

Sheltering in Parks: Mapping the Implications of Local Bylaws on Unhoused Populations

Principal Investigator: Dr. Alexandra Flynn

GIS Analysts: Morika Kakinuma DeAngelis, Jeff Allen

JD Research Assistants: Selina Jiang, Jennifer Nguyen, Kiera Schuller



UNIVERSITY OF
TORONTO

SCHOOL
OF CITIES



HOUSING RESEARCH
COLLABORATIVE

Land Acknowledgment: The Housing Research Collaborative and Balanced Supply of Housing are located at the University of British Columbia, on the traditional, ancestral and unceded territories of the x̱m̱əθkw̱əy̱əm (Musqueam) People. We acknowledge, with gratitude, that this paper was written on the traditional, ancestral, and unceded territories of the x̱m̱əθkw̱əy̱əm (Musqueam), Sḵwx̱w̱ú7mesh (Squamish), and Stó:lō and sə̱lilwətəʔ/Selilwitulh (Tsleil-Waututh) Nations.

Homelessness in Canada cannot be understood apart from colonialism. Forced displacement from lands, the intergenerational harms of residential schools and child welfare policies, and systemic barriers to housing and economic security have and continue to produce disproportionately high rates of housing precarity and homelessness among Indigenous Peoples. We recognize these ongoing injustices and their connection to this paper, and commit to supporting approaches grounded in Indigenous rights, dignity, and self-determination.

Acknowledgment: We could not have undertaken this project without the generous financial support of the Law Foundation of British Columbia. Thanks to Professor Margot Young for reviewing the constitutional arguments. Our gratitude as well to the School of Cities at the University of Toronto for research support, and for workshopping the contents of the report. We also thank Sarah Lewis and Alina McKay for their outstanding editing and research, and Anna Cooper for identifying the importance of this study.

Recommended Citation: Flynn, Alexandra, DeAngelis, Morika K., Allen, Jeff, Jiang, Selina, Nguyen, Jennifer, Schuller, Kiera. Sheltering in Parks: Mapping the Implications of Local Bylaws on Unhoused Populations. 2026, May. Download this report at hrc.ubc.ca.

Table of Contents

- Glossary of Terms 7**
- Summary 8**
- Introduction 9**
- Background and Legal Context 11**
 - Homelessness in Canadian Municipalities. 11
 - National Estimates of Homelessness in Canada. 11
 - Homelessness in the Cities Canvassed in this Report. 11
 - Intersecting Vulnerabilities 12
 - Recent Legal Cases Involving City Parks & Persons Experiencing Homelessness in Vancouver, Prince George, Hamilton, and Kingston 15
 - Vancouver. 17
 - Prince George 25
 - Kingston. 30
 - Hamilton 33
 - The Use of Bylaws to Regulate Homelessness in Vancouver, Prince George, Hamilton, and Kingston 37
- Methodology 39**
 - Municipal Open Data Portals and Dashboards 39
 - OpenStreetMap 40
 - Statistics Canada Open Database of Buildings 40
 - Statistics Canada Open Database of Health Facilities 40
 - ParcelMap BC 40
 - Statistics Canada 2021 Census of Population 40
 - Municipal by-laws 40

Findings. 42

 What amount of city-owned parks permit unhoused populations to temporarily shelter overnight? 42

 Are municipal parks that allow temporary sheltering within walking distance of critical services? 45

 Are temporary shelters more likely to be located in areas with a higher number of critical services? 49

Analysis 52

 Municipal bylaws regulating the use of public parks aim to explicitly restrict the location of tent encampments. 52

 Parks area where temporary shelters are allowed, are more likely to be located further away from the critical services that are sorely needed by unsheltered populations. 53

 Bylaws prohibiting encampments contravene the constitutional right to sleep outside at night where there are inadequate shelter spaces. 55

 Bylaws restricting park use for encampments are legally vulnerable. 56

Conclusion 57

References 58

Appendix A – Additional Data Findings 64

 Vancouver, British Columbia 64

 Prince George, British Columbia 66

 Hamilton, Ontario. 67

 Kingston, Ontario 76

Appendix B – Case Law Related to Sheltering in Parks (2018-2024). 78

 Vancouver and Greater Area: Recent homeless encampment cases 2018-2024. 78

 Prince George: Recent homeless encampment cases 2018-2024. 96

 Kingston: Recent homeless encampment cases 2018-2024 102

 Hamilton: Recent homeless encampment cases 2018-2024. 104

List of Figures

Figure 1: Relevant Vancouver Cases	17
Figure 2: Relevant Prince George Cases	25
Figure 3: Relevant Kingston Events	30
Figure 4: Relevant Hamilton Cases	33
Figure 5: Schematic Diagram of City-Owned Parks Restriction	41
Figure 6: 3-1-1 Requests related to encampments in parks in City of Vancouver, January 2020 to April 2024	50
Figure 7: Complaints and Service Requests Received in Hamilton, September 2023 to May 2024	51
Figure 8: Vancouver Neighbourhoods	64
Figure 9: Parks Area which allows Temporary Sheltering by Neighbourhood in Vancouver	66
Figure 10: Prince George Neighbourhoods	66
Figure 11: Prince George Neighbourhoods (Downtown)	67
Figure 12: Top Ten Neighbourhoods by Share of Parks for Temporary Sheltering in Prince George	67
Figure 13: Hamilton Communities	68
Figure 14: Parks Area which allows Temporary Sheltering by Ward in Hamilton	71
Figure 15: Top Ten Neighbourhoods by Share of Parks for Temporary Sheltering in Hamilton, 2020	72
Figure 16: Top Ten Neighbourhoods by Share of Parks for Temporary Sheltering in Hamilton, May 2023	73
Figure 17: Top Ten Neighbourhoods by Share of Parks for Temporary Sheltering in Hamilton, August 2023	74
Figure 18: City of Hamilton, wards with the most 311 calls	75
Figure 19: Kingston Neighbourhoods	76
Figure 20: Top Ten Neighbourhoods by Share of Parks Area for Temporary Sheltering in Kingston	77

List of Tables

Table 1: Parks area which allows temporary shelters by city 42

Table 2: Percent of Parks Area which allow Temporary Shelters within 200m, 400m and 600m of Critical Services (%) 47

Table 3: Vancouver Neighbourhood Share of Total Park Area Differences 65

Table 4: Parks area which allows temporary shelters by community, Hamilton, while Protocol in place. 69

Table 5: Parks area which allows temporary shelters by ward, Hamilton 70

Glossary of Terms

Balance of Convenience: The final step when courts consider an interlocutory injunction, the balance of convenience requires courts to weight the benefits and harms on the two parties of supporting the injunction vs. maintaining the status quo.

Canadian Charter of Rights and Freedoms (the Charter): The Charter is part of the Constitution Act, 1982, and protects a number of rights and freedoms, including democratic rights and language rights. The right to life, liberty and security of person is outlined in Section 7 of the Charter.

Canadian Constitution (the Constitution): Canada's constitution has written and unwritten components. Together, they set out the fundamental rules and principles that govern Canada. The Constitution includes Aboriginal and treaty rights.

Encampment: Consists of informal settlements, often in tents and makeshift shelters, without access to adequate heat, water, sanitation and safety equipment, and which are subject to a range of enforcement measures.

Homelessness: The broad status of those who do not have available, secure or adequate housing. This colonial definition of homelessness, focused narrowly on the question of whether someone has indoor shelter, does not account for Indigenous worldviews in which homelessness is also a disconnection from land, culture, spirituality, and community.

Interlocutory Injunction: Allow the court to order a party to stop doing something, or order them to do something, while the case is being prepared or awaiting trial.

Principles of Fundamental Justice: These are core values within the justice system, informed by the rules of natural justice and the concept of procedural fairness.

Procedurals Fairness: The legal obligation that decision-makers have to proceed in a fair and transparent manner, including unbiased decision-making, notice, and the right to be heard.

Section 7: Refers to the section of the Charter that guarantees the life, liberty and security of all Canadians, as well as the governments requirements to respect basic principles of justice when they intrude on those rights.

Vancouver 311: 3-1-1 connects callers to non-emergency municipal government services in participating cities and regions.

Summary

This report examines the impact of municipal bylaws that govern where people experiencing homelessness may temporarily shelter in city-owned parks, focusing on four Canadian municipalities: Vancouver, Prince George, Hamilton, and Kingston. By analyzing the spatial restrictions embedded in these bylaws, the report contributes to understanding how Charter-protected rights are applied, and limited, in practice for unhoused people. It provides legal advocates with clear illustrations of how municipal rules prescribe the use of park spaces, and how these rules shape access to essential health and social services for residents facing homelessness.

The analysis, completed in mid-2025, and therefore not current, given the frequent changes to municipal bylaws, reveals significant restrictions to homeless encampments in park spaces across all four cities. In Kingston, only about one-third; in Vancouver, less than 1%; and in Hamilton, 0%. Prince George is similarly restrictive. When proximity to critical services is considered, the situation becomes even more dire. In Kingston, about two-thirds of shelter-permitted park space falls within 600 metres of essential services, but Prince George offers less than 1%, Vancouver offers almost none, and Hamilton, after bylaw and enforcement changes in 2025, provides 0% access to any legal sheltering space near critical services. As a result, people experiencing homelessness are left without options for temporary shelter in locations where the services they rely on are available.

Despite these constraints, sheltering in parks persists because many unhoused people depend on services concentrated in urban cores, particularly in larger cities such as Vancouver and Hamilton. Without accessible park spaces near these services, individuals must choose between proximity to supports and compliance with restrictive bylaws. This study demonstrates how park space is territorialized through municipal regulations that effectively prohibit homelessness, even though existing jurisprudence recognizes constitutional limits on the state's ability to displace unhoused people when adequate alternatives do not exist.

Overall, the findings show that Canadian municipalities are increasingly using bylaws to preemptively and significantly curtail the use of public parks by people experiencing homelessness. Courts have not yet fully considered this form of regulatory exclusion, and given the lack of sufficient shelter spaces, there are strong legal arguments that these practices are unconstitutional.

The implications are immediate and urgent. Measures that restrict or eliminate overnight sheltering, such as those used in Kingston, are constitutionally vulnerable. Yet challenging these restrictions is extraordinarily difficult for unhoused people. Litigation requires time, resources, expertise, and stable living conditions, all of which are beyond reach for individuals navigating daily survival, health concerns, and financial insecurity. Even with support from legal aid or advocacy organizations, cases involve complex arguments, substantial evidentiary burdens, and lengthy timelines. Meanwhile, municipalities often pursue injunctions and enforcement actions on expedited schedules, forcing unhoused individuals into urgent legal processes without the stability, technology, or institutional resources available to governments. This structural imbalance, coupled with the daily realities of restricted park spaces, makes it exceptionally difficult for unhoused people to assert their rights, amounting to both a profound access-to-justice failure and a substantive social injustice.

Introduction

In 2019, the federal government enacted the *National Housing Strategy Act* [the “Act”] which recognizes the right to adequate housing and declared “the housing policy of the Government of Canada to (a) recognize that the right to adequate housing is a fundamental human right affirmed in international law” (National Housing Strategy Act, SC 2019, c 29, s 313 (4(a)), 2019). Specifically, section 4 of the *Act* declares the housing policy of Canada to be to:

- a. recognize that the right to adequate housing is a fundamental human right affirmed in international law;
- b. recognize that housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities;
- c. support improved housing outcomes for the people of Canada; and
- d. further the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social, and Cultural Rights.

In addition to the *Act*, Section 7 of the *Canadian Charter of Rights and Freedoms* [the “Charter”] guarantees all individuals the right to life, liberty, and security of the person. Jurisprudence throughout Canada has established that section 7 of the *Charter* includes the right to shelter. Specifically, in circumstances where there is no practicable shelter alternative, the exposure of unhoused persons to serious harm infringes on their right to life, liberty, and security of the person (*Victoria (City) v. Adams*, 2009 BCCA 563). Other relevant *Charter* sections that form the basis of claims include Section 2(b) (freedom of expression), Section 2(d) (freedom of association), Section 8 (search and seizure), Section 12 (cruel and unusual treatment or punishment), and Section 15 (equality rights).

Despite the milestone enactment of the *Act* and the existence of the *Charter*, several Canadian municipalities have experienced an increasing presence of homeless encampments in recent years (Berman & Winter, 2024; Government of Canada, 2023; The Office of the Federal Housing Advocate, 2024). ‘Homelessness’ is defined as “the broad status of those who do not have available, secure or adequate housing” and references the following definition of ‘encampments’ as “the establishment of informal settlements, often in tents and makeshift shelters, without access to adequate heat, water, sanitation and safety equipment, and subject to a range of enforcement measures” (Flynn, 2024, p. 4). As of 2022, 94% of the 72 communities across Canada reported having current or historical homeless encampments, two-thirds reported that most encampments are in relatively urban areas, and 28% have developed official encampment response plans for their community (Housing Infrastructure and Communities Canada, 2023).

The increased number of encampments and unsheltered persons staying outdoors overnight in Canada was particularly significant during the COVID-19 pandemic, when indoor shelter availability was scarce, loss of employment was linked to housing precarity, and poor health conditions were exacerbated (Flynn et al., 2022; Housing Infrastructure and Communities Canada, 2023). Homelessness is under the jurisdiction of all three levels of government, and responses to encampments highlighted the ongoing lack of coordination between federal, provincial, territorial, Indigenous, and municipal levels of government. Policy at all levels of government continues to criminalize homelessness and contribute to the forced displacement of encampment residents in violation of the *Act*, constituting a breach of human rights.

This report employs replicable methods to spatially examine how municipal bylaws affect unhoused populations in public parks, focusing on locations where persons experiencing homelessness may temporarily shelter overnight. By identifying the locations of city-owned parks where unhoused populations may temporarily shelter, this research explores the extent to which municipal bylaws restrict the use of city-owned parks. This analysis further examines patterns and challenges in accessing critical services from city-owned parks, the location of decampments and parks areas, and the relationship between park access and neighbourhoods with above-average proportions of households in core housing need.

This study uses a replicable methodology, available as a supplement to this report, to spatially analyze the effects of bylaws on unhoused populations in public parks in the four cities of Vancouver and Prince George, British Columbia and Hamilton and Kingston, Ontario.



Background and Legal Context

Homelessness in Canadian Municipalities

Homelessness has risen to the forefront of urban agendas in Canadian municipalities as the number of people experiencing homelessness has increased steadily in the last two decades (Flynn, 2024). This section gives a snapshot of the well-known challenges concerning homelessness with national figures as well as key data points from the cities canvassed for this report.

National Estimates of Homelessness in Canada

As of 2024, national Point in Time (PiT) counts estimated that nearly 60,000 people in seventy-four communities across Canada were identified as experiencing homelessness on a single night (Housing, Infrastructure and Communities, 2025). This included 35,864 people experiencing homelessness in shelters, 17,088 in unsheltered locations (of whom, 4,982 were in encampments), and 6,872 who were provisionally accommodated in transitional housing programs (Housing, Infrastructure and Communities, 2025). Out of Canada's 74 communities, 56 had previously conducted PiT Counts in 2018 and 2020-22. For these communities, there was a 79% increase in the enumeration since the last (2020-22) count (Housing, Infrastructure and Communities, 2025). Compared to 2020-22, those enumerated in 2024 in an unsheltered location doubled (a 107% increase), those in sheltered locations increased by 71%, and the number of people in transitional housing increased by 62% (Housing, Infrastructure and Communities, 2025). Compared to 2018, the enumeration of people in 2024 in an unsheltered location quadrupled (a 303% increase), representing the fastest-growing segment of the homeless population (Housing, Infrastructure and Communities, 2025). Compared to 2018, the enumeration of people in 2024 in sheltered locations increased by 77%, and the enumeration of people in transitional housing increased by 26% (Housing, Infrastructure and Communities, 2025).

Thus, between 2018 and 2022, the total population experiencing homelessness on a single night almost doubled. The share of this population experiencing homelessness in unsheltered locations, including encampments, grew from 14% in 2018 to 28% in 2024 (Housing, Infrastructure and Communities, 2025). While homelessness in sheltered and transitional locations also grew over the 2018-2024 period, the proportion of the homeless population accessing these locations decreased (Housing, Infrastructure and Communities, 2025). These results highlight "an urgent need to address the root causes of the housing crisis, as homelessness continues to grow in spite of expanded shelter capacity and adaptation within the sector" (Housing, Infrastructure and Communities, 2025).

Homelessness in the Cities Canvassed in this Report

Although each municipality has its own unique context shaping drivers and responses to homelessness, the number of people experiencing homelessness in the respective cities has generally increased over time, and a higher number of people experiencing homelessness are sheltering outdoors in parks, tents, or encampments. The City of Vancouver's 2023 homeless count identified 2,420 people who were experiencing homelessness and showed that this population has steadily increased since 2013 (Mauboules & Lupick, 2023). A quarter of people experiencing homelessness in Vancouver in 2023 are unsheltered (staying outside, in someone else's home, in a makeshift shelter or tent, or in a vehicle) (Mauboules & Lupick, 2023).

The City of Prince George's 2021 PiT count identified 163 people who were experiencing homelessness, of whom 13% had stayed outdoors in a public space (Florey et al., 2021). The City of Hamilton's 2022 PiT count identified 545 people who were experiencing homelessness, and found that 11% had stayed at an unsheltered location in a public space (defined as parks, vehicles, or places not intended for human habitation), while 6% had stayed in an encampment (defined as tents, makeshift shelters, or long-term outdoor settlements) (City of Hamilton, 2022a). Meanwhile, the City of Kingston's PiT count identified 207 people experiencing homelessness, of whom 9% had no fixed address and 8% were unsheltered (United Way Kingston, 2021).

Chronic homelessness (experiencing homelessness for six or more months in the past year) is common across the four municipalities and most acute in Prince George and Vancouver. In Prince George, over 80% of respondents reported that they had been homeless for six or more months from the past year, while in Vancouver nearly three-quarters reported being homeless for at least a year (Florey et al., 2021; Mauboules & Lupick, 2023). In Kingston, about 60% of respondents reported experiencing chronic homelessness, compared to 55% of respondents in Hamilton (City of Hamilton, 2022a; United Way Kingston, 2021).

Intersecting Vulnerabilities

Analysis of the characteristics of those experiencing homelessness in Canadian municipalities reveals shared challenges and drivers of homelessness. Nationally, and in the four case study cities, the most frequent reason for housing loss is not having enough income to pay rent or lack of affordable housing options (City of Hamilton, 2022a; Florey et al., 2021; Mauboules & Lupick, 2023; Statistics Canada, 2023; United Way Kingston, 2021). In Vancouver, Prince George, Hamilton and Kingston, other drivers for housing loss included addiction or substance use, landlord or tenant conflict, conflicts with spouse or partner, and mental health challenges (City of Hamilton, 2022a; Florey et al., 2021; Mauboules & Lupick, 2023; United Way Kingston, 2021).

People experiencing or who have experienced homelessness are also more likely to be facing multiple health conditions, including learning disabilities or cognitive impairments, physical disability, medical condition or illness, mental health issues, or addiction (Hwang, 2001; Infrastructure Canada, 2024; Statistics Canada, 2023; Uppal, 2022). In Hamilton, over 80% of respondents experiencing homelessness reported having at least one health challenge, while in Vancouver two-thirds of respondents reported having two or more health concerns (City of Hamilton, 2022a; Mauboules & Lupick, 2023). In Kingston, nearly 40% of respondents reported having an illness or medical condition and two-thirds reported having mental health challenges (United Way Kingston, 2021). Comparatively, in Prince George, half of respondents reported having substance use challenges and a little less than half reported having mental health challenges (Florey et al., 2021).

People identifying as Indigenous are overrepresented in the population experiencing homelessness and those seeking emergency shelters, compared to the general population (Employment and Social Development Canada, 2018; Statistics Canada, 2023). This is most evident in Prince George, where over two-thirds of people experiencing homelessness identified as being of Indigenous descent (Florey et al., 2021).

In Vancouver, about 39% of people experiencing homelessness identified as Indigenous, compared to a little over 2% of the city population, while in Kingston, about one-third of people experiencing homelessness identified as Indigenous, compared to a little over 3% of the city population (Mauboules & Lupick, 2023; United Way Kingston, 2021). Meanwhile, in Hamilton, despite making up just 2% of the population, about a quarter of people experiencing homelessness identified as Indigenous or having Indigenous ancestry (City of Hamilton, 2022a). Indigenous homelessness is not experienced in the same way as non-Indigenous homelessness, and is defined as “First Nations, Métis and Inuit individuals, families or communities lacking stable, permanent, appropriate housing, or the immediate prospect, means or ability to acquire such housing,” and is not solely related to the presence of a structure or habitation (Thistle, 2017, p. 6).

The share of women experiencing homelessness is noticeably increasing, and people identifying as 2SLGBTQIA+ are also disproportionately represented in the population experiencing homelessness, particularly in youth (Employment and Social Development Canada, 2018). Nationally, 35% of people experiencing homelessness identified as women and 13% of people experiencing homelessness identified as 2SLGBTQIA+, over a quarter of whom are youth (Infrastructure Canada, 2024). Canada’s National Housing Strategy critically identified “a lack of data on women who are homeless, as neither those who are in shelters” nor “those who are hidden homeless are represented in homelessness statistics” (Government of Canada, 2017, p. 27).

In Kingston, 15% of people experiencing homelessness identified as 2SLGBTQIA+, nearly 40% of whom are youth (United Way Kingston, 2021). In Vancouver, 12% of people experiencing homelessness identified as 2SLGBTQIA+¹. Meanwhile, in Hamilton, 10% of people experiencing homelessness identified as 2LGBTQIA+, 16% are aged 16 to 24 years (City of Hamilton, 2022a; Mauboules & Lupick, 2023).

In Hamilton, over half (53%) of people experiencing homelessness identified as a woman, a huge increase from 28% in 2016 (City of Hamilton, 2022a). Simultaneously, the city’s shelter occupancy for shelters serving women and families were at or near full occupancy (Social Planning & Research Council of Hamilton, 2022). In both Kingston and Prince George over 40% of people experiencing homelessness identified as women, and about 25% in Vancouver (Florey et al., 2021; Mauboules & Lupick, 2023; United Way Kingston, 2021). In Vancouver, “there are less women specific shelters compared to men specific shelters: 17% are women specific beds while 44% are men specific beds” (Mauboules & Lupick, 2023).

It is important to highlight that the mere presence of bed spaces in temporary emergency shelters does not necessarily equate to adequate or supportive environments for people experiencing homelessness, especially for those identifying as Indigenous, as women, and 2SLGBTQIA+ (DeGuire, 2024; Flynn, 2024; Hermer, 2022; Social Planning & Research Council of Hamilton, 2022; The Office of the Federal Housing Advocate, 2024). Homelessness strategies and shelters do not adequately address the needs of women experiencing homelessness or the unique needs of people identifying as Indigenous (Employment and Social Development Canada, 2018). In Canada, over two-thirds of all shelter beds are designated for men or are co-ed, compared to only “13% dedicated specifically to women” (Schwan & Ali, 2021, p. 11). Court rulings on encampment evictions have found that simply providing a number of shelter beds does not qualify as adequate, accessible, alternate housing options for homeless persons and that available shelters must be “accessible in a way that takes into account the complexity of homelessness” (Hermer, 2022, p. 10).

1 Vancouver does not provide a breakdown by age and sexuality.

Shelter systems are made up of policies restricting access and behaviour, altogether enforcing social control on people seeking refuge, and such systems may result in unhoused persons feeling unsafe, unwelcome, or dehumanized (Flynn, 2024; Johnsen et al., 2018). For example, shelters may restrict access on the basis of zero tolerance for drug and alcohol use, not allowing entry to children and limiting shelter options for families, having strict curfews, or not allowing pets and animals (Flynn, 2024). In Prince George and Hamilton, respondents described not seeking out emergency shelters due to fear for safety, being turned away due to full shelter capacity, or bedbugs and pests (City of Hamilton, 2022a; Florey et al., 2021). In Hamilton, shelter clients “reported that shelter environments contribute to their emotional stress,” and in Prince George, respondents also mentioned avoiding shelters due to theft of goods, preference to stay elsewhere (with friends or family), or being turned away due to being banned (Florey et al., 2021; Social Planning & Research Council of Hamilton, 2022, p. 4). These findings demonstrate that temporary shelters are regularly not meeting the needs of unhoused people.



Recent Legal Cases Involving City Parks & Persons Experiencing Homelessness in Vancouver, Prince George, Hamilton, and Kingston

Court decisions rather than legislation have set the bar for what is permitted when it comes to encampment evictions. In most cases, municipal governments have sought injunctions from the court to enforce the removal of encampments. These cases involve encampments established on public property (e.g., parks) and are rooted in claims of bylaw violations. The bylaw provisions cited in encampment cases vary but broadly relate to the prohibitions of remaining in parks or public places outside of posted hours, erecting tents or other temporary shelter, or obstructing public pathways. Bylaw prohibitions largely pertain to public spaces, but in some instances 'Good Neighbour' bylaws allow private property owners to restrict activities that occur as a by-product of an established encampment. Examples here include allowing a parcel of land to become or remain unsightly, accumulate rubbish, or be the source of repeat nuisance service calls.

The leading case that sets a basic framework for the right of encampment residents to erect temporary overnight abodes (i.e., tents) when there is a lack of shelter beds available is *Victoria (City) v Adams* [2008 BCSC 1363](#) [*Adams BCSC*]. A landmark decision, the case concerned an encampment located in downtown Victoria, British Columbia. In October 2005, an encampment was established at a public park named Cridge Park by a number of homeless people, including the named Defendants in the case. Up to 70 people lived in the park, inhabiting more than 20 tents. The City of Victoria (the "City") owns and manages Cridge Park and is responsible for enforcing municipal bylaws. Two municipal bylaws (*Parks Regulation Bylaw No. 07-059* and *Streets and Traffic Bylaw No. 92-84*) prohibited, *inter alia*, loitering or taking up temporary abode overnight in public parks throughout the city (para 8). Specifically, *Parks Regulation Bylaw 07-059* stated:

14 (1) A person must not do any of the following activities in a park:
(d) take up a temporary abode over night;
[...]

16 (1) A person may erect or construct, or cause to be erected or constructed, a tent, building or structure, including a temporary structure such as a tent, in a park only as permitted under this Bylaw, or with the express prior permission of the Council,

Moreover, the *Streets and Traffic Bylaw No. 92-84* outlined:

73. (1) No person shall excavate in, disturb the surface of, cause a nuisance in, upon, over, under, or above any street or other public place, or encumber, obstruct, injure, foul, or damage any portion of a street or other public place without a permit from the Council, who may impose the terms and conditions it deems proper.

74. No person shall place, deposit or leave upon, above, or in any street, sidewalk or other public place any chattel, obstruction, or other thing which is or is likely to be a nuisance, or any chattel which constitutes a sign within the meaning of the Sign Bylaw, and no person having the ownership, control or custody of a chattel, obstruction or thing shall permit or suffer it to remain upon, above or in any such street, sidewalk or other public place.

The prohibition on erecting shelter was in effect at all times and in all public places in the City (para 5). In October 2005, the City brought an injunction application to enforce the bylaws in Cridge Park. In response, the encampment residents filed a counterclaim alleging that the bylaws infringed their [s. 7 Charter rights](#). While the bylaws did not prohibit sleeping in public spaces, they did prohibit taking up a temporary abode, which meant, practically, that the City prohibited “the homeless from erecting any form of overhead protection including, for example, a tent, a tarp strung up to create a shelter or a cardboard box, even on a temporary basis” (para 4). prohibited “the homeless from erecting any form of overhead protection including, for example, a tent, a tarp strung up to create a shelter or a cardboard box, even on a temporary basis” (para 4).

The Court found that despite more than 1,000 homeless individuals living in the City, it only had 104 shelter beds, expanding to 326 in extreme conditions. Thus, hundreds of the homeless have no option but to sleep outside in the public spaces of the City. The Court also found that expert evidence established “that exposure to the elements without adequate protection is associated with a number of significant risks to health including the risk of hypothermia, a potentially fatal condition, and expert evidence established “that some form of overhead protection is part of what is necessary for adequate protection from the elements” (para 4).

In this factual matrix, the Court determined that when shelter spaces are insufficient, a prohibition on erecting overnight temporary abodes is an interference to life, liberty and security of the person of these homeless people, and thus a violation of s. 7 of the *Charter*. Specifically, *it interfered with the right to life*, because “the ability to provide oneself with adequate shelter is a necessity of life that falls within the ambit of the s. 7 provision ‘life’” (para 145). *It interfered with liberty* because “creating shelter to protect oneself from the elements is a matter critical to an individual’s dignity and independence” (para 148). *It interferes with the security of the person* because “the homeless person is left to choose between a breach of the bylaws in order to obtain adequate shelter or inadequate shelter exposing him or her to increased risks to significant health problems or even death” (para 153). The infringements were found to contradict the principles of fundamental justice. As a remedy, the Court ordered that the bylaw provisions that violate s. 7 of the *Charter* were “of no force and effect insofar and only insofar as they apply to prevent homeless people from erecting temporary shelter” (para 239). In other words, where there is insufficient shelter space, unhoused people are entitled under s. 7 of the *Charter* to erect overnight shelters in public parks.

The decision was upheld on appeal by the British Columbia Court of Appeal in 2009 (*Victoria (City) v. Adams, 2009 BCCA 563*) [*Adams BCCA*]. Based on this decision, where municipalities do not have adequate shelter spaces for those in encampments, bylaws that prohibit homeless people from erecting temporary shelter are “of no force and effect” at night. Importantly, the constitutional rights derived from *Adams BCSC* and *BCCA* have two restrictions: first, the right is exercisable *only when* the number of homeless people outnumber the available indoor sheltering spaces; and second, the right to erect a temporary shelter is confined to overnight hours.

Since *Adams BCCA*, numerous other cases have been brought by municipalities as well as by those experiencing homelessness, as courts are the primary vehicle through which municipal bylaws and decisions can be challenged and/or, occasionally, enforced.

Below, we summarize the cases brought in Vancouver, Prince George, Hamilton, and Kingston related to park spaces since the introduction of the *National Housing Strategy Act*. These cities were selected based on the amount of litigation concerning encampment-related bylaws. However, many other Canadian municipalities have introduced similar bylaws and faced legal challenges regarding their legality. This report does not suggest that these four cities are uniquely problematic or the only municipalities relevant to the issues examined.

Vancouver



Figure 1: Relevant Vancouver Cases

The first case brought in Vancouver following the enactment of the federal government’s *National Housing Strategy Act* that concerned municipal bylaws was *Bamberger v Vancouver (Board of Parks and Recreation) 2022 BCSC 49 [Bamberger]*. It considered CRAB Park, located on the lands of the Vancouver Fraser Port Authority (“VFPA”) and operated by the Vancouver Parks and Recreation Board (the “Park Board”).

Importantly, lands adjacent to CRAB Park had already been the subject of an encampment case brought shortly during the early months of the Covid-19 pandemic. In *Vancouver Fraser Port Authority v Brett, 2020 BCSC 876* (“Brett”), the VFPA asserted that the lands, held in fee simple by the Crown in Right of Canada c/o the VFPA, were not open for public use, and VFPA employees posted signs and issued notices requiring encampment residents to vacate. Despite these efforts, by May 2020 the encampment had grown to 26 tents and various structures, with fire pits, wood piles, garbage, and other materials. The Port Authority sought an interlocutory injunction to prevent residents from trespassing or otherwise occupying the lands, arguing their property rights were being interfered with. Applying the *RJR-MacDonald* test, the Court found (a) a fair issue to be tried regarding trespass, (b) irreparable harm given residents’ inability to indemnify VFPA for restoration or maintenance costs, and (c) that the balance of convenience favoured an injunction due to safety and public health concerns, the lack of any right to establish encampments on unsafe sites, and the availability of alternative housing. Importantly, the Court rejected comparisons to public lands such as parks or Parliament Hill, emphasizing that the VFPA lands were private property not intended for general public use, and held that section 7 of the Charter did not confer a constitutional right to occupy such non-public areas.

In the 2022 *Bamberger* case, residents of an encampment in CRAB Park sought to challenge two Park Board orders, made under the Vancouver Park Board’s *Parks Control By-law* (the “*Parks Control By-law*”), which sought to evict them from CRAB Park. The relevant sections of the *By-law* stated:

10. No person shall conduct himself or herself in a disorderly or offensive manner, or molest or injure any other person, or loiter or take up a temporary abode overnight in any place on any portion of any park except as provided in section 11A, or obstruct the free use and enjoyment of any park or place by any other person, or violate any by-law [...]
11. No person shall erect, construct or build or cause to be erected, constructed or built in or on any park any tent, building, shelter, pavilion or other construction whatsoever without the permission of the General Manager [...]
- 11A. A person experiencing homelessness may take up temporary abode in a park if that person:
 - (a) is in a park or a specified area of a park in which a temporary shelter is not prohibited by this by-law;
 - (b) erects a temporary shelter that complies with the provisions of this by-law; and
 - (c) dismantles and moves the temporary shelter in accordance with the provisions of this by-law.
- 11B. A temporary shelter:
 - (a) must not be erected:
 - i. within 25 metres of a playground or school;
 - ii. in, on or within a:
 - A. beach, pond, lake or dock;
 - B. trail, bridge, seawall, roadway or park entrance;
 - C. natural area;
 - D. garden or horticultural display area;
 - E. pool or water park;
 - F. sports field, sports court, skate park, fitness amenity or golf course;
 - G. community centre or fieldhouse;

- H. bleacher, stage, gazebo, public monument, designated picnic site, picnic shelter or washroom;
 - I. designated off-leash dog area; or
 - J. designated special event area for which permission has been given in accordance with this by-law;
- (b) may only be erected from dusk until 7:00 am the following day, unless in an area designated by the General Manager as acceptable for temporary daytime shelter;
 - (c) must be dismantled and moved by 8:00 am each day, unless in an area designated by the General Manager as acceptable for temporary daytime shelter;
 - (d) must not impede public use of, or access to, a park or facility;

The Park Board's first order prohibited any overnight sheltering in CRAB Park. The order read, in part: "Pursuant to Section 24 of the Parks Control By-law, the General Manager of the Vancouver Board of Parks and Recreation orders that temporary shelters and structures will not be permitted anywhere in CRAB Park at Portside to ensure the park remains available to all park users." The CRAB Park residents were given no prior notice of this Order, nor an opportunity to express their views on it before it was enacted; they learned of it when signs informing them of the Order were posted in the Park. The second order closed a portion of CRAB Park to all members of the public to allow for remediation work. The order read, in part: "Effective Thursday, September 9, 2021, pursuant to the Parks Control By-law, the General Manager of the Vancouver Board of Parks and Recreation orders that the southwest section of CRAB Park at Portside will be temporarily closed to the public for grounds remediation. This order is further to the order issued on July 8, 2021, which remains in effect until further notice, that temporary shelters and structures will not be permitted anywhere in CRAB Park at Portside to ensure the park remains available to all park users." The closed area included the section where overnight sheltering was allowed prior to the July 8 Order. Both Orders stated that, until further notice, temporary shelters were not permitted in CRAB Park, and the area must be vacated (para 39).

The residents did not comply with the orders. Instead, encampment residents sought judicial review on the grounds the orders were procedurally unfair and unreasonable due to the lack of suitable indoor shelter spaces for park residents. The defendant Park Board argued that the decisions did not require procedural fairness as they were legislative in nature (meaning immune from this scrutiny) and were reasonable because they relied on information from BC Housing that indicated that such spaces were indeed available.

The Court in *Bamberger* agreed with the encampment residents. The Court cited the decisions of *Adams BCSC* and *Adams BCCA*, which provide that "where there are inadequate indoor shelter spaces to accommodate persons genuinely experiencing homelessness, those persons are entitled to erect overnight shelters in public parks as a matter of their constitutional right to life, liberty, and security of the person" (para 4). The Court also noted that "in Vancouver and elsewhere, a line of cases has developed since *Adams* as tensions between governments and persons experiencing homelessness arise, and a balance is sought between the *Charter* right to shelter and municipal efforts to protect public access to parks.

The Court found that the duty of procedural fairness was not met. The Court held that individuals experiencing homelessness who were sheltering in CRAB Park when the Orders were made had a right to notice and a right to be heard, as their rights, privileges, or interests were uniquely affected. The Court set aside the orders and remit them back to the Park Board for reconsideration to determine a fair process.

The Court also found the Park Board General Manager's decision could not be reasonably justified based on the facts. For the conclusion to be rationally supported, the Court found the Park Board must ensure that there are (1) enough indoor spaces for the number of residents that would be sheltering at the park; (2) those indoor spaces are available to those residents; and (3) those spaces are suitable to those individuals. The Court found "unverified conclusory advice from B.C. Housing staff, is an insufficient evidentiary basis on which to reasonably conclude that there are "sufficient and appropriate indoor spaces" to shelter those in CRAB Park" (para 149).

Moreover, "given the demonstrated vulnerability of the persons who would be affected by the Orders and the particularly harsh consequences of the Orders, [...] the General Manager had a heightened responsibility [...] to ensure that [her] reasons demonstrate that [she has] considered the consequences of a decision and that those consequences are justified in light of the facts and law" (para 149). Finally, the orders also "fail[ed] to achieve a proportionate balance between the Petitioners' *Charter* rights and the stated objectives of the Orders," as "without a proper factual foundation, the General Manager could not possibly determine the scope and extent to which the Petitioners' *Charter* rights may be affected or minimally impaired by the Orders" (para 150).

In *Vandenberg v Vancouver (City) Fire and Rescue Services*, [2023 BCSC 2104](#) [*Vandenberg*], decided the following year, the B.C. Supreme Court reiterated the principles of reasonableness and procedural fairness from the *Bamberger* case in the context of an encampment removal order. In *Vandenberg*, a two-block stretch of East Hastings Street (the "Hastings Block") had been the longstanding site of a growing encampment of people experiencing homelessness. The tents and other materials used for shelter created a fire hazard, putting the encampment occupants, the occupants of the buildings, and firefighters at risk. The Fire Chief of the City of Vancouver Fire Department, Karen Fry, ordered, on July 25, 2022, the City of Vancouver to clear tarps, tents, and other structures from the Hastings Block.

The order (the "Fire Order") was pursuant to the City of Vancouver By-law No. 12472, *Fire By-law* (the "*Fire By-law*"). The Fire Order mandated removal of the structures regardless of whether for daytime or overnight use. Fire Chief Fry issued the Fire Order after requesting, but not receiving, assistance in securing shelter and treatment for the park occupants. In a post-decision communication, Fire Chief Fry also referenced the *Parks Control By-law*, which allows people to erect shelters in city parks in certain circumstances.

Two individuals sheltering on the Hastings Block brought a petition for judicial review, seeking an order striking the Fire Order, though one passed away prior to trial. The claimant argued the Fire Order was unreasonable because it was made without consideration of her *Charter* rights, and it was procedurally unfair, as no notice was given to encampment occupants before the Fire Order was issued. The claimant argued her s. 7 *Charter* rights were engaged because the order required them to "remove any tarps, tents and other structures that are placed on the sidewalk where they will prevent firefighters from engaging in firefighting operations," thus requiring them to move "their homes" akin to an eviction order (paras 117-119).

The Court found that the Fire Order did engage the claimant's s. 7 rights by impacting her life, liberty, and security of the person. Reviewing case law on homelessness and s. 7 of the *Charter*, the Court noted that while British Columbia law did not recognize a right to sheltering in public spaces during the daytime, the Court had in several cases declined to issue injunctions in circumstances where the effect of the injunction would require people experiencing homelessness to pack up and move their shelters during the day (e.g. *Abbotsford (City) v. Shantz*, [2015 BCSC 1909](#); *British Columbia v. Adamson*, [2016 BCSC 584](#); *Bamberger* (para 124). Moreover, in *Vandenberg*, the Fire Order mandated removal of tarps, tents, and other structures regardless of *whether they are for daytime or overnight* use (para 134).

On reasonableness, the Court ultimately found that the Fire Order Street was reasonable, as Fire Chief Fry engaged in "a reasonable proportionate balancing of [the claimant's] *Charter* rights and Fire Chief Fry's statutory mandate" (para 210). However, the Court found the Fire Chief failed to meet her duty of procedural fairness, which was heightened because the Fire Order engaged s. 7 of the *Charter*. Specifically, the Court held that the duty of procedural fairness required notice that the order would be issued (including that the Fire Order would require structures on the sidewalk of Hastings Block to be removed where blocking firefighter access) and the opportunity for the Hastings Block occupants whose shelters would be removed to make submissions on how that would affect them (para 234). The Fire Chief had made the order without providing residents notice or an opportunity to be heard, and Fire Chief Fry's reference to the *Parks Control By-law* was merely an acknowledgement of occupants' need for overnight sheltering, without providing an answer to that need.

In regard to an encampment in a nearby municipality, the Court in *Matsqui-Abbotsford Impact Society v Abbotsford (City)*, [2024 BCSC 1902](#), considered an application for an injunction to restrain the City of Abbotsford from enforcing a Trespass Notice. The case was brought by an occupant of an encampment located on the Civic Centre Lands situated north of the City Hall in the City of Abbotsford. The Encampment, occupied since June 29, 2024, was "described by its occupants as a protest" (para 1). The Trespass Notice directed that "all persons are prohibited from placing, erecting or maintaining any structure, including a tent, on the Land except in accordance with the City's bylaws or an agreement with the City" in accordance with [sections 2 and 4](#) of the *Trespass Act*, [RSBC 2018, c. 3](#). Following the issuance of the Trespass Notice, encampment residents were provided information about various parks in the City where unhoused persons are allowed to shelter overnight under *Bylaw No. 2456-2015, Parks Bylaw, 2016* (the "*Parks Bylaw*").

The encampment resident sought an Interim Injunction restraining the City from enforcing the *Trespass Act* and the City bylaws as they apply to the encampment, pending a court hearing on the substance of the case (para 39). They alleged that the case raised significant *Charter* issues, specifically relating to s. 7 (right to life, liberty, and security), s. 15 (equality), and s. 2(c) (right to peaceful assembly). They also contended that the City failed to provide sufficient time or procedural fairness for the encampment residents to challenge the eviction orders.

Two bylaws underlay the case. First, *Bylaw No. 2513-2016, Outdoor Special Event, Filming & Activities Bylaw, 2016 ("Outdoor Bylaw")* addressed the issuing of permits for persons or organizations wanting to engage in a protest. The second, the *Parks Bylaw*, stated that where there is no accessible shelter accommodation available in the City, unhoused persons may erect and occupy a temporary shelter in a Park listed in Schedule "E"² to the Parks Bylaw. Specifically, Section 14 reads:

(a) Subject to Section 14(b), no person may erect, construct, or build, or cause to be erected, constructed, or built, in or on any Park any tent, building, shelter, pavilion, or other construction whatsoever without the prior written permission of the Council. In determining whether to grant permission, Council may consider the matters set out in Section 30.

(b) Notwithstanding Section 14(a), where there is no accessible shelter accommodation available in the City, a Homeless Person may, without the prior written permission of the Council, as set out in Section 14(a), erect and occupy a Temporary Shelter in a Park, except in those Parks listed in Schedule "E" to this Bylaw, between the hours of 7:00 p.m. on one day and 9:00 a.m. of the following day, provided that the Homeless Person:

- i) not erect the Temporary Shelter until after 7:00 p.m. on one day;
- ii) take down and remove the Temporary Shelter from the Park prior to 9:00 a.m. of the following day;
- iii) comply with all other provisions of this Bylaw;
- iv) not erect the Temporary Shelter in, on or within:
 - playgrounds, spray parks or pools;
 - horticultural display areas or ornamental gardens;
 - skateboard bowls, tennis courts or other sports courts;
 - sports fields, stadiums or dugouts;
 - stages or bleachers;
 - washroom facilities, picnic shelters, or gazebos;
 - areas of a Park that have otherwise been issued a permit pursuant to this Bylaw;
 - recreation facilities;
 - cemeteries;
 - golf courses; or
 - pathways, bridges, docks or wharfs.

(c) The Council, or any officer, employee, or agent of the City may, in addition to any other authority granted under this Bylaw, remove or cause to be removed from any Park any Temporary Shelter that is not in compliance with this Bylaw, including any possessions, wastes, and other incidental materials.

² Schedule "E" to the Parks Bylaw is titled, "List of Parks Where Temporary Shelters May Not Occur", and references the following locations with corresponding maps:

1. Mill Lake, with location and extent of Park as shown within heavy line on Schedule E1;
2. Abbotsford Exhibition Park, with location and extent of Park as shown within heavy line on Schedule E2;
3. Civic Centre, with location and extent of Park as shown within heavy line on Schedule E3;
4. Jubilee Park with location and extent of Park as shown within heavy line on Schedule E4; and
5. Grant Park with location and extent of Park as shown within heavy line on Schedule E5.



Following the test for injunctions set out in *RJR-MacDonald*, the Court found there was a serious issue to be tried, particularly relating to s. 7 and s. 15 of the Charter. Notably, the Court highlighted the potential impact of the toxic drug crisis in BC on the legal understanding and interpretation of section 7 rights, though concluded the issue required further examination³. The court also noted a potential violation of s. 15 Charter rights of disabled and marginalized unhoused individuals (see para 128), finding the risks to the petitioners were serious and could be irreparable, unless mitigated by actions of the City⁴. To mitigate these risks, “the City must ensure the provision of adequate shelter, access to medical care and harm reduction services, and implement strategies to preserve the residents’ support networks. These measures, if properly executed, will constitute solid efforts to mitigate the risks associated with displacement” (para 154).

However, at the balance of convenience stage of the *RJR-MacDonald* test—whether the harm to the Encampment’s occupants should the injunction not be granted outweighs the harm to the City and the public should it be granted (para 157)—the Court found that the serious issues to be tried regarding the *Charter* did not, by themselves, outweigh other considerations. While the potential *Charter* issues “highlight the need for the City to provide suitable accommodations when displacing disabled individuals,” and “protestors have the right to associate and make their voices heard,” the Court found “the Encampment has surpassed the bounds of a reasonable protest” (para 201), and “the Court must carefully balance the broader public interest in maintaining order, public safety, and adherence to municipal bylaws with the specific vulnerabilities of the Encampment residents” (para 203). In particular, “considering the totality of the evidence and also considering the dangers posed by the approaching winter, and the needs of the individual occupants,” the Court found “that relocating the occupants from the Encampment to alternative indoor accommodations, where they are protected from the winter elements, offers the safest and most sensible course of action under the circumstances” (para 206).

Thus, the Court did not grant injunctive relief to allow the Encampment to remain. However, the Court did order that the bylaws be enforced in a manner that respects the *Charter*. The judge held at para 212: “Although I do not grant the full relief requested by the Petitioner, I find it essential to issue an order allowing the City to enforce its bylaws in a manner that respects the Charter rights of the encampment occupants. This approach strikes a necessary balance between maintaining public order and safeguarding the rights of vulnerable individuals.” The Court ordered that displacement should only occur when “adequate shelter options, including access to harm reduction services, are available” (para 214).

At the time of this publication, this decision has been appealed (*Abbotsford (City) v. Matsqui-Abbotsford Impact Society*, [2025 BCCA 78](#)), but the hearing has not yet taken place.

3 Specifically, the Court observed that “the toxic drug crisis raises concerns about the s. 7 Charter rights of unhoused individuals” and “raises important and unresolved questions about the impact of toxic drug risks on the life, liberty, and security of unhoused persons” (para 196).

4 Specifically, “the harm outlined by the petitioners, including exposure to health risks, the potential for toxic drug poisoning, and the loss of critical support networks, is of a serious and irreparable nature” (para 143).

Figure 2: Relevant Prince George Cases

Timeline of relevant cases and decisions impacting people living in homelessness encampments in Prince George, British Columbia

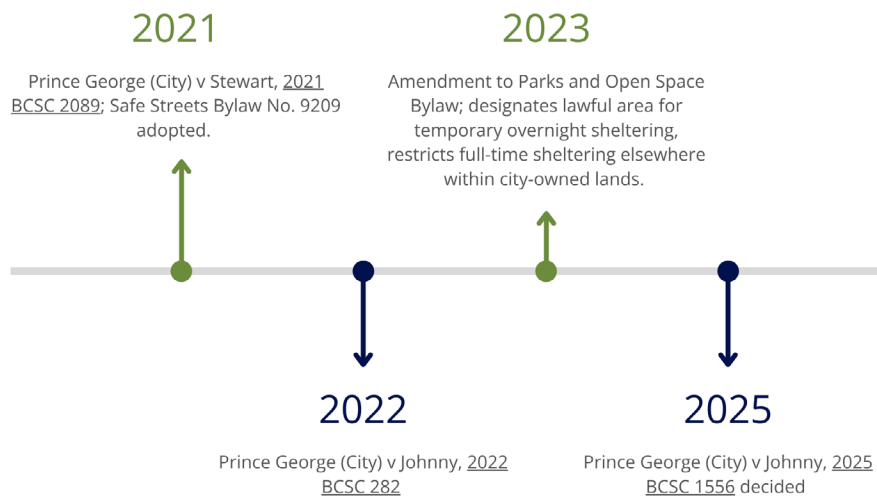


Figure 2: Relevant Prince George Cases

In *Prince George (City) v Stewart*, 2021 BCSC 2089 [Stewart], the City of Prince George passed a resolution to remove the residents of encampments set up on a vacant lot (“The Splits) and a green space (“Moccasin Flats”) on city property in Prince George in mid-2021. The encampments were estimated to include approximately 50 tent structures inside both encampments with over 80 occupants in total. The encampment property was zoned under Bylaw No. 7850, *Zoning Bylaw (2007)* (“*Zoning Bylaw*”), which did not allow for camping.

On June 2, 2021, the City passed a resolution that civil injunctive proceedings be taken to remove the occupants from the encampments, and on June 11, 2021, the City served Notices to Vacate, which requested that encampment residents leave the encampments within two weeks. The Notices also purported to provide locations for shelter availability for those affected. The occupants did not leave the encampment, and on August 25, 2021, the City commenced proceedings to seek an order for a statutory injunction.

The City sought the following orders, among others:

1. A declaration that the respondents have committed trespass by entering on the following two properties in the City after the owner or occupier of those properties has given the respondents notice that such trespass is prohibited and their departure requested [...]
2. A declaration that the respondents have contravened the Zoning Bylaw by using the property as a campground contrary to the permitted zoning.
3. A declaration that the respondents have contravened [s. 2](#) of the [Trespass Act](#), R.S.B.C. 2018, c. 3 by failing or refusing to comply with a Notice to Vacate.
4. A mandatory and permanent injunction order against the respondents, and all those having knowledge of the Court order to:
 - a. remove all structures, tents, shelters, shopping carts, stoves, rubbish, objects, personal chattels, and other things on the properties;
 - b. vacate the properties within a period specified by the Court;
 - c. not re-enter the properties or any other location within the City not authorized by the petitioner;
 - d. forfeit all prohibited weapons and drugs to the police; and
 - e. not erect or bring structures, tents, shelters, shopping carts, stoves, rubbish, objects, personal chattels, and other things, on City owned property, parks or public spaces except as authorized by the petitioner.
5. An order authorizing the City's employees and agents to:
 - a. dismantle and remove from the properties all structures, tents, shelters, shopping carts, stoves, rubbish, objects, personal chattels, and other things remaining on the properties; and
 - b. sell, destroy, or otherwise dispose of, those items removed from the properties, without recourse to the respondents.

The City argued that it had delayed its injunction application as a compassionate step while working with BC Housing to open more supportive housing for the encampment occupants to coincide with a proposed order for the closure of the encampments. Following the injunction, on August 30, 2021, the City of Prince George adopted Bylaw No. 9209, Safe Streets Bylaw (2021) ("*Safe Streets Bylaw*"), which set out to restrict "obstructions," drug use, and open-air fires. Obstructions included sitting or lying on a street and actions associated with panhandling including setting up personal property and soliciting pedestrians. The respondents contended that any public spaces not covered by the Safe Streets Bylaw were covered by the Parks and Open Space Bylaw No. 7370, 2002 ("*Parks and Open Space Bylaw*"), which prevented sheltering by homeless residents anywhere in the City that is a park or public open space, thereby leaving them with no place in the City zoned to permit homeless residents to shelter outside overnight or during the day. As a result, the Court found that, "the respondents have no lawful way to comply with the injunction sought by the City" (para 104).

The Court dismissed the City's application for a declaration of a contravention of the Zoning Bylaw on the basis that, absent other suitable housing and daytime facilities, the occupants of the encampments must be permitted to stay at the encampments. Centring the lack of adequate number of indoor spaces available, the Court found "that the alternate housing options proposed by the City are not sufficiently low barrier and accessible to all of the occupants of the encampments" (para 96). Comparing to *Victoria*

(City) v Adams, 2008 BCSC 1363 and *Abbotsford v Shantz, 2015 BCSC 1909*, the Court noted those cases “dealt with homeless residents in southern British Columbia. The cold is a more severe threat to life for the homeless in Prince George than in Victoria or Abbotsford” (para 91). The Court also considered the lived experiences of the encampment occupants in the context of Covid-19.

The Court accepted that many residents were unable to secure alternative housing because of substance use disorders, a lack of identification, their inability to meet application requirements, and a lack of bank accounts to records. The Court further accepted that many residents were struggling with mental illness, trauma, and physical disabilities, with Indigenous residents struggling additionally with the impacts of residential schools and intergenerational trauma.

However, the Court did grant the City’s application for a mandatory and permanent injunction order. The Court found that because most of the occupants of one encampment (the George Street encampment) had migrated to another (the encampment at Lower Patricia), it was “unnecessary for the former (George Street) encampment to continue” (para 117). Therefore, the Court granted the City’s application for a mandatory and permanent injunction order against the respondents, and all those having knowledge of the order Court:

- a. to remove all structures, tents, shelters, shopping carts, stoves, rubbish, objects, personal chattels, and other things on the George Street property;
- b. to vacate the George Street property;
- c. not re-enter the George Street property; and
- d. not erect or bring structures, tents, shelters, shopping carts, stoves, rubbish, objects, personal chattels, and other things, at other than the Lower Patricia encampment.

The Court further granted an order that if the occupants of the George Street encampment did not vacate the George Street encampment and move their possessions within seven days, the city’s employees and agents were authorized to (see para 119):

- a. dismantle and remove from the properties all structures, tents, shelters, shopping carts, stoves, rubbish, objects, personal chattels, and other things remaining on the properties; and
- b. sell, destroy, or otherwise dispose of, those items removed from the properties, without recourse to the respondents.

In *Prince George (City) v Johnny*, (*Prince George (City) v Johnny*, 2022 BCSC 282 (CanLII), 2022) [*Johnny 2022*], the City of Prince George (the “City”) brought an application in response to the decision in *Stewart*, seeking the same relief that was denied there. In *Johnny 2022*, the City again sought an interlocutory injunction seeking to close a tent encampment of unhoused people in Lower Patricia, colloquially called Moccasin Flats. The City argued it had “now satisfied the preconditions in the *Stewart* Order (*Prince George (City) v Stewart*, 2021 BCSC 2089 (CanLII), 2021) to dismantling and closing the Lower Patricia encampment” (para 5). The *Stewart* Order permitted the Lower Patricia encampment “to stay unless and until the City demonstrated available and accessible housing and daytime facilities for its occupants” (para 82). The City argued it satisfied the preconditions, “by providing suitable housing and daytime facilities in the Knights Inn in downtown Prince George, leased for this purpose by the British Columbia Housing Management Commission (“BC Housing”) in October 2021” (para 5). Then, “in mid-November 2021, the City assisted many of the occupants of Lower Patricia, together with occupants of another encampment known as “George Street”, to relocate to rooms in the Knights Inn. It then dismantled the George Street encampment and those parts of Lower Patricia it viewed as abandoned” (para 6). Now, “the City estimates around 50 people, previously living in the two encampments or emergency shelters, now reside in the new supportive housing at the Knights Inn. It submitted that, as of early December 2021, only one or two occupants remained at Lower Patricia, [...] refus[ing] alternative housing. At the time, there were six additional beds available in the Knights Inn and approximately 38 shelter beds available elsewhere in Prince George” (para 7). The Respondents, occupants of Lower Patricia, argued “the City’s dismantling of much of Lower Patricia in mid-November breached the *Stewart* Order and therefore the injunction should be denied” (para 8). The Respondents argued, “there remains insufficient low-barrier housing and daytime facilities for the true number of occupants of Lower Patricia” (para 9).

As in *Stewart*, the two relevant bylaws remained:

1. *City of Prince George Parks Zoning Bylaw No. 7850, 2007 (“Zoning Bylaw”)*, under which the Lower Patricia encampment is considered a non-permitted ‘campground’ use, and as such is prohibited under s. 1.6.7 of the Bylaw.
2. *City of Prince George Safe Streets Bylaw No. 9209, 202 (“Safe Streets Bylaw”)*¹, prohibiting (among other things) erection of shelter on or around pedestrian sidewalks.

Sections 2.1 and 3.1 of the *Safe Streets Bylaw* prohibit the obstruction of pedestrian traffic by erection of chattel or personal property.

The Court dismissed the City’s application and denied the interlocutory injunction application to close the tent encampment of unhoused people in Lower Patricia. The Court argued that the City had not satisfied the preconditions in the *Stewart* Order prior to closing Lower Patricia, largely due to the evidence submitted by the Respondents. The Respondents submitted evidence from various “witnesses who described residing at Lower Patricia in mid-November being absent when the relocation and demolition occurred” (para 51). The Court noted “these witnesses described losing their tents, sleeping bags, and other belongings in the demolition on November 17, but receiving no housing assistance due to their absence on the day” (para 52). The Respondents also submitted affidavits from former residents who lost their belongings to the subsequent demolition without adequate warning or consent (para 54). One respondent “estimated more than 40 people were living at Lower Patricia just before the November 17 demolition [and], as of December 6, 2021, he knew of eight people still residing every night in the camp” (para 59).

While the Court accepted the City's evidence regarding the encampment's serious intrusions on neighbouring residents and businesses, as well as fire risks, the Court held "in the face of the *Stewart* Order, none of this entitled the City to dismantle much of the Lower Patricia encampment before returning to court to seek an order to do so" (para 71). The Court found that "before dismantling and demolishing much of the encampment on November 17, the City failed in the admittedly difficult task of identifying, as much as reasonably possible, how many people were regularly occupying the camp and how their shelters and belongings should be managed" (para 72). Moreover, the Court found there were still insufficient housing units: the "available units at the Knights Inn have proven insufficient to house these occupants of Lower Patricia" (para 75).

In sum, the *Stewart* Order had permitted the Lower Patricia encampment "to stay unless and until the City demonstrated available and accessible housing and daytime facilities for its occupants. The City breached the *Stewart* Order by dismantling much of the encampment without such housing or daytime facilities for many of the occupants. This breach inflicted serious harm on vulnerable people.

Most recently, in *Prince George (City) v Johnny*, [2025 BCSC 1556](#) ["*Johnny 2025*"], the City of Prince George (the "City") applied under the summary trial rule for a declaration, statutory injunction, and other relief intended to close an encampment on City-owned lands (the "Encampment"). Following *Johnny 2022*, where the Court found that the City had breached the *Stewart* Order, the City adjusted its course of action. It, along with the Provincial government and the British Columbia Housing Management Commission ("BC Housing"), made significant investments to create new housing and shelter for unhoused people in Prince George. In January 2025, BC Housing opened a new low-barrier supportive housing facility on Third Avenue with 42 private rooms (the "Third Avenue Site").

In addition to the bylaws noted above, the rules for Temporary Overnight Sheltering were established by the City on May 8, 2023, by amending the Parks and Open Space Bylaw to designate an area within the current location of the Encampment where people experiencing homelessness may lawfully erect temporary overnight shelters between the hours of 7:00 pm and 9:00 am the following morning. The combined effect of the City's bylaws is that camping and any other form of sheltering is prohibited on the lands currently occupied by the defendants, except for Temporary Overnight Sheltering in the area designated by the City.

In *Johnny 2025*, the City returned to court seeking a structured form of order to enforce its bylaws and close the Encampment. The City proposed an injunction that would be suspended with respect to occupants of the Encampment who applied to BC Housing for supportive housing, to take effect with respect to those individuals only after they are invited by BC Housing to move into an available unit at the Third Avenue Site. The Court found that the Third Avenue Site "generally satisfies the "accessibility" component of the *Stewart* Conditions" (para 107). As such, "the *Stewart* Conditions are met with the current proposal by the City" (para 132). "The continuous occupation of City lands by the defendants as an encampment is a clear breach of the relevant provisions of the *Parks and Open Space Bylaw* and the *Zoning Bylaw* which prohibit camping and sheltering activity" (para 131).

The Court concluded that the City was entitled to an order closing the Encampment to full-time sheltering; however, the Court held that a provision must be added to provide that a person who is subject to the injunction may apply to the court for an exemption.

Figure 3: Relevant Kingston Events

Timeline of relevant events and decisions impacting people living in homelessness encampments in Kingston, Ontario



Figure 3: Relevant Kingston Events

In *The Corporation of the City of Kingston v Doe*, [2023 ONSC 6662](#), the City of Kingston (the “City”) applied for an order allowing it to enforce its provisions of the *Parks By-Law Number 2009-76* (“the By-Law”) and *Trespass to Property Act* R.S.O. c. T.21 (“TPA”) to evict residents of an encampment that had formed in Belle Park (the “Encampment”). The Encampment was directly adjacent to a safe injection site and service hub located within the boundaries of the park. In early 2020, approximately 40 individuals erected tents and structures in Belle Park. The encampment was cleared in September 2020, but in November of 2020, the current encampment sprung up.

In April of 2021, the City finalized an encampment Protocol, which aimed to secure the voluntary departure of occupants by providing outreach services to connect residents to shelters and service providers. In 2022, City Council voted to approve a modified version of the Protocol and directed that it be implemented. The Protocol set out that Street Outreach and By-Law staff must visit the site to conduct needs assessments. They must then inform the Housing and Social Services Department of individuals’ needs assessment. Only after this needs assessment has taken place may By-Law staff issue a trespass notice and enforce that notice.

Following initial notices issued by the City's By-Law Enforcement department on January 6, 2023, which advised residents that they were breaching both the *Parks By-Law* and the *Trespass to Property Act*, the By-Law Enforcement department issued further notices on March 21, 2023 (paras 16-17). The notices reduced the encampment from about 70 to 10 residents within weeks (para 17), but no further enforcement actions were taken. At the time of the case, the encampment was estimated to include approximately 27 structures and 35 occupants.

Section 11 of the *Parks By-Law* prohibits "camping and the use of any camping equipment," except under certain circumstances. There was no question that the residents of the encampment were camping and no exceptions applied; thus, they were in breach of the *Parks By-Law* (para 3). The City sought a permanent injunction pursuant to the common law ordering the resident of the encampment to within three days of notice of the order:

- (a) Vacate and cease operation of the property known as Belle Park [...], as well as its surrounding areas;
- (b) Remove all tents, shelters, personal chattels, structures, and other things present at the encampment; and
- (c) Refrain from re-entering the encampment except as authorized by the City.

The City argued the Encampment had become a lawless site of violence, serious fire hazards, and property destruction, as well as a "hub for fentanyl trafficking" (para. 6).



In response, certain members of the encampment (“the Respondents”) argued the *Parks By-Law* was in breach of the *Charter* and could not be enforced. The question for the Court was whether the relevant provisions of the *Parks By-Law*—providing an absolute prohibition on erecting *temporary overnight* shelter in municipal parks—were in breach of the *Charter*. The City conceded that absolute enforcement of the *Parks Bylaw* through an absolute prohibition on temporary shelter would violate section 7, but stated that enforcement can be *Charter* compliant—for example, only restricting daytime sheltering and allowing for overnight sheltering. The Court rejected this, stating “it cannot be said that one equally plausible interpretation [of the phrase “camping”] is that it refers to only activities which extend into the daytime hours” (para 71).

The Court denied the City’s application and concluded that section 11 of the *Parks By-Law* was in breach of the *Charter* to the extent that it prevented homeless persons from camping *overnight* in public parks” (paras 8 and 117). The Court found the provision of the *Parks By-Law* breached s. 7 of the *Charter*, as evidence showed that “exposure to the elements at night without adequate shelter can result in serious and life-threatening conditions,” engaging the right to life” (para 78). Further, state intrusion in a person’s ability to create shelter for themselves “is a deprivation of liberty and security of the person within the scope of s. 7” (para 79). The Court held the breach was “not in accordance with the principles of fundamental justice and is not saved by s. 1 of the Charter” (para 117). The Court did not consider s. 15.

Due to insufficient evidence regarding the options unhoused individuals have to shelter during the day, the Respondents “failed to establish that a prohibition on camping in public parks *during the daytime* is unconstitutional” (para 112). Although the Court acknowledged that *The Regional Municipality of Waterloo v Persons Unknown and to be Ascertained, 2023 ONSC 670* (“*Waterloo*”) found that the right to shelter is not only limited to overnight sheltering, it also found that this was not a legal principle, but a finding based on the facts of the case. “I am not bound by the principle of horizontal *stare decisis* to find that the “right to shelter” extends to day-time hours” (para 95).

Notably, the Court declined to follow the Court of Appeal for British Columbia in *Adams* (at paras 162-165) to “declare the By-Law to be inoperable *only in so far* as it applies to prevent the homeless persons from erecting temporary shelters in public parks *when the number of homeless individuals in the City exceed the number of accessible shelter beds*” (para 125) (emphasis added). The Court noted that it would be complicated to determine when the *Parks By-Law* ceases to become unconstitutional,” particularly “how to calculate the total homeless population and determining the meaning of “accessible” shelter beds” (para 126). Instead, the Court determined that “to remedy the constitutional problem posed by s. 11 of the *By-Law*, an additional exception will be read in to clarify that the prohibition on camping does not apply to the erecting of temporary shelter in parks by homeless persons commencing one hour before sunset and ending one hour after sunrise” (para 134).

Figure 4: Relevant Hamilton Cases

Timeline of relevant cases and decisions impacting people living in homelessness encampments in Hamilton, Ontario

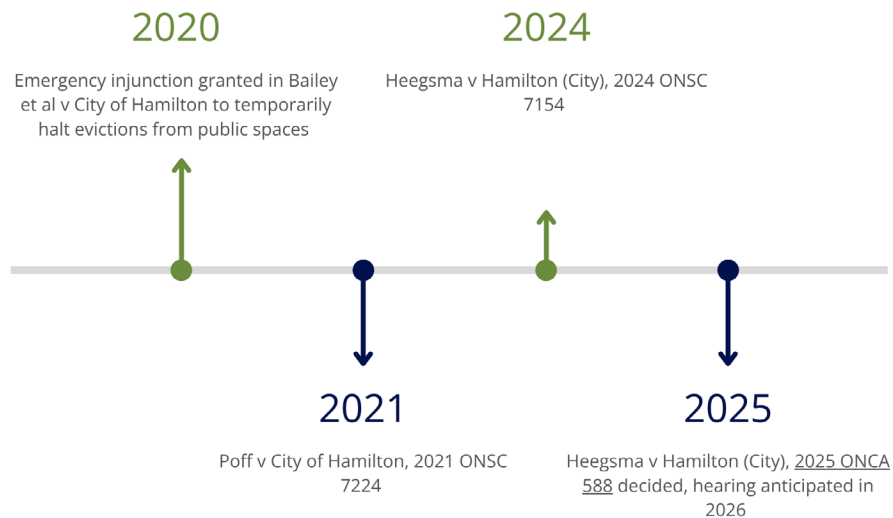


Figure 4: Relevant Hamilton Cases

In *Bailey et al v City of Hamilton*, Hamilton Court File No. CV-20-73435 (Ont SCJ), the Ontario Superior Court of Justice (the “Court”) prevented the City of Hamilton from forcibly removing encampment residents from public spaces with the granting of an injunction on an urgent *ex parte* motion for 10 days.

In *Poff v City of Hamilton*, [2021 ONSC 7224 \[Poff\]](#), individuals experiencing homelessness and residing in encampments in Hamilton parks brought a case seeking an interlocutory injunction prohibiting and restraining the respondent, City of Hamilton (“the City”), from enacting and enforcing By-Law No. 01-129 as amended by By-Law 05-099 (*the “Parks By-Law”*), which prohibited camping and the erection of tents or other structures in City parks (para 2). Specifically, the applicants sought an order enjoining the City from taking further steps to evict or remove the applicants and other homeless individuals from encampments in City parks until such time as the full merits of the application could be decided.

The relevant sections of the Parks By-Law included:

12. (a) Unless expressly authorized by permit, no person shall encroach upon or take possession of any park, or any part or area within a park, by any means whatsoever, including but not limited to the placing, construction, installation, or maintenance of any fence, structure or other thing, the dumping or storage of any materials, or by planting any plant or otherwise cultivating, grooming or landscaping any part of the grounds thereof;
17. Unless authorized by permit, no person shall dwell, camp or lodge in any park.
18. Unless authorized by permit, no person shall place, install or erect any temporary or permanent tent or structure in any park.

The applicants argued that in the context of Covid-19 and Hamilton's homelessness and housing crisis, the enforcement of the Parks By-Law would violate their rights and those of other homeless persons pursuant to s. 7 of the Charter.

The Court noted that the "encampment" jurisprudence has been consistent in holding that infringement of s. 7 occurs in very limited circumstances where there are no shelter alternatives available. The Court referenced *Adams BCCA*, at para. 74 in stating that the jurisprudence did not grant the homeless a freestanding constitutional right to erect shelter in public parks. The finding of unconstitutionality is expressly linked to the factual finding that the number of homeless people exceeds the number of available shelter beds. In *Adams BCSC*, the court stated that if there were sufficient shelter spaces to accommodate the homeless population in Victoria, a blanket prohibition on the erection of overhead protection in public parks might be constitutional. That question is yet to be determined.

The Court applied the test for injunctive relief set out in *RJR-MacDonald Inc. v Canada (Attorney General)*⁵, which states moving party must demonstrate:

- (a) that there is a serious issue to be tried;
- (b) that the moving party will suffer irreparable harm if the injunction is not granted; and
- (c) that the balance of convenience favours the granting of the injunction.

The Court found that there was a serious issue to be tried (para 95), observing that "the s. 7 Charter rights of homeless individuals facing the prospect of being moved out of encampments have been recognized by the courts in British Columbia" (para 89). This included *Victoria (City) v Adams*⁶, and *Shantz ([Abbotsford (City) v. Shantz]*⁷ (paras 89-92).

However, the Court found the applicants did not demonstrate irreparable harm. The test required the claimants to demonstrate irreparable harm on a balance of probabilities. In the leading case on irreparable harm, *RJR-Macdonald*, the Supreme Court explained that "irreparable" refers to the nature of the harm suffered rather than its magnitude. It is harm that cannot be quantified in monetary terms or which cannot be cured, usually because one party cannot collect damages from the other. In *Poff*, the Court rejected the residents' argument that the shelters had high barriers to entry, instead emphasizing the "personal choice or preference" of residents to remain in encampments. The evidence showed each of the applicants had received assistance from the City or other support programs and had been offered housing and/or emergency shelter. Some refused the offers of support, preferred to remain outside, or were no longer in encampments. The Court stated: "Based on the record before me and the current status of the five named claimants, I am not persuaded that irreparable harm to these specific individuals arises to the appropriate legal standard, and the applicants have not met their onus" (para 123).

⁵ 1994 CanLII 117 (SCC), [1994] 1 S.C.R. 311 at p. 347-8

⁶ 2009 BCCA 563, 313 D.L.R. (4th) 29, ("Adams BCCA")

⁷ 2015 BCSC 1909

The Ontario Superior Court of Justice's narrow approach and interpretation of the right to shelter in Hamilton was once again demonstrated in *Heegsma v Hamilton (City)* [*Heegsma*]⁸. The applicants were 14 unhoused individuals who sought a declaration that the City of Hamilton's (the "City") enforcement of its By-Law 01-219 "A By-law To Manage and Regulate Municipal Parks" ("*Parks Bylaw*"), supported by By-Law 97-162 (which amended By-law No. 86-77 The Streets By-law, "*Streets Bylaw*"), breached their section 7 right to the life, liberty, and security of the person from August 2021 to August 2023. The applicants argued that they were evicted from encampments during the period from August 2021 to August 2023 in breach of the Charter, and that they suffered harm as a result.

The relevant sections of the *Parks Bylaw* state:

3. No person shall enter into or be in any park between the hours of eleven in the afternoon (11:00 p.m.) and six o'clock in the forenoon (6:00 a.m.), except where after hours use of a park has been approved by the City.
12. Unless authorized by the Director or by permit, no person shall encroach upon or take possession of any park, by any means whatsoever, including the construction, installation or maintenance of any fence or structure, the dumping or storage of any materials, or planting, cultivating, grooming, or landscaping, thereon.
17. Unless authorized by permit, no person shall dwell, camp, or lodge in any park.
18. Unless authorized by permit, no person shall place, install, or erect any temporary or permanent tent or structure in any park.

The relevant section of *By-Law 97-162* provides:

16. (12) 12.1 For the purposes of this subsection:

"cease" means to stop or bring to an end.

"congregate" means to gather into a group of more than one person.

"obstruct" means to interfere with or make difficult of passage.

"officer" means a sworn member of the Hamilton-Wentworth Regional Police Service or municipal by-law enforcement officer appointed by the City of Hamilton.

12.2 No person shall congregate and sit or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any streets or sidewalks regulated by this By-law.

12.3 Any person who obstructs pedestrian or vehicular traffic on a sidewalk or street shall, when directed to do so by an officer, cease such obstruction.

12.5 Sworn members of the Hamilton-Wentworth Regional Police Service and municipal by-law enforcement officers of the City of Hamilton are authorized to enforce the provisions of this by-law.

From October 2020 to August 2021, encampments were permitted in public parks as long as they were not on sidewalks or playgrounds. From August 2021 to August 2023, there was a complaint-driven process where an outreach team would visit, offer supports and seek voluntary compliance. If there was no compliance, a trespass notice would be served. The court found no one was asked to leave at night, that City staff would only clean up the park if the occupants had left, and that they did not dispose of property that had not been abandoned.

The applicants argued that being evicted from encampments breached their *Charter* rights because of two circumstances: (a) they were kept from staying overnight when there were insufficient accessible shelter beds to accommodate them; and (b) they were kept from staying during the daytime, as they were forced to pack up and move, potentially every morning.

The Court found they were not prevented from staying overnight (para 12), noting that “[i]f they had been, the City might have been in breach of s.7 of the *Charter* according to British Columbia jurisprudence (*Victoria (City) v Adams*, [2009 BCCA 563](#)) which has been adopted by this court in *Waterloo (Regional Municipality) v Persons Unknown*, [2023 ONSC 670](#) and [*The Corporation of the*] *Kingston (City) v Doe*, [2023 ONSC 6662](#)” (para 13).

Rather, the Court determined it was being asked to apply the protection of s.7 of the Charter to eviction during the *daytime*—to extend right to stay in encampments to public parks in the *daytime*. The Court declined to do, stating: “The applicants argued that the extension of the law was conditional on the lack of accessible shelter space; however, the Court found that there was no connection between the right (to an encampment during the day) and the condition, for the range of barriers that would prevent someone from staying at a shelter were arbitrary and impossible to fully resolve (for example, if the shelter does not allow animals). The Court held that the applicants’ claim that there is a lack of accessible shelter space was a “red herring” as some people will not stay in a shelter even if it were available (para 75). Moreover, the Court held that the “life, liberty and security of the applicants are not put at risk by enforcement of the by-law. They are put at risk by homelessness. Encampments contribute to this risk” (para 76).

Finally, the Court considered: (a) the counter-veiling interest of preserving public parks and protecting other vulnerable populations such as “the elderly person and the child who want to use a sidewalk or a city park without tiptoeing through used needles and human feces” (para. 4), and (b) the fact that “extending the freedom from enforcement to daytime or indefinite encampment would amount to expropriating property, or at least severely limiting property rights” (para 78). Ultimately, the Court declined to extend the prohibition on enforcement to daytime or indefinite camping.

Finally, the Court in *Heegsma* rejected the applicants’ claim that the enforcement of the Parks Bylaw infringed their section 15(1) rights by disproportionately disadvantaging certain marginalized groups, such as Indigenous persons, women, and persons with disabilities. The Court found that there was no differential treatment under the law, either in intent or impact: “They are disadvantaged by homelessness, not by enforcement of the by-law” (para 80), and “The fact that a group is over-represented does not by itself prove illegitimate discrimination” (para 81). The Court also found that homelessness was not an enumerated or analogous ground.

In 2025, the decision in *Heegsma* was appealed: *Heegsma v Hamilton (City)*, (*Heegsma v. Hamilton (City)*, [2025 ONCA 588 \(CanLII\)](#), 2025). The appeal will be heard in 2026.

The Use of Bylaws to Regulate Homelessness in Vancouver, Prince George, Hamilton, and Kingston

Historically, the use of urban space and parks area have been regulated by different levels of government in Canada, prescribing the conditions under which people can interact with land, as well as the different acceptable uses according to the person's status in society. These "spatial classifications structure a normative landscape," wherein certain activities are perceived as being appropriate or inappropriate, or being "'in place' and 'out of place', like the homeless person who sleeps in the 'public park'" (Soja, 1989, p. 37).

Canadian cities have long gone before the courts to assert their rights to evict unhoused people from public parks, using "different forms of spatial banishment or segregation in order to manage the homeless" and enforcing "bylaws regulating public order and safety to control activities performed in parks, sidewalks, and streets" at particular times of day (Sylvestre et al., 2019, p. 25; Wood, 2024). In response, encampment residents have successfully argued that the evictions are contrary to their rights under section 7 of the *Charter of Rights and Freedoms* (The Office of the Federal Housing Advocate, 2024). In *Victoria v Adams*, the British Columbia Court of Appeal held that city bylaws that mandate the removal of homeless individuals from public space at night violate section 7 of the *Charter of Rights and Freedoms* unless there are accessible shelter spaces (*Victoria (City) v. Adams*, 2009 BCCA 563, 2009). Bylaws that contravene these parameters are unconstitutional (*Prince George (City) v. Stewart*, 2021 BCSC 2089, 2021; *Abbotsford (City) v. Shantz*, 2016 BCSC 2437, 2016). Furthermore, municipal bylaws regulating parks use for temporary sheltering may be enforced at certain times, resulting in complex temporal cross-jurisdictional boundaries drawn and redrawn upon parks space.

In response to judicial decisions, some municipalities have enacted bylaws codifying when and where unhoused populations are permitted to sleep in parks. This research examines four municipalities which addressed encampments through their bylaws, though their approaches differ. Vancouver, Prince George, and Hamilton have enacted bylaws that explicitly permit sheltering under specified circumstances. Kingston, by contrast, prohibits encampments under its bylaws, however, the courts have imposed a requirement for nighttime sheltering when insufficient shelter spaces are available. While the study focuses on these four municipalities, many others have used bylaws to explicitly restrict the locations of temporary shelters.

In 2020, the Vancouver Park Board amended the Parks Control Bylaw (the "*Parks Control Bylaw*"), to outline the hours a person can erect a temporary shelter as: dusk until 7am, with complete removal of structure from the park by 8am (City of Vancouver, 2020). Sections 11A and 11B of the *Parks Control Bylaw* restrict the areas where a person may temporarily shelter in a park, stating that a temporary shelter must not be erected within 25 metres of a playground or school, nor in, on or within areas such as a beach, pond, lake, or dock; a trail, bridge, seawall, roadway, or park entrance; a "natural area"; a garden or horticultural display area; pool or water park; sports field, sports court, skate park, fitness amenity, or golf course; community centre or fieldhouse; bleacher, stage, gazebo, public monument, designated picnic site, picnic shelter, or washroom; designated off-leash dog areas; or designated special event area for which permission has been given in accordance with this bylaw (City of Vancouver, 2020). In April 2024, the *Parks Control Bylaw* was amended again to include even more restrictions relating to where temporary shelters are allowed in public parks, including: in Queen Elizabeth Park or VanDusen Botanical Garden; under the canopy of a tree; or in, on, or within 7 metres of a beach, pond, lake, dock, cliff, or

steep slope (City of Vancouver, 2024a) (City of Vancouver, 2024b)⁹. Prince George’s safe streets act also took steps to restrict activities associated with homelessness from sidewalks and roads by making it illegal to obstruct sidewalks by sitting or lying on them, set out personal property, engage in open drug use, or have open fires.

In 2021, the City of Prince George adopted the Safe Streets Bylaw No. 9209 which restricts obstructions, drug use, and open-air fires. Obstructions included sitting or lying on a street and actions associated with panhandling including setting up personal property and soliciting pedestrians. In 2023, an amendment to Parks and Open Space Bylaw, which designated a lawful area for temporary overnight sheltering, and restricted sheltering elsewhere within city-owned lands. Even where a designated area is created, sheltering may not take place in environmentally sensitive areas; near playgrounds, water parks, pools, or beaches; washroom facilities, picnic shelters, or gazebos; and a number of other locations set out in the bylaw.

In 2025, the City of Hamilton rescinded its 2023 Encampment Protocol (effective March 6, 2025) and has transitioned to enforcement of the City of Hamilton Parks By-law No. 01-219 (“Parks By-law”), which prohibits camping in all city parks. The Encampment Protocol, introduced in 2020 and in place from 2020-2025, had outlined where unhoused persons may shelter in municipal parks, permitting encampments of no more than five tents in specific locations (City of Hamilton, 2020). The Encampment Protocol was updated in May 2023 and August 2023, adding further restrictions (City of Hamilton, 2023b, 2023c). The proliferation of policing and encampment evictions in Hamilton is evidenced by the fact that in 2021, “the Public Works Department budget showed 262 ‘encampment cleanups’ at 60 unique sites” (van Wagner, 2022, p. 6). The Protocol was rescinded in 2025. The *Parks By-law*, last amended in 2022, prohibits “encroachment,” camping, and lodging in city parks (City of Hamilton, 2022a). Specifically, sections 12, 17, and 18 restrict any form of temporary shelter without permits.

Finally, the City of Kingston adopted the Parks Use By-Law 2009-76 (A By-Law to Provide for the Regulation Use of Parks and Recreation Facilities of The Corporation of the City of Kingston, 2009) in 2009 (“Parks Use Bylaw”). The *Parks Use Bylaw* prohibits erecting tents or structures or camping without permission, with exceptions for areas specifically designated by the City of Kingston for camping (City of Kingston, 2009). However, in *The Corporation of the City of Kingston v Doe*, 2023 ONSC 6662, to remedy a violation of s. 7 of the *Charter*, the Court read in an exception that “the prohibition on camping does not apply to the erecting of temporary shelter in parks by homeless persons *commencing one hour before sunset and ending one hour after sunrise*” (para 134). As such, the restrictions apply to daytime sheltering in municipal parks; temporary or permanent structures must be disassembled before sunrise every day and be erected no sooner than sundown.

9 “Slope” is not defined in the bylaw. We assume 5%, but have provided a range of within 7m of different slope thresholds. This is the result:

Slope threshold	Park area within 7m	% of total
5%	9,534,917 m ²	82.6%
10%	7,462,941 m ²	64.7%
15%	5,335,278 m ²	46.2%
20%	3,557,570 m ²	30.8%
25%	2,427,465 m ²	21.0%

Methodology

Guiding this research are four research questions that examine the experiences of homelessness and use of city-owned parks in Vancouver, Prince George, Kingston, and Hamilton:

1. According to applicable bylaws, where are the actual locations that un-housed populations may stay overnight in city-owned parks?
2. What percent of city-owned parks area that allow temporary overnight sheltering are within walking distance of critical services for persons experiencing homelessness?
3. What is the relationship between areas where temporary shelters are located and the locations of critical services?
4. What is the relationship between parks distribution and neighbourhoods with above- and below-average percent of tenant households in core housing need?

In answering these research questions, this project uses seven sources of data for the analysis of locations where unhoused people may stay overnight, locations of critical services, locations of where temporary shelters or homelessness is reported, city-owned parks, and tenant households in core housing need.

Municipal Open Data Portals and Dashboards

The municipal open data portals for the Cities of Vancouver, Prince George, Kingston, Hamilton and Metro Vancouver Regional District were referenced to collect and analyze spatial data describing park space, building footprints, playgrounds, schools, childcare facilities, transportation networks, land use, natural areas, community amenities and facilities, critical services, and privately owned land (the latter for Hamilton and Kingston) (City of Hamilton, 2022c; City of Kingston, 2024; City of Prince George, 2018; City of Vancouver, 2024; Metro Vancouver, 2022).

Data describing the locations of critical services was analyzed in its relationship to locations of park space where temporary shelters are permitted according to applicable bylaws. Referencing the concepts of accessibility and walkability (e.g., the five-minute neighbourhood or fifteen-minute city), the analysis describes the amount of park space where shelters are permitted that fall within walking distance of critical services (Alasia et al., 2021; Frank et al., 2014, 2024; Hosford et al., 2022; Toronto Public Health, 2012; Wang et al., 2024). The pedestrian shed or catchment area that is most associated with the five-minute neighbourhood is approximately 400 metres, and previous research has estimated that a ten-minute walk is about 800 metres in distance (B.C. Ministry of Housing, 2023; McElhanney, 2021; Plater-Zyberk, 2024; State of Victoria, 2010). In the City of Vancouver, a quarter of walking trips are under five minutes, while over half of walking trips are under ten minutes and have an average distance of 1.9 kilometres (City of Vancouver, 2016). It is important to note that the overwhelming majority of research and municipal strategies related to walkability or accessibility to services are premised on the demographic group being commuters, seniors, youth, or persons with disabilities (B.C. Ministry of Housing, 2023; City of Hamilton, 2022b; City of Prince George, 2010; City of Vancouver, 2012, 2018; Clark & Scott, 2016). Urban policy and planning will also generally use longer walking distances for pedestrians or commuters to reach employment, transit hubs, or services (City of Vancouver, 2017; Larsen & El-Geneidy, 2010; McElhanney, 2021). However, there is little to no research considering walkability and distance-based accessibility of services for persons experiencing homelessness and it is more challenging to apply the same for unsheltered populations, particularly if they are carrying valuable possessions (Chavez et al., 2024). With

this in mind, this analysis describes the amount of parks area that falls within 200 metres, 400 metres, and 600 metres walking distance.

The City of Vancouver's open data portal was also referenced to collect and analyze data describing citizen service requests. Vancouver's 3-1-1¹⁰ case management system was upgraded in August 2022, resulting in a more nuanced process of collecting and categorizing requests. However, 3-1-1 service requests related to encampments in parks continued to be collected and categorized before and after the system upgrade, allowing for longitudinal data analysis. The City of Hamilton's weekly encampment dashboard was referenced to collect and analyze data describing citizen reports of homelessness or temporary shelters.

OpenStreetMap

If municipal open data portals did not have spatial datasets describing parks area, playgrounds, schools, childcare facilities, transportation networks, land use, natural areas, and community amenities and facilities, OpenStreetMap data was used as an alternative for collecting and analyzing data (OpenStreetMap, 2024).

Statistics Canada Open Database of Buildings

If municipal open data portals did not have spatial datasets describing building footprint, Statistics Canada's Open Database of Buildings was used as an alternative for collective and analyzing data (Statistics Canada, 2019).

Statistics Canada Open Database of Health Facilities

If municipal open data portals did not have spatial datasets describing critical services, Statistics Canada's Open Database of Health Facilities was used as an alternative for collective and analyzing data (Statistics Canada, 2020).

ParcelMap BC

For the Cities of Vancouver and Prince George, ParcelMap BC was referenced to collect and analyze spatial data describing privately-owned land (Land Title and Survey Authority of BC, 2016).

Statistics Canada 2021 Census of Population

Data variables from the 2021 national census were collected and analyzed, including the percent of tenant households in core housing need by dissemination area (DA) (Statistics Canada, 2024).

Municipal by-laws

Finally, the analysis references the following bylaws applicable to the following cities:

- Vancouver Park Board's Parks Control Bylaw as of September 2020 and May 2024 (City of Vancouver, 2020; City of Vancouver, 2024a; City of Vancouver, 2024b)
- The City of Prince George's Safe Streets Bylaw as of August 2021 (City of Prince George, 2022).
- City of Prince George's Parks and Open Space Bylaw No. 7370 (City of Prince George, 2002).
- The City of Hamilton Parks By-law No. 01-219 (City of Hamilton, 2022a)
- The City of Hamilton's Encampment Protocol as of 2020, May 2023 and August 2023 (City of Hamilton, 2020, 2023b, 2023c), rescinded effective March 6, 2025.
- The City of Kingston's Parks Use By-Law (#2009-76) enforcement as of 2023 (City of Kingston, 2009)

¹⁰ 3-1-1 connects callers to non-emergency municipal government services in participating cities and regions.

In June 2024, the City of Hamilton updated the Encampment Protocol to further restrict where temporary sheltering can occur. Temporary shelters were no longer allowed within 100 metres of spaces designed and programmed for children, within 100 metres of funeral homes or long-term care facilities, and within 25 metres of active construction sites. The scope of this research analysis considers the Encampment Protocols in force as of 2020 to August 2025. In 2025, the City of Hamilton rescinded its 2023 Encampment Protocol (effective March 6, 2025) and has since transitioned to enforcement of the City of Hamilton Parks By-law No. 01-219 ("*Parks By-law*"), which prohibits camping in city parks (City of Hamilton, 2022a).

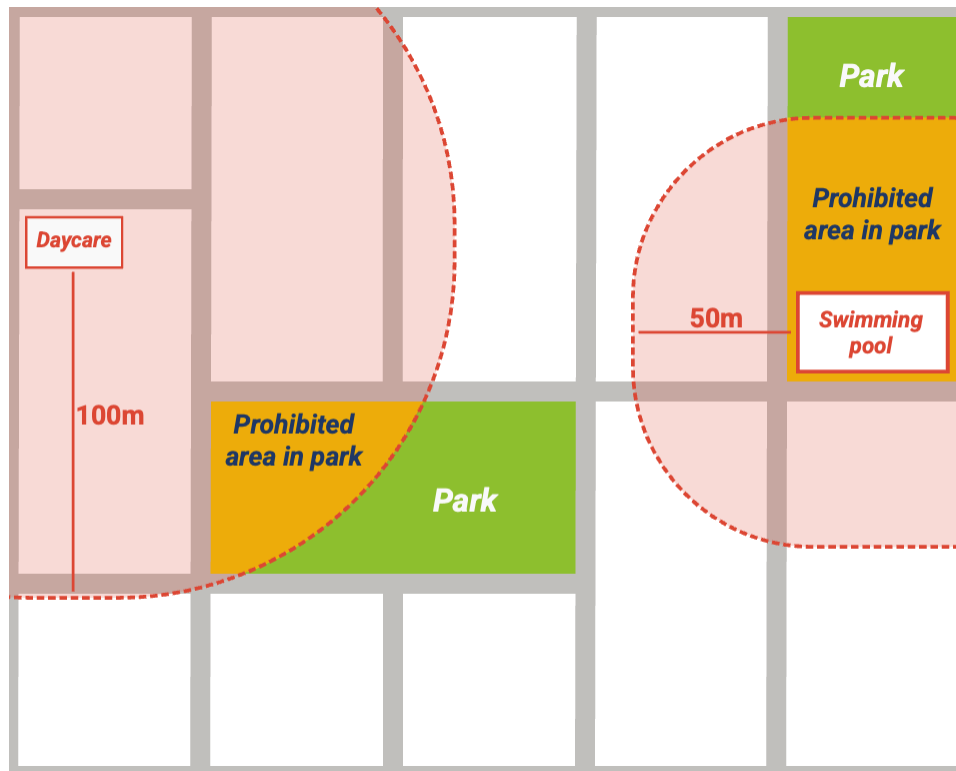


Figure 5: Schematic Diagram of City-Owned Parks Restriction

Figure 5 demonstrates how municipal bylaw restrictions are applied spatially within parks and buffer zones surrounding several facilities such as 100 metres buffer around a daycare. These zones reflect park spaces where temporary shelters are strictly prohibited and clarifies how restrictions intersect within park geography¹¹.

11 Park areas for each city where encampments were/are allowed were mapped given municipal restrictions outlined above. These maps have not been included in this report but are available upon request.

Findings

What amount of city-owned parks permit unhoused populations to temporarily shelter overnight?

Table 1: Parks area which allows temporary shelters by city

Hamilton (while Protocols were in place)				
	Mid 2020 Protocol	May 2023 Protocol	August 2023 Protocol	March 2025 (2022 Bylaw)
Area available for shelters (sq km)	6.6	2	1.7	0
Share of overall parks (%)	23.4	7.1	5.9	0
Share of the 2020 Protocol (%)	N/A	30.3	25.2	0
Maximum encampment clusters	2,250 – 2,750	1,100 – 1,600	850 – 1,350	0
Vancouver				
	September 2020 Bylaw		April 2024 Bylaw	
Area available for shelters (sq km)	2.8		0.01-0.04	
Share of overall parks (%)	23.8		0.08-0.32	
Share of the September 2020 Bylaw (%)	N/A		0.4-0.16	
Maximum encampments	10,019 – 10,519		35 - 188	
Prince George				
Area available for shelters (sq km)	6			
Share of overall parks (%)	30.5			
Maximum encampment clusters	1,968 – 2,468			
Kingston				
Area available for shelters (sq km)	3.7			
Share of overall parks (%)	62.4			
Maximum encampment clusters	1,109 – 1,609			

The analysis of the effects of municipal bylaws on parks locations that allow temporary shelter found that the amount of park space available to unhoused persons was significantly reduced in the four case study cities. Even prior to March of 2025, when Hamilton rescinded the 2023 Protocol and returned to a bylaw that didn't allow temporary shelters in parks, it provided limited park space where temporary shelters were allowed. Of the four cities in this study, it provided the least amount of park space in square kilometres, followed by Vancouver (see Table 1). Comparatively, Kingston has the largest share of park space available for temporary sheltering due to the court's intervention.

In Hamilton and Vancouver, the updated bylaws and protocols reduced the park space available for sheltering to such a degree that in Hamilton, the share of municipal parks where temporary shelters were allowed dropped from about 24% to 6%, and then to 0%. Meanwhile, in Vancouver the bylaw amendment reduced the amount of park space from about a quarter in 2020 to less than 1% as of April 2024.

In the City of Hamilton, the 2020 Protocol allowed for 6.6 square kilometres of parks space for temporary shelters, or about 23% of overall parks area. However, this amount decreased nearly three-quarters by the August 2023 Protocol, with 1.7 square kilometres of park space for temporary shelters or 6% of overall parks area. The 2020 Protocol allowed for a range of 2,250 to 2,750 encampment clusters, while the August 2023 Protocol allowed for a range of 850 to 1,350 encampment clusters. With the Protocol rescinded, the available area is now prescribed as 0%.

Table 1 sets out the park spaces that permitted sheltering while the Protocols were in place. According to the 2020 Protocol, over half of the park space which permit temporary shelters are in Hamilton 53% (3.49 sq km), followed by 18% (1.19 sq km) in the neighbouring jurisdiction of [Flamborough](#)¹². However, with the August 2023 Protocol, about 38% (0.64 sq km) of allowable park space are in Hamilton, followed by 31% (0.52 sq km) in Flamborough and 15% (0.26 sq km) in [Stoney Creek](#)¹³, another neighbouring jurisdiction.

Looking at the City of Hamilton by ward, in both the 2020 and August 2023 Protocol, the greatest share of park space, which permit temporary shelters, is Ward 15 (12% or 0.82 sq km in 2020, 20% or 0.33 sq km in August 2023). Similarly, the second highest share of park space which permit temporary shelters for both Protocols was Ward 9 (9% or 0.6 sq km in 2020, 14% or 0.24 sq km in August 2023). Meanwhile the share of park space which permit temporary shelters decreased about 91% in Wards 1, 4, and 10 between the 2020 Protocol and the August 2023 Protocol. **Hamilton now permits 0% of park space for encampments.**

The September 2020 iteration of the Vancouver *Parks Control Bylaw* allows for 23.81% (2.77 square kilometres) of overall park area to have temporary shelters, which in turn allows for between 10,019–10,519 temporary shelters. In comparison, the April 2024 iteration of the **Vancouver Bylaw allows for 0.08% or 0.01 square kilometres of overall park area to have temporary shelters**, corresponding to between 53 and 72 temporary shelters. Notably, the April 2024 bylaw amendments result in only a portion of the [West Point Grey](#) area of [Spanish Banks](#)¹⁴ being deemed acceptable for temporary sheltering given the inclusion of the slope requirements. This is about 0.40% of the parks area allowable under the September 2020 bylaw (See Appendix A for map of Vancouver Neighbourhoods).

12 A 20-minute drive, 3.5 hour walk and 1 hour bike from downtown Hamilton according to Google Maps. No public transit options were listed.

13 A 20-minute drive, 53-minute public transit ride, 3 hour walk, or 52-minute bike from downtown Hamilton according to Google Maps.

14 For reference Spanish Banks is a 13-minute drive, 38-minute transit ride, 1 hour and 47-minute walk or 31-minute bike from Downtown Vancouver according to Google Maps.

In the September 2020 version of the *Parks Control Bylaw*, the neighbourhood with the greatest amount of park space where temporary sheltering is allowed was [Killarney](#)¹⁵ (0.61 sq km), followed by [Riley Park](#)¹⁶ (0.32 sq km), and [Kitsilano](#)¹⁷ (0.20 sq km). By contrast, the neighbourhoods with the least amount of park space where temporary sheltering is allowed were [Mount Pleasant](#)¹⁸ (0.04 sq km), followed by [Strathcona](#)¹⁹ and [Fairview](#)²⁰ with 0.03 sq km each. In comparison, in the April 2024 version of the bylaw found that only a small portion of West Point Grey's Spanish Banks Park was allowable for temporary shelters, due in part to the exclusion of [Queen Elizabeth Park](#) and [VanDusen Botanical Garden](#) and the requirement that temporary shelters cannot be placed within 7 metres from steep slopes.

In Prince George, no park space is available for shelters according to its bylaws.

By contrast, **in the City of Kingston, 3.66 square kilometres, or about two-thirds of the overall park space, permits temporary shelter** according to the *Kingston Parks Use Bylaw*. Out of park space which permits temporary sheltering by neighbourhood, the greatest shares are in St. Lawrence North²¹ (13% or 0.49 sq km) and [Rideau Heights](#)²² (13% or 0.48 sq km) (See Appendix A for map of Kingston neighbourhoods).

- 15 18-minute drive, 28-minute public transit ride, 2 hour and 20-minute walk or 41-minute bike ride from Downtown Vancouver according to Google Maps
- 16 11-minute drive, 24-minute public transit ride, 1 hour and 16-minute walk or 24-minute bike ride from Downtown Vancouver according to Google Maps
- 17 8-minute drive, 15-minute public transit ride, 1 hour and 5-minute walk or 21-minute bike ride from Downtown Vancouver according to Google Maps
- 18 7-minute drive, 20-minute public transit ride, 43-minute walk or 14-minute bike ride from Downtown Vancouver according to Google Maps
- 19 5-minute drive, 15-minute public transit ride, 35-minute walk or 11-minute bike ride from Downtown Vancouver according to Google Maps
- 20 6-minute drive, 19-minute public transit ride, 44-minute walk or 13-minute bike ride from Downtown Vancouver according to Google Maps
- 21 10-minute drive, 48-minute public transit ride, 1 hour and 20-minute walk or 24-minute bike ride from Downtown Kingston according to Google Maps
- 22 10-minute drive, 26-minute public transit ride, 57-minute walk or 15-minute bike ride from Downtown Kingston according to Google Maps

Are municipal parks that allow temporary sheltering within walking distance of critical services?

The analysis of the relationship between park space that allows temporary shelters and the locations of critical services found that for each of the four cities, a very small amount of park space is within walking distance of services such as hospitals, shelters, food programs or social and community services.

In the Vancouver analysis, the need for permitted, temporary sheltering near services is evidenced by the fact that some of the largest encampments in Vancouver (CRAB Park, Oppenheimer Park, Strathcona Park and the Hastings Street encampment) are both located in the downtown core and close to a high concentration of services (Flynn, 2022). Furthermore, Vancouver's 2020 Homelessness and Supportive Housing Strategy found that over half of people experiencing homelessness are in the Downtown Eastside (DTES), with 19% in Downtown (Mauboules, 2020). Over half of people experiencing homelessness in 2023 identified using emergency room services in the last year, while 47% and 46% respectively reported using non-emergency services at a hospital or visiting a health clinic in the last year (Mauboules & Lupick, 2023). These extremely high usage statistics reinforce the importance of ensuring that areas where encampments are permitted be located near services. As such, it is extremely concerning that the April 2024 Vancouver *Parks Control Bylaw* reduces the amount of parks space where temporary shelters are permitted by so much that they are not within 600 metres of critical health and social services.

In Hamilton, the amount of park space where temporary sheltering is allowed that is located within 600 metres of critical services dropped from about 20% according to the 2020 Protocol, to about 10% in the August 2023 Protocol, and then 0% in 2025. When the August 2023 Protocol was in place, less than 1% of park space where temporary sheltering is allowed is within 200 metres of critical services. Looking more closely, as of August 2023, less than 1% of park space where temporary shelters are allowed is located within 600 metres of shelter supports, overnight drop-in, or drop-in support services, while less than 2% is located within 600 metres of medical services and supports, mental health supports, harm reduction supplies, gender-based violence crisis support, and substance use spaces and supports. Notably, as of August 2023, only 0.2% of parks area where temporary shelters are allowed is located within 600 metres of supports, services, and programs specific to Indigenous populations. This stands in contradiction to the stated objectives of Hamilton's encampment protocol, which aims to "create stability of location, where unhoused community members can keep connections with service providers" and "enable service providers and local organizations the ability to better serve the health and safety needs of individuals in encampments" (City of Hamilton, 2024a). As of August 2023, less than 1% of parks area where temporary shelters are allowed is located within 600 metres of hospitals, and about 3% within 600 metres of ambulatory healthcare services. This is especially critical, given that half of respondents who were experiencing homelessness in Hamilton in 2021 stated that they had visited an emergency room in the last year, with 61% of those respondents visiting the emergency room more than once (City of Hamilton, 2022a). Hamilton's emergency shelter system is very much at capacity and likely unable to adequately respond to needs for those unable to shelter in parks and hoping to be nearer to services. From 2019 to mid-2022, there have been nearly 4,800 turn-away events, meaning clients seeking temporary support at Hamilton's emergency shelter system were turned away (Social Planning & Research Council of Hamilton, 2022). About half of those events were due to bed unavailability, and the second most common reason was due to service restriction, where the person seeking services has higher needs than the shelter can accommodate (Social Planning & Research Council of Hamilton, 2022).

Similar to Vancouver, Prince George has little park space for temporary shelters located near to services, with less than 1% located within 600 metres of hospitals, ambulatory health care services, or shelters. Looking more closely, a little over 0.2% of park space where temporary shelters are allowed is located within 600 metres of shelters, while no parks area is located within 200 metres of shelters. The effects of the restrictive *Safe Streets Bylaw* and existing lack of access to critical services are evident in the locations of Prince George's two most prominent encampments: [The Splits](#)²³ and [Moccasin Flats](#)²⁴. Both encampments were located either inside or just outside the downtown core, pointing to the necessity for unhoused populations to easily access shelters, health services, and social support services (Hermer, 2022). The lack of parks access to services is especially concerning given that the City of Prince George's 2021 PiT Count found that individuals experiencing homelessness identified a clear need for services related to addiction or substance use, mental health, and serious or ongoing medical conditions (Florey et al., 2021). In fact, since 2016, the City of Prince George's PiT counts have found a gradually increasing need for various services for people experiencing homelessness (Florey et al., 2021).

Analysis in the City of Kingston found that a comparatively larger amount of park space that allows temporary sheltering is within walking distance of critical services. Altogether, about 21% of the park space where temporary shelters are allowed is within 400 metres of critical services, and a little less than 3% is located within 200 metres of critical services. Looking at specific critical services, about 7% of park space for temporary shelter is located within 400 metres of free community food support, and 6% is located within 400 metres of social and community services. However, less than 2% is located within 400 metres of ambulatory health care services, and less than 1% is located within 600 metres of hospitals. This does not provide sufficient access to necessary healthcare services, considering that over half of people experiencing homelessness in 2021 described that they had been to the emergency room, with nearly 40% saying that they went two or more times (United Way Kingston, 2021). In 2020 the City of Kingston introduced the Integrated Care Hub (ICH), recognizing the "increase in need of the communities most vulnerable, and the awareness of gaps in services" (United Way Kingston, 2021). The ICH is intended to provide "low-barrier access to care and services," including a drop-in centre, a Rest Zone, consumption and treatment services, and integrated community care (Integrated Care Hub, 2024). The ICH is located at 661 Montreal Street, near the Belle Park encampment and relatively further away from the downtown core.

23 1-minute drive, 6-minute public transit ride, 6-minute walk or 2-minute bike ride from Downtown Prince George according to Google Maps

24 2-minute drive, 15-minute public transit ride, 15-minute walk or 4-minute bike ride from Downtown Prince George according to Google Maps

Table 2: Percent of Parks Area which allow Temporary Shelters within 200m, 400m and 600m of Critical Services (%)

Hamilton (while Protocols were in place)									
Critical Services	Mid 2020 Protocol			May 2023 Protocol			August 2023 Protocol		
	200m	400m	600m	200m	400m	600m	200m	400m	600m
Shelter Supports, Services, Programs; Overnight Drop-in; Drop-in Supports, Services and Programs	0.13	1.11	3.33	0.11	0.43	1.10	0.07	0.20	0.63
Potable Water, Bathrooms, Showers, Laundry Supports and Services	0.20	1.34	2.53	0.27	0.56	0.72	0.15	0.38	0.47
Food Support and Services, Community Fridges	0.06	0.27	0.88	0.07	0.34	0.51	0.03	0.16	0.33
Medical Services and Supports, Mental Health Crisis Supports and Services; Harm Reduction Supplies; Gender-Based Violence Crisis Support, Services and Programs; Substance Use Spaces, Supports and Services	0.04	0.68	2.17	0.05	0.56	1.90	0.04	0.57	1.67
Electricity; Weather Related Supports and Services; Clothing; ID Services; Transportation	0.02	0.46	1.75	0.01	0.33	0.59	0.00	0.34	0.58
Financial Services; Supervised Visitation to See Children; Legal Services; Housing Services and Supports; Settlement Supports, Services and Programs; Employment Services, Supports and Professional Development	0.18	1.13	2.61	0.21	0.84	1.80	0.24	0.82	1.42
Supports, Services, Programs Specific to Indigenous Populations	0.00	0.01	0.22	0.00	0.02	0.38	0.00	0.00	0.24
Hospitals	0.00	0.12	0.75	0.00	0.18	0.93	0.00	0.20	0.74
Ambulatory health care services	0.36	1.98	5.00	0.35	1.38	3.63	0.25	0.97	2.78
ALL CRITICAL SERVICES	1.02	7.14	19.28	1.11	4.67	11.61	0.80	3.67	8.90

Vancouver						
Critical Services	September 2020 Bylaw			April 2024 Bylaw		
	200m	400m	600m	200m	400m	600m
Walk-in clinics	0.41	2.99	6.14	0.00	0.00	0.00
Urgent and primary care facilities	0.04	0.27	1.44	0.00	0.00	0.00
Homeless shelters	0.12	1.43	3.46	0.00	0.00	0.00
Hospitals	0.36	0.60	0.92	0.00	0.00	0.00
Low or no-cost food programs	1.53	9.09	23.61	0.00	0.00	0.00
Emergency rooms	0.09	0.18	0.35	0.00	0.00	0.00
ALL CRITICAL SERVICES	2.58	14.58	35.94	0.00	0.00	0.00

Prince George			
	200m	400m	600m
Hospitals	0.01	0.13	0.19
Ambulatory health care services	0.00	0.04	0.38
Shelters	0.00	0.00	0.21
ALL CRITICAL SERVICES	0.01	0.17	0.79

Kingston			
	200m	400m	600m
Hospitals	0.00	0.01	0.41
Shelters	0.29	2.91	10.98
Health centre, Health clinic	0.44	3.81	11.99
Social and community services	0.54	5.88	20.25
Free community food supports	1.11	6.78	14.97
Ambulatory health care services	0.23	1.47	3.96
ALL CRITICAL SERVICES	2.62	20.89	62.58

Are temporary shelters more likely to be located in areas with a higher number of critical services?

The analysis of the relationship between locations where temporary shelters are reported and the locations of critical services found that in Vancouver and Hamilton, the majority of reported temporary shelters or encampments are in neighbourhoods with high concentrations of services and comparatively less parks area that allows temporary sheltering.

In the City of Vancouver, the number of 3-1-1 inquiries related to temporary shelters or encampments in municipal parks experienced a gradual increase from January 2020 to September 2020, when the *Vancouver Parks Control Bylaw* was introduced. The number of inquiries typically peaks between May to August, then drops again in the winter months between November to February (See Figure 6). Between the 2020 and 2021 calendar years, the number of 3-1-1 inquiries related to temporary shelters or encampments in municipal parks fell about 40%, increased 25% between 2021 and 2022, and fell again about 40% between 2022 and 2023. Since September 2020, nearly 100% of 3-1-1 service requests related to temporary shelters in parks have been marked by the City as “provided service,” with the second most common outcome being that the request was referred to another service group.

Unsurprisingly, nearly every month from September 2020 to April 2024, the majority of 3-1-1 service requests related to encampments in urban parks were located in Downtown, where a high number of critical services are concentrated in a relatively small geographic area. Similarly, the second highest amount of 3-1-1 service requests related to encampments in urban parks from September 2020 to April 2024 were in the West End, located near to Downtown. Over the same period, the neighbourhoods with the lowest amount of 3-1-1 service requests include Dunbar-Southlands, Oakridge, Arbutus Ridge, Shaughnessy and Victoria-Fraserview. According to the September 2020 bylaw, Shaughnessy also contains a significantly large share of parks area where temporary sheltering is permitted, with 0.18 square kilometres or 6% of total parks area where sheltering is allowed.

Looking at the same period by neighbourhood shows differences in trends around the city. In Downtown, the number of 3-1-1 inquiries related to temporary shelters or encampments in municipal parks has fallen steadily since 2020. Meanwhile in [Marpole](#)²⁵, the number of 3-1-1 inquiries related to temporary shelters or encampments in municipal parks increased by 50% between 2022 and 2023, and in [Kensington Cedar-Cottage](#)²⁶ the number doubled between 2021 and 2022. Interestingly, according to the September 2020 bylaw, Kensington Cedar-Cottage had the sixth largest amount of parks space that allows temporary sheltering, with 0.18 square kilometres or 6% of total parks area for temporary shelters.

25 23-minute drive, 41-minute public transit ride, 2 hour and 7-minute walk or 45-minute bike ride from Downtown Vancouver according to Google Maps

26 21-minute drive, 28-minute public transit ride, 1 hour and 14-minute walk or 24-minute bike ride from Downtown Vancouver according to Google Maps

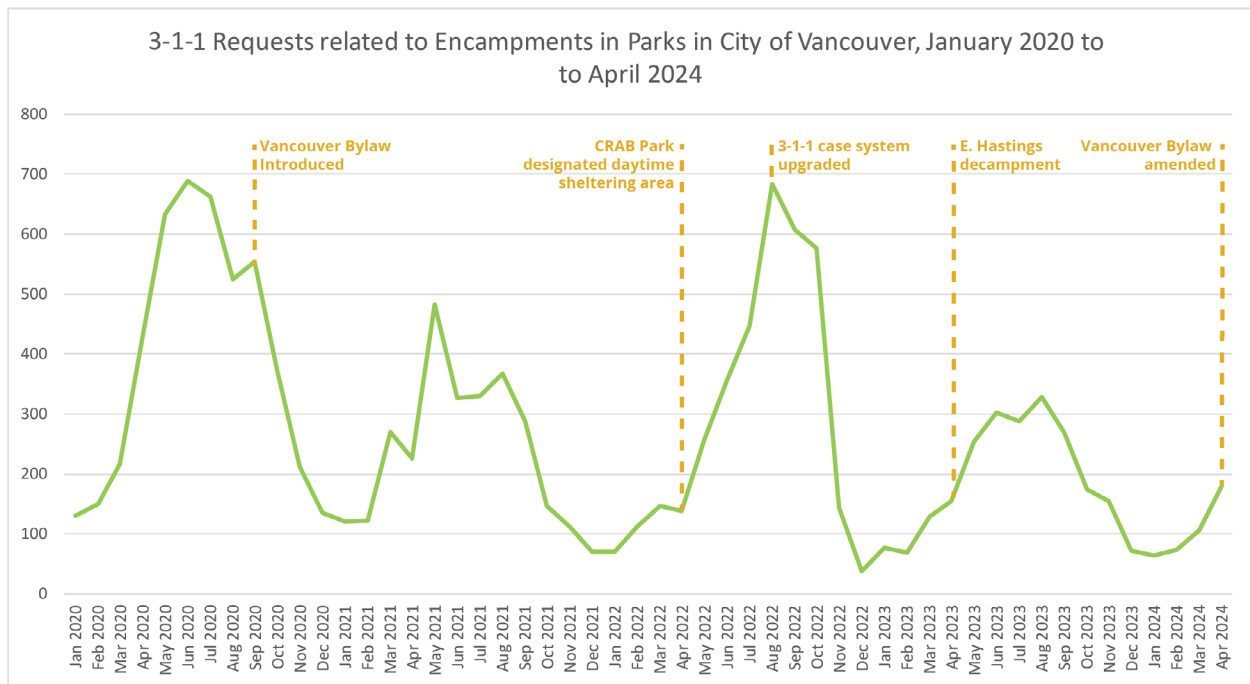


Figure 6: 3-1-1 Requests related to encampments in parks in City of Vancouver, January 2020 to April 2024

Analysis of parks area where temporary shelters are allowed according to the April 2024 in the City of Vancouver, found that the neighbourhood of West Point Grey had comparatively fewer 3-1-1 requests related to homelessness in parks. Between September 2020 and April 2024, 173 requests were made for the West Point Grey neighbourhood, doubling from 36 requests in the 2021 calendar year to 71 requests in the 2022 calendar year. On average, the West Point Grey neighbourhood had three 3-1-1 inquiries related to homelessness in parks per month in 2021, increasing to six per month in 2022, and dropping back to three per month in 2023.

In the City of Hamilton, although the number of complaints and service requests related to encampments decreased from September 2023 until early 2024, the amount has steadily increased from April 2024 onwards (see Figure 7). Looking at the same period by neighbourhood, there is clear evidence that the majority of complaints and service requests related to encampments are located in Wards 2 and 3, which contain a large number of critical services and amenities (City of Hamilton, 2024b). Wards 2 and 3 also have much less parks area where temporary sheltering is permitted. As of the August 2023 protocol, Wards 2 and 3 contained 0.05 and 0.08 square kilometres of parks space where temporary sheltering is allowed. In comparison, Wards 9²⁷ and 15²⁸ contain over 0.25 square kilometres of parks area but also have far fewer critical services.

27 Which is included in the community of Stoney Creek in the Hamilton CMA (See Appendix A)

28 Which is included in the community of Flamborough in the Hamilton CMA (See Appendix A)

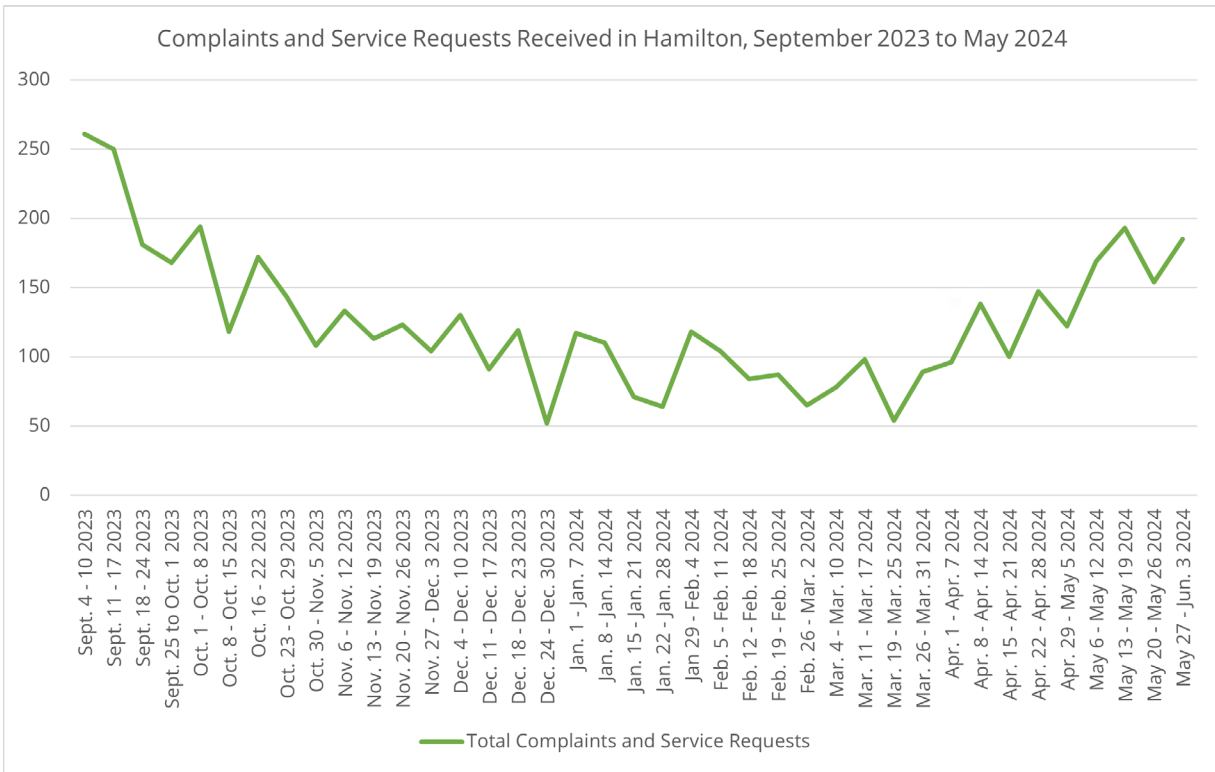


Figure 7: Complaints and Service Requests Received in Hamilton, September 2023 to May 2024

The spatial analysis of both Vancouver and Hamilton reveals a fundamental tension between where unhoused people establish temporary shelters and where municipal regulations permit them to do so. In both cities, encampments cluster in neighbourhoods with high concentrations of critical services, such as Downtown Vancouver and Hamilton’s Wards 2 and 3. However, these service-rich areas provide the least parks space where sheltering is legally allowed. This spatial mismatch reveals how bylaws function not only as regulatory instruments but also as spatial exclusion mechanisms. By concentrating permissions for sheltering in peripheral areas with limited or no access to essential supports, while simultaneously prohibiting encampments in service-rich central areas, municipalities create conditions that necessitate increased enforcement and surveillance. This dynamic effectively traps unhoused residents in a cycle of displacement, enforcement, and ongoing precarity.

Moreover, the volatility of complaint and enforcement data—rising and falling sharply in tandem with bylaw changes and shifting municipal protocols—demonstrates how precarious and politicized encampment regulation has become. Vancouver’s Parks Control Bylaw of September 2020, for example, coincided with a dramatic drop in 3-1-1 inquiries, only for complaints to surge again as enforcement practices evolved, while Hamilton’s 2023 protocol similarly reshaped complaint patterns across wards. These findings confirm that regulatory responses to encampments are not stable solutions to homelessness, but instead, generate an unstable legal geography where the “permissible” presence of unhoused people is redefined at municipal discretion, often in contrast with their actual survival needs.

Analysis

Municipal bylaws regulating the use of public parks aim to explicitly restrict the location of tent encampments.

Municipal bylaws regulating the use of city parks significantly shape where unhoused people are permitted to shelter. Across the four case study cities, the overall trend is unmistakable: the share and location of city-owned parkland available for temporary overnight shelter has been continually restricted over time. This phenomenon is occurring despite the rise in the number of people experiencing homelessness and the absence of adequate, affordable, and accessible alternatives.

The amount of city-owned park space designated for temporary sheltering varies widely between cities, but in each case, bylaws and protocols have acted to constrain, rather than expand, possible sites. Hamilton and Vancouver stand out for having imposed some of the most restrictive regimes. In Hamilton, the 2020 Protocol left only 6.6 square kilometres of parks area for temporary shelters—about 23% of the city's total parkland. By August 2023, this figure had dropped to merely 1.7 square kilometres (6%) and by 2025, 0%. Similarly, Vancouver's September 2020 bylaw allowed just under a quarter of its park system (2.77 sq km, or 23.8 percent) to be used for temporary shelters. By April 2024, this figure had been reduced to just 0.01 square kilometres (less than one-tenth of 1% of overall parkland), assuming slope is calculated at 5%. Only a portion of Spanish Banks remains permissible due to new slope and exclusion requirements imposed by the most recent bylaw. Prince George has similarly restrictive bylaws.

By contrast, Kingston, at the time the data in this report was analyzed, has comparatively larger areas for encampments under the bylaws referenced in the report. Under court-imposed requirements read into the bylaws, Kingston allows approximately 3.7 square kilometres of parks (62.4% of its parks area) for temporary sheltering.

The effects of these bylaw regimes are also felt unevenly within each city. In Vancouver, for example, neighbourhoods such as Killarney, Riley Park, and Kitsilano had the largest amounts of allowable sheltering area. By 2024, only a fragment of Spanish Banks, located in the neighborhood off Jericho Beach on the far western boundary of Kitsilano, remained available. As a result, encampments that historically clustered in central locations such as CRAB Park, Oppenheimer Park, and Strathcona Park—areas adjacent to essential services—have been pushed out and away from these services by bylaw restrictions.

The effects of these bylaw regimes are also subject to frequent change, creating uncertainty for those subject to them. In Hamilton, the Encampment Protocol was rescinded in 2025 after its introduction in 2023, underscoring the instability of municipal regulatory regimes and the vulnerability of those whose shelter depends on shifting local policy. Moreover, the Kingston example underscores the importance of the courts in limiting how municipalities are able to enforce their bylaws. Again, this points out the changeable character of these bylaws and the influence of the courts.

Parks area where temporary shelters are allowed, are more likely to be located further away from the critical services that are sorely needed by unsheltered populations.

The need for accessibility and constancy of a variety of health and social services among the unhoused population is immense. Unsheltered populations who are staying overnight in encampments have underscored the benefits of being located nearer to public services and community outreach, such as “pharmacies, safe consumption sites, medical care and other services,” that facilitates stability, a sense of security and community (Flynn, 2022, 2024, p. 6; Young et al., 2017). However, analysis of the municipal bylaws and protocols governing access to parks in Vancouver, Prince George, Kingston, and Hamilton have shown that parks areas where homeless persons are legally permitted to shelter are for the most part, located further from health and social services. This directly contradicts international human rights law, which requires governments to ensure basic adequacy standards, including social supports and services (Farha & Schwan, 2020). Furthermore, health and social services are not interchangeable for the person receiving support, and municipal bylaws or protocols restricting locations of temporary shelters ignore the importance of those established relationships or familiarity with service providers (City of Kingston, 2023; Flynn, 2024).

Unsheltered persons also face unique challenges in accessing appropriate, adequate care to address these health conditions, “due to a lack of identification (such as health cards) and a lack of funds (for service fees),” not to mention the risk of being denied care due to misconceptions around “substance use problems or mental health challenges” (Homeless Hub, 2024). Despite Canada’s universal healthcare system, “many homeless people do not fill prescriptions they have received because they do not have insurance benefits and cannot afford the cost of the medication” (Hwang, 2001, p. 232).

Limited distance-based access to critical services is also hugely challenging for unsheltered persons staying overnight in public spaces or parks, who “must pack up their belongings early every morning until they can set up their shelter again in the evening” (The Office of the Federal Housing Advocate, 2024, p. 13). These possessions cannot be considered simply objects or replaceable items. These personal possessions are incredibly meaningful belongings for unhoused persons that signify identity, autonomy, and dignity (Blomley et al., 2020, 2024). Unsheltered persons staying overnight in municipal parks subject to bylaws or protocols, and who need to access services must find somewhere safe to store their belongings, “carry all their possessions with them, or risk their loss” (The Office of the Federal Housing Advocate, 2024, p. 13). For unsheltered persons who cannot safely store their personal belongings, they are further limited in the distances they can feasibly manage to access services, in turn becoming actively isolated from much-needed healthcare and social supports.

The restrictive governance of personal possessions and parks use have led people experiencing homelessness to choose between seeking much-needed medical care, protecting their possessions, or losing critical medication if their possessions are seized (Blomley et al., 2020). In short, current municipal bylaws and protocols enforced in Vancouver, Prince George, Kingston, and Hamilton reduce parks area where temporary shelters are allowed to such a degree that unsheltered people are left in the impossible situation of constantly packing up and moving their personal possessions in order to access critical health and social services, or else be at “constant risk of having their belongings removed,” and “being the targets of law and bylaw enforcement” (Blomley et al., 2024; City of Hamilton, 2023a).

Across all four cities, unsheltered populations experience multiple concurrent health conditions, consistent with existing research showing that “those who experience homelessness are more susceptible to health concerns” and are disproportionately affected by pandemics and contagious epidemics, particularly in overcrowded shelters (Flynn & Van Wagner, 2023, p. 3). People experiencing homelessness are more likely to face conditions that “adversely affect their overall short and long-term health status,” particularly for those who are unsheltered and or experiencing chronic homelessness (Miller Chenier, 1999).

However, the analysis of available temporary shelter space reveals a critical mismatch between where temporary sheltering is permitted and where essential services are located. In all four cities examined, very little allowable park space falls within walking distance of health care facilities, shelters, food programs, or community supports. In Vancouver, the 2024 bylaw virtually eliminated any overlap between permissible sheltering areas and services necessary to the unhoused population, effectively isolating residents in temporary park shelters from health and social supports despite evidence of high service usage among unhoused populations. This spatial disconnect exists both in cities where municipal bylaws determine encampment locations and in cities where courts have “read-in” frameworks establishing the permissibility of nighttime encampments.

In Hamilton, the 2020 Protocol permitted about 20% of allowable parks area within 600 metres of critical services; by August 2023, this had fallen to only 10 percent, and less than 1% within 200 metres. Critically, virtually none of the allowable sheltering area was near Indigenous-specific services, in direct contradiction to the stated aims of Hamilton’s Protocol. Although the Protocol has now been rescinded, the data highlights how municipal rules have repeatedly displaced encampments away from essential supports. Prince George and Kingston present contrasting situations. In Prince George, less than 1% of permissible park space is located within 600 metres of health or shelter services, contributing to the persistence of large encampments in central areas such as Moccasin Flats. In Kingston, by comparison, about 21% of allowable parkland is within 400 metres of critical services, aided by the proximity of the Integrated Care Hub to Belle Park.



Bylaws prohibiting encampments contravene the constitutional right to sleep outside at night where there are inadequate shelter spaces.

Courts, not legislatures, have set the formal limits on when and how municipalities may evict encampments. Most evictions begin as eviction orders brought by cities to enforce parks, streets, and other bylaws against people living on public land, typically parks, on the grounds that unhoused people are erecting tents or structures, or obstructing pathways. While evictions are framed as the neutral enforcement of rules, municipal bylaws and action engage the *Charter* because displacement arguably exposes unhoused people to serious risks to life, liberty, and security of the person (s 7), unreasonable search and seizure (s 8), and cruel and unusual punishment (s 12) that disproportionately affect particular populations (s. 15). Municipal actions may also trigger claims regarding procedural and substantive fairness, including that officials did not treat encampment residents fairly or did not make a reasonable decision when evicting unhoused people. The result is a body of jurisprudence that sets a constitutional floor: where accessible indoor alternatives are lacking, people cannot be forced into exposure simply because they are in public.

As noted earlier, the leading authority is *Victoria (City) v Adams* (2008 BCSC; 2009 BCCA), which held that when the number of unhoused people exceeds the number of accessible shelter spaces, municipalities cannot constitutionally prohibit unhoused residents from erecting temporary **overnight** shelter on public land. The right recognized in *Adams* is both conditional and temporal: it is triggered by a demonstrable lack of accessible shelter and confined to the overnight period. In the years since, courts have unpacked what constitutes an accessible shelter. It is not enough to count beds; the spaces must be practically available to the actual people affected, accounting for the distinct needs of couples, pet owners, people with disabilities, rules and curfews, harm-reduction compatibility, safety, and geographic proximity to supports.

This refinement was made explicit in *Regional Municipality of Waterloo v Persons Unknown* (2023 ONSC 670), one of the most consequential Ontario cases. In *Waterloo*, the municipality asked the court whether it could remove the residents of a longstanding encampment at 100 Victoria Street North. Justice Valente of the Ontario Superior Court refused, holding that the City had failed to demonstrate adequate shelter availability. Crucially, the Court broadened the holding in *Adams* and recognized that shelter accessibility must be assessed in relation to the characteristics of the people displaced: if beds are unsafe, inaccessible due to rules or restrictions, or otherwise inadequate, they cannot be treated as accessible for constitutional purposes. Accessibility is subject to substantive evaluation, not simple formal bed counts. The Court also emphasized that eviction would remove encampment residents from the dense cluster of health, harm reduction, and social services in downtown Kitchener, exacerbating the harms of displacement.

Other recent cases show how this reasoning has been received across Canada. In Vancouver, *Bamberger v Vancouver (Park Board)* set aside eviction orders from CRAB Park as unreasonable because the Park Board had not rationally established that adequate, accessible indoor spaces existed; in doing so, the Court highlighted that encampments had formed precisely in service-rich downtown areas, and that relocation to peripheral shelters risked cutting residents off from supports. In *Vandenberg v Vancouver (Fire & Rescue)*, the court accepted the fire order's reasonableness but found a high duty of procedural fairness was breached, including notice and an opportunity to be heard were required given section 7 engagement. In *Matsqui-Abbotsford Impact Society v Abbotsford (City)*, the court flagged serious *Charter* issues,

including the impact of displacement on access to harm reduction services in the midst of the toxic drug crisis. In Prince George, *City v Stewart* and *City v Johnny* refused to close encampments where alternatives were not low-barrier or proximate, noting that relocation away from downtown health and social services would deepen residents' vulnerability.

It is important to note that Ontario courts remain divided: while *Waterloo* and *Kingston v Doe* emphasized that location and service access are constitutionally relevant, *Poff v Hamilton* and *Heegsma v Hamilton* (**appeal pending**) took a narrower approach, rejecting arguments that shelters must be geographically or practically accessible, and treating barriers to access as matters of personal preference.

Bylaws restricting park use for encampments are legally vulnerable.

Canadian courts have said that people have a constitutional right to erect rudimentary temporary overhead protection on public lands over night, when accessible shelter space is not proportionately available. Yet, most of the municipal bylaws surveyed here appear to have as their goal the circumvention of this constitutional guarantee, effectively hollowing out the constitutional right. Municipal government actions take the form of time, place, and manner restrictions, such as creation of no-shelter zones, distance buffers from amenities, bans under tree canopies or near slopes, and exclusions of central parks. Permitted sites are small, peripheral, environmentally constrained, and often distant from critical services. Unhoused people must either breach siting rules to remain near health and social supports or accept isolation.

This is not to say that the ruling, and consequent constitutional right, that emerged from *Adams* is adequate. An overnight-only regime typically mandates morning teardown. This creates a revolving-door dynamic that disrupts medical care, outreach relationships, and personal safety. Unhoused individuals are condemned to lugging around shelter supplies and personal belongings during the day, facing inhospitable environments for daytime rest and shelter.

The implications are immediate. Restrictive measures that target overnight sheltering, limiting it or making it impossible, are constitutionally vulnerable, as in the case of Kingston. However, challenging these restrictions is challenging for unhoused people. Legal proceedings require significant time, resources, and specialized knowledge—things that are often out of reach for individuals struggling with unstable shelter, health issues, and limited financial means. Even when legal aid or advocacy organizations step in, cases often involve complex constitutional arguments, extensive evidence, and protracted timelines, all of which place enormous burdens on people already living in precarious conditions. Meanwhile, enforcement actions such as injunction applications typically proceed quickly, meaning that unhoused individuals must navigate urgent legal processes without the stability, support, or access to technology that municipalities take for granted. This structural imbalance makes it exceptionally difficult for unhoused people to challenge restrictive municipal bylaws.

Conclusion

These case studies and spatial analysis demonstrate how municipal bylaws and protocols operate as instruments for the containment, and in effect, the outlawing, of visible homelessness. Regulatory regimes across jurisdictions have not only reduced the amount of park space formally available for sheltering but have also sharply constrained practical accessibility through geographic dispersal and severance from critical supports. Hamilton's swift rescission of its Protocol and Vancouver's rapid imposition of restrictions underscore how these rules shift quickly and unpredictably, leaving unhoused communities in a state of chronic precarity.

Municipalities appear to be advancing increasingly restrictive frameworks on the assumption that unhoused residents will lack the resources to mount constitutional challenges, or that courts will defer so long as nominal housing options are being advanced that appear to meet existing jurisprudential thresholds. This strategy, however, is deeply unstable: it ignores Canada's statutory recognition of housing as a human right under the *National Housing Strategy Act* and exposes municipalities to legal vulnerability as courts confront the widening disjunction between constitutional doctrine, statutory commitments, and the lived realities of housing precarity.

Restrictions on public land available for overnight shelter beyond even the minimum standards established by Canadian courts directly contradict international human rights law. International human rights treaties, to which Canada is a signatory, require governments to work towards the progressive realization of the right to housing. Canadian courts have cited international public law to interpret domestic laws, and the federal government has formally recognized the right to housing through its commitment in the 2019 *National Housing Strategy Act*. Despite these legal frameworks, both international and domestic, municipal laws continue to restrict where unhoused populations may shelter, creating a tension between Canada's human rights obligations and local enforcement practices.

Moreover, the current lack of coordination between federal, provincial, or territorial, and municipal levels of government regarding the right to housing or adoption of a rights-based approach to housing, exacerbates the criminalization of homelessness and forced displacement of encampment residents, violating international human rights law. Fundamentally, encampment evictions constitute a human rights concern. Municipal bylaws serve a central and often devastating role in local responses to encampments.

Ultimately, by treating encampments as nuisances to be regulated rather than symptoms of systemic housing failure, municipalities entrench cycles of displacement while heightening the risk of future litigation that may unsettle the very bylaws on which they now rely.

References

A By-Law To Provide For The Regulation Use Of Parks And Recreation Facilities Of The Corporation Of The City Of Kingston (2009). https://www.cityofkingston.ca/media/z3ujqk0j/recreation_bylaw_parks-and-recreation-facilities.pdf

Abbotsford (City) v. Shantz, 2016 BCSC 2437 (2016).

Alasia, A., Newstead, N., Kuchar, J., & Radulescu, M. (2021). *Measuring proximity to services and amenities: An experimental set of indicators for neighbourhoods and localities*. <https://www150.statcan.gc.ca/n1/en/pub/18-001-x/18-001-x2020001-eng.pdf?st=Cl1ir-qK>

B.C. Ministry of Housing. (2023). *Complete Communities: A guide to geospatial land assessments for British Columbia's communities*.

Berman, S., & Winter, J. (2024, May 27). *The Encampment Wars*. Maclean's. <https://macleans.ca/society/the-encampment-wars/>

Blomley, N., Flynn, A., & Sylvestre, M.-E. (2020). Governing the belongings of the precariously housed: A critical legal geography. In *Annual Review of Law and Social Science* (Vol. 16). <https://doi.org/10.1146/annurev-lawsocsci-021020-105357>

Blomley, N., Flynn, A., Sylvestre, M.-E., Olson, N., Evans, T., Shapton, C., & Chavez, M. (2024). *Possessions of Precariously Housed People*. <https://belongingsmatter.ca/report/introduction>

Chavez, M., Evans, T., Shapton, C., Flynn, A., Sylvestre, M.-E., & Blomley, N. (2024). Life in the "Hum": Belongings and Everyday Dispossession. *International Journal on Homelessness*, 4(3), 1-17. <https://ojs.lib.uwo.ca/index.php/ijoh/article/view/16988>

City of Hamilton. (2020). *Appendix "A" to Report HSC20038(a): Bylaw Enforcement Protocol*. <https://pub-hamilton.escribemeetings.com/filestream.ashx?DocumentId=254981>

City of Hamilton. (2022a). *City of Hamilton: Point in Time Connection Results 2021*. https://www.hamilton.ca/sites/default/files/2022-10/PIT-2021-City-of_hamilton-Results.pdf

City of Hamilton. (2022b). *Hamilton Complete Streets Design Guidelines*. <https://www.hamilton.ca/sites/default/files/2023-02/pedpolicies-street-complete-streets-design-guidelines.pdf>

City of Hamilton. (2022c). *Open Hamilton*. <https://open.hamilton.ca/>

City of Hamilton. (2023a). *Encampment Pilot Evaluation (HSC20038(e)/PED21188(b)) (City Wide)*. <https://pub-hamilton.escribemeetings.com/filestream.ashx?DocumentId=347214>

City of Hamilton. (2023b). *Encampment Protocol - With Amendments. Appendix "A" to Report HSC20036(g)*. <https://pub-hamilton.escribemeetings.com/filestream.ashx?DocumentId=374288>

City of Hamilton. (2023c). *Proposed Encampment Protocol. Appendix "A" to Report HSC20038(f)/PED21188(c)*. <https://pub-hamilton.escribemeetings.com/filestream.ashx?DocumentId=392184>

City of Hamilton. (2024a). *City of Hamilton Encampment Protocol*. City of Hamilton. <https://www.hamilton.ca/people-programs/housing-shelter/preventing-ending-homelessness/city-hamilton-encampment-protocol>

City of Hamilton. (2024b). *Encampment Response Update - May 2024 (City Wide)*. <https://www.hamilton.ca/sites/default/files/2024-06/comm-update-Encampment-Response-Update-May-2024.pdf>

City of Kingston. (2023). *2023 Housing and Homelessness Annual Report*. https://www.cityofkingston.ca/media/duoizwm2/hss_report_housinghomelessness2023.pdf

City of Kingston. (2024). *Open Data Kingston*. <https://opendatakingston.cityofkingston.ca/>

City of Prince George. (2010). *Prince George Active Transportation Plan*. https://www.princegeorge.ca/sites/default/files/2023-01/ActiveTransportation_ActiveTransportationPlan_2011.pdf

City of Prince George. (2018). *Open Data Prince George*. <https://data-cityofpg.opendata.arcgis.com/>

City of Vancouver. (2012). *Transportation 2040*. <https://vancouver.ca/files/cov/transportation-2040-plan.pdf>

City of Vancouver. (2016). *Walking + Cycling in Vancouver: 2016 Report Card*. <https://vancouver.ca/files/cov/walking-cycling-in-vancouver-2016-report-card.pdf>

City of Vancouver. (2017). *Walking + Cycling in Vancouver: 2017 Report Card*. <https://vancouver.ca/files/cov/walking-cycling-in-vancouver-2017-report-card.pdf>

City of Vancouver. (2018). *Walking + Cycling in Vancouver: 2018 Report Card*. <https://vancouver.ca/files/cov/walking-and-cycling-in-vancouver-2018-report-card.pdf>

City of Vancouver. (2024). *Home - City of Vancouver Open Data Portal*. <https://opendata.vancouver.ca/pages/home/>

Clark, A. F., & Scott, D. M. (2016). Barriers to walking: An investigation of adults in Hamilton (Ontario, Canada). *International Journal of Environmental Research and Public Health*, 13(2). <https://doi.org/10.3390/ijerph13020179>

DeGuire, P. (2024). *OHRC letter to City of Kingston regarding encampments*. Ontario Human Rights Commission. <https://www.ohrc.on.ca/en/ohrc-letter-city-kingston-regarding-encampments>

Dostal, P. (2021, January). *Principles of Fundamental Justice*. Criminal Law Notebook. https://criminalnotebook.ca/index.php?title=Principles_of_Fundamental_Justice&mobileaction=toggle_view_desktop

Employment and Social Development Canada. (2018). *Advisory Committee on Homelessness - Final Report*. https://housing-infrastructure.canada.ca/alt-format/pdf/homelessness-sans-abri/reports-rapports/Advisory_Committee_Homelessness_Report-EN.pdf

Farha, L., & Schwan, K. (2020). *A National Protocol for Homeless Encampments in Canada*.

Florey, L., Pateman, K., & Thandi, A. (2021). *Prince George Point-in-Time Homeless Count Report 2021*. <https://www.pгнаeta.bc.ca/uploads/homelessness/Prince%20George%20PiT%202021%20Count.pdf>

Flynn, A. (2022). *Case study: Vancouver - A human rights analysis of encampments in Canada*. https://www.homelesshub.ca/sites/default/files/attachments/Vancouver_Encampments_Crab_Park_case_study-EN_1.pdf

Flynn, A. (2024). Social Control and Homeless Encampments: Shifting the Role of Shelters Through Judicial Review. *Social and Legal Studies*. <https://doi.org/10.1177/09646639241226477>

Flynn, A., Hermer, J., Leblanc, C., MacDonald, S.-A., Schwan, K., & van Wagner, E. (2022). *Overview of Encampments Across Canada: A Right to Housing Approach*. https://www.homelesshub.ca/sites/default/files/attachments/Overview%20of%20Encampments%20Across%20Canada_EN_1.pdf

Flynn, A., & van Wagner, E. (2023). Introduction to the Special Issue on Housing Precarity and Human Rights. *Journal of Law and Social Policy*, 36, 1–11.

Frank, L. D., Bigazzi, A., Dummer, T., White, K., Crist, K., Aravindakshan, A., Berjisian, A., Wolff, C., Niknej, N., Fox, E., & Prentice, M. (2024). *Final Report – Where Matters II: Walkability and Greenspace Relationships with Health and Climate Change*. <https://metrovancover.org/boards/RegionalPlanning/Where-Matters-II-Final-Report-2024-02-09.pdf>

Frank, L. D., Kershaw, S., Chapman, J., & Perotta, K. (2014). *Residential preferences and Public Health in Metro Vancouver: Promoting Health and Well Being by Meeting the Demand for Walkable Urban Environments*. https://med-fom-spph-health-design.sites.olt.ubc.ca/files/2013/07/Final-Report-Residential-Preferences-and-Public-Health-in-Metro-Vancouver-_09262014_.pdf

Government of Canada. (2017). *Canada's National Housing Strategy*. <https://assets.cmhc-schl.gc.ca/sites/place-to-call-home/pdfs/canada-national-housing-strategy.pdf?rev=5f39d264-0d43-4da4-a86a-725176ebc7af>

Government of Canada. (2023). *Building Momentum: Moving Canada's Housing Commitments Forward. 2023 National Housing Strategy Progress Report*. <https://assets.cmhc-schl.gc.ca/sites/place-to-call-home/pdfs/nhs-triennial-report-2023-en.pdf?rev=b390ee12-7dab-42e1-8de5-8a3338b4de29>

Guide to the Canadian Charter of Rights and Freedoms - Canada.ca. (n.d.). Retrieved December 3, 2025, from <https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html>

Heegsma v. Hamilton (City), 2025 ONCA 588 (CanLII). (2025, August 7). CanLII.

Heft, R. (2025). *Interlocutory Injunctions*. Heft Law. <https://heftlaw.ca/interlocutory-injunctions/>

Hermer, J. (2022). *Case study: Prince George - A human rights analysis of encampments in Canada*.

- Homeless Hub. (2024). *Service Provision*. Homeless Hub. <https://homelesshub.ca/collection/homelessness-101/service-provision/>
- Hosford, K., Beirsto, J., & Winters, M. (2022). Is the 15-minute city within reach? Evaluating walking and cycling accessibility to grocery stores in Vancouver. *Transportation Research Interdisciplinary Perspectives*, 14. <https://doi.org/10.1016/j.trip.2022.100602>
- Housing Infrastructure and Communities Canada. (2023). *Homelessness Data Snapshot: Findings from the 2022 National Survey on Homeless Encampments*. <https://housing-infrastructure.canada.ca/homelessness-sans-abri/reports-rapports/encampments-survey-2022-enquete-campements-eng.html>
- Hwang, S. W. (2001). Homelessness and health. *CMAJ. Canadian Medical Association Journal*, 164(2), 229–233.
- Infrastructure Canada. (2024). *Everyone Counts 2020-2022 – Results from the Third Nationally Coordinated Point-in Time Counts of Homelessness in Canada*. <https://housing-infrastructure.canada.ca/alt-format/pdf/homelessness-sans-abri/reports-rapports/pit-counts-dp-2020-2022-results-resultats-en.pdf>
- Integrated Care Hub. (2024). *About Us - Integrated Care Hub*. Integrated Care Hub. <https://integratedcarehub.ca/about-us/>
- Johnsen, S., Fitzpatrick, S., & Watts, B. (2018). Homelessness and social control: a typology. *Housing Studies*, 33(7), 1106–1126. <https://doi.org/10.1080/02673037.2017.1421912>
- Land Title and Survey Authority of BC. (2016). *ParcelMap BC*. <https://catalogue.data.gov.bc.ca/dataset/parcelmap-bc-parcel-fabric>
- Larsen, J., & El-Geneidy, A. (2010). Beyond the quarter mile: Re-examining travel distances by active transportation. *Canadian Journal of Urban Research*, 19(1 SUPPL.), 70–88.
- Mauboules, C. (2020). *Homelessness & Supportive Housing Strategy*. <https://council.vancouver.ca/20201007/documents/pspc1presentation.pdf>
- Mauboules, C., & Lupick, D. (2023). *2023 Homeless Count: Vancouver*. https://council.vancouver.ca/20231031/documents/regu20231031p1_2023_Homeless_Count.pdf
- McElhanney. (2021). *Summary Report: 2020 Vancouver Panel Survey*. <https://vancouver.ca/files/cov/2020-transportation-panel-survey.pdf>
- Metro Vancouver. (2022). *Metro Vancouver Open Data Portal*. <https://open-data-portal-metrovancouver.hub.arcgis.com/>
- Miller Chenier, N. (1999). *Health and Homelessness*. <https://publications.gc.ca/collections/Collection-R/LoPBdP/modules/prb99-1-homelessness/health-e.htm>
- National Housing Strategy Act, SC 2019, c 29, s 313 (4(a)) (2019).

Berryman, J., & McDermott-Berryman, K. (2020, December 24). *Obtaining an Interlocutory Injunction or Mandatory Order*. CanLII Docs. https://www.canlii.org/en/commentary/doc/2021CanLII Docs2032#!fragment/zoupio-_Toc81472224/BQCwhgziBcwMYgK4DsDWszlQewE4BUBTADwBdoAvbRABwEtsBaAfX-2zgA4BGAFgHYATEJ4BKADTJspQhACKiQrgCe0AOSqxEQmFwJ5iles3bdIAMp5SAIRUAIKIAZewDUAggD-kAwvbGkwAEbQpOwilka

OpenStreetMap. (2024). *OpenStreetMap*. <https://www.openstreetmap.org/>

Park By-Laws (Consolidated) (2020). <https://parkboardmeetings.vancouver.ca/files/BYLAW-ParksBy-lawsConsolidated-20200915.pdf>

Park By-Laws (Consolidated) (2024). <https://parkboardmeetings.vancouver.ca/files/BYLAW-ALLParkBylaws-2024.pdf>

Plater-Zyberk, E. (2024). *The 5-minute neighborhood, 15-minute city, and 20-minute suburb*. Congress for the New Urbanism. <https://www.cnu.org/publicsquare/2024/01/08/5-minute-neighborhood-15-minute-city-and-20-minute-suburb>

Prince George (City) v Johnny, [2022 BCSC 282](#) (CanLII) (2022).

Prince George (City) v. Stewart, [2021 BCSC 2089](#) (2021).

Prince George (City) v Stewart, [2021 BCSC 2089](#) (CanLII) (2021).

Principles of procedural fairness - Canada.ca. (n.d.). Retrieved December 3, 2025, from <https://www.canada.ca/en/ombudsman-national-defence-forces/education-information/civilian-employees/procedural-fairness.html>

Report issues and request services with Van311 | City of Vancouver. (n.d.). Retrieved December 2, 2025, from <https://vancouver.ca/van311.aspx>

Safe Streets Bylaw. Bylaw No. 9209 (2021). https://www.princegeorge.ca/sites/default/files/2023-04/BL9209_CONSOLIDATED_2022-07-27.pdf

Schwan, K., & Ali, N. (2021). *A Rights-Based, GBA+ Analysis of the National Housing Strategy*. <https://womenshomelessness.ca/wp-content/uploads/EN-Rights-Based-GBA-Analysis-of-NHS-28-Sept-2021.pdf>

Social Planning & Research Council of Hamilton. (2022). *Hamilton Post-Pandemic Emergency Shelter Size Review: Key Findings*.

Soja, E. W. (1989). *Postmodern Geographies: The Reassertion of Space in Critical Social Theory*. Verso.

State of Victoria. (2010). *Pedestrian Access Strategy: A strategy to increase walking for transport in Victoria*. <https://www.victoriawalks.org.au/Assets/Files/Pedestrian%20Access%20Strategy%20final%20WEB%20version.pdf>

Statistics Canada. (2019). *The Open Database of Buildings*. <https://www150.statcan.gc.ca/n1/pub/34-26-0001/342600012018001-eng.htm>

- Statistics Canada. (2020). *The Open Database of Healthcare Facilities*. <https://www.statcan.gc.ca/en/lode/databases/odhf>
- Statistics Canada. (2023). *Homelessness: How does it happen?* Statistics Canada. <https://www.statcan.gc.ca/o1/en/plus/5170-homelessness-how-does-it-happen>
- Statistics Canada. (2024). *Census of Population*. Statistics Canada. <https://www12.statcan.gc.ca/census-recensement/index-eng.cfm?MM=1>
- Sylvestre, M.-E., Blomley, N., & Bellot, C. (2019). *Red Zones*. Cambridge University Press.
- The Canadian Charter of Rights and Freedoms*. (n.d.). Retrieved December 3, 2025, from <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/>
- The Canadian Constitution - About Canada's System of Justice*. (n.d.). Retrieved December 3, 2025, from <https://www.justice.gc.ca/eng/csj-sjc/just/05.html>
- The Office of the Federal Housing Advocate. (2024). *Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments - Final report*.
- Thistle, J. (2017). *Indigenous Definition of Homelessness in Canada*. <https://www.homelesshub.ca/sites/default/files/COHIndigenousHomelessnessDefinition.pdf>
- Toronto Public Health. (2012). *The Walkable City: Neighbourhood Design and Preferences, Travel Choices and Health*. <https://www.toronto.ca/wp-content/uploads/2017/10/9617-TPH-walkable-city-report.pdf>
- United Way Kingston, F. L. and A. (2021). *2021 Results of the Urban Kingston Point-in-Time Count*. <https://www.unitedwaykfla.ca/news/newsrelease-2021pitcountreport/>
- Uppal, S. (2022). *A portrait of Canadians who have been homeless*. <https://www150.statcan.gc.ca/n1/en/pub/75-006-x/2022001/article/00002-eng.pdf?st=BzWYlsjZ>
- van Wagner, E. (2022). *Case Study: Hamilton — A human rights analysis of encampments in Canada*. https://www.homelesshub.ca/sites/default/files/attachments/Hamilton_encampments_case_study-EN_1.pdf
- Victoria (City) v. Adams, 2009 BCCA 563* (2009).
- Wang, T., Li, Y., Chuang, I.-T., Qiao, W., Jiang, J., & Beattie, L. (2024). Evaluating the 15-minute city paradigm across urban districts: A mobility-based approach in Hamilton, New Zealand. *Cities*, 151. <https://doi.org/10.1016/j.cities.2024.105147>
- Wood, S. (2024). Reconsidering the Test for Interlocutory Injunctions Affecting Homeless Encampments: A critical assessment of BC case law. *Osgoode Hall Law Journal*, 61(1), 161–222. <https://doi.org/10.60082/2817-5069.3980>
- Young, M. G., Abbott, N., & Goebel, E. (2017). Telling their story of homelessness: voices of Victoria's Tent City. *Journal of Social Distress and the Homeless*, 26(2), 79–89. <https://doi.org/10.1080/10530789.2017.1324358>

Appendix A – Additional Data Findings

Vancouver, British Columbia



Figure 8: Vancouver Neighbourhoods

September 2020 Bylaw			April 2024 Bylaw Amendment	
Neighbourhood	Parks Area that allows Temporary Shelters (sq km)	Share of Total Parks Area that allows Temporary Shelter (%)	Parks Area that allows Temporary Shelters (sq km)	Share of Total Parks Area that allows Temporary Shelter (%)
Arbutus-Ridge	0.11	3.88	0.00	0.00
West End	0.10	18.24	0.00	0.00
Downtown	0.10	3.09	0.00	0.00
Dunbar-Southlands	0.06	2.35	0.00	0.00
Fairview	0.03	1.11	0.00	0.00
Grandview-Woodland	0.05	1.68	0.00	0.00
Hastings-Sunrise	0.19	6.65	0.00	0.00
Kensington-Cedar Cottage	0.18	6.45	0.00	0.00
Kerrisdale	0.06	2.07	0.00	0.00
Killarney	0.61	6.34	0.00	0.00
Kitsilano	0.20	7.05	0.00	0.00
West Point Grey	0.06	2.52	0.01	100.00
Marpole	0.06	2.00	0.00	0.00
Mount Pleasant	0.04	1.59	0.00	0.00
Oakridge	0.08	3.05	0.00	0.00
Renfrew-Collingwood	0.12	4.38	0.00	0.00
Riley Park	0.32	11.68	0.00	0.00
Shaughnessy	0.18	6.51	0.00	0.00
South Cambie	0.05	1.64	0.00	0.00
Strathcona	0.03	1.09	0.00	0.00
Sunset	0.08	4.18	0.00	0.00
Victoria-Fraserview	0.07	2.46	0.00	0.00
TOTAL	2.77	100	0.01	100

Table 3: Vancouver Neighbourhood Share of Total Park Area Differences

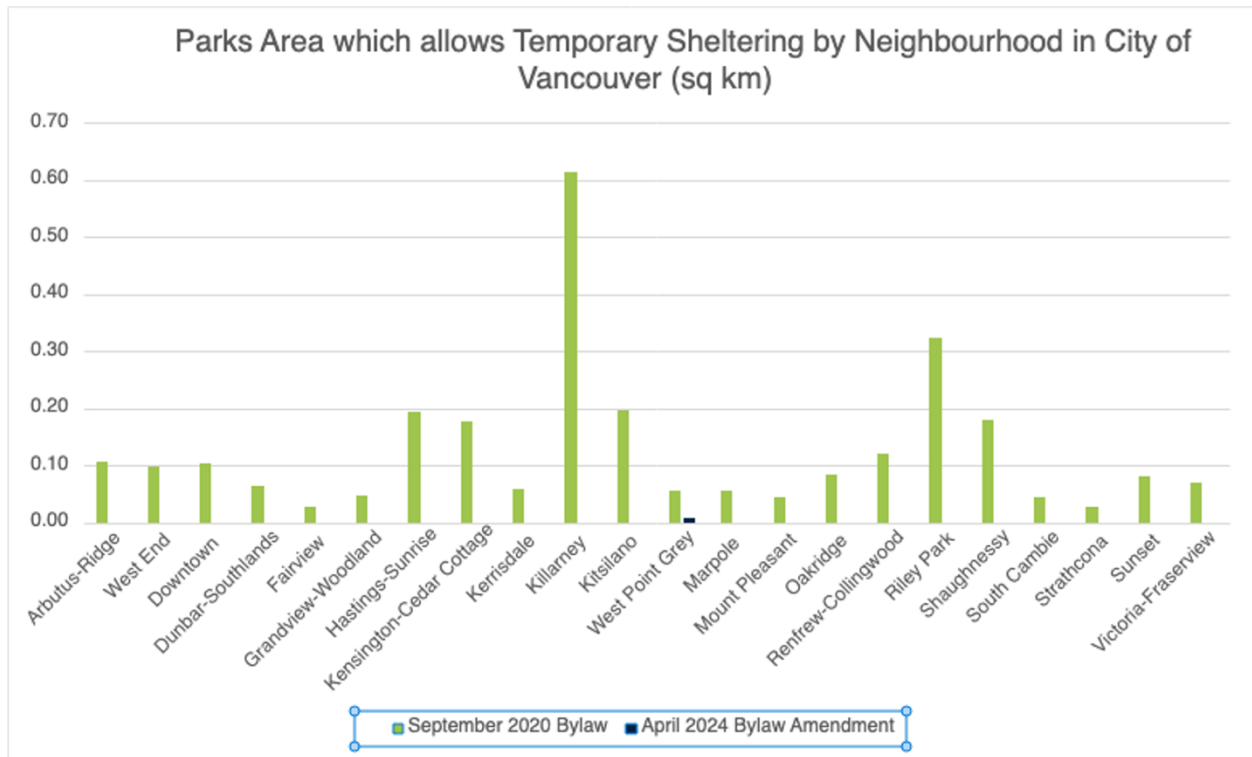


Figure 9: Parks Area which allows Temporary Sheltering by Neighbourhood in Vancouver

Prince George, British Columbia

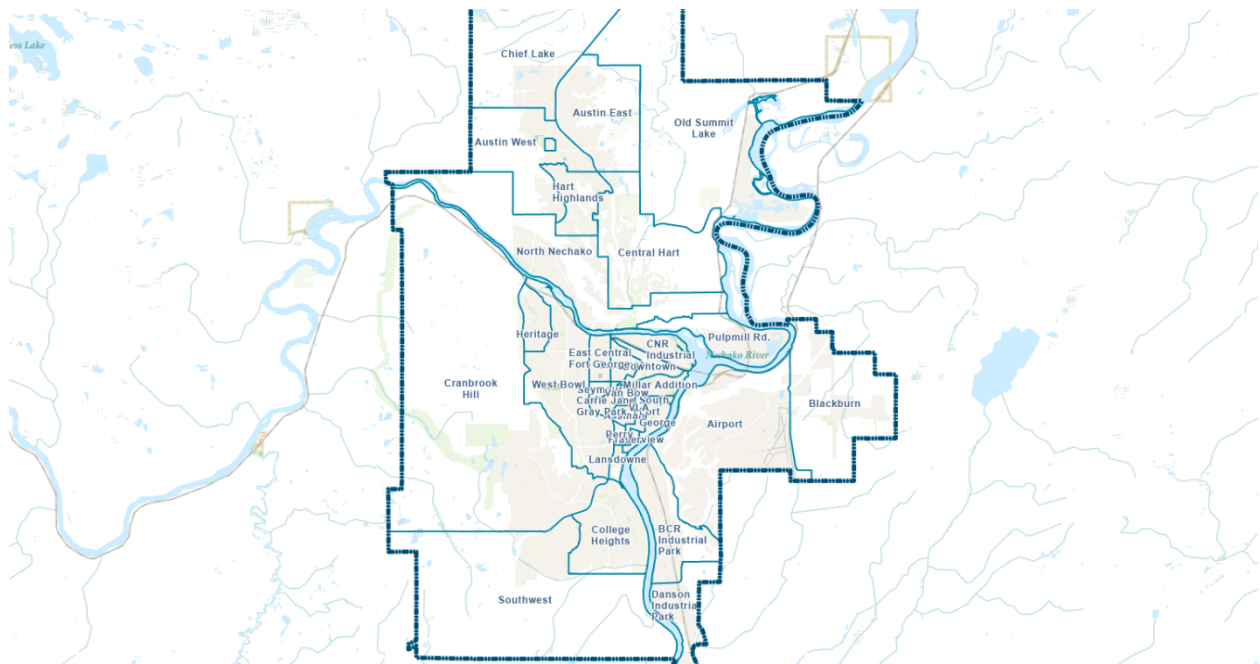


Figure 10: Prince George Neighbourhoods

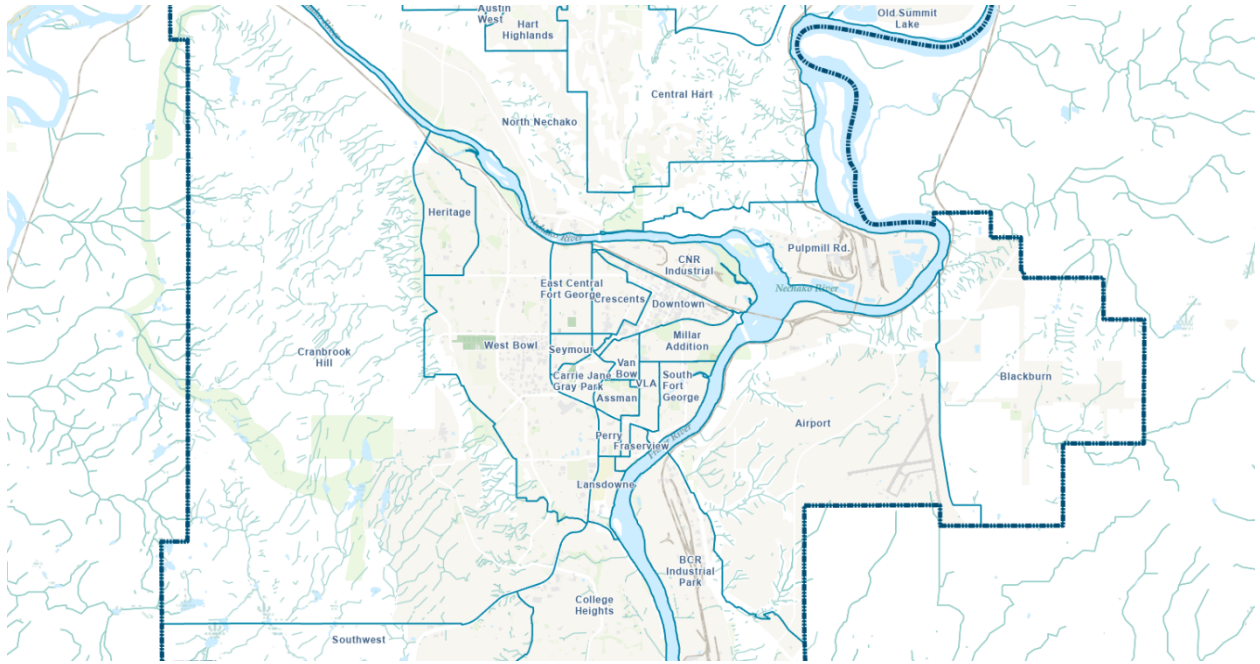


Figure 11: Prince George Neighbourhoods (Downtown)

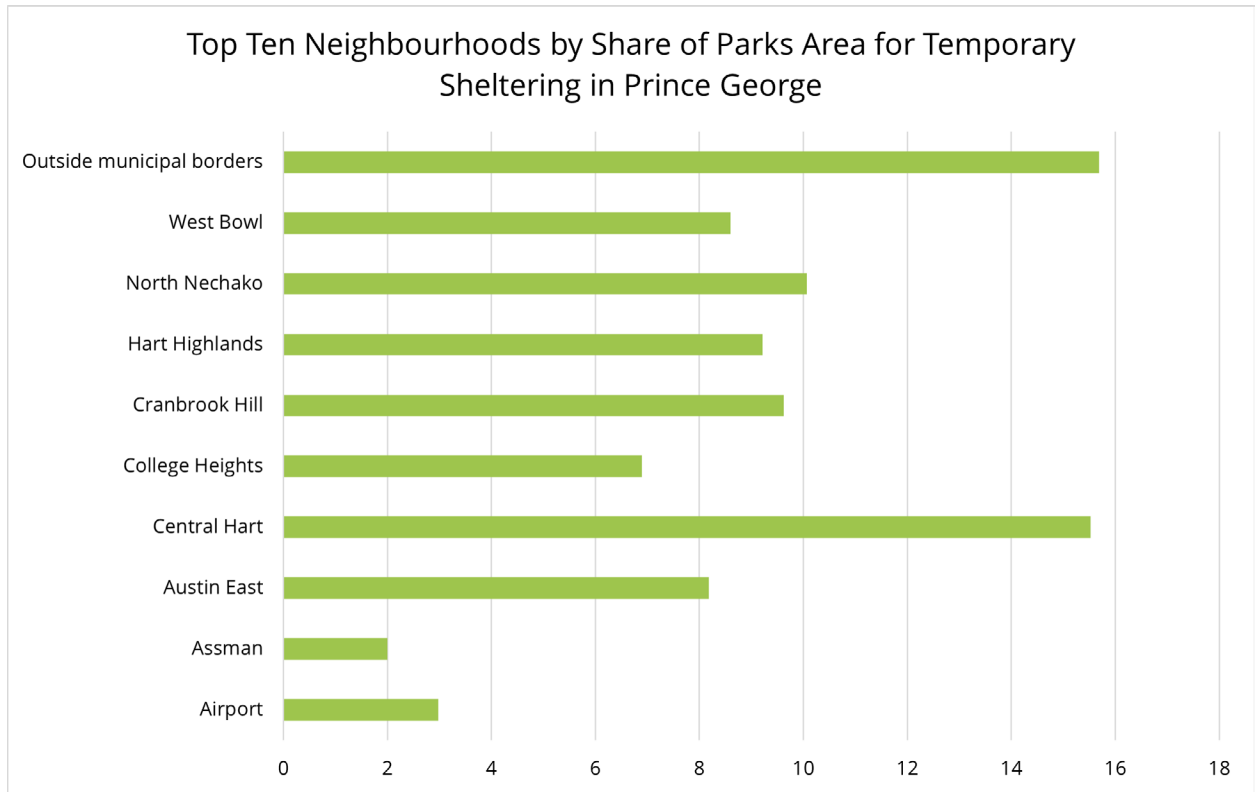


Figure 12: Top Ten Neighbourhoods by Share of Parks for Temporary Sheltering in Prince George

Hamilton, Ontario

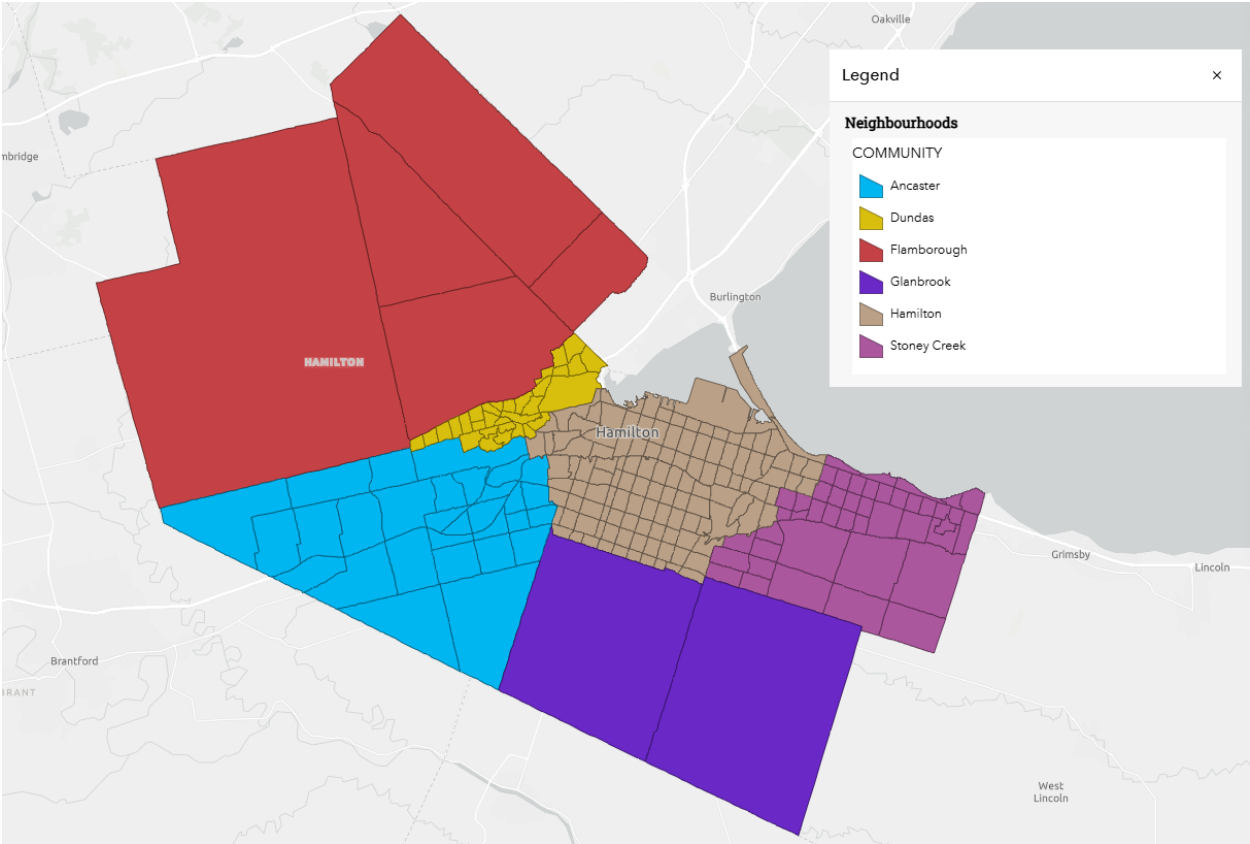


Figure 13: [Hamilton Communities](#)

	Ancaster	Dundas	Flamborough	Glanbrook	Hamilton	Stoney Creek
2020 Protocol						
Parks Area which allows Temporary Shelters (sq km)	0.38	0.18	1.19	0.50	3.49	0.82
Share of Total Parks Area which allows Temporary Shelter (%)	5.80	2.80	18.09	7.62	53.22	12.44
May 2023 Protocol						
Parks Area which allows Temporary Shelters (sq km)	0.10	0.01	0.58	0.18	0.83	0.29
Share of Total Parks Area which allows Temporary Shelter (%)	5.00	0.68	29.00	9.29	41.63	14.39
August 2023 Protocol						
Parks Area which allows Temporary Shelters (sq km)	0.07	0.01	0.52	0.16	0.64	0.26
Share of Total Parks Area which allows Temporary Shelter (%)	3.95	0.48	31.73	9.43	38.56	15.86

Table 4: Parks area which allows temporary shelters by community, Hamilton, while Protocol in place

Wards	2020 Protocol		May 2023 Protocol		August 2023 Protocol		Percent Change from 2020 to August 2023 Protocol (%)
	Parks Area which allows Temporary Shelters (sq km)	Share of Total Parks Area which allows Temporary Shelter (%)	Parks Area which allows Temporary Shelters (sq km)	Share of Total Parks Area which allows Temporary Shelter (%)	Parks Area which allows Temporary Shelters (sq km)	Share of Total Parks Area which allows Temporary Shelter (%)	
1	0.59	9.03	0.04	1.81	0.03	1.77	-95.06
2	0.20	3.10	0.07	3.66	0.05	3.27	-73.40
3	0.20	3.04	0.10	5.02	0.08	5.01	-58.38
4	0.60	9.11	0.08	3.87	0.06	3.36	-90.69
5	0.58	8.85	0.17	8.66	0.16	9.95	-71.60
6	0.47	7.20	0.11	5.30	0.08	4.58	-83.93
7	0.48	7.38	0.15	7.38	0.09	5.49	-81.24
8	0.26	3.93	0.10	5.15	0.08	4.97	-68.08
9	0.60	9.23	0.25	12.77	0.24	14.68	-59.83
10	0.15	2.30	0.03	1.45	0.02	1.02	-88.84
11	0.48	7.32	0.17	8.42	0.14	8.46	-70.85
12	0.40	6.07	0.11	5.64	0.08	4.83	-79.91
13	0.52	7.89	0.22	11.02	0.18	10.94	-65.01
14	0.20	3.00	0.04	2.22	0.03	1.61	-86.40
15	0.82	12.56	0.35	17.63	0.33	20.06	-59.67

Table 5: Parks area which allows temporary shelters by ward, Hamilton

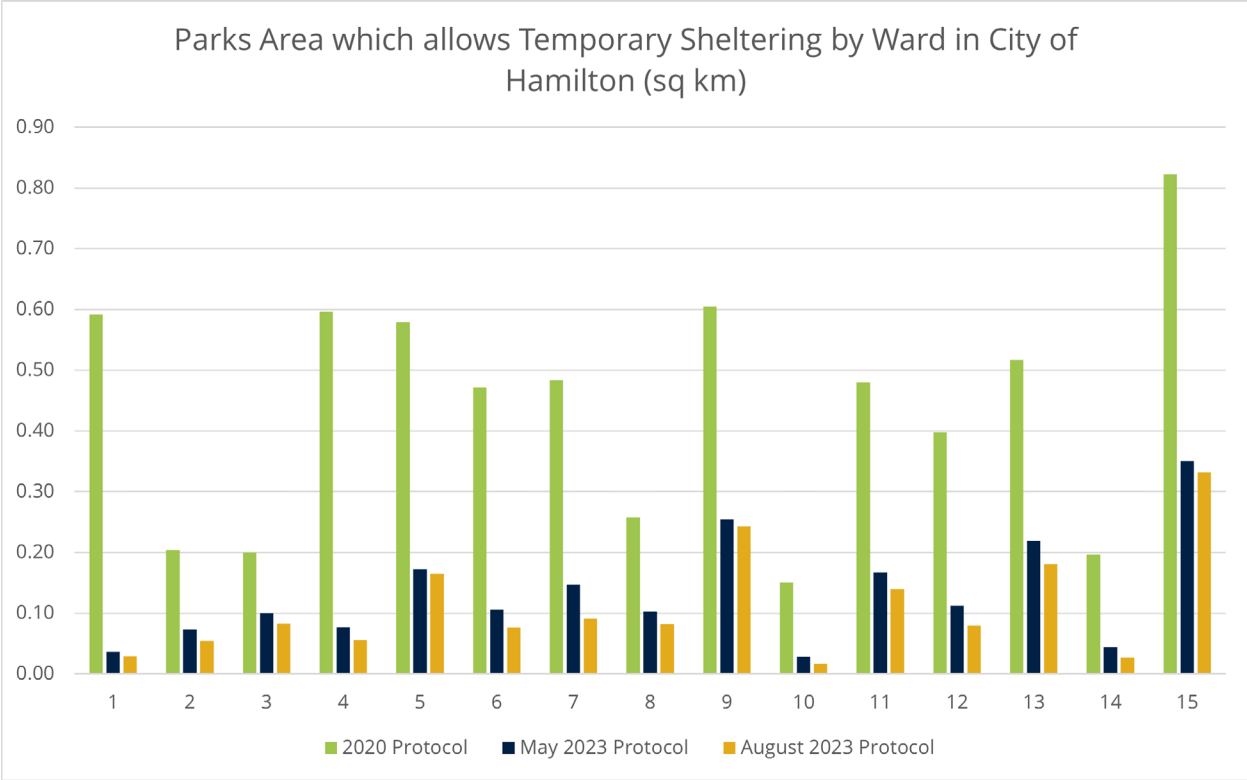


Figure 14: Parks Area which allows Temporary Sheltering by Ward in Hamilton

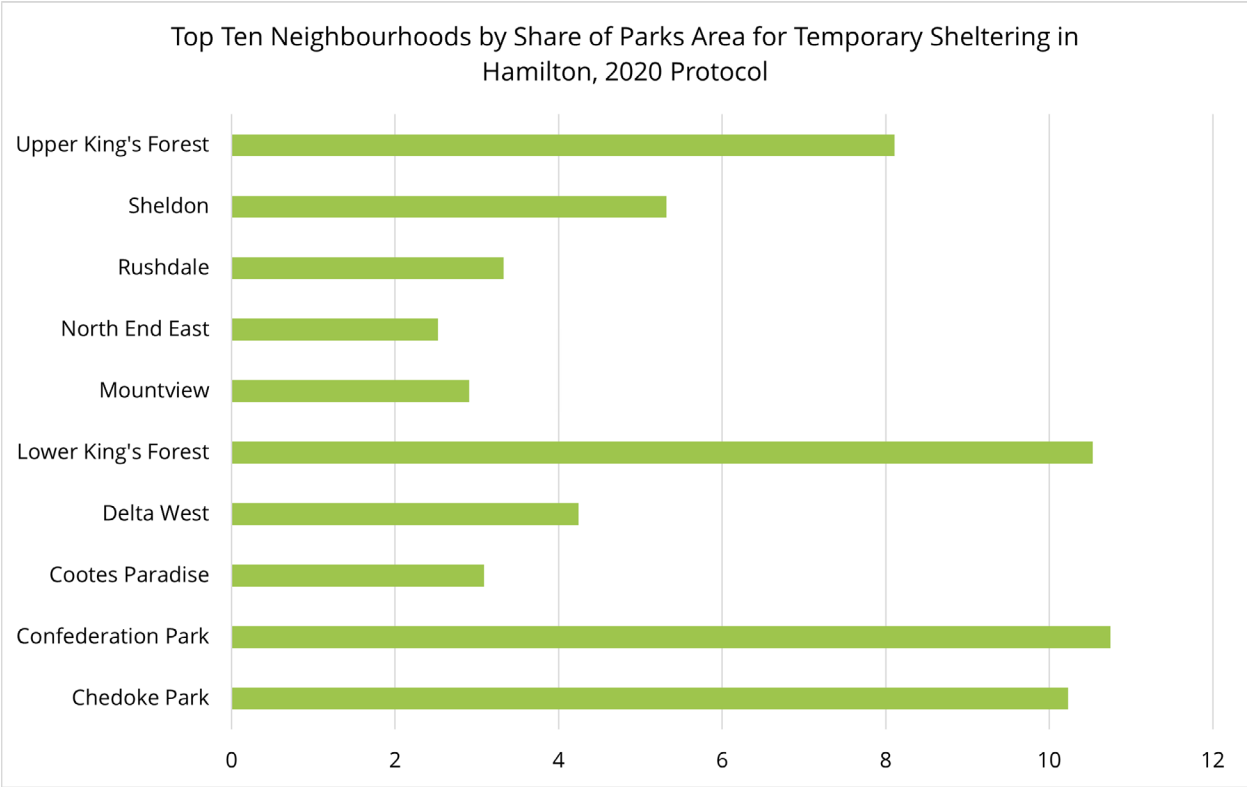


Figure 15: Top Ten Neighbourhoods by Share of Parks for Temporary Sheltering in Hamilton, 2020

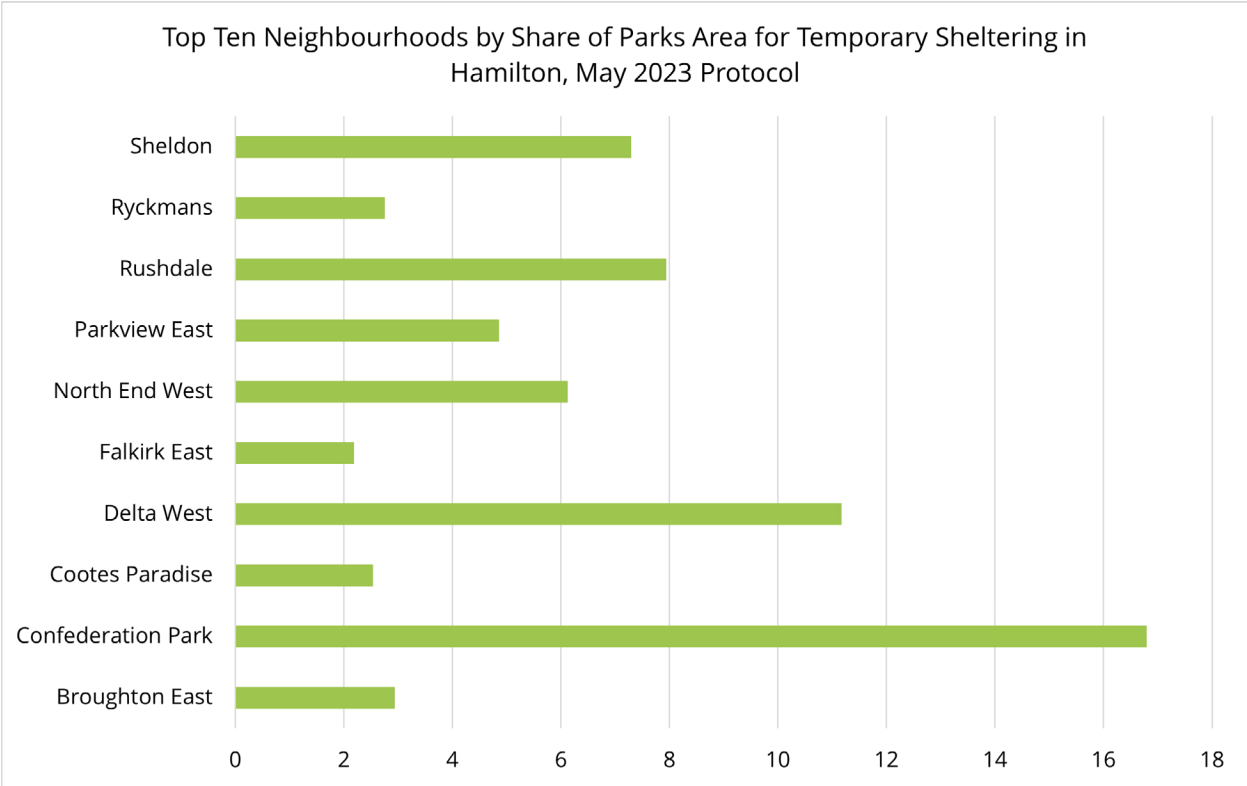


Figure 16: Top Ten Neighbourhoods by Share of Parks for Temporary Sheltering in Hamilton, May 2023

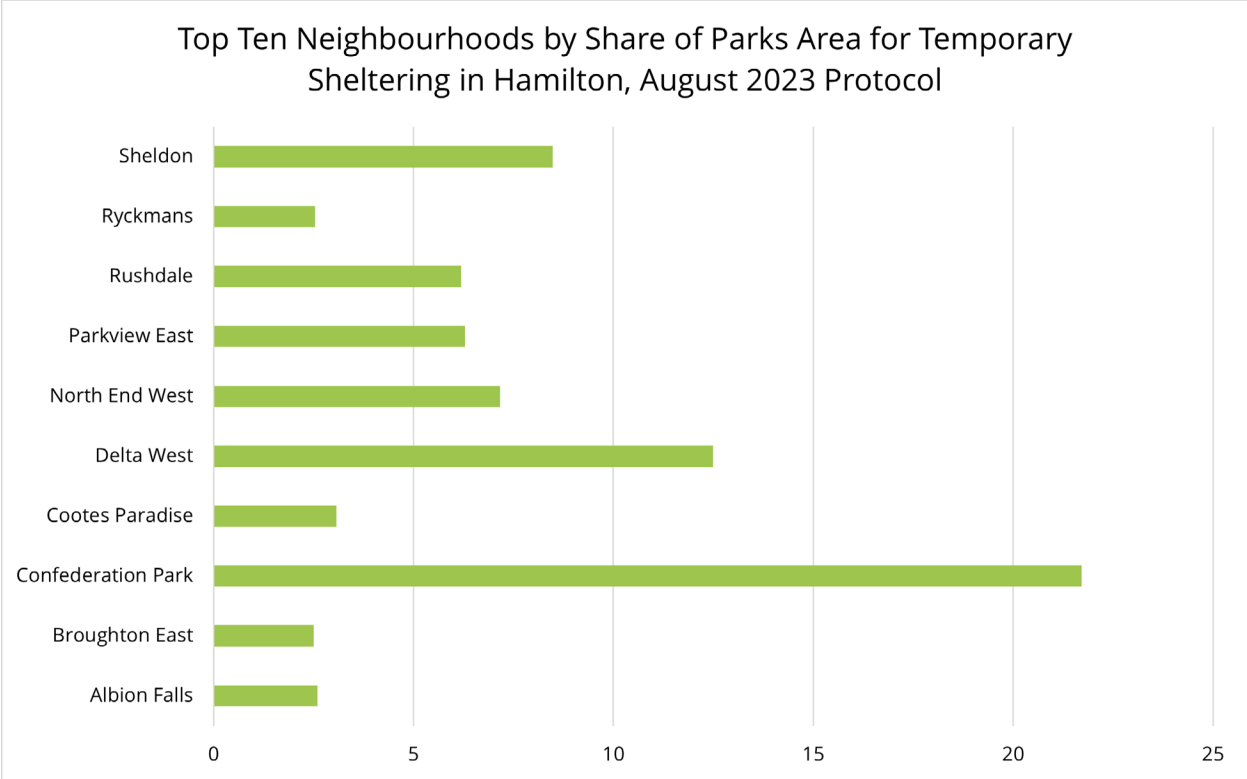


Figure 17: Top Ten Neighbourhoods by Share of Parks for Temporary Sheltering in Hamilton, August 2023

Most frequently mentioned locations by ward in Hamilton, September 2023 to May 2024

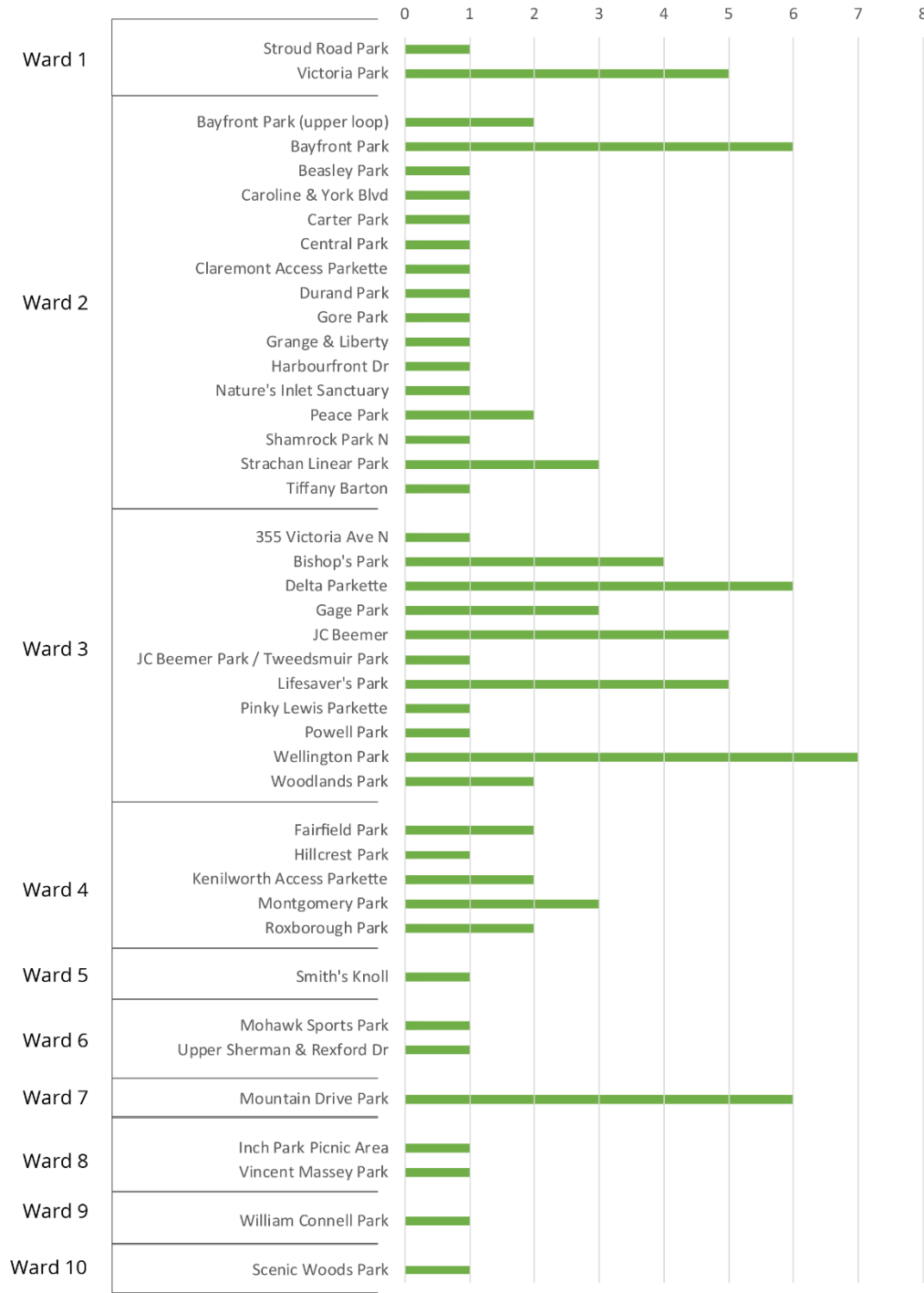


Figure 18: City of Hamilton, wards with the most 311 calls

Kingston, Ontario

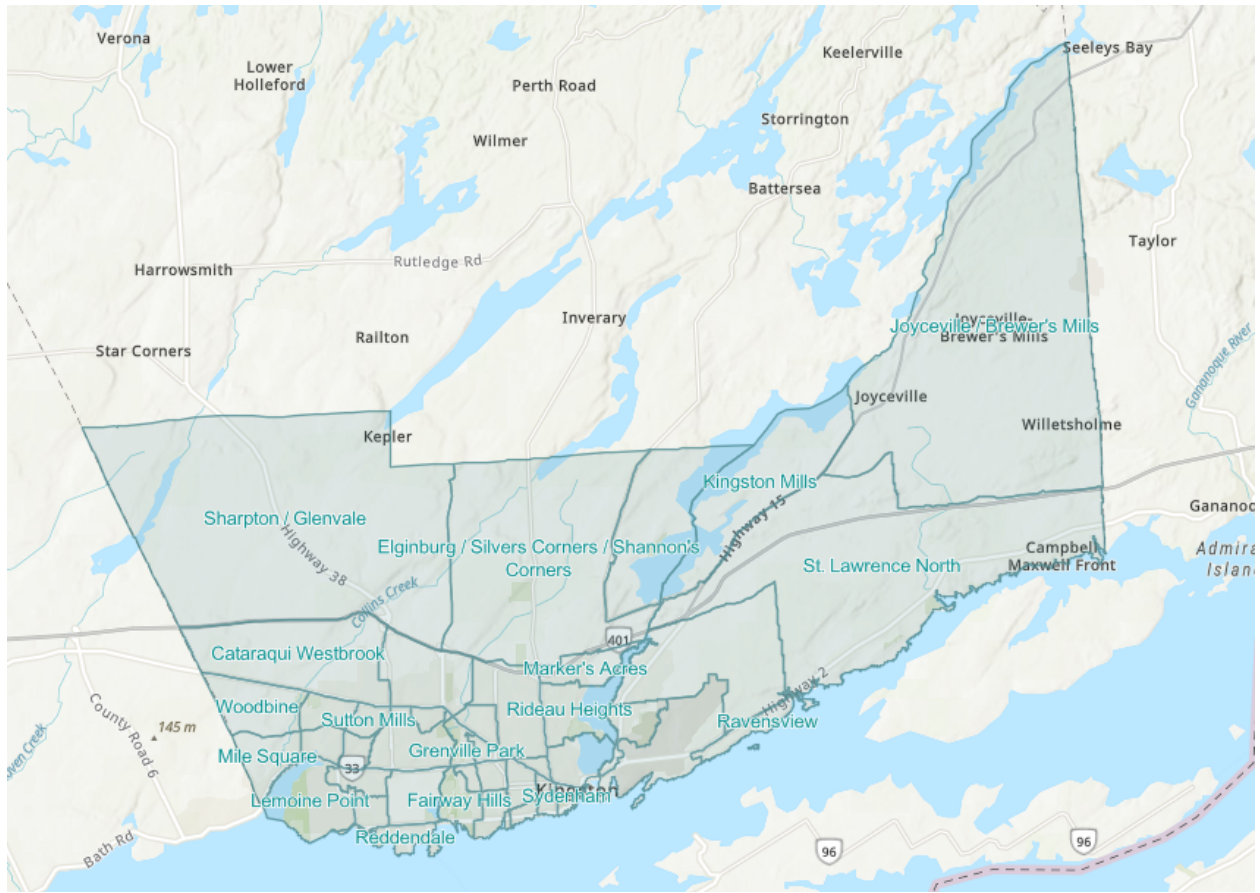


Figure 19: Kingston Neighbourhoods

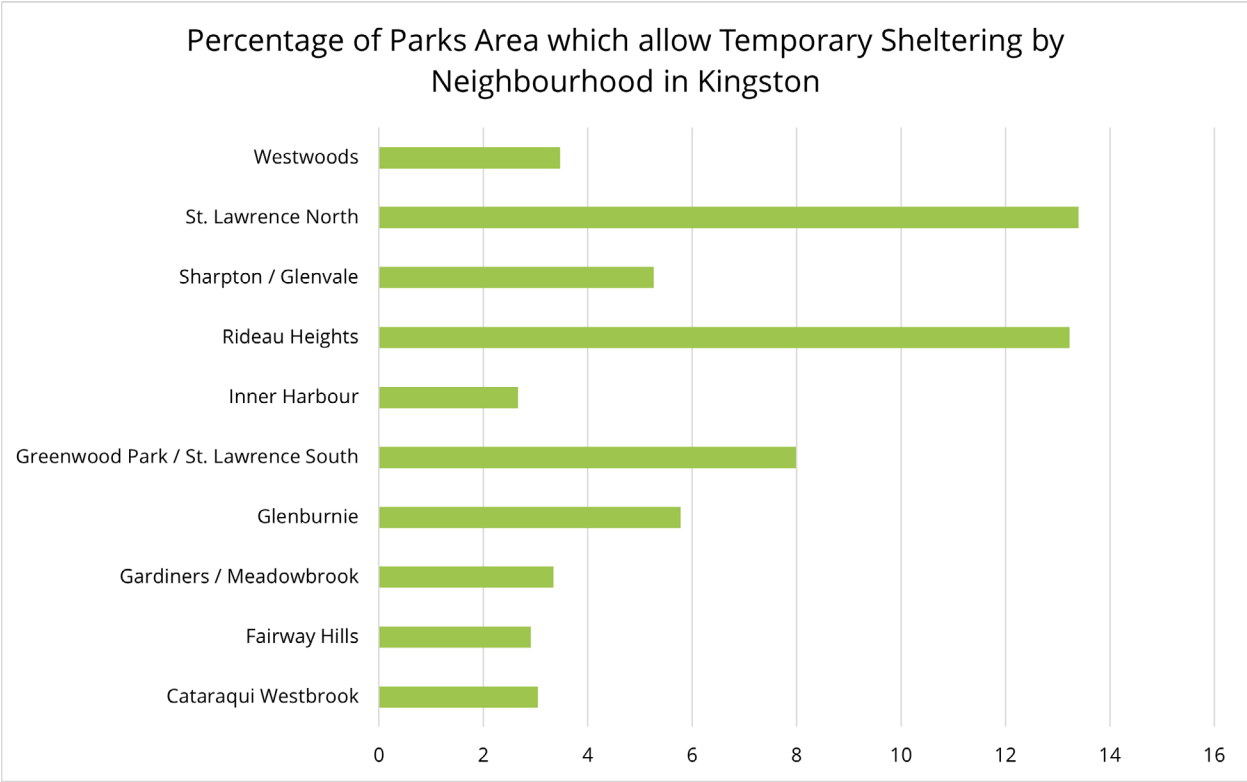


Figure 20: Top Ten Neighbourhoods by Share of Parks Area for Temporary Sheltering in Kingston

Appendix B - Case Law Related to Sheltering in Parks (2018-2024)

Vancouver and Greater Area: Recent homeless encampment cases 2018-2024

Case: Maple Ridge (City) v Scott, [2019 BCSC 157](#)

Date: 2019

Facts:

- An encampment in Maple Ridge, B.C. was unlawfully occupying the St. Anne Lands starting in May 2017. Parts of the St. Anne Lands are owned each by the defendant City of Maple Ridge, and by the third party British Columbia Transportation and Finance Authority (“BCTFA”).
- Application by Maple Ridge for orders permitting Maple Ridge to enter St. Anne Lands and carry out two “Fire Safety Orders” issued concerning fire safety at Anita Place (where an encampment was established), and prohibiting the occupants from hindering or obstructing Maple Ridge in this regard.
- These orders were about fire safety, not about ending the occupation, but would undoubtedly have a significant impact on the occupants.
- The first order was a Consent Order, which Maple Ridge negotiated with the occupants of the encampment (see para 20). The order was primarily concerned with removing in-tent, open-fire or propane heaters, which presented a serious risk of fire (see para 6).
- The second order was one issued by Acting Fire Commissioner Ron French on October 19, 2018 (the “French order”), pursuant to [section 27 of the Fire Services Act](#).
- Separately, Maple Ridge also sought “verification orders,” requiring the occupants to identify themselves in order to verify those who are seeking transition to housing, and prohibiting any who are not from occupying the lands (the “verification orders”).
- Finally, Maple Ridge seeks orders authorizing police officers to assist with enforcement (the “enforcement orders”).

Issue:

City brought an application for injunctive relief, seeking orders permitting it to enter properties to carry out terms of the Fire Safety Orders.

Ratio/Outcome:

The Court granted the injunction to the extent of ordering compliance with fire safety orders. Under *RJR-MacDonald test*, serious issues to be tried and irreparable harm were not seriously in dispute, and balance of convenience favoured granting interim injunction. Court acknowledged that not having in-tent heat compromises the health and safety of those who live in the encampment, but that the risk of catastrophic injury and loss of life was too great to ignore. The Court also granted the verification order, ordering residents to disclose their identities to the City, noting it was not unfair as they were occupying municipality land.

Bylaws Referenced:

No Bylaws.

City wanted to enforce Fire Safety Orders: (1) The Consent Order, (2) Fire Services Act Orders.

Parks Referenced:

Undeveloped lots owned by city and provincial crown corporation: St. Anne Lands, comprise of two parcels owned by City of Maple Ridge, and two parcels owned by the third party British Columbia Transportation and Finance Authority ("BCTFA"). Unopened road allowance. Camp known as "Anita Place" (in Maple Ridge) to its occupants as Anita Place.

Case: *Vancouver Fraser Port Authority v Brett*, [2020 BCSC 876](#)

Date: 2020

Facts:

Beginning May 2020, encampment was set up on federally owned land (Vancouver Fraser Port Authority "VFPA" lands, vested in The Crown in the Right of Canada c/o Vancouver Port Authority in fee simple.) The land had not been available for general use of the public for a number of years. The letters patent for the VFPA lands do not permit residential use of the VFPA lands, and the use for which the defendants [encampment occupants] are making of the VFPA lands is prohibited by the [Port Authorities Operations Regulations, SOR/2000-55](#) ("the Regulations"). [Section 31\(4\) of the Regulations](#) entitles the VFPA to remove the defendants and restore its lands. Defendants argued that an injunction would violate their Section 7 Charter rights (para 58).

Issue:

Port Authority (VFPA) brought an application for interlocutory injunction to enjoin individuals from trespassing or occupying lands that violated provisions of the *Port Authorities Operations Regulations*. It brought the action under common law tort of trespass and breach of *Regulations*.

Ratio/Outcome:

Court granted injunction on basis of the common law of trespass and the breach of *Regulations*. The "balance of convenience weighs in favour of granting an injunction, [...] the *RJR-MacDonald* test has thus been met, and [...] an injunction should issue on that basis as well.. The defendant's section 7 argument was dismissed as the lands were "private property and not intended for public use," even if government-owned (para 98).

Bylaws Referenced:

[Port Authorities Operation Regulations, SOR/2000-55](#) generally referred to, especially [section 5](#) (as well as 7-9), 28, and Part 17 of Schedule 1 to the [Regulations](#).

Parks Referenced:

Unfenced federally-owned parking lot and green space

Lands and waters called the “VFPA lands”

“Part of the VFPA lands are located at 101 West Waterfront Road, more particularly described as:

Parcel Identifier: 024-041-254

Lot D of the Public Harbour of Burrard Inlet New Westminster District Plan LMP36518”

Case: *Bamberger v Vancouver Park Board*, [2022 BCSC 49](#)

Date: 2022

Facts:

Homeless encampment emerged in CRAB Park in 2021. Bamberger and Hebert (homeless, living in CRAB Park) brought petition to seek judicial review on two Orders made by the Vancouver Park Board: (1) prohibition on overnight sheltering of CRAB Park & (2) closing a portion of the park to all members of the public for the purposes of rehabilitating the Park from damages said to be caused by the encampment.

Park Board argued that even if the Orders are set aside, Court should grant statutory injunction to enjoin those sheltering in CRAB Park from doing so in daytime hours as prohibited in the *Bylaw*.

Issue:

Judicial review of orders sought, on grounds of procedural fairness and reasonableness, and (2) if injunction should be granted.

Ratio/Conculsion:

- Court allowed the application for judicial review and remitted the matter back for reconsideration on the basis that the Park General Manager did not fulfill duties of procedural fairness, and the General Manager’s decision was not reasonable.
Those sheltering in the Park had not been afforded notice of decision nor the opportunity to be heard. Additionally, the Court agreed that the General Manager had placed unjustifiable reliance on inadequate information provided on the number of available indoor shelters.
- The Court declined to grant an injunction citing “exceptional circumstances” of the situation at CRAB park.

Bylaws Referenced:

[Parks Control By-law](#) (“Bylaw”) section 1(h), 1(o), 10, 11, 11A, 11B, 24

Parks Referenced:

City park (CRAB Park) in Vancouver. A public park on federal port land leased by the City.

Case: *Vandenberg v. Vancouver (City) Fire and Rescue Services*, [2023 BCSC 2104](#)

Date: 2023

Facts:

Two block stretch of East Hastings Street was the site of longstanding and growing encampment of unhoused people. Tents, tarps, and other materials created a fire hazard, putting residents of encampment and surrounding in potential harm. In 2022, the Fire Chief of the City of Vancouver Fire Department ordered the City of Vancouver to clear tarps, tents and other structures (the “Fire Order”). The Fire Order was made after requesting, but not receiving, assistance in securing shelter for the occupants and after engaging with community support organizations and some of the Hastings Block encampment occupants. Individuals sheltering in tents at Hasting Block brought this petition for judicial review seeking an order to strike the Fire Order as unreasonable on the basis that the Order was made without consideration of their s. 7 and s. 15 *Charter* rights.

Issue:

Judicial review brought for Fire Order (a discretionary administrative decision) on basis of (1) procedural fairness & (2) substantial fairness.

Ratio/Conclusion:

The claimants’ s. 7 rights were engaged because evidence showed a lack of indoor shelter spaces. (1) Fire Chief owed a duty of procedural fairness to occupants of Hasting Block when deciding whether or not to issue the Fire Order. As a result, the Fire Chief was required to notify the occupants and provide an opportunity to make submissions on how the Order would affect them. This duty of procedural fairness was not met by the Fire Chief. (2) Court determined that the Fire Chief was required to engage in a proportionate balancing of her statutory mandate to address fire risks against the fact that the materials of ‘fire risk’ were used as shelter. On reviewing documentation, the Court concluded that the Fire Chief had engaged in a reasonable proportionate balancing of the occupants’ *Charter* rights and the fire risks.

Bylaws Referenced:

N/A bylaw, Order from the Fire Chief

Parks Referenced:

Hastings Block in Vancouver (a two block stretch of East Hastings Street)

Case: *Matsqui-Abbotsford Impact Society v Abbotsford (City)*, [2024 BCSC 1902](#)

Date: 2024

Facts:

City of Abbotsford (the “City”) issued a trespass notice ordering unhoused encampment at the Civic Centre Lands (outside of City Hall) to vacate by September 23, 2024 and not re-enter until October 2, 2024. The encampment was set up in late June (2024) partly in protest of the city’s historic treatment of unhoused peoples. The City’s notice ordered campers to leave in accordance with the city’s Parks Bylaw— additionally, a city spokesperson stated that the notice was given due to safety issues, such as increasingly disruptive behaviour. The Matsqui-Abbotsford Impact Society, representing the unhoused campers as the Petitioners, sought an Interim Injunction restraining the City of Abbotsford from enforcing the [Trespass Act](#) and the City bylaws as they apply to the Encampment, pending disposition of the judicial review Petition filed on September 24, 2024.

Issue:

The issue to be decided by the Court was whether an interim injunction should be granted to restrain the City of Abbotsford from enforcing the *Trespass Act* and related bylaws against the Encampment, pending the outcome of the judicial review. To make this decision, the Court considered:

- (1) Whether the City’s actions to displace the occupants violate their
 - s. 7 *Charter* right to life, liberty, and security of the person & the
 - s. 15 rights of more marginalized occupants, including disabled and Indigenous individuals, and 2c (right to peaceful assembly); (see para 54)
 - (2) whether the City failed to give proper notice or an opportunity to be heard prior to issuing the notice, thereby violating the principles of procedural fairness; and
 - (3) If eviction, without the provision of adequate alternative shelter, would increase their exposure to severe health and safety risks.
- The Court also considered *Batty* and s. 2(c), but this was not raised by the claimants. Nevertheless, the Court found that such protest was not reasonable pursuant to s. 2(c)

Ratio/Outcome:

The petitioners adequately raised significant *Charter concerns under s. 7 and 15*, meeting the threshold (per *RJR-MacDonald*) of a serious issue to be tried. However, the Court did not grant the interim injunction. Though the s. 7 and s. 15 *Charter* rights were potentially serious issues to be tried, the broader public interest in maintaining order, safety, and accessibility to the City Hall precinct weighed more heavily (para 207). Continued occupation has an impact on other people’s ability to access the public space and has undermined the rule of law (as a form of protest).

- (1) On s.7: Referring to the *Shantz* and *Adams*, the Court found that the evidence does indicate that eviction would exacerbate existing vulnerabilities for the occupants that may be contrary to their s. 7 rights, and therefore meets the “serious issue” requirement under the first stage of the injunction test.
- (2) On s 15: While previous jurisprudence on encampments has not solely been decided on s. 15 rights, the Court found that the Parks Bylaw leaves disabled unhoused individuals without

viable alternatives and potentially exacerbates existing disadvantages caused by their disabilities.

- (3) On s. 2(c), the Court noted that “the right to protest does not grant the right to indefinitely occupy public land, particularly when it disrupts others’ use of the space: *Batty at paras. 12–14...* Upholding the rule of law and ensuring fair access for all community members must take precedence, making it necessary for the City to enforce its bylaws and restore access to shared spaces.”
- (4) Procedural fairness is especially critical in eviction cases where s. 7 rights are at stake (*Bamberger*). Without proper notice, individuals may be at risk of displacement, jeopardizing their safety. However, the Court noted evidence indicates the City provided sufficient notice and took steps to receive/respond to concerns from occupants. Thus even if a court ultimately determines that the Trespass Notice was inadequate on procedural fairness grounds, this has been somewhat mitigated by the City’s ongoing dialogue and collaboration with the Encampment occupants,

The Court does not make decisions/findings on the s. 7 or s. 15 issues, but discusses the merit to the petitioner’s claim that the toxic drug crisis represents a significant and evolving threat that BC Courts have yet to fully address under s. 7 encampment cases. The petitioner argues that the crisis fundamentally alters the landscape and exacerbates the risks faced by individuals (see para 196)

Note: leave to appeal was granted in 2025: *Abbotsford (City) v. Matsqui-Abbotsford Impact Society*, [2025 BCCA 78](#). The City’s application for a stay is adjourned pending settlement of the terms of the chambers judge’s order.

Bylaws Referenced:

Bylaw No. 2456-2015, Parks Bylaw, 2016

Where there is no accessible shelter accommodation available in the City, unhoused persons may erect and occupy a temporary shelter in a Park listed in Schedule “E” to the Parks Bylaw.

Bylaw No. 2513-2016, Outdoor Special Event, Filming & Activities Bylaw, 2016

Sections 12.1 and 12.2 relate to the issuing of permits for persons or organizations wanting to engage in a protest

Parks Referenced:

Civic Centre Lands situated north of the City Hall.

Detailed by-law(s), regulation, policy, or protocol that apply to the parks mentioned in 1:

Location: “Anita Place”, Maple Ridge

Consent Order:

AND UPON HEARING A JOINT SUBMISSION on behalf of the Plaintiff and Defendants, whereas:

1. The Defendants and others (the “Occupants”) have taken up occupation in an encampment on the

lands described below as the St. Anne Lands (the “Encampment”).

2. The Maple Ridge Fire Department has issued certain Fire Safety Regulations in respect of the St. Anne Lands and Encampment, as developed in consultation with the Occupants, and as described below.
3. The parties agree that fire safety within the Encampment is of critical importance and best achieved through cooperation and collaboration between the parties.
4. The Occupants are primarily comprised of homeless people, some of whom have mental health, addiction or other disabilities.
5. In order to comply and maintain compliance with the Fire Safety Regulations to the best of their abilities, the Occupants require support and services to be provided at no cost to them, including the following:
 - (a) Fire-resistant tents;
 - (b) Fire-resistant tarpaulins;
 - (c) Cold weather sleeping bags;
 - (d) Cold weather clothing; and
 - (e) In-tent heaters, subject to the safety approval by the Maple Ridge Fire Department (not to be unreasonably withheld)

all in sufficient quantities to meet the needs of those Occupants occupying the Encampment as at the date of this Order (the “Life Safety Necessities”).

6. The City supports the delivery to the Encampment of the Life Safety Necessities.
7. Furthermore, in conjunction with Fire Safety Regulation compliance being achieved upon the St. Anne Lands, the City supports the installation upon the St. Anne Lands of a potable water supply and a modular washroom unit.
8. The parties agree that the purpose and intention of this Order is to obtain and maintain Fire Safety Regulation compliance upon the St. Anne Lands.

THIS COURT ORDERS:

1. The Defendants and all those individuals who have taken up continuous occupation upon the lands ... and who have notice of this Order, shall make best efforts, each according to individual ability, to achieve and maintain upon the St. Anne Lands compliance with the “Maple Ridge Fire Department – Community Health and Safety Notice” which are attached to this Order as Schedule “A” (the “Fire Safety Regulations”).
2. The Plaintiff, or its agent or contractor, may enter upon the St. Anne Lands and assist the Defendants in bringing the St. Anne Lands into compliance and in maintaining compliance with the Fire Safety Regulations.
3. No person having notice of this Order shall hinder, delay, interfere or obstruct any person from performing any provision of this Order.

[Signatures]

Schedule A of the Consent Order:

MAPLE RIDGE FIRE DEPARTMENT COMMUNITY HEALTH AND SAFETY NOTICE

For the fire safety benefit of all those occupying this encampment, the **following regulations** have been put in place. This notice to be posted in a conspicuous place within the camp.

FIRE & LIFE SAFETY REGULATIONS:

1. Entrance & Exits

- Two points of entrance / exit are to be maintained along 223rd Street at all times. Unobstructed width of each to be 2 meters.
- Exits must be maintained unobstructed and openable without keys or special knowledge at all times.
- Pathways between occupied areas to be minimum 1 meter wide with no overhead obstructions and kept clear at all times.

2. Tents

- Tent doorway must face a common pathway that leads to an exit.
- Individual tents and associated personal belongings must be separated by a minimum 1 meter fire safety buffer maintained clear at all times.

3. Fence

- Individual tents and associated personal belongings must be kept clear of fences by minimum 1 meter.
- Fence is to be kept clear of all personal belongings.

4. Tarpaulins

- Tarpaulins are limited to the polypropylene variety - no poly vapour barrier permitted — no building material wrap permitted.
- Limit one tarpaulin per tent when draped over top. Multiple tents under a single tarpaulin permitted if the tarpaulin is suspended minimum 1 meter above tents.
- Tarpaulins may be hung vertically from fences to act as “privacy screens”. Tarpaulins are not to be otherwise fastened to the fences.

5. Cooking

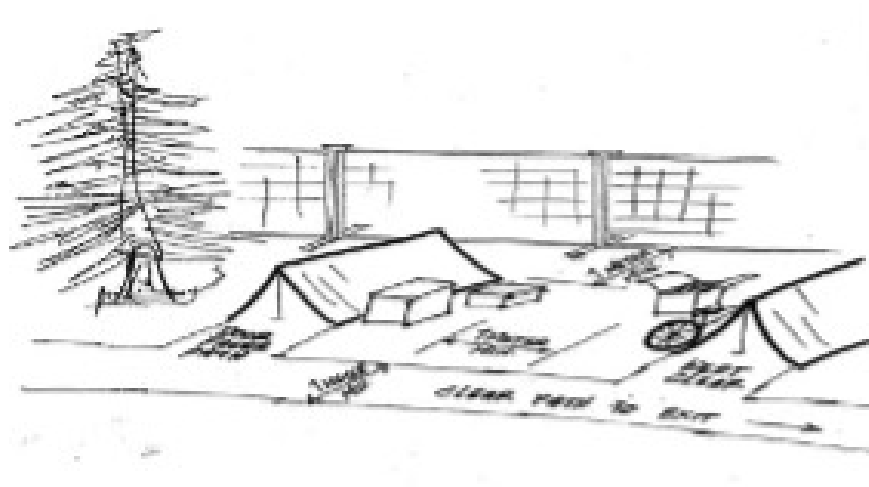
- Limit of one communal camp kitchen utilizing ULC (or equiv.) rated propane appliances only.
- Limit of two 20lb. propane cylinders in the camp at any given time.
- 5lb. ABC fire extinguisher required in close proximity of cooking appliances.

6. Open flame

- No open flames (candles, torches, tiki, etc.) permitted.
- No camp fires permitted.

7. Combustibles/Flammables

- No accumulation of flammable liquids or aerosols permitted on site beyond those reasonably required for personal use (i.e. personal hygiene, etc.).
- No upholstered furniture (couches, chairs) permitted on site.
- Combustible materials must be kept to a minimum and separated from tents wherever possible.
- Cardboard or wooden pallets are not permitted under tents.
- Garbage to be collected and disposed of appropriately on a daily basis



Fire Regulation Clearances: Explanatory Diagram

Note: No relevant bylaw in this case.

Case Reference: *Maple Ridge (City) v Scott*, [2019 BCSC 157](#)

Location: “VPLA Lands”: 101 West Waterfront Road. Federal lot with adjacent green space. (The area where the encampment is presently located is an unfenced paved area adjacent to a small undeveloped green space – para 76.)

Canada Marine Act, [S.C. 1998, c.10](#) created Vancouver Fraser Port Authority (“VFPA”) (by letters patent). *Port Authorities Operations Regulations*, [SOR/2000-55](#) (the “Regulations”):

31(4) [of the *Regulations* entitles the VFPA to remove the encampment and restore the lands]:

31(4) If the person fails to remove the thing or to restore the property immediately, the port authority may conduct the removal or restoration and may store the thing.

Prohibitions:

5 Unless otherwise authorized under these Regulations, no person shall, by act or omission, do anything or permit anything to be done in a port that has or is likely to have any of the following results:

- (a) to jeopardize the safety or health of persons in the port;
- (c) to obstruct or threaten any part of the port;
- (f) to cause a nuisance;
- (g) to cause damage to ships or other property;
- (h) to adversely affect soil, air or water quality; or

Access to Port Property:

7 No person shall access any area managed, held or occupied by a port authority unless

- (a) the person accesses the area to conduct legitimate business in the port;
- (b) the person is authorized by the port authority to access the area; or
- (c) access is not restricted by a sign, a device or in some other way such as by a fence.

Signs:

8 A port authority may have signs posted or devices installed for the purpose of ensuring the safety of persons and property in a port, the environmental protection of the port or the management of the marine infrastructure and services of the port in a commercial manner.

9 (1) Every person in a port must comply with the instructions on signs posted and with devices installed under the authority of the port authority unless the person is authorized by the port authority to do otherwise.

Authorizations to Persons:

28 (1) No person shall, in a port, conduct an activity set out in column 1 of the activity list if an “X” is set out in column 3 unless the person

- (a) obtains an authorization under [section 27](#) or is covered by an authorization given under that

section; and

(a) complies with the conditions, if any, of the authorization.

28 (2) A person that seeks an authorization from a port authority to conduct an activity in the port shall provide to the port authority

(a) the name and address of the person;

(b) the applicable fee, if any;

(c) information relevant to the proposed activity and required by the port authority to assess the likelihood of the occurrence of any of the results prohibited under section 5;

(d) if required by the port authority, proof that the applicant has an insurance policy that provides adequate coverage for the activity, names the port authority as an additional insured and provides for the insurer to notify the port authority in the event that the policy is amended or cancelled; and

(e) if required by the port authority, performance security and damage security in respect of the conduct of the activity.

Also Schedule 1, Part 17, item 6,13, & 16:

(a) Part 17 of Schedule 1 to the [Regulations](#) includes the following prohibited activities for the Vancouver Fraser Port:

6. Releasing or transshipping refuse or other similar material or substance;
13. Building, placing, rebuilding, repairing, altering, moving or removing any structure or work on, in, over, under, through or across land;
16. Causing a fire

Case Reference: *Vancouver Fraser Port Authority v Brett*, [2020 BCSC 876](#)

Location: CRAB Park, Vancouver, BC

Vancouver Board of Parks and Recreation, "[Parks Control By-law](#)".

Relevant portions:

1. In this by-law, unless the context otherwise requires, the following expressions shall have the meanings hereinafter assigned to them, that is to say

(h) "GENERAL MANAGER" means the General Manager of Parks and Recreation of the Board as duly appointed by the Board "and includes any person authorized to carry out the powers and duties of the General Manager.

(o) "PLACES" means buildings and improvements and includes community recreation centres, rinks, indoor pools, arenas and refreshment buildings.

10. No person shall conduct himself or herself in a disorderly or offensive manner, or molest or injure any other person, or loiter or take up a temporary abode overnight in any place on any portion of any park except as provided in section 11A, or obstruct the free use and enjoyment of any park or place by any other person, or violate any by-law, rule, regulation, notice or command of the Board, the General Manager, Peace Officer, or any other person in control of or maintaining, superintending, or supervising any park of or under the custody, control and management of the Board; and any person conducting himself or herself as aforesaid may be removed or otherwise dealt with as in this by-law provided.

11. No person shall erect, construct or build or cause to be erected, constructed or built in or on any park any tent, building, shelter, pavilion or other construction whatsoever without the permission of the General Manager, except that this provision does not apply to a temporary shelter that complies with the provisions of this by-law.

11A. A person experiencing homelessness may take up temporary abode in a park if that person: is in a park or a specified area of a park in which a temporary shelter is not prohibited by this by-law;

erects a temporary shelter that complies with the provisions of this by-law; and

dismantles and moves the temporary shelter in accordance with the provisions of this by-law.

11B. . A temporary shelter:

must not be erected:

i. within 25 metres of:

- A. a playground or school; or
- B. licensed childcare facilities,

ii. in, on or within a:

- A. parking lot;
- B. trail, bridge, seawall, roadway or park entrance;
- C. natural area;
- D. garden or horticultural display area;

- E. pool or water park;
 - F. sports field, sports court, skate park, fitness amenity or golf course;
 - G. community centre or fieldhouse;
 - H. bleacher, stage, gazebo, public monument, designated picnic site, picnic shelter or washroom;
 - I. designated off-leash dog area; or
 - J. designated special event area for which permission has been given in accordance with this by-law; or
- iii. in Queen Elizabeth Park or VanDusen Botanical Garden;
 - iv. under the canopy of a tree; or
 - v. in, on, or within 7 metres of a beach, pond, lake, dock, cliff or steep slope;'

24. The General Manager shall post areas within all parks and recreational facilities for the purpose of prohibiting, restricting or regulating any activity within the area posted and shall have the right to enforce all sections of this by-law herein.

(In the case, the General Manager purported to make the Orders closing CRAB Park to overnight sheltering under s. 24 of the *Bylaw*)

Also a cited policy: On March 31, 2021, the Park Board, together with Province of British Columbia and the City of Vancouver, signed a Memorandum of Understanding (the "MOU") acknowledging that homelessness "continues to grow" in Vancouver and elsewhere.

Case Reference: *Bamberger v Vancouver Park Board*, [2022 BCSC 49](#)

Location: A two block stretch of East Hastings Street, referred to as the Hastings Block

City of Vancouver, By-law No. 12472, Fire By-law

[161] [...] The Fire By-law adopts and incorporates the B.C. Fire Code. Section 2.2 of the B.C. Fire Code set out the objectives of the B.C. Fire Code as fire safety, health, and fire protection of buildings and facilities.

[162] Schedule C of the Fire By-law, s. 1.4.3.1, provides that the Fire Chief may issue notices or orders as may be necessary to inform a contravener of the Fire By-law. Section 1.4.3.2 provides that the Fire Chief may order a person to remove or secure combustible materials, remove a potential source of ignition, remove a hazardous condition including to provide, alter, improve or maintain a means of egress. Section 1.4.3.3 provides the means for delivery of an order of the Fire Chief

Also cited: ***Parks Control By-law***

Order: Fire Chief of the City of Vancouver Fire Department, Karen Fry, ordered the City of Vancouver to clear tarps, tents and other structures from those blocks pursuant to the City of Vancouver, By-law No. 12472

Case Reference: *Vandenberg v. Vancouver (City) Fire and Rescue Services*, [2023 BCSC 2104](#)

Location: Civic Centre Lands situated north of the City Hall (the “Encampment”) in the City of Abbotsford (the “City”).

City of Abbotsford, Bylaw No. 2513-2016, Outdoor Special Event, Filming & Activities Bylaw, 2016

[41] Sections 12.1 and 12.2 of Bylaw No. 2513-2016, Outdoor Special Event, Filming & Activities Bylaw, 2016 (“**Outdoor Bylaw**”) relate to the issuing of permits for persons or organizations wanting to engage in a protest. This bylaw is relevant in the case because “The Encampment, occupied since June 29, 2024, is described by many of its occupants as a protest, a characterization supported by signage at the site and social media posts.” They require an applicant to submit a site plan showing how the proposed structure(s) will comply with the bylaw requirements or provide any other information requested by the City Manager to ensure compliance. They read:

Applications for Conveyance of Expression Activities

12.0 (12.1) A person applying for a Conveyance of Expression Activity Permit must provide, at the time the Application for the Conveyance of Expression Activity Permit is submitted to the City Manager.

(12.2) A person applying for a Conveyance of Expression Activity Permit must provide, at the time the Application for the Conveyance of Expression Activity Permit is submitted to the City Manager:

a Site plan demonstrating how the Structure or Structures in respect of which the Application is made will meet the requirements of this Bylaw, or

such other information requested by the City Manager to permit the City Manager to ensure compliance with this Bylaw.

[42] Section 12.3 requires the City Manager to issue the permit except when certain conditions exist. This provision ensures that protests do not impede public access, safety, or city operations while maintaining standards for acceptable and safe use of city property. It reads as follows:

(12.3) Notwithstanding Section 2.1 of the City's *Street and Traffic Bylaw, 2006*, the City Manager must issue a Conveyance of Expression Activity Permit for which an Application is made for a Structure that is intended to convey expression, except that the City Manager must not issue a Conveyance of Expression Activity Permit if the proposed Structure will:

- (a) unreasonably obstruct or interfere with an existing Permit, booking or the free use and enjoyment of any part of any City Property by any other person;
- (b) obstruct or interfere with any utility, postal or similar installation;
- (c) obstruct or interfere with any Traffic Control Device;
- (d) obstruct or interfere with any other structure, object, substance or construction works which occupy any City Property pursuant to a Permit;
- (e) obstruct or interfere with City works;
- (f) be located on a portion of any City Property that abuts a site which:

- (i) contains only dwelling uses; or
- (ii) in the case of mixed uses, contains ground floor dwelling uses.
- (g) be located within 5 meters of a building entrance or exit;
- (h) be located within 5 meters of a bus stop, Intersection, driveway crossing, loading zone, taxi zone, or wheelchair ramp;
- (i) be located within 0.5 meters of a curb;
- (j) be attached or affixed to cement, asphalt or other hard surface on City Property;
- (k) measure more than 1.6 meters in height at the highest point;
- (l) measure more than 1.6 meters in width at the widest point;
- (m) measure more than 1.0 meter in depth at the deepest point;
- (n) have a base area larger than 1.6 square meters;
- (o) contain electrical or electronic components or lights;
- (p) be structurally unsafe or unstable;
- (q) be at the same Location for more than fifteen (15) days in any thirty (30) day period;
- (r) include or incorporate electronic signs, electric or gas lighting or appliances, extension cords, open flames, propane tanks, gas, propane or electric heaters, or barbeques; or
- (s) be obscene, promote hatred or violence, or contain defamatory statements.

[43] Further, section 12.5 of the Outdoor Bylaw stipulates that holders of a permit must remove their structures from city property by 6:00 p.m. and cannot reinstall them before 10:00 a.m. the following day. Permit holders must ensure their structures remain safe, well-maintained, and do not create hazardous conditions, while also complying with all permit terms. Under section 12.6, permits are valid for 30 days, and the City Manager may issue no more than six permits for the same location within a 12-month period. Locations include specific parcels, parks, or points on highways within 200 metres of previously permitted structures over the past year. Section 12.7 states that the City Manager also holds the authority to cancel permits if the permit holder does not adhere to these requirements. Sections 13.1 to 13.2 govern permit issuance, including the City Manager's powers of authorization, revocation, and refusal to issue. Finally, s. 13.3 requires those who apply for a permit to display said permit. The provisions read as follows:

(12.5) The holder of a Conveyance of Expression Activity Permit under this Bylaw for a Structure that conveys expression must:

- (a) remove the Structure from City Property no later than 6:00 p.m. and not allow cause or permit the Structure to be located on City Property any earlier than 10:00 a.m. on the following day;
- (b) keep the Structure safe and in good repair at all times;
- (c) not cause, permit or allow the Structure to create a hazardous or dangerous condition; and
- (d) comply with all terms under which the Conveyance of Expression Activity Permit was issued.

(12.6) A Conveyance of Expression Activity Permit issued under this Bylaw for a Structure intended to convey expression is valid for thirty (30) days from the date of issuance, except that the City Manager must not issue more than six (6) Conveyance of Expression Activity Permits within a period of twelve (12) consecutive months that would authorize a Structure for the same Location. For the purposes of Section 12.3 and 12.4, of this Bylaw, "Location" means:

(a) a parcel;

(b) a Park;

in the case of a Highway, a point on the Highway that is within 200 metres of another point that has been occupied by a Structure pursuant to a Conveyance of Expression Activity Permit in the preceding twelve (12) months.

(12.7) The City Manager may cancel a Conveyance of Expression Activity Permit issued under this Bylaw for a Structure intended to convey expression if the recipient of the Permit fails to comply with any of the provisions in this Bylaw.

Permit issuance

13.0 (13.1) The City Manager is authorized to consider Applications and to issue, amend, suspend and revoke Special Event Permit, Filming Activity Permit and Conveyance of Expression Activity Permit on behalf of the City in accordance with this Bylaw.

(13.2) The City Manager may:

(a) issue a Special Event Permit, Filming Activity Permit or Conveyance of Expression Activity Permit, subject to such terms and conditions that the City Manager considers reasonably necessary to address public health and safety, the protection of persons and property and potential adverse impacts from nuisance, disturbances and other objectionable situations that are liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public; or

(b) refuse to issue the Special Event Permit, Filming Activity Permit or Conveyance of Expression Permit, providing written notice of the reasons for such refusal within 15 days.

(13.3) An Applicant must display a copy of the Special Event Permit, Filming Activity Permit or Conveyance of Expression Activity Permit at the entrance to the Site, or such other location within the Site as the City Manager may direct, for the duration of the Special Event, Filming Activity or Conveyance of Expression Activity.

Bylaw No. 2456-2015, Parks Bylaw, 2016

[44] Pursuant to ss. 14(b) of Bylaw No. 2456-2015, Parks Bylaw, 2016 ("**Parks Bylaw**"), where there is no accessible shelter accommodation available in the City, unhoused persons may erect and occupy a temporary shelter in a Park listed in Schedule "E" to the Parks Bylaw. Section 14 reads as follows:

Erecting structures

14 (a) Subject to Section 14(b), no person may erect, construct, or build, or cause to be erected, constructed, or built, in or on any Park any tent, building, shelter, pavilion, or other construction whatsoever without the prior written permission of the Council. In determining whether to grant permission, Council may consider the matters set out in Section 30.

(b) Notwithstanding Section 14(a), where there is no accessible shelter accommodation available in the City, a Homeless Person may, without the prior written permission of the Council, as set out in Section 14(a), erect and occupy a Temporary Shelter in a Park, except in those Parks listed in Schedule "E" to this Bylaw, between the hours of 7:00 p.m. on one day and 9:00 a.m. of the following day, provided that the Homeless Person:

- i. not erect the Temporary Shelter until after 7:00 p.m. on one day;
- ii. take down and remove the Temporary Shelter from the Park prior to 9:00 a.m. of the following day;
- iii. comply with all other provisions of this Bylaw;
- iv. not erect the Temporary Shelter in, on or within:
 - a. playgrounds, spray parks or pools;
 - b. horticultural display areas or ornamental gardens;
 - c. skateboard bowls, tennis courts or other sports courts;
 - d. sports fields, stadiums or dugouts;
 - e. stages or bleachers;
 - f. washroom facilities, picnic shelters, or gazebos;
 - g. areas of a Park that have otherwise been issued a permit pursuant to this Bylaw;
 - h. recreation facilities;
 - i. cemeteries;
 - j. golf courses; or
 - k. pathways, bridges, docks or wharfs.
- v. (c) The Council, or any officer, employee, or agent of the City may, in addition to any other authority granted under this Bylaw, remove or cause to be removed from any Park any Temporary Shelter that is not in compliance with this Bylaw, including any possessions, wastes, and other incidental materials.

[45] Schedule "E" to the Parks Bylaw is titled, "List of Parks Where Temporary Shelters May Not Occur", and references the following locations with corresponding maps:

1. Mill Lake, with location and extent of Park as shown within heavy line on Schedule E1;
2. Abbotsford Exhibition Park, with location and extent of Park as shown within heavy line on Schedule E2;
3. Civic Centre, with location and extent of Park as shown within heavy line on Schedule E3;

4. Jubilee Park with location and extent of Park as shown within heavy line on Schedule E4;
and
5. Grant Park with location and extent of Park as shown within heavy line on Schedule E5.

Schedule “E” -- List of Parks Where Temporary Shelters May Not Occur

1. Mill Lake, with location and extent of Park as shown within heavy line on Schedule E1
2. Abbotsford Exhibition Park, with location and extent of Park as shown within heavy line on Schedule E2
3. Civic Centre, with location and extent of Park as shown within heavy line on Schedule E3
4. Jubilee Park with location and extent of Park as shown within heavy line on Schedule E4
5. Grant Park with location and extent of Park as shown within heavy line on Schedule E5

Case Reference: *Matsqui-Abbotsford Impact Society v Abbotsford (City)*, [2024 BCSC 1902](#)

Prince George: Recent homeless encampment cases 2018-2024

Case: *Prince George (City) v Stewart*, [2021 BCSC 2089](#)

Date: 2021

Facts:

Encampments set up on city property (on a vacant lot “George Street,” also known as “The Splits”, and on a green space “Lower Patricia,” also known as “Moccasin Flats”) (together, “the encampments”). The City passed a resolution that civil injunctive proceedings be taken to remove the occupants from the encampments, and then served Notices to Vacate on some occupants in at least George Street, which requested the occupants to leave the encampment within two weeks. The Notices also purported to provide locations for shelter availability for those served. Residents did not vacate, but some did relocate to “Lower Patricia”.

Issue:

The City of Prince George (“the City”) applied for an injunction to evict the unhoused residents living on City property (“George Street”), and to remove structures if the residents do not vacate. The City also sought declarations that the residents (1) were trespassing, (2) contravened the *Zoning Bylaw*, and (3) contravened [s. 2](#) of the [Trespass Act](#).

Ratio/Conclusion:

The City’s applications for a mandatory and permanent injunction order against the respondents, and for an order authorizing removing structures if residents do not vacate, were granted (paras 117-118). The reason was that due to the migration of most of the occupants of the George Street encampment to the encampment at Lower Patricia, the Court found it unnecessary for the George Street encampment to continue.

The court dismissed all three applications for declarations: (1) to declare trespass because it was not properly before the court (para 114); (2) that residents contravened zoning by-law because “ absent other suitable housing and daytime facilities, the occupants of those encampments must be permitted to stay at the encampments,” and (3) contravened [s. 2](#) of the [Trespass Act](#).

Bylaws Referenced:

City of Prince George, Bylaw No. 7850, Zoning Bylaw (2007) (“Zoning Bylaw”) governed George Street. (C1) Lower Patricia is governed by (P1)

City of Prince George Safe Streets Bylaw No. 9209, 2021

Parks Referenced:

City-owned vacant lot (George Street) and green space (Lower Patricia).

Case: *Prince George (City) v Johnny*, [2022 BCSC 282](#)

Date: 2022

Facts:

This application is the City of Prince George’s (the “City”) response to Chief Justice Hinkson’s decision a few months prior in another proceeding, *Prince George (City) v. Stewart*, [2021 BCSC 2089](#) [Stewart]. The City has appealed the *Stewart* decision. In these proceedings, the City says it has now satisfied the pre-conditions in the *Stewart* Order to dismantling and closing the Lower Patricia encampment, by providing suitable housing and daytime facilities in in downtown Prince George (in the Knights Inn). This is an interlocutory injunction application by the City seeking to close the tent encampment of unhoused people in Lower Patricia. The City had already assisted many of the occupants of Lower Patricia, together with occupants of another encampment “George Street”, to relocate to rooms in the Knights Inn. It then dismantled the George Street encampment and those parts of Lower Patricia it viewed as abandoned. City claimed they have obeyed court orders by providing suitable housing and daytime facilities at an inn that they leased downtown.

Issue:

City again is seeking injunction to finally close the encampment.

Ratio/Conclusion:

The Court rejects the injunction, finding the City was not entitled to dismantle the encampment before returning to Court. The available units at Knights Inn proved insufficient, and many residents lost their personal belongings or weren’t present when the relocation was happening. Court further ruling that the City has breached a court order by tearing down the encampment.

Bylaws Referenced:

City of Prince George Parks Zoning Bylaw No. 7850, 2007,

City of Prince George Safe Streets Bylaw No. 9209, 2021

Parks Referenced:

Tent encampment of unhoused people in a green-space near downtown known as “Lower Patricia” or “Moccasin Flats”.

Case: *Prince George (City) v Johnny*, [2025 BCSC 1556](#)

Date: 2025

Facts:

The City of Prince George (the “City”) applied under the summary trial rule for a declaration, statutory injunction, and other relief intended to close an encampment on City-owned lands (the “Encampment”). After *Prince George (City) v Johnny*, [2022 BCSC 282](#), where Justice Coval found the City had breached the Stewart Order, the City adjusted its course of action. The Provincial government, the British Columbia Housing Management Commission (“BC Housing”) and the City made significant investments to create new housing and shelter for unhoused people in Prince George. In January 2025, BC Housing opened a new low-barrier supportive housing facility on Third Avenue, adjacent to the Encampment (the “Third Avenue Site”). This facility included 42 private rooms.

Issue:

City seeks a structured form of order to enforce its bylaws and close the Encampment.

City proposes an injunction that will be suspended with respect to the current occupants of the Encampment who apply to BC Housing for supportive housing, to take effect with respect to those individuals only after they are invited by BC Housing to move into an available unit at the Third Avenue Site.

Ratio/Conclusion:

The Court determined that the City is entitled to an order closing the Encampment to full-time sheltering, because the Third Avenue Site generally satisfies the “accessibility” component of the Stewart Conditions. However, the Court ordered that a provision must be added to provide that a person who is subject to the injunction may apply to the court for a constitutional exemption.

Detailed by-law(s), regulation, policy, or protocol that apply to the parks mentioned in 1:

Location: City-owned vacant lot (George Street) and green space (Lower Patricia).

City of Prince George, Bylaw No. 7850, Zoning Bylaw (2007) ("Zoning Bylaw")

(The City regulates zoning through the *Zoning Bylaw*)

(1) The George Street encampment property is zoned as follows:

C1: Downtown: the *Zoning Bylaw* provides for the following permitted uses:

- a. Apartment Hotel
- b. Auction, Minor
- c. Boarding or Lodging House
- d. Club
- e. Community Care Facility, Major
- f. Community Care Facility, Minor
- g. Education
- h. Education, Commercial
- i. Education, Higher
- j. Emergency Service
- k. Entertainment, Adult Orientated
- l. Entertainment, Spectator
- m. Exhibition & Convention Facility
- n. Greenhouse & Plant Nursery
- o. Health Service, Minor
- p. Hotel
- q. Housing, Apartment
- r. Housing, Congregate
- s. Housing, Row
- t. Housing, Stacked Row
- u. Library & Exhibit
- v. Motel
- w. Office

(2) The Lower Patricia encampment property is zoned as followed:

P1: Parks and Recreation: the *Zoning Bylaw* provides for the following permitted uses:

- a. Park
- b. Recreation, Outdoor

Section 1.6.1 of the *Zoning Bylaw* states:

Except for legal non-confirming uses or development approved by a development variance permit, temporary use permit, or a Board of Variance order, uses, buildings, and structures in each zone or area

shall be in accordance with the uses listed in the zone and all the appropriate regulations and requirements in this Bylaw, and any applicable housing agreement, or heritage revitalization agreement.

Section 1.6.7 of the *Zoning Bylaw* states:

Uses not permitted in the Bylaw are prohibited.

[NB: *City of Prince George Parks Zoning Bylaw No. 7850, 2007*, zones the Lower Patricia location "P1: Parks and Recreation". Permitted uses are "Park and Recreation, Outdoor." The Lower Patricia encampment is considered a non-permitted "Campground" use, and as such is prohibited under s. 1.6.7 of the Bylaw.]

Section 2.3.6 of the *Zoning Bylaw* defines "Campground" as follows:

Campground: land which has been planned, improved, or occupied for the seasonal short term use of tents, and camper vehicles, and is not used as year round storage or accommodation for residential use for a period exceeding 240 days in a calendar year. Typical uses include tourist trailer parks, campsites, and tenting grounds. This use may include accessory facilities for eating and assembly purposes, washrooms and bathing facilities, entrance kiosk, minor indoor and outdoor recreation, spectator and patron participation entertainment, and convenience retail with a maximum gross floor area of 100 m².

Section 274(1) of the Community Charter provides a municipality the authority to grant a statutory injunction to restrain the conduct of a bylaw breach stating:

274 (1) A municipality may, by a proceeding brought in Supreme Court, enforce, or prevent or restrain the contravention of,

(a) a bylaw or resolution of the council under this Act or any other Act ...

City of Prince George, Bylaw No. 9209, [Safe Streets Bylaw\(2021\)](#).

(A Bylaw of the City of Prince George to regulate and control unlawful occupation.)

Preamble:

- WHEREAS Council has deemed it desirable to enact a Bylaw for the protection, promotion and preservation of the health and safety of the habitants of the City of Prince George to peacefully use and enjoy public spaces in the City;
- AND WHEREAS section 8(3)(h) of the AND WHEREAS Community Charter provides Council the authority to prevent, abate and prohibit nuisances for the protection and enhancement of the well-being of its community in relation to matters referred to in section 64 of the Community Charter [nuisances, disturbances and other objectionable situations];
- NOW THEREFORE, pursuant to section 64 of Community Charter, the Council of the City of Prince George, in open meeting assembled, ENACTS AS FOLLOWS:

PART 2: Definitions 2.1 In this Bylaw:

2.1 In this Bylaw:

...

- (e) Obstruction means:
 - (i) To sit or lie on a street or erect a chattel or personal property in a manner which obstructs or impedes the convenient passage of any pedestrian traffic in a street;
 - (ii) To continue to solicit from or otherwise harass a pedestrian after that person has made a negative initial response to the solicitation or has otherwise indicated a refusal; or
 - (iii) To physically approach and solicit from a pedestrian as a member of a group of three (3) or more persons.
- (f) Open Drug Use means injecting, inhaling, smoking or any other method of consumption of any prohibited drug listed in the [Controlled Drugs and Substances Act \(Canada\)](#) on a street, roadway, Open Space Area or Park, the latter two which are defined terms in the «Parks and Open Space Bylaw No. 7370, 2002» as amended from time to time;
- (g) Open Air Burning means burning of any kind, of any material, for a non-commercial purpose that takes place outside of a building, structure, accessory building or commercial establishment, or anywhere else outdoors;

PART 3: Prohibitions

- 3.1 No person may sit, lie, solicit or physically approach in a manner that causes an Obstruction on a Street or Roadway.
- 3.4 No person shall Solicit any person after sunset on any given day.
- 3.5 No person shall cause or permit Open Drug Use or dispose of drug paraphernalia on a Street, Roadway, Open Space Area or Park.
- 3.6 No person shall cause or permit Open Air Burning on any Street, Roadway, Open Space Area or Park.

PART 4: Offence and Penalty

- 4.1 Every person who violates a provision of this Bylaw, or who consents, allows or permits an act or thing to be done in violation of a provision of this Bylaw, or who neglects to or refrains from doing anything required to be done by a provision of this Bylaw, is guilty of an offence and is liable to the penalties imposed under this Bylaw, and is guilty of a separate offence each day that a violation continues to exist.
- 4.2 Every person who commits an offence is liable on summary conviction to a fine or to imprisonment, or to both a fine and imprisonment, to a maximum of \$50,000 in fines or six (6) months incarceration as authorized by the [Community Charter](#).

Case Reference: *Prince George (City) v. Stewart, Prince George (City) v. Johnny*

Kingston: Recent homeless encampment cases 2018-2024

Case: *The Corporation of the City of Kingston v. Doe*, [2023 ONSC 6662](#)

Date: 2023

Facts:

City of Kingston (“the City”) seeks an order allowing it to enforce provisions of the By-law to dismantle an encampment that has arisen in a portion of Belle Park. Encampment is directly adjacent to a safe injection site and service hub located within the boundaries of the park. The By-law prohibit camping (with exceptions), and the residents are in breach of the By-law.

Issue

Is the By-law in breach of s.7 of the *Charter*?

Ratio/Conclusion:

Court concluded that the By-law is in breach of the *Charter* to the extent that it prevents homeless persons from camping overnight in public parks (para 87). Respondent’s evidence was sufficient to establish that exposure to elements at night without adequate shelter could result in serious and life-threatening conditions which also engaged right to life. The By-law’s interference with individuals’ choice to protect themselves was a deprivation of liberty and security of person within scope of s.7 of *Charter*, and not saved by s. 1. The prohibition on camping in public parks during the daytime was not established as unconstitutional.

Bylaws Referenced:

Parks By-Law Number 2009 -76 : Section 11

Prohibits camping except under certain circumstances

Parks Referenced:

Belle Park, a 44-hectare city-owned property outside of Kingston’s center.

Detailed By-law(s), regulation, policy, or protocol that apply to the parks mentioned in 1:

Location: Belle Park, Kingston Ontario

City of Kingston, By-law Number 2009-76, [A By-Law To Provide For The Regulation Use of Parks And Recreation Facilities Of The Corporation Of The City of Kingston.](#)

Camping

11. Camping and the use of any camping equipment is prohibited in all City parks, with the exception of the following:

- i. group camping as authorized as part of an organized Special Event; or
- ii. camping in designated campsites at Lake Ontario Park by registered groups or individuals arriving by bicycle or other modes of active transportation.

(See para 70).

Protocol:

[14] In April of 2021, the City finalized an encampment Protocol which aims to secure the voluntary departure of occupants by providing outreach services which can connect residents to shelters and service providers. In May of 2022, City Council voted to suspend the application of the Protocol, effectively directing by-Law officers not to evict any homeless individuals from Belle Park until a “more permanent and safe housing option” was available to occupant

[16] Subsequent to the approval of the updated Protocol, the City’s By-law Enforcement department issued numerous notices on January 6, 2023, advising residents that they were breaching both the By-Law and the [*Trespass to Property Act*, R.S.O. c. T.21 (“TPA”)] TPA.

Case Reference: *The Corporation of the City of Kingston v. Doe*

Hamilton: Recent homeless encampment cases 2018-2024

Case: *Bailey et al. v City of Hamilton, Hamilton Court File No. CV-20-73435 (Ont. S.C.J.) (unreported).*

Date: 2020

Facts:

Superior Court of Justice issued a temporary *ex parte* injunction against the City of Hamilton in July 2020, restraining the City from clearing an encampment in advance of an application for an injunction. Originally the injunction was for 10 days, but extended to several months pending the hearing of the full application.

Bylaws Referenced:

N/A

Parks Referenced:

N/A

Case: *Poff v. City of Hamilton*, [2021 ONSC 7224](#)

Date: 2021

Facts:

Encampment residents seek an interlocutory injunction prohibiting and restraining the City from enacting and enforcing By-Law No. 01-129 (which prohibits anyone from encroaching on or taking possession of any park, or dwelling/camping/lodging in a park without permit...) Residents claimed that in context of the COVID-19 pandemic and ongoing housing crisis, the enforcement of the By-law violates their s. 7 *Charter* rights .

Issue:

Has the test for interlocutory injunction been met?

Ratio/Conclusion:

Court rejected motion, stating that only in the clearest of cases would an interlocutory injunction against enforcement of law on grounds of unconstitutionality succeed. Applicants met burden for the first step of the *RJR-MacDonald* test (established that there is a serious issue to be tried), but have not met the burden of establishing irreparable harm that would rationalize suspension of City by-law.

Bylaws Referenced:

By-Law No. 01-129 as amended by By-Law 05-099 “(the By-Law”).

Prohibits camping and erection of tents or other structures in city parks

Parks Referenced:

All encampments around Hamilton that the by-law would govern (different encampments in Hamilton parks).

Case: *Heegsma v. Hamilton (City)*, [2024 ONSC 7154](#)

Date: 2024

Facts:

In November 2021, the applicants (14 homeless individuals) commenced a *Charter* challenge to their eviction from encampments by the City of Hamilton (“the City”). The Charter challenge is on the basis of sections 7 and 15, and the *International Covenant on Economic, Social and Cultural Rights*.

Issue:

The applicant also sought to extend the right to overnight sheltering to the right to stay in encampments in public parks during the daytime—that is, not have to tear down their shelters and move everyday due to the lack of accessible shelter spaces.

Ratio/Conclusion:

The application was dismissed. On s. 7 of the *Charter*, the Court found that the City did not prevent anyone from sheltering overnight and rejected the applicant’s request to extend the sheltering to daytime encampments as doing so would “amount to expropriating property, or at least severely limiting property rights.” Furthermore, the Court disagreed with the condition set by *Waterloo* regarding the provision of adequate shelter spaces—the Court stated that the applicant’s ask for the right of daytime camping, which is conditional on there being a lack of accessible shelter spaces, is a “red herring” and “arbitrary” because some people will not stay in a shelter space even if it is available.

On s. 15 of the *Charter*, the Court stated that the law does not treat Indigenous persons, women, and persons with a disability differentially by intent or impact. Overrepresentation in and of itself does not prove illegitimate discrimination. The applicants all share homelessness, but that is not an enumerated or analogous ground.

Note: An appeal is underway: *Heegsma v. Hamilton (City)*, [2025 ONCA 588](#), scheduled for January/February 2026

Detailed By-law(s), regulation, policy, or protocol that apply to the parks mentioned in 1:

Location: N/A

"Different encampments in Hamilton parks."

The relevant sections of Hamilton (City) By-Law No. 01-129 as amended (by By-Law 05-099) is hereby further amended by repealing Section 12 thereof and substituting in the place and stead of such Section the following:

12. (a) Unless expressly authorized by permit, no person shall encroach upon or take possession of any park, or any part or area within a park, by any means whatsoever, including but not limited to the placing, construction, installation or maintenance of any fence, structure or other thing, the dumping or storage of any materials, or by planting any plant or otherwise cultivating, grooming or landscaping any part of the grounds thereof;

[...]

17. Unless authorized by permit, no person shall dwell, camp or lodge in any park.

City of Hamilton, By-Law No. 05-099, [To Amend City of Hamilton By-Law 01-219, as amended, Being a By-law To Manage and Regulate Municipal Parks](#)

Case Reference: *Poff v. City of Hamilton, 2021 ONSC 7224*

City of Hamilton, By-Law 01-219 provides:

3. No person shall enter into or be in any park between the hours of eleven in the afternoon (11:00 p.m.) and six o'clock in the forenoon (6:00 a.m.), except where after hours use of a park has been approved by the City.
12. Unless authorized by the Director or by permit, no person shall encroach upon or take possession of any park, by any means whatsoever, including the construction, installation or maintenance of any fence or structure, the dumping or storage of any materials, or planting, cultivating, grooming or landscaping, thereon.
17. Unless authorized by permit, no person shall dwell, camp or lodge in any park.
18. Unless authorized by permit, no person shall place, install or erect any temporary or permanent tent or structure in any park.

By-Law 97-162 provides:

16. (12) 12.1 For the purposes of this subsection:
 - (a) "cease" means to stop or bring to an end.
 - (b) "congregate" means to gather into a group of more than one person.
 - (c) "obstruct" means to interfere with or make difficult of passage.
 - (d) "officer" means a sworn member of the Hamilton-Wentworth Regional Police Service or municipal by-law enforcement officer appointed by the City of Hamilton.
- 12.2 No person shall congregate and sit or stand so as to obstruct the free passage of either pedestrian or vehicular traffic on any streets or sidewalks regulated by this By-law.

12.3 Any person who obstructs pedestrian or vehicular traffic on a sidewalk or street shall, when directed to do so by an officer, cease such obstruction.

...

12.5 Sworn members of the Hamilton-Wentworth Regional Police Service and municipal by-law enforcement officers of the City of Hamilton are authorized to enforce the provisions of this by-law.

Protocols:

[8] From October 2020 to August 2021 (“the old protocol”) encampments were permitted in public parks as long as they were not on sidewalks or playgrounds.

[10] Since 2023 (“the new protocol”) the policy has been that temporary shelters may be erected indefinitely in parks as long as they are not within a certain distance of sensitive areas, such as schools. There is an enforcement process involving multiple steps.

Case Reference: *Heegsma v. Hamilton (City)*, [2024 ONSC 7154](#)



UNIVERSITY OF
TORONTO

**SCHOOL
OF CITIES**



HOUSING RESEARCH
COLLABORATIVE