

**PROVINCE DE QUÉBEC
MUNICIPALITÉ DE LA PÊCHE**

BY-LAW NUMBER 15-690

BY-LAW CONCERNING THE MAINTENANCE OF PRIVATE ROADS

Whereas there are on the territory of the Municipality of La Pêche many private roads;

Whereas under the term of article 70 of the Law on Municipal competence, a local municipality can maintain a private road open to public by tolerance of the owner or occupant, on request of a majority of the owners or shore occupant;

Whereas the municipality wants to offer to immovable owners located on a private road, the possibility, to proceed to the maintenance of the road;

Whereas the municipality want to establish the relevant conditions to the maintenance of private roads;

Whereas a notice of motion of the present by-law was duly given at an anterior council session held March 16, 2015;

Whereas the Municipality of La Pêche, by the present by-law, ordain and decree as follow;

ARTICLE 1

The preamble of the present by-law is an integral part of it.

ARTICLE 2

The present by-law as for objective to determinate the relevant conditions to have maintained by the Municipality a private road. It is also to determinate the modalities of payment by the concerned owners of those services. The principal objectives of the present by-law are:

- o Favor a clear decision, following the rules and procedures established;
- o Avoid any ambiguity concerning the related cost share for the maintenance;
- o Favor the equity for all maintenance request

ARTICLE 3 – CONCERNED ROADS

The municipality effectuate the maintenance of private roads if all the following criteria are respected:

- o Be clear of all obstruction of a width of 6 metres;
- o Be clear of all obstruction on a height of 5 metres;
- o In the case of a dead end, have a roundabout large enough to allow a truck with equipment to do a turn in 3 points (T). in this case, if a turn in 3 points (T) must be done on private entry, a written authorisation of the owners is mandatory;
- o The maintenance contract will have to be for three (3) years and is not renewable , a new request will have to be presented;

ARTICLE 4 – MAINTENANCE REQUEST PROCEDURE

Any person who wants to have maintained a private road must deposit at the Municipality as “Maintenance request”. This request must be sign by a majority of the owners (50% plus one) whom must use the private road to have access to their property, as well as the owner or owners of the lot which constitute the road in question in the maintenance request.

This “Maintenance request” must be presented on the form given by the municipality (the copies or any other documents will not be accepted).

This request must be received at the municipality office before

- o September 1st for the winter request
- o March 1st for the summer request

The requests received after those dates will not be studied for the current year, but for the following;

The request must specify:

1. The date of the request
2. The designation of the concerned roads;
3. The number of owners;
4. The name of the responsible designated by the ground to act as mandatary among the municipality
5. The type of maintenance requested
6. The repartition method considered to be undertake, by the concerned persons, the totality of cost for related to the type of maintenance (article 5 for the present by-law)
7. The authorisation of a three points turns if necessary (T)
8. A plan of the road showing the part to maintain, the civic addresses to served and the distance to do and show the three turn points (T) if necessary;

In conformity with the tariff by-law applicable to goods, services and equipment and some requests, a deposit of three hundred dollars (\$300) is required with the request.

- o \$100 for the study fees and analyse of the request
- o \$200 as guaranty deposit for the tender procedure¹

The procedure to end the maintenance of a private road is the same as the request and must be deposited to the Municipality at least six (6) months before the end of the maintenance.

ARTICLE 5 – COST REPARTITION

The repartition method which will be considered to be undertaken, by the concerned people, the totality of the cost related to the type of maintenance will have to be one of the following:

- a) Equal share between all the immovable owners;
- b) Repartition according to the frontage of each property;
- c) Repartition according to the immovable area;

However, the municipality has the right to intervene if she judge there is iniquity or problem;

¹ The sum of \$ 200.00 will be refunded or deducted from the contract amount if a bid is accepted. In the opposite case, if the bids are rejected by the association, the deposit will be forfeited.

ARTICLE 6 – DECISION OF THE MUNICIPALITY

After reception of the request, the council accept, with or without condition, or refuse, by resolution, to follow up to the maintenance request. The municipality beneficiate of the whole right to accept or refuse the maintenance of a private road;

ARTICLE 7 – TARIFF AND TAXATION

A fee will be imposed annually on each assessment unit included in the taxation basin, all following the repartition method chosen (article 5) of the maintenance request.

The council will adopt a by-law providing tariffs for each private road taken in charge. This by-law will provide for the repartition of maintenance costs of the road to the actual value as agreed with the majority of owners.

Administrative fees of 10% will be added to the contract cost;

A special taxes will be applied annually at the same time of the annual property tax or during the year and after the and after the completion of work on each taxable assessment unit adjacent to the Road and which at least one access to this unit is made via this road.

The costs should be divided among all owners, who benefit from the maintenance work.

ARTICLE 8 – NONE RESPONSIBILITY OF THE MUNICIPALITY

In no case, the Municipality cannot be held responsible for any damage caused directly or indirectly by maintenance by the contractor.

The owners exude the Municipality of any liability in case of default on the part of the contractor.

ARTICLE 9 – RESPONSIBILITY OF THE CONTRACTOR

If the contractor does not respect the work identified in the agreement or fails to perform the work to the satisfaction of the applicants, the responsible shall notify in writing the contractor and the Municipality.

If problems persist, the responsible shall take the measures he deems necessary and with the written consent of the applicants and immediately inform in writing the Municipality.

If the responsible and with the written consent of all applicants, terminates the contract with the contractor, the municipality adopts a resolution to this effect and owners will resume the burden maintenance of the road.

Another petition request for the management of the said road may then be submitted to council for the Municipality to undertake the process again for the year or the following season.

ARTICLE 10 – TYPE OF MAINTENANCE OF A PRIVATE ROAD

10.1 Summer maintenance

The summer maintenance service only involves grading of road;

If the physical condition of the road puts at risk the maintenance operations, they can be suspended until the applicants bring the necessary corrections to infrastructure.

10.2 Winter maintenance

The winter maintenance service involves snow removal of the road on a maximum width of 5 meters, the snow being push against shoulders or on private properties and deicing the road.

If the physical condition of the road puts at risk the maintenance operations, they can be suspended until the applicants bring the necessary corrections to infrastructure.

ARTICLE 11 – ABROGATION

The present by-law replaces and abrogates all by-laws, politics and procedures concerning private roads;

ARTICLE 12 – INTERPRETATION

The masculine is used in this by-law without discrimination and includes the feminine in order to avoid too heavy text.

The French version of this by-law shall prevail over the English version regarding its interpretation.

ARTICLE 13 – ENTRY INTO FORCE

This by-law shall enter into force according to law.

Robert Bussière
Mayor

Annie Racine
General Director and
Secretary-Treasurer

Notice of motion
Adoption :
Publication :
Entry into force

March 16, 2015
May 4, 2015
May 8, 2015
May 8, 2015