  - d. Earnscliffe Recreational Centre (Ward 7)
  - e. Save Max Sports Centre (Ward 9)
  - f. Gore Meadows Community Centre (Ward 10)
5. Posting and erecting notice/signage at the entrances of designated facilities to notify City staff and the public about the approved use of the facility for driving school instruction.
6. Limit lot use to a maximum of ten instructors/vehicles at one time per location.
7. Driving instruction will be permitted at the designated City locations between the hours of 9:00 am to 3:30 pm, Monday to Friday only. The designated locations are typically busier during late afternoons, evenings, and weekends.
8. Licensed driving instructors and school operators will only operate in the designated parking spaces marked by signs.
9. Existing City of Brampton online recreation software scheduling platform (Xplor) can be used for instructors to book timeslots, to track users, and to limit the number

of instructors and/or operators using the designated spaces. Booking slots for parking instructors in Xplor can be set up either as courses (per hour) or appointments (per hour per spot). Instructors will need to create an Xplor account and complete their bookings online. If required, instructors can be charged any additional/applicable fees upon booking. If needed, 311 and recreation@brampton.ca can be accessed for Xplor support. The preferred timeline for setup is four to eight weeks, but shorter timelines can be accommodated, if required.

10. Recreation and Information Technology (IT) staff will manage support with existing staffing for the system configuration. However, Enforcement and By-law Services or other business units working with the driving instructors will need to collect any insurance or accreditation required, directly, and provide this to Recreation and IT. If contracts are required, the business units will need to manage negotiations and advise Recreation and IT on the details, duration, and terms of the contract to be entered into Xplor.
11. Legal will assist with the preparation of applicable contracts, as they will need to approve any related documents.
12. Enforcement and By-law Services and corporate security will continue to provide proactive checks in these designated areas and educate instructors about the new conditions for instruction and the specified locations.
13. That the Mobile Licensing By-law 187-2014, Part VI S. 10(1)(b) be amended to reflect driving instruction, lessons, and practise testing only in designated City locations and times specified by the licence issuer (relating to Restricted Areas to practise).

Enforcement and By-Law Services is responsible for enforcing the City's By-Laws including Business Licensing and Mobile Licensing. As part of the enforcement strategy, penalty notices are issued in connection with infractions related to the driving school industry.

Potential revenues to be collected with a user fee of \$25. With 825 currently licensed operators, there is a potential City revenue of \$20,625, assuming all use the service.

Potential costs would be incurred by the City to erect signage at the specified locations, making the public aware of the driving instructions and practise at the specified City properties, offset by the proposed user fees.

Approximate signage cost is as follows.

- 12 signs (60cm x 75cm) printed/laminated at \$36 each, post systems \$50 each, totalling \$600
- No charge for labour (City responsibility to produce and install)
- Total potential cost for signage \$1,035

No additional cost for the IT setup and maintenance of the online scheduling platform 'Xplor' as this software is already in place within the City.

### **Strategic Communications:**

A communications and awareness plan will be developed to inform and educate residents, businesses, and City staff working at the designated instruction facility locations.

### **Enforcement Actions:**

Enforcement and By-law Services along with corporate security will continue to provide proactive checks in these designated areas and educate instructors about the new conditions for instruction and the specified locations.

### **Indemnity Agreement:**

The City could be protected against related bodily injury claims by entering into agreements with the driving instructors that contain indemnity provisions in favour of the City, along with insurance provisions to finance such indemnification requirements.

Under Ontario's no-fault insurance system vehicle owners must advance claims for physical damage to their automobiles from their own insurers. They do not have the option to pursue such claims against any other parties, including at-fault drivers of other automobiles. Despite the no-fault insurance program, the City may still receive claims that will require staff and the City's insurer to address, resulting in costs to the City.

Without appropriate precautions and conditions, it would appear reasonably likely that driving students could occasionally cause damage to other vehicles parked in the parking lots of the City's recreation centres. In such cases, the only recourse for the victims of such damages would be to advance claims to their own insurers.

While this would not result in financial exposure to the City, it could pose reputational risks and give rise to complaints. Such motorists, being patrons at recreation centres, will almost certainly fault the City for allowing driving instruction at their recreational centres. They may be placed in the position of reporting claims to their own insurers, for incidents which were not their fault.

### **Corporate Implications:**

#### **Financial Implications**

There are no immediate financial implications as a result of this information report.

If Council approves this initiative, this may result in maximum potential revenues of approximately \$20,625 if all licensed operators opted in. Sufficient funding for signage is available in the Public Works & Engineering Department operating budget. No additional costs to set up and maintain the IT software are expected.

### **Corporate Liability**

Operators/instructors must sign a City indemnity agreement for the use of designated City properties for instruction. The pilot program could pose corporate reputational risks for allowing instruction.

### **City Employee Concerns**

Facilities currently in the City of Brampton include 42 recreation facilities. Six facilities would be able to provide at least one designated large recreation center to be utilized for the pilot project. The employees' concerns of damage to their vehicles can be mitigated by the assignment of a designated area at each participating recreation facility.

### **Other Implications**

#### **Municipal Citizen Concerns and Complaint Resolution Implications**

The City of Brampton may experience an increase in resident concerns and complaints related to driving school instruction and a potential increase in vehicle damage on City property, specifically at recreation facilities.

### **Strategic Focus Areas**

This pilot project supports the City's strategic focus areas and priorities. Permitting licensed driving instructors and schools to provide driving instruction, lessons, and practise testing on designated City properties supports government leadership, service excellence, and health and well-being.

### **Conclusion:**

The City of Brampton's ability to allow a one-year pilot project for instruction by driving school operators/instructors on parkland at designated City locations, during designated times, is provisionally achievable. The pilot could be implemented this year with a target timeline for commencement by Q3, with the conditions outlined in this report.

Authored by:

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Kevin Lindegaard, Manager,  
Licensing Enforcement

Reviewed by:

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Peter Bryson, Director (Acting), Enforcement  
and By-law Services

Approved by:

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Sameer Akhtar, Commissioner (Acting),  
Legislative Services