



January 21, 2025

Peterborough - Kawartha MPP Dave Smith;
Honourable Doug Ford, Premier;
Honourable Paul Calandra, Minister of Municipal Affairs and Housing;
Honourable Doug Downey, Attorney General;
Association of Municipalities of Ontario; and
Councils of each of Ontario's municipalities.

Subject: Bill 242, Safer Municipalities Act, 2024

The following resolution, adopted by City Council at its meeting held on January 13, 2025, is forwarded for your consideration.

Whereas:

1. A municipality's parks and open spaces are critical infrastructure that support a strong community, and the public's shared and safe use of the municipality's parks and open spaces is integral to ensuring that support.
2. Ontario's municipalities are struggling to maintain their parks and open spaces for their shared and safe use by the public as a result of the increasing proliferation of encampments and illicit activities related thereto.
3. Municipalities that enforce their standards regulating or prohibiting encampments in their parks and open spaces must have regard to the availability of shelter space for those who need shelter.
4. On January 27, 2023, Justice Valente of the Ontario Superior Court of Justice rendered his judgment in *Waterloo (Regional Municipality) v. Persons Unknown and to be Ascertained* (2023), [2023] O.J. No. 417 (Waterloo Decision) which declared that the municipality's by-law violated section 7 of the *Charter* and was therefore inoperative insofar as it applied to prevent encampment residents from erecting temporary shelters on a site when the number of homeless individuals in the region exceeded the number of accessible shelter beds.
5. The Waterloo Decision's analysis of the adequacy of shelter beds suggests an unworkable and unclear standard that goes beyond the number of shelter

spaces and that includes the requirement to provide shelter spaces that must accommodate illicit drug use and other activities that could put shelter residents, workers and volunteers at risk. The result is that municipalities are impaired in their enforcement of their standards and have lost or are losing control of their parks and open spaces.

- 6. On December 12, 2024, the Honourable Paul Calandra, Minister of Municipal Affairs and Housing, introduced Bill 242, Safer Municipalities Act, 2024. Among its various initiatives, Bill 242 proposes to amend section 2 of the Trespass to Property Act by adding aggravating factors that must be considered in the court's determination of a penalty under that section. However, the key challenge is that a municipality's exercise of its rights at common law and under section 9 of the Trespass to Property Act to remove encampments from the municipality's parks and open spaces remains potentially subject to the unworkable and unclear standard for the adequacy of shelter space suggested by the Waterloo Decision.**
- 7. In these circumstances, municipalities need provincial legislation that clearly defines a workable standard for shelter space for the purposes of a municipality's jurisdiction to enforce its standards regulating or prohibiting encampments in its parks and open spaces.**

Now therefore, be it resolved:

- 1. That the provincial government be respectfully requested to amend Bill 242 to clearly define a workable standard for shelter space for the purposes of a municipality's jurisdiction to enforce its standards regulating or prohibiting encampments in its parks and open spaces.**
- 2. That, without limitation, Bill 242 provides that a municipality will have met the standard for shelter space for the purposes of the municipality's jurisdiction to enforce its standards regulating or prohibiting encampments in its parks and open spaces:**
 - a) despite the establishment and enforcement of shelter rules including rules that prohibit drug use and other activities that could put shelter residents, workers and volunteers at risk; and**
 - b) if an official designated by the municipality is satisfied that the number of available shelter spaces is at least equal to the aggregate of the number of individuals actually seeking shelter and the number of individuals against whom the municipality is planning to enforce its standards regulating or prohibiting encampments in its parks and open spaces.**
- 3. That a copy of this resolution be sent to:**

- a) Peterborough - Kawartha MPP Dave Smith;
- b) Honourable Doug Ford, Premier;
- c) Honourable Paul Calandra, Minister of Municipal Affairs and Housing;
- d) Honourable Doug Downey, Attorney General;
- e) Association of Municipalities of Ontario; and to
- f) Councils of each of Ontario's municipalities.

Sincerely,



John Kennedy
City Clerk

cc:
City of Peterborough Council
City of Peterborough Staff