

**An Interdepartmental Protocol for Responding to Encampments of People
Experiencing Homelessness on Public Land in Chatham-Kent
("Encampment Response Protocol")**

Background

Prevailing knowledge concerning homeless encampments indicates that encampments are not a long-term solution to homelessness¹ and that efforts are needed to deliver appropriate and accessible long-term housing solutions. However, Canadian courts have also recognized that, in the absence of sufficient available and accessible housing solutions, encampments cannot be prohibited. Governments are responsible for responding to encampments in a manner that respects human rights and promotes human well-being and safe communities.²

Removal of encampments from public spaces, regardless of whether there is a by-law that restricts that type of activity on the space, may not be possible without ensuring there is adequate shelter space for the people living in the encampment. Furthermore, the shelter spaces or other living arrangements must be sensitive to accommodating couples, must be accommodating of people with disabilities, and must operate in a manner that a person with an addiction can use and be supported by the shelter. Simply, it is not just a matter of adding more shelter beds in Chatham-Kent to respond to encampments.

Removal of an encampment must be a last resort. It can have serious consequences on the wellness of the person living in the encampment and can be traumatizing in itself with potential loss of documents, medications, and personal effects. It is important to note that the removal will mean that the individual moves to another unsheltered location and thus the encampment is moved, not solved.

There is a shortage of emergency housing in Chatham-Kent, forcing even those who wish to be sheltered to sleep outside. On any given night Chatham-Kent's 44 shelter beds are near, or at capacity, despite the over 200 Chatham-Kent residents experiencing homelessness.

Definition of Encampment

¹ See for example UN Special Rapporteur on the Right to Adequate Housing, "A National Protocol for Homeless Encampments in Canada" (2020) at p. 21; Canadian Human Rights Commission, "Overview of Encampments Across Canada: A Right to Housing Approach" (2022) at p. 43; National Working Group on Homeless Encampments, "Homeless Encampments: Municipal Engagement Guidance" (2023) at p. 2.

² National Working Group on Homeless Encampments, "Homeless Encampments: Municipal Engagement Guidance" (2023) at p. 2.

For the purposes of this document, an encampment refers to a temporary physical structure built as a shelter or dwelling and located on municipal property (that is not rented by the occupants of the encampment).

Encampments on Private Property

Encampments on private property are a police matter, not subject to this strategy. Property owners can contact Chatham-Kent Police Service with concerns about encampments on their property. Please see Appendix A for specifics related to encampments on Private Property.

Core Principles

1. All people of Chatham-Kent, including people experiencing homelessness, should be able to reasonably use public spaces.
2. A social service response to meet the needs of people living in an encampment on public lands is preferable to an enforcement response.
3. If reasonable social service offers are repeatedly rejected, and the criteria as established in Ontario courts are satisfied as it relates to offers of accommodation, then enforcement can be considered as a last resort.
4. It is the responsibility of the Municipality to plan and enforce policy that is in compliance with the Charter, the Human Rights Code, as well through the lens of diversity, equity, inclusion, and justice.

Strategy

The Municipality will take a general non-enforcement approach to found encampments within municipal lands, with a view to not criminalize persons living in encampments due to a lack of accessible housing. Encampments that do not meet the below criteria will be prioritised for relocation. This approach will not supersede the way in which Chatham-Kent Police Service operates, patrols, or serves the community.

Seeking to balance public and private interests while allowing for temporary shelter for persons living in encampments, encampments shall not be located in the following areas. These are areas identified as having a greater impact on the community as a whole (including in respect of health and safety, use of Municipal infrastructure, and impacts to private residences and businesses):

- On or within 100 metres from municipal playgrounds, water parks, splashpads, beaches, or sports fields

- On or within 100 metres from any elementary schools, childcare facility, assisted living facility, or other health or social service facility providing support or care services to youth or vulnerable populations including shelters
- Within 10 metres of any private property line
- On or under bridges
- On or within 5 metres of sidewalks or pedestrian paths.
- On or within 25 metres of any cemetery
- On or within 5 metres of an off-leash dog area
- On or within 5 metres of any community garden
- Structures must be freestanding and able to be moved as necessary
- In any actively used parking lot
- In or on any public-use building or structure
- In areas that block the free movement of another person on a street, public pathway, sidewalk, or other path of public travel
- On municipal land where individuals have a private easement or ownership interest, or where the Municipality owes a duty to maintain the land to the benefit or partial benefit of private individuals (i.e. beach access)
- On municipal lands in areas obstructing construction or maintenance activities

In addition, to improve the safety and well-being of encampment occupants and general public, the following safety protocols are to be followed in encampments:

- Tents/structures must be a minimum of 2 metres away from other structures while meeting all other rules to ensure fire separation and emergency service access
- Zero tolerance policy for violence or other criminal acts
- Sites must maintain a level of reasonable cleanliness including:
 - no used, uncapped needles in or around the site. Sharps containers will be located in strategic sites around the community
 - no unreasonable amounts of garbage, clutter, or uncontained debris except as reasonably required for the provision of shelter. Access to garbage disposal will be located in strategic sites around the community

In all circumstances, the Municipality recognizes that hazardous conditions and activities in encampments jeopardize the safety and well-being of encampment residents and community members. Where there is an immediate risk to public or personal safety because of the activity in the encampment, or living conditions or activities in an encampment are hazardous, the Municipality may direct residents to vacate the site. Staff will use discretion when determining distances and impact.

Municipality Intervention and Response Process

The Municipality recognizes that enforcement has a significant impact on those living in encampments and their security and well-being. Potential contravention of the rules and requirements set out in this policy, and intervention by the Municipality (including removal of an encampment), will therefore be assessed by the Municipality on a case-by-case basis, prioritizing the safety and well being of people living in encampments, staff, service providers and surrounding communities.

In all cases where enforcement occurs, the Municipality will give reasonable notice to encampment residents of intended enforcement steps and will work with encampment residents to support them in transitioning to better and safer shelter/housing options.

Response Process

Municipal Property – not within prohibited area

When an encampment, temporary shelter, or tent is located on Municipal property, and not within a prohibited area as defined by the Protocol, the following process will be followed:

1. The Program Manager of Homeless Prevention (or designate) is notified of the encampment and location.
2. Once the Program Manager is notified of the location of an encampment, the Outreach Provider (herein known as “Outreach”) will be notified and asked to attend the location to offer services and referrals within 5 business days.
3. Upon initial visit to the encampment, Outreach will work to identify individuals and complete initial conversations to build rapport and identify encampment residents needs and goals. Consenting information will be documented in the Homeless Individuals and Families Information System (HIFIS) per HIFIS guidelines.
4. Outreach will continue to engage with individuals in the encampment on a weekly basis to provide supports and referrals as needed. Outreach will collaborate with Housing Services on referrals, admissions, and housing plans. This will continue to be documented in HIFIS as per HIFIS guidelines.

5. If a substantial change in circumstance occurs relating to health and safety at the encampment and is observed by Outreach in subsequent visits (such as new health or safety issues), the Response Team will be called together to discuss next steps. Municipal legal services will be consulted on any situation where enforcement or removal may be required and will provide advice on any action to be taken (i.e. removal, court application)

Municipal Property – within prohibited area

When an encampment, temporary shelter, or tent is located on Municipal property, and within a prohibited area as defined by the Protocol, the following process will be followed:

1. The Program Manager of Homeless Prevention (or designate) is notified of the encampment and location.
2. Once the Program Manager is notified of the location of an encampment, the Outreach Provider (herein known as “Outreach”) will be notified and asked to attend the location to offer services and referrals within 5 business days.
3. Upon initial visit to the encampment, Outreach will work to identify individuals and complete initial conversations to build rapport and identify encampment residents needs and goals. Outreach will have available information about possible suitable and compliant sites and will consider the needs and choices of the individual(s) living within an encampment to identify a more suitable area that meets the conditions noted within this Protocol and will advise individuals that the location is prohibited.
4. If Outreach confirms the location is in a prohibited area and the individuals do not agree to move, Outreach will notify the Program Manager of Homelessness who will call together the Response Team to discuss next steps. Municipal legal services will review any enforcement decision and provide advice to involved municipal divisions if the matter meets the tests for enforcement based on existing legal precedents, or whether an application to Court is required before any enforcement actions are taken. The Outreach provider and Housing Services will be notified of the final decision on any enforcement steps (i.e. removal, court application).
5. If removal is required, orders will be posted by the governing division of the site (ie Parks, Facilities, Public Works, Police, etc.) outlining the decision and reason. The Response Team will determine compliance timelines depending on presenting circumstances (ie. health, safety, engagement). Outreach will continue to engage with and work to provide individualized plans for encampment

residents, whenever possible, including relocation, alternate sheltering options, and addressing any barriers to shelter or housing.

6. If the duration of time provided to vacate expires and individual(s) at the site have not voluntarily moved and are unwilling to move, a notice of trespass will be issued. Outreach and Social Services have no enforcement powers but will continue to request voluntary compliance. Next steps, including the forceful removal of individuals, will be decided on a case by case basis and may include seeking court orders.
7. Once the encampment is cleared, Outreach will notify the Program Manager of Homelessness if any further clean up is required. Relevant municipal departments or external contractors may be tasked with clearing the site of all remaining items and debris.

Encampment Support

Encampments are and will continue to be a reality for communities across the country. Until this changes, the Municipality will focus on respecting Charter rights while also providing clarity on what activities can be supported and what cannot.

To improve public health and reduce some of the negative impacts associated with encampments, the Municipality in partnership with Outreach services will facilitate access to sanitation, garbage removal and regular delivery of drinking water to found encampments in non-prohibited areas. Sharp disposal box locations will be continuously reviewed and adjusted as needed.

Third-party outreach services are contracted to provide outreach 7 days a week to connect with people living in encampments, build relationships and trust and to connect them with community resources that can assist them in exiting the encampment.