

## Staff Report 2024-0280

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Meeting Date: June 4, 2024

Subject: Proposed Illegal Land Use Task Force

Submitted By: Joel Assaly, Analyst Municipal Law Enforcement, Community and Human Services

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### RECOMMENDATION

That the Terms of Reference attached as Schedule B to Staff Report 2024-0280 be approved;

That the continuation of enhanced enforcement measures through an official task force be endorsed;

That Councillor's \_\_\_\_\_ and \_\_\_\_\_ be selected to participate in the Illegal Land Use Task Force;

That a copy of this report be shared with the Region of Peel, City of Brampton, City of Mississauga, City of Vaughan, Town of Halton Hills, Ministry of Transportation, Ministry of Environment, Conservation and Parks, Canadian National Railway, Canadian Pacific Railway, the Ontario Trucking Association, Ontario Real Estate Association; and

That staff be authorized to share enforcement information with external agencies, as necessary.

### REPORT HIGHLIGHTS

- The illegal land use enforcement task force was established in 2021 dedicated to proactively identifying and investigating illegal truck depots;
- This report presents a new governance model and terms of reference to guide the implementation of the illegal land use task force;
- June 2024 a call for participation will go out for the community to volunteer on the task force;
- September 2024 Council will appoint the community representatives and elected officials to sit on the task force at which point the illegal land use task force will convene to establish objectives and priorities;
- January 2025 the illegal land use task force will report back to Council with an end of Q4 update.

## **DISCUSSION**

### **Background**

In recent years, the Town of Caledon has seen a concerning rise in the illegal parking and storage of tractor-trailers and other commercial vehicles, particularly in the south but with indications of the issue spreading throughout the Town of Caledon.

In February 2020 Council approved Staff Report 2020-0033 including a “Trucking Task Force” workplan which included four additional staff as well as resources for a communications strategy and to cover the cost of prosecutions. The implementation plan included a three phase approach:

- Phase 1 – communication and education strategy;
- Phase 2 – proactive enforcement with support from zoning examiner, and solicitor;
- Phase 3 – tracking and reporting progress.

Implementation of the task force began in 2021 applying the communication and education strategy followed by the proactive enforcement initiative. Proactive enforcement involved By-law officers canvassing the Town and identifying illegal trucking depots while following up with enforcement action. The communication and education strategy was on-going throughout the proactive enforcement phase.

Staff Report 2023-0327 brought to council Jun 6, 2023 provided council with an update and recommendation to expand the task force’s mandate to include other types of illegal land uses. That report also provided recommendations to advocate the provincial government for amendments to the *Municipal Act* to strengthen municipal enforcement powers.

May 1, 2024 staff presented a workshop to Council attached as Schedule A to this report. The workshop details the history of the problem and actions to date and suggests a plan moving forward to formalize the Illegal Land Use Task Force.

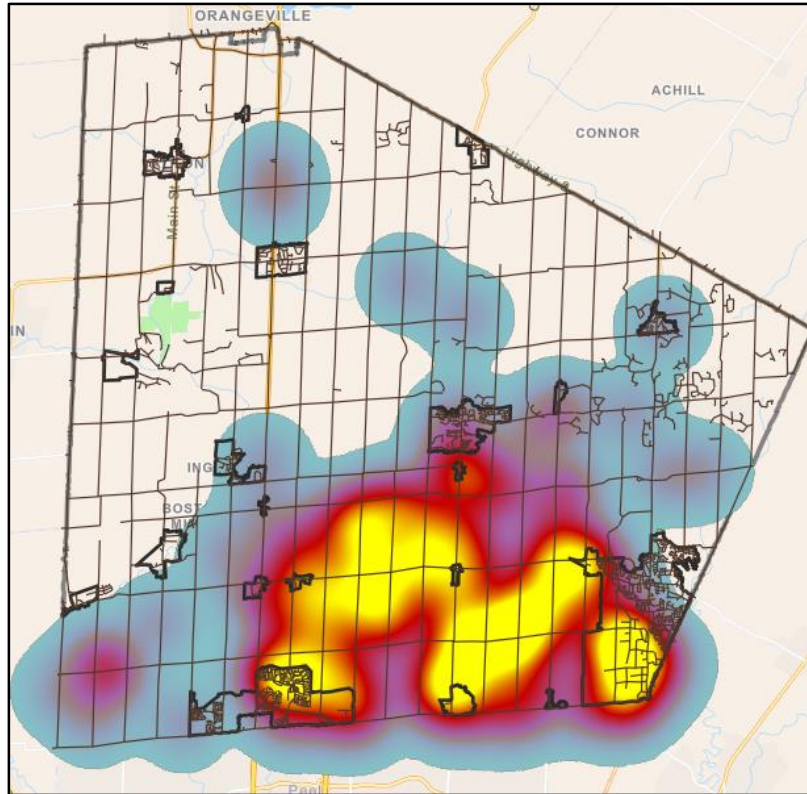
Since the implementation of the task force, Staff has received over 300 complaints, of which:

- 207 were investigated as truck depots;
- 61 completed prosecutions;
- 25 currently in prosecution; and
- 28 active files.

Since the last update to Council from June 2023, Staff has been involved in the following enforcement actions:

- 44 new properties are being investigated; and
- 4 prosecutions have been initiated.

The majority of illegal truck depots in Caledon have been concentrated along Mayfield Road between Dixie Rd to Coleraine Rd and south of Boston Mills Rd.



### **Fines, Penalties and Court Orders**

In pursuit of our overarching goal of achieving compliance, Enforcement and By-Law Services, along with Prosecutions, pursued significant financial penalties to serve as a deterrent for those who knowingly flout the Town's by-laws. Under the Planning Act, individuals, corporations, businesses, and directors may face charges for unauthorized land use or development activities. Upon conviction, penalties include:

Individuals: fines of up to \$25,000 for a first conviction, with an additional \$10,000 for each day the violation persists post-conviction.

Corporations: fines of up to \$50,000 for a first conviction, along with \$25,000 for each day of continued violation post-conviction.

Similarly, under the Municipal Act, individuals convicted of offences may face fines determined by municipal by-laws, with a maximum limit of \$100,000, and \$10,000 for repeated or ongoing violations. However, special fines can surpass these limits to nullify any economic benefits gained from breaching the by-laws.

In some cases, fines alone may not be enough to ensure compliance. Our By-law officers have the authority to seek court orders, including injunctions, which can halt ongoing violations and compel property owners to bring their land into compliance. If an injunction is issued and ignored, we can then pursue a contempt order. This could result in harsher penalties, including imprisonment, additional fines, and even the seizure of the property.

### **Current Challenges**

After approximately three years of proactive enforcement action, prosecutions and a variety of court decisions. Staff has identified a variety of factors which promote an environment of non-compliance and blatant defiance.

**Continued Expansion of Truck Depot:** Despite enforcement efforts, the illegal expansion of truck depots and other forms of illegal land uses persist, exacerbating the problem;

**Violations Despite Presence of By-law Officers:** Violations such as fill importation occur even when by-law officers are present on-site, indicating a blatant disregard for regulations;

**Ineffectiveness of Fines as Deterrents:** Existing fine amounts are insufficient to deter illegal activities, as they are viewed merely as a "cost of doing business" by offenders.

**Lengthy Legal Processes and Low Penalties:** Legal proceedings often span several years, culminating in relatively low fines of \$25,000, which fail to adequately address the severity of the violations and do not impose the financial burden expected to deter activity;

**Property Ownership Changes and Evasion:** Some properties change ownership after receiving violation notices, complicating enforcement efforts and allowing offenders to evade accountability. Challenges in tracking and locating rightful property owners creates delays and strains resources;

**Limitation Periods Due to Court Delays:** Court delays contribute to limitation periods, posing challenges in pursuing legal action against offenders;

**Difficulty in Identifying and Serving Summons to Owners:** It is often challenging to track down property owners, particularly when they are corporations or located outside of Ontario, delaying the service of summonses;

**Lack of Clear Responsibility:** Operations are sometimes owned by corporations, with no clear individual in charge, further complicating enforcement efforts and accountability measures.

### **Next Stage: Re-Imaging the Task Force**

Recognizing the continued expansion of illegal land uses and non-compliance with Town by-laws, our experiences have discovered that traditional enforcement models have not been as effective an approach as anticipated. Small monetary penalties, and lengthy compliance times are perceived as a manageable business expense by business operators.

Addressing the intricate and varied challenges inherent in such investigations necessitates a well-coordinated, interdisciplinary approach to combat illegal land use. Recognizing that this issue extends beyond mere enforcement, it calls for a collaborative effort among internal and external stakeholders to strategically devise effective solutions.

The purpose of the Illegal Land Use Task Force (ILUTF) will be to proactively identify and provide solutions to address illegal land uses in the Town of Caledon and will:

- Identify interagency collaboration opportunities;
- Prioritize community well-being;
- Proactive engagement;
- Data-driven decision-making;
- Enhance zoning and bylaw clarity;
- Advocacy; and
- Preservation of Natural Resources.

### **Scope of Activities**

To fulfill its mandate, the ILUTF will actively engage internal (staff) and external stakeholders to navigate the following action items:

- Information Gathering and Education
- Enforcement and Compliance
- Parking Management
- Land Use Planning and Zoning
- Site Plan Approvals

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- Long-Term Planning
- Advocacy

### **Structure and Criteria**

- CAO (Or designate)
- Subject Matter Experts (staff) from Planning, Legal, Municipal Law Enforcement, Communications
- Municipal Representatives: two elected officials (members of Council)
- Community Representatives: residents, business owners and stakeholders who may be directly or indirectly impacted by illegal land use activities.

### **Liaison Agencies**

- Ontario Provincial Police (OPP);
- Region of Peel;
- Toronto Region Conservation Authority (TRCA);
- Niagara Escarpment Commission (NEC);
- Credit Valley Conservation (CVC);
- Lake Simcoe Region Conservation Authority (LSRCA);
- Municipal Partners; and
- Industry Representatives.

The proposed Terms of Reference are attached to the report at Schedule B

### **NEXT STEPS**

The next steps in implementing the Illegal Land Use Task Force include;

- A call for community and business representatives to participate in the task force; July 2024
- Council approval of task force members; September 2024
- Task Force meetings to begin fall 2024
- First Task Force update to Council Q1 2025

### **FINANCIAL IMPLICATIONS**

No financial implications.

### **COUNCIL WORK PLAN**

#### **Strategic Plan 2023-2035**

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This report is directly related to the following priority in Caledon's 2023-2035 Strategic Plan:

Community Vitality and Livability

### **ATTACHMENTS**

Schedule A to Staff Report 2024-0280

Schedule B to Staff Report 2024-0280