

*This is an open letter to all locally elected officials in British Columbia.*

**November 10, 2023**

Dear Mayors, Councillors & Regional Directors:

I am writing to you today to bring attention to a matter of significant importance currently under debate in the BC Legislature. Bill 45, the *Miscellaneous Statutes Amendment Act (No. 4), 2023*, carries serious implications for municipal governments regarding what they may do when encountering encampments.

We are concerned that Municipal Affairs amendments in [Part 1 of Bill 45](#) (see attached) shift the burden of proof to municipalities regarding the dismantling of encampments, whereas it traditionally falls upon the province to manage and provide supportive housing and shelters. The province's management of shelter space will now directly influence a court's decision on whether an injunction to decamp an encampment can be granted. This legislation will impede local governments' ability to enforce bylaws, making the dismantling of encampments considerably more challenging.

We recognize that in situations where there is insufficient overnight shelter space, the legislation acknowledges the *Charter*-protected right of unhoused individuals to take temporary overnight shelter in parks or public spaces, as established in the case of *Victoria (City) v. Adams*, 2009 BCCA 563.

However, recent court decisions have granted injunctions for the decampment of dangerous encampments without the precondition of available shelter space or housing. Examples include *Nanaimo (City) v Courtoreille*, 2018 BCSC 1629, *Saanich (District) v Brett*, 2018 BCSC 1648, and *Maple Ridge (City) v Scott*, 2019 BCSC 157.

It is important to emphasize that the overarching responsibility and jurisdiction to create and manage shelters lies with the Province of B.C. and not municipalities.

We are sure your municipalities are informed and engaged in the ongoing legislative process, but given the potential impacts on our communities, we wanted to bring it to your direct attention if you are not aware of the implications of this legislation.

If you have any questions or concerns regarding this matter, please do not hesitate to reach out via email at [Dan.Ashton.MLA@leg.bc.ca](mailto:Dan.Ashton.MLA@leg.bc.ca). Your input and insights are invaluable as we navigate these important discussions.

Kind regards,



Dan Ashton  
BC United Shadow Minister for Municipal Affairs  
MLA for Penticton

## [BILL 45 – MISCELLANEOUS STATUTES AMENDMENT ACT \(No. 4\), 2023](#)

### **PART 1 – MUNICIPAL AFFAIRS AMENDMENTS**

#### *Community Charter*

Explanatory Note

**1** *The Community Charter, S.B.C. 2003, c. 26, is amended by adding the following section to Division 4 of Part 8:*

#### **Availability of shelter**

**274.1** For the purposes of enforcing, under section 274, a bylaw against a person who is sheltering at an encampment while homeless, alternative shelter is reasonably available to the person and meets the basic needs of the person for shelter if

- (a) the person may stay overnight at the shelter,
- (b) the person has access to a bathroom and shower at or near the shelter,
- (c) the person is offered without charge one meal a day at or near the shelter, and
- (d) the shelter is staffed when persons are sheltering at the shelter.

#### *Vancouver Charter*

Explanatory Note

**2** *The Vancouver Charter, S.B.C. 1953, c. 55, is amended by adding the following section:*

#### **Availability of shelter**

**334.1** For the purposes of enforcing, under section 334, a by-law against a person who is sheltering at an encampment while homeless, alternative shelter is reasonably available to the person and meets the basic needs of the person for shelter if

- (a) the person may stay overnight at the shelter,
- (b) the person has access to a bathroom and shower at or near the shelter,
- (c) the person is offered without charge one meal a day at or near the shelter, and
- (d) the shelter is staffed when persons are sheltering at the shelter.