

TOWN OF MARKHAM
ONTARIO



BY-LAW 2002-294

**A BY-LAW TO PROVIDE FOR THE LICENSING
AND REGULATION OF
DRIVING SCHOOLS AND DRIVING INSTRUCTORS**

This By-law is printed under and
by authority of the Council of
the Town of Markham

(Consolidated for convenience only
to December 14, 2007)

Amended by:

By-law 2007-282 – December 11, 2007

BY-LAW 2002-294

To Provide For The Licensing and Regulation Of Driving Schools and Driving Instructors

WHEREAS the *Municipal Act, 2001* provides that the Council may by by-law license and regulate Driving Schools and Driving Instructors and for revoking any such license;

AND WHEREAS the Town of Markham deems it advisable to enact a by-law to license and regulate Driving Schools and Driving Instructors for health and safety, potential public nuisance and consumer protection.

THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM ENACTS AS FOLLOWS:

1. In this by-law,
 - (a) "owner" means person who has in respect of premises an estate for life, or a greater estate, legal or equitable or a leasehold estate;
 - (b) "premises" means any premises licensed or required to be licensed under, this by-law and includes any trade or calling required to be so licensed;
 - (c) "licensing officer" means the person or persons authorized by the council to act on their behalf in all matters relating to this by-law;
2. No person shall conduct any business in or upon any premises or part thereof, or carry on any trade or calling in the Town of Markham for which a license is required under Section 4 hereof unless he holds a license issued therefor by the licensing officer.
3. Every application for a license shall be accompanied by;
 - (a) a statement on the form provided by the municipality, giving particulars as to the location of the premises together with such other information as may be required to determine the compliance of the use with all applicable by-laws and regulations;
 - (b) the appropriate fee as specified in By-law No.2002-284.

4. For the purpose of this section;
- (a) "Driving School" means any establishment operated for the purpose of instructing persons to operate a motor vehicle or for preparing any person for any examination for a driver's license and for which compensation is received thereof.
 - (b) "Operator" means the person or persons who operate and/or own a Driving School.
 - (c) "Driving Instructor" means a person who teaches persons the knowledge and skills necessary to operate a motor vehicle and receives compensation therefor.

A license shall be obtained for each driving school and each driving instructor and the issue of each such license shall be subject to the following:

- (a) the licensing officer or other person so authorized may enter any premises at all reasonable times in order to inspect such premises and to enforce the provisions of this by-law.
- (b) Prior to the issue of such license, a certificate from the Medical Officer of Health may be required certifying that the premises to be licensed are in a proper sanitary condition and that adequate sanitary facilities are provided for the use of patrons thereto.
- (c) Each license, when issued, shall be posted in a conspicuous place on the premises so licensed;
- (d) The license granted for any premises may be revoked whose owner or licensee does not comply with the foregoing or where such license has been issued through error or contrary to the provisions of any by-law or regulation;
- (e) licenses issued under the provisions of this by-law, unless otherwise expressed to be granted for a shorter period, shall expire on the 31st day of December in the year in which they are issued.
- (f) every premises licensed under this by-law shall be kept neat and clean and clear of rubbish. Metal (or other non-combustible) containers with self-closing covers shall be provided and conveniently placed for the deposit of waste and rubbish and the contents of such containers shall be emptied and disposed of immediately at the close of each day's activities.

- (g) Every Driving School Operator shall:
- (i) be at least 21 years of age; and
 - (ii) be a fit and proper person to be licensed having regard to his character and integrity; and
 - (iii) have not been convicted of any action considered an offence under the Criminal Code of Canada during the three years immediately preceding the date of their application.
 - (iv) Advise the Licensing Officer of the make and registration number of all vehicles to be used in the business and shall advise the Licensing Officer forthwith when he ceases to use such vehicles or when he proposes to use any additional vehicles.
 - (v) Keep a permanent record of the name and address of each student, the date of the commencement of instructions, the date, time and name of the Instructor for each lesson and registration number of the vehicle used.
 - (vi) Allow the Licensing Officer to have access to all premises, vehicle, equipment, books and records used in the business.
 - (vii) Keep the Licensing Officer advised in writing, of the names, addresses and provincial Driving Instructor's licence number of all Driver Instructors currently employed by him.
 - (viii) In respect of each driving school vehicles used for the purpose of instruction, procure a policy of Insurance endorsed to the effect that the Licensing Officer shall be given at least ten days notice in writing of any cancellation, expiration or change in the amount of the policy, and insuring in respect of any one accident, to the limit of \$200,000.00 exclusive of interests and costs against loss or damage resulting from bodily injury to or death of one or more persons and loss of or damage to property; and the said policy shall make provision for passenger hazard including the carrying of passengers for compensation or hire in the business of or for the use of a Driving School in an amount not less than the foregoing. A certified copy of certificate of such policy shall be deposited with the Licensing Officer.
 - (ix) Be prohibited from establishing a Driving School place of business or advertising an address of a Driving School when such place of business or address is a house trailer, a room or rooms in a hotel or boarding house, a telephone answering service, a post office box or other mailing address service.

- (x) Refuse to employ as an Instructor any person not licensed under this By-law.
 - (xi) furnish each student, before instruction commences a written statement of all rates and charges for services provided by the school in a form approved by the Licensing Officer and no other rates or charges shall be demanded or received by the school or by any of its instructors.
- (i) Every Driving Instructor shall:
- (i) be a fit and proper person to be licensed having regard to their character and integrity; and;
 - (ii) have not been convicted of any action considered an offence under the Criminal Code of Canada during the three years immediately preceding the date of their application; and
 - (iii) be in possession of a valid Provincial Driving Instructors license issued to him pursuant to the Highway Traffic Act.
- (j) No Driving School Operator or Driving Instructor shall;
- (i) give or permit instruction to be given in any vehicle unless that vehicle has in addition to the standard controls for the use of the operator, extra braking controls in working condition, placed in a position for ready use by the Instructor seated beside the driver.
 - (ii) Give or permit instruction to be given to any student driver unless such student driver is - in possession of a Motor Vehicle Operator's Temporary Instruction Permit or a Motor Vehicles Operator's License issued pursuant to the Highway Traffic Act and produces such permit or license for inspection by the Instructor, or
 - a new resident of Ontario and who is at least 16 years of age and has complied with the law of another Province, Country or State in respect of the licensing of motor vehicle operators and is in possession of a valid drivers license issued by such other Province Country or State; or an International Driver's Permit.
 - (iii) Give or permit instruction to be given to any student driver in or upon any street or area or portions thereof designated by the Council as a restricted area.
 - (iv) Give or permit instruction to be given in any vehicle unless the vehicle has affixed thereto, a sign or signs of such nature, size and location as to be readily legible from a distance of 50 feet both from the front of and

rear of the vehicle, which sign shall bear the business name, address and telephone number of the driving school.

- (v) Give or permit instruction to be given on any primary traffic artery, main highway route or heavily travelled thoroughfare, during the first hour of any students training period.
 - (vi) Give or permit instruction to be given to any student when any person other than himself and the student driver is in the vehicle, except;
 - where the student's permission has been received, the owner of the business or an appointee of such owner may occupy the rear seat; or
 - where the student is a female, she may request that she be accompanied by one person, other than the Instructor, seated in the rear seat of the vehicle; or
 - where all the students are enrolled in a course of driver education meeting the standard set for such courses by the Ministries of Education and Transportation and Communications, more than one student will be permitted in the vehicle.
 - (vii) Give or permit instruction to be given to any student driver whose faculties are suspected of being impaired by the use of alcohol, drugs, or narcotics.
 - (viii) Give instruction if he has, within the previous six hours, consumed any alcoholic beverages or if the consumption of alcoholic beverages by him is apparent in any way.
5. No license issued under the provisions of this by-law shall be transferred.
 6. No license shall be issued contrary to the provisions of any applicable zoning by-law.
 7. This by-law shall not apply to a public educational institution operating under the Provincial grant system which conducts a bone fide driver education training course under the combined guidance of the Ministry of Education and the Ministry of Transportation and Communications.
 8. Where any licensee is convicted of an offence under this by-law the license shall be suspended forthwith and shall not be reinstated until the licensing officer certifies in writing that the conditions resulting in the charge and conviction have been remedied and that the premises and its proposed operation comply with this by-law.
 9. Any person who contravenes any provision of this By-law is guilty of an offence pursuant to the Provincial Offences Act, and upon conviction is liable to a fine of not more than five thousand dollars (\$5,000) for each offence committed.

10. By-law No. 2001-27, "A By-law to provide for the licensing and regulations of Driving Schools and Driving Instructors" shall be repealed effective January 1, 2003.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 10TH
DAY OF DECEMBER, 2002.

"Sheila Birrell"

TOWN CLERK

"Don Cousens"

MAYOR