

# Corporate Report

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**REPORT NUMBER** 157-2023-Development & Emergency Services-Community Strategies

**DATE**

**PREPARED**

April 13, 2023

**FILE**

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**MEETING DATE**

April 24, 2023

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**SUBJECT**

Response to Unsheltered Homelessness – A Protocol for the City of Thunder Bay

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## **RECOMMENDATION**

WITH RESPECT to Report 157-2023 (Development & Emergency Services, Community Strategies Division) we recommend the City adopt a human rights-based approach to responding to unsheltered homelessness as outlined in this report and the proposed Encampment Response Protocol (Attachment A), prioritizing needs-based service provision to individuals experiencing unsheltered homelessness;

AND THAT Administration include \$20,000 as an expansion in the 2024 Proposed Operating Budget for Council consideration to further support a human rights-based approach to unsheltered homelessness;

AND THAT Administration conduct community consultation that includes engagement with people living in encampments; Indigenous leadership, organizations and individuals; community partners; and the general public to better understand the feasibility of designated/supported encampments (including potential locations, service level requirements, partnerships for implementing, and costs);

AND THAT Administration report back to City Council and the Community the results and any recommendations based on this consultation by end of Q1-2024;

AND THAT any necessary by-laws be presented to City Council for ratification.

## **LINK TO STRATEGIC PLAN**

The new 2023 - 2026 Strategic Plan is currently under development; however, this work connects to objectives in the 2019-2022 Strategic Plan, One City, Growing Together. Under the *Grow* and *Renew* pillars are strategic priorities to further community safety and well-being initiatives.

Additionally, this work connects with the following City Council approved strategic plans:

Community Safety & Well-Being Strategy

Priority 2: Housing and Homelessness; Targeted Outcomes: Reduce Indigenous homelessness by 50 percent by 2027; Increase transitional and supportive housing opportunities in Thunder Bay

Indigenous Relations Strategy

Pillar 1: Respectful relations; 2. Honour & foster relations with Fort William First Nation, Metis, and local Indigenous Partners

Pillar 2: Responsive city; 5. Inclusive research & policy development

Pillar 4: Community prosperity; 9. Provide guidance to make City services responsive to needs of Indigenous Peoples; 10. Improve outreach & communications on City services; 11. Advocate & work with governments & local partners to improve outcomes

Thunder Bay Drug Strategy

Housing Pillar: Advocating for more supportive housing for people with complex needs; Contributing to the understanding of homelessness in Canada

## ***EXECUTIVE SUMMARY***

Homelessness is not a new issue in Canada nor to the City of Thunder Bay. However, due to intersecting complex factors such as a lack of affordable and adequate housing, the rising cost of living, stagnant wages and social benefits, the drug poisoning crisis, and the COVID-19 pandemic, the issue is increasing and becoming more visible.

The *National Housing Strategy Act, 2019* states housing is a human right in Canada, and several recent legal challenges related to encampments have found infringements under the Canadian Charter of Rights and Freedoms.

In January 2023, the Ontario Superior Court of Justice issued its decision finding a municipal by-law prohibiting certain activities on municipal lands in Waterloo violated section 7 (right to life, liberty and security of the person) of the Canadian Charter of Rights and Freedoms due to a lack of available and truly accessible shelter spaces that meet the needs of people experiencing homelessness. This ruling is important in that it identified that it wasn't just about the number of spaces that were available, rather it was important to consider if those spaces were truly accessible to those in need.

There is not much literature on the evidence of sanctioned encampment locations. While there have been a number of calls for the City to take this approach, it will be important to conduct robust community consultation with people with lived and living experience, with Indigenous leaders, organizations and individuals, and the general public to better understand if this or a similar model would be feasible here.

The City and Community Partners have been implementing a human rights-based approach to responding to encampments, and as such will formalize the process through the Response to Unsheltered Homelessness Task Force. This will require ongoing dedicated resources, both financial and human.

## **DISCUSSION**

Homelessness is not a new issue in Canada nor to the City of Thunder Bay. However, due to intersecting complex factors such as a lack of affordable and adequate housing, the rising cost of living, stagnant wages and social benefits, the drug poisoning crisis, and the COVID-19 pandemic, the issue is increasing and becoming more visible.

Municipalities across Canada are working to address this rise in homelessness using in a human rights-based approach. The *National Housing Strategy Act, 2019* states housing is a human right in Canada, and several recent legal challenges related to encampments have found infringements against the Canadian Charter of Rights and Freedoms. Most notably, the Ontario Superior Court of Justice, in January 2023, found a municipal by-law prohibiting certain activities on municipal lands in Waterloo violated section 7 (right to life, liberty and security of the person) of the Canadian Charter of Rights and Freedoms due to a lack of available and truly accessible shelter spaces that meet the needs of people experiencing homelessness. This ruling is important in that it identified that it wasn't just about the number of spaces that were available, rather it was important to consider if those spaces were truly accessible to those in need.

In the City of Thunder Bay, prior to 2021, encampments were generally located in areas not often visited or seen by non-encampment residents. However, from 2021 and onward, more visible encampment locations have been established on the City's North and South sides. Since then, the City and relevant community partners have collaborated on a joint dignified response to ensure the human rights and needs of encampments residents are met, with the primary goal of supporting people out of unsheltered homelessness.

The City's response has been informed by two key reports, and incorporates best practices rooted in a human rights-based approach. The reports are the UN Special Rapporteur's *A Human Rights Approach: A National Protocol for Homeless Encampments in Canada*, and the Office of the Federal Housing Advocate's *Overview of Encampments Across Canada: A Right to Housing Approach*.

The UN Special Rapporteur's report contains eight guiding principles with which the City's response is aligned. These principles are as follows:

- Principle 1: Recognize Residents of Homeless Encampments as Rights Holders
- Principle 2: Meaningful Engagement and Effective Participation of Encampment Residents
- Principle 3: Prohibition of Forced Evictions of Encampments

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Principle 4: Explore All Viable Alternatives to Eviction

Principle 5: Ensure that Any Relocation is Human Rights Compliant

Principle 6: Ensure Encampments Meet Basic Needs of Residents Consistent with Human Rights

Principle 7: Ensure Human Rights-Based Goals and Outcomes, and the Preservation of Dignity for Encampment Residents

Principle 8: Respect, Protect, and Fulfil the Distinct Rights of Indigenous Peoples in All Engagements with Encampments.

The Office of the Federal Housing Advocate's report contains five recommendations with which the City's response is aligned. These recommendations are as follows:

Recommendation 1: De-Centre Policing and Law Enforcement

Recommendation 2: Municipal Governance & Interjurisdictional Responsibilities

Recommendation 3: Ensure the Meaningful Participation of Encampment Residents

Recommendation 4: Recognize the Distinct Rights of Indigenous Peoples

Recommendation 5: Address the Conditions within Encampments and Provide of Basic Services

These recommendations were based on findings from reviewing encampment responses in five regions of Canada. It found that taking a punitive approach through actions such as forced evictions by tearing down tents (homes) and removing people and personal belongings does not address the underlying issues that have led to the increase in encampments, nor does it increase accessing housing or increase safety for the individuals in encampments. In fact, this often leads to displacement and further perpetuates the cycle of homelessness.

City Administration recently had the opportunity to meet with representatives from the Ontario Human Rights Commission and the Office of the Federal Housing Advocate to discuss human rights-based approaches to responding to encampments and provide an overview of the City's response to encampments. In these meetings it was acknowledged that the City has been well aligned with a human-rights based approach.

The Federal Housing Advocate has recently launched a formal review of encampments across Canada. The review will focus on systemic solutions to address the factors that lead to encampments and the daily struggles of the people who live there. The review will culminate in a report with recommendations to the federal Minister responsible for housing. The public consultation portion of the review is currently open and the City will promote it locally for participation. The findings of the review will be used in the future to strengthen the City's response to encampments.

The Toronto Ombudsman released their final report (March 24, 2023) on the investigation of the City of Toronto's 2021 clearing of encampments. Overall, the Ombudsman found that the City did not fulfill its commitment to a human rights-based approach, that it chose expediency over encampment residents' needs, and that they caused undue confusion and harm. Building on the initial eight recommendations from

its interim report last summer, this report made an additional twenty-three recommendations. In reviewing the report, there is further confirmation that the City is using best practices in its approach, however there are some additional key learnings that can be undertaken to enhance its local response, for example:

- Ensuring there is public communication about the City's response protocol, including creating a dedicated process for handling complaints from the public, inclusive of encampment residents
- Sufficiently resourcing a dedicated Interdisciplinary Working Group tasked with responding to encampments

There have been several calls for us to explore designated/sanctioned/supported encamping sites. In 2021, Not One More Death (N1MD) came before Council with a deputation that included a proposal for the City to dedicate land and establish a Lodge Gathering Space, in particular to keep people warm and provide shelter options as a result of COVID-19 outbreaks among the vulnerable populations. More recently, after the deputation to Committee of the Whole in February 2023, they had further suggested sanctioned location(s) as an option for consideration. Further, Nishnawbe Aski Nation has formally requested the City donate land for safe encamping and land-based healing activities, with the offer to collaborate on developing a plan for its multi-faceted use. There is not much literature on the evidence of sanctioned encampment locations, however there are other communities who have taken this approach. Greater Sudbury worked with a consultant to develop an encampment strategy and action plan that takes into account the drug poisoning crisis and importance of understanding homelessness amongst Indigenous people and serving in a culturally appropriate manner. This report also asserts that safe camping zones may be "false quick fixes"; you cannot force or require individuals to use them so you may still find encampments in many other places across a community, and they can be more expensive to operate – sometimes requiring additional staffing and policing costs – funding that may be better invested into health, social and housing services for the individuals in need.

In order to better understand the applicability of sanctioned encampments in our local context, it will be important to conduct robust community consultation with Indigenous leaders, organizations and individuals; with people with lived and living experience; and the general public. Conducting community consultations on sanctioned encampments also aligns with various articles of the United Nations Declaration on the Rights of Indigenous Peoples which is affirmed as an international human rights instrument with application in Canadian law. This consultation process would help inform a proposed model, including resources and partnerships required, and the feasibility to implement.

Until such time, Administration and Community Partners recommend continuing with the response plan as outlined below and in Attachment A.

## **The City of Thunder Bay and Community Partners' Encampment Response Protocol**

This protocol will guide Administration and Community Partners in their collaborative response to encampments in Thunder Bay. The primary goal is to support people out of unsheltered homelessness through a human rights-based approach that provides access to coordinated health, social and housing resource supports and needs-based planning.

The objective of this protocol is to establish a clear process Administration and Community Partners that is proactive in responding to the needs of individuals experiencing unsheltered homelessness while also balancing complaints from housed neighbours and the general public.

The Response to Unsheltered Homelessness Task Force members are committed to:

- Working in a coordinated and collaborative approach with individuals experiencing homelessness and living outside to assist them in accessing services and supports that best meet their needs.
- Prioritizing access to appropriate indoor sheltering alternatives and the appropriate supports to ensure tenancies are successful.
- Recognizing that individuals experiencing unsheltered homelessness cannot be forced to accept services.
- Understanding that in the event of exceptional circumstances, intervention may be required to address immediate public safety concerns. If at any time the City and Partners determine it necessary to clear/relocate an encampment as a last resort, a detailed plan will be developed outlining how individuals residing in the site will be supported to access health, social and housing services and such services will be coordinated and made available on the day of clearing/relocation.
- Engaging in proactive communication with all key stakeholders to assist in the implementation of the protocol.

### **Procedures**

These procedures will be executed when dealing with tents/structures that have appeared in public spaces.

1. Notice of possible encampment location is received by City or Community Partner. This may be identified by City staff in their regular duties, through Community Partners in their regular duties, or from a member of the public notifying the either party. Members of the public can notify the City through the 24-hour dispatch line- (807) 625-2195. The Task Force will be notified within 24-hours via group email.
2. The Lead Community Partner will visit the identified location within 48 hours of the initial notification and will determine if the site is active or inactive.

### **INACTIVE SITE**

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3. The Lead Community Partner will notify the Task Force that they have determined the site is inactive within 24 hours of their initial visit.
4. The site will be added to Parks & Open Spaces clean-up list, and they will coordinate clean-up with the Lead Community Partner within 72 hours.
5. Situation resolved.

### **ACTIVE SITE**

6. The Lead Community Partner works with encampment resident(s) to make a plan that meets their needs. Alternative sheltering options offered (if available and appropriate).
7. The Lead Community Partner will coordinate individual care plans for each encampment resident with other services providers. Efforts continue to secure stable housing for individuals.
8. The Lead Community Partner and other service providers will provide continuous supports to individuals until site is identified as inactive – this occurs when individuals find acceptable alternate shelter/housing options, or individuals leave the location on their own.
9. The Lead Community Partner will notify the Task Force that the site is inactive within 24 hours of that determination.
10. The site will be added to Parks & Open Spaces clean-up list, and they will coordinate clean-up with the Lead Community Partner within 72 hours.
11. Situation resolved.

### **FINANCIAL IMPLICATION**

This work will require resources. These financial resources will be used to support community partners to provide and maintain amenities such as portable toilets, laundry services, access to shower facilities, creating start up kits for individuals who receive housing, and other activities to further support a human rights-based approach in our response. The estimated annual cost is \$20,000. For 2023 Community Strategies has identified some one-time surplus funds within the 2023 budget that can be allocated for this work. To continue this work in future years, Administration recommends \$20,000 be included as an expansion to the 2024 Operating Budget for Council consideration.

Staff time to participate in the Response to Unsheltered Homelessness Task Force, and coordinated garbage removal will be provided in-kind.

### **CONCLUSION**

Community partners understand the importance of meeting people where they are at. This increases opportunities to build relationships, trust, and improves chances individuals will accept offers of services and supports. Administration will continue to help community partners advance this important work of supporting individuals experiencing unsheltered homelessness with dignity, by building upon the lessons learned over the last year and by continuing to look at and incorporate best practices.

Therefore, it is concluded that City Council should support the proposed Response to Encampment Protocol and adopt a human rights-based approach to responding to unsheltered homelessness.

It is further concluded that the City of Thunder Bay dedicate funds in the amount of \$20,000 to support this work in 2023 and be included in Community Strategies proposed 2024 operating budget as an expansion to support a human rights-based response.

It is further concluded that City Council direct Administration to facilitate community consultation to determine the feasibility of designated/supported encampments (including potential locations, service level requirements, partnerships for implementing, and costs) and report back by end Q1-2024.

## **BACKGROUND**

Referral Resolution (February 13, 2023 Committee of the Whole) recommended that:

WITH RESPECT to the deputation relating to Encampments on the McVicar Creek Recreation Trail on February 13, 2023, we recommend that the Superior Court decision concerning encampments in the Region of Waterloo be referred to Legal Services for an overview and analysis of the ruling to determine how the City can respond to encampments and the use of public space;

AND THAT Administration report back on or before April 24, 2023.

Susan Lester and Jeanne Adams appeared before Committee on February 13, 2023, provided a PowerPoint presentation, relative to encampments on the McVicar Creek Recreational Trail, and responded to questions.

Memorandum from C. Olsen, Manager – Community Strategies, dated July 19, 2022 was presented at Committee of the Whole on August 8, 2022 and the following Resolution was passed, and ratified at City Council on August 22, 2022:

WITH RESPECT to the Memorandum from C. Olsen, Manager – Community Strategies dated July 19, 2022 relative to Unsheltered Homelessness Pilot Project, we recommend that financial support required, up to a maximum of \$15,000, to maintain peer involvement and to offer appropriate amenities be provided to Elevate NWO from existing Community Strategies budget;

AND THAT the General Manager – Development and Emergency Services and City Clerk be authorized to execute necessary documents;

AND THAT any necessary by-laws be presented to City Council for ratification.



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Memorandum from C. Olsen, Manager – Community Strategies, dated June 20, 2022 was presented at Committee of the Whole on June 27, 2022 and requested an opportunity to provide an update relative to the ongoing collaborative approach responding to unsheltered homelessness in the community.

Executive Director Holly Gauvin -Elevate NWO, and Staff Sergeant Jason Anderson – Community Outreach - Thunder Bay Police Service provided an overview relative to the above noted and responded to questions.

### ***REFERENCE MATERIAL ATTACHED***

Attachment A – Proposed City of Thunder Bay Encampment Response Protocol April 2023

### ***REPORT PREPARED BY***

Cynthia Olsen, Manager – Community Strategies

### ***REPORT SIGNED AND VERIFIED BY***

Karen Lewis, General Manager – Development & Emergency Services

Date (04/17/2023)