

The Regional Municipality of York

Committee of the Whole
Transportation Services
January 14, 2021

Report of the Commissioner of Transportation Services

Whistle Cessation on Ninth Line City of Markham

1. Recommendations

1. Council authorize implementation of whistle cessation at the at-grade road/rail crossing on Ninth Line, on the GO Stouffville corridor, in accordance with the Region's Anti-Whistling Warrant Criteria Policy and the *Railway Safety Act, R.S.C., 1985, c.32*.
2. The Regional Clerk circulate this report to the Clerks of the City of Markham and Town of Whitchurch-Stouffville, Transport Canada, Metrolinx and York Regional Police.

2. Summary

This report seeks Council approval to implement 24-hour whistle cessation at the at-grade road/rail crossing on Ninth Line, on the GO Stouffville corridor, as required by Transport Canada.

Key Points:

- City of Markham is requesting Council authorize implementation of whistle cessation at the Regional at-grade road/rail crossing on Ninth Line and confirm funding for Regional obligations of the required crossing safety features
- The Region and City of Markham are responsible for fulfilling requirements of the Region's Anti-Whistling Warrant Criteria Policy and Transport Canada's *Railway Safety Act* to implement whistling cessation
- City of Markham will implement the required safety features to accommodate whistle cessation
- An amendment to the existing Memorandum of Understanding between the Region, City of Markham and Metrolinx as well as a new indemnity agreement with Metrolinx are required

3. Background

June 2008, Council approved an Anti-Whistling Warrant Criteria Policy

In [June 2008](#), Council approved the Anti-Whistling Warrant Criteria Policy (Policy). The Policy provides a set of criteria when Regional support is requested for a local municipal anti-whistling bylaw at railway crossings at locations on Regional roads (Attachment 1). The criteria provide a consistent approach to deal with local municipal requests for implementation of anti-whistling within the Region.

Transport Canada has established regulatory requirements for municipalities to implement whistle cessation at crossings

A municipality wishing to implement whistle cessation must fulfill requirements set out in the *Railway Safety Act*, Grade Crossing Regulations and Grade Crossing Standards. [Transport Canada](#) has an eight-step procedure consistent with regulatory requirements and applicable safety features when eliminating whistling at rail crossings. This procedure applies to the Region and the City.

City of Markham implemented whistle cessation at 13 crossings, including six crossings intersecting Regional roads on the GO Stouffville corridor

Residents living near the GO Stouffville corridor advocated for whistle cessation for many years to address noise concerns. The City of Markham implemented whistle cessation at 13 crossings, including six crossings intersecting Regional roads on the GO Stouffville corridor. The City fulfilled requirements of both the Region's Policy and Transport Canada's procedure.

As required by Transport Canada, Council passed a resolution in [June 2018](#) declaring train whistles not be used at the six crossings intersecting Regional roads on the GO Stouffville corridor, allowing whistle cessation at the crossings listed in Table 1.

Table 1
Whistling Cessation Implemented at Regional Crossings
in the City of Markham

At-Grade Road/Rail Crossings	Mileage
Major Mackenzie Drive approximately 490 metres east of Highway 48	44.96
16th Avenue approximately 170 metres east of Main Street Markham	46.31
McCowan Road approximately 820 metres north of Highway 7	48.38
Kennedy Road (north) approximately 530 metres north of Highway 7	49.42

At-Grade Road/Rail Crossings	Mileage
Highway 7 approximately 320 metres west of Main Street Unionville	50.13
Kennedy Road (south) approximately 720 metres north of Steeles Avenue	52.40

City of Markham has now identified three remaining crossings on the GO Stouffville corridor for implementation of whistle cessation

Following the initial implementation, City of Markham staff was directed to review remaining crossings where whistle cessation may be appropriate. Three remaining at-grade rail/road crossings on the GO Stouffville corridor were identified, namely local crossings at Elgin Mills Road and at 19th Avenue, and a Regional crossing on Ninth Line. Existing and proposed Regional locations are shown in Attachment 2.

City of Markham is requesting the Region authorize implementation and funding for whistle cessation at the at-grade road/rail crossing on Ninth Line

In [February 2019](#), City of Markham Council adopted a report seeking authorization to implement whistle cessation at additional locations along the GO Stouffville corridor. The City of Markham is requesting the Region implement 24-hour whistle cessation at the Ninth Line crossing, confirm funding for Regional obligations for construction of required safety features, provide a resolution declaring train whistles not be used at the Regional crossing and to enter into any required agreements or memorandum of understandings with the City and Metrolinx.

4. Analysis

The Region and City of Markham are responsible for fulfilling requirements of the Anti-Whistling Warrant Criteria Policy and *Railway Safety Act* to implement whistling cessation

Subject to Council authorization to permit implementation of whistle cessation on Ninth Line, the City of Markham will be required to fulfil criteria of the Policy as well as section 23.1 of the *Railway Safety Act*. The City will be responsible for communicating its plan to implement whistle cessation and carry out a public education program. All infrastructure upgrades and safety features will be carried out by the City. Completion is anticipated in 2021.

City of Markham is responsible for implementing the required safety features to accommodate whistle cessation on Ninth Line

The required safety features to implement whistle cessation are identified in the City of Markham's design and include warning signs and pavement markings. The design does not include new pedestrian and cycling facilities and therefore, pedestrian gates are not required to satisfy Transport Canada requirements or Metrolinx's obligation to sound a whistle at the rail/road crossing intersecting Ninth Line.

Existing Memorandum of Understanding between the Region, City of Markham and Metrolinx requires amendment and a new indemnity agreement with Metrolinx is required

The Region entered into a Memorandum of Understanding (MOU) with the City of Markham and Metrolinx for construction of crossing safety features for the six existing Regional crossings. The MOU prescribes each party's respective rights, obligations and responsibilities to implement whistle cessation. The Region will work with the City and Metrolinx to amend the existing MOU to incorporate the Ninth Line crossing.

In addition, a new indemnity agreement with Metrolinx will be required to assume liability, insurance and indemnification relating to whistle cessation at the Regional crossing on Ninth Line.

5. Financial

In accordance with the Region's Anti-Whistling Warrant Criteria Policy, City of Markham is responsible to carry out a safety audit approved by Transport Canada to support implementation of whistle cessation. The safety audit recommends pavement markings and signs, which are the Region's responsibility at all at-grade rail crossings on Regional roads.

The Region anticipates costs of approximately \$50,000 for the required safety features the Region is responsible for on Ninth Line to support implementation of whistle cessation. Sufficient funding is included in the draft 2021 Capital Budget submission and implementation will be subject to Council approval of the budget.

6. Local Impact

The Region previously supported implementation of whistle cessation on the GO Stouffville corridor. Implementing the additional rail/road crossing intersecting Ninth Line has no impact to other municipalities and will address noise concerns raised by residents.

7. Conclusion

City of Markham is requesting Council authorize implementation and funding of whistle cessation at the at-grade road/rail crossing on Ninth Line, on the GO Stouffville corridor, as required by Transport Canada. To satisfy regulatory requirements, staff is seeking a Council resolution to allow for the City of Markham's 24-hour whistle cessation at the Ninth Line crossing.

City of Markham would be responsible for fulfilling requirements of the Region's Anti-Whistling Warrant Criteria Policy and the *Railway Safety Act* to implement whistling cessation. Further, the Region would need to amend the existing Memorandum of Understanding with City of Markham and Metrolinx and enter into a new indemnity agreement with Metrolinx.

For more information on this report, please contact Joseph Petrungaro, Director Roads and Traffic Operations, at 1-877-464-9675 ext. 75220. Accessible formats or communication supports are available upon request.

Recommended by: **Paul Jankowski**
Commissioner of Transportation Services

Approved for Submission: **Bruce Macgregor**
Chief Administrative Officer

December 10, 2020
Attachments (2)
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