

Regulations and other Acts

Gouvernement du Québec

O.C. 964-2011, 21 September 2011

An Act respecting land use planning and development (R.S.Q., c. A-19.1)

**Regional county municipalities of
La Vallée-du-Richelieu, Haut-Richelieu,
Brome-Missisquoi and Rouville
— Declaration of a special planning zone
in the territory**

Declaration of a special planning zone in the territory of the regional county municipalities of La Vallée-du-Richelieu, Haut-Richelieu, Brome-Missisquoi and Rouville

WHEREAS, under section 158 of the Act respecting land use planning and development (R.S.Q., c. A-19.1), the Government may, by order, declare any part of the territory of Québec to be a special planning zone for the purpose of solving a development or environmental problem whose urgency or seriousness, in the opinion of the Government, warrants its intervention;

WHEREAS in May and June 2011, an exceptional and extended spring flood of rivière Richelieu and baie Missisquoi flooded nearly 3,000 residences in the Montérégie, in the territory of the regional county municipalities of La Vallée-du-Richelieu, Haut-Richelieu, Brome-Missisquoi and Rouville;

WHEREAS the land use planning and development controls applicable in the part of the territory of the regional county municipalities located in the 0-20-year flood elevation, in accordance with the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains, generally prohibit the repair or reconstruction of an undertaking or structure considered as having been destroyed in that flood elevation by a flood;

WHEREAS the land use planning and development controls currently applicable in that part of the territory do not allow the repair or reconstruction of homes destroyed or become dangerous, or diminished in their value by at least 50%, as a result of a flood;

WHEREAS the Government is of the opinion that it is a development problem whose seriousness warrants its intervention;

WHEREAS it is important, in the interest of the public, to amend the land use planning and development controls in force in the municipalities in order to allow, under certain conditions, the repair or reconstruction of homes as soon as possible and in the best conditions;

WHEREAS, in accordance with section 161 of the Act respecting land use planning and development, a draft of this Order was published in the *Gazette officielle du Québec* of 19 August 2011;

WHEREAS the draft Order was the subject of a consultation in accordance with section 163 of the Act respecting land use planning and development;

WHEREAS section 164 of the Act provides that the order come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein;

WHEREAS it is advisable that the Order be made, with the necessary modifications following the consultation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs, Regions and Land Occupancy:

THAT the part of the territory of the regional county municipalities of La Vallée-du-Richelieu, Haut-Richelieu, Brome-Missisquoi and Rouville located in the 0-20-year flood elevation of rivière Richelieu and baie Missisquoi, as delimited in their respective development plan, be declared a special planning zone;

THAT the objectives pursued be stated as follows:

(1) to offer disaster victims the possibility of repairing or reconstructing their homes, under certain conditions, and as soon as possible;

(2) to foster the reintegration of families into the home environment to which they belong;

(3) to avoid adversely affecting, particularly financially and psychologically, persons already highly affected by the loss of their property;

(4) to see that all municipalities and disaster victims concerned are submitted to uniform standards, made by this Order in Council;

THAT the land use planning and development controls applicable within the perimeter of the special planning zone be as follows:

(1) in 0-2-year flood elevations, the repair or reconstruction of a building destroyed or become dangerous, or diminished in its value by at least 50% as a result of a flood, except if the building is referred to in paragraphs *b* to *l* of section 4.2.1 of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains, made by Order in Council 468-2005 dated 18 May 2005 and amended by Order in Council 709-2008 dated 25 June 2008, is prohibited;

(2) in 2-20-year flood elevations, the following are allowed:

(a) the repair or reconstruction of a home destroyed or become dangerous, or diminished in its value by at least 50%, only by the owner who used it to that effect at the time of the May and June 2011 floods, provided that the reconstruction is done within 12 months of the coming into force of this Order in Council, that it is done using the same proportion, or a lesser proportion, of land that was occupied by that home during the spring flood of May and June 2011 and that it complies with the flood-proofing standards provided for in paragraph 3;

(b) the repair or reconstruction of a building referred to in paragraphs *b* to *l* of section 4.2.1 of the policy referred to in paragraph 1;

(3) the repair or reconstruction referred to in paragraph 2 must comply with the following flood-proofing standards:

(a) no opening (window, cellar window, door, garage, etc.) may be lower than the 100-year flood elevation;

(b) no ground floor is allowed at a level that is lower than the level of the 100-year flood elevation;

(c) drains must have a non-return valve;

(d) for any structure or part of a structure built below the 100-year flood level, a study must show the structure's resistance to flooding and must include calculations

relating to waterproofing, structural stability, reinforcement necessary, seepage water pumping capacity and resistance of the concrete to compression and tension;

(e) the filling of land must be restricted to protecting the area immediately around the repair or reconstruction and must not extend to the entire landsite; the average slope downward from the top of the fill next to the protected structure or undertaking should not be less than 33 $\frac{1}{3}$ % (vertical to horizontal ratio of 1:3), as shown in the figure in Schedule 1;

(4) any new construction, except if referred to in section 4.2.1 mentioned in paragraph 1, is prohibited in the 0-20-year flood elevation;

(5) the standards established in the land use planning and development controls by the local municipality and the regional county municipality concerned continue to apply to the territory of the special planning zone provided the standards are not incompatible with these controls;

(6) the Minister of Public Security may extend the period mentioned in paragraph 2 for any person who shows that he or she could not comply with the period;

(7) in these controls, unless the context indicates otherwise,

(a) "0-2-year flood elevation" means an area defined in the applicable land use and development plan or, if no such area is defined in the land use and development plan, the area located between the watercourse and the high-water mark. The high-water mark corresponds to the natural high-water mark, namely,

i. the point where predominantly terrestrial plants succeed predominantly aquatic plants, or where there are no aquatic plants, the point closest to the water where terrestrial plants no longer grow; plants considered to be aquatic plants are all hydrophytes, including submergents, floating plants, emergents and emerged herbaceous and woody plants characteristic of open marshes and swamps;

ii. where a water retaining structure exists, the maximum operating water level of the hydraulic structure for the upstream portion of the body of water;

iii. where there is a legally erected retaining wall, the top of the structure;

(b) "0-20-year flood elevation" means an area located between the limit of the 0-2-year flood elevation and the 0-20-year flood elevation of rivière Richelieu and baie Missisquoi;

(c) “home” means a place where an individual establishes his or her principal residence, that is the place where the individual ordinarily resides and where the individual lives when carrying on his or her main activities on an annual basis. A dwelling, a single-family home, a duplex, a semi-detached home, a terraced home or a condominium may be such a place. However, cottages, secondary residences and every building used mainly for recreational purposes are excluded;

THAT the local municipalities referred to in Schedule 2, located in the territory of the regional county municipalities of La Vallée-du-Richelieu, Haut-Richelieu, Brome-Missisquoi and Rouville each be designated the authority responsible for the administration of these controls as regards the part of their respective territory within the perimeter of the special planning zone;

THAT each regional county municipality concerned collaborate with the local municipalities of its territory that are responsible for the application of the controls provided for in paragraphs 1 to 4 so that the application is uniform and fair for all of its territory;

THAT these controls may be amended according to the following conditions:

(1) the amendment to the standards provided for in paragraphs 1 to 4 is made by order published under section 164 of the Act respecting land use planning and development (R.S.Q., c. A-19.1);

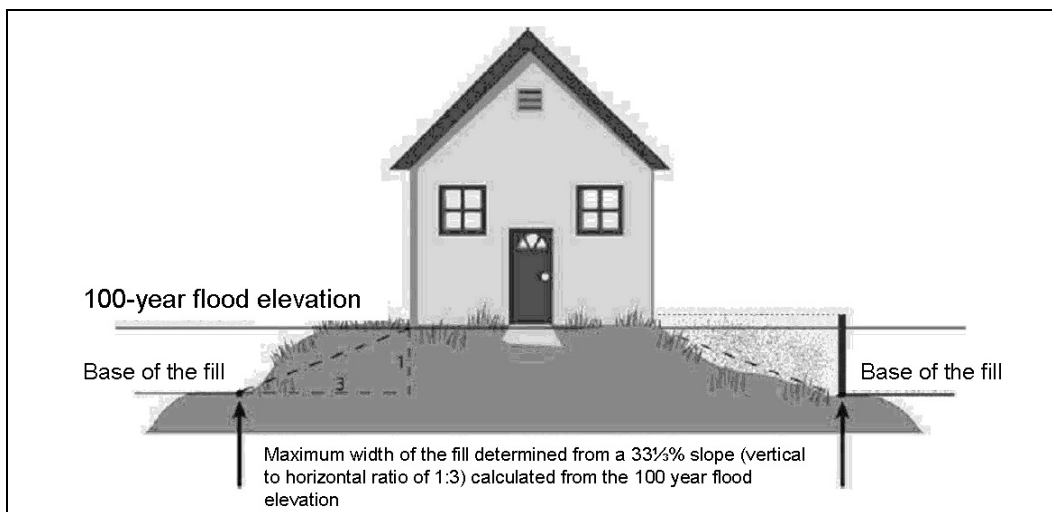
(2) the amendment to the standards referred to in paragraph 5 is made in accordance with the procedure provided for in sections 64 and following or in sections 123 and following of the Act respecting land use planning and development, as the case may be;

THAT this Order in Council come into force on the date of its publication in the *Gazette officielle du Québec*.

GILLES PAQUIN,
Clerk of the Conseil exécutif

SCHEDULE 1

Figure



SCHEDULE 2**List of municipalities**

Regional county municipality concerned by the special planning zone	Local municipality covered by the special planning zone
Brome-Missisquoi	Saint-Armand, Saint-Pierre-de-Véronne-à-Pike-River
Le Haut-Richelieu	Henryville Lacolle Noyan Sainte-Anne-de-Sabrevois Saint-Blaise-sur-Richelieu Saint-Georges-de-Clarenceville Saint-Jean-sur-Richelieu Saint-Paul-de-l'Île-aux-Noix Saint-Sébastien Venise-en-Québec
Rouville	Richelieu Saint-Mathias-sur-Richelieu
La Vallée-du-Richelieu	Beloeil Carignan Chambly McMasterville Mont-Saint-Hilaire Otterburn Park Saint-Antoine-sur-Richelieu Saint-Basile-le-Grand Saint-Charles-sur-Richelieu Saint-Denis-sur-Richelieu Saint-Marc-sur-Richelieu