




CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Environmental Services Division

TO:	Chair and Members General Issues Committee
COMMITTEE DATE:	May 15, 2024
SUBJECT/REPORT NO:	Clean Up Protocol for Private Property (PW24025) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Cynthia Graham (905) 546-2424 Ext. 2337
SUBMITTED BY:	Cynthia Graham Director, Environmental Services Public Works Department
SIGNATURE:	

RECOMMENDATION

- (a) That staff be directed to complete a competitive procurement for private property clean ups, funded up to a maximum of \$150,000 from the Environmental Services Division – Parks & Cemeteries Section 2024 Operating Budget and to approve the additional 0.5 FTE Temporary Parks Supervisor for up to 24 months with vehicle to oversee the program at a cost of \$74,000 to be funded from the Environmental Services Division – Parks & Cemeteries Section; and,
- (b) Costs to continue this program as a permanent program of the Environmental Services Division will be included in the 2025 Operating Budget for Council consideration;
- (b) That the Criteria Checklist for Private Property Clean Ups outlined in Appendix “A” of Report PW24025 be approved.

EXECUTIVE SUMMARY

At the October 18, 2023 General Issues Committee, Committee amended Report HSC23066(a), the September 2023 Encampment Response Update, to include the following direction to staff:

- (b) That staff be directed to explore the feasibility of a ‘Clean Up Protocol’ enabling

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City Staff being able to remove waste from private properties that are adjacent to Encampment sites and report back to the General Issues Committee.

Report PW24025 is the summary of the investigation that staff conducted to determine the legal, labour, cost, and coordination implications of completing clean up efforts on private property, related to encampments. The recommendation of Report PW24025 is to pursue a contractor-hired option for these clean ups, with oversight by a 0.5 FTE Parks supervisor. Currently, staff do not undertake encampment clean ups on non-City property.

In order to qualify for a clean up, residential or small-business property owners working with staff will be asked to complete the Criteria Checklist found in Appendix “A” of Report PW24025, with staff verifying the information and using this completed document to engage the contractor.

Future budget adjustments are anticipated once the actual costs of this work are determined at the end of 2024, and Report PW24025 includes the recommendation to bring those costs forward for Council consideration as part of the 2025 Operating budget process.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: An additional \$150,000 is identified in recommendation a of Report PW24025 to cover the procurement of a contractor for the clean-up. The costs for a 0.5 FTE Temporary Parks Supervisor is \$65,000, as well as a vehicle cost of \$9,000 is required to oversee the program. If these costs cannot be absorbed into the Parks operating budget, it will be identified as a variance at the end of the year. Costs to make this program permanent will be included in the 2025 Operating Budget for Council consideration.

Staffing: An additional 0.5 FTE Temporary Parks Supervisor to oversee the investigation of the requests and oversight of the contractor will be required.

Legal: Legal staff will work with Environmental Services and Procurement staff to ensure the procurement documents are to their satisfaction.

HISTORICAL BACKGROUND

The City of Hamilton’s current Encampment Protocol was ratified by Council on August 18, 2023. The protocol outlines the conditions under which unhoused residents can

occupy space on city property, how Outreach and By-law staff will engage with those residents, and how clean-up efforts will be coordinated and completed.

The Encampment Protocol only pertains to City-owned lands. If there are encampments on non-City owned lands, currently those are addressed by Municipal Law Enforcement and Hamilton Police Services as a trespass matter.

As staff and Councillors have reviewed requests coming forward related to clean ups at encampment sites, it has become clear that there are times when litter impacts private property adjacent to City lands where encampments are located. Staff have advised Council that City staff do not have the authority to enter private property to assist with clean ups in these situations, and the owners are responsible for the upkeep of their property.

The litter generated by encampments on City lands that are impacting private property do not reflect the owner's efforts to maintain their property to the standards expected and can represent a financial strain to a private homeowner or business. Property owners found in contravention of City By-laws (specifically Yard Maintenance) outside of an encampment and related to garbage and litter may be ordered to comply with the by-law. To mitigate these impacts, staff have reviewed the issue and Report PW24025 recommends a competitive procurement process to hire a contractor to assist residents and small businesses with these impacts.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City's Yard Maintenance By-Law applies to properties across the City, and homeowners/business owners are required to keep their yards reasonably free of litter and garbage. Some property owners are being impacted by litter and garbage being generated by encampments across the City, and a property owner may be ordered to comply to address untidy areas.

The clean-up of private property is not contemplated or covered by the existing Encampment Protocol.

RELEVANT CONSULTATION

Housing Outreach staff assisted with analysis of complaints received in order to understand what situations may arise as requests for clean ups are received, and at what frequency throughout the year.

Legal Services staff assisted with review of existing, and the creation of proposed Permission to Enter Agreements if Alternative 1 to Report PW24025 is approved.

Municipal Law Enforcement staff assisted to review the protocol and advise how complaints will be filtered between regular property standards complaints versus encampment impact complaints.

A scan of colleagues in other municipalities in Ontario indicated that no other jurisdictions that staff are aware of complete clean ups on private property.

Labour Relations staff assisted to identify any conflicts with current collective bargaining agreements and to assist with review of the proposal with CUPE 5167 Union Executive, specifically related to Alternative 1 outlined in Report PW24025 that would involve City staff completing clean-up efforts.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The unsheltered email and voicemail inboxes were reviewed by Housing Outreach staff to get an understanding of where the requests for clean ups on private property have occurred, under what conditions, and how frequently. On average, the Housing Focused Street Outreach team received 151 emails per week since September 2023, and between 15% and 20% of those related to complaints about impacts to private property. That would translate to an anticipated 20-25 complaints per week regarding non-City lands that currently fall outside staff responsibility for clean-up. In general, the complaints being received for non-City lands are not repeats, meaning that staff anticipate 20-25 unique requests for clean-ups each week if the Recommendations of Report PW24025 are approved and the program is implemented.

A competitive procurement process will ensure that qualified contractors will be hired to do the work. The current contractor in place has clear provisions in their contract that restricts their assignments to City-owned properties only. Since staff have not hired contractors to do this type of private property clean-ups before, it is not known what the costs will be for this work. Staff recommend that the program start with an allocation of \$150,000 to start, with adjustments in future years based on program actual costs.

The contractor would be engaged once staff have confirmed that the clean-up is eligible, by using the Criteria Checklist in Appendix “A” to Report PW24025. If the property is not eligible, the matter would then be referred to Municipal Law Enforcement for their assessment if an order to comply is required, related to property standards. If a clean-up is arranged, the contractor will attend the site and do the work, and then send an invoice to staff for payment of the work against the purchase order.

Staff will report these clean up efforts to be included on the weekly summary related to the Encampment Protocol and will show separately for clarity that the clean-up was on private property.

ALTERNATIVES FOR CONSIDERATION

Alternative 1:

An alternative to the Recommendation (a) of Report PW24025, to facilitate the clean up of private property that is impacted by encampments is to expand the Parks Encampment clean-up team, by an additional Lead Hand and Operator. The existing team that was approved as part of the Encampment Protocol and made permanent with the approval of the 2024 Operating Budget, are at capacity with work cleaning up at existing City properties impacted by encampments. Staff reviewed what would be required to complete work on additional property locations, including consideration of expectations of quick turnaround for clean-ups.

Based on costs to date of clean ups completed by the dedicated Parks team for encampment response, it is anticipated that the annual cost of the expansion of the program to include private property would require an additional Lead Hand FTE, and additional Parks Operator FTE, a vehicle, and will cost \$369,000. The Lead Hand would be involved in the initial review of the request using the Criteria Checklist found in Appendix “A” of Report PW24025 and determine what is required for the clean-up. The Lead Hand and Operator would carry out the clean-ups. The existing Encampment Supervisor will oversee this additional scope of work and staff.

The program would include staff reviewing the complaint, determining if it is related to encampments on City property and having staff work with the property owner to sign a Permission to Enter Agreement, shown in Appendix “B” of Report PW24025. Staff would take before and after photos to document the work completed. This document would only apply if this alternative is enacted. Staff would report these clean-ups in the same way as the park clean-up efforts on the weekly summary but can separate the information for transparency.

If the clean-up request is not determined to be encampment-related, but is a property maintenance standards violation, the matter would be referred to Municipal Law Enforcement for follow-up.

In order to support staff to understand expectations and to protect the health and safety of staff, a draft Standard Operating Procedure has been developed, and is included in Report PW24025 as Appendix “C” and would only apply if this alternative is enacted.

Financial: This alternative includes a requirement for additional funding to support an additional 0.5 FTE Parks Supervisor, 1.0 FTE Parks Lead Hand, 1.0 FTE Parks Operator and vehicle, at a cost of \$369,000 annually. The existing operating budget for clean-ups on City property (\$200,000 added to Parks operating budget as part of the encampment protocol) is fully allocated to

the City property clean-ups and there is no surplus to allocate to this alternative.

Staffing: This alternative includes an additional 0.5 FTE Parks Supervisor, 1.0 FTE Parks Lead Hand, 1.0 FTE Parks Operator, and a pickup vehicle to support the additional level of effort required to implement the enhanced clean-ups.

Legal: The use of a Permission To Enter Agreement (Appendix “B” to Report PW24025) outlines the conditions for staff to enter private property and identifies the work to be undertaken. Legal staff have prepared this document for use. It should be noted that this agreement is intended for residential and small commercial properties only.

Alternative 2:

A second alternative to the recommendations of Report PW24025 could be to instruct staff to report back on the feasibility of a grant program for financial relief related to encampment clean up impacts on private property. Such a program could be similar to the Protective Plumbing Program, where funds are allocated every year to the program and residents can apply for consideration to recover some, or all of the funds associated with the clean-up costs.

Another program that is currently running that provides some precedent is through Municipal Law Enforcement, where gift cards are provided to property owners to assist them with paint to cover up graffiti on their property. While staff estimate 20-25 requests for clean-ups per week based on current call volumes, it is not clear how many applications for this grant would be received, so an initial allocation of funds could be identified and distributed on a first-apply, first-allocated basis until the funds are depleted. For consideration would also be to pre-qualify contractors for this work, to support residents to find contractors that would be willing to work with them on the clean-ups.

Financial: An initial allocation of funding to start the program would be required and would form part of the report back on the program.

Staffing: N/A

Legal: N/A

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PW24025 – Criteria for Determining Clean Up on Private

Property

Appendix “B” to Report PW24025 – Sample Permission to Enter Agreement

Appendix “C” to Report PW24025 – Clean up Protocol for Private Property for
Alternative 1