

# STAFF REPORT



## THE CORPORATION OF THE TOWN OF COBOURG

<b>Report to:</b>	Mayor and Council Members	<b>Priority:</b>	<input checked="" type="checkbox"/> High <input type="checkbox"/> Low
<b>Submitted by:</b>	Brent Larmer Town Clerk/Director, Legislative Services <a href="mailto:blarmer@cobourg.ca">blarmer@cobourg.ca</a>	<b>Meeting Type:</b>	Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/>
<b>Meeting Date:</b>	August 21, 2023		
<b>Report No.:</b>	Legislative Services-118-23		
<a href="#">Submit comments to Council</a>			

**Subject/Title: Council Update and Amendment to the Town of Cobourg Parks, Open Space and Facilities By-law**

### RECOMMENDATION:

THAT Council receive the Staff Report for information purposes and

FURTHER THAT Council approve the recommended amendments to the Town of Cobourg Parks By-law as presented; and

FURTHER THAT Council endorse the regular enforcement of the current Town of Cobourg By-laws and authority provided to the Town under the provisions of the *Municipal Act, 2001* to benefit the lawful, shared use and enjoyment of the public space and safety of all residents of the Town of Cobourg.

### 1. STRATEGIC PLAN

Not applicable.

### 2. PUBLIC ENGAGEMENT

Not Applicable

### 3. PURPOSE

The purpose of this report to provide Council and the public with an update on the ongoing camping and lodging occurring at the West Beach in the Town of Cobourg.

The report also provides Council with a brief overview of the current situation and a draft amending by-law for consideration.

#### 4. ORIGIN AND LEGISLATION

In 2016, the Town of Cobourg the Council approved By-law No.022-2016 and deemed it expedient to regulate, manage, protect, control and govern all public parks, open spaces, including the harbour, trails and other public and heritage facilities in the Town of Cobourg. The following sections were considered and provided the authority of the Parks Use By-law:

1. Section 23.1 of the *Municipal Act, 2001*, authorizes a municipality to delegate its powers and duties to a person or body, subject to certain restrictions.
2. Section 11(3) of the *Municipal Act, 2001*, as amended, provides that the council of a local municipality may pass by-laws respecting matters within the sphere of jurisdiction of culture, parks, recreation and heritage.
3. Section 128 of the *Municipal Act, 2001*, states that a municipality may prohibit and regulate with respect to public nuisance, including matters that, in the opinion of Council, are or could become or cause public nuisances.

#### 5. BACKGROUND

On August 7<sup>th</sup>, 2023, Staff were informed of a gathering of tents and individuals located at the Cobourg West Beach and Municipal Law Enforcement engaged the current encampment response process that the Town has employed over the last several years subject to the minor adjustments that were made in 2022.

At the subject property the Town has issued an eviction notice to individuals currently residing in a camp like setup which has been established on lands owned by the Town of Cobourg. The Town determined that the occupants in the Town designated 'Nature Park' is a violation of the Town's Parks By-law, Nuisance By-law, and the *Trespass to Property Act*.

In 2022, the Superior Court of Justice in *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained* articulated the rights of homeless individuals under the *Charter* to establish encampments. In that case, Justice Valente determined that the Region's enforcement measures violated the section 7 rights of encampment residents and refused to issue an order authorizing the eviction.

The Town of Cobourg has reviewed this case and made determinations on its relevance to the Town of Cobourg as a lower-tier government and the facts of the

case have been reviewed and analysis completed over the past several days and the Town has corresponded with Northumberland County.

It should be noted that since the beginning of the events that have taken place at the West Beach Area, there has been no decisions made in relation to the encampment and Staff have been working internally and with various stakeholders, legal, and parties with the response to the current situation occurring on public lands.

## 6. ANALYSIS

The use of the Town's parks and open spaces is regulated by various federal, provincial, and municipal laws. Some municipalities pass stand-alone by-laws that more specifically regulate the use of their parks and open spaces. Recent events in Municipal Open Spaces and Parks underscore the importance of a stand-alone municipal by-law and regular amendments to more clearly establish rules for the shared public use and enjoyment of the municipal parks and other open spaces, and for the protection of the natural environment.

### **The Town of Cobourg current encampment response plan is as follows:**

The response protocol/procedure from Municipal Law Enforcement has been reactive to complaints for encampments in Municipal Parks, and all activity and response to encampments in the Town of Cobourg are complaint driven.

The below procedures are the current practices that are conducted and executed when dealing with one or few tents/structures that have appeared in parks and public places that is not a designated or permitted camping location:

- Upon receiving a complaint, Officers attend the site. At this point in time the Officers will provide initial identification and communication with the individuals.
  - Visit the Site
  - Determine the current situation and review the environment including health and safety.
  - Identify the occupants and inquire as to their current situation and what services they may need.
- Officers engage with occupants if present and verify if encampment is on either Town property or private property.
- If encampment is on Town property, and persons are present they are served with a "Notice to Vacate". Officers educate and provide information on available resources that are provided by local agencies and the Housing Services Manager. If persons are not present the "Notice to Vacate" is prominently posted at the site and services posted on the vacate notice.

- After this initial review and discussion, regular enforcement activity is conducted pursuant to the Town's Parks By-law, Nuisance By-law, and *Trespass to Property Act*, related to occupant and resident safety.
- A period of time suitable to the circumstance is provided to vacate the site (this may depend on complexity of encampment, number of persons, weather conditions etc.,) however a period of 72 hrs., is commonly provided. If there is serious Health and Safety or criminal activity circumstances, this may warrant lesser time or immediate removal. Depending on the response, additional enforcement, such as police services may be required depending on the situation.(All events and situations are looked at separately and dealt through a detailed strategy)
- an encampment site is cleared once everyone has been offered safe and appropriate accommodation and in the event of an encampment site being cleaned up everyone's personal belongings are stored for a period of two (2) weeks and adequate written notice of support is provided.
- After the time period has elapsed, a reinspection is conducted to determine the status of compliance. Additional time may be given if necessary subject to the discretion of the Officer.
- If compliance is not achieved in the required time period, then a clearing of the site is scheduled with staff resources and equipment suitable to remove the items from Town property which are declared waste and disposed of accordingly. This work is coordinated by the Municipal Law Enforcement Department with assistance from the Public Works and Parks Departments in order to ensure that the space can be safely accessed and utilized by the Public.
- If encampment is on Private Property, the property owner is advised and staff offer assistance if owner would prefer we act as Agent of Property. If property owner grants permission for encampment to remain, a review of lawful use in accordance with the Zoning By-law is conducted and appropriate enforcement measures taken if warranted. Property Clean-up will be the responsibility of the private landowner. The Town may provide support to not-for-profit property owners.

Staff have and will continue their efforts to ensure that the Town's parks and open spaces remain available for the lawful, shared use and enjoyment of the public while utilizing the current pieces of compliance and enforcement regulations that are currently in place.

If Council directs or suspends the enforcement of any provision of the Town's current restrictions on camping and setting up structures in municipal parks or open spaces, Staff will update the operational and enforcement processes, until

that time, Staff will continue and will enforce municipal by-laws and regulations and uphold the current encampment response plan.

The Town of Cobourg Staff have been working directly with Northumberland County Staff on a regular basis. The Town of Cobourg is a lower-tier municipality in a two-tier municipal government system and the County of Northumberland is the upper tier government providing upper tier services to our residents as listed and defined in the *Municipal Act, 2001* as amended and as referenced from time to time in other various pieces of legislation. The *Housing Services Act, 2011*, provides the authority for Northumberland County, in its role as the upper tier municipality to be the Consolidated Municipal Service Manager (CMSM) for the entire county which consists of seven (7) member municipalities including the Town of Cobourg.

The County of Northumberland has provided the below statement regarding Homelessness response in the County of Northumberland:

***Northumberland County Community and Social Services as directed by County Council is responsible for providing Social Services and assistance as mandated by the Province. The County offers various programs to directly assist individuals and families facing homelessness or related challenges. Supports provided by Social Services are delivered using a client centered client-centered, holistic, and harm reduction approach. The goal is to help clients access stability resources, participate in case planning, and support improved outcomes for those served.***

***As the Service Manager, Northumberland County collaborates and provides funding to organizations like Northumberland Hills Hospital, The Help Centre, Transition House, St. Peter's Church, and Habitat for Humanity. Together, they offer additional community supports to stabilize individuals and families through sheltering options, housing search assistance, mental health and addiction connections, housing subsidies, and basic needs benefits.***

***Individuals involved with the current encampment in the Town of Cobourg, who are seeking services, have been and will continue to be directed to the appropriate social services offered by Northumberland County and its community partners.***

As part of the Town's strategy on maintaining responsible delineation of authority, direction is being sought for Council to authorize the delegation of authority to the Northumberland County CAO, and Northumberland County Social Services who are ultimately responsible for Social Services as the Service Manager, under the *Housing Services Act, 2001*, the ability to act and invoke a permit if they are satisfied that the number of locally available shelter beds is less than the number of individuals in need of shelter. With the suggested amendment, the Northumberland County CAO may permit such individuals to erect and be within temporary structures, huts or tents in a Park without a permit otherwise required

by the Parks By-law for such time and subject to such conditions and restrictions as the Northumberland County CAO may from time to time establish. In summary, if a need is required by the Housing Service Manager, the authority will be there to invoke a permit and lawfully utilize municipal property through the County initiative.

With this provision added to the Parks by-law, subject to Council approval of the amendment, the Town of Cobourg will be assisting the Service Manager with any requirements that they may have through law, the ability to initiate a permit process through the Town open spaces and be responsible for the space and costs of individuals seeking a space. If there is no requirement and no activation of a permit, the Town of Cobourg will continue to actively enforce the provisions of all by-laws when it comes to curfews in parks and camping overnight or during the day, including occupancy and all other in place by-laws that regulates appropriate behavior in parks. This amendment demonstrates further collaboration between the two tiers of government and local supports that the Town has the ability to offer.

In addition, to the above recommended amendment, Staff are recommending the update to other specific provisions of the Parks By-law to provide more specific authority to Officers when enforcing the Parks By-law and issuing Orders and Trespass Notices and to make orders under other the municipal by-law and provincial legislation.

## **7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS**

There are no anticipated costs to the approval of this report. There are internal operating costs associated with the enforcement and monitoring of camps and individuals occupying municipal property, and any additional costs outside current budget will be reported to Council at an alternative time.

## **8. CONCLUSION**

THAT Council approve the recommended amendment to the Town of Cobourg Parks By-law as presented and Council endorse the regular enforcement of the current Town of Cobourg By-laws and authority provided to the Town under the provisions of the *Municipal Act, 2001* to the benefit and lawful, shared use and enjoyment of the public and safety of all residents of the Town of Cobourg.