



Report to: Council

Meeting Date: November 20, 2024

SUBJECT: Bill 212, Reducing Gridlock, Saving You Time Act, 2024
(City-wide)

PREPARED BY: Loy Cheah, Sr. Manager, Transportation, Ext. 4838
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RECOMMENDATION:

- 1) That the staff report titled “Bill 212, Reducing Gridlock, Saving You Time Act, 2024 (City-wide) be received;
- 2) That Council request the Province to allow municipalities to determine the appropriateness of implementing bicycle lanes on municipal road networks without the need for Provincial approval and that the City of Markham be exempt from the bike lane regulations of Bill 212;
- 3) That, notwithstanding Recommendation #2, Council request the Province to provide clarification on the following matters pertaining to Schedule 4 of Bill 212:
 - a) A formal procedure outlining the process and requirements that municipalities are to follow when submitting relevant projects for review;
 - b) A formal identification of which classifications of road are affected by the proposed legislation, given that:
 - i) the proposed legislation allows the Minister to exempt public highways or classes of highways at their discretion;
 - ii) media comments from provincial officials indicate that bicycle lanes should not be on primary roads, and instead be placed on secondary roads.
 - c) What technical criteria the Ministry of Transportation is using to determine whether a project “*would unduly diminish the orderly movement of motor vehicle traffic*”;
 - d) If road lane reductions for road safety considerations are exempt from the Ministry’s review;
 - e) What type of traffic information is being requested from the municipality, by the Ministry, to inform their review of proposed and existing bicycle lanes;
 - f) Whether a municipality is permitted to remove a travel lane to provide for an on-road facility other than a dedicated bicycle lane such as a parking lane or urban road shoulders; and
 - g) Whether the Province will fully reimburse the municipality for all associated costs incurred for existing bicycle lanes or active projects that are not approved by the Ministry.

- 4) That staff submit this resolution to the Ministry of Transportation on November 20, 2024 through the Environmental Registry of Ontario to meet the commenting deadline for Bill 212; and further;
- 5) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

This report provides an overview of the [Bill 212 \(Reducing Gridlock, Saving You Time Act, 2024\)](#) and its associated impacts on planned, approved and existing City of Markham active transportation facilities and related road safety projects that incorporate bike lanes. The report identifies key areas of the Act that require further clarification in the absence of legislative regulations and to allow municipalities to prepare and conform with the Act when it comes into effect. Council approval is requested to forward recommendations and comments contained in this report as the City's comments to the Ministry of Transportation during the proposal consultation period.

BACKGROUND:

The Ontario Ministry of Transportation (MTO) is proposing a new act under Bill 212 Reducing Gridlock, Saving You Time Act, 2024, introducing several measures aimed at alleviating traffic congestion in Ontario. The new act, if passed, will accelerate highway construction for designated priority projects and would require provincial approval for new bike lanes on municipal roads requiring removal of a traffic lane and for existing bike lanes where a traffic lane was removed as part of the project.

Bill 212 was posted on the Environmental Registry of Ontario on October 21, 2024 and the comment period for the Bill ends on November 20, 2024. It is anticipated that Bill 212 could be called for a final vote at the Provincial legislature as soon as Monday, November 25, 2024 and be in force before the end of 2024.

OPTIONS/ DISCUSSION:***Schedule 4 of Bill 212 proposes amendments to the Highway Traffic Act regarding municipalities implementing bicycle lanes***

Through Schedule 4, the amendments to the Highway Traffic Act (HTA) would require the following, once the legislation comes into force:

- a) Municipalities will require MTO's approval to construct, install or mark a bicycle lane on municipal roads where the number of motor vehicle lanes is being reduced to accommodate the bicycle lane;
- b) MTO will determine whether the municipal project will diminish the movement of motor vehicle traffic, including requesting traffic information related to such;
- c) Projects that are awarded or entered into procurement for the construction or installation before Bill 212 comes into force are exempt. Projects where the construction or installations is being performed by the municipality and not by any party under contract, are exempt if such work has already commenced;

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- d) MTO will have the authority to require municipalities to submit information about existing bike lanes on municipal roads where an existing vehicle lane was removed. Based on the outcome of the review, a regulation could be made to require the removal of the bike lane and the return of the traffic lane; and
 - e) The Minister of Transportation may reserve the right to govern the information that is required by the Ministry and exempt any highway or class of highway at their discretion.

Regulating processes for municipalities to meet the requirements of this proposed Act have not been defined

Certain aspects of the proposed Act remain unclear, particularly concerning the process for obtaining provincial approval, the classification of roads affected, and the associated time schedule and cost implications in meeting the proposed Act requirements.

- a) **Provincial Approval Process:** The Act mandates that municipalities seek provincial approval before installing new bike lanes that involves the removal of existing traffic lanes. The criteria for this approval are to be detailed in forthcoming regulations or guidance documents. As of now, the specific procedures and requirements for obtaining such approval have not been outlined.
- b) **Road Classification:** The proposed Act does not explicitly define which classifications of road are subject to its provisions. This lack of clarity raises questions about whether all municipal roads or only certain classifications (e.g., arterial roads) will require provincial oversight for bike lane installations.
- c) **Schedule and Cost Implications:** The introduction of a provincial approval process could potentially extend project timelines due to additional administrative steps. At a minimum, project delays due to the required provincial administrative approval steps may lead to increased costs for municipalities, both in terms of project expenses and potential penalties for not meeting existing funding agreements or construction deadlines. On the other hand, provincial disapproval and delays to traffic calming projects involving the removal of a traffic lane could mean that the road safety issues remain unresolved, putting all road users at risk until an alternative solution that will likely be less effective, more costly and time consuming is implemented.

Proposed HTA changes in Bill 212 will impact City Planning

As the proposed Highway Traffic Act changes directly impact municipalities' ability to retrofit on-road bike lanes into existing streets, they will have the following potential consequences:

- a) Constrain the City's ability to implement traffic calming for priority streets to improve their safety performance, if the traffic calming measures include removing a traffic lane and allocating road-space to accommodate bike lanes;
- b) Constrain the City's ability to reconfigure or reclassify the transportation function of existing City streets within newly approved Secondary Plan areas. An example is Markham Road in the recently approved Markham Road-Mount Joy Secondary Plan;

- c) Potentially force all new travel demand from redevelopment growth to be accommodated only on automobiles and available public transit services;
- d) Constrain the City’s ability to accommodate cycling travel demands resulting from redevelopments within intensification areas, leading to more use of sidewalks for cycling; and
- e) Constrain the City’s City-building policies to create vibrant and complete communities through creating a multi-modal transportation system that provides for active transportation and micro-mobility use.

Proposed HTA changes in Bill 212 will impact current City projects

Several projects currently underway may be impacted by this new legislation. These projects are identified in Table 1. Since the construction of these projects is anticipated to commence after Bill 212 comes into effect, expected before end of 2024, provincial approval will likely be required for all these projects. However, in the absence of any formal process or procedure, it is unknown at this time what impact the new requirements of the Act would have on the project construction timelines, or if the projects can proceed beyond the detailed design phase.

Additionally, the City’s Active Transportation Master Plan (ATMP) includes short-term five-year and ten-year capital plans. The ATMP capital plans were developed with the implementation of specific projects within the program subject to the annual capital budget request and approval process. The ATMP capital plans will need to be reviewed for impacts to the locations identified in the plan for adherence to Bill 212.

Table 1 – Impacted Active City Projects

Project	Current Status	Construction Budget Status	Receiving Federal Funding (Y/N)
Main Street Markham Traffic Calming (Parkway Ave/Bullock Dr to 16th Ave)	Detailed Design complete	2025 construction budget pending approval.	Yes
Carlton Road Traffic Calming (McCowan Rd to Kennedy Rd)	Detailed Design complete	2025 construction budget pending approval.	Yes
Allstate Parkway New Active Transportation Facility (Centurian Drive to Highway 7)	Detailed Design underway	2025 construction budget pending approval.	Yes

Proposed HTA changes will impact Federal funding of active projects

The three impacted projects currently underway are funded in part by Infrastructure Canada’s Active Transportation Fund (ATF), supporting the design and implementation of new active transportation facilities. This federal grant of \$1.335M covers up to 60% of eligible project costs. According to the Contribution Agreement with Infrastructure Canada, all funded projects must be completed by January 31, 2026 to qualify for this

grant. However, due to uncertainties around the timeline impacts and the process for securing provincial approval for adherence with Bill 212, this completion deadline may be at risk. In anticipation of project delays caused by Bill 212 and to address the funding agreement deadline, staff will engage with Infrastructure Canada to request for an extension to the grant deadline, ensuring adequate time to establish the necessary provincial approval procedures and to implement the facilities in conformance with Bill 212.

Potential impacts to City projects may require wider City actions

While construction has not been initiated on any of the above projects, significant resources have already been committed to traffic analysis, feasibility, detailed design and public consultation on these projects. There are also specific funding commitments that have been made. Once Bill 212 is enacted, the City has the following options to consider:

- a) Proceed with the progress of projects as per the previous plan, including the implementation of the projects (pending budget approval). Once the new regulations and approval process has been implemented, the City would try to obtain provincial approval as required. However, the Province may unfortunately not approve the projects, resulting in either the construction halting and/or the potential removal of any infrastructure that has been completed. This would result in a significant financial loss as well as disruption to the community.
- b) Continue with and/or finalize the detailed design of the affected projects, but not proceed with any construction activities until the Province's approval process is known. This will significantly impact project timelines and place the Federal ATF funding in jeopardy.
- c) Halt all work (including detailed design) until the legislation is passed and the formal approval process is known.

All of the options above have negative implications on the City. Further, if the City of Markham is not exempt from the proposed legislation, the City will need to revisit the capital program for the Active Transportation Master Plan to ensure that it is not in contravention of the proposed legislation.

Municipalities are best positioned to plan the infrastructure needs of local communities such as bike lanes and Markham has demonstrated this through the development of the Active Transportation Master Plan

Cycling infrastructure typically facilitates short trips that are under 5 km. Therefore, they are local in nature, and their implementation requires an understanding of that local need. The City of Markham has jurisdiction over mainly the collector and local street network, which serves local needs. Cycling facilities implemented or planned to be implemented on the City's network are on these collector streets, and are typically implemented to address the safety concerns of cyclists and pedestrians, as is defined in the Active Transportation Master Plan.

The key focus of Bill 212 and the proposed changes to the HTA is to help address traffic congestion on the major road and highway networks. Given that the cycling facilities

implemented or planned for implementation by the City are on secondary roads, which is consistent with public comments made by the Premier and Minister of Transportation, Markham should therefore be exempt from this legislation.

Therefore, staff recommend that Council request the Province to exempt the City of Markham from the proposed bike lane regulations.

Consultation on Bill 212 ends on November 20, 2024

The Province has posted a framework titled “[Bill 212 - Reducing Gridlock, Saving You Time Act, 2024 - Framework for Bike Lanes Requiring Traffic Lane Removal](#)” on the Environmental Registry of Ontario. Through this registry, the Ministry of Transportation is accepting public comments on Bill 212 until November 20, 2024.

Staff recommend submitting the comments outlined in this report and the Council resolution to the Ministry of Transportation to meet the consultation deadline and, if necessary, submitting any additional Council comments to MTO as a follow-up.

FINANCIAL CONSIDERATIONS

The impacted projects outlined in this report carry financial implications, including resources spent on projects that may not proceed, potential fees for Provincial reviews, and possible effects on federal funding due to timeline commitments.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

To comply with Bill 212, the City can collaborate with the Province to secure approval for implementing affected active transportation programs. Delivering these facilities in Markham supports the City's strategic commitment to building a Safe, Sustainable, and Complete Community by enhancing its comprehensive transportation network.

BUSINESS UNITS CONSULTED AND AFFECTED:

Not applicable.

RECOMMENDED BY:

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