

Municipalité of La Pêche

Procedure of municipalization of a private road PMCP 04-07-2012

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Procedure of municipalization of a private road

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PROCEDURE OF MUNICIPALIZATION OF A PRIVATE ROAD PMCP 04-07-2012

1. HAVE A PETITION SIGNED BY THE OWNERS, RESIDENTS AND BENEFICIARIES OF THE WORKS

The petition must be presented on the original form prepared by the Municipality. Only the original form will be accepted. No photocopies or other document will be accepted.

The petition-request mention that all the necessary studies effectuated by an engineers firm will be at the expenses of the owners in order to know the cost to put the road up to municipal standards. The petition could mentioned that the signatories request that the Municipality adopt a loan by-law to pay the cost of those studies, in that case, the Municipality will deduct the necessary sum for the reimbursement from the tax account of the works beneficiaries

The petition also mentions that all the costs related to the request and transfer of the road to the Municipality are at the expenses of the owners and will be divided fairly for all the properties inscribe in the assessment roll which will benefit from the works and will be part of the loan by-law.

It is mandatory that the majority of the people qualified to vote sign the petition and better to have as many as possible signatures to convince the Municipality to begging the procedure.

The petition form clearly state that administrative fees of 10% will be added to the cost and invoices to the owners, residents and beneficiaries of the works.

An analysis of the file will be effectuated jointly by the administration (verification of the names on the petition-request) and by the department of the publics works (criteria).

In accordance with the municipal cost policy, a deposit, not refundable, of a hundred dollars (\$100) is required with the deposited of the request for study and analysis of the file.



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2. DEPOSIT OF THE PETITION TO THE COUNCIL

The petition will be presented during a municipal council meeting. The municipality then submit the request to the public works committee and give a recommendation.

If the recommendation is unfavourable, a letter is send to the applicants to inform them of the refusal. In that case, a new request will not be accept within a year starting from the date of the refusal letter was send to the applicants.

If the recommendation is favourable, a resolution is adopted by the Municipal council requesting the preparation of a study made by engineers to know the cost to put the road up to municipal standards. If requested, a loan by-law is also adopted to finance the study.

3. ENGINEER STUDY

The Municipality request estimation for the preparation of an engineer study to know the cost to put the road up to municipal standards.

4. INVITATION TO VOTE AND LOAN BY-LAW

Following the reception of the cost, the Municipality invite all the owners, residents and beneficiaries of the works by letter or email to a meeting or information session (with minimum of fifteen days notice) to inform them of the study cost and the next step for the municipalization of the road.

If the majority of the owners, residents and beneficiaries agreed with the study cost, a loan by-law is adopted indicating the financing methods of those studies. The Municipality then mandate the engineers to proceed with the preparation of those documents to know the cost to put the road up to municipal standards.

At the reception of the documents indicating the cost of the works, the Municipality invite by letter or email, to a meeting or information session (with a minimum of fifteen days notice) all the owners, residents or beneficiaries qualified to vote, and this in the best delay. The Municipality present the costs and different scenario to reimburse the loan by-law. The cost includes the preparation of documents, the plans and specifications as well as the construction cost to put up to standards, as estimated by the engineers. The people concerned are request to vote.



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If the majority of the owners, residents and beneficiaries agreed, the Municipality adopt a loan by-law to cover the costs for the preparation of plans and specifications as well as the documents of call for tenders. Under the term of the article 1061 of the municipal power act, a loan by-law for which the only object is the establishment of plans and specifications does not required the approbation of the Ministère des Affaires municipales et des Régions.

The by-law is divided on the tax account of the owners, residents and beneficiaries of the works, according to the method chosen by the majority of the present people to the meeting, or if there is no agreement, the council will decide on the method of costs division.

5. CALL FOR TENDERS

The engineer firm publishes a call for tenders to establish the actual construction cost to put the road up to municipal standards.

6. NOTICE OF MOTION

The engineer firm responsible of the preparation of plans review the received tenders. Under the existing laws, the firm must choose the lowest tender that encounters all the requirements of the call for tenders.

A notice of motion is then deposited at the municipal council for adoption of a loan by-law which cover the cost of construction. At this point there is no commitment of the owners, residents and beneficiaries of the works to go forward.

7. PUBLIC MEETING

The Municipality invite all the owners, residents and beneficiaries qualified to vote to a new meeting in order to discuss and decide of the repartition cost. Once against, the owners, residents and beneficiaries of the works are invited by a written letter send many weeks in advance. After that the Municipality has presented the different possible mode, the present peoples are asked to give their opinions. That kind of loan is generally made on a 25 to 50 period at the choice of the beneficiaries of the people qualified to vote.

The owners, residents and beneficiaries of the works must consider the benefits of the municipalization in comparison to annual maintenance costs – grading, materials, snow removing etc. and the quality of the services.



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8. ADOPTION OF THE LOAN AND MUNICIPALIZATION BY-LAW

The council adopts the loan by-law.

9. OPENING OF THE REGISTER IN ORDER TO ALLOW THE OWNERS WHO TO THE BY-LAW TO LET KNOW OF THEIR OPPOSITION.

The owners, residents and beneficiaries of the works who are qualified to vote having the right to be inscribed to the municipal referendum list can oppose to the by-law by signing the register open for this purpose.

If a sufficient number of owners, residents and beneficiaries (number determinate by the Law on function of the number of beneficiaries) opposed to the by-law by signing the register, the council can request a referendum or abandon the project. If the number of signature on the register is insufficient, the by-law is adopted.

10. REFERENDUM

In case of referendum, the following definition is applied:

Majority = 50% plus 1 of the people qualified to vote that have prevail of their right to vote (see official definition in annexe), that are owners of a land, permanent residents or beneficiaries of the works.

Beneficiaries of the work: all the owners or residents who must pass on the road to access their property.

11. GRANTING THE CONTRACT

If the by-law is adopted, the contract is granted by resolution to put the road up to municipal standards and to municipalize the road.



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12. CESSION

A notary is mandated by the municipality to prepare the legal documents in order to transfer the road to the Municipality only at the end of the works on reception of a certificate of conformity to the municipal by-law issued by an engineer also mandated by the Municipality.

13. INVOICING

All expenses related to the request and transfer of the road (s) are at the charges of the owners, residents and beneficiaries of the works and will be part of the loan by-law. The construction cost are invoiced to the owners, residents and beneficiaries of the works according to the form choose in the loan by-law

14. OTHERS

If the process is refuse at any time of those steps, a new request can not be presented before two (2) years.



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ANNEXE 1

OFFICIAL DEFINITION OF “PERSONS QUALIFIED TO VOTE”

1. Any person who, at the date of adoption of the by-law, was not incapacitated according to section 524 of the Act respecting elections and referendums in municipalities and who meets the following requirements:
 - o a private individual residing in the sector affected by the by-law and having resided in Québec for the past 6 months at least and
 - o being of legal age, a Canadian citizen and not under guardianship.

2. Any non resident sole proprietor of an immovable or non resident sole occupant of a commercial establishment in the sector affected by the by-law, who is not incapacitated to vote and meets the following conditions:
 - o being the sole owner of an immovable or the sole occupant of a commercial establishment located in the sector affected by the by-law for the past 12 months at least;
 - o in the case of an individual, he or she must be of legal age, a Canadian citizen and not under guardianship.

3. Any non resident co-owner in undivided ownership of an immovable or non resident co-occupant of a commercial establishment in the sector affected by the by-law, who is not incapacitated to vote and meets the following conditions:
 - o being a co-owner in undivided ownership of an immovable or a co-occupant of a commercial establishment located in the sector affected by the by-law for the past 12 months at least;
 - o appointed by proxy, signed by a majority of the persons who have been co-owners or co-occupants for the past 12 months at least, as the person authorized to sign the register on their behalf and be registered on a referendum voters list, if applicable, for the sector affected by the by-law. The proxy must have been filed prior to or at the time of signing the register.



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4. Corporation:

- o have appointed by resolution, amongst its members, administrators or employees, a person who, on October 17, 2011, and at the time of exercising this right, is of legal age, a Canadian citizen, and who is not under guardianship or legally incapacitated to vote.

Art. 1061.

Every municipal loan or any issue of bonds made by it for the purpose of payment or assistance must be made by regulation, subject to any provision to the contrary.

A regulation made under the first paragraph of a local municipality shall be subject to the approval of the qualified voters and the Minister of Municipal Affairs and Regions.

However, a settlement loan whose sole purpose is the development of plans and specifications or financing of any amount that the municipality must pay in respect of an unfunded liability or an amount determined under paragraph 4 of second paragraph of Article 137 of the Act respecting supplemental pension plans (RSQ, c R-15.1.), determined on an actuarial valuation of a pension plan in which it participates requires only the approval of the Minister.