

Draft Regulations

Draft Order

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

Declaration of a special planning zone to promote better management of flood zones

WHEREAS, under sections 158 and 159 of the Act respecting land use planning and development (chapter 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 severe flooding occurred during the 2017 and 2019 spring freshets;

WHEREAS the flooding highlighted the need to improve the management of flood zones;

WHEREAS it is important to ensure the safety of persons and property, in accordance with the precautionary and prevention principles as defined by the Sustainable Development Act (chapter D-8.1.1);

WHEREAS it is necessary to establish an interim control plan until a new prescriptive framework is established by the Government and implemented by the municipalities;

WHEREAS the Government is of the opinion that the circumstances expose a development problem whose seriousness warrants the Government's intervention;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs and Housing:

THAT the following territory be declared a special planning zone:

(1) every high-velocity zone delimited in any land use and development plan or interim control by-law, in force on 10 June 2019, of any of the municipalities listed in Schedule 1;

(2) every floodplain delimited in an instrument referred to in paragraph 1 without distinguishing high-velocity zones from low-velocity zones;

(3) every perimeter delimited on a map designated in Schedule 2;

THAT the objectives pursued be the following:

(1) to ensure the safety of persons and property;

(2) to promote stringent management of flood zones;

(3) to impose a moratorium on construction and reconstruction for the period preceding establishment by the Government of a new prescriptive framework and its implementation by the municipalities;

(4) to ensure uniform application of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35);

THAT the terms “littoral zone”, “high-velocity zone”, “low-velocity zone” and “floodplain” have, in this Order, the meaning assigned to them by the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains;

THAT the following land use planning and development controls apply within the perimeter of the special planning zone:

(1) for the purposes of this Order, including parts of the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains that apply by reference,

(a) reconstruction work means restoration work on a building for which an assessment of damage is required in accordance with paragraph 8 and for which the extent of the damage represents more than half of the cost new of the building, excluding its detached dependencies and improvements to the site, established in accordance with Part 3E of the Manuel d'évaluation foncière du Québec and adjusted to 1 July of the year preceding the year in which the flooding occurred; and

(b) repair work means all restoration work that is not reconstruction work;

(2) in littoral zones, all structures, undertakings and works, including filling, excluding the interventions described in Subsection 3.3 of the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains, are prohibited;

(3) within the perimeter of the special planning zone, excluding the littoral zone, all structures, undertakings and works, including the reconstruction of undertakings or structures affected by flooding, are prohibited, except

(a) interventions described in Subsection 4.2.1 of the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains; and

(b) restoration work, without expansion, on an existing structure that is ancillary to a principal building;

(4) structures and undertakings that are not prohibited under paragraph 2 or 3 must be flood-proofed in accordance with Schedule 1 to the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains; the carrying out of major work on a structure or undertaking must result in the flood-proofing of all the structure or undertaking and, where the work is carried out on a residential building, the flood-proofing must also comply with the standards set out in Schedule 3;

(5) the carrying out of restoration work on a building affected by flooding is prohibited unless a document or documents complying with the requirements applicable among those referred to in paragraphs 6 to 8 is first filed with the local municipality; no such document is required for work referred to in subparagraph *b* of paragraph 3;

(6) a first document must indicate if the building has or does not have the following characteristics:

(a) the water reached the first floor of the building;

(b) the foundations of the building must be replaced;

(c) work to stabilize the building must be carried out;

(7) the requirements set out in paragraph 6 may be satisfied by filing a document produced by a person designated by the Minister of Public Security for the purpose of administering a financial assistance or compensation program or, failing that, by filing a document produced by a person who is a professional having expertise in the damage assessment field;

(8) for a building having any of the characteristics described in paragraph 6, a second document must contain an assessment of the damage caused to the building by the flooding and be produced by a person who is a professional having expertise in that field;

(9) paragraphs 3 to 8 do not apply to the part of the territory of Ville de Sainte-Marthe-sur-le-Lac situated within a perimeter delimited on a map designated in Schedule 2, except that no structure may be built on vacant land within

that part of territory; land is vacant if, on 10 June 2019, no building is located on the land or one or more buildings on the land have a total value of less than 10% of the value of the land as it appears on the property assessment roll in force on 1 April 2019;

THAT each local municipality listed in Schedule 1 or whose territory is situated within the territory of a regional county municipality listed in that Schedule be, each for its territory, the authority responsible for the administration of the controls;

THAT the provisions of this Order that apply to a local municipality whose territory is situated within the territory of a regional county municipality listed in Schedule 1 apply, with the necessary modifications, to a local municipality whose territory is situated within the territory of an agglomeration whose central municipality is listed in Schedule 1;

THAT the development standards contained in any instrument of a local municipality, a regional county municipality or a metropolitan community, including any interim control measure, remain applicable within the perimeter of the special planning zone to the extent that the standards are compatible with the controls provided for in this Order;

THAT it be understood that municipal standards more stringent than the controls provided for in this Order are compatible with those controls; more stringent municipal standards are, however, inoperative within any perimeter delimited on a map designated in Schedule 2 and within the territory of Ville de Sainte-Marthe-sur-le-Lac, with the exception of the standards contained in that town's urban planning by-laws;

THAT it also be understood that municipal standards allowing for an intervention described in Subsection 4.2.2 of the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains are compatible with the controls provided for in this Order if the intervention has been exempted under the provisions of the Act respecting land use planning and development;

THAT each local municipality whose territory is situated within the territory of a regional county municipality listed in Schedule 1 be required to send to the latter, within a reasonable time and for as long as the controls provided for in this Order with respect to its territory have not been revoked, a copy of any building permit it has issued for an immovable situated within the perimeter of the special planning zone, and any document required under paragraph 5 of the controls provided for in this Order; it must also report to the regional county municipality any observed contravention of those controls;

THAT each municipality listed in Schedule 1 must, for as long as the controls provided for in this Order with respect to its territory have not been revoked, provide the Minister of Municipal Affairs and Housing, not later than 1 March of each year, with a report on administration describing, for the preceding year and for the territory of the special planning zone, the building permits issued and any observed contraventions of those controls;

THAT the controls provided for in this Order may be amended or revoked by an order of the Minister of Municipal Affairs and Housing published in the *Gazette officielle du Québec*;

THAT the controls may be revoked with respect to the territory of any municipality listed in Schedule 1 if the Minister is of the opinion that the following conditions are met:

(1) the municipal urban planning by-laws applicable in the territory fully implement the prescriptive framework to be established by the Government for the management of flood zones; and

(2) the reports on administration sent to the Minister by the municipality allow the Minister to ascertain the controls provided for in this Order are being properly administered.

SCHEDULE 1

MUNICIPALITIES CONCERNED

Municipalité des Îles-de-la-Madeleine

MRC d'Abitibi

MRC d'Abitibi-Ouest

MRC d'Acton

MRC d'Antoine-Labelle

MRC d'Argenteuil

MRC d'Arthabaska

MRC d'Avignon

MRC de Beauce-Sartigan

MRC de Beauharnois-Salaberry

MRC de Bécancour

MRC de Bellechasse

MRC de Bonaventure

MRC de Brome-Missisquoi

MRC de Charlevoix

MRC de Charlevoix-Est

MRC de Coaticook

MRC D'Autray

MRC de Deux-Montagnes

MRC de Drummond

MRC de Joliette

MRC de Kamouraska

MRC de La Côte-de-Beaupré

MRC de La Côte-de-Gaspé

MRC de La Haute-Côte-Nord

MRC de La Haute-Gaspésie

MRC de La Haute-Yamaska

MRC de La Jacques-Cartier

MRC de La Matanie

MRC de La Matapédia

MRC de La Mitis

MRC de La Nouvelle-Beauce

MRC de La Rivière-du-Nord

MRC de La Vallée-de-la-Gatineau

MRC de La Vallée-de-l'Or

MRC de La Vallée-du-Richelieu

MRC de Lac-Saint-Jean-Est

MRC de L'Assomption

MRC du Domaine-du-Roy

MRC du Fjord-du-Saguenay

MRC du Granit

MRC du Haut-Richelieu

MRC du Haut-Saint-François

MRC du Haut-Saint-Laurent

MRC du Rocher-Percé

MRC du Val-Saint-François

MRC de L'Érable

MRC des Appalaches

MRC des Basques

MRC des Chenaux

MRC des Collines-de-l'Outaouais

MRC des Etchemins

MRC des Jardins-de-Napierville

MRC des Laurentides

MRC des Maskoutains
 MRC des Moulins
 MRC des Pays-d'en-Haut
 MRC des Sources
 MRC de L'Île-d'Orléans
 MRC de L'Islet
 MRC de Lotbinière
 MRC de Manicouagan
 MRC de Marguerite-D'Youville
 MRC de Maria-Chapdelaine
 MRC de Maskinongé
 MRC de Matawinie
 MRC de Mékinac
 MRC de Memphrémagog
 MRC de Minganie
 MRC de Montcalm
 MRC de Montmagny
 MRC de Nicolet-Yamaska
 MRC de Papineau
 MRC de Pierre-De Saurel
 MRC de Pontiac
 MRC de Portneuf
 MRC de Rimouski-Neigette
 MRC de Rivière-du-Loup
 MRC de Robert-Cliche
 MRC de Roussillon
 MRC de Rouville
 MRC de Sept-Rivières
 MRC de Témiscamingue
 MRC de Témiscouata
 MRC de Thérèse-De Blainville
 MRC de Vaudreuil-Soulanges
 Ville de Gatineau
 Ville de La Tuque
 Ville de Laval
 Ville de Lévis
 Ville de Longueuil
 Ville de Mirabel

Ville de Montréal
 Ville de Québec
 Ville de Rouyn-Noranda
 Ville de Saguenay
 Ville de Shawinigan
 Ville de Sherbrooke
 Ville de Trois-Rivières

SCHEDULE 2

DELIMITATION OF THE PERIMETER OF THE SPECIAL PLANNING ZONE – TERRITORY FLOODED IN 2017 OR 2019

Any territory situated within a perimeter delimited, as of 10 June 2019, on the maps published on the website of the Ministère de l'Environnement et de la Lutte contre les changements climatiques and available at <http://www.cehq.gouv.qc.ca/zones-inond/carto-zones-inondees-2017-2019.htm> is included in the special planning zone.

SCHEDULE 3

ADDITIONAL FLOOD-PROOFING STANDARDS

A residential building must, in addition to the requirements provided for that purpose in the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35), be flood-proofed as follows:

(1) no habitable room, such as a bedroom or a living room, must be built in a basement;

(2) no major component of a mechanical system of the building, such as an electrical, plumbing, heating or ventilation system, may be installed in a basement, unless the system must, by its nature, be situated there;

(3) a basement must, where applicable, be finished with water-resistant materials.

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