

**Date:** 2024-01-22

**Subject:** **Illegal Development and Land Use Related to Truck, Trailer, and Container Storage**

**Contact:** Peter Bryson, Acting Director, Enforcement and By-Law Services

**Report Number:** Legislative Services-2024-055

**Recommendations:**

1. That the report from Peter Bryson, Acting Director, Enforcement and By-Law Services to the Planning and Development Committee Meeting of January 29, 2024, re: **Illegal Development and Land Use Related to Truck, Trailer, and Container Storage**, be received;
2. That a copy of this report be shared with the Region of Peel, Town of Caledon, City of Mississauga, City of Vaughan, Ministry of Transportation, Ministry of Environment, Conservation and Parks, Canadian National Railway, Canadian Pacific Railway, and the Ontario Trucking Association;
3. That an official task force to continue enhanced enforcement measures be endorsed; and,
4. That staff be authorized to share enforcement information with external agencies, as necessary.

**Overview:**

- **Enforcement and By-law Services is addressing an influx of illegal development and land use complaints related to the commercial storage of large motor vehicles and intermodal containers.**
- **Property Standards, in collaboration with key internal and external partners, are enhancing the enforcement mechanisms and legal remedies used to cease the operations of illegal facilities, deter future illegal land use, and mitigate negative community impacts.**
- **Property Standards has reallocated staff to manage the increased workload and is refining standard operating procedures to optimize resource utilization,**

**effectively implement regulatory tools, and improve communication across the organization.**

## **Background:**

### Illegal Truck, Trailer, and Container Storage Operations in Brampton

Brampton is at the center of Canada's major transportation corridors. The COVID-19 pandemic underscored the important role the trucking industry plays in serving the day-to-day needs of Brampton residents and businesses, which contributes significantly to the national GDP. However, as the City continues to make important strides in establishing itself as an economic gateway, the illegal parking and storage operations on non-designated lands remain a pressing challenge.

This development and conversion of land without approval is inconsistent with the goals and objectives of the City's plans, policies, and by-laws; and poses risks to public safety, municipal growth, and environmental integrity. The impacts range from:

- Not levying property-appropriate municipal taxes or collecting the required permit application fees.
- Placing undue strains on municipal utilities and infrastructure, increasing the city's cost of maintenance and repair, including stormwater management systems and local roadways.
- Interfering with and damaging conservation features such as valley and stream corridors, flood storage and erosion control, fish and wildlife habitat, groundwater recharge and discharge, and air and water quality.

To address the growing issue, Enforcement and By-law Services is recommending the endorsement of a formal task force to align efforts and approaches for increased efficacy and coordination. This report aims to delineate the City's recent actions to educate owners, encourage faster compliance, and deter future infractions; and how we can improve this approach.

### Enforcement Purpose and Objective

Based on the multi-faceted nature of these investigations, an inter-departmental and multi-governmental approach is important to ensure that locations do not conflict with adjacent land use. The collaborative efforts of staff target protecting public safety, maintaining the quality of life for residents, upholding the integrity of the community, and mitigating the potential negative impacts. Enforcement action aims to:

- Deter unauthorized development and land use.
- Align development projects with municipal plans, policies, and land use compatibility.
- Enhance road safety by preventing unauthorized access and haul routes.
- Preserve the local environment by minimizing pollutants and contamination.
- Maintain community aesthetics and prevent negative visual impacts.

- Support local businesses by preventing unfair competition from unregulated operations.
- Preserve property values by averting the depreciation caused by incompatibility.

### **Current Situation:**

To operate an outdoor storage yard or intermodal facility on lands that do not support the use, applicants may either apply for a permanent Zoning By-law Amendment or a Temporary Zoning By-law Amendment. Once a Zoning By-law Amendment is approved, the approval of a site plan is required before development work commences. Land use changes for truck parking are no longer considered through Minor Variance Applications.

Between 2018 and December 2023, 47 Pre-consultation applications were received for proposed outdoor truck parking. These resulted in 15 Zoning By-law amendment applications and 21 site plan approval applications. Of these, only seven (7) by-law amendments have been approved, and eight (8) site plan approvals have been issued. The remaining will inform a proactive enforcement strategy for investigation in 2024. Several factors may be contributing to the influx of illegal truck parking operations, including:

- The proximity to transportation hubs.
- The rapid growth in e-commerce and supply chain disruptions.
- The increase in local independent truck owners/operators and the limited availability of long-term parking solutions.
- The escalating fuel, insurance, purchase, operating, and land costs.
- The availability of undeveloped agricultural properties.
- The small monetary penalties and lengthy compliance pursuit times.

### **Current State of Enforcement**

Service requests for illegal truck/trailer/container parking and storage have varied year-over-year, however, in 2023 there was a significant increase.

<b>Year</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Service Requests</b>	5	11	3	12	10	71

At the time of writing this report, there are 84 open cases under investigation. Some notable observations from these locations are that more than half are zoned Agricultural and Residential Rural Estate and nearly 40% are located on roadways that prohibit the movement and operation of heavy trucks. In addition to Zoning and Site Plan Control contraventions, other commonly observed contraventions include the:

- The unauthorized construction and use of accesses.
- The illegal use/import/export of excess soil and fill.
- The unauthorized injury or destruction of trees.
- The pollution/interference/damage to watercourses, wetlands, and storm sewers.

- The interference and damage to natural features, hazards, and biologically sensitive areas (floodplains, wildlife habitats, etc.).
- The damage to and deposits on regional and municipal roadways and culverts.

### Environmental Concerns

Environmental Engineering has undertaken environmental due diligence work to assess the illegal work performed on some of these sites. One assessment revealed that the remediation cost would be approximately \$4 million, highlighting the magnitude of the illicit work that had been carried out, which included:

- Watercourses filled and rerouted through ditches and swales, impacting the habitat of local species.
- Improper surface installation procedures, increasing the risk of road sealant and other materials from recycled asphalt leaching into the subsurface, altering soil pH and affecting sensitive land use.
- Lack of soil compaction in the creation of the berms increasing risk of erosion, posing turbidity concerns in nearby surface water bodies.
- Spills from improper installation of above-ground fuel storage.

### Enforcement Strategy

Faced with continued non-compliance, it was evident that traditional progressive models of enforcement were not an effective approach since small monetary penalties and lengthy compliance pursuit times are perceived as a cost of doing business.

Based on the multi-faceted nature of these investigations, a multi-pronged approach is often required, as these cases trigger provisions of other City's by-laws including Fill, Property Standards, Traffic, Building, Site Plan Control, Boulevard Maintenance and Highway Obstruction, Refuse and Dumping, Noise and Nuisance. Staff are reviewing current internal cross-functional collaborative processes that can aid enforcement and enhance communication across the organization. Many external stakeholders are also engaged in coordinating efforts and resources to increase efficacy, including but not limited to Conservation Authorities, Region of Peel, Ministry of Environment, Conservation and Parks ("MECP"), Peel Regional Police, and Ministry of Transportation.

Staff has been working with landowners and area Councillors to inform them of the impacts of illegal activities, locations that are desirable for parking and/or storage of trucks, and the approvals required for establishing such facilities. In November 2023, an industry workshop was hosted to provide a comprehensive overview of the development and planning process and establish a platform for open dialogue with landowners and operators.

**Fines and Penalties:** While the overall enforcement objective is to achieve compliance, Enforcement and By-Law Services, and Prosecutions will seek meaningful financial penalties for deterrence purposes and for those who have a willful disregard for the City's by-laws.

Under the *Planning Act*, landowners, corporations, businesses, and directors may be charged for using or permitting the use of land for purposes not permitted or undertaking development in a designated area without an approved site plan and upon conviction, is liable to:

- Individual: up to \$25,000 on a first conviction; and \$10,000 for each day the contravention continues after a conviction.
- Corporation: up to \$50,000 on a first conviction; and \$25,000 for each day the contravention continues after a conviction.

Every person charged with an offence made under the *Municipal Act*, upon conviction, is liable to a maximum fine established by a by-law not exceeding \$100,000; and \$10,000 for multiple or continuing offences. However, special fines can be established to eliminate or reduce any economic advantage or gain from contravening the by-law, which may exceed the maximum amount set.

**Court Orders:** The officer may also make an application to seek an injunction (order to restrain) for prohibiting a person or company from continuing operations and/or performing work to bring the property into a condition of compliance. Where an injunction is obtained, and a person or company fails to comply, then a contempt order will be sought which could facilitate imprisonment, fines, and seizure of land.

### Current Challenges and Solutions

#### **Limited Enforcement Tools and Court Delay**

Under the *Planning Act*, the City faces significant delays in seeking fines and court orders to stop or prohibit work. Since these methods only move at the rate of the court system and do not always expedite compliance, staff are reviewing the financial feasibility of performing remedial work under the *Building Code Act* and *Municipal Act* to bring properties into compliance. The scope of this work has the potential to bear significant costs yet may act as a catalyst toward compliance.

Thus far, this has included the placement of concrete barriers at local and regional accesses that have been constructed or altered without authorization until such time that the right-of-way is restored to its original condition.

Staff are also reviewing the opportunities for housekeeping amendments to various by-laws to allow for the administration of administrative penalties and have requested the Ministry of Attorney General to provide short-form wording and fines to enable officers to commence a proceeding with a Certificate of Offence on site. These measures will not include a licensing or regulatory regime as under the *Municipal Act*, a municipality cannot provide for a system of licences with respect to a transportation business in which property is conveyed in motor vehicles, other than buses, cabs, and tow trucks, that are used for hire ([O. Reg 583/06](#)).

#### **Limited Enforcement Resources**

The enforcement situation is complicated, as many jurisdictions can be involved, including conservation authorities (site alteration), the Region (access and roads), and the MECP

(excess soil) which have different regulations but lack the staff to enforce the regulations. As a result, the municipality is responsible for enforcing the regulations through municipal mechanisms.

To accommodate the complexity and resource capacity demand of this initiative, four full-time officers have been temporarily redeployed to fulfill the required key project deliverables described herein including proactive investigations and regular follow-ups with offenders.

Additionally, there are other projects of corporate significance including the Proactive Property Standards Pilot, Second Unit Task Force, and Residential Rental Licensing Pilot that redeployed staff from general Property Standards investigations. Coupled with a steady increase in service requests annually, this has resulted in a backlog of initial files. It is anticipated that these impacts will continue as resources are redistributed. However, Enforcement and By-law Services are undertaking an operational review which aims to assess our current state and enhance service delivery. Findings of the review will be presented to Council at the end of Q1 2024.

### **Lack of Incentive to Comply**

With the profitability of these operations, significant challenges are faced once operations are already established. Based on open-source searches, the average cost for a single truck parking spot is \$450 and the Daily Fee Per Unit as per CN 9400 Item [6500](#) Group 1 ([CN Served Off-Site Locations](#)) ranges from \$200 to \$500. Our approach to enforcement aims to prevent eventual operation by intervening early during the land development phase. Staff are currently undertaking a review of the current Fill By-law to modernize the regulations that prohibit and regulate site alteration to align with the Provincial regulatory framework for the management of excess soil.

### **Lack of Public Awareness**

A strategic communications and engagement plan, and continued conversations with the industry will mitigate the lack of awareness about permitted land use and application requirements. The objective of this strategy will be to educate property owners, through various methods about the negative impacts, land use policies, by-laws, and enforcement action taken in the community.

### **Monitoring and Next Steps (12-month Workplan)**

Enforcement efforts are aimed at reducing the frequency of illegal land use and deterring future unauthorized land development and operations, which will be measured by service request volumes. Enforcement will also monitor the efficacy of legal action by reviewing the time taken to restore the property to a condition of compliance. The following work will also be performed:

### **Enforcement Task Force Establishment (Immediate)**

- Obtain Council endorsement for the continuation of a 12-month dedicated task force.
- Obtain authorization from City Council to share information about illegal operations with the Canadian Revenue Agency, Municipal Property Assessment Corporation, and Corporations.

### **Communications and Enforcement (Q1-Q2)**

- Launch public awareness and education campaigns to enhance communication with the community and industry.
- Develop and implement a proactive enforcement strategy using planning applications, aerial mapping data, and insights from public communication engagement.

### **Enhanced Coordination and Regulatory Framework (Q2-Q3)**

- Conduct a comprehensive review of municipal and provincial regulations, identifying gaps and proposing amendments.
- Establish inter-agency coordination and information exchange mechanisms to address contributing factors and cross-jurisdictional challenges.

### **Implementation and Review (Q3-Q4)**

- Draft necessary by-law revisions in collaboration with Planning, Building and Growth Management.
- Re-evaluate efficacy, collect feedback, and implement improvements based on metrics.

### Jurisdictional Scan

Enforcement is undertaking a study to identify the reason why the City is experiencing such a large influx of illegal truck parking operations, including assessing whether this is a localized issue or whether it is happening in other municipalities throughout the Greater Toronto and Hamilton Area (GTHA) and, if so, to what extent. Area municipalities were consulted and addressed these matters under Zoning, Property Standards, and Parking By-laws; however, many don't claim to face the same breadth of challenges.

Caledon, facing similar challenges, formed an Illegal Land Use Enforcement Taskforce. Their approach includes seeking Superior Court Orders and performing work under the *Municipal Act* to expedite compliance, including removing illegally placed fill. They also inform the Canadian Revenue Agency (CRA) and the Municipal Property Assessment Corporation (MPAC) of changes in the use of the property for reassessment. In 2023, there were 25 properties reassessed and this has resulted in more than a \$384,000 increase in the tax levy ([Town of Caledon Staff Report 2023-0327](#)).

The Council of the City of Vaughan also approved the use of various tools including correspondence and collaboration with various private corporations, utility companies, provincial ministries, and authorities to coordinate efforts to address the unlawful uses of agricultural lands ([Extract From Council Meeting Minutes Of December 13, 2022](#)).

### **Corporate Implications:**

Financial Implications: The implementing actions described in this information report are currently accommodated within the approved budget and should not have implications for future budget approvals at this time.

### **Strategic Focus Area:**

This strategy supports the City's strategic focus areas and priorities. Creating space for safe, compliant, and sustainable land use fosters local environmental resilience and sustainability; service effectiveness; and community health, and well-being.

### **Conclusion:**

In summary, this report underscores the urgent need for a coordinated response to the challenges posed by illegal truck, trailer, and container storage operations in Brampton. The recommendations emphasize a multi-pronged approach to effectively tackle the issue, with a proposed workplan reflecting a proactive and strategic effort aligned with the City's priorities. Enhanced organizational coordination is vital for successful enforcement, and the proposed task force aims to achieve greater efficiency through cross-functional collaboration. With City Council's endorsement, the task force commits to regular reporting on performance metrics and a comprehensive re-assessment of operations after 12 months.

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### **Attachments:**

- Attachment 1 – Illegal Land Use | Investigative Photographs
- Attachment 2 – Illegal Land Use | Map of Investigations