

**ADMINISTRATIVE COMPILATION  
BYLAW NUMBER 09-22**

**BYLAW 09-22 CONCERNING THE MAINTENANCE OF PRIVATE ROADS  
OPEN TO THE PUBLIC BY TOLERANCE**

Adopted by Municipal Council on September 13, 2022  
Entry into force on September 14, 2022

<b>Name and/or number of bylaw, policy, resolution</b>	<b>Date of approval by Council</b>	<b>Date of coming into force</b>	<b>Status</b>
Bylaw 07-17	August 8, 2017	August 8, 2017	Repealed
Bylaw 03-10	April 27, 2010	April 27, 2010	Repealed

## PREFACE

The reader is hereby advised that any errors or omissions that may be identified in the text below do not affect the enforceability of the regulations and amendments referred to therein, as sanctioned in their original version.

CANADA  
PROVINCE OF QUÉBEC  
MUNICIPALITY OF PONTIAC

**BYLAW 09-22 CONCERNING THE MAINTENANCE OF PRIVATE ROADS OPEN TO THE PUBLIC BY TOLERANCE**

**REGULAR** meeting of the Council of the Municipality of Pontiac, held on September 13, 2022, at 7:30 p.m., at the Luskville Community Center, at which meeting were present:

**The Mayor, Mr. Roger Larose**

The Council Members:

Diane Lacasse  
Caryl McCann  
Serge Laforest  
Garry Dagenais  
Chantal Allan  
Jean Amyotte

All Council members and being a quorum.

**WHEREAS** under section 70 of the Municipal Powers Act (R.S.Q., C. c-47.1), a local municipality may maintain a private roadway open to the public by tolerance of the owner or occupant, upon request of a majority of the owners or occupants of immovables served by a private roadway;

**WHEREAS**, under section 244.1 of the Act respecting municipal taxation (R.S.Q., F-2.1), a local municipality may finance the services it offers to the population by means of a fee structure;

**WHEREAS** there are several private roads on the territory of the Municipality of Pontiac;

**WHEREAS** the Municipality of Pontiac wishes to offer the owners of properties served by a private road the possibility of proceeding with the maintenance of said road, at the request of these owners;

**WHEREAS** the Municipality of Pontiac wishes to establish the conditions applicable to the maintenance of such private roads;

**WHEREAS** a notice of motion was duly given at the regular council meeting held on August 9, 2022;

**THEREFORE**, it is moved by Councillor Serge Laforest and seconded by Councillor Garry Dagenais.

**AND RESOLVED THAT** Council decrees and adopts the following :

## SECTION 1 : PREAMBLE

The preamble of this bylaw is part of this bylaw.

## SECTION 2 : PURPOSE OF THE BYLAW

The purpose of this bylaw is to determine the conditions under which the Municipality may assume responsibility for the maintenance of private roads open to the public by tolerance of the owner or occupant, upon request of a majority of the owners or occupants along the road. It also determines the terms and conditions for charging maintenance services to owners of properties served by the private road.

## SECTION 3 : DEFINITIONS

Unless otherwise stated, either expressly or as a result of the context of the provision, the following expressions, terms and words shall have the meaning and application in these regulations ascribed to them in this section:

- Building :** Means any residential building containing one or more dwelling units, as well as any commercial building.
- Private road** A private road as defined in this bylaw is a vehicular traffic lane that meets the following conditions:
- Is located on the territory of the Municipality;
  - Is non-municipalized and directly connected to a municipal or provincial roadway, or to a private roadway already maintained under the terms of this bylaw;
  - Is open to the public by tolerance of the owner or occupant of the Immovable on which the way is located;
  - Is clear of all obstructions for the existing width of the road;
  - Is clear of all obstructions for a height of five (5) metres;
  - Is at least one hundred (100) metres in length and serves at least four (4) Immovables on which is located at least one (1) building per Immovable;
  - If there is a dead end, it is possible to make a three (3) point turn.
- Maintenance costs :** In the case of maintenance performed by the Municipality, maintenance costs shall mean an amount determined by the Municipality.
- In the case of maintenance performed by a private contractor, maintenance costs shall mean the cost of the contract between the Municipality and the contractor plus ten percent (10%) for administration costs.

- Maintenance :** Refers to summer and/or winter maintenance:
- Summer maintenance consists solely of grading the road or driveway from June 1 to October 15 of each year.
  - Winter maintenance shall consist of the clearing of snow from the road over a maximum width of five (5) metres, the snow being pushed onto the shoulders or onto private roads, as well as the de-icing of the road, from November 1st of each year to April 30th of the following year.

Maintenance excludes road improvements and emergency work required when the physical condition or structure of the road presents a hazard to maintenance personnel or equipment.

- Immovable :** The term "immovable" is used in this bylaw to mean any immovable within the meaning of Article 900 of the Civil Code of Quebec, namely:

« Immovable property means land, buildings or structures of a permanent nature located thereon and everything that is an integral part thereof. »

A serviced Immovable is an Immovable that fronts directly on a private road.

- Mandatory:** The person designated by the applicants to represent them before the Municipality in the context of a maintenance request.

- Municipality :** Means the Municipality of Pontiac.

- Owner :** The owner of any Immovable located on the territory of the Municipality, as designated on the property assessment roll.

When several persons are co-owners of an Immovable, these persons are deemed, for the purposes of this bylaw, to constitute only one owner.

#### **SECTION 4 : REQUEST FOR THE MAINTENANCE OF A PRIVATE ROAD**

Anyone who wishes the Municipality to take charge of the maintenance of a private road must submit to the Municipality a request to this effect, signed by the majority (50% + 1) of the owners of the Immovables served by the private road that is the subject of the request.

In the event that there is more than one co-owner for the same Immovable, the application shall contain the signature of only one co-owner.

The owners of several Immovables served by the same private road shall be deemed to be one owner for the purposes of each application.

A single application may include several private roads provided they are connected to each other.

In addition to the owners of the Immovables served by the private roadway to which the application relates, the owner of the Immovable on which the private roadway is located shall in all cases authorize the application. However, if such owner cannot be located, at least one of the owners of the Immovables served by the private roadway who is submitting the application shall file, with the application, a sworn statement that the owner cannot be located and that he or she has contacted the owner by letter to obtain the owner's signature on the application and has received no response to the letter, all at his or her expense. The sworn statement must specifically identify the property whose owner cannot be located. They may then be exempted from the authorization provided for in this paragraph.

The application for maintenance of a private road must be submitted on the form provided by the Municipality.

This application must be received at the municipal office no later than July 31<sup>st</sup> of the year. Applications received after this date will not be considered for the current year, but for the following year. Exceptionally, for the year 2022, the application must be received at the municipal office no later than October 31, 2022.

The application must include the following:

- The date of the application;
- The designation of the private road(s) to which the application relates;
- The type of maintenance desired (winter and/or summer), it being understood that in the case of a request for winter and summer maintenance, only one such request must be submitted;
- The total number of separate owners of Immovables served by the private roadway, it being understood that where there are joint owners of an Immovable, the joint owners are deemed to be one owner, and that an owner of more than one Immovable served is deemed to be one owner;
- The name of the person designated by the group of owners to act as the group's agent with the Municipality;
- A plan of the roadway showing the portion to be maintained and the civic addresses of the Immovables served;
- In the case of a dead end where the three (3) point turn is to be made on a serviced Property, written authorization from each owner of the Property on which the turn is to be made is required with a mandatory mention to the effect that the Municipality will not be held liable for damages caused by the maintenance work.

#### **SECTION 5 : DECISION OF THE MUNICIPALITY**

Council shall accept, with or without conditions, or refuse, by resolution, to carry out the request for maintenance by June 30 of each year. The Municipality has full discretion to accept or refuse maintenance of a private road.

In the event of acceptance of the request, the Municipality reserves the right, at its sole discretion, to proceed with the maintenance itself or to contract with a contractor to carry out the said maintenance, in accordance with the rules of contract management.

#### **SECTION 6 : DURATION OF THE MAINTENANCE CONTRACT**

The default duration of the maintenance agreement shall be three (3) years unless Council establishes another term by resolution. The Municipality reserves the right to terminate the agreement at its sole discretion upon thirty (30) days notice.

#### **SECTION 7 : MAINTENANCE COSTS**

At the discretion of the Municipality, the cost of maintaining a private roadway may :

- A. Be paid for entirely by the Municipality from its own funds pursuant to a resolution of the Municipal Council duly passed to that effect for winter and/or summer maintenance; or
- B. Be entirely subject to compensation established annually in the taxation bylaw establishing the tax rates and fees for services, following a resolution of the Municipal Council duly adopted to that effect; or
- C. Be borne in part by the Municipality and be compensated in part by a resolution of Council duly passed to that effect.

For B and C, the compensation rate is calculated as the share of the maintenance costs of a private road to be paid by compensation, divided equally between the number of Immovables served.

The Municipality may, at its discretion, combine the maintenance of two or more private roads for the purpose of calculating the compensation rate.

The rates shall be charged annually to the owners of the Immovables served at the same time as the property tax.

If the Municipality owns properties served by the private road, the Municipality also pays its share of the maintenance cost.

Properties owned by the various governmental authorities, and which are tax exempt, are exempt from contributing to the cost of maintenance.

#### **SECTION 8 : NON-LIABILITY OF THE MUNICIPALITY**

Under no circumstances shall the Municipality be liable for any damage caused directly or indirectly to the private roadway, lands or buildings served by the private roadway, by the maintenance performed.

**SECTION 9 : COMPLAINT PROCEDURE FOR PRIVATE ROAD MAINTENANCE**

The mandatory shall inform the Municipality in writing of any dissatisfaction with the maintenance work and shall provide sufficient details to allow the complaint to be addressed. In the case of work carried out by a contractor, according to the decision of the Municipality, the Municipality is the client and is the only party involved with the contractor.

**SECTION 10 : ABROGATION**


This bylaw abrogates the following bylaws:


- Bylaw #08-17 stipulating the conditions for assuming the maintenance of tolerance roads;
- Bylaw #03-10 to abrogate bylaw 16-08 - tolerance roads.

**SECTION 11 : COMING INTO FORCE**

The present bylaw will come into force according with the Law.

GIVEN at Pontiac this September 13, 2022

  
\_\_\_\_\_  
Mario Allen  
Acting Director General

  
\_\_\_\_\_  
Roger Larose  
Mayor

Notice of motion : August 9, 2022  
Tabling of the draft bylaw: August 9, 2022  
Adoption of the bylaw: September 13, 2022  
Resolution : 22-09-4724  
Public notice: September 14, 2022



## ANNEXE A



# Application for maintenance of a private road open to the public by tolerance of the owner

Part 1 - General information	
<b>Section 4 of bylaw no 09-22 concerning the maintenance of private roads open to the public by tolerance of the owner provides for various elements to be specified in the application.</b>	
<b>Date of the maintenance application :</b>	
<b>Private road(s) included in the maintenance application :</b>	
<b>Type of desired maintenance :</b>	<b>Winter</b>
	<b>Summer</b>
	<b>Winter and summer</b>
<b>Total number of immovables served by the maintenance application:</b>	
<b>Total number of separate property owners served by the private road(s) for which maintenance is requested:</b>  <b>*When an owner owns more than one building served, he/she is counted only once</b>	
<b>Identification of the group's designated representative to the Municipality :</b>	<b>Name :</b> _____ <b>Surname :</b> _____ <b>E-mail address :</b> _____ <b>Telephone number :</b> ( _____ ) _____ - _____ <b>Mailing address :</b> _____ _____
<b>Plan of the road(s) affected by the application attached to this application</b>	

## Part 2 – Consent of private road owner

**Section 4 of bylaw No. 09-22 concerning the maintenance of private roads open to the public by tolerance provides that the owner of the property on which the private road is located shall in all cases authorize the application.**

**I, (we) the undersigned, owner(s) of the road(s) identified in Part 1 authorize the Municipality of Pontiac to maintain all components of the private road(s).**

Owner	Signature
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	

**\* If the existing boxes are insufficient, attach additional names and information to this application.**

**Section 4 of bylaw No. 09-22 concerning the maintenance of private roads open to the public by tolerance of the owner provides for an exemption from providing authorization where the owner cannot be located upon presentation of a sworn statement that the owner cannot be located and that the owner has contacted the owner by letter to obtain the owner's signature on the request and has not received a response to the letter, all at the owner's expense. The sworn statement must specifically identify the property whose owner cannot be located.**

**Sworn statement attached to this application if applicable**

**Part 3 – Application from the riparian owners for the maintenance of the private road**

**Section 4 of bylaw 09-22 concerning the maintenance of private roads open to the public by tolerance of the owner provides that anyone who wishes the Municipality to take charge of the maintenance of a private road must file with the Municipality an application to this effect signed by the majority (50% + 1) of the owners of the immovables served by the private road that is the subject of the application.**

**\* When an owner owns more than one building served, the owner is counted only once.**

**We, the undersigned owners of the road(s) identified in Part 1, request that the Municipality of Pontiac takes charge of the road(s) in order to carry out maintenance work, according to the terms and conditions determined by the Municipal Council.**

Owner	Signature
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number : ( _____ ) _____ - _____</b></p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number : ( _____ ) _____ - _____</b></p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number : ( _____ ) _____ - _____</b></p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	

<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number : ( _____ ) _____ - _____</b></p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number : ( _____ ) _____ - _____</b></p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number : ( _____ ) _____ - _____</b></p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number : ( _____ ) _____ - _____</b></p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number : ( _____ ) _____ - _____</b></p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p>	

<p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> (____) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	

<p>_____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> ( _____ ) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> ( _____ ) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> ( _____ ) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	
<p><b>Name :</b> _____</p> <p><b>Surname:</b> _____</p> <p><b>E-mail address :</b> _____</p> <p><b>Telephone number :</b> ( _____ ) _____ - _____</p> <p><b>Mailing address :</b> _____</p> <p>_____</p>	

**\* If the existing boxes are insufficient, attach additional names and information to this application**

**Part 4 - Turn authorization**

**Section 4 of bylaw No. 09-22 concerning the maintenance of private roads open to the public by tolerance of the owner provides that in the case of a cul-de-sac, if the three (3) point turn is to be made, in whole or in part, on an immovable served by the private road, the written authorization of each owner of the immovable on which the turn is to be made is required with the obligatory mention to the effect that the Municipality will not be held liable for any damage caused by the maintenance work.**

I, (we) the undersigned, owner(s) of the road(s) identified in Part 1 authorize the Municipality of Pontiac to make a three (3) point turn on my (our) property in order to maintain this (these) private road(s). The Municipality will not be held responsible for any damage caused by the maintenance work.

Owner	Signature
<p>Name : _____</p> <p>Surname: _____</p> <p>E-mail address : _____</p> <p>Telephone number : ( _____ ) _____ - _____</p> <p>Mailing address : _____</p> <p>_____</p>	
<p>Name : _____</p> <p>Surname: _____</p> <p>E-mail address : _____</p> <p>Telephone number : ( _____ ) _____ - _____</p> <p>Mailing address : _____</p> <p>_____</p>	
<p>Name : _____</p> <p>Surname: _____</p> <p>E-mail address : _____</p> <p>Telephone number : ( _____ ) _____ - _____</p> <p>Mailing address : _____</p> <p>_____</p> <p>_____</p>	

**Part 5 - Additional details**

Please note that Section 4 of bylaw No. 09-22 concerning the maintenance of private roads open to the public by tolerance of the owner provides that this application must be received at the municipal office before April 30th of each year.

Please note that Section 5 of bylaw 09-22 concerning the maintenance of private roads open to the public by tolerance of the owner provides that the Municipality has full discretion to accept, with or without conditions, or refuse, the maintenance of a private road as defined in this bylaw.



