

**MUNICIPALITÉ OF LA PÊCHE**  
**SUMMARY OF THE PROCEDURE REGARDING A ZONING BY-LAW AMENDMENT**  
**SUBJECT TO APPROVAL BY WAY OF REFERENDUM**

A person, company or enterprise may apply in writing to have the municipal zoning by-law amended, as follows:

**1. Transmitting (submitting) an application:**

- the application in writing must include a detailed description of the proposed use and the scope of project;
- the application in writing must be transmitted (submitted) to the administrative office of the Municipality, attention of the advisory planning committee (CCU) or the director of the Planning and Environment department;
- the application must be transmitted together with a cheque of \$250 (non-refundable) to cover the cost of the study..

**2. Review of the application by the advisory planning committee:**

- the application is transmitted to the advisory planning committee (CCU) during the committee's monthly meeting (usually held on the 2<sup>nd</sup> Monday of each month);
- after reviewing the application, the CCU will advise the municipal council.

**3. Transmission of the application and recommendation of the CCU to the municipal council:**

- the application and the recommendation of the CCU are transmitted to the municipal council;
- regular council meetings are usually held on the 1st and 3rd Monday of each month;
- the municipal council will consider the application and the recommendation of the CCU. It will accept or refuse, by resolution, to initiate the procedure to amend the zoning by-law.

**4 a) Affirmative resolution from municipal council:**

- the council mandates the director of the Planning and Environment department, by way of a resolution, to draft an amendment to the zoning by-law;
- the applicant must then deposit a second cheque of \$850 (non-refundable) to cover the costs related to the amendment procedure (publication of notices, preparation of modifications, correspondence, etc.).

**4 b) Negative resolution from municipal council:**

- a copy of the resolution by which the council refuses to initiate the procedure to amend the zoning by-law is forwarded to the applicant;
- the file is closed.

**5. Adoption of the first draft of the amendment (*section 124, LUPDA*):**

- adoption, by resolution, of the first draft of the amendment;
- tabling of a notice of motion and request to waive the reading (*section 445, MC*);
- copy of the first draft given to all council members;
- copy of the first draft and the resolution adopting it are transmitted to the MRC.

**6. Notice of a public consultation (*section 126, LUPDA*):**

At least seven days before the public meeting is held, a notice regarding the adoption of the first draft of the amendment is posted at the municipal office and published in the *Info La Pêche* newsletter. The notice will state:

- the date, time and location of the public meeting (*usually at the beginning of a regular municipal council meeting*);
- the nature of the amendment by-law, the zone or zones affected and map references;
- that those who wish to comment on the matter may do so at the public meeting;
- that the first draft of the amendment by-law contains provisions making it subject to approval by way of referendum;
- that it is available for consultation at the municipal office.

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*LUPDA :An Act respecting land use and planning and development (L.R.Q., c. A-19.1)*

*CM : Municipal Code of Québec (L.R.Q., c. C-27.1)*

*LERM : An Act respecting elections and referendums in municipalities (L.R.Q., c. E-2.2)*

**7. Public consultation and adoption of second draft:**

- the public consultation concerning the first draft is usually held at the beginning of a regular municipal council meeting;
- during the public meeting, a person designated by the mayor will explain the draft by-law and hear every person or body wishing to express an opinion. He or she will also explain the nature of and means of exercising the right of certain persons to make an application for the by-law, if adopted, to be submitted to the approval of certain qualified voters (*sections 125 and 127, LUPDA*);
- following the public consultation, the council will adopt, with or without change, a **second draft** of the amendment by-law (*section 128, LUPDA*);
- a copy of the second draft by-law and the resolution adopting it are transmitted to the MRC (*section 128, LUPDA*).

**8. Public notice regarding the possibility of submitting an application to take part in a referendum:**

Following the adoption of the **second draft**, a second notice is published in the *Info La Pêche* newsletter (**not mandatory, according to the MC and the LUPDA**) and posted at the locations set by council (*section 431, MC*). Such notice must include the following information (*section 132, LUPDA*):

- the number, title and date of adoption of the second draft;
- the object of the provisions in respect of which an application may be made and that a copy is available for consultation at the municipal office;
- identification of the zone concerned and adjoining zones, stating that any person entitled to vote, from any of the zones concerned, may submit an application with regard to the provisions subject to approval by way of referendum and sets out the conditions of validity of an application. *Such an application may be submitted individually or as a petition at the municipal office*;
- the fact that provisions in respect of which no valid application is received may be included in a by-law that is not required to be submitted for the approval of the qualified voters;
- the deadline for submitting an application.

**An application, in order to be valid, must meet the following conditions (*section 133, LUPDA*):**

- state clearly the provision of the by-law to which it refers and the zone from which it originates;
- be signed by at least 12 interested persons in the zone from which it originates, or by a majority, if the number of interested persons in the zone does not exceed 21;
- be received by the municipality not later than the eight day following the day on which the notice is published

**9. Adoption of one or several amendment by-laws:**

If no valid application is received, the by-law is adopted as set out in the second draft **or** a residual by-law is adopted which contains solely the provisions of the second draft in respect of which no valid application has been received (*section 135, LUPDA*):

- **Proceed to number 10.**

If one or several valid applications are received, one or several separate (distinct) by-laws are adopted (*section 136, LUPDA*):

- **Follow numbers 9 a) through 9 d).**

**9 a) Adoption of one or several separate by-laws (sections 136, 136.1 to 137.2, LUPDA):**

In cases where a valid application has been received in respect of a provision of the second draft by-law, that provision may only be contained in a separate by-law:

- adoption of one or several separate by-laws to be submitted to the approval of the qualified voters in each zone from which a valid application originated;
- a separate by-law is adopted for each provision of the second draft in respect of which a valid application has been made.
- all separate by-laws must be approved by those qualified to vote, in accordance with the Act Respecting Elections and Referendums in Municipalities (chapter E-2.2);
- a copy of each separate by-law and the resolution adopting it are transmitted to the MRC, which is notified that the by-law requires the approval of the qualified voters (*section 137.2, LUPDA*).

**9 b) Notice announcing the registration period (sections 431, MC and 539, 540 AERM):**

Not later than five days before the day the register opens for registration, a third notice is published in the *Info La Pêche* newsletter (**not mandatory, according to the MC and the LUPDA**) and posted at the locations set by council (*section 431, MC*).

The heading of the notice must clearly identify the group of persons for whom the notice is intended. Furthermore, if the notice is intended for the qualified voters entitled to have their names on the referendum list of a sector, the heading shall include a summary description of the sector.

The notice shall set out:

- the number, title, object and date of adoption of the by-law;
- the right of every person for whom it is intended to demand that the by-law be submitted to a referendum poll by entering their name, address and capacity, together with their signature, in a register open for that purpose;
- the number of applications needed according to section 553 of the AERM to require that a referendum poll be held;
- the fact that if the required number of applications is not reached, the by-law will be deemed approved by the qualified voters;
- the place where and the days and hours when the by-law may be examined;
- the place or places where and the days and hours when the register will be opened for registration;
- the place where and the day and time when the results of the registration procedure will be announced.

Where it is necessary to hold a simultaneous registration procedure in respect of several by-laws, each shall be the subject of a separate notice and have separate registers.

However, the secretary-treasurer may publish a single notice respecting all the by-laws which concern the same qualified voters.

**9 c) Holding a registration (registration period) (sections 536 to 557, AERM):**

The register shall be open from 9 a.m. to 7 p.m. without interruption, on the day fixed by the secretary-treasurer (*section 536*);

Where it is necessary to hold a simultaneous registration procedure in respect of several by-laws, each shall be the subject of a separate register (*section 540*).

As soon as possible after the end of the registration period, the secretary-treasurer will draw up a certificate showing the number of applications made and the fact that the by-law is deemed to be approved by the qualified voters **or** that a referendum poll must be held, as the case may be (*sections 553, 554 & 555*).

The secretary-treasurer shall table the certificate before the council at its next sitting (*section 557*).

A referendum poll must be held where the number of signatures reaches 50% of the qualified voters, where there are 25 or fewer or the number obtained by adding 13 to 10% of the qualified voters in excess of 25 (*section 553*).

If the number of signatures is lower than the number needed to require that a referendum poll be held, the by-law is deemed to be approved by the qualified voters (*section 554*):

- **Proceed to number 10.**

If the number of signatures is sufficient (*section 553*):

- **Proceed to 9 d).**

**9 d) Sufficient number of applications (signatures) (*sections 557, 558 and 559, AERM*):**

The secretary-treasurer shall table the certificate before the council at its next sitting, following the registration period (*section 557*).

The council may, by resolution, withdraw the by-law (*section 559*):

- within 15 days of the withdrawal, the secretary-treasurer informs the persons concerned by a public notice;
- the secretary-treasurer sends a copy of the notice to the Chief Electoral Officer showing the date on which the notice was published.

**OR:**

The council shall fix, not later than at the sitting following that at which the certificate is tabled, the date of the poll, in accordance with Chapter VI of the AERM (*section 558*):

- the secretary-treasurer shall inform the Chief Electoral Officer in writing of the date of the poll;
- **Follow the procedure provided under chapters V and VI of the AERM**

**10. Adoption of the amendment by-law or a residual by-law (*section 135, LUPDA*):**

- adoption of the by-law as set out in the second draft;

**OR:**

- adoption of a residual by-law containing only those provisions of the second draft by-law in respect of which no valid application has been received.

Such by-law (as set out in the second draft or the residual by-law) is not subject to approval by the qualified voters.

**11. Transmission to the MRC (*section 137.2, LUPDA*):**

- As soon as practicable after the adoption of a by-law referred to in number **10**, a certified copy of the by-law and the resolution adopting it will be transmitted to the MRC.

**OR:**

- A notice specifying the date on which a separate by-law referred to in number **9 a)** is deemed to have been approved shall be transmitted to the MRC.

**12. Approval by the MRC (*section 137.3, LUPDA*):**

- within 120 days after the documents described at number **11** are transmitted, the council of the MRC shall approve the by-law if it is in conformity with the objectives of the development plan and the provisions of the complementary document or, if not, it shall withhold approval thereof.
- as soon as practicable after the adoption of a resolution by which the by-law is approved, the secretary shall issue a certificate of conformity in respect of the by-law and transmit a certified copy of the certificate to the municipality.

**13. Coming into force of the amendment by-law or by-laws (section 137.15):**

- every zoning amendment by-law comes into force on the date on which the certificate of conformity is issued;
- As soon as practicable after the coming into force, the secretary-treasurer of the municipality shall publish a notice thereof in the *Info La Pêche* newsletter and post it at the municipal office.

In conclusion, it is important to note that this procedure requires 3 to 4 months to complete, due to the legal delays prescribed by various laws at certain stages of the procedure.

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