

RIGHT OF INITIATIVE IN PUBLIC CONSULTATIONS

PREAMBLE

As that right is one of the commitments made by the city in the Montréal Charter of Rights and Responsibilities (article 16 (h)), namely to define, set guidelines for, and grant citizens, by by-law, the right of initiative in public consultations;

As that right is complementary to existing public consultation processes and does not allow the duplication or the replacement of such processes, and is aimed at new significant and developmental projects;

As that right neither replaces nor seeks to limit actions individually taken by citizens to apply for the holding of a public consultation by the city or their borough, by any means deemed appropriate, including petitions;

As that right does not limit the power of elected officials to initiate at any time a voluntary public consultation process;

As that right has been proposed several times in the past twenty years;

As that right, though innovative, is founded on characteristics of consultation processes similar to existing processes in our laws and elsewhere;

As that right does not affect the responsibility of elected officials to make decisions;

As that right is added to democratic tools put forth by the city in the last few years, such as the Charter of Rights and Responsibilities, and the Public Consultation and Participation Policy;

The city proclaims, under this right of initiative in public consultations, its commitment to a participative democracy in harmony with a representative democracy;

PART I

INTERPRETATION

1. In this schedule, the following words mean:

“borough matter”: a matter which, in accordance with the sharing of powers, is under the jurisdiction of borough councils;

“central city matter”: a matter which, in accordance with the sharing of powers, is under the jurisdiction of the executive committee, the city council, the urban agglomeration council, or which, by its nature and in the opinion of the executive committee, has an impact on the entire territory of Montréal. A matter over which jurisdiction is shared between one of the decision-making bodies of the city and another level of government is also considered a city council matter;

“person qualified to sign a petition”: an individual aged 15 or more, residing on the territory of Montréal, if it is a petition relating to a central city matter, or on the territory of the borough concerned, if it is a petition relating to a borough matter.

PART II

APPLICATION

2. The right of initiative may be exercised over any city matter. Subject to the conditions provided for in this schedule, the exercise of that right has the effect of requiring the holding of a public consultation.

For the purposes of the first paragraph, a city matter is any borough matter or any central city matter.

3. Despite article 2, the right of initiative does not apply to the following:

- (1) a rule relating to the sharing of powers, the governance or the status of the city, as provided for in the Charter of Ville de Montréal (R.S.Q., chapter C-11.4), or in any other law or order in council;
- (2) an organizational matter, such as staffing and personnel management, administrative organization and contract management;
- (3) a mainly budgetary matter, such as the budget, fees or taxes;
- (4) a matter which, under the Charter of Ville de Montréal (R.S.Q., chapter C-11.4), may be referred to the Commission de la sécurité publique;
- (5) a matter for which a law or a by-law in force requires the city to act in a specific manner, such as the negotiation and application of collective agreements, or the contract award procedure;
- (6) a matter which, by its nature, would be contrary to the Charter of Rights and Responsibilities;
- (7) a matter for which a public consultation process or a referendum approval is established by law;

- (8) a matter that was subject to a public consultation process in the 3 years preceding the filing of a draft petition, the period being calculated from the date of the last public meeting. The consultation must have included at least one public meeting with a public question and comment period. It must have been held under the mandate of a city body;
- (9) a matter for which a draft petition was received in the 2 years preceding the filing of a new draft petition, but that did not lead to the filing of a conforming petition after publication of the notice concerning that petition;
- (10) a matter covered by a call for tenders, pending or completed, or for which a contract has already been awarded, insofar as it could result in penalties or recourses against the city;
- (11) a decision concerning one of the commitments in the Charter of Rights and Responsibilities, and that may give rise to a complaint with the ombudsman;
- (12) a matter pending before the court or a matter that was the object of a judgment or an out-of-court settlement.

4. To respect the limits inherent to financial and human resources at the disposal of the city or its boroughs, the maximum number of public consultations that an authority may be required to hold in a calendar year under the right of initiative is set at 3, for central city matters, and at 2 per borough, for borough matters. The consultations that should be held as a result of conforming petitions presented after the maximum number is reached, are deferred until the next calendar year.

For the purposes of the first paragraph, as the process linked to the right of initiative may cover more than one calendar year, a consultation is deemed to be held in the calendar year during which, according to article 20, the first part of the consultation was held.

The first paragraph does not have the effect of preventing an authority from holding any additional public consultation under that right if it has the necessary resources.

5. No draft petition may be filed between January 1 and November 15 during a municipal election year or during the election period of a borough by-election.

If a by-election is held, the procedure relating to the right of initiative is suspended as of the date on which the election is called until the day after polling day. No signatures may be solicited during the suspension.

PART III

PROCEDURE

CHAPTER I

PRESENTATION OF A DRAFT PETITION

6. The exercise of the right of initiative begins with the filing of a draft petition.

For the purposes of a draft petition, the standard form provided by the city must be used. A draft petition presented otherwise is not admissible.

A draft petition must:

- (1) clearly and briefly state the object of the proposed consultation;
- (2) justify the holding of the proposed consultation for the group concerned;
- (3) be signed by at least 25 persons qualified to sign a petition;
- (4) identify, from among the signers of the draft petition, 3 persons designated as group representatives, and one as the contact person;
- (5) not contain any statement susceptible of misleading, leading to confusion, or expressing contempt;
- (6) be completed and transmitted in accordance with specifications.

7. The draft petition is filed with the city clerk's office or the borough office concerned

8. A draft petition is admissible if it is in accordance with articles 2 to 6.

9. Within 45 days after the filing of a draft petition, the designated contact person and, as the case may be, the borough council members concerned or the executive committee members, are informed of the admissibility of the draft petition.

A copy of any reply transmitted under the first paragraph is tabled at a subsequent meeting of the borough council concerned or the executive committee, depending on the object of the draft petition.

CHAPTER II

SIGNING OF PETITION

10. Within 45 days of the reply transmitted in accordance with article 9, a notice is given to announce the beginning of the petition signing period.

The notice is published on the city's Internet site, for central city matters, and in at least one local newspaper on the territory of the borough, and on the Internet site of the borough concerned, for borough matters.

The notice states the object of the petition in the same terms as those used for the draft petition filed, the capacity required of signers, the number of signatures necessary to require the holding of a public consultation, and the date of the petition signing period.

The petition signing period is 90 days and begins on the day of publication of the notice.

The notice referred to in the first paragraph need not be given if the group representatives request in writing to withdraw their application, in view of any development in connection with their application.

11. The standard petition form provided by the city must be used to exercise the right of initiative. No other petition form is receivable.

The form referred to in the first paragraph must be completed and transmitted in accordance with specifications.

12. Every person who signs a petition to exercise the right of initiative must, at the place and in the manner provided for, solemnly declare that he meets the criteria as a person qualified to sign.

13. No electronic petition or signature is accepted for the exercise of the right of initiative.

CHAPTER III

CONFORMITY OF PETITION

14. A public consultation must be held if a conforming petition has been filed.

15. Apart from the requirements otherwise provided for, a petition is considered conforming if it contains the required number of signatures of persons qualified to sign.

For the purposes of a consultation relating to a central city matter, 15 000 signatures are required.

For the purposes of a consultation relating to a borough matter, the minimum number of signatures required is set at 5% of the number of persons qualified to sign, or at a maximum of 5000.

The number of persons aged 15 or over is determined from the socioeconomic profiles of boroughs produced by the city, and based on the latest data available from Statistics Canada.

The signatures must be collected during the 90-day period specified in the notice given under article 10. However, the petition may be filed at any time before the end of that period, if the number of signatures is reached.

16. Within 21 days of the filing of a petition, the designated contact person is informed, by the city clerk or the director of the borough office, as the case may be, of the conformity of the petition as to:

- (1) the number of signatures, in accordance with requirements;
- (2) the time period to collect signatures.

PART IV PUBLIC CONSULTATION

17. Within 21 days of the notice referred to in article 16, relating to the conformity of a petition, the schedule of arrangements and of the public consultation is transmitted to the designated contact person. It is also published on the city's Internet site, for central city matters, and on the Internet site of the borough concerned, for borough matters.

The public consultation must be held within a reasonable period.

18. A notice announcing the public consultation is published, at least 15 days before the beginning of the consultation, on the city's Internet site, for central city matters, and in at least one local newspaper available on the territory of the borough, and on the Internet site of the borough concerned, for borough matters.

The notice states the object of the petition in the same terms as those used for the draft petition filed, and indicates that the background material relating to the object of the petition is available in borough offices and at the city clerk's office, for central city matters, and at the borough office concerned for borough matters, as well as at any other place designated in the notice.

The authority concerned by the application is responsible for assembling the information relating to the object of the consultation. The information must be relevant and likely to foster dialogue.

The information must, in particular, bear on the nature of the project submitted for consultation, its issues and possible impact.

19. In the case of a public consultation concerning a borough matter, the authority responsible for holding the consultation is the borough council, one of its committees, any committee or group of designated persons, as the council concerned may decide.

In the case of a public consultation concerning a central city matter, the authority responsible for holding the public consultation is any existing municipal public consultation body designated by the executive committee:

- (1) a council committee;
- (2) the Office de consultation publique de Montréal.

20. A public consultation is divided into two parts.

The first part bears on the presentation of the matter and the question period. During that part, the group representatives present and justify the application that led to the public consultation.

The second part is reserved for the expression of opinions.

There must be at least 15 days between the holding of the two parts of the public consultation.

21. Within 90 days after the public consultation, a report must be made public by the responsible authority.

The report must take into account the concerns and opinions expressed at the consultation, review them and formulate conclusions, opinions or recommendations. It has no decisional character.

22. The borough or the city council, as the case may be, informs the people concerned of the results of the public consultation and, as the case may be, of the decisions taken and their grounds.

PART V

RECOURSE TO THE OMBUDSMAN

23. Any complaint relating to the application of the right of initiative may, within the limits provided for in the By-law concerning the ombudsman (02-146), be submitted to the ombudsman.

PART VI

REVIEW

24. The conditions relating to the application of the right of initiative under this schedule will be evaluated 2 years after their coming into force, as part of a public consultation, and then periodically afterwards.