

## Municipal Affairs

Gouvernement du Québec

### O.C. 1308-2001, 1 November 2001

An Act to reform the territorial municipal organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56)

#### Charter of Ville de Montréal

WHEREAS the Charter of Ville de Montréal (2000, c. 56, Schedule I) was enacted by the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56);

WHEREAS several municipalities referred to in section 5 of the Charter and the Communauté urbaine de Montréal are presently governed by special legislative provisions that will be repealed on 1 January 2002 pursuant to section 228 of the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais and section 200 of that Charter;

WHEREAS, under section 9 of that Charter, the Government may, by order, from among the special legislative provisions that govern the municipalities referred to in section 5 of that Charter or the Communauté urbaine de Montréal, determine the provisions that are to apply to all or any part of the territory of Ville de Montréal;

WHEREAS that order may also, in relation to all or any part of the territory of the city, contain any rule

(1) prescribing the conditions under which such a special legislative provision is to apply;

(2) providing for any omission for the purpose of ensuring the application of the Act; or

(3) derogating from any provision of the charter of the city, of a special Act governing a municipality referred to in section 5 of that Charter, of an Act for which the Minister of Municipal Affairs and Greater Montréal is responsible or of an instrument made under any of those Acts;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Municipal Affairs and Greater Montréal:

THAT the Charter of Ville de Montréal (2000, c. 56, Schedule I), amended by chapter 25 and chapter 26 of the Statutes of 2001, be further amended as follows:

1. Section 8 of that Charter, amended by section 238 of chapter 25 of the Statutes of 2001, is further amended

(1) by substituting the following for the first paragraph:

“8. The expenditures related to any debt of a municipality referred to in section 5 shall continue to be financed by revenues derived exclusively from the territory of the municipality or a part thereof. Any surplus of such municipality shall remain for the exclusive benefit of the inhabitants and ratepayers in its territory or a part thereof. To determine if the financing or surplus should burden or be credited to just a part of the territory, the rules applicable on 31 December 2001 respecting the financing of expenditures related to the debt or the source of the revenues that have generated the surplus shall be considered.

Where expenditures related to a debt of a municipality referred to in section 5, for the 2001 fiscal year, were not financed by the use of a specific source of revenue, the city may continue to finance them by using revenues not reserved for other purposes that come from the territory of the municipality. Notwithstanding section 6, the foregoing also applies where those expenditures were financed, for that fiscal year, by the use of revenues from a tax levied for that purpose on all taxable immovables situated in that territory.

If it avails itself of the power provided for in the second paragraph in respect of a debt, the city may not, to establish the tax burden provided for in section 150.1, charge to the revenues derived from the taxation specific to the non-residential sector that come from the territory a percentage of the financing of the expenditures related to that debt greater than the percentage corresponding to the quotient obtained by dividing the total of those revenues by the total revenues provided for in section 8.6 and coming from that territory. If the tax burden is established for the 2002 fiscal year or a subsequent fiscal year, the revenues of the preceding fiscal year shall be considered for that division.

For the purposes of the third paragraph, the revenues of a fiscal year are those provided for in the budget adopted for that fiscal year. However, where a statement comparing the revenues provided for in the budget and those which, according to later forecasts, will be the revenues of the fiscal year shows the necessity to update budgetary forecasts, the updated forecasts shall be considered, provided that the statement is filed before the city adopts the budget for the following fiscal year. If several statements are filed successively, the last one shall be considered.

For the purposes of the third paragraph, “revenues derived from the taxation specific to the non-residential sector” means the aggregate of the following :

- (1) revenues from the business tax ;
  - (2) revenues from the surtax or the tax on non-residential immovables ;
  - (3) revenues from the general property tax that are not considered in establishing the aggregate taxation rate when, under section 244.29 of the Act respecting municipal taxation (R.S.Q., c. F-2.1), several rates for that tax are fixed ;
  - (4) revenues from the tax provided for in article 808 of the Charter of the City of Montréal (1959-1960, c. 102), where the occupants of residential immovables are, under paragraph 3 of that article, exempt from the payment of that tax or where that tax is levied in accordance with paragraph 4 of that article ; and
  - (5) revenues from the amount in lieu of a tax referred to in any of subparagraphs 1 to 4 that must be paid either by the Government, in accordance with the second paragraph of section 210 of the Act respecting municipal taxation, by the Government in accordance with section 254 and the first paragraph of section 255 of that Act, or by the Crown in right of Canada or one of its mandataries, except, if the amount stands in lieu of the general property tax, revenues that would be considered in establishing the aggregate taxation rate if it was the tax itself.” ;
- (2) by substituting the words “Are deemed to constitute expenditures related to a debt of a municipality referred to in section 5 and financed by revenues derived from its entire territory the” for the word “The” in the first line of the second paragraph ;
  - (3) by substituting the words “that municipality” for the words “a municipality referred to in the first paragraph” in the fourth line of the second paragraph ;

(4) by substituting the words “. The foregoing also applies to the” for the words”, shall continue to burden the taxable immovables situated in the part of the territory of the city which corresponds to the territory of that municipality. The” in the sixth, seventh and eighth lines of the second paragraph ;

(5) by substituting “referred to in section 5” for “referred to in the first paragraph” in the tenth line of the second paragraph ;

(6) by striking out the words “shall continue to burden the taxable immovables situated in the part of the territory of the city which corresponds to the territory of that municipality” in the eleventh, twelfth and thirteenth lines of the second paragraph ;

(7) by substituting the word “sixth” for the word “second” in the third and ninth lines of the third paragraph ;

(8) by substituting the words “Are deemed to constitute a surplus or expenditures related to a debt of a municipality referred to in section 5, respectively, the” for the word “The” in the first line of the fourth paragraph ; and

(9) by striking out the words “shall continue to be credited to or to burden the taxable immovables of the sector formed by the territory of that municipality” in the third, fourth and fifth lines of the fourth paragraph.

2. Section 8.5, enacted by section 239 of chapter 25 of the Statutes of 2001, is amended by striking out the words “the taxable immovables situated in” in the sixth and seventh lines of the second paragraph.

3. Section 8.6, enacted by section 239 of chapter 25 of the Statutes of 2001, is amended

- (1) by deleting the first four paragraphs ;
- (2) by inserting “of section 8” after the word “paragraph” in the second line of the fifth paragraph ;
- (3) by inserting the words “and considered in establishing the aggregate taxation rate of the municipality” after the word “taxation” in the second line of subparagraph 4 of the fifth paragraph ;
- (4) by deleting subparagraph 8 of the fifth paragraph ; and
- (5) by adding the following paragraph after the fifth paragraph :

“For the purposes of the first paragraph, the word “municipality” means the city, except where the revenues in question are those of the 2001 fiscal year, in which case it means any municipality referred to in section 5.”.

4. Section 34, amended by section 248 of chapter 25 of the Statutes of 2001, is further amended

(1) by substituting the following for subparagraph 3 of the second paragraph:

“(3) the power to appoint, dismiss, suspend without pay or reduce the salary of the director general, the clerk, the treasurer, the deputy clerk, the deputy treasurer or any person the appointment of whom is provided by the law by the council at a majority that is not the simple majority;” and

(2) by deleting subparagraph 5 of the second paragraph.

5. The following is amended by inserting the following after section 34:

“**34.1.** In addition to the powers that the city council may delegate to the executive committee under section 34, the following powers of the city council may be exercised by the executive committee:

(1) granting contracts for the acquisition of goods, carrying out of work or supply of services, except for a contract the value of which exceeds \$500 000, where only one tenderer presented a conforming tender;

(2) granting a subsidy referred to in section 28 of the Cities and Towns Act (R.S.Q., c. C-19) and the amount or value of which does not exceed \$50 000;

(3) acquisition and alienation of immovables the value of which is \$25 000 or less;

(4) in matters of expropriation,

(a) the payment of the provisional indemnity;

(b) the payment of the final indemnity or the acquisition by mutual agreement to the extent that the amount of the payment does not exceed the appropriations voted by the city council;

(c) the making, following the expropriation order, of an act recognizing a servitude for the benefit of a public utility;

(5) in matters of human resources management,

(a) the negotiation of collective agreements;

(b) the other powers except those provided for in the second paragraph of section 34;

(6) the power to sue and be sued;

(7) in matters of financial management,

(a) expenditure authorizations; and

(b) transfers of credits, with the exception of transfer of credits from the allotment of a borough council to another borough council or between the allotment of a borough council and the budget of an administrative unit under the authority of the city council.”.

6. Section 35, amended by section 249 of chapter 25 of the Statutes of 2001, is further amended by substituting the following for the second sentence:

“The by-law may, with respect to a power provided for in section 34.1 and, to the extent permitted by the internal management by-laws of the city, with respect to a power of the city council delegated to the executive committee under the first paragraph of section 34, provide for the delegation of those powers to any officer or employee of the city and determine the conditions and procedures for the exercise of the delegated power.”.

7. Section 36 is revoked.

8. Section 46 is amended by striking out the second sentence.

9. The following Division is added after section 83.10, enacted by section 261 of chapter 25 of the Statutes of 2001:

#### “**DIVISION XI** **HERITAGE BOARD**

**83.11.** A heritage board is hereby established under the name “Conseil du patrimoine de Montréal”.

**83.12.** The city council shall determine by by-law the number of members constituting the heritage board, the duties that the board must perform, as well as the powers it may exercise.

**83.13.** The city council shall appoint the members of the heritage board and designate from among them a chair and one or two vice-chairs.

The members shall be chosen according to their interest and their experience with respect to the heritage and so as to reflect Québec's society and, in particular, Montréal's society.

The term of a member may not be renewed consecutively more than once.

**83.14.** Every decision of the council referred to in sections 83.12 and 83.13 shall be made by two-thirds of the votes cast.”

10. The following is inserted after section 85.1 enacted by section 263 of chapter 25 of the Statutes of 2001 :

“**85.2.** The borough council shall obtain the authorization of the city council before paying a subsidy to a non-profit body that instituted proceedings against the city.

The city may ask a non-profit body for all or part of a subsidy used for another purpose than that for which it was granted by the city council or a borough council.”

11. Section 89.1, enacted by section 265 of chapter 25 of the Statutes of 2001, is amended by striking out “referred to in subparagraph 3 of the first paragraph of section 89 that relates to a residential, commercial or industrial establishment situated outside the business district and having a floor area greater than 25,000 m<sup>2</sup> or a project” in the fourth, fifth, sixth and seventh lines of the first paragraph.

12. Section 113 is amended by deleting paragraph 4.

13. Section 116 is amended by striking out the words “, prepared by the chief of police” in the first and second lines of the second paragraph and by also striking out the words “before including it in the budget of the city, with or without amendment” in the third line of the second paragraph.

14. Section 130, amended by section 274 of chapter 25 of the Statutes of 2001, is further amended by substituting the following for the second paragraph :

“Subject to the provisions of this Act or of the order of the Government made under section 9, the borough council exercises on behalf of the city, with respect to its jurisdictions and with the necessary modifications, all the powers and is subject to all the obligations assigned to or imposed on the council of a local municipality by the Cities and Towns Act (R.S.Q., c. C-19) or any other act, other than the power to borrow, the power to levy taxes and the power to sue and be sued.”

15. Section 149.1, enacted by section 286 of chapter 25 of the Statutes of 2001, is amended by substituting the number “8” for the number “8.6” in the third line of the second paragraph.

16. The following is inserted after section 149.1, enacted by section 286 of chapter 25 of the Statutes of 2001 :

“**149.2.** Where, under any provision of this Division, revenues of the city or a municipality referred to in section 5 for a given fiscal year must be compared with revenues of the city for the following fiscal year, the revenues provided for in each budget adopted for those two fiscal years shall be considered.

Notwithstanding the foregoing, where a statement comparing the revenues provided for in the budget and those which, according to later forecasts, will be the revenues of the fiscal year shows the necessity to update budgetary forecasts, the updated forecasts shall be considered, provided that the statement is filed before the city adopts the budget for the following fiscal year. If several statements are filed successively, the last one shall be considered.”

17. Section 150.1, enacted by section 286 of chapter 25 of the Statutes of 2001, is amended

(1) by inserting the following after subparagraph 2 of the second paragraph :

“(2.1) the revenues considered in establishing the aggregate taxation rate and derived from compensations and modes of tariffing not referred to in subparagraph 2;”; and

(2) by adding the following after the third paragraph :

“For the purposes of subparagraphs 2 and 3 of the second paragraph, the word “immovables” means business establishments when the business tax or the amount standing in lieu thereof is involved.”

18. Section 150.7, enacted by section 286 of chapter 25 of the Statutes of 2001, is amended by substituting the words “last three” for the words “second and third” in the first line of the second paragraph.

19. Section 151, enacted by section 286 of chapter 25 of the Statutes of 2001, is amended by substituting the words “last three” for the words “second and third” in the first line of the second paragraph.

20. Section 151.2, enacted by section 286 of chapter 25 of the Statutes of 2001, is amended by substituting the words “last three” for the words “second and third” in the first line of the second paragraph.

21. Section 151.5, enacted by section 286 of chapter 25 of the Statutes of 2001, is amended by substituting the words “of the municipality concerned” for the words “that the municipality concerned estimated” in the sixth line of the first paragraph.

22. Section 196, amended by section 301 of chapter 25 of the Statutes of 2001, is further amended by adding the following paragraph at the end :

“The mayor shall determine the place, date and time of the first meeting of any borough council. If that meeting is not held, the mayor shall fix another meeting.”.

23. The following is inserted after section 196 :

“**196.1.** Any person, appointed by the transition committee or reassigned as a member of the personnel of the city to an office comprising the performance of the duties necessary to the holding of a meeting of the city council or borough council, to the making of a decision by such a council or to the performance of an act that such a council may perform before the date of constitution of the city, is deemed, with regard to the necessary duties performed before the date of constitution of the city, to act in the performance of his or her duties.”.

24. Section 197, amended by section 302 of chapter 25 of the Statutes of 2001, is further amended

(1) by substituting the words “The council shall adopt,” for the words “At the first meeting, the council shall adopt,”; and

(2) by adding the following after the third paragraph :

“The treasurer or director of finance of a municipality referred to in section 5 who is not already bound to apply section 105.4 of the Cities and Towns Act (R.S.Q., c. C-19) or a similar provision in the charter of the municipality is bound to produce, before the budget of the city is adopted for the 2002 fiscal year, at least the comparative statement on revenues provided for in section 105.4.”.

25. Section 205, enacted by section 307 of chapter 25 of the Statutes of 2001, is amended by adding the following after the third paragraph :

“In this section,

(1) mention that debts or costs burden the taxable immovables of a territory means that the expenditures related to those debts or costs must be financed by revenues exclusively from that territory; and

(2) mention that surpluses or revenues are credited to the taxable immovables of a territory means that the credit of those surpluses or revenues is reserved exclusively for the inhabitants and ratepayers of that territory.”.

26. That Charter is amended by adding the following after Schedule I-B :

#### “**SCHEDULE I-C**

(provisions enacted under section 9)

### **CHAPTER I**

#### **ORGANIZATION OF THE CITY**

#### **DIVISION I**

##### **GENERAL POWERS OF THE CITY**

1. The city may make any agreement to entrust, in whole or in part, the administration, operation or management, in its name, of the property which it owns or uses and the programs or services within its jurisdiction, with the exception of those concerning traffic, peace, public order, decency and good morals.

Sections 573 and 573.1 of the Cities and Towns Act (R.S.Q., c. C-19) do not apply to agreements made under the first paragraph where they relate to recreation or community matters, if they are made with non-profit bodies to which the city is authorized to pay subsidies.

2. The city may enter into an agreement with the Board of Trade of Metropolitan Montréal, or with a legal person in which the Board of Trade holds a majority interest, for the purpose of

(1) transferring to it the exclusive right to operate, subject or not to conditions, the streetside parking spaces belonging to the city which are used for a fee;

(2) selling to it or leasing to it, as sole lessee, subject or not to conditions, offstreet parking spaces belonging to the city which are used for a fee; or

(3) transferring to it the exclusive right to collect the fees charged for the use of the parking spaces so sold or leased.

Notwithstanding the Municipal Aid Prohibition Act (R.S.Q., c. I-15), the city may also

(1) with the authorization of the Minister of Municipal Affairs and Greater Montréal, guarantee the loan obtained from a third party by the body referred to in the first paragraph for the purpose of paying for the rights transferred to it by the city, up to a maximum amount of

\$40 000 000; however, in the event that the third party exercises its guarantee, the body shall transfer the rights back to the city; the maximum amount is reduced annually according to the repayment of the loan; or

(2) give or lend money to that body out of the amounts collected pursuant to subparagraph 10.1 of the second paragraph of section 113 of the Act respecting land use planning and development (R.S.Q., c. A-19.1) and for the purposes provided for therein.

The rights conferred to that body under the first paragraph in respect of parking spaces in the public domain are unseizable, except by the city, and inalienable, except in favour of the city.

Subject to the rights transferred by the agreement, the city retains in respect of the parking spaces referred to in the first paragraph, every power conferred on it by the Charter or any other act, including the power to enforce the by-laws thereunder. Without limiting the generality of the foregoing, the city retains the power to

(1) fix a tariff of fees for the use of the parking spaces that are the subject of the agreement;

(2) impose a fine on any person who parks or stops his or her vehicle in such a parking space without paying the fixed fee or contrary to any other regulatory standard, and collect the fine; and

(3) authorize any person to build, establish or operate garages or parking lots.

Section 107.9 of the Cities and Towns Act (R.S.Q., c. C-19) and section 217 applies to the body with which the city enters into an agreement under the first paragraph.

3. No person shall, without the city's authorization, use in any way

(1) the name of the city, of a borough, of a municipal service or of a mandatory body of the city or a name likely to be confused with that name, its crest, seal, flag, coat of arms or graphic symbol; or

(2) the name of the Communauté urbaine de Montréal or of a municipality referred to in section 5 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56), of any of its departments or any of its mandatory bodies, or a name likely to be confused with that name, its crest, seal, flag, coat of arms or graphic symbol.

Any person violating the provisions of this section shall be liable to a fine not exceeding \$1000 if the offender is a natural person and \$2000 if the offender is a legal person. For a subsequent offence, those maximum fines may be doubled.

4. The city may, for all purposes within its jurisdiction and, in particular, for the purpose of promoting the cultural, economic and social development of the city and its citizens, negotiate or enter into an agreement with an agency representing or administering local or regional Canadian or foreign communities.

5. The city may join any association or group of persons or agencies representing or administering local or regional Canadian or foreign communities and participate in its activities.

6. The city is authorized to refuse to deal with any person or enterprise holding an interest of a type defined by resolution of the council in the manufacture, storage or transportation of nuclear weaponry or specific nuclear weapon components or in research in that field, and to exclude such a person or enterprise from public tenders.

Prior to the application of the first paragraph, the resolution of the council must be published once in a newspaper distributed in the city.

For the purposes of this section, the expressions "nuclear weaponry" and "nuclear weapons" mean atomic or thermonuclear bombs as well as missiles or other devices specifically intended to carry such bombs.

7. The city may, in order to promote the reception, establishment or maintenance of international governmental or non-governmental agencies on its territory, create or participate in any international development fund intended for the promotion of the city as an international centre.

8. Notwithstanding the Municipal Aid Prohibition Act (R.S.Q., c. I-15), the city may

(1) participate in, as a member, or provide aid to the Centre d'expertise et de recherche en infrastructures urbaines for the implementation of research, development or experimental projects relating to the rehabilitation and renewal of the infrastructures of its territory;

(2) participate, as a member, shareholder or sponsor, as the case may be, in bodies or partnerships engaged in the distribution and marketing of technological processes or innovations designed or developed by the Centre d'expertise et de recherche en infrastructures urbaines.

9. Notwithstanding the Municipal Aid Prohibition Act (R.S.Q., c. I-15), the city may, to foster the economic development of the city,

(1) create, alone or in collaboration with any legal person, a legal person entrusted with

(a) promoting the city's economic development; or

(b) fostering the establishment and maintenance of enterprises on its territory;

(2) participate in or collaborate with any legal person pursuing an objective referred to in subparagraph 1 of the first paragraph.

The city may, in respect of a legal person referred to in the first paragraph, avail itself of the provisions of section 218, adapted as required.

10. Notwithstanding the Municipal Aid Prohibition Act (R.S.Q., c. I-15), the city may

(1) participate in, as a member, or provide aid to a body or legal person devoted to the implementation of research, development or experimental projects relating to soil decontamination or site rehabilitation; or

(2) participate, as a member, shareholder or sponsor, as the case may be, in bodies or legal persons engaged in the distribution and marketing of technological processes or innovations designed or developed by a body or legal person referred to in paragraph 1.

11. The city may constitute, in accordance with Part IA of the Companies Act (R.S.Q., c. C-38), a company whose principal activity is providing a third party with any service, advice, substance, material and equipment relating to any matter within its jurisdiction.

12. The city or a company referred to in section 11 may, in accordance with the law, enter into an agreement in respect of the exercise of its jurisdiction with a person, a government, one of its departments, an international organization, any agency of the said government or organization or any other public agency. The city or the company may carry out the agreement and exercise the rights and privileges and fulfil the obligations arising therefrom, even outside the territory of the city.

## **DIVISION II COUNCIL, MAYOR, COUNCILLORS AND COMMITTEES OF THE COUNCIL**

13. The mayor shall represent the city on all ceremonial occasions.

14. The mayor shall submit observations and suggestions to the council and to the executive committee when he or she deems it advisable.

15. The powers referred to in sections 52, 53 and 323 of the Cities and Towns Act (R.S.Q., c. C-19) as well as in sections 22 and 23 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) appertain exclusively to the office of mayor and cannot be exercised by the deputy mayor.

16. In addition to the basic remuneration provided for by the law, the city may, by by-law, fix additional remuneration for the duties of opposition leader and for the duties of majority leader that are performed by council members within the city.

The provisions of the Act respecting the remuneration of elected municipal officers (R.S.Q., c. T-11.001) applies in respect of the additional remuneration so fixed as if the duties of the opposition leader and majority leader were special duties within the meaning of that Act.

The majority leader is the councillor designated by the political party with the greatest number of councillors on the city council.

The opposition leader is the councillor designated by the political party with the second largest number of councillors on the city council; if several political parties are in that position, the opposition leader is the councillor designated by the party that obtained the greatest number of votes.

For each of the designations provided for in the third and fourth paragraphs, a notice shall be submitted to the council by a councillor of the political party having made the designation. The designation may be amended at any time.

17. The council, a borough council or the executive committee, within the scope of its jurisdiction, may authorize a member of the council, of a borough council, of the executive committee or an officer to sign, on behalf of the city, contracts, deeds or documents of such nature as it determines by resolution.

18. The city may, by by-law, prescribe the conditions under which the failure of a member of the council, of a borough council, of the executive committee or of a committee to attend a meeting or to fulfill his or her obligation to vote at a meeting entails a reduction in his or her remuneration or allowance, and prescribe the rules for computing the reduction.

19. The city may make a by-law respecting the administration and the internal management of a committee.

It may, in particular, by that by-law,

(1) prescribe the length and time of the question period at public sittings of a committee, and the procedure to be followed to put a question; and

(2) require that a committee forward to the city every year, at the time determined by the city, a report of its operations during the last fiscal year.

20. Until the coming into force of a by-law establishing internal management rules for meetings of the city council, the By-law concerning rules of procedure for council meetings and internal rules for council management (R.B.C.M., c. P-8.1) applies to meetings of the city council, adapted as required.

### **DIVISION III** PUBLIC SAFETY COMMITTEE

21. The public safety committee may, by resolution, decide to make recommendations it considers confidential that are directly related to the prevention, detection and repression of crime or breaches of the law to the executive committee instead of the council.

22. The executive committee may make any confidential recommendation made to it by the public safety committee, and the opinion and examination accompanying it, available to the public.

23. Notwithstanding section 83 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1), no person has the right to be informed of the existence of or to be provided with information concerning him or her and contained in a book, register or document, or part thereof, relating to a subject discussed or to be discussed at a meeting *in camera* of the public safety committee and directly related to the prevention, detection and repression of crime or breaches of the law.

### **DIVISION IV** EXECUTIVE COMMITTEE

24. The mayor may appoint no more than eight councillors to assist the members of the executive committee as associate councillors.

The mayor may replace an associate councillor at any time.

Associate councillors shall not sit on the executive committee.

### **DIVISION V** OFFICERS AND EMPLOYEES OF THE CITY

#### *§1. General*

25. The official titles by which the department heads or the persons responsible for administrative units for the city are designated also designate their assistants when acting in their stead or any persons duly authorized to replace them.

26. The city may establish, by by-law, the city departments and bodies entrusted by it to apply this Act; it may amalgamate, abolish or replace any such department or body but it shall not amalgamate, replace or abolish the auditor general's office.

Any specific reference to a department head, department or body in this Act, in any by-law or resolution made under this Act and in any agreement, contract, form or document made pursuant to this Act includes, where such is the case, any other department head, department or body the city may, under the first paragraph, have entrusted with the application of the provision to which such reference is made.

For administrative purposes, the auditor general's office and the electrical services commission are considered departments, and the city auditor general and the chair of the electrical services commission rank with the department heads of the city.

27. The city council shall appoint a secretary for each borough.

Under the authority of the city clerk, the secretary of the borough council shall exercise the powers of the clerk and perform the clerk's duties with regard to watching over the borough office and the city archives proceeding from the borough council. Sections 86 to 93 of the Cities and Towns Act (R.S.Q., c. C-19), adapted as required, applies to the secretary of the borough council.

28. The city may appoint an officer of the city to make the declaration of the city before the court, when summoned before it as garnishee, and to deposit therein the moneys the city owes the debtor under an order of the court.



## §2. Pension plans

29. Subject to the provisions of this subdivision, the supplemental pension plans for the employees of the city shall be administered by committees governed by the provisions of the Supplemental Pension Plans Act (R.S.Q., c. R-15.1) relating to pension committees.

Notwithstanding paragraph 8 of section 464 of the Cities and Towns Act (R.S.Q., c. C-19), a council member is not required to be a member of such committee. The council may replace a council member who was a member of a pension committee of a municipality referred to in section 5 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) by another person, who may or may not be a council member. The replacement of that council member shall not be subject to the formalities applicable to an amendment to a by-law respecting pension plans.

30. The city may, by by-law,

(1) establish a common fund in which the pension plan committees of the former Ville de Montréal may deposit all or part of the assets of the plans and where these assets are commingled;

(2) entrust the administration of the fund to a committee that it establishes for such purpose and that is composed of representatives of each of the participating committees.

The committee established under subparagraph 2 of the first paragraph shall have the powers and responsibilities of a pension committee delegatee according to the Supplemental Pension Plans Act (R.S.Q., c. R-15.1).

31. The city may enter into general agreements with other employers to provide for conditions of transfer of benefits or assets between pension plans. These agreements shall be approved for employees of the city by the executive committee and by the committee acting as a pension committee for the plan concerned.

32. The city may, by by-law, provide for the payment to an employee of the city who became a city employee following the annexation of Cité de Saint-Michel to the former Ville de Montréal, for which the employee was then working, or to a member of the employee's family or a beneficiary whom the employee was entitled to designate, of a retirement or disability pension granted in each case by the executive committee that is equal to the difference between the pension or the total of the pensions to which the employee is entitled and those to which the employee would have been entitled without

such annexation if the employee were still in the employ of such former city, on condition that he or she pays Ville de Montréal the amount of any refunds the employee received for contributions to a pension plan of the city and of the former municipality.

33. The city may, by by-law, authorize council members, who immediately after the end of their term receive a retirement pension under a plan in which they are members, to participate in the group insurance taken out by the city. The member shall pay the entire amount of the premium.

34. The city may contribute, out of its revenues, to the funds of the Montréal Police Benevolent and Pension Society, the amounts required every year to meet its obligations under the terms of the deed concluded on 22 June 1977 between the city and the society, before Mtre. Jean-Paul Langlois, notary at Montréal, under number 9053 of his minutes.

35. The city may maintain the following supplemental pension plans:

(1) the plan provided for in the memorandum of agreement of 27 August 1982 between the negotiating committee of the former Ville de Montréal and the Communauté urbaine de Montréal and that of the Canadian Union of Public Employees, local section 301;

(2) the plan provided for in the memorandum of agreement of 11 March 1983 between the negotiating committee of the former Ville de Montréal and the Communauté urbaine de Montréal and that of the Syndicat des fonctionnaires municipaux de Montréal;

(3) the plan provided for in the agreement of 27 June 1984 ratified by the Syndicat des architectes of the former Ville de Montréal and the Communauté urbaine de Montréal;

(4) the plan provided for in the agreement of 11 July 1984 ratified by the Syndicat des professionnels of the former Ville de Montréal and the Communauté urbaine de Montréal;

(5) the plan provided for in the agreement of 10 August 1984 ratified by the Syndicat professionnel des ingénieurs of the former Ville de Montréal and the Communauté urbaine de Montréal;

(6) the plan provided for in the agreement of 21 August 1984 ratified by the Association des chimistes professionnels of the former Ville de Montréal and the Communauté urbaine de Montréal; and

(7) the pension plan of officers of the Communauté urbaine de Montréal bearing number 75 and adopted by the council of the Communauté urbaine de Montréal on 19 December 1984.

Each supplemental pension plan referred to in the first paragraph is in force from the date referred to in the memorandum of agreement or in the agreement providing therefor.

The Supplemental Pension Plans Act (R.S.Q., c. R-15.1) and the regulations thereunder shall continue to apply to the pension plans referred to in this section, to the extent that they are not inconsistent with those pension plans.

36. An agreement entered into under the first paragraph of section 330.2 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., c. C-37.2) is deemed to comply with the Supplemental Pension Plans Act (R.S.Q., c. R-15.1).

37. Every by-law establishing a pension plan for the employees of the former Ville de Montréal is deemed to contain the provisions of the second and third paragraphs of article 172 of the Charter of the City of Montréal (1959-1960, c. 102).

The fourth paragraph of subparagraph 8 of the first paragraph of section 464 of the Cities and Towns Act (R.S.Q., c. C-19) does not apply to those by-laws and to any by-law establishing a pension plan intended for employees of the Communauté urbaine de Montréal.

## **CHAPTER II COUNCIL MEETINGS**

38. One third of all the council members shall constitute the quorum for the proper dispatch of the business of the council.

39. Not less than ten regular council meetings shall be held every year and be convened by the executive committee.

40. If the executive committee refuses to call a special council meeting when at least twenty council members deem it necessary, the latter may order the calling of such meeting by sending a written request to the clerk that is signed by them and specifies the business for which they request the calling of such meeting.

On receipt of such request, the clerk shall prepare a notice of meeting indicating briefly the business to be submitted to such meeting and have a true copy thereof issued by one of his or her employees or sent by registered mail to every council member, at his or her domicile or business establishment, at least two clear juridical days before the meeting.

The certificate from the post office is evidence the notice was mailed on the date it shows, and the delivery of the notice by the employee of the clerk is established by a written return attesting the same and signed by him.

41. Subject to section 40 and section 323 of the Cities and Towns Act (R.S.Q., c. C-19), the agenda paper for each council meeting must be drawn up by the executive committee, be deposited in the clerk's office at least three days before the date of the meeting and a copy thereof sent by mail to each member of the council at the same time as a notice calling the meeting prepared and sent or issued in accordance with the requirements of section 40.

The agenda paper must contain a detailed list of the business that will be submitted to the council.

42. No business other than that specified in the notice of meeting shall be considered at a council meeting, unless agreed to by the mayor and all the council members who are present.

Nevertheless, a councillor may file a notice of motion, either at the meeting or at any other time with the office of the clerk. The executive committee must enter on the agenda paper of the next council meeting any such notice of motion received more than eight days before the date of the notice calling the meeting.

43. The council shall designate one of its members to preside at the council meetings. When that member is absent, the council shall designate a substitute.

The person presiding at the council meetings may vote only in the case of a tie vote.

The councillor presiding at a meeting may vote where the councillors are required, under the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), to elect a mayor from among them.

44. The agenda paper of any regular council meeting shall also include any matter required by law to be discussed at such meeting.

## CHAPTER III POWERS OF THE COUNCIL

### DIVISION I GENERAL POWERS RESPECTING BY-LAWS

#### *§1. Passing, coming into force and promulgation of by-laws*

45. The city may, when it deems it expedient, revise or consolidate the whole or any part of its by-laws so as to unite them in one or more volumes, and, to that end, repeal, replace or amend them.

For the purposes of the first paragraph, the city may determine the terminology and set forth rules respecting the drafting, reference to and publication of the revised by-laws; it may also set forth all the necessary rules in respect of the coming into force of the revised by-laws and provide for an annual updating method that will allow for continuous revision.

Nothing in this section may be interpreted as affecting any matter or thing done or required to be done, any resolutions, decisions, orders or other proceedings of the city, any debentures, bonds, notes or other securities issued, any collection rolls for special taxes, or the rights and duties of municipal officers, which shall continue to be governed by the previous by-laws until the expiry of the term fixed.

46. The scope of application of any by-law may be limited to a part only of the territory of the city.

47. The city may, by by-law, authorize the executive committee or a borough council to make orders related to any by-law; such authorization shall specify the object of each order.

Such orders shall be part of the relevant by-laws and shall become compulsory upon publication, in a newspaper distributed in the city, of a notice specifying the object thereof and indicating the date they were made.

#### *§2. Penalties enacted by by-law*

48. For by-laws respecting fire prevention, noise control, residual material management, deterioration of buildings due to lack of maintenance, abuse or defacement, or the alteration of residential buildings involving a reduction in the number of housing units or in the housing surface, the city may prescribe a minimum fine not exceeding \$2000 and a maximum fine not exceeding \$10 000.

For a subsequent offence, the city may prescribe a minimum fine not exceeding \$4000 and a maximum fine not exceeding \$20 000.

49. For the demolition of an immovable carried out without authorization or contrary to the conditions of authorization, the offender shall be liable to a fine of not less than \$5000 and no more than \$50 000.

This section shall not prevent the city from requiring the total or partial reconstruction of the building so demolished or deprive it of any other remedy provided for by the law.

For the purposes of this section, a building is completely demolished if at least 50% of the building has been destroyed by demolition, not including the foundations.

50. Notwithstanding section 369 of the Cities and Towns Act (R.S.Q., c. C-19), the city may, by by-law, impose, for failure to hold a permit or licence required under a by-law, a fine equal to the amount of the special tax levied for the object of the permit or licence or to the cost of the permit or licence, as the case may be.

For any subsequent offence, the city may prescribe that the amount of the fine be equal to twice the amount of the fines provided for in the first paragraph.

The execution of the judgment against the offender does not exempt him or her from the obligation to pay the special tax or from obtaining the permit or licence required or if he or she is entitled thereto.

### DIVISION II SPECIFIC POWERS

#### *§1. Construction and inspection of buildings, chimneys, etc.*

51. The city may, by by-law

(1) enact measures, after giving notice to the interested parties according to the law or the bylaws of the city, to close and demolish any building no longer fit for habitation or occupation and any structures which are dangerous by reason of their lack of solidity;

(2) sell or otherwise dispose of the materials resulting from such demolition;

(3) recover from the owner the cost of closing and demolishing the building, when the work has been done by the city or by any other person on its behalf;

The cost of closing and demolishing constitutes a prior claim on the immovable on which the building was situated, of the same nature and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code of Québec.

The expense is secured by a legal hypothec on the immovable.

52. Where public safety is endangered, the executive committee may order the owner of an unoccupied building to have the building kept under watch in accordance with the terms and conditions determined by the executive committee.

Should the owner fail to comply with the order within 24 hours after it has been served or after a notice has been published in a newspaper, if the owner is unknown, untraceable or unidentifiable, the city may have the building kept under watch at the expense of the owner, and all the expenses and costs thus incurred by the city are considered to be property taxes encumbering the immovable for which they are incurred. The treasurer shall alter the collection roll accordingly.

53. No building, improvement or enlargement permit, except for repairs, may be granted for an immovable from the date of the resolution reserving the immovable for municipal purposes or ordering its expropriation.

Such prohibition shall cease after one year from the date of the resolution, except if proceedings for imposing its reservation or for expropriation are commenced before the expiry of the prescribed period.

## §2. *Public health*

54. In this subdivision,

“food” means anything that may be used to feed humans or animals, including beverages other than alcoholic beverages within the meaning of the Act respecting the Société des alcools du Québec (R.S.Q., c. S-13); and

“inspector” means a person entrusted with the application of a by-law or order made under section 55.

55. The city may, by by-law,

(1) prescribe hygiene and sanitation measures relating to food service or food retailing activities, the providing of services to consumers for remuneration or donations for philanthropic or promotional purposes, in

particular, the activities related to the preparation, processing, preservation, handling or transport of food;

(2) prescribe, for sanitation purposes, rules governing the construction, layout and equipment of establishments, vehicles or apparatus in which an activity referred to in paragraph 1 is carried on or which are used for such activity;

(3) prohibit the use or possession of food or the sale of food in an establishment, vehicle or apparatus referred to in paragraph 2 if the food does not comply with the Food Products Act (R.S.Q., c. P-29);

(4) require that a person carrying on an activity referred to in paragraph 1 pass an examination prescribed by by-law to establish whether or not his or her knowledge of hygiene and sanitation is sufficient;

(5) authorize an inspector or a person referred to in section 32 of the Food Products Act (R.S.Q., c. P-29) to have an activity referred to in paragraph 1 stopped, to order the closing down of an establishment or apparatus, or the stopping of a vehicle, to affix seals, to seize, to confiscate, destroy or add colouring to food or to move or cause to be moved any food, vehicle, object or apparatus, at the owner’s expense, where the authorized person considers the operation of the establishment or the use of the object, food, apparatus or vehicle to represent an immediate danger to the life or health of consumers.

56. A by-law passed under section 55 requires the approval of the Minister of Agriculture, Fisheries and Food.

57. In the performance of his or her duties, an inspector or a person referred to in paragraph 5 of section 55 may

(1) at any reasonable time, enter an establishment and have access to any vehicle or apparatus referred to in paragraph 2 of section 55;

(2) inspect the establishment, vehicle or apparatus and its equipment;

(3) inspect any food found in the establishment, vehicle or apparatus and take samples thereof free of charge.

The inspector or person may require the production of books, registers and documents relating to matters referred to in a by-law made under section 55; the inspector or person may also ask for any other information in that regard that he or she considers necessary or expedient. A person must comply with such requests and facilitate the access and inspection referred to in the first paragraph.

An inspector or a person referred to in paragraph 5 of section 55 shall exercise the inspection powers provided for in the first paragraph in accordance with the terms and conditions provided for in the agreement entered into under section 60 where such agreement contains provisions respecting the methods of carrying out such powers.

58. No person may hinder an inspector or a person referred to in section 57 in the performance of his or her duties. In particular, no person may deceive him or her or attempt to deceive him or her by concealment or false declarations.

If required, the inspector or person shall identify himself or herself and produce a certificate attesting his or her authority, signed, as the case may be, by the head of the city department concerned or by the Minister of Agriculture, Fisheries and Food.

59. The city may, by by-law, prescribe, as a penalty for an offence against a by-law made under section 55 or an offence against section 57 or 58

(1) in the case of a natural person, a fine of not less than \$100 and of no more than \$2000 for a first offence, and a fine of not less than \$300 and of no more than \$4000 for a subsequent offence;

(2) in the case of a legal person, a fine of not less than \$200 and of no more than \$3000 for a first offence, and a fine of not less than \$600 and of no more than \$8000 for a subsequent offence.

60. The Minister of Agriculture, Fisheries and Food may enter into an agreement with the city, or with the city and any municipality designated by the Government, respecting the application within the territory of the city and that of any municipality that is a party to the agreement, of the provisions of acts, regulations or orders respecting the food inspection that are under the administration of the Minister.

If one of the parties to the agreement is charged with the application of provisions in all or part of the territory of another party, that jurisdiction does not extend to the institution of penal proceedings for an offence under such a provision that is committed in the territory of that other party.

The city may also enter into an agreement with the Minister of Agriculture, Fisheries and Food dealing with food inspection programs in connection with the application of the by-laws of the city.

61. The city or any municipality that is a party to an agreement under section 60 may, unless the agreement provides otherwise, institute penal proceedings for an offence committed in its territory under a provision whose application is covered by the agreement.

The fine shall belong to the city or to the municipality that instituted the proceedings.

Proceedings referred to in the first paragraph may be instituted in any municipal court having jurisdiction over the territory in which the offence was committed. The costs relating to proceedings brought before a municipal court shall belong to the municipality responsible for the court, except the part of the costs remitted to another prosecuting party by the collector under article 366 of the Code of Penal Procedure (R.S.Q., c. C-25.1) and the costs remitted to the defendant under article 223 of that Code.

62. The city may, by by-law, impose, according to the category of immovables, use or materials referred to in subparagraph a of paragraph 10 of the first paragraph of section 413 of the Cities and Towns Act (R.S.Q., c. C-19), standards respecting the keeping, storage and maintenance of such materials at a temperature not exceeding a maximum temperature, including, if necessary, refrigeration.

63. Sections 54 to 62 will cease to have effect on 31 December 2002.

### §3. *Decency and morality*

64. The city may, by by-law,

(1) govern the establishment, layout and use of erotic viewing halls, stores offering erotic articles and establishments where erotic shows are performed or that exploit eroticism;

(2) prescribe that the operation of such an establishment or the carrying on of such an activity in an establishment may not be continued by reason of vested rights beyond a period of two years after the coming into force of a by-law with which such an establishment or activity is inconsistent, without compensation for the loss of vested rights;

(3) particularly in the interest of morality, public order or the protection of youth, define amusement halls, determine the classes of amusement halls and govern them differently; and

(4) for the purposes of the protection of youth, require that the owner or operator of an establishment referred to in paragraphs 1 and 3

(a) refuse admission of minors or a class of minors to such an establishment;

(b) authorize the admission of such persons, on the conditions and within the limits that the council imposes, with respect, particularly, to places, hours and days or to whether they are accompanied by an adult.

65. In the interest of morality, public order or the protection of youth, in particular, the city may, by by-law,

(1) prescribe, for all or part of the territory of the city, the maximum number of establishments referred to in paragraphs 1 and 3 of section 64, the minimum distance between these establishments and the maximum floor area that may be used by such establishments;

(2) prohibit the use for such purposes of any floor area or of any premises greater than the maximum area or number permitted or short of the minimum distance prescribed.

#### *§4. Thoroughfares and public places*

66. The city may, by by-law, in the manner and within the limits provided for in paragraph 14 of section 415 of the Cities and Towns Act (R.S.Q., c. C-19) in respect of excavation work in the public domain, govern excavation work in the private domain.

67. The city may, by by-law,

(1) authorize occupation of the public domain for certain purposes;

(2) establish the conditions for such authorizations for each case or by general rules, as it sees fit;

(3) prescribe that a permit, which may or may not be renewable periodically, must be obtained to secure such authorization;

(4) determine the duration of occupation and the procedure for its termination for each case or by general rules;

(5) provide for the removal of all or part of any construction or installation built on the public domain otherwise than in compliance with an authorization under this section;

(6) subject to the right of the city to revoke any permit in the manner and on the conditions prescribed in the by-laws, prescribe that the city may, notwithstanding any authorization granted under this section, remove temporarily or permanently all or part of any such authorized construction or installation on the public domain, in the circumstances it determines;

(7) create a register of occupation of the public domain and determine the classes of occupation to be registered and the manner in which they are to be registered and provide for the issue of certified extracts from the register;

(8) require, in consideration for any occupation of the public domain, the payment, in a single payment or in instalments, of a price to be fixed by the city in each case or according to the criteria it determines; and

(9) hold the persons authorized to occupy the public domain responsible for any damage to property or injury to persons as a result of the occupation and require that they take up the defense of the city and not hold it liable in any claim made against it by reason of such damage or injury.

The price payable under subparagraph 8 of the first paragraph for the occupation of the public domain is secured by a legal hypothec on the immovable for the use of which the occupation of the public domain was allowed.

The provisions related to the collection of property taxes shall apply to the collection of that price.

68. The city may, by by-law,

(1) govern the speed and parking of horse-drawn vehicles;

(2) distinguish between various types of horse-drawn vehicles;

(3) designate areas within which such vehicles may be driven;

(4) prescribe the days, number of hours per day, hours of the day and periods of the year during which they may operate;

(5) prescribe routes, halts, parking places, the requirement in certain cases to return to the starting point, and the places where they are to be put up or to be garaged;

(6) establish mandatory standards of safety and hygiene in regard to such vehicles, their equipment and the horses;

(7) grant licenses to owners and drivers of horse-drawn vehicles and fix quotas for such licences;

(8) govern their services and fix the price thereof;

(9) designate the places where they may park and circulate;

(10) impose behaviour rules on drivers of horse-drawn vehicles and fix the price of their services;

(11) impose a fine on passengers in such vehicles who refuse to pay the fare payable; and

(12) govern the maintenance and use of horse-drawn vehicles.

69. The city may, by by-law, notwithstanding any inconsistent legislative provision, consent, with the previous approval of the Minister of Municipal Affairs and Greater Montréal, perpetual servitudes for the construction, reconstruction and maintenance of buildings, structures or tunnels over or under Ruelle des Fortifications, on the terms and conditions that the city shall determine.

#### §5. *Gas and underground conduits*

70. The city may

(1) build, administer and maintain a network of underground conduits for the wiring used for the transmission and distribution of electricity and links by telecommunications; and

(2) govern the use of such network of conduits.

71. The city may, by by-law,

(1) manufacture or acquire gas for light, heat or motive power, as well as all kinds of apparatus and articles connected with the gas industry; manufacture and dispose of gas by-products;

(2) lease, build or acquire, by agreement or expropriation, all buildings and immovables, apparatus, machinery and material that it may deem necessary or useful for such industry; sell, lease or otherwise dispose thereof, in whole or in part, as it sees fit;

(3) lease or acquire, by agreement or expropriation, and operate in whole or in part, for the purposes of light, heat or motive power in the city, the plants, businesses, franchises and rights of any person operating or authorized to operate a gas business;

(4) supply gas for light, heat or motive power to any consumer in the city and fix the price thereof;

(5) exploit gas or gas by-products, as well as thermal energy generated at its residual material disposal sites; and

(6) for the purposes of paragraph 5, issue bonds or other securities or make special loans with sinking funds for the amounts that the city deems necessary.

#### §6. *Antennas*

72. The city may, by by-law, stipulate requirements respecting the mode and place of installation, the maintenance and the number and height of antennas and other similar apparatus outside buildings.

#### §7. *Commerce and industry*

73. The city may, by by-law,

(1) grant licenses to pawn-brokers and dealers in second-hand articles, except for clothes, and impose requirements on them regarding, in particular, the keeping of records relating to their transactions, the disclosure of such records, the issue, within certain periods and in accordance with certain forms, of extracts from such records, the content of such extracts, and the manner of preserving articles that are subject to the above-mentioned transactions; and

(2) impose the requirements provided for in paragraph 1 on every merchant or trader who acquires by any title office machines or supplies of any kind from a person other than a trader in similar articles.

74. Every merchant who buys precious metals, precious stones or jewellery of any kind from a person other than a trader in similar articles, shall be deemed to be a second-hand dealer for the purposes of section 73 and shall be subject to the provisions of any by-law passed under that section.

Jewellers, however, shall not be required to pay the special taxes or licences levied on second-hand dealers.

75. The city may, by by-law,

- (1) impose behaviour rules on tour guides and conductors;
- (2) fix the maximum remuneration that they will be entitled to demand for their services; and
- (3) grant them permits or licenses and fix the cost, conditions and methods for issuing or cancelling such permits.

76. The city may, by by-law, govern amusement devices, and for such purposes:

- (1) define them;
- (2) require a permit for their operation and limit their number by class or otherwise;
- (3) establish different standards according to zones, streets or places;
- (4) prohibit certain amusement devices which may be detrimental to consumers;
- (5) prescribe that an amusement device operated without a permit or for which the amusement fees are unpaid may be confiscated by order of the court;
- (6) authorize the destruction of property so confiscated or, under the circumstances and on such terms as determined in the by-law, authorize the disposal thereof; and
- (7) prohibit or limit the replacement of amusement devices in establishments where they are operated by vested rights.

77. The city may, by by-law,

- (1) define and distinguish between the various kinds of parking lots;
- (2) prohibit or regulate them; and
- (3) prescribe the manner in which they must be laid out; prescribe the architecture, dimensions, material and colour of any structure to be built thereon, including fences, and the place where that structure must be situated.

Subject to the third, fourth and fifth paragraphs, a by-law passed under this section is mandatory in respect of all the parking lots covered by it, including parking lots existing at the coming into force of the by-law.

The owner and the occupant of an existing parking lot have one year from the coming into force of the by-law, or any other additional time limit determined by the council, to comply with a new standard.

Furthermore, any parking lot layout standard imposing backup space that is not already prescribed by a zoning by-law applies to parking lots existing at the coming into force of the standard only up to the lesser of one metre in depth and 5% of the area of the parking lot.

No vested right lies with respect to any structure existing on a parking lot if the value of that structure is less than 10% of the value of the land entered on the assessment roll at the coming into force of a by-law passed under this section.

78. The city may, by by-law, govern the exhibition and sale of artistic works or handicrafts in the public domain, and particularly

- (1) require that artists, artisans or their agents obtain a permit or licence, on the terms and conditions it determines, and limit the number thereof;
- (2) determine the places where artists, artisans or their agents may engage in their activities;
- (3) determine the types or classes of work that may be put on sale or exhibited and the production processes, which may vary according to the types or classes;
- (4) require, for reproducible, limited-edition work, that the work put on sale or exhibited specify the total number of copies produced of that work and the number of the copy in question; and
- (5) create and determine the composition of an examination committee, responsible for determining whether the work that an artist, an artisan or their agent intends to exhibit or put on sale in the public domain meet the requirements of a by-law under this paragraph.

79. The city may, by by-law, govern the activities of mimes, jugglers, acrobats, singers, musicians and other street entertainers or showmen in the public domain, and particularly

- (1) require that they obtain a permit or licence, according to the terms and conditions it determines, and limit the number thereof; and
- (2) determine the places where they may engage in their activities.



### §8. Nuisances

80. The city may, by by-law, in addition to any other recourse provided for in the law, require that the owner of an immovable carry out or have carried out at his or her expense, upon his or her failure to do so, anything that the owner is required under the law or by-law to carry out with respect to such immovable.

The expense constitutes a prior claim on the immovable, of the same nature and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code of Québec.

The expense is secured by a legal hypothec on the immovable.

### §9. Financial assistance

81. The city may, by by-law, establish a program under which the city grants, in accordance with this paragraph, subsidies or tax credits to operators of bed and breakfast establishments within the meaning of the Tourist Establishments Act (R.S.Q., c. E-15.1).

The by-law shall provide rules for establishing the amount of the subsidy or of the tax credit, the conditions to be met for the subsidy or tax credit to be granted and the terms under which the subsidy is paid or the tax credit is granted.

82. The city may, by by-law, adopt a revitalization program or a plan of action providing, in particular, that the city grants subsidies for the construction, reconstruction, renovation, conversion, restoration, extension, relocation, removal, development, re-development or demolition of any immovable or for alterations in the connection of electric power lines and accessories.

The amount of the subsidy may in no case exceed the actual cost of the work.

83. Within the scope of a plan of action or revitalization program, the city may, by by-law, grant, on the conditions and in the sectors of its territory as it determines, a subsidy to compensate for any increase in property taxes that may result from reassessment of the immovables after completion of the work.

The amount of the subsidies referred to in the first paragraph may in no case exceed the following amounts:

(1) for the fiscal year during which the work was completed and the following fiscal year, the amount of

the subsidy shall represent no more than the difference between the amount of the property taxes that would have been owing if the assessment of the immovable had not been changed and the amount of the taxes actually owing; and

(2) for the second fiscal year following the fiscal year during which the work was completed, half of the amount provided for in subparagraph 1 of the first paragraph.

Where any entry on the roll relating to an immovable eligible for a subsidy under this section is contested, the subsidy is not paid until a final decision has been rendered on the contestation.

For a residential immovable, no subsidy is payable unless the owner proves, in the manner prescribed in the by-law, that the price charged to lessees for rent has not been increased as a result of the increase in the property taxes.

84. Within the scope of a revitalization program, the city may, by by-law, grant, on the conditions and in the sectors of its territory as it determines, a property tax credit in consideration for admissible work carried out on the immovables.

The tax credit granted may in no case exceed the actual cost of the work. It may be divided over more than one fiscal year.

85. Within the scope of a plan of action to promote home ownership, the city may, by by-law, on the conditions and in the sectors of its territory as it determines, grant subsidies or tax credits to individuals or housing cooperatives purchasing residential immovables.

86. The city may, for the purposes referred to in sections 82 to 85 of this Schedule, establish categories of immovables and classes of work. It may also, for the purposes referred to in section 84, establish classes of property taxes.

The city may combine the classes and categories provided for in the first paragraph. It may establish different conditions in keeping with the classes and categories or combinations of classes and categories and order that a subsidy or tax credit be granted only in respect of one or several of the classes and categories or combinations of classes and categories.

The city may avail itself of the first and second paragraphs differently according to the sectors of the city that it determines.

87. For the purposes of sections 82 to 85 of this Schedule and section 542.5 of the Cities and Towns Act (R.S.Q., c. C-19), the city may, in each case, establish various classes of recipients and fix different subsidy rates for the different classes.

It may also limit the eligibility of individuals for subsidies on the basis of the maximum allowable household income and, for that purpose, define the concept of household income and prescribe the modes of evaluation and control of such limitation.

88. The city may, by by-law, require that applicants for a subsidy referred to in sections 82 to 85 of this Schedule and section 542.5 of the Cities and Towns Act (R.S.Q., c. C-19)

(1) obtain the subsidies or grants that are available under provincial or federal programs for the same purposes; and

(2) produce an owner/lessee agreement, signed by a majority of the lessees, concerning the nature of the work to be carried out and possible rent increase.

Similarly, the city may require that the recipient of a subsidy prove, in the manner prescribed by by-law, that the amounts received as subsidies are deducted from the work costs taken into account in establishing the rents after completion of the work.

89. The city may, by by-law, in respect of a subsidy paid within the scope of a by-law passed under sections 82 to 85 of this Schedule and section 542.5 of the Cities and Towns Act (R.S.Q., c. C-19),

(1) stipulate, in the circumstances as provided for in the by-law, that any change in the destination or mode of occupancy of the immovable and that the alienation of all or any part thereof or the transfer of control by the legal person that owns the immovable, within a period of no more than ten years, fixed by the city, shall entail repayment to the city, in such proportion as the city shall determine according to how much time has elapsed, of the subsidy paid by the city in respect of the immovable, or that any permit required for a change of destination or occupancy may be refused until such repayment is made;

(2) provide that repayment of the subsidy shall be payable by any person who was the owner of the immovable at the time of the change in its destination or mode of occupancy, its alienation or the transfer of control by the legal person that owns the immovable, or by any subsequent purchaser; and

(3) prescribe the formalities necessary to ensure compliance with the requirements set out pursuant to subparagraphs 1 and 2 of the first paragraph.

If the by-law contains provisions adopted under subparagraph 2 or 3 of the first paragraph, the owner who receives the subsidy must have a document registered establishing the restrictions so stipulated to the right of ownership of the immovable. Registration of such document in the land register shall be made by deposit and the registrar is required to receive it and to make mention of it in that register.

90. Sections 82 to 86 of this Schedule and section 542.5 of the Cities and Towns Act (R.S.Q., c. C-19) applies notwithstanding the Municipal Aid Prohibition Act (R.S.Q., c. I-15).

#### §10. *Municipal finances*

91. At the end of each fiscal year, the treasurer shall prepare the financial statements and reports for such fiscal year with respect to the city's revenues and expenditures and its financial status. Such reports and statements shall specify separately the balance sheet and revenue and expenditure account and contain all other necessary information.

The treasurer shall file such statements and reports with the office of the clerk no later than 31 March unless, on the report of the executive committee, the council grants the treasurer an additional period not exceeding one month.

92. The executive committee shall draw up the city's budget. It shall file the budget with the office of the clerk, with its recommendations on that budget and the budget of the Société de transport. The clerk shall send a copy of each document so filed and of the budget of the Société de transport to each member of the council, no later than 1 December.

93. No later than 30 September each year, the treasurer shall determine, in a certificate, the appropriations considered necessary for the next fiscal year for payment of the interest on securities issued or to be issued by the city, for repayment or redemption of such securities and for their sinking funds and any other charge related to the city's debt, with the exception, however, of the amounts required in principal, interest and accessories in relation to the issue of treasury bills, loans made in anticipation of revenue and renewable loans falling due during the fiscal year covered by the budget. The treasurer shall also determine in such certificate the

appropriations necessary, during the following fiscal year, to assume the obligations contracted by the city during previous fiscal years. The treasurer may amend the certificate until 31 December preceding the fiscal year to which it applies if the appropriations referred to therein have not been adopted by the council. The treasurer shall file the certificate and any amendments thereto with the office of the clerk. The clerk shall notify the council at the first meeting held after the filing.

The treasurer shall also include in the certificate referred to in the first paragraph the appropriations needed, during the next fiscal year, to assume the obligations of the city arising from collective agreements or from its by-laws, or arising under legislative or regulatory provisions adopted by the Gouvernement du Québec, the Government of Canada or any of their ministers or agencies.

The amounts shown in the certificate shall be included in the city's budget for the fiscal year covered by the budget.

94. The budget shall also appropriate an amount of at least 1% of the city's expenses to cover expenditures not provided for in the budget, claim settlements and the payment entailed by court sentences.

95. A percentage of 0.11% shall be substituted, for the city, for the percentage of 0.17% provided for in section 107.5 of the Cities and Towns Act (R.S.Q., c. C-19).

96. The presumption of adoption and the coming into force of the budget provided for in section 148.1 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) do not apply to the appropriations provided for in the treasurer's certificate referred to in section 93, where those appropriations are deemed to have been adopted on 1 January and to have come into force on that date.

97. After 1 January, the adoption, of the budget or any of its appropriations is retroactive to that date. The same rule applies to the by-laws and resolutions arising therefrom.

## *§11. Taxes and permits*

### **I. General**

98. Taxes and any account or amount owing to the city shall bear interest from the day they become owing without its being necessary to make a special request

therefor. The city shall, as often as it deems it expedient, fix the rate of interest that applies. The tax account shall specify clearly the rate of interest in force at the time of its sending.

That rate shall also apply to all debts outstanding before that fiscal year until another rate is fixed under the first paragraph.

Subject to the Act respecting municipal taxation (R.S.Q., c. F-2.1), the Cities and Towns Act (R.S.Q., c. C-19) and this Schedule and to any by-law, order, contract or agreement that may fix another date for the payment of the amounts owing to the city, all amounts owing to the city are payable 30 days after sending the account of the city.

99. Notwithstanding section 32 of the Act respecting municipal taxation (R.S.Q., c. F-2.1), a building shall be entered on the roll when three years have elapsed from the beginning of the work if the amounts spent or committed in the first two years represent at least \$50 000 000.

However, if such a building is substantially completed or occupied before three years have elapsed, the building shall be entered on the roll.

100. The city may accept the transfer of immovables on which taxes are owing, in payment of such taxes.

101. To compensate for the cost of water service and the other services identified by by-law, the city may, by by-law, levy a water-rate and service tax or any of those taxes separately and determine the method of payment, when the tax is payable and the manner in which it may be levied or collected. The by-law must specify the portion of the receipts of that tax to be allotted to each of the services it finances.

Where the city levies a tax provided for in the first paragraph, the by-law may vary the rate thereof according to the various classes of occupation based on any or on a combination of the following criteria:

- (1) a fixed rate;
- (2) a rate established according to consumption;
- (3) a rate based on the rental value.

The city may exempt occupants of residential immovables from the water-rate and service tax and, according to the classes it determines, persons exempt from the business tax.

The lessee of a dwelling in respect of which the tax has been incorporated into the rent for any fiscal year during which the exemption applies is entitled, on application to the lessor within 12 months after the coming into force of the by-law imposing the water-rate and service tax for that fiscal year, to an adjustment in rent for that fiscal year.

The Régie du logement has jurisdiction, to the exclusion of any court, to hear an application for adjustment in the rent of a dwelling referred to in the fourth paragraph. Sections 56 to 90 of the Act respecting the Régie du logement (R.S.Q., c. R-8.1), adapted as required, apply to the application.

In addition to the powers provided for in the first, second and third paragraphs, the city may, by by-law, levy the water-rate and service tax on the units of assessment subject to the surtax on non-residential immovables provided for in section 244.11 of the Act respecting municipal taxation (R.S.Q., c. F-2.1) or, as the case may be, on the units of assessment subject to the tax on residential immovables provided for in section 244.23 of that Act or on the units of assessment that are constituted of one or more non-residential immovables and that are subject to various general property tax rates provided for in section 244.29 of that Act.

Sections 244.12, 244.13, 244.15 to 244.22, 244.24 to 244.28 and 244.30 to 244.64 of that Act apply, as the case may be and adapted as required, with respect to the water-rate and service tax thus levied.

In addition to being a prior claim within the meaning of paragraph 5 of article 2651 of the Civil Code of Québec, the tax is secured by a legal hypothec on the immovable.

A water-rate and service tax levied under the sixth paragraph does not apply to outdoor parking lots subject to the surtax on vacant land or to the land which forms the road bed of the railway of a railway company, within the meaning of section 47 of the Act respecting municipal taxation.

Where, at the beginning of a fiscal year for which the city levies a water-rate and service tax in accordance with the sixth paragraph, a taxable immovable subject to that tax has a lease that does not allow the owner to increase the stipulated rent to take account of the new taxes he or she becomes liable for or to otherwise make the lessee assume the payment of such a tax, the owner may nevertheless increase the stipulated rent to take into

account all or part of the amount of the tax which he or she must pay for the duration of the lease.

However, the tenth paragraph does not apply to the rent stipulated in a lease concerning any part of the immovable that does not constitute separate premises required to be registered in the comprehensive schedule to the property assessment roll under the first three paragraphs of section 69 of the Act respecting municipal taxation.

If the lease does pertain to such separate premises, the increase in the rent shall take account of that part of the amount of the water-rate and service tax that is attributable to the taxable value of the separate premises.

Sections 244.22 and 491 of the Act respecting municipal taxation apply for the purposes of the tenth paragraph.

102. Section 151.3 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) applies, adapted as required, to the water-rate and service tax levied under section 101.

## II. Collection roll and collection of taxes

103. The treasurer may enter on the property tax collection roll the franchises, rights and privileges for occupation or use of the public domain that are established during a fiscal year, taking into account the unexpired portion of the fiscal year.

The treasurer may cancel the rent fixed for any such privilege, or reduce it in proportion to the period expired, when it comes to an end during a fiscal year; such cancellation or reduction shall be effective from the day when, as ascertained by him, such privilege ceased to exist.

104. The treasurer may make credit entries of payments in the margin of the property tax collection roll and the collection roll for personal and business taxes and water-rates, and enter all necessary figures to establish the unpaid balance outstanding at the end of the fiscal year. The treasurer may also correct calculation and clerical errors in the collection roll and make the entries required therein.

Where the treasurer has corrected a roll for the purposes provided for in the first paragraph, the treasurer shall inform the ratepayers affected by means of a notice sent by registered or certified mail.

### III. Seizure and sale of movables for non-payment of taxes

105. The personal taxes levied for a fiscal year shall constitute, until the expiry of a period of six months following the end of the fiscal year, a prior claim of the same nature and with the same rank as the claims referred to in paragraph 5 of article 2651 of the Civil Code of Québec on movable property, goods and effects found in the business establishment of any ratepayer liable for the payment of such taxes, as long as they remain in the premises assessed, even if they change owners under a mutually agreed transfer. The city may, until the expiry of that period, register a legal hypothec on the movable property, goods and effects. The business establishment of the ratepayer bound to pay such taxes is that specified in the roll.

106. The prior claim and the legal hypothec granted to the city by the law for all personal taxes owing to it and for interest thereon and collection costs shall extend to all movable goods, property and effects that may be found upon the premises occupied by the debtor on the day of the seizure referred to in section 107 and shall also extend to any other movable goods and effects that may belong to the debtor, wherever they may be at the time of their seizure.

107. When a ratepayer fails to pay taxes that are owing, the treasurer, after issuing or sending a default notice by registered or certified mail, may, as of the sixteenth day following the date the notice was sent, recover the amount with interest and costs by means of a writ obtained from the municipal court, authorizing the seizure and sale of the movable goods and effects subject to the prior claim securing such taxes, with the exception of property declared unseizable by the Code of Civil Procedure.

108. Before proceeding with the sale of the movable property, the bailiff charged with such writ shall give public notice thereof. The bailiff shall specify in such notice the name of the debtor in default, the amount owing and the day and place of the sale, and shall post it in a conspicuous place at the entrance of the city hall.

109. At least eight days before the sale, the bailiff shall serve a copy of such notice on the debtor at his or her domicile, if known, and failing such domicile, at the debtor's ordinary residence, business office or commercial establishment.

Upon a return attesting that the debtor has no known domicile, business office, commercial establishment or ordinary residence, a judge of the municipal court shall prescribe the mode of service of such notice.

### IV. Suits for recovery of taxes

110. Notwithstanding any inconsistent legislative provision of any general law or special act, the treasurer may take before the court of primary jurisdiction, without any authorization, all proceedings the treasurer may deem expedient to collect the taxes and dues owed to the city.

For that purpose, the treasurer may sign any procedural document required and act before the municipal court on behalf of the city, except where the proceedings are contested.

### V. Sale of immovables for non-payment of taxes

111. Before 1 September each year, the treasurer shall prepare a notice addressed to the last owner entered on the collection roll of each immovable on which property taxes that were owing in a previous fiscal year remain unpaid.

Subject to the second paragraph of section 515 of the Cities and Towns Act (R.S.Q., c. C-19), such notice shall contain

(a) the name of the owner on the collection roll on the date when such notice is made out;

(b) the designation of the immovable as it appears on the said roll;

(c) the total amount of taxes owing without it being necessary to specify whether it refers to general or special municipal or school taxes, apportionments for sewers, pavings, sidewalks or expropriations or costs of notices and service;

(d) a demand for payment of the taxes plus the costs of the notice and its service, within ten days of the date of service or mailing of the notice, stating that if not paid within the period prescribed, the immovable will be sold by authority of justice.

112. Once the time limit stipulated in the notice prescribed in section 111 expires, the treasurer shall draw up, certify and send to the clerk a statement containing a summary description of all immovables to be sold for taxes.

The statement need only designate the immovables by their cadastral or subdivision numbers, adding thereto the letter P for parts of lots. The name of the street where each immovable is situated and the civic number of any buildings must be specified; the first and last numbers, joined by a dash, is sufficient where there are several.

The number of the tax account relating to each immovable must also be specified.

The clerk shall, without the formality of minutes of seizure, proceed with the sale of all immovables described in the statement in the manner prescribed in section 113 of this Schedule and in sections 517 to 535 of the Cities and Towns Act (R.S.Q., c. C-19).

113. The clerk shall give public notice, specifying

- (1) the day, time and place of the sale;
- (2) the immovables to be sold;
- (3) the name of the owner of each of the immovables, as entered on the property assessment roll;
- (4) the tax account number relating to each of the immovables;
- (5) the amount of tax owing on each of the immovables, to which interest, penalties and costs shall be added at the time of the sale or of the settlement of the debt, where applicable.

The executive committee shall determine a tariff of costs applicable to sales. The tariff may provide for a uniform rate for all immovables, rates that vary according to categories of immovables determined by by-law, rates that are fixed or variable according to categories of immovables determined by by-law, or any combination thereof. However, the rate established by the tariff may not, for any one immovable, exceed 5% of the capital amount of the unpaid debt. The costs have the same order of preference as municipal taxes.

The notice need only identify each immovable, specifying, for an immovable upon which a building is built, the tax account number relating to the immovable, the name of the street where it is situated and the civic number or numbers of the building or buildings, giving the first and last number joined by a dash where there are several. Where no building is constructed thereon, the immovable shall be designated by its first cadastral number and first subdivision number as they appear in the statement provided by section 112, followed by the abbreviation "etc." where there are more than one; the tax account number relating to the immovable must also be stated.

Furthermore, when an immovable is in the name of more than one owner, it shall be sufficient to name one of the owners in the notice and add "*et al.*". Such notice shall refer to the statement prepared by the treasurer under section 112.

At least one month before the date set for the sale, the clerk shall have the notice published in a newspaper distributed in the city.

For the purposes of this Division, the description of an immovable that is a unit of assessment entered on the assessment roll separately from the land on which it is situated consists of the description of that land and a summary description of the immovable referred to, along with, if possible, the name of its owner, its civic address and any other information that may help to identify it.

## **VI. Purchase by the municipality of immovables sold for taxes**

114. Where the city purchases an immovable under section 536 of the Cities and Towns Act (R.S.Q., c. C-19), it shall have the immovable entered in the city's name on the assessment and collection rolls for property, general and special taxes, and on the apportionment rolls for local improvement taxes, and shall tax it like any other immovable subject to taxation; nevertheless, the city shall not be subject to pay school taxes.

If such immovable is redeemed, the repurchase price shall include, in addition to the amounts referred to in the second paragraph of section 537 of the Cities and Towns Act (R.S.Q., c. C-19), the general or special property taxes owing and the instalments of local improvement taxes encumbering such immovable owing since the sale, the excess over revenue of the expenses incurred by the city to ensure the preservation of the immovable, as well as all taxes not paid out of the proceeds of the sale. After redemption, the local improvement tax instalments not yet owing shall continue to encumber the immovable and the owner shall be personally responsible therefor. The provisions of section 532 of the Cities and Towns Act shall also apply to the redemption of such immovable.

After the expiry of the period for repurchase, the school tax and any other municipal tax levied during such period shall be struck from the collection roll if there has been no repurchase.

## **§12. Loans**

115. Subdivision 30 of Division XI of the Cities and Towns Act (R.S.Q., c. C-19) does not apply to the city, except section 544.1 and the third paragraph of section 549, section 568 and, subject to section 148 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56), sections 556 to 563.1.

116. The term of a loan made by the city may not exceed 40 years. The loan shall be made in accordance with section 121.

117. The city may

(1) borrow, for a term not exceeding four years, the amounts required to defray the cost of the expenses involved in holding a general election;

(2) defray the cost out of the general fund and defer part of those expenses by charging it to the budgetary appropriations for the three fiscal years following the year of the election.

118. The city may, with the authorization of the Minister of Municipal Affairs and Greater Montréal, increase the amount of any loan to be made or renewed by the estimated cost of the discount on the bonds and the expenses incidental to their issue.

119. The amount of the discount on the sale of any issue provided for in section 121 shall be added to the cost of the expropriations, or municipal work, or other expenses to be paid for out of the proceeds from the sale of such issue.

The word “discount” means the difference between the price of sale by the city of its evidences of indebtedness and their nominal value.

120. The executive committee may, by resolution, order temporary loans for the payment of current administration expenses and contract them on the conditions and for the term it determines.

The executive committee may also make loans for the payment of the expenses incurred under a loan by-law.

121. Where a loan has been ordered by by-law, the executive committee may make it by issuing securities or by contract, up to the total amount of principal referred to in the by-law.

The executive committee shall determine

(1) the rate of interest on the loan or securities, or the manner of fixing such rate;

(2) the time the loan is made;

(3) the contents of the securities or of the contracts; and

(4) the conditions of issue of the securities.

The executive committee may also conclude contracts for the exchange of rates of interest or of currencies related to current loans or loans to be made, as well as term or option contracts involving the rates of interest or currencies for the purposes of repayment of the principal or payment of the interest on its loans.

The executive committee may make the loan for a term shorter than that authorized by by-law and determine the part of the loan that shall be renewable at maturity and the maximum term of the renewal.

Any loan for the purpose of such renewal may be made within the 12 months preceding the date of maturity of the loan to be renewed, provided that the term prescribed by the executive committee for the renewal does not exceed the maximum term determined pursuant to this section.

The executive committee may designate a place outside Québec where a register shall be kept for the registration of securities and designate a person authorized to keep the register.

It may repay in advance a loan that may be so repaid.

122. The Act respecting municipal debts and loans (R.S.Q., c. D-7) does not apply to the city, except sections 7 and 8 and Divisions V, VI, VIII to X and XII. The treasurer or any other officer designated for that purpose by the executive committee shall fulfil the obligations referred to in section 24 of that Act.

The Minister of Municipal Affairs and Greater Montréal may cause the certificate referred to in section 12 of that Act to be affixed to a security issued by the city under a by-law in force. The validity of a security bearing such certificate is not contestable.

Notwithstanding any inconsistent provision, the certificate referred to in section 12 of the Act respecting municipal debts and loans does not apply to a security issued to constitute the working fund of the city or issued to effect a temporary loan.

Division IX of that Act does not apply to a security that is not subject to registration according to the conditions of its issue.

A loan obtained by the city or a security issued by it may be repaid or repurchased in advance, as it sees fit, according to the terms of the contract or security. The date of advance repayment or repurchase may be other than a date of payment of interest if the prior notice stipulated in the contract or security is given.

123. Where a by-law authorizes the city to borrow a given amount either in the legal tender of Canada or in the currency of one or more other countries, the total amount of the loan thus authorized shall be that expressed in the legal tender of Canada.

The amount in Canadian dollars of a loan made in another currency is calculated by multiplying the amount of the principal of the loan by the value of the unit of the other currency in relation to the Canadian dollar.

For the purposes of the calculation referred to in the second paragraph, the value of the unit of the other currency in relation to the Canadian dollar is as it stands

(1) at the time of the conversion into Canadian dollars of all or part of the proceeds of the loan paid to the city; or,

(2) at noon on the day on which all or part of the proceeds of the loan are paid to the city, if it is not converted into Canadian dollars.

Where all or part of the proceeds of a loan are used to renew a loan already made by the city, for all or part of its unexpired term, the amount used for the renewal is not deducted from the balance of the amount of the loan authorized by by-law, whatever the value of the currency in which the loan is made.

124. Notwithstanding any inconsistent legislative provision, the securities of the city may be issued in the following forms or a combination thereof:

(1) fully registered securities;

(2) securities that may be registered only for the principal; or

(3) securities payable to the bearer.

The executive committee may prescribe the mode of transfer or negotiation of the city's securities and the formalities to be fulfilled for that purpose. Notwithstanding the foregoing, a bearer security is negotiable by mere delivery and is not subject to registration unless otherwise stipulated.

125. Where the city makes a loan in another country, it may elect domicile in that country or elsewhere, for the purposes of receiving a notice or proceeding respecting that loan.

In the same circumstances, the city may order that the securities issued by it or the contracts concluded by it in

another country for the purposes of the loan be governed by the law of that country, provided that the provisions of this subdivision are complied with.

126. The bonds, notes and other securities of the city shall be signed by the mayor and the treasurer or, if the latter is absent or unable to act, by the person designated for such purpose by the executive committee.

127. A facsimile of the signature of the mayor and the treasurer may be engraved, lithographed or printed on the bonds and shall have the same effect as the signature itself.

128. The loans made by the city shall be secured by its general fund.

129. The city may create a general sinking fund for the purposes of total or partial repurchase of the evidences of indebtedness issued by it.

130. Where the city purchases its own evidences of indebtedness bearing interest coupons to invest them in its sinking fund, it may cancel those securities and replace them by the issue of a single security, without coupons, registered in the name of the treasurer in trust for the purposes of the sinking fund.

131. If at any time the treasurer finds that the moneys in hand for the payment of the interest or principal of any loan for which the city is liable will not be sufficient to pay the interest or principal at maturity, the treasurer shall calculate the property tax required to meet the deficit, on the basis of the value of the taxable immovables according to the assessment roll then in effect; in such calculation, the treasurer shall take into account a fair allowance for possible expenses and losses in the collection of that tax.

The treasurer shall then issue under his or her signature a certificate imposing that tax and deliver it to the clerk for the information of the council.

That certificate shall have the same effect as a city by-law imposing that tax.

That tax shall be levied and collected immediately, in addition to any other tax legally levied by the city.

132. The Décret concernant une exemption accordée à la Communauté urbaine de Montréal de l'obligation d'obtenir certaines autorisations relativement à certains instruments et contrats de nature financière (Décret 166-94 dated 26 January 1994) applies, adapted as required, to the city.



### §13. Working fund

133. The city may, by by-law subject to the approval of the Minister of Municipal Affairs and Greater Montréal, constitute a working fund the purpose, constitution and administration of which must comply with the following rules :

(1) To constitute that working fund, the executive committee may authorize the treasurer to borrow the amounts that it deems necessary through the issue and sale of treasury bills, notes or other securities, provided the current nominal value of such treasury bills, notes or other securities does not at any time exceed 10% of the appropriations provided for in its budget.

(2) The treasury bills, notes or other securities may bear no nominal rate of interest, shall be payable to the bearer or to the holder registered according to their conditions, and shall mature no more than 365 days after the date of their issue. They may bear the mention that they are redeemable in advance, without any other formalities or conditions than those stipulated in them, and must specify that they are issued for the purposes of the working fund of the city.

(3) The sale of the treasury bills, notes or other securities shall be carried out by agreement or by tender. Sale by agreement shall be made on behalf of the city by the treasurer with the approval of the executive committee.

For sale by tender, the tenders shall not be subject to sections 573 and 573.1 of the Cities and Towns Act (R.S.Q., c. C-19), but they shall be addressed to the treasurer. The treasurer, on behalf of the city, shall make the sale to the tenderer who submitted the tender which the treasurer deems to be the most advantageous to the city. The treasurer shall not be bound to accept any tender.

(4) A loan may be granted from the working fund

(a) for a purpose for which the city is authorized to borrow temporarily ;

(b) for the purposes of capital expenditures ;

(c) in anticipation of the collection of revenue of the city or of an amount owing to it ; or

(d) for the purchase of pending securities of the city that are likely to meet the requirements of a sinking fund.

The term of the loan may not exceed five years.

However, for loans granted pending the payment of advances on loans to be granted by the Canada Mortgage and Housing Corporation, the loans granted out of such fund may be for a term of more than five years and apply until any such loan is granted to the city by the Canada Mortgage and Housing Corporation.

(5) Moneys out of the working fund may be invested in treasury bills or in short-term bonds or other securities provided for in paragraphs 2, 3 and 4 of article 1339 of the Civil Code of Québec. Such moneys may also be placed on a short-term basis in a chartered bank or other financial institution authorized to receive deposits.

(6) The executive committee may authorize the treasurer to invest in such fund, for periods not to exceed 90 days, the available balance of the general fund or the temporarily unused balance of the proceeds from long-term loans.

(7) At the end of a fiscal year, any operating surplus in the working fund shall be transferred to the general fund, and any deficit shall be made good out of that fund.

### §14. Financial reserves

134. A by-law creating a financial reserve need not be subject to the approval of qualified voters where the reserve is created for the benefit of the entire territory of the city.

### §15. Acquisition and expropriation of immovable rights

135. The city, for the purposes of its waterworks, may take possession of any land that is vacant or has been built upon whenever it shall consider it advisable, even before having acquired it, by giving the owner eight days' prior notice in writing ; it shall proceed with all possible diligence to acquire such land, however. If it does not commence the expropriation within 60 days following the expiry of the eight-day period stipulated in the notice, it may be compelled thereto by court order.

In all cases, it shall pay the owner interest on the expropriation indemnity from the date of taking possession.

136. The city may acquire an immovable to improve the area around streets or public places. The previous approval of the Minister of Municipal Affairs and Greater Montréal shall be required to exercise such power within a radius of more than 38 metres.

137. The city may accept the gratuitous transfer of any land required for the opening or widening of a street or lane and agree with the owner that, if an expropriation tax is levied later for such improvement, an allowance equal to the value of the land transferred at the time of the expropriation will be granted to him or her against his or her aliquot share of the said tax, subject to his or her obligation to pay any excess.

The amount so credited shall be payable by the other owners who have not transferred their land gratuitously. The value of the land so transferred shall be determined at the time of the expropriation in accordance with the Expropriation Act (R.S.Q., c. E-24).

138. The city may acquire any immovable by agreement or expropriation for the purposes of transferring it by means of exchange, sale or lease with a view to the implementation of a plan for the expansion of the Port de Montréal.

139. The city may, with the authorization of the Minister of Industry and Commerce,

(1) acquire by agreement or expropriation any immovable for industrial purposes;

(2) sell, lease or otherwise alienate for industrial or commercial purposes any immovable acquired under subparagraph 1;

(3) on proof that an immovable acquired under one of its powers, including an immovable acquired under section 144, be more adequately used for industrial purposes, sell, lease or otherwise alienate it for industrial purposes, on the conditions it determines; and

(4) on proof that an immovable acquired under subparagraph 1 cannot be adequately used for industrial or commercial purposes, use it or dispose of it for other purposes.

If the city takes back an immovable that has been sold, leased or otherwise alienated under subparagraphs 2 and 3 of the first paragraph to protect its claim or to exercise certain rights provided for in the contract, the city may then dispose thereof with the same authorization and for the same purposes provided for in this section.

The city is not subject to the Act respecting municipal industrial immovables (R.S.Q., c. I-0.1).

The land acquired by the city under the Industrial Funds Act (R.S.Q., c. F-4) is deemed to have been acquired under subparagraph 1 of the first paragraph and

any money from a sale or rental under the said Act is paid into the general fund of the city.

For the purposes of subparagraph 1 of the first paragraph, the authorization of the Minister of Municipal Affairs and Greater Montréal is required.

140. The city may, by resolution of its executive committee, provided it alone assumes the cost, acquire by agreement or expropriation, with or without prior possession, all servitudes which it shall deem appropriate

(1) to permit their use or to transfer them, on the conditions it determines, to public utility companies, for the laying or installation of conduits, poles, wiring and other accessories necessary for their operations;

(2) for the installation of permanent land and surveying benchmarks, temporary observation towers for the establishment of the said benchmarks or of the poles, anchorages, wiring, traffic lights, lamp-posts, traffic or parking signals, parking meters, fire-alarm boxes, telephones for the use of the police, hydrants, and generally all accessories required for the above-mentioned installations.

The servitudes referred to in this section may be established without a description of the dominant land.

141. No indemnity or damages shall be granted for buildings constructed or improvements made on an immovable after the city adopts the resolution ordering expropriation, provided that such resolution is followed by proceedings in expropriation within the ensuing 12 months.

Notwithstanding the first paragraph, the expropriated party shall be entitled to an indemnity for repairs made by him or her under a permit issued by the city.

142. The executive committee may order the imposition of a reserve for public purposes. Once the order is made, the executive committee shall submit it to the city council for approval at the first sitting that follows the sixtieth day after it is made.

143. Notwithstanding any provision inconsistent with the Expropriation Act (R.S.Q., c. E-24) or any other act, the city may dig a tunnel at a depth of not less than 15 metres under any land for its water conduits, its sewer conduits or for any other municipal purpose. As soon as work begins, the city becomes, without formality or indemnity, but subject to recourse in damages, the owner of the space occupied by the tunnel and of the two metres beyond the interior concrete wall of the tunnel.

As soon as work begins, the city shall notify the owner of the land of the work being done and of the provisions of this section. In the year following the completion of work, the city shall file in its archives a copy of a plan certified by the head of the department involved, showing the horizontal projection of that tunnel. It shall register that plan by filing two copies with the registry office of the registration division of the immovable affected and the registrar shall mention each lot or part of a lot affected in the land register.

144. Notwithstanding any inconsistent provision, the city may acquire by agreement or expropriation any immovable whose acquisition is deemed appropriate for land reserve or housing purposes and for the work related to such purposes, and any immovable considered obsolete or harmful for occupation.

The city may hold, lease and administer immovables acquired under the first paragraph. It may develop those immovables and install the

necessary public services therein; it may also demolish or restore the buildings and other structures and build or construct thereon new buildings for housing, leisure activities, recreation and other related purposes.

The city may exercise the powers provided for in the second paragraph on the immovables it already owns.

It may alienate those immovables on the conditions it determines in accordance with section 28 of the Cities and Towns Act (R.S.Q., c. C-19). It may also alienate, gratuitously or on the conditions it determines, such an immovable in favour of the Government, any of its ministers or agencies, or any person or agency referred to in the third paragraph of section 29.4 of the Cities and Towns Act.

The city may borrow the necessary amounts and request the subsidies provided for by law for the purpose of exercising such powers and for the purposes of making a loan to the legal person formed under this section.

145. Any person responsible for administering the property of others, in particular a tutor, administrator, trustee or public curator, who is seized or possessed of an immovable subject to expropriation, or holds an interest therein in any of those capacities, may enter into agreements with the city to sell and transfer such immovable to it or grant it rights in or servitudes upon such immovable on behalf of any person whom he or she represents or whose property he or she administers, including, but without restricting the scope of the foregoing, minors, children not yet born and persons of full age under protective supervision.

Legal persons may also enter into such agreements respecting their own immovables and respecting those which they hold in any of the capacities referred to in the preceding paragraph.

146. Every person entering into an agreement under section 145 shall be exempt from any recourse by reason of such agreement, saving the obligation to account for the consideration or price received from the city in consequence of such agreement to the person he or she represents.

147. Every person who may sell and transport any immovable to the city under section 145 shall also have the power to transfer to the city gratuitously, conditionally or unconditionally such portion thereof as the person may deem fit, for any municipal purpose.

148. In the cases of section 145, the price shall not be paid to the vendor until after the court or judge has authorized payment thereof. If such authorization is not obtained within three months from the execution of the transfer, the city may release itself from all further responsibility by paying the price into the hands of the clerk of the Superior Court for the benefit of whoever may be entitled thereto.

149. When the moneys are so paid into the hands of the clerk, the clerk shall, even during vacation or out of term, determine how the legal representatives and creditors of the party entitled to such moneys and any other interested person are to be called in, by following the prescriptions of the Code of Civil Procedure (R.S.Q., c. C-25); on a motion or in case of contestation, the Superior Court or one of its judges shall issue such orders as may be deemed advisable and just for the delivery or the distribution of the moneys, or for the disposal of any other matter in connection with the claims or demands of the interested persons.

The formalities provided for in the first paragraph shall not be required where the amount deposited does not exceed five hundred dollars, and the clerk shall deliver it immediately to the expropriated party.

Where the moneys deposited are paid to the expropriated party, they shall not be subject to any tax or commission of any kind, notwithstanding any other inconsistent legislative provision.

150. Where part of an immovable is subject to an expropriation and the indemnity paid by the city does not exceed \$5000, the hypothecs and other charges encumbering that part of the immovable shall be cleared upon registration of the title of the city in the land register and the registrar shall cancel them.

This section applies where a servitude is acquired.

151. The deposits referred to in section 149 shall be judicial deposits within the meaning of the Deposit Act (R.S.Q., c. D-5).

**§16. Land use planning and development**

152. A special planning program applicable to part of the territory of the city may include a program of acquisition of immovables in view of alienating or leasing them for purposes provided for in the special planning program.

Sections 28.1 and 28.2 of the Cities and Towns Act (R.S.Q., c. C-19) apply to such program of acquisition of immovables, adapted as required.

153. The city may, by by-law, govern or prohibit graffiti, drawings, paintings, engravings or photographs on trees, walls, fences, poles, sidewalks, pavements or any other similar structure and, in case of infringement, order their removal and restoration of the site within a prescribed time limit.

154. The city may, by by-law,

(1) govern or prohibit the parking of any vehicle on any land without the authorization of the owner or the occupant of the land;

(2) determine the conditions and methods of towing and impounding, by the city or any person, of the vehicles, at the expense of their owners; and

(3) determine a maximum amount for these costs.

155. The city may, by by-law, vary the standards prescribed in the exercise of the powers provided for in section 113 of the Act respecting land use planning and development (R.S.Q., c. A-19.1), according to the microclimatic effects of a structure, such as sunshine and wind factors, according to the clearing of visual corridors and to the uses and occupancy and the structures on contiguous lands, and according to any other criterion of integration and insertion into a built environment.

156. The city may, by by-law, prescribe, for all or part of its territory and according to the classes it determines, the maximum number of restaurants and establishments selling alcoholic beverages for consumption on the premises and the distance between such establishments or between such an establishment and an immovable, or part of an immovable, occupied for housing or public purposes or any class thereof.

157. The city may, by by-law,

(1) govern or prohibit, by portion of territory, the construction, installation, alteration and maintenance of all existing or future signs and billboards, and require for their maintenance or installation a permit of which it shall determine the cost;

(2) prescribe, by portion of territory, the minimum distance between billboards, which distance may not exceed 90 metres; and

(3) prevent any construction, installation, alteration or repairs that are non-compliant, have them stopped and even provide for the demolition or removal of the billboard or sign.

158. The city may, by by-law, adopt beautification programs and, with the consent of the owner, make improvements on private property. The cost of such improvements may be assumed in full by the city or charged to the owner, according to the terms and conditions fixed for the program by the executive committee.

159. The city may apportion, among the owners who benefit therefrom, the cost of beautification projects carried out in respect of a street, lane or public place pursuant to an agreement between itself and one-half or more of the owners of the immovables that benefit from the improvements, provided that the immovables belonging to the owners who are parties to the agreement represent, according to the property assessment roll, three-quarters or more of the value of all the immovables referred to.

The cost of the beautification shall be apportioned, in the form of local improvement taxes, proportionately to the value of each immovable according to the assessment roll or in the proportion determined in the agreement.

160. The city may, by by-law, prohibit the manufacture and storage of nuclear weapons within the meaning of section 6 and prohibit the manufacture of specific nuclear weapon components.

161. The city may, by by-law, govern or prohibit bathing, swimming, the use of public beaches and the renting of boats in the waters within the limits of the city for safety, health and policing reasons.

162. The city may, by by-law,

(1) specify the requirements respecting fences and hedges, namely:

- (a) their distance from public roads;
- (b) their maximum and minimum height;
- (c) the places where they may or must be located;
- (d) the material they are made of;
- (e) the manner in which they must be made; and
- (f) their maintenance according to preservation and architecture requirements;

(2) provide for the bringing into compliance of fences and hedges, for their removal and, if necessary, the restoration of the sites, and for the installation of fences or hedges, within a prescribed time limit; and

(3) provide, in case of failure to comply with any public safety requirement of the by-law, whether the offender refuses or fails to comply or cannot be found, for such fences or hedges to be corrected, removed or installed by the city at the expense of the offender; the expense constitutes a prior claim on the immovable concerned, of the same nature and with the same rank as the claims referred to in paragraph 5 of article 2651 of the Civil Code of Québec; the expense is secured by a legal hypothec on the immovable.

163. A borough council shall, in respect of the part of the territory of the former Ville de Montréal situated within its territorial boundaries, pass, before 31 March 2002, a zoning by-law that renews the provisions of the Urban Planning By-law of the former Ville de Montréal (R.B.C.M., c. U-1).

The second sentence of the second paragraph and the third and fourth paragraphs of section 126, the second paragraph of section 127, sections 128 to 133, the second and third paragraphs of section 134 and sections 135 to 137 of the Act respecting land use planning and development (R.S.Q., c. A-19.1) do not apply to a by-law passed by a borough council under the first paragraph.

A by-law passed under the first paragraph is deemed to comply with the development plan of the city notwithstanding the absence of a certificate of compliance.

164. Until a borough council passes the by-law provided for in section 163, the Urban Planning By-law of the former Ville de Montréal (R.B.C.M., c. U-1) applies, with respect to the part of the territory of the former Ville de Montréal situated within the territorial boundaries of the borough, adapted as follows:

(1) for the purposes of section 113 and of Division V of Chapter III of the Act respecting land use planning and development (R.S.Q., c. A-19.1), each zone is the territorial unit resulting from the spatial overlapping of all the plans attached to the Urban Planning By-law of the former Ville de Montréal;

(2) a provision of that By-law related to the approval, prior to the issue of a building permit or an alteration permit, of plans related to the development, architecture and design of constructions or to the development of land and work related thereto shall be, with respect to any permit that must be issued as of 1 January 2002, deemed to constitute a provision subjecting the issue of a building permit for the project covered by the By-law to the approval of plans related to the site planning and the architecture of constructions or the development of the land, and work related thereto, within the meaning of sections 145.16 to 145.20.1 of the Act respecting land use planning and development (R.S.Q., c. A-19.1).

165. Sections 163 and 164 do not apply if the former Ville de Montréal passed, before 31 December 2001, a by-law referred to in the first paragraph of section 163.

166. Where a notice of motion has been given with a view to passing or amending a by-law referred to in section 89 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56), no building plan may be approved nor may any permit or certificate be granted for the carrying out of work or use of an immovable that, if the by-law that is the subject of the notice of motion is adopted, will be prohibited in the zone concerned.

167. The second sentence of the second paragraph and the third and fourth paragraphs of section 126, the second paragraph of section 127, sections 128 to 133, the second and third paragraphs of section 134 and sections 135 to 137 of the Act respecting land use planning and development (R.S.Q., c. A-19.1) do not apply to a by-law passed by a borough council in order to replace its zoning or subdivision by-laws by a new zoning by-law or a new subdivision by-law that applies to the whole territory of the borough, provided that such a by-law comes into force within three years of the coming into force of this Schedule.

Such a by-law must be approved, in accordance with the Act respecting elections and referendums in municipalities (R.S.Q., c. E-2.2), by the qualified voters of the whole territory of the borough.

The borough council may avail itself of this section only once for each by-law.

Until a new zoning by-law is passed under this section, in a borough comprising part of the territory of the former Ville de Montréal, other than the Mont-Royal Borough, every zone or, where applicable, every sector of a zone whose perimeter is situated, in whole or in part, less than 200 metres from the limits of the zone covered by the proposed by-law is deemed to be a zone or a contiguous sector for the purposes of section 113 and Division V of Chapter III of the Act respecting land use planning and development (R.S.Q., c. A-19.1). This paragraph will cease to have effect three years after the coming into force of this Schedule.

168. Notwithstanding section 200 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56), the authorizations granted under item b.1 of subparagraph 2 of the first paragraph of article 524 and article 649a of the Charter of the City of Montréal (1959-1960, c. 102) and the by-laws passed under item d of subparagraph 2 of the first paragraph of article 524 and article 612a of that Charter shall remain valid and continue to have effect in accordance with those authorizations or by-laws.

For the purposes of a by-law passed under article 612a of that Charter, a provision of that by-law related to approval, prior to the issue of a building permit or an alteration permit, of plans related to the development of land and work related thereto shall be, with respect to any permit that must be issued, deemed to constitute a provision subjecting the issue of those permits to the approval of plans related to the site planning and the architecture of constructions within the meaning of sections 145.16 to 145.20.1 of the Act respecting land use planning and development (R.S.Q., c. A-19.1).

169. The borough council shall exercise the powers of the city, provided for in sections 412.1 to 412.6 of the Cities and Towns Act (R.S.Q., c. C-19), on the demolition of immovables.

170. The borough council may, by resolution, decide to continue the procedure for the passage of a proposed by-law to amend an urban planning by-law that comes under its jurisdiction if the proposed by-law was passed before 31 December 2001 and is not in force on that date.

171. All kinds of constructions shall be prohibited on the south side of Boulevard Saint-Joseph, bordering Lac Saint-Louis, between 34<sup>e</sup> Avenue and the western boundaries of the former Ville de Lachine.

172. Section 2 of chapter 125 of the Statutes of Québec of 1933 respecting the erection, maintenance and use of signboards continues to apply, with respect to the territory of the former Ville de Lachine, until 31 December 2003.

173. Section 1 of chapter 90 of the Statutes of Québec of 1920 respecting construction on part of Rue Sherbrooke Ouest continues to apply, with respect to the territory of the former Ville de Westmount, until 31 December 2003.

174. Section 2 of chapter 56 of the Statutes of Québec of 1958-1959 respecting the erection and operation of gasoline stations continues to apply, with respect to the territory of the former Ville de Lachine, until 31 December 2003.

175. Section 2 of chapter 64 of the Statutes of Québec of 1959 with respect to subparagraph *d* of paragraph 1 respecting the construction and operation of gasoline stations continues to apply, with respect to the territory of the former Ville de Dorval, until 31 December 2003.

176. Sections 3 and 4 of chapter 147 of the Statutes of Québec of 1935, paragraphs 1, 5 and 6 of section 2 of chapter 147 of the Statutes of Québec of 1935, as replaced by section 1 of chapter 96 of the Statutes of Québec of 1963, and Schedules A and B to the latter Statute, respecting certain prohibited constructions and building regulations, continue to apply, with respect to the former Village de Senneville, until 31 December 2003.

177. Section 19 of Order in Council 1276-99 dated 24 November 1999 respecting the amalgamation of the former Ville de Lachine and the former Ville de Saint-Pierre continues to apply, with respect to the territory of Lachine Borough.

#### §17. *Films*

178. The city may authorize, for a limited time and on the conditions it determines in each case, the occupation of public or private land or the construction or occupation of a building contrary to a municipal by-law for the purpose of making a film.

#### §18. *Acquisition of lanes*

179. Riparian owners who wish to acquire the right-of-way of a lane owned by the city are required to present a petition to that effect to the city.

The petition must be signed by not less than two-thirds of the riparian owners, representing not less than two-thirds of the frontage of the land bordering on the lane.

180. If the city decides to grant the petition, it may pass a by-law ordering the closing of the lane.

The by-law shall include, where necessary, a designation of the land which, within the right of way of the lane, will be encumbered with a servitude for public utility purposes, including the laying, installation and maintenance of conduits, poles, wiring and other accessories necessary for the operations of public utility companies. Such designation need not mention the dominant land.

A cadastral plan shall accompany the by-law, identifying for each riparian lot the part of the lane to be re-attached to it, and mentioning a separate lot number for each part of such lane. The servitude shall be marked on the plan by means of hatchings for public utility purposes.

181. Notice of the passage of the by-law shall be served on each riparian owner on the property assessment roll and be published in a daily newspaper distributed in the city.

182. Upon the coming into force of the by-law, the clerk shall require the registration thereof in the land register and the registrar shall mention the by-law on each riparian lot.

183. The registration in the land register entails the transfer of ownership of each re-attached lot to each riparian lot owner, in accordance with the cadastral plan, and creates the servitude for public utility purposes described in the by-law.

184. Within 30 days following the date of the service of the notice provided for in section 181, a riparian owner who has not signed the petition provided for in section 179 may claim an indemnity from the city. Failing agreement, the indemnity shall be determined by the Administrative Tribunal of Québec at the request of the owner or city and sections 58 to 68 apply, adapted as required.

185. The amounts paid by the city as indemnities may be charged to the riparian owners of the closed lane and apportioned among them in proportion to the number of metres of frontage of their respective immovables.

**§19. Exercise of certain powers by the borough councils**

186. The city council may, in its internal management by-law, on the terms and conditions it determines, delegate the following powers to a borough council :

- (1) the passage and application of a by-law relating to
  - (a) noise ;
  - (b) dogs and other house pets ;
  - (c) the distribution of advertising items ;
  - (d) nuisances ;
  - (e) public markets that it designates ;
  - (f) promotional activities on commercial roads ;
  - (g) traffic control and parking, in accordance with the standards related to the harmonization of the traffic control rules and parking provided for in the by-law passed under the third paragraph of section 105 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) ; and
  - (h) any other by-law related to the quality of the living environment ;
- (2) the application of a by-law
  - (a) relating to the construction of buildings ;
  - (b) referred to in section 117.1 of the Act respecting land use planning and development (R.S.Q., c. A-19.1) ;
  - (c) relating to parks ;
  - (d) relating to occupation of the public domain ;
  - (e) relating to excavation ;
  - (f) relating to the minimum maintenance and housing standards for dwellings ;
  - (g) referred to in paragraph 2 of section 92 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) ; and
  - (h) determined by the council ;
- (3) the operation of a snow removal site or an establishment referred to in paragraph 1 of section 92 or section 98 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) ;
- (4) the maintenance of a park or a cultural or recreational facility under the authority of the city council ;

(5) the maintenance of the arterial road network, including the installation and maintenance of traffic signs and signals, waterworks and sewer systems or any other infrastructure or facility under the authority of the city council; and

(6) any other power related to the implementation of a jurisdiction under the authority of the city council for which appropriations are provided in the annual allotment provided for in section 143 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56).

### **DIVISION III** PROVISIONS CONCERNING CERTAIN REGULATORY MATTERS

#### *§1. Public thoroughfares and places*

187. Every deposit contemplated by subparagraph 14 of the fifth paragraph of section 415 of the Cities and Towns Act (R.S.Q., c. C-19) shall be made in cash or by bond from a guarantee or trust company authorized to do business in the province of Québec. In the event of accident to any underground installation necessitating immediate excavation, a time limit of 48 hours shall be granted to make the required deposit.

In the event of any dispute between the city and the person concerned, as to the extent or cost of the repairs rendered necessary by any excavation, the dispute shall be submitted to the Commission municipale du Québec and its decision shall be final.

The city shall nevertheless have the right to proceed with the repairs while the matter in dispute is before the Commission municipale du Québec.

188. The provisions of section 187 of this Schedule and of subparagraph 14 of the fifth paragraph of section 415 of the Cities and Towns Act (R.S.Q., c. C-19) shall not affect any contract prior to 14 March 1911.

189. Notwithstanding any inconsistent legislative provision, no person exercising franchises and having acquired rights shall carry out any work in the streets, lanes, thoroughfares or other public places of the city or install rails, wiring, poles or conduits without notifying the city, unless such work is carried out under the supervision of the competent department head in the manner and in the places indicated by him or her; subject to the city's right to require any person to remove such wiring, overhead cables, poles and transmission lines, as provided by section 206.

190. Where a cadastral operation project includes streets or lanes, the rights-of-way of those streets or lanes shall bear one or more separate numbers.

Such project shall not be approved if the space occupied by the streets or lanes is not free of hypothecs, privileges, charges or real rights.

Such streets or lanes become, without indemnity, public streets or lanes and are part of the public domain by the mere fact of the project's approval. The provisions of this section take effect only after the registration of such project in the land register. The city notary shall advise the registrar of the above.

Where, as provided on the general plan of the city, the streets are more than 20 metres wide or the lanes more than 6 metres wide, the part of the streets or lanes in excess of such widths is not affected by the preceding provisions, but that excess shall appear on the cadastral operation project as separately numbered lots.

191. The competent department head shall see that streets, lanes, thoroughfares and public places acquired in whole or in part by the city or open for public use for five years or more are described and recorded in a register to be kept exclusively for that purpose. In the case of those streets, lanes, thoroughfares or places that are only partly public, the part in question shall be registered and described.

Upon that registration, those streets, lanes, thoroughfares and places are deemed to be public.

192. The city becomes the owner of the streets, lanes, thoroughfares and places deemed public under section 191, and of the lots or parts of lots shown on the official cadastral plan as streets or lanes, upon completing the following formalities:

(1) the adoption of a resolution approving the description of the immovable;

(2) the publication of a notice to that effect, once a week for three consecutive weeks, in a French daily newspaper and in an English daily newspaper published in Montréal; and

(3) the registration in the land register of a notice to the same effect, signed by the clerk and stating that the formalities referred to in subparagraphs 1 and 2 of the first paragraph have been complied with.

That registration is made by deposit and the registrar is bound to receive the notice and enter a reference thereto in the land register.



The right to an indemnity in respect of that acquisition must be exercised by a motion before the Administrative Tribunal of Québec within the year following the last publication of the notice in the newspapers.

193. The city is freed from the restrictions affecting its titles on the future use of a street, lane, thoroughfare, public place or park, as soon as the following formalities have been completed:

(1) the publication of a notice to that effect in the newspapers with a sketch of the lots contemplated;

(2) the payment of the indemnity fixed by the Tribunal where, within 12 months of the publication of the notice, the donor or his or her assigns or successors have exercised their recourses, except that the city is automatically freed if the recourse is not exercised within the prescribed time limit; and

(3) the registration in the land register of a notice signed by the clerk and stating that the formalities referred to in subparagraphs 1 and 2 have been complied with.

The registration is made by deposit and the registrar is bound to receive the notice and enter a reference thereto in the land register.

## §2. Parks

194. The territory comprised within the limits hatched in red on the plan M-355 Saint-Antoine, drawn up by the city's public works department and dated 2 June 1975, shall be reserved to establish a public park under the name of Mount Royal Park.

The part of that territory located within the city limits shall form part of the general plan of the city and any immovable therein that the city owns or acquires shall form part of Mount Royal Park.

The city is not bound to pay an indemnity for a building constructed or for improvements made in the territory, except for immovables belonging to universities or to organizations or legal persons operating hospitals or cemeteries thereon, as regards any constructions, improvements, leases or contracts made for the purposes of those educational establishments or hospitals or cemeteries.

The part of the territory described in section 2 of the Act 8-9 Elizabeth II, chapter 96, shall form part of Mount Royal Park and of the city.

The city shall preserve and maintain in perpetuity as a public park every territory of which it is or becomes the

owner within the limits described on the plan referred to in the first paragraph of this section. The city shall not alienate any part thereof to enable any rights, privileges or franchises of a special nature to be exercised there, or authorize the installation, within its limits, of rails, poles, wiring or electrical apparatus for purposes of traction, locomotion or driving power, notwithstanding any special expropriation powers or other power that may have been granted by a general law or special act to the city or to any person or municipality, except in the cases of and to the extent where a special act is expressly inconsistent with the provisions of this section.

195. Since 20 May 1937, the following land has formed part of Mount Royal Park: a strip of the lot bearing number 1799 and a strip of the lot bearing number P-1800, as well as the McTavish monument, as shown on plan number 175 Saint-Antoine, dated 2 March 1937.

196. The city may authorize the Canadian Broadcasting Corporation or any other person to build within the limits of Mount Royal Park a single new tower for television and radio transmission and reception as well as the buildings required for its utilization. The city may conclude any contract or enter into any agreement for the use or construction of that tower and those buildings by third parties, provided that the contract or agreement does not entail the alienation of the city's rights of ownership on the territory of Mount Royal Park. At the expiry of the lease existing between the city and the Canadian Broadcasting Corporation or at any previous date decided between themselves, the tower now standing in Mount Royal Park shall be demolished and the site restored to its natural state, according to the terms of the existing lease.

197. The city may enter into an agreement with the institution known as the Shriners' Hospital for Crippled Children, for the purposes of the children's hospital which the institution owns on Cedar Avenue, for the use and utilization, for purposes of building an access road and a school annexed to the said hospital, of a certain area of land forming part of the territory of Mount Royal Park adjoining the land belonging to the said institution, the limits of that area of land being outlined in green on plan number C-237 Saint-Antoine prepared by the public works department of the city.

The agreement shall in no way alienate the city's right of ownership over the said area of land and shall end when the buildings of the said hospital cease to be occupied by the said institution for the above-mentioned purposes; the city shall then have the right to demolish and remove, at the institution's expense, any structure or building that might have been constructed thereon.

#### **DIVISION IV**

##### **AWARD OF CONTRACTS**

198. Sections 573 and 573.1 of the Cities and Towns Act (R.S.Q., c. C-19) do not apply to a contract

(1) whose object is the performance of work to remove, move or reconstruct mains or installations for waterworks, sewers, electricity, gas, steam, telecommunications, oil or other fluids and that is entered into with the owner of the mains or installations or with a public utility, for a price corresponding to the price usually charged by an undertaking generally performing such work;

(2) whose object is the providing of services by a single supplier or by a supplier in a monopoly position in the field of communications, electricity or gas;

(3) whose object is the maintenance of specialized equipment that must be carried out by the manufacturer or its representative; or

(4) whose object is the supply of electricity, steam or cold water where the supplier is a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1).

199. Notwithstanding sections 573 and 573.1 of the Cities and Towns Act (R.S.Q., c. C-19), the mayor or, if he or she is absent or unable to act, the chair of the executive committee or, if he or she is also absent or unable to act, the director general may, in a case of irresistible force which might endanger the life or health of the population or seriously damage or seriously interfere with the operation of municipal equipment, order such expenditure as the chair or director general considers necessary and award any contract necessary to remedy the situation.

The mayor, the chair of the executive committee or the director general, as the case may be, shall file a report giving the reasons for the expenditure and contract at the next meeting of the executive committee. The report shall then be filed with the council at the next meeting.

This section also applies, adapted as required, to the borough chair.

200. The executive committee shall report to the council at each regular meeting on any contract awarded since the last regular meeting.

The city may, by by-law, determine the content and the procedure for tabling a report provided for in this section.

201. Notwithstanding any provision inconsistent with a general or special act, the city and any other public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1), and any public utility or any non-profit body, may proceed with a joint application for public tenders for the award of an insurance contract or a contract for the supply of material, materials or services.

For the purposes of the first paragraph, a contract for the supply of material also includes any contract for the leasing of equipment with an option to purchase.

The application for public tenders shall be presented by the council on behalf of the city and any body that is a party to that application.

Section 573 of the Cities and Towns Act (R.S.Q., c. C-19) applies to the call for public tenders, but it is not necessary for the contract to involve an expenditure of \$100 000 or more.

Where the body is party to the call for public tenders, it may not make a call for tenders or award a contract in respect of the object of the call unless the city decides not to give effect to the call.

The acceptance of a tender by the city also binds each party to the call towards the contractor.

#### **CHAPTER IV**

##### **COMMISSION DES SERVICES ÉLECTRIQUES DE LA VILLE DE MONTRÉAL**

202. The city shall, by by-law, establish a commission to be known as the "Commission des services électriques de Montréal", whose function is to plan, build, maintain and administer an underground network of conduits ensuring the transmission and distribution of electricity and links by telecommunications.

The city may delegate to the commission the powers granted to it that are necessary for the commission to fulfill its mission and the application of the by-laws it passes in particular under subparagraph 17 of the first paragraph of section 415 of the Cities and Towns Act (R.S.Q., c. C-19).

203. The commission shall consist of five members appointed as follows:

(1) one member shall be appointed by the Government to chair the commission;

(2) two members shall be appointed by the city;

(3) one member shall be appointed by Hydro-Québec; and

(4) one member shall be appointed by the users of the underground conduits who, except the city and Hydro-Québec, have confirmed to the clerk, in writing, within 30 days of sending the notice referred to in the second paragraph, their intention of taking part in the ballot.

Not less than 45 days before the date on which the member is to be appointed under subparagraph 4 of the first paragraph, the clerk shall send a special notice to all the users of the underground conduits referred to in that subparagraph, according to the list provided by the chair of the commission, indicating the date on which the member is to be appointed and informing the users of their entitlement to propose and vote for candidates.

Every user intending to propose a candidate must inform the clerk of the name and function of the candidate when sending the confirmation referred to in subparagraph 4 of the first paragraph.

Not less than ten days before the date on which the member is to be appointed under subparagraph 4 of the first paragraph, the clerk shall send a ballot paper to all the users who confirmed their intention to vote. The ballot paper must include the name and function of each candidate together with the name of the user who proposed the candidate. Each user is entitled to one vote.

On the date on which the appointment is to be made, the clerk shall count the votes cast in the presence of a witness. The person who receives the greatest number of votes shall be declared elected. In the case of a tie vote, the clerk shall designate the member by a drawing of lots.

Where there is only one candidate, the clerk shall declare him or her elected.

Should the users fail to appoint a member on the prescribed date, the member shall be designated by the other members of the commission.

The salaries of the members of the commission shall be determined by the executive committee.

Any vacancy shall be filled by a person appointed in the same manner as the commission member to be replaced.

204. The commission shall

(1) adopt rules relating to the use of underground conduits and to the management of affairs under its jurisdiction;

(2) decide, from time to time, at its discretion, on the construction of conduits;

(3) draw up the plans and specifications of underground conduits;

(4) authorize calls for tenders and receive tenders for the construction of underground conduits and submit a report thereon to the city; and

(5) manage and supervise alone the construction and maintenance of those conduits and decide, from time to time, at its discretion, on the construction of the conduits.

The rules referred to in subparagraph 1 of the first paragraph shall come into force on the date of their approval, with or without amendment, by the Commission municipale du Québec.

All underground conduits, whether they were built in the public domain or on private property, by the commission, the city or a third party, shall be under the control of the commission.

205. The city or any other interested party may appeal, before the Commission municipale du Québec, any rule, decision or act of the commission or of the city, in any matter relating to underground conduits, except in contractual matters where the parties have agreed to renounce that appeal.

The appeal must, under pain of forfeiture, be brought within 30 days after the date of service to the interested party or of publication of a notice indicating the rule, decision or act covered by the appeal.

The appeal is made by means of a registration filed with the Commission municipale du Québec; the appellant shall serve a notice of that appeal on the opposing party or the party's attorney.

206. Where the commission builds an underground conduit, it may order, by notice, any owner of cables

(1) to state to it which portion of those conduits it wishes to reserve; and

(2) to identify the cables that belong to it and replace the overhead cables with underground cables placed in that conduit.

Should an owner fail to comply with the notice referred to in the first paragraph within the prescribed time limit, the commission may apply to the Commission municipale du Québec for the execution of an order given in the notice.

207. The underground conduits must be built so that

(1) each user has a separate opening or separate compartment in the opening where practicable; and

(2) the part where the telecommunication cables are placed is separated from the part where the lighting and power cables are placed by a wall made of non-flammable and non-conductive material.

No underground conduits or overhead constructions may be built, altered, repaired or extended without the approval by the commission of the plans and specifications.

The commission shall determine the manner in which underground conduits and overhead constructions are to be linked to distribution networks and to buildings.

208. It is prohibited to install poles intended for overhead wiring and overhead cables on public thoroughfares where underground conduits are built or planned.

209. Conduits built by the city in underground lines or on bridges or overpasses situated in streets, lanes, parks or public places shall be part of its underground conduit network and subject to the provisions of this Chapter from a date to be determined by the city and the commission.

210. Where the city orders the removal of poles, cables or other overhead constructions, their owner shall be awarded an indemnity comprising the actual value, at that time, of the material and the cost of installation work.

Where there is an indemnity, the removed material shall constitute expropriated property belonging to the city.

211. Where the city or the commission decides to construct underground conduits in streets, lanes, parks or public places, the city or, as the case may be, the commission on behalf of the city, shall take over the private underground conduits therein and pay a reasonable indemnity for those conduits and for the material that has become useless.

Upon payment of that indemnity, the underground conduits and all the removed material shall constitute expropriated property belonging to the city.

212. The indemnities covered by sections 210 and 211 of this Chapter shall be fixed by the commission.

The commission shall hear the interested parties and render its decision within four months. The commission may however extend that period if it deems it necessary.

The commission's decision shall be final and binding upon the city and all the interested parties.

213. The commission has the right to construct underground conduits on private property without the owner's consent. The cost of those conduits beyond five metres from the street line, except the inlet to the building, shall be charged to the owner.

The commission may demand from the owner an advance deposit sufficient to guarantee the payment of the cost of the work charged to him or her.

If the owner refuses or fails to make the deposit, the commission may nevertheless proceed with the work, and a certificate from the commission attesting to the cost of the work shall be sent to the treasurer.

The treasurer shall enter the amount specified on the commission's certificate on the property tax collection roll of the year under way for the defaulting owner's immovable. The cost of the work thus charged to the owner shall constitute a property tax encumbering that immovable in favour of the city.

214. Where the commission alters underground conduits or overhead constructions at the request of the city or a third party, it may, at its discretion, charge the alteration work to the city or to the third party applicant, where applicable, and demand an advance deposit sufficient to guarantee the payment thereof.

215. The commission is authorized to enter, without the owner's consent, any private property for the purposes of installing overhead or underground cables and their accessories.

An indemnity, determined by the commission, shall be paid for any actual damage caused by the work performed or obstructions caused by the exercise of such power.

216. The commission may demand payment for the use of the underground conduits and overhead constructions under its jurisdiction.

The commission shall fix the amount of those payments annually, so as to cover

(1) the administration and maintenance cost of the conduits and constructions;

(2) the salaries of the employees;

(3) an amount that may be applied to the retirement fund of the commission's employees;

(4) the commission's share in the accident insurance plan of its employees;

(5) the interest and amortization, over a period of at least 20 years, of the debt contracted by the city for the indemnity covered by sections 210 and 211 and for the construction or purchase of underground conduits; and

(6) any other expense of the commission.

Those payments shall be apportioned between the debtors in proportion to the share of the underground conduits or of the network of overhead constructions that each debtor occupies or has reserved.

217. Sections 573 to 573.3.2 of the Cities and Towns Act (R.S.Q., c. C-19) apply to contracts awarded by the commission.

## CHAPTER V PARAMUNICIPAL BODIES

218. The city may apply for the constitution of non-profit bodies

(1) to acquire, renovate, restore, build, sell, lease or manage immovables and exercise the powers provided for in section 144;

(2) to grant subsidies for the construction, renovation, restoration, demolition and relocation of immovables;

(3) to administer subsidy programs for the purposes provided for in paragraph 2; and

(4) to participate as shareholders or otherwise, in any venture capital investment fund whose main object is to promote the economic development of the city's underprivileged neighbourhoods.

219. The city may

(1) apply for the constitution of a non-profit body to establish, manage and operate natural sciences conservatories and to provide at those conservatories services usually provided to the public in similar establishments;

(2) apply for the constitution of a non-profit body with a view to establishing an archeological and historical interpretation centre; and

(3) delegate to those bodies, for their respective purposes, its power to acquire by agreement, build or lease immovables and alienate them.

220. The city may apply for the constitution of a non-profit body to promote construction, restoration and improvement as well as housing, commercial, cultural and tourist development in the historical district of Vieux-Montréal and the contiguous territory delimited by the Bonaventure and Ville-Marie autoroutes and by the extensions of De La Commune and Amherst streets, to restore and build immovables in that borough and contiguous territory and to see to the carrying out of any agreement between the Government and the city with respect to that borough and contiguous territory and the enhancement of Montréal's heritage.

The body may also see to the protection of buildings anywhere in the city that are of architectural, historical or cultural interest and, for that purpose, acquire, restore or improve such buildings as well as any immovable considered necessary for their enhancement.

The body may, with the prior authorization of the Minister of Municipal Affairs and Greater Montréal, participate, as a shareholder or otherwise, in any venture capital investment fund allocated mainly to the furthering of the legal person's objectives.

221. The city may apply for the constitution of a non-profit body to manage and operate one or more tourist information centres and to carry on therein or permit the carrying on therein of commercial activities related to the operation of such centres so as to ensure their financing.

222. In exercising the powers provided for in subparagraph 10 of the first paragraph of section 413, sections 445 and 446 of the Cities and Towns Act (R.S.Q., c. C-19) and section 71 of this Schedule, the city may

(1) collaborate with any person, partnership or enterprise representing public or private interests;

(2) acquire share capital in companies whose activities consist solely in the carrying out of projects relating to the exploitation of gas or gas by-products and of thermal energy generated at the city residual material disposal sites or lend money to such companies for interest and upon security; and

(3) apply for the constitution of non-profit bodies to exercise, on behalf of the city, the powers provided for in subparagraph 10 of the first paragraph of section 413, sections 445 and 446 of the Cities and Towns Act (R.S.Q., c. C-19) and section 71 of this Schedule.

223. The city may organize cultural, recreational and tourist activities on Sainte-Hélène and Notre-Dame islands. It may build immovables thereon for those purposes or allow immovables to be built thereon by third parties and transfer to them for that purpose all or part of the site by emphyteutic lease or surface rights.

The city may also transfer all or part of the rights of the city on those sites to a non-profit body established on an application by the city.

224. Upon petition by the city, the Lieutenant-Governor may issue, on the terms and conditions set out therein, letters patent under the Great Seal of the Province constituting a non-profit body to exercise the powers provided for in sections 218 to 223.

The letters patent shall mention the name of the body, the location of its head office, its powers, rights and privileges and the rules governing the exercise of its powers, and designate its members and directors.

Notice of the issuing of such letters patent shall be published in the *Gazette officielle du Québec*.

Upon petition by the body established under this section, the Government may issue supplementary letters patent for the purpose of amending the content of the letters patent referred to in the second paragraph of this section. Notice of the issuing of the supplementary letters patent shall be published in the *Gazette officielle du Québec*.

The city may dissolve the body by a notice published in the *Gazette officielle du Québec*. In the case of dissolution, the property of the body, after payment of its obligations, shall be vested in the city.

A body so established shall have, among other powers, those of a legal person established by letters patent under the Great Seal of the Province. It shall be a mandatary of the city, and is deemed to be a municipality for the purposes of the Act respecting the Ministère des Relations internationales (R.S.Q., c. M-25.1.1) and the Act respecting the Ministère du Conseil exécutif (R.S.Q., c. M-30).

This section does not apply to the acquisition of immovables for industrial purposes.

225. Upon petition by the city, the Lieutenant-Governor may issue, on the terms and conditions set out therein, letters patent under the Great Seal of the Province authorizing the amalgamation of non-profit bodies established under the provisions of this Chapter.

The petition shall be accompanied by a deed of agreement from the bodies to be amalgamated stipulating the terms and conditions of the amalgamation, the manner in which to give it effect, the name of the body resulting from the proposed amalgamation, the location of its head office, its powers, rights and privileges and the rules governing the exercise of its powers, and designate its members or member and its directors.

Subject to the second paragraph, the body resulting from the amalgamation shall have all the property, rights and privileges of each of the amalgamated bodies, and shall assume all their debts and obligations as if it had contracted them itself.

226. The bodies referred to in section 218 may renovate, restore or build industrial or commercial immovables only within the territory delimited in the letters patent by which they are established.

The Government or any government agency may take part, together with the city, in the establishment and administration of any such bodies or agencies.

227. The bodies referred to in sections 218 to 223 must, no later than 31 March each year, submit to the executive committee a report of their activities for the preceding fiscal year; the report must also include all the information as may be prescribed by the executive committee. The report shall be tabled at the first council sitting following the thirtieth day after it is received by the executive committee.

The bodies must also provide the executive committee with any information it requires on their operations.

The bodies are deemed to be municipalities for the purposes of the Act respecting the Ministère des Relations internationales (R.S.Q., c. M-25.1.1) and the Act respecting the Ministère du Conseil exécutif (R.S.Q., c. M-30).

228. The city may pay a legal person established on a petition filed by the city the amounts provided for as a working fund to the letters patent constituting that legal person.

The city may

(1) authorize the payment of contributions in order to make up for the deficit or to finance the activities of that legal person;

(2) guarantee the debt contracted by that legal person; and

(3) borrow amounts that may be paid into the working fund referred to in the first paragraph or that are necessary for the purposes of subparagraph 1 of the second paragraph.

The city may require that a body referred to in sections 218 to 223 repay it all or part of the funds that it considers a surplus.

229. A body established under sections 218 and 220 that owns an immovable must pay in respect thereof any tax that may be required from a property owner in the city, to the exclusion of any surtax that may be imposed by reason of the amount of the assessment.

230. The city and Université de Montréal are authorized to appoint jointly three natural persons to file a petition, in accordance with Part III of the Companies Act (R.S.Q., c. C-38), for the constitution of a non-profit body with a view to establishing a research institute in plant biology.

Section 228 applies in respect of that legal person.

231. Notwithstanding section 200 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56), the Corporation des Habitations Jeanne Mance shall continue to exercise all the powers vested by article 964 of the Charter of the City of Montréal (1959-1960, c. 102) and this section continues to apply in its respect.

## **CHAPTER VI TECHNOPARC SAINT-LAURENT**

232. The city may, by by-law, acquire, by agreement or expropriation, any immovable situated in the territory described in the second paragraph for the purposes of alienating it in favour of Technoparc Saint-Laurent for the establishment of a high technology park.

The territory referred to in the first paragraph shall be established pursuant to the Schedule to chapter 69 of the Statutes of 1992 respecting Technoparc Saint-Laurent which continues to apply for that purpose.

233. All appropriations referred to in the acquisition by-law must derive from the general fund of the city.

Before the by-law provided for in section 232 is passed, Technoparc Saint-Laurent shall provide the city with an amount of money or an irrevocable letter of credit issued by a bank, a savings and credit union or a trust company, for an amount equal to the amount established by the expropriation by-law.

The by-law provided for in section 232 must indicate the amount referred to in the preceding paragraph or indicate that the irrevocable letter of credit has been received.

234. The city shall become the owner of an expropriated immovable from the day of registration in the land register of the notice of expropriation together with

(1) proof establishing that the provisional indemnity has been paid to the expropriated party or deposited, on his or her behalf, at the office of the Superior Court; and

(2) proof of the service on the expropriated party of the notice of expropriation.

The notice of expropriation must be accompanied by the text of this section regarding the immediate transfer of title and must omit the second provision of subparagraph 3 of the first paragraph of section 40 of the Expropriation Act (R.S.Q., c. E-24), regarding contestation of the right to expropriate.

Section 44 of the Expropriation Act does not apply to any expropriation made under this Act.

235. The city's offer may not exceed the standardized value of the immovable.

The provisional indemnity of the expropriated party shall be equal to 90% of the city's offer.

The provisional indemnity for a lessee or occupant in good faith, even if he or she operates a business or an industry, shall be equal to three months' rent.

In the case of a commercial or industrial operation, the provisional indemnity shall include an amount equal to 25% of the rental value entered on the roll of rental values.

The period during which an expropriated party may remain in possession of the expropriated immovable may not exceed three months from the date of service of the notice of expropriation.

The period during which a lessee or occupant in good faith may remain in possession of the immovable may not exceed three months from the date of service of a notification to that effect.

The city may take possession of the immovable only after paying the provisional indemnity to the lessee or occupant in good faith or depositing the amount at the office of the Superior Court.

236. Once the city has become the owner of an immovable under section 234, the city may alienate it to Technoparc Saint-Laurent.

Technoparc Saint-Laurent must pay the city an amount equal to the difference between the city's offer and the final indemnity granted by the court of last instance or fixed after agreement between the parties to the expropriation proceedings, and the interest and costs.

The amount must be paid within sixty days after notice to that effect is served on Technoparc Saint-Laurent by the city.

The agreement referred to in the second paragraph must be authorized by Technoparc Saint-Laurent.

237. The amount corresponding to the difference between the city's offer and the final indemnity as well as the interest and other costs shall be guaranteed by a privilege, which has the same rank as municipal taxes and assessments, on all movable and immovable property of Technoparc Saint-Laurent.

The city may renounce all or part of the privilege in respect of the property affected by the privilege.

238. Technoparc Saint-Laurent may, with the city's authorization, alienate any immovable acquired under section 236, for the purpose of establishing a high technology park or for related purposes, even if the payment referred to in section 236 has not yet been made.

239. If the city takes back an immovable alienated under this Act, it may, with the authorization of the Minister of Industry and Trade and the Minister of Municipal Affairs and Greater Montréal, dispose of it in favour of a third party for the same purposes as those provided for in section 232, or it may use it for municipal purposes.

240. For the purposes of sections 232 to 239, the city is not subject to the Act respecting municipal industrial immovables (R.S.Q., c. I-0.1).

241. Sections 232 to 239 have effect notwithstanding the Act to preserve agricultural land and agricultural activities (R.S.Q., c. P-41.1).

Where the city acquires, by expropriation, an immovable situated in an agricultural zone, the owner of the immovable may, within 30 days after the notice of expropriation is served, exclude the immovable from the agricultural zone by filing a notice to that effect with the registry office. A copy of that notice shall be served on the Commission de protection du territoire agricole du Québec and on the city.

Filing the notice with the registry office shall have the same effect as a decision of the Commission excluding the immovable from the agricultural zone at the request of the owner.

For the purposes of establishing the expropriation indemnity, the immovable shall be considered never to have been included in the agricultural zone.

242. Subject to sections 234 and 235, the Expropriation Act (R.S.Q., c. E-24) applies to expropriations made under this Charter.

243. The city may, by by-law, allow Technoparc Saint-Laurent, in respect of the first year or the first two years of repayment of a loan by-law, to spread over several fiscal years the payment of taxes connected with municipal work.

Deferred taxes, with accrued interest, shall be payable in a maximum of three equal annual payments over a maximum of five successive fiscal years, including the years for which the taxes have been deferred.

244. Technoparc Saint-Laurent is deemed to renounce the spreading of its tax payments if it fails to pay the payable portion of the tax to which the by-law respecting such spreading of payment applies for the fiscal year considered or if it pays the total amount of taxes.

245. The privilege attached to a tax to which the by-law respecting the spreading of tax payment applies encumbers the immovable included in the unit of assessment to guarantee the payment of the deferred amount and the interest accrued thereon as soon as Technoparc Saint-Laurent avails itself of the right to spread the payment of its taxes.

246. Any tax amount the payment of which is deferred to a subsequent fiscal year shall bear interest at the rate fixed by the by-law.



The rate, when fixed, must not be higher than the rate applied by the city to property tax arrears.

In no case may the rate be changed for any part of the fiscal year; each successive rate shall be valid for a whole fiscal year.

247. The prescription period for tax arrears shall run only from the dates on which the payments provided for in the by-law passed under section 243 are payable.

248. Notwithstanding section 243, the balance remaining on any deferred taxes, with accrued interest, shall be payable by Technoparc Saint-Laurent where it transfers the immovable included in the unit of assessment on which the tax was imposed before the time limit prescribed in that section or in the by-law. The balance must be paid in a single payment. It shall be payable at the expiry of the time limit prescribed by section 252 of the Act respecting municipal taxation (R.S.Q., c. F-2.1) or under that section.

The city may send an account to Technoparc Saint-Laurent after the roll is amended following the transfer of the immovable included in the unit of assessment. The account shall show the principal and the interest separately.

The application of this section does not affect the privilege guaranteeing payment of the balance referred to in the first paragraph.

249. Technoparc Saint-Laurent may, at any time, pay all or part of any deferred payment of an amount, with accrued interest, before it becomes payable.

In case of partial payment, it shall first be applied to the interest. Sections 246 to 248 apply to the balance.

250. The city may, by by-law, adopt a program for the purpose of granting a tax credit related to the setting up or expansion of a high technology establishment in the territory established pursuant to the Schedule to chapter 95 of the Statutes of 1999 respecting Technoparc Saint-Laurent, which continues to apply, subject to the terms and conditions determined in the by-law.

For the purposes of this section, “high technology” refers in particular to the aerospace, telecommunications, biotechnology, pharmacology, computer, electronics, microelectronics, optoelectronics, robotics, optics and laser fields. “High technology” means a use having as its main activity

(1) scientific or technological research or development;

(2) scientific or technological training;

(3) the administration of a technological enterprise; or

(4) the manufacturing of technological products, including scientific research and experimental development.

A by-law passed under this section may not provide for a tax credit for a period exceeding five years; the eligibility period for the program may not extend beyond 31 December 2003.

The effect of the tax credit shall be to offset any increase in property taxes that may result from reassessment of the immovables after completion of the work. For the fiscal year in which the work is completed and for the next two fiscal years, the amount of the tax credit shall be the difference between the amount of the property taxes that would have been payable if the assessment of the immovables had not been changed and the amount of the property taxes actually payable. For the next two fiscal years, the amount of the tax credit shall be, respectively, 80% and 60% of the amount of the tax credit for the first fiscal year.

The by-law provided for in the first paragraph may only be passed and, where applicable, only applies if the city’s zoning by-law provides that in the case of the main activities referred to in subparagraphs 1 and 4 of the second paragraph, the use must occupy a gross floor area reserved and intended for scientific research and experimental development that is equal to at least 15% of the total gross floor area occupied or intended to be occupied for that use. The zoning by-law must also provide that no use having as its main activity one of the activities referred to in subparagraphs 2 and 3 of the second paragraph may be authorized for more than 30% of the territory referred to in the first paragraph of section 250.

251. For the purposes of the levy of municipal property tax based on the value of the immovables, vacant land forming part of the territory referred to in the first paragraph of section 250 and owned by Technoparc Saint-Laurent is deemed to be an immovable belonging to a mandatary of the city within the meaning of paragraph 5 of section 204 of the Act respecting municipal taxation (R.S.Q., c. F-2.1).

252. No illegality or irregularity may result from the fact that, before 1 January 1999, the former Ville de Saint-Laurent passed and applied By-law 1160 or became surety for or subsidized Technoparc Saint-Laurent.

253. Sections 251 and 252 and any by-law passed under section 250 have effect from 1 January 1999.

## **CHAPTER VII MUNICIPAL COURT**

254. The Municipal Court may, in any action or suit brought before it against a permit or a licence holder, suspend for a period it determines or cancel any licence or permit granted under a municipal by-law, for misconduct, incompetence, or violation of an act or such a by-law.

## **CHAPTER VIII PENAL PROCEEDINGS**

255. Where a municipal by-law requiring a licence or permit provides for a fine or other penalty for infringement, the city may institute penal proceedings and, for recovering the tax that is the object of the licence or permit, institute civil proceedings, even when the name of the defendant is not entered on any assessment, rental value or collection roll.

## **CHAPTER IX CIVIL REMEDIES AGAINST THE MUNICIPALITY**

256. The city shall have the right to have its investigators or experts examine, at any time before the institution of an action, between 9:00 a.m. and 6:00 p.m., movable and immovable property which is the subject of a claim resulting from flooding. No claimant who refuses, without valid reason, to allow such examination may exercise his or her right of action as long as such refusal continues.

In the case of a claim for damage to perishables, the claimant shall notify the city by registered letter that he or she will hold those perishables at its disposal for examination for the next 72 hours, and he or she may not, without a reasonable excuse, dispose of them before the expiry of such delay, on pain of forfeiting his right of action.

257. No action against the city for damages shall be admissible for damage resulting from the flooding of an immovable built after 28 April 1939, unless the plaintiff alleges and proves that at the time of the flooding safety valves in good working order had been installed according to accepted practice, to prevent back-flow from city sewers into the cellars or the basement of that immovable.

The city may, by by-law, require that a building be equipped with an automatic lift-pump system in the cases and on the conditions it determines, and no action

against the city for damages shall then be admissible for damage resulting from flooding in a building to which such requirement applies, unless the plaintiff alleges and proves that at the time of the flooding a pumping system had been installed and was in operation in accordance with the by-law.

258. The city shall not be required to give security in order to appeal a judgment or issue a writ or process, or to institute a civil action or civil proceeding.

## **CHAPTER X SPECIAL PROVISIONS**

259. All extracts from and copies of minutes of the council, the executive committee, the administrative commission or the board of commissioners of the former Ville de Montréal that were destroyed by the fire at the Montréal city hall on 3 and 4 March 1922 shall replace the originals of such minutes for all purposes, and new copies may be issued and certified to serve as authentic copies, provided that such extracts or copies are certified by the then competent officers and filed with the office of the clerk, the whole in accordance with section 26 of Act 12 George V, chapter 105.

260. The minutes of the meetings of the council of the former Ville de Montréal, the originals of which were destroyed in the said fire, which were rewritten by the clerk from his notes and other documents in his possession and approved by the council, in accordance with section 26 of Act 12 George V, chapter 105, shall replace the destroyed minutes and shall have the same effect for all purposes.

261. A printed copy of any by-law of the former Ville de Montréal, the original of which was destroyed in the fire at the Montréal city hall on 3 and 4 March 1922, shall replace the original for all purposes, provided it is filed with the office of the clerk and certified by the clerk as true, and every duly certified copy made thereof shall be considered a copy of the original and shall be deemed authentic.

262. Notwithstanding the Municipal Aid Prohibition Act (R.S.Q., c. I-15), the city may make a cash contribution to the mutual fund established by a limited partnership whose object is the operation of a National Baseball League franchise within the limits of the city; the city may also convert the cash contribution into a loan of money or other security to such a partnership.

The city may, instead, acquire capital stock in any company established for the purposes set out in the first paragraph.

The city may, notwithstanding the Municipal Aid Prohibition Act, transfer the shares acquired pursuant to the first paragraph or, where applicable, the shares acquired pursuant to the second paragraph. For the purposes of that transfer, the city may accept any cash payment or any payment accompanied by a guarantee it deems sufficient.

263. Notwithstanding any inconsistent provision, the city may

(1) recover, from fire insurance companies doing business in its territory and entered on its tax rolls, three-fourths of the amounts that it pays for the salaries of the fire commissioners, secretary and detectives of the Fire Commission and for its stenographic expenses; and

(2) determine the manner to recover those amounts.

264. Subject to Chapter VII of this Schedule and of the Act respecting municipal courts (R.S.Q., c. C-72.01), the city may authorize any officer it designates to sign, by means of a stamp bearing a facsimile of his or her signature, certificates, notices and other documents issued or signed pursuant to an act or a by-law. The stamp must be previously approved by the executive committee and used only for that purpose.

The stamped signature shall be as valid as a handwritten signature.

265. Any document or deed bearing such stamp shall be prima facie proof of its authenticity and of the authority of the officer to stamp the signature.

266. It is prohibited for any person, except the officers referred to in section 264, to use such stamp, under pain of penalty, which the city may impose by by-law, for infringement of this section.

267. Notwithstanding the provisions of the Highway Safety Code (R.S.Q., c. C-24.2) and the applicable by-laws or regulations, the city is exempted, up to an annual amount of \$800 000, from the payment of registration fees for motor vehicles belonging to it that it uses for municipal purposes.

268. Any peace officer or any other person authorized to issue a statement of offence for an offence related to traffic, parking of a motor vehicle or the use of a motor vehicle may move any vehicle parked in contravention of a traffic or parking by-law, regulation, order or resolution, or have it moved by a service vehicle or tow truck.

The statement of offence shall mention that the vehicle was moved and indicate the additional costs or amounts, determined by by-law, that may be collected as a result of its being moved. The latter shall be added to the amounts that may be claimed from the defendant by the prosecutor in the statement of offence. The additional costs or amounts that may be claimed because a vehicle was moved shall be collected by the collector in accordance with articles 321, 322 and 327 to 331 of the Code of Penal Procedure (R.S.Q., c. C-25.1) or the provisions of this Act.

In every case provided for in this section, the city may, by by-law, assign to the head of the competent department, or to any other officer or employee designated by the latter, the exercise of all the powers and duties assigned by this section to the peace officer or person authorized under the first paragraph to issue a statement of offence.

269. By-laws passed under section 268 or by-laws determining the costs of stopping, towing or impounding a motor vehicle incurred by an offender or a defendant pursuant to articles 332.1 to 332.3 of the Code of Penal Procedure (R.S.Q., c. C-25.1) shall come into force after approval by the Minister of Justice. Such approval may be partial.

270. The city may enter into an agreement with the Gouvernement du Québec and the Government of Canada respecting the operation of the La Ronde amusement park after the Universal Exhibition of 1967, and to perform the acts it may deem useful to give it effect.

The agreement may provide for the constitution of a legal person and any other conditions as may be accepted by the council.

The city may acquire the installations at the La Ronde amusement park.

271. The Minister of Municipal Affairs and Greater Montréal may, at the request of the executive committee, extend a time period prescribed for the city in this Act. Where the Minister considers it expedient, the Minister may extend the period again on the conditions the Minister determines.

272. The agreements entered into on 29 June 1982 and 1 October 1982, respectively, between the Commission de transport de la Communauté urbaine de Montréal and Canadian National Railways, in the first case, and Canadian Pacific Limited, in the other case, in respect of the commuter train service between Montréal and Deux-

Montagnes and that between Montréal and Rigaud, respectively, are deemed to have been validly entered into by the Commission and no action to contest the validity of the agreements is admissible on the grounds that the Commission was not authorized to enter into them.

273. The restrictions respecting land use encumbering the lots described in the deeds of transfer and sale made in favour of Ville d'Anjou by Champlain Heights Ltd. or Metropolitan Shopping Centre Ltd., hereafter listed, are hereby abolished and dissolved, and any personal obligation or real right arising from such restrictions respecting land use is hereby declared terminated. The deeds of transfer and deeds of sale in question have been registered in the registry office of the registration division of Montréal under numbers 1,209,636, 1,340,535, 1,421,918, 1,528,976, 1,679,075, 1,679,076, 1,954,570 and 1,954,571.

274. The city shall exercise all the powers granted to a regional authority under the Act respecting transportation by taxi (R.S.Q., c. T-11.1).

The city shall exercise all the powers granted to a municipal authority under section 89 of the Act respecting transportation services by taxi (2001, c. 15) and has full authority over the body referred to in the second paragraph of section 13 of that Act.

275. In the case of a subsequent offence, payment by the defendant of the amount claimed in a statement of offence indicating the name of the same defendant and the same address constitutes prima facie proof of the defendant's previous conviction without it being necessary to prove his or her identity.

276. Notwithstanding section 200 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56), the following provisions are not revoked and continue to apply to the situations and persons to which the provisions apply on 31 December 2001:

(1) articles 77 and 85 of the Charter of the City of Montréal (1959-1960, c. 102);

(2) sections 1 and 2 of chapter 78 of the Statutes of 1972;

(3) sections 1 and 2 of chapter 43 of the Statutes of 1980;

(4) sections 7, 8 and 9 of chapter 44 of the Statutes of 1980;

(5) sections 3 and 4 of chapter 120 of the Statutes of 1987;

(6) section 1 of chapter 128 of the Statutes of 1987;

(7) section 19 of chapter 80 of the Statutes of 1989; and

(8) section 12 of Order in Council 1276-99.

#### CHAPTER XI TRANSITIONAL PROVISIONS IN RESPECT OF THE SOCIÉTÉ DE TRANSPORT DE MONTRÉAL

277. The auditors appointed by the Communauté urbaine de Montréal and by the municipalities referred to in section 5 of the Charter shall fulfill their term for the 2001 fiscal year and shall report their audit to the city council.

278. For the purposes of adopting the budget of the 2002 fiscal year of the Société de transport de la Communauté urbaine de Montréal, sections 209, 303 and 305 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., c. C-37.2) apply, to the exclusion of the other provisions of that Act, adapted as follows:

(1) section 209 is amended as follows:

(a) by substituting the following for the first paragraph:

“The transition committee of Montréal shall file the budget of the Société de transport, with its recommendations on that budget, with the office of the clerk of Ville de Montréal constituted by Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56). The clerk shall send a copy to each member of the council of Ville de Montréal formed during the general election of 4 November 2001, at the latest three clear days before the date of the council sitting convened to adopt the city's budget.”;

(b) by substituting the words “treasurer of the Société de transport” for the word “treasurer” and by substituting the words “Société de transport” for the word “Community” wherever they appear;

(c) by substituting the words “council of Ville de Montréal formed during the general election of 4 November 2001” for the word “Council” in the second paragraph;

(d) by substituting the words “clerk of Ville de Montréal” for the word “secretary” in the second paragraph; and

(e) by striking out the sixth paragraph;

(2) section 303 is amended by substituting the words “secretary of the transition committee of Montréal” for the words “secretary of the Community”; and

(3) section 305 is amended by substituting the words “council of Ville de Montréal formed during the general election of 4 November 2001” for the word “Council”.

279. The budget of the Société de transport shall be submitted to the council of Ville de Montréal at the sitting convened to adopt the city’s budget.

280. The first paragraph of section 197 of Schedule I to the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56) applies, adapted as required, to the budget of the Société de transport.

281. Section 291.14 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., c. C-37.2) is amended as follows:

(1) the word “Council” means, from the time the majority of candidates elected in the general election of 4 November 2001 of Ville de Montréal have taken oath, “the council of Ville de Montréal formed of those elected officers”;

(2) by striking out the first sentence of the fourth paragraph of that section.

## CHAPTER XI FINAL

282. In case of inconsistency between a provision of this Schedule and a provision contained in the Charter of the city, the former shall prevail.

283. No provision of this Schedule and no provision maintained into force by this Schedule has the effect of limiting the scope of a provision, contained in any act that applies to the city or any municipality in general or any of their bodies, for the sole reason that it is similar to such a provision but is written in more specific terms.”

27. This Order in Council comes into force on the date of its publication in the *Gazette officielle du Québec*.

Schedule A  
(s. 222)

Schedule A consists of the schedule to chapter 69 of the Statutes of 1992 respecting Technoparc Saint-Laurent that continues to apply for that purpose.

Schedule B  
(s. 240)

Schedule B consists of the schedule to chapter 95 of the Statutes of 1999 respecting Technoparc Saint-Laurent that continues to apply for that purpose.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

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Gouvernement du Québec

## O.C. 1309-2001, 1 November 2001

An Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56)

Charter of Ville de Québec

WHEREAS the Charter of Ville de Québec (2000, c. 56, Schedule II) was enacted by the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56);

WHEREAS several municipalities referred to in section 5 of the Charter and the Communauté urbaine de Québec are presently governed by special legislative provisions that will be repealed on 1 January 2002 pursuant to section 229 of the Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, c. 56);

WHEREAS section 9 of that Charter enables the Government to determine, by order, from among the special legislative provisions that govern any municipality referred to in section 5 of that Charter or the Communauté urbaine de Québec, the provisions that are to apply to all or any part of the territory of Ville de Québec;