

Regulations and other Acts

Gouvernement du Québec

O.C. 817-2019, 12 July 2019

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;

WHEREAS, in accordance with section 161 of the Act respecting land use planning and development, a draft of this Order was previously published in the *Gazette officielle du Québec* of 17 June 2019 and notified to each local municipality and regional county municipality concerned by the draft;

WHEREAS, in accordance with section 163 of the Act, the content of the draft Order was the subject of a consultation;

WHEREAS, under the first paragraph of section 164 of the Act, the order comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein;

WHEREAS it is appropriate that the Order be made with the required amendments;

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 the 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) all structures, undertakings and works are prohibited, subject to paragraph 2;

(2) are permitted:

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

(b) interventions described in Subsection 4.2.2 of the Policy, if they are the subject of an exemption in accordance with the provisions of the Act respecting land use planning and development (chapter A-19.1);

(c) work on an existing structure that is ancillary to a principal building, provided the work does not include any expansion;

(d) expansion work of a residential building for the sole purpose of compensating the area intended to be occupied by the building's mechanical system components that must be installed elsewhere than in a basement, in accordance with the flood-proofing standards provided for in Schedule 3;

(3) in littoral zones, the interventions permitted by paragraph 2 must also comply with Subsection 3.3 of the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains;

(4) structures and undertakings must be flood-proofed in accordance with Schedule 1 to the Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains insofar as the data necessary to apply the prescribed standards is available; 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 work on a building affected by flooding is prohibited unless the documents required under paragraphs 6 and 8 are first filed with the local municipality; no such document is required for work referred to in subparagraphs *c* and *d* of paragraph 2;

(6) a first document must indicate if the building is in any of the following situations:

(a) the water has 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 requirement 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 in any of the situations described in paragraph 6, a second document must contain an assessment of the damages caused to the building by the flooding; the document is produced by a person who is a professional having expertise in that field;

(9) despite paragraph 2, a building that was the subject of an assessment of damages in accordance with paragraph 8 and for which the value of the damages represents more than half the cost as new of the building, excluding detached dependencies and location improvements, 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 building was affected by a flood must be demolished;

(10) paragraphs 1 to 9 do not apply to the part of the territory of Ville de Sainte-Marthe-sur-le-Lac situated outside a high-velocity zone delimited in the land use and development plan or an interim control by-law, in force on 10 June 2019, of Municipalité régionale de comté de Deux-Montagnes;

(11) despite paragraph 10, no structure may be built on vacant land within that part of territory; land is vacant if, on 1 April 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 that date;

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; however, in the part of the territory referred to in paragraph 10 of the controls provided for in this Order, the only more stringent standards that may be compatible are those contained in the urban planning by-laws of Ville de Sainte-Marthe-sur-le-Lac;

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 paragraphs 6 and 8 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 situated within the perimeter 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 or, where the municipality is the central municipality of an agglomeration, the territory of the agglomeration, 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;

(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;

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

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 de D'Autray

MRC de Deux-Montagnes

MRC de Drummond

MRC de Joliette

MRC de Kamouraska

MRC de L'Assomption

MRC de L'Érable

MRC de L'Île-d'Orléans

MRC de L'Islet

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-l'Or

MRC de La Vallée-de-la-Gatineau

MRC de La Vallée-du-Richelieu

MRC de Lac-Saint-Jean-Est

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 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
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 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
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 AND 2019

Any territory situated within a perimeter delimited, as of 12 July 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 component must, by its nature, be situated there;

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

YVES OUELLET,
Clerk of the Conseil exécutif

104047