

## The Corporation of the City of Peterborough

### By-Law Number 19-XXX

Being a by-law to authorize the Citizen's War Memorial Advisory Committee to maintain the Citizen's War Memorial Precinct and regulate public assembly gatherings within the Citizen's War Memorial Precinct.

#### Recitals

- A. Pursuant to subsection 10(2) of the **Municipal Act, 2001**, councils of local municipalities may pass by-laws and make regulations for the health, safety and well-being of persons within the municipality.
- B. The Citizen's War Memorial, located in the centre of Confederation Square, in the City of Peterborough, was dedicated as a War Memorial in the year 1929 and has been maintained as such since that time.
- C. The Citizen's War Memorial contains intricate statuary and bronze plaques containing the names of Peterborough County and City individuals who have paid the supreme sacrifice in military combat on behalf of Canada.
- D. It is deemed appropriate to recognize the very solemn and symbolic nature of the Citizen's War Memorial Precinct by ensuring its use is restricted to appropriate activities which are in keeping with the special history and purpose of the monument.
- E. ~~The City of Peterborough (the "City") and Operation Cenotaph, by way of By-law 1981-144, entered into an agreement concerning the creation of the Peterborough Cenotaph Trust Fund and a committee which directs City staff about investing and utilizing the Fund.~~
- F. This by-law shall ~~continues encompass~~ the City's obligations and commitments previously as contained in (i) By-law 1981-144 and in the agreement attached thereto, ~~and (ii) as contained in By-law 93-115, and (iii) By-law 10-025.~~
- G. The City shall, as directed by the Committee, utilize the ~~Peterborough Cenotaph Trust Fund~~ to for the maintain enance of the memorials within the Citizen's War Memorial Precinct.

Therefore, the Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

#### Definitions:

1. In this By-law:
  - a. "Citizen's War Memorial Precinct" or the "Precinct" means the area designated in Schedule A attached hereto, ~~which includes the memorials known as the Citizen's War Memorial and the Veterans' Wall of Honour;~~
  - b. "Citizen's War Memorial Advisory Committee" or the "Committee" means the committee authorized to perform duties and obligations previously performed by the Maintenance Advisory Committee, as set out in Article 3.
  - c. "Peterborough Cenotaph Trust Fund" or the "Fund" means the interest bearing fund administered by the City of Peterborough, created as a gift received from Operation Cenotaph, out of surplus funds from a public fundraising campaign and administered by City staff.
  - d. "City" means The Corporation of the City of Peterborough;

- e. "City Council" means the elected Council of the Corporation of the City of Peterborough;
- f. "County Council" means the elected Council of the Corporation of the County of Peterborough.

### **Cenotaph Advisory Committee Continued**

- 2. The Cenotaph Advisory Committee is hereby continued under the name Citizen's War Memorial Advisory Committee.
- 3. The Citizen's War Memorial Advisory Committee shall be composed of seven members appointed by Council who shall be:
  - a. One member of City Council;
  - b. One City resident, chosen by City Council;
  - c. One County resident, chosen by County Council;
  - d. One member from each of the service organizations representing the Army, Navy, and Air Force veterans; and
  - e. One member of the City's municipal heritage committee ("PACAC") as recommended by the membership of PACAC.
- 4. The City's Heritage Preservation Office shall provide staff support to the ~~Citizen's War Memorial Advisory~~ Committee by way of calling meetings, preparing agendas, taking minutes, and such other complementary actions as directed.

### **Powers of the Citizen's War Memorial Advisory Committee**

- 5. The ~~Citizen's War Memorial Advisory~~ Committee shall direct ~~City staff to the proper inspection and maintenance of the Citizen's War Memorial Precinct and the plaques, and masonry, and statuary located therein~~ in accordance with current conservation best practices.
- 6. The ~~Citizen's War Memorial Advisory~~ Committee shall perform all obligations as trustees of the Peterborough Cenotaph Trust Fund, including directing ~~how the Fund is investment and utilization of the Peterborough Cenotaph Trust Fund.~~
- 7. The ~~Citizen's War Memorial Advisory~~ Committee shall make all decisions concerning the ~~how the Peterborough Cenotaph Trust Fund is invested and utilized~~. Without limiting the generality of the foregoing, the Citizen's War Memorial Advisory Committee shall ensure that:
  - a. The ~~plaques, and masonry, and statuary memorials~~ within the ~~Citizen's War Memorial~~ Precinct are inspected and cleaned in accordance with current conservation best practices;
  - b. As required, but at least every two years, commencing in 2020~~10~~, a reputable firm is retained to inspect the ~~plaques, and masonry, and statuary, including the plaques and masonry of the Citizen's War Memorial within the Precinct~~ and, if necessary, ~~undertake cleaning, maintenance, conservation, and/or restoration activities of same on~~ in accordance with current conservation best practices;
  - c. In the event that there are insufficient funds in the ~~Peterborough Cenotaph Trust~~ Fund for performing the above-noted conservation ~~activities~~work, ~~the Committee may inform~~ City Council and County Council ~~be advised~~ of the need for additional funds for, ~~as the case may be,~~ the ~~cleaning,~~

~~maintenance and/or restoration repair to the plaques and masonry and statuary memorials~~ within the ~~Citizen's War Memorial~~ Precinct.

8. The ~~Citizen's War Memorial Advisory~~ Committee shall, following consultation with the City's Heritage Resources Coordinator, or designate, make recommendations to direct and advise City Council and County Council on matters concerning the upkeep and maintenance of the ~~Citizen's War Memorial Precinct~~ and the conservation of the plaques and masonry and statuary located therein.
9. In addition to all powers conferred by any statute or law upon trustees, the ~~Citizen's War Memorial Advisory~~ Committee, when making investments for the ~~Peterborough Cenotaph Trust~~ Fund, shall not be limited to investments authorized by law for trustees but they may make any investment, which in their discretion they consider advisable. The ~~Citizen's War Memorial Advisory~~ Committee members shall not be liable to the City or to the County for any loss that may happen to the ~~Peterborough Cenotaph Trust~~ Fund in connection with any investment it has, in good faith, they have authorized ~~in good faith~~.
10. Before authorizing an expenditure from the Fund or an investment of the Fund, a majority decision of the Committee is required. ~~The decision and agreement of the Citizen's War Memorial Advisory Committee is necessary for an authorized~~
11. The ~~Citizen's War Memorial Advisory~~ Committee is authorized in any one year to encroach upon the capital of the ~~Peterborough Cenotaph Trust~~ Fund, to a limit of fifty percent (50%), for any occurrence, event, or emergency provided a majority of the ~~Citizen's War Memorial Advisory~~ Committee approves ~~agree to~~ the expenditure. Any encroachment upon the capital of the Peterborough Cenotaph Trust Fund in excess of fifty percent (50%) in any one year must receive the Committee's unanimous approval ~~of the Citizen's War Memorial Advisory Committee~~.

#### **Restrictions on Use of the Citizen's War Memorial Precinct**

12. No person shall organize, use, or hold a public assembly involving the use of the Citizen's War Memorial Precinct without first having obtained the ~~Citizen's War Memorial Advisory~~ Committee's written permission. In the event the Committee is unable or unwilling to convene a meeting to discuss approving a public assembly within the Precinct, this by-law, or, if time does not permit, to delegates authority to each of the City's Commissioner of the City's Community Services (the "Commissioner") and to the City's Chief Administrative Officer (the "CAO") to approve a public assembly which, in his/her sole opinion is being held for a purpose meeting the requirements of Section 14 below ~~Department~~.
13. Notwithstanding the foregoing, the following veterans' associations shall not be required to obtain the ~~Citizen's War Memorial Advisory~~ Committee's approval for the use of the ~~Citizen's War Memorial~~ Precinct for remembrance services or other events:
  - a. Royal Canadian Legion Branch 52;
  - b. The Peterborough Naval Associated; and
  - c. The 428 (Peterborough) Wing Air Force Associated of Canada.
14. When considering an application for public assembly involving the use of the ~~Citizen's War Memorial~~ Precinct, the ~~Citizen's War Memorial Advisory~~ Committee, or as the case may be, the Commissioner or the CAO, shall consider the appropriateness of the public assembly in the context of the purpose and symbolism of the site and applicable law.

15. Prior to denying approval for any such assembly, the Citizen's War Memorial Committee, or as the case may be, the Commissioner or the CAO, shall provide notice to the applicant and an opportunity to be heard.
16. Nothing in this By-law shall restrict the right of any person to organize or hold public assembly within Confederation Square which does not utilize the area identified in Schedule A, provided such person has complied with the all applicable policies, procedures, and permit requirements as established from time-to-time by the City's Community Services Department.

### **Prohibition and Penalty**

17. No person shall damage, injure, or deface the plaques and masonry and statuary located within the Precinct~~Citizen's War Memorial or the Veterans' Wall of Honour.~~
18. Any person who contravenes any provision of this By-law is, upon conviction, guilty of an offence is and liable to any penalty as provided for in the **Provincial Offences Act.**

### **Effective Date**

19. This By-law shall come into force and effect on the day it receives sd third reading.
20. This By-law repeals By-law 10-025.
21. This By-law may be cited as the Citizens' War Memorial Precinct By-law.

By-law read a first, second, and third time this \_\_\_\_\_ date of \_\_\_\_\_, 2019.

(Sgd.) Diane Therrien, Mayor

(Sgd.) John Kennedy, City Clerk