

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 10-025

BEING A BY-LAW TO AUTHORIZE THE CENOTAPH ADVISORY COMMITTEE TO MAINTAIN THE CENOTAPH PRECINCT AND REGULATE PUBLIC GATHERINGS WITHIN THE CENOTAPH PRECINCT

WHEREAS Section 10(2) of the *Municipal Act, 2001*, as amended, permits councils of local municipalities to pass by-laws and make regulations for the health, safety, and well-being of persons within the municipality;

AND WHEREAS the Cenotaph, located in the centre of Confederation Square, in the City of Peterborough (the "City"), was dedicated as a War Memorial in the year 1929, and has been maintained as such since that time;

AND WHEREAS the Cenotaph contains intricate statuary and bronze plaques containing the names of the Peterborough County and City individuals who have paid the supreme sacrifice in military combat on behalf of Canada;

AND WHEREAS it is deemed appropriate to recognize the very solemn and symbolic nature of the Cenotaph Precinct by ensuring that its use is restricted to appropriate activities which are in keeping with the special history and purpose of the monument;

AND WHEREAS 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 WHEREAS this by-law shall encompass the City's obligations and commitments as contained in By-law 1981-144 and the agreement attached thereto and as contained in By-law 93-115;

AND WHEREAS the City shall utilize the Peterborough Cenotaph Trust Fund for the maintenance of the memorials within the Cenotaph Precinct;

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

1. DEFINITIONS

In this by-law the following words shall have the following meaning:

- a. **Cenotaph Precinct** – means the area designated in Schedule "A" attached hereto, which includes the memorials known as the Cenotaph and the Veterans Wall of Honour.
- b. **Cenotaph Advisory 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** – means the interest-bearing fund administered by the City of Peterborough, created by a gift received from Operation Cenotaph, out of surplus funds from a public fundraising campaign.

2. MAINTENANCE ADVISORY COMMITTEE CONTINUED

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

3. POWERS OF CENOTAPH ADVISORY COMMITTEE

- a. The Cenotaph Advisory Committee shall direct the proper inspection and maintenance of the Cenotaph Precinct in accordance with current conservation practices.
- b. The Cenotaph Advisory Committee shall perform all obligations as trustees of the Peterborough Cenotaph Trust Fund, including directing the investment and utilization of the Peterborough Cenotaph Trust Fund.
- c. The Cenotaph Advisory Committee shall make all decisions concerning the Peterborough Cenotaph Trust Fund. Without limiting the generality of the foregoing, the Cenotaph Advisory Committee shall ensure that:
 - i. The memorials within the Cenotaph Precinct are inspected and cleaned in accordance with current conservation practices;
 - ii. As required, but at least every two years, commencing in 2010, a reputable firm is retained to inspect the statuary, including the plaques and masonry of the Cenotaph, and, if necessary, take action in accordance with current conservation practices;
 - iii. In the event that there are insufficient funds in the Peterborough Cenotaph Trust Fund for performing the above-noted conservation work, City Council and County Council be advised of the need for additional funds for the maintenance and repair to the memorials within the Cenotaph Precinct.

- d. The Cenotaph Advisory Committee shall, following consultation with the City's Heritage Resources Coordinator, or designate, direct and advise City Council and County Council on matters concerning the upkeep and maintenance of the Cenotaph Precinct.
- e. In addition to all powers conferred by any statute or law upon trustees, the Cenotaph 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 Cenotaph Advisory Committee members shall not be liable for any loss that may happen to the Peterborough Cenotaph Trust Fund in connection with any investment they have authorized in good faith.
- f. The decision and agreement of a majority of the Cenotaph Advisory Committee is necessary for an authorized expenditure or investment.
- g. The Cenotaph Advisory Committee is authorized in any one year to encroach upon the capital of the Peterborough Cenotaph Trust Fund, to a limit of fifty (50%) percent, for any occurrence, event or emergency provided a majority of the Cenotaph Advisory Committee agree to the expenditure. Any encroachment upon the capital of the Peterborough Cenotaph Trust Fund in excess of fifty (50%) percent in any one year must receive the unanimous approval of the Cenotaph Advisory Committee.

4. RESTRICTIONS ON USE OF THE CENOTAPH PRECINCT

- a. No person shall organize, use or hold a public assembly involving the use of the Cenotaph Precinct, without first having obtained the Cenotaph Advisory Committee's written permission, or if time does not permit, to delegate the authority to the Community Services Department.
- b. Notwithstanding the foregoing, the following veterans' associations shall not be required to obtain the Cenotaph Advisory Committee's approval for the use of the Cenotaph Precinct for remembrance services or other commemorative activities:
 - i. Royal Canadian Legion, Branch 52;
 - ii. The Peterborough Naval Association; and
 - iii. The 428 (Peterborough) Wing Air Force Association of Canada.
- c. When considering an application for public assembly involving the use of the Cenotaph Precinct, the Cenotaph Advisory Committee shall consider the appropriateness of the public assembly in the context of the purpose and symbolism of the site.
- d. Prior to denying approval for any such assembly, the Cenotaph Advisory Committee shall provide notice to the applicant and an opportunity to be heard.

- e. Nothing in this by-law shall restrict the right of any person to organize or hold a public assembly within Confederation Square which does not utilize the area identified in Schedule "A", provided such person has complied with all applicable policies, procedures and permit requirements as established from time-to-time by the City's Community Services Department.

5. PROHIBITION AND PENALTY

- a. No person shall damage, injure or deface the Cenotaph or the Veterans Wall of Honour.
- b. Any person who contravenes any provision of this by-law is, upon conviction, guilty of an offence and is liable to any penalty as provided for in the *Provincial Offences Act*.

6. COMING INTO FORCE AND REPEAL OF OTHER BY-LAWS

- a. This by-law shall come into force on the date that it is approved by the Council of the Corporation of the City of Peterborough and upon this by-law coming into force, By-law 1981-144 and By-law 93-115 are hereby repealed.

7. SHORT TITLE

- a. This by-law may be cited as the Cenotaph Precinct By-law.

By-law read a first, second and third time this 1st day of March, 2010.

(Sgd.) D. Paul Ayotte, Mayor

(Sgd.) Nancy Wright-Laking, City Clerk