

Draft Regulations

Draft Regulation

An Act respecting land use planning and development (chapter A-19.1)

Public participation in matters of land use planning and development

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting public participation in matters of land use planning and development, appearing below, may be made by the Minister of Municipal Affairs and Land Occupancy on the expiry of 45 days following this publication.

The draft Regulation regulates public participation in matters of land use planning and development, and sets requirements relating to the content of a public participation policy adopted under section 80.1 of the Act respecting land use planning and development (chapter A-19.1).

Further information may be obtained by contacting Isabelle Boucher, 10, rue Pierre-Olivier-Chauveau, 3^e étage, Québec (Québec) G1R 4J3; telephone: 418 691-2039.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Municipal Affairs and Land Occupancy, 10, rue Pierre-Olivier-Chauveau, 4^e étage, Québec (Québec) G1R 4J3.

MARTIN COITEUX,
*Minister of Municipal Affairs
and Land Occupancy*

Regulation respecting public participation in matters of land use planning and development

An Act respecting land use planning and development (chapter A-19.1, s. 80.3)

DIVISION 1 PRELIMINARY

1. This Regulation regulates public participation in matters of land use planning and development, and sets requirements relating to the content of a public participation policy adopted under section 80.1 of the Act respecting land use planning and development (chapter A-19.1).

It applies to any local municipality that avails itself of the provisions of Chapter II.2 of Title I of the Act.

2. In this Regulation,

(1) “**public participation process**” means all the public participation measures that must, under a public participation policy or the Act respecting land use planning and development, be accomplished in respect of an instrument;

(2) “**public participation measure**” means any informative, consultative, active participation or feedback measure;

(3) “**consultative measure**” means any measure intended to allow interested persons to ask questions or to make observations, in particular by expressing concerns, expectations or opinions and by making suggestions;

(4) “**informative measure**” means any measure relating to the production and communication of information for the benefit of interested persons;

(5) “**active participation measure**” means any measure intended to actively involve interested persons in the decision-making process relating to an instrument and to recognize the possibility for them to make a contribution;

(6) “**feedback measure**” means any measure intended to allow interested persons to know how their observations and contributions have been taken into account by the municipality.

DIVISION 2 COMPULSORY CHARACTER OF A PUBLIC PARTICIPATION PROCESS

3. A municipality must, before adopting an instrument subject to a public participation process, accomplish all the measures that are included in the process.

DIVISION 3 PUBLIC PARTICIPATION POLICY

§1. General

4. A public participation policy determines the instruments subject to a public participation process.

Such instruments must include

- (1) any by-law relating to the preparation or revision of a planning program;
- (2) any by-law amending a planning program to introduce into it a special planning program or to amend such a program so that the proposed zoning rules regarding uses, main constructions or the dimensions of main constructions are no longer the same;
- (3) any by-law referred to in the third or fourth paragraph of section 123 of the Act respecting land use planning and development; and
- (4) any resolution by which a municipality grants, in accordance with section 145.38 of the Act respecting land use planning and development, an authorization in respect of a specific project for the construction, alteration or occupancy of an immovable that is at variance with a provision referred to in subparagraph 1 of the third paragraph of section 123 of the Act.

5. The public participation measures included in a public participation process may vary according to the type of instrument subject to the process or any other relevant criterion.

6. Where a public participation process includes a public meeting under section 95, 109.2 or 125 of the Act respecting land use planning and development, the policy must provide for the accomplishment of public participation measures before the public meeting is held.

7. The policy must be aimed at fostering participation of the greatest number of interested persons, including persons who belong to groups likely to be underrepresented in a public participation process.

8. The policy describes the role of the elected officers in each public participation process and provides for the manner in which they will be informed of the results of the various public participation measures.

9. The policy identifies the persons who are responsible for implementing it.

It may provide that public participation measures will be implemented by persons who are neither municipal elected officers nor public servants, provided that those persons have no interest in the subject of the public participation process.

§2. *Informative measures*

10. Every public participation process must include informative measures, which must provide for the use of various means of communication.

11. The policy must provide for the dissemination of information on the main steps of the decision-making process relating to an instrument and on the public participation measures that will be accomplished during each step.

The information must be disseminated not later than the 14th day prior to the beginning of any consultative or active participation measure included in a public participation process.

12. The policy must provide, in respect of any instrument referred to in the second paragraph of section 4, for the dissemination of a text pertaining to its main foreseeable effects on the economic and social development, and on the environment. In the case of an instrument referred to in subparagraph 3 of that paragraph, the policy must also provide for the dissemination of an explanatory text, which must set out any project for the construction or alteration of an immovable with which the municipality is already seized and that the instrument is intended to allow. The explanatory text must also describe the contribution, if applicable, of the instrument and the project to the directions of the planning program.

Where the instrument applies to only part of the territory of the municipality, the information disseminated includes a map on which that part of the territory is delimited.

In all cases, the policy must provide for the dissemination of clear, objective and neutral information. It must also favour the good understanding of the information by interested persons by allowing reasonable time periods between the dissemination of information and the beginning of any consultative or active participation measure.

13. The policy must provide, in respect of any instrument intended to allow a project for the construction or alteration of an immovable with which the municipality is already seized, for the posting of a notice on the site of the project.

The notice indicates the elements of the project that, because they do not comply with applicable by-laws, require an amendment, as well as the nature of the amendments required to allow the carrying out of the project.

14. The policy must aim at facilitating access, by interested persons, to the information relating to the subject of a public participation process and, to the extent possible, allowing them to consult studies and other documents produced by the municipality or on its behalf.

§3. *Consultative measures*

15. The policy determines the instruments that are subject to consultative measures.

16. A consultative measure must include the possibility for interested persons to make verbal or written observations by using various means of communication.

It must grant interested persons a minimum period of 7 days to send their observations to the municipality, which period begins to run after a public meeting is held, if applicable.

§4. Active participation measures

17. The policy determines the instruments that are subject to active participation measures.

The instruments must include

(1) any by-law, except for a concordance by-law, that amends or replaces a zoning by-law so that the uses, main constructions or the dimensions of main constructions authorized in a zone are no longer the same;

(2) any conditional use by-law; and

(3) any by-law that amends a conditional use by-law so that the conditional uses that may be authorized in a zone are no longer the same.

§5. Feedback measures

18. Every public participation process that includes a consultative or active participation measure must also include one or more feedback measures, including a mandatory written report that must be prepared and filed with the municipal council.

When possible, feedback measures must be included at various steps of the public participation process.

DIVISION 4
REPORTING

19. An assessment of the application of the public participation policy must be prepared and filed with the municipal council not later than 4 years after its coming into force and, thereafter, every 4 years.