



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 69
(2021, chapter 10)

**An Act to amend the Cultural Heritage
Act and other legislative provisions**

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EXPLANATORY NOTES

This Act amends mainly the Cultural Heritage Act.

The Act provides that, among other things, the Minister of Culture and Communications is required to draw up a consultation policy to foster the participation of persons or bodies concerned by the guidelines to be followed regarding knowledge, protection, enhancement and transmission of cultural heritage, a method for assessing the heritage interest of property, elements of intangible heritage, deceased persons of historical importance and historic events and sites, and a grid for categorizing classified heritage immovables and sites. Those documents, as well as the list of elements of cultural heritage under consideration for protection by the Minister or the Government, are to be made public. The Act confirms the possibility for any interested person to propose that heritage property be protected under that Act. Furthermore, it creates a working panel called the “Table de concertation en matière de patrimoine immobilier gouvernemental” in order to develop government coherence and promote State exemplarity regarding government immovable cultural heritage.

The Act makes adjustments to the ministerial authorization scheme applicable to acts carried out in the protection area of a classified heritage immovable or with respect to a declared or classified heritage property or site. It provides, among other things, that an application for authorization must include the information and documents determined by regulation of the Minister and gives the Minister 90 days to render a decision, subject to exceptions. The Minister must request the opinion of the Conseil du patrimoine culturel du Québec concerning determined acts, including the total demolition of a main building and the construction of a new main building on a declared or classified heritage site. The Act also gives the Minister the possibility, in certain special cases and on certain conditions, to authorize an act after it has begun or been completed, including an act that should have been authorized under the former Cultural Property Act.

Under the Act, the Minister will no longer be required to establish conservation plans for classified heritage immovables and sites and for declared heritage sites. However, the Act specifies elements the Minister may consider in analyzing an application for authorization

concerning classified heritage property, protection areas and declared or classified heritage sites, provides that the Minister must establish, for each declared heritage site, a directive to determine the Minister's guidelines concerning the application of the elements that may be considered for the purpose of analyzing an application for an authorization of an act, and creates the obligation to categorize classified heritage immovables and sites. Furthermore, the Government is empowered to make, for any declared heritage site, a regulation prescribing conditions for the carrying out of an act that must be the subject of an authorization, or designating acts the Minister may not authorize or acts for which obtaining an authorization is not required. The Act also creates a mechanism for reviewing certain decisions by the Minister, as well as the possibility of contesting a review decision before the Administrative Tribunal of Québec.

The Act increases municipal heritage protection powers. Regional county municipalities are granted the power, like local municipalities, to recognize heritage property, including sites, by by-law and to establish a local heritage council to advise the regional county municipality on that matter. Regional county municipalities are also granted the power to authorize the carrying out of certain acts with respect to heritage property and to issue orders to ensure the protection of property that could have heritage value. Regional county municipalities are required to adopt and update an inventory of immovables that have heritage value, which is to be made, consigned and disseminated in the manner prescribed by a regulation of the Minister. The Act respecting land use planning and development is also amended to modernize the regulatory powers of local municipalities with regard to demolition and to broaden such powers, mainly for immovable heritage protection purposes. In that respect, it is provided that a local municipality is required to maintain in force a by-law relating to the demolition of immovables which must cover at least the immovables entered in the regional county municipality's inventory and the immovables that are recognized or are situated on a recognized heritage site, and which prescribes specific criteria for assessing demolition applications concerning such immovables. Consequently, the authorizations given in accordance with such a by-law will be the only ones necessary to demolish recognized immovables or immovables situated on a recognized heritage site. Special rules are also introduced in the Act respecting land use planning and development for the demolition of heritage immovables, such as the possibility for a regional county municipality to disallow a demolition authorization granted with respect to such an immovable. The Act further amends the Act respecting land use planning and development to oblige local municipalities to keep in force a by-law

relating to the occupancy and maintenance of buildings which must also cover at least the immovables entered in the regional county municipality's inventory and the immovables that are recognized or are situated on a recognized heritage site, and which must contain standards to oblige their owners to protect them from weather damage and preserve their structural integrity.

The Act specifies that an authorization is not required for the division, subdivision or parcelling out of an immovable on the vertical cadastral plan. Under the Act, such cadastral operations performed without authorization before it was assented to in the protection area of a classified heritage immovable or on a declared or classified heritage site are deemed authorized. The Act also remedies any failure to obtain, before it was assented to, certain authorizations previously required under the former Cultural Property Act or the Cultural Heritage Act.

The Act contains provisions to enhance information sharing between the Minister and the municipalities regarding the protection of heritage property.

Lastly, it amends certain Acts for concordance purposes or to take into account the particular characteristics of certain municipalities and contains transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting land use planning and development (chapter A-19.1);
- Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4);
- Charter of Ville de Québec, national capital of Québec (chapter C-11.5);
- Act respecting administrative justice (chapter J-3);
- Cultural Heritage Act (chapter P-9.002);
- Act respecting the Administrative Housing Tribunal (chapter T-15.01).

Bill 69

AN ACT TO AMEND THE CULTURAL HERITAGE ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CULTURAL HERITAGE ACT

1. Section 2 of the Cultural Heritage Act (chapter P-9.002) is amended

(1) by inserting “ensemble,” after “document,” in the definition of “heritage property”;

(2) by inserting “, social” after “scientific” in the definition of “heritage document”;

(3) by inserting the following definition after the definition of “heritage document”:

““heritage ensemble”: documents or objects that, when gathered into a collection or otherwise, have archeological, artistic, emblematic, ethnological, historical, scientific, social or technological value, including a group of artifacts or a collection of books, archives or works of art;”;

(4) by inserting “, social, urbanistic” after “scientific” in the definition of “heritage immovable”;

(5) by inserting “, social” after “scientific” in the definition of “heritage object”;

(6) by inserting “, social” after “scientific” in the definition of “heritage site”.

2. The Act is amended by inserting the following section after section 2:

“2.1. For the purposes of Chapters IV, V and VI, the urban agglomeration council of Ville de Montréal, Ville de Québec, Ville de Longueuil, Ville de La Tuque and Municipalité des Îles-de-la-Madeleine exercises the functions of a regional county municipality, with the necessary modifications. Expenditures incurred in the exercise of those functions are considered to be urban agglomeration expenditures within the meaning of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001). The powers and responsibilities of the secretary-treasurer of the regional county municipality are exercised by the clerk of the central municipality.”

- 3.** Section 5 of the Act is amended by replacing “and objects” in the third paragraph by “, objects and ensembles”.
- 4.** Section 6 of the Act is amended by replacing “object or document” in the second paragraph by “document, object or ensemble”.
- 5.** Section 11 of the Act is amended by replacing “under any of sections 47 to 49, 64 or 65” by “provided for in subdivision 4 of Division IV, subdivision 3 of Division V or Division V.1”.
- 6.** The Act is amended by inserting the following division after section 11:

“DIVISION I.1

“DOCUMENTS DRAWN UP BY THE MINISTER

“II.1. In order to promote transparency and predictability of the Minister’s action in the carrying out of this chapter, the Minister must draw up the following documents:

- (1) a consultation policy;
- (2) a method for assessing the heritage interest of property, elements of intangible heritage, deceased persons of historical importance and historic events and sites; and
- (3) a grid for categorizing classified heritage immovables and sites.

“II.2. The purpose of the consultation policy is to foster the participation of persons or bodies concerned by the guidelines to be followed regarding knowledge, protection, enhancement and transmission of cultural heritage.

The consultation policy must set out, among other things, its objects and a consultation process adapted to its objects or to the persons or bodies consulted.

The policy must also provide for the establishment of a partners panel and determine its composition and operation and the topics that must be submitted to panel members for consultation.

“II.3. The purpose of the method for assessing the heritage interest of property, elements of intangible heritage, deceased persons of historical importance and historic events and sites is to establish their heritage value so as to guide the decision on, as applicable, their classification, their designation or their categorization, in accordance with this Act.

“II.4. The grid for categorizing classified heritage immovables and sites must make it possible to qualify their heritage interest according to predetermined categories. The grid must specify the conservation objectives associated with

each category of immovables or sites. The category of an immovable or site is used in analyzing certain applications for the issue of an authorization under subdivision 4 of Division IV, subdivision 3 of Division V or Division V.1.

11.5. The Minister must make public the consultation policy, the method for assessing the heritage interest of property, elements of intangible heritage, deceased persons of historical importance and historic events and sites, as well as the grid for categorizing classified heritage immovables and sites.

The Minister must also make public a list of cultural heritage elements that are under consideration for a designation, a classification, a declaration or the establishment of boundaries in accordance with Chapter III.”

7. Section 13 of the Act is amended by inserting “on the Minister’s own initiative or on a proposal from any interested person and” after “may,”.

8. Section 27 of the Act is amended by replacing “or object” by “, object or ensemble”.

9. Section 28 of the Act is amended by replacing “or object” and “the document or object” by “, object or ensemble” and “such a document, object or ensemble”, respectively.

10. Section 29 of the Act is amended

(1) by inserting “, on the Minister’s own initiative or on a proposal from any interested person,” after “may”;

(2) by adding the following paragraph at the end:

“For that purpose, the Minister must use the assessment method provided for in paragraph 2 of section 11.1 and, in the case of an immovable or a site, the categorization grid provided for in paragraph 3 of that section.”

11. Section 30 of the Act is amended

(1) by replacing “or object” in the first paragraph by “, object or ensemble”;

(2) by inserting “and, in the case of an immovable or site, the proposed category” after “concerned” in the second paragraph.

12. Section 31 of the Act is amended

(1) by replacing “or object” in the first paragraph by “, object or ensemble”;

(2) by inserting “and, in the case of an immovable or site, the proposed category” after “concerned” in the third paragraph.

13. Section 32 of the Act is amended by replacing “and stating the reasons for the classification” in the first paragraph by “and, in the case of an immovable or site, its category, and stating the reasons for the classification and, if applicable, for the choice of its category”.

14. Section 36 of the Act is amended by inserting “and, in the case of an immovable or site, its category,” after “concerned” in the second paragraph.

15. The Act is amended by inserting the following section after section 36:

“36.1. If the Minister decides not to classify an immovable or site, the Minister must notify the local municipality in whose territory the immovable or site is situated so that the municipality can determine whether it should be recognized.

The notice sent to the local municipality must include reasons in support of the Minister’s decision not to classify the immovable or site concerned.”

16. The heading of subdivision 3 of Division IV of Chapter III of the Act is amended by replacing “*a conservation plan and*” by “*the boundaries of*”.

17. Sections 37 to 39 of the Act are repealed.

18. Section 40 of the Act is amended by inserting “, on the Minister’s own initiative or on a proposal from any interested person” after “order” in the first paragraph.

19. Section 49 of the Act is amended

- (1) by striking out “, redivide”;
- (2) by replacing “a lot” by “an immovable”;
- (3) by adding the following paragraph at the end:

“This section does not apply to the division, subdivision or parcelling out of an immovable on the vertical cadastral plan.”

20. Section 52 of the Act is amended by replacing “or object” in the introductory clause of the first paragraph by “, object or ensemble”.

21. The Act is amended by inserting the following sections after section 53:

“53.1. For any application for the issue of an authorization under this subdivision, the information and documents determined by regulation of the Minister, if applicable, must be attached to the form provided for in section 11.

Applications that do not include the information and documents determined by regulation are not admissible.

“53.2. The Minister has 90 days after an admissible application is received to render a decision concerning that application. However, the time limit is 120 days if the application is submitted to the council in accordance with section 83.1.

If compliance with the time limit prescribed in the first paragraph does not appear possible to the Minister, the Minister must, before the expiry of that time limit, give notice of it to the applicant, stating the additional time required and the reasons for it.

“53.3. The Minister may require the applicant to provide, within the time and in the manner the Minister determines, any additional information or documents the Minister considers necessary for analyzing an application for the issue of an authorization under this subdivision. Such an application or a prior notice sent under section 5 of the Act respecting administrative justice (chapter J-3) interrupts the time limits provided for in section 53.2 for the duration of the period granted to produce information or documents, or to submit observations, as applicable.

The Minister may refuse to issue the authorization if the applicant has not, within the time prescribed, provided the information or documents required under the first paragraph.

“53.4. For the purpose of analyzing an application for the issue of an authorization under section 48, the Minister may consider the following elements, among others:

- (1) the category of the classified heritage immovable;
- (2) the effect of the act on the heritage value of, and elements that characterize, the classified property;
- (3) the effect of the act on the enhancement of the classified property;
- (4) the effect of the act on the classified property’s integrity and authenticity;
- (5) the effect of the act on a potential or confirmed archeological property or site associated with the classified heritage immovable;
- (6) the effect of the act on the landscaping of the classified heritage immovable;
- (7) the compatibility of the materials with the classified property;
- (8) the architectural consistency of the act with the classified heritage immovable;
- (9) respect for traditional know-how in the methods used to carry out the act; and

(10) the effects of the act on maintaining the constructive systems of the classified heritage immovable and their components.

“53.5. For the purpose of analyzing an application for the issue of an authorization under section 49, the Minister may consider the following elements, among others:

(1) the effect of the act on the enhancement and protection of the classified heritage immovable for which a protection area has been established;

(2) the effect of the act on the context surrounding the classified heritage immovable;

(3) the effect of the act on an element from the same ensemble, period or development logic as the classified heritage immovable associated with the protection area, such as a building, an architectural feature or a landscaping feature;

(4) the effect of the act on a potential or confirmed archaeological property or site associated with the classified heritage immovable; and

(5) the effect of the act on the landscaping of the classified heritage immovable.

“53.6. If an authorization under section 49 was not obtained prior to the division, subdivision or parcelling out of an immovable situated in a protection area, the Minister may issue the authorization after the act has been completed if the repercussions of the act on the heritage value of the classified heritage immovable are, in the Minister’s opinion, acceptable.

In the authorization, the Minister may require the carrying out of any corrective measure, including work and works, on the conditions set by the Minister.

The authorization may not be issued if the Minister previously refused to authorize the act concerned or if the conditions of an authorization issued for the act were not complied with.

Despite section 196, the act authorized in accordance with the first paragraph may no longer be annulled because of a failure to obtain the Minister’s authorization prior to the performance of the act, and the related registration in the land register may no longer be cancelled for that reason.

Section 53.2 does not apply to an application made under this section.

The Minister must make public any authorization issued in accordance with this section.”

22. Section 54 of the Act is amended by replacing “or object” in subparagraph 1 of the first paragraph by “, object or ensemble”.

23. Section 55 of the Act is amended by replacing “of an object, document or” by “of a document, object, ensemble or”.

24. The heading of subdivision 2 of Division V of Chapter III of the Act is replaced by the following heading:

“§2.—*Directives applicable to declared heritage sites*”.

25. Section 61 of the Act is replaced by the following section:

“**61.** For each land area declared a heritage site, the Minister must establish a directive to determine the Minister’s guidelines concerning the application of the elements that may be considered for the purpose of analyzing an application for the issue of an authorization under section 64 or 65, in accordance with section 67.2.”

26. Section 62 of the Act is amended by replacing “a conservation plan” by “a directive referred to in section 61”.

27. Section 63 of the Act is amended by replacing “of the conservation plan or its update” by “of the directive referred to in section 61 or its update”.

28. Section 64 of the Act is amended

(1) in the first paragraph,

(a) by striking out “, redivide”;

(b) by replacing “a lot” by “an immovable”;

(2) by adding the following paragraph at the end:

“This section does not apply to the division, subdivision or parcelling out of an immovable on the vertical cadastral plan.”

29. Section 66 of the Act is amended by replacing the second paragraph by the following paragraph:

“A person who performs an act referred to in section 64 or 65 on a classified heritage site must comply with the conditions the Minister may set in the authorization. On a declared heritage site, the person must comply with the conditions determined by a regulation made by the Government under subparagraph 1 of the first paragraph of section 80.1, if applicable, and with the conditions the Minister may set in the authorization in relation to any act that is not referred to in a regulation or for which no regulation determines all the conditions for carrying out the act.”

30. The Act is amended by inserting the following after section 67:

“67.1. Sections 53.1 to 53.3 apply to an authorization referred to in this subdivision, with the necessary modifications, subject to the fifth paragraph of section 67.3.

“67.2. For the purpose of analyzing an application for the issue of an authorization under section 64 or 65, the Minister may consider the following elements, among others:

- (1) in the case of a classified heritage site, its category;
- (2) the effect of the act on the heritage value of the site;
- (3) the effect of the act on the elements that characterize the site, including the natural setting, road network, land division system, built environment, landscape units and visual qualities;
- (4) the effect of the act on any potential or confirmed archaeological property or site; and
- (5) the effect of the act on the conservation and enhancement of the buildings that contribute to the heritage value of the site.

“67.3. If an authorization referred to in section 64 or 65 was not obtained prior to the division, subdivision or parcelling out of an immovable situated on a declared or classified heritage site, or prior to the performance, on a declared heritage site, of an act for which conditions have been determined by a regulation made by the Government under subparagraph 1 of the first paragraph of section 80.1, the Minister may issue the authorization after the act has begun or been completed if the repercussions of the act on the heritage value of the declared or classified heritage site are, in the Minister’s opinion, acceptable.

In the authorization, the Minister may require the carrying out of any corrective measure, including work and works, on the conditions set by the Minister.

The authorization may not be issued if the Minister previously refused to authorize the act concerned or if the conditions of an authorization issued for the act were not complied with.

Despite any provision to the contrary, an act authorized in accordance with the first paragraph may no longer be annulled because of a failure to obtain the Minister’s authorization prior to the performance of the act and, where the authorization is for the division, subdivision or parcelling out of an immovable, the related registration in the land register may no longer be cancelled for that reason.

Section 53.2 does not apply to an application made under this section.

The Minister must make public any authorization issued in accordance with this section.

“DIVISION V.1

“AUTHORIZATION CONCERNING CERTAIN ACTS WITH RESPECT TO PROTECTION AREAS AND DECLARED OR CLASSIFIED HERITAGE SITES

“67.4. The Minister may issue an authorization for the division, subdivision or parcelling out of an immovable situated in a protection area or on a declared or classified heritage site or for the performance, on a declared heritage site, of an act for which conditions have been determined by a regulation made by the Government under subparagraph 1 of the first paragraph of section 80.1 where the act should have been the subject of an authorization under a provision of the Cultural Property Act (chapter B-4) and such an authorization was not obtained. The authorization may be issued only if the repercussions of the act on the heritage value of the classified heritage immovable for which a protection area has been established or on the heritage value of a declared or classified heritage site are, in the Minister’s opinion, acceptable.

In analyzing an application, the Minister may consider, among other things, the elements set out in section 53.5 or 67.2, depending on whether the act concerned was performed in a protection area or on a declared or classified heritage site.

The authorization may not be issued if the Minister previously refused to authorize the act concerned or if the conditions of an authorization issued for the act were not complied with.

In the authorization, the Minister may require the carrying out of any corrective measure, including work and works, on the conditions set by the Minister. Any person who carries out corrective measures in a protection area or on a classified heritage site must comply with the conditions the Minister may set. On a declared heritage site, the person must comply with the conditions determined by a regulation made by the Government under subparagraph 1 of the first paragraph of section 80.1, if applicable, and with the conditions that the Minister may set in the authorization in relation to the division, subdivision or parcelling out of an immovable, or in relation to any act for which no regulation determines all the conditions for carrying out the act.

The Minister must make public any authorization issued in accordance with this section.

“67.5. If the Minister issues an authorization under section 67.4, the authorization is effective on being issued.

Despite any contrary provision, the act concerned may no longer be annulled because of a failure to obtain the Minister's authorization prior to the performance of the act and, where the authorization concerns the division, subdivision or parcelling out of an immovable, the related registration in the land register may no longer be cancelled for that reason.

“67.6. A person who applies for the Minister's authorization under section 67.4 must pay the fees determined by government regulation for the examination of the application.

The Minister may require the applicant to provide, within the time and in the manner the Minister determines, any information or documents the Minister considers necessary for analyzing such an application.

The Minister may refuse to issue the authorization if the applicant has not, within the time prescribed, provided the information or documents required under the second paragraph.

“67.7. The Minister's authorization is withdrawn if the carrying out of the corrective measures, if applicable, is not begun within one year after the authorization is issued or if it is interrupted for more than one year.

In the case of an interruption, the withdrawal of the authorization does not prevent the Minister from obtaining an order under section 195.”

31. The Act is amended by inserting the following division after section 75:

“DIVISION VI.1

“REMEDIES

“75.1. A person to whom a decision rendered by the Minister under any of sections 47 to 49, 52 and 53, the second paragraph of section 53.3, any of sections 53.6, 64, 65, 67.3 and 67.4, or the third paragraph of section 67.6 applies may apply in writing for a review of the decision within 30 days after the date on which the decision was notified to the person.

The review is conducted by a person designated by the Minister within the Ministère de la Culture et des Communications.

“75.2. An application for review may not be refused on the ground that it was received after the deadline if the applicant establishes that it was impossible to act sooner.

If the application is refused on that ground, the decision may be contested before the Administrative Tribunal of Québec within 15 days after the date on which the decision is notified to the applicant. If the Tribunal quashes the decision, the record is returned to the designated person who rendered the decision.

“75.3. A person who has applied for the review of a decision must be given the opportunity to submit observations and, if need be, to produce documents to complete the person’s record.

“75.4. An application for review must be processed promptly and the review decision must be rendered within 30 days after receipt of the application or, in the case described in the second paragraph of section 75.2, within 30 days after the decision of the Administrative Tribunal of Québec returning the record for review.

If a person has asked for time to submit observations or to produce documents, the review decision must be rendered within 30 days after observations are submitted or documents are produced.

“75.5. The review decision must be in writing and drafted in clear and concise terms, contain reasons and be notified to the applicant. It must state that the decision may be contested before the Administrative Tribunal of Québec.

“75.6. A person who feels wronged by the review decision may contest it before the Administrative Tribunal of Québec within 30 days after notification of the decision.

Moreover, a person may contest before the Tribunal the decision whose review the person applied for if the person designated to conduct the review does not dispose of the application within 30 days following its receipt or following the decision of the Tribunal returning the record for review in accordance with the second paragraph of section 75.2. However, the time limit runs from the time observations are presented or documents are produced if a person requested more time for that purpose.”

32. Section 78 of the Act is amended by replacing “48 to 50, 64 to 66” in paragraph 8 by “47 to 50, 53.3, 53.6, 64 to 66, 67.3, 67.4, 67.6”.

33. Section 79 of the Act is amended by replacing “83 on an application for authorization required under section 48, 49 or 64” by “83.1”.

34. Section 80 of the Act is amended by replacing “or 65” in subparagraph 2 of the first paragraph by “, 65 or 67.4”.

35. The Act is amended by inserting the following section after section 80:

“80.1. The Government may, for any declared heritage site, make a regulation

(1) to determine certain conditions for the carrying out of an act referred to in section 64 or 65; and

(2) to designate, from among the acts referred to in those sections, an act that the Minister may not authorize or an act for which it is not necessary to obtain the Minister's authorization.

The provisions of a regulation made under the first paragraph may vary according to the immovables or the parts of territories to which they apply.

Before the regulation is made, it must be submitted for consultation to the council and to the local municipality and the regional county municipality in whose territory the site is situated.”

36. Section 81 of the Act is amended by adding the following paragraph at the end:

“(4) to determine the information and documents which must be provided in support of an application for authorization made under a provision of subdivision 4 of Division IV or subdivision 3 of Division V.”

37. The Act is amended by inserting the following division after section 81:

“DIVISION IX.1

“TABLE DE CONCERTATION EN MATIÈRE DE PATRIMOINE IMMOBILIER GOUVERNEMENTAL

“**81.1.** A working panel called the “Table de concertation en matière de patrimoine immobilier gouvernemental” is established to develop government coherence and promote State exemplarity regarding government immovable cultural heritage.

The panel allows, among other things, the sharing of best practices concerning knowledge, protection, enhancement and transmission of government immovable heritage.

The Minister determines the departments and other public bodies within the meaning of sections 3 to 7 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) whose representatives make up the panel. The Minister must make public the list of those departments and other public bodies.

The Minister also determines how the panel is to operate.

The Minister or the person delegated by the Minister acts as the panel's chair. The panel's secretariat is entrusted to the Ministère de la Culture et des Communications.”

38. The Act is amended by inserting the following section after section 83:

“83.1. The council must give the Minister its opinion on any application for the issue of an authorization under section 48, 49 or 64 concerning the following acts:

- (1) the total demolition of a main building and the erection of a new main building in a protection area or on a declared or classified heritage site; and
- (2) the total demolition of a classified heritage immovable.

The Minister may also, if the Minister considers it appropriate, submit to the council any other application for authorization.

The council must, before giving an opinion under this section, allow the applicant to submit observations and, at the Minister’s request, hold public consultations. The last paragraph of section 83 applies to those consultations.”

39. Section 84 of the Act is amended by replacing “second, third, fourth and fifth” by “third, fourth, fifth, sixth and seventh”.

40. Section 117 of the Act is replaced by the following section:

“117. In this chapter, “local heritage council” means the council established under section 154 of this Act or, in the case of a local municipality and a regional county municipality, respectively, the planning advisory committee established under section 146 of the Act respecting land use planning and development (chapter A-19.1) or the land development advisory committee established under section 148.0.0.1 of that Act, as determined by their council.”

41. Section 118 of the Act is amended, in the first paragraph,

- (1) by striking out the first sentence;
- (2) by striking out “toutefois” in the French text.

42. Sections 119 and 120 of the Act are replaced by the following sections:

“119. A by-law identifying and recognizing cultural heritage elements to which this chapter applies is repealed in the same manner as such by-laws are adopted. However, the council of the municipality must, at least 90 days before the repealing by-law is adopted, notify the following parties of its intention to repeal a heritage recognition by-law:

- (1) the cultural heritage registrar;
- (2) in the case of a local municipality, the regional county municipality whose territory comprises that of the local municipality; and

(3) in the case of a regional county municipality, the local municipality in which the recognized property is situated.

“120. A regional county municipality must adopt and periodically update an inventory of the immovables situated in its territory that were constructed before 1940 and that have heritage value. The regional county municipality may also include more recently constructed immovables in the inventory.

The Minister may, by regulation,

(1) prescribe the manner in which inventories are made, consigned and disseminated; and

(2) extend, until the year set by the regulation, the construction period for which the inventory is to be made and, if applicable, determine the time allotted for making the new portion of the inventory as well as protection measures applicable within that time to newly included immovables.

The regulation referred to in subparagraph 2 of the second paragraph is to be submitted for consultation, before its adoption, to the partners panel provided for in the third paragraph of section 11.2.

A local municipality may contribute to the knowledge of cultural heritage by making inventories of the cultural heritage situated in its territory or connected to its territory. If applicable, the local municipality must inform the regional county municipality of the immovables it has inventoried.

For the purposes of this section, a local municipality whose territory is not included in that of a regional county municipality, excluding a local municipality whose territory is included in that of an urban agglomeration whose central municipality is referred to in section 2.1, a Native community referred to in the second paragraph of section 118 or a Northern, Cree or Naskapi village, is considered to be a regional county municipality.”

43. Section 121 of the Act is amended by replacing “municipality may,” in the first paragraph by “local municipality may, on its own initiative or on a proposal from any interested person,”.

44. Section 122 of the Act is amended by adding the following paragraph at the end:

“The clerk or the secretary-treasurer must send a copy of the notice of motion and the related draft by-law to the cultural heritage registrar as soon as possible.”

45. Section 127 of the Act is amended

(1) by inserting “on its own initiative or on a proposal from any interested person,” after “may,” in the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“A heritage site must, in the case of a local municipality, be included in a zone identified in its planning program as a zone to be protected or, in the case of a regional county municipality, be included in a part of the territory identified in its land use and development plan as a part that is of interest under subparagraph 6 of the first paragraph of section 5 of the Act respecting land use planning and development (chapter A-19.1).”;

(3) by replacing “or objects” in the third paragraph by “, objects or ensembles”.

46. Section 128 of the Act is amended by adding the following paragraph at the end:

“The clerk or the secretary-treasurer of the municipality must send a copy of the notice of motion and of the related draft by-law to the cultural heritage registrar as soon as possible.”

47. Section 132 of the Act is amended

(1) by replacing “The period” in the first paragraph by “In the case of a by-law adopted by a local municipality, the period”;

(2) by adding the following paragraph at the end:

“In the same manner, in the case of a by-law adopted by a regional county municipality, the period is extended if the heritage site mentioned in the notice of motion is not included in a part of the territory identified in the regional county municipality’s land use and development plan as a part that is of interest under subparagraph 6 of the first paragraph of section 5 of the Act respecting land use planning and development (chapter A-19.1).”

48. Section 133 of the Act is amended by replacing “or object” in paragraph 2 by “, object or ensemble”.

49. Section 134 of the Act is amended by replacing “or object” in paragraph 1 by “, object or ensemble”.

50. Section 137 of the Act is amended by inserting “, ensemble” after both occurrences of “object”.

51. Section 139 of the Act is amended

(1) by inserting “local” before “municipality” in the first paragraph;

(2) by inserting the following paragraph after the first paragraph:

“If the act concerns a heritage property recognized by the council of a regional county municipality, the clerk or the secretary-treasurer of the local municipality must send a copy of the notice to the secretary-treasurer of the regional county municipality as soon as possible, to the extent that the act complies with the by-laws of the local municipality.”;

(3) by inserting “that adopted the heritage recognition by-law” after “council of the municipality” in the second paragraph;

(4) by inserting the following paragraph before the last paragraph:

“In the case of a heritage property recognized by the council of a regional county municipality, the secretary-treasurer of the regional county municipality must send a copy of the resolution setting out the conditions to the local municipality.”

52. Section 141 of the Act is amended

(1) by inserting “that adopted the heritage recognition by-law” after “council of the municipality” in the introductory clause of the first paragraph;

(2) by replacing “or demolish all or part of a recognized heritage immovable, move it” in subparagraph 1 of the first paragraph by “or move all or part of a recognized heritage immovable”;

(3) by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) divide, subdivide or parcel out an immovable situated on a recognized heritage site.”;

(4) by inserting the following paragraph after the first paragraph:

“Any application for authorization that concerns a heritage property recognized by the council of a regional county municipality must be filed with the local municipality. The clerk or the secretary-treasurer of the local municipality must send to the secretary-treasurer of the regional county municipality a copy of the application as soon as possible, to the extent that the authorization complies with the by-laws of the local municipality.”;

(5) by inserting “of the council of the municipality” after “authorization” in the fourth paragraph;

(6) by adding the following paragraph at the end:

“This section does not apply to the division, subdivision or parcelling out of an immovable on the vertical cadastral plan.”

53. Section 143 of the Act is amended by replacing “The council of the municipality may establish a conservation plan for a recognized heritage property that includes” by “For the purpose of guiding the application of sections 136 to 139 and 141, the council of the municipality may establish, for a recognized heritage property,”.

54. Section 144 of the Act is amended

(1) by replacing “Before establishing or updating a conservation plan” by “Before establishing or updating its guidelines”;

(2) by striking out “on the plan”.

55. Section 145 of the Act is amended

(1) by inserting “classified or” before “recognized heritage immovable” in the second paragraph;

(2) by replacing “or sell” in the third paragraph by “, sell or lease”.

56. Section 147 of the Act is amended by adding the following paragraph at the end:

“In the case of a by-law of a regional county municipality, the secretary-treasurer of that municipality must send a copy to the local municipality. The latter is responsible for the application of the by-law. As soon as possible, it must send to the regional county municipality any information or document that has been provided to it and must remit to the latter all fees collected.”

57. The Act is amended by inserting the following section after section 150:

150.1. Despite the Municipal Aid Prohibition Act (chapter I-15), a municipality may set the rent for a classified or recognized heritage immovable situated in its territory, or for an immovable situated in a recognized heritage site, below its fair market value.

The rent from such an immovable, less the related administrative costs, must first be used to pay the costs related to the maintenance required to preserve the immovable’s heritage value and to discharge the commitments made by the municipality under this Act.”

58. Section 154 of the Act is amended by adding the following paragraph at the end:

“A regional county municipality may call such a local council a “regional heritage council”.”

59. Section 161 of the Act is amended by inserting “or its land use and development plan, as applicable” after “program”.

60. Section 162 of the Act is replaced by the following section:

“162. On the date of coming into force of the planning program of a local municipality, sections 138 to 141 and 151 cease to apply in respect of all or part of a heritage site that is not included in a zone identified in its planning program as a zone to be protected. Those sections cease to apply in the same manner on the date of coming into force of the land use planning and development plan of a regional county municipality in respect of all or part of a heritage site that is not included in a part identified in the plan as a part of the territory that is of interest under subparagraph 6 of the first paragraph of section 5 of the Act respecting land use planning and development (chapter A-19.1).”

61. Section 163 of the Act is repealed.

62. Section 165 of the Act is amended

(1) by replacing “second, third, fourth and fifth” in the first paragraph by “third, fourth, fifth, sixth and seventh”;

(2) by replacing “the by-laws of the municipality with respect to the objectives of this Act and obtain” in the third paragraph by “the consistency of the municipality’s by-laws with the objectives of this Act as well as the content of any regulation made by the Government under section 80.1 for the declared heritage site concerned, sections 53.5 and 67.2 and any directive established by the Minister under section 61 for that site. The Minister must also obtain”.

63. Section 166 of the Act is amended by striking out the second paragraph.

64. Section 169 of the Act is amended by striking out “local”.

65. The Act is amended by inserting the following section after section 171:

“171.1. A municipality may not recognize a heritage property that is already the subject of a heritage recognition by another municipality.”

66. Section 174 of the Act is amended

(1) by replacing “, section 49” and “under section 49” by “, sections 49 and 67.4” and “under sections 49 and 67.4”, respectively;

(2) by striking out “local”.

67. Section 177 of the Act is amended

(1) by striking out “local” in the first paragraph;

(2) by adding the following paragraph at the end:

“In case of conflict between an order referred to in sections 148 and 149 and made by the council of the regional county municipality and such an order made by the council of the local municipality, the order made by the regional county municipality prevails.”

68. The heading of Chapter VI of the Act is amended by replacing “TO THE REGIONAL COUNTY MUNICIPALITY” by “TO THE MUNICIPALITIES”.

69. Section 178 of the Act is amended by inserting “36, 36.1,” and “46,” after “33,” and “44,” respectively.

70. Section 179 of the Act is amended by adding the following paragraph after the first paragraph:

“A regional county municipality must send to the local municipality in which the recognized property is situated a copy of every document that the regional county municipality itself, its council or its secretary-treasurer is required to send under section 133 or 142.”

71. Section 179.1 of the Act is amended by replacing the last paragraph by the following paragraph:

“In exercising their powers, Ville de Québec and Ville de Montréal are bound, for each declared heritage site, by any regulation made by the Government under section 80.1 and by any directive established by the Minister under section 61.”

72. Section 179.3 of the Act is amended by replacing “50, 51, 66 and 67” by “11.4, 50, 51, 53.3, 53.5, 53.6, 66, 67 and 67.1 with regard to the application of section 53.3, sections 67.2 and 67.3”.

73. Section 195 of the Act is amended

(1) by replacing “or 66” in the first and second paragraphs by “, 53.6, 66, 67.3 or 67.4”;

(2) by inserting “determined by a regulation made by the Government under subparagraph 1 of the first paragraph of section 80.1, with the conditions” after “conformity with the conditions” in the second paragraph;

(3) by replacing “or object” in the third paragraph by “, object or ensemble”.

74. Section 196 of the Act is amended

(1) by striking out “, redivision”;

(2) by replacing “land” by “an immovable”.

75. Section 198 of the Act is amended by replacing “or object” by “, object or ensemble”.

76. Section 201 of the Act is amended by replacing “, any of the conditions set by the Minister under section 50 or 66 in connection with the Minister’s authorization under section 47, 48, 49 or 64, or” and “\$190,000” by “, any of the conditions set by the Government under subparagraph 1 of the first paragraph of section 80.1 or by the Minister under section 50, section 53.6, section 66 or section 67.3 in connection with the Minister’s authorization under section 47, 48, 49 or 64, or under section 67.4 in connection with any act other than the posting of a sign or billboard, or who contravenes” and “\$250,000”, respectively.

77. Section 202 of the Act is amended

(1) by inserting “by the Government under subparagraph 1 of the first paragraph of section 80.1 or” after “conditions set”;

(2) by inserting “or 67.3” and “or under section 67.4 in connection with a sign or billboard” after “under section 66” and “under section 65”, respectively.

78. Section 204 of the Act is amended

(1) by striking out “, redivision”;

(2) by replacing “of land” and “the land” by “of an immovable” and “the immovable”, respectively.

79. Section 205 of the Act is amended by replacing “\$190,000” by “\$250,000”.

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

80. Section 6 of the Act respecting land use planning and development (chapter A-19.1) is amended by replacing “, VII to XI or XIII of Chapter IV” in subparagraph 3 of the third paragraph by “and VII to XIII of Chapter IV or in Chapter V.0.1”.

81. Section 53.11.4 of the Act is amended by replacing “XI of Chapter IV” in the first paragraph by “XII of Chapter IV or under Chapter V.0.1”.

82. Section 58 of the Act is amended by replacing “XI of Chapter IV” in subparagraph 1 of the third paragraph by “XII of Chapter IV or under Chapter V.0.1”.

83. Section 59.1 of the Act is amended by replacing “XI of Chapter IV” in subparagraph 3 of the first paragraph by “XII of Chapter IV or under Chapter V.0.1”.

84. Section 59.5 of the Act is amended by replacing “XI of Chapter IV” in subparagraph 1 of the second paragraph by “XII of Chapter IV or under Chapter V.0.1”.

85. Section 59.6 of the Act is amended by replacing “XI of Chapter IV” in subparagraph 2 of the first paragraph by “XII of Chapter IV or under Chapter V.0.1”.

86. Section 62 of the Act is amended

(1) by inserting “demolitions,” after “structures,” in the first paragraph;

(2) by inserting “demolitions,” after “structures,” in subparagraph 1 of the second paragraph;

(3) by inserting “demolitions,” after “structures,” in the third paragraph.

87. Section 76 of the Act is amended by inserting the following paragraph after the first paragraph:

“The regional county municipality must also maintain in force, in respect of that territory, a by-law relating to the occupancy and maintenance of buildings and a by-law relating to the demolition of immovables that is in conformity with the provisions of Chapter V.0.1, with the necessary modifications.”

88. Section 95 of the Act is amended by replacing “XI of Chapter IV” in the third paragraph by “XII of Chapter IV or in Chapter V.0.1”.

89. Section 110.4 of the Act is amended by replacing “XI of Chapter IV” in subparagraph 1 of the second paragraph by “XII of Chapter IV or under Chapter V.0.1”.

90. Section 110.5 of the Act is amended by replacing “XI of Chapter IV” in the first paragraph by “XII of Chapter IV or under Chapter V.0.1”.

91. Section 110.6 of the Act is amended by replacing “XI of Chapter IV” in the first paragraph by “XII of Chapter IV or under Chapter V.0.1”.

92. Section 112 of the Act is amended

(1) by inserting “demolitions,” after “structures,” in the first paragraph;

(2) by inserting “demolitions,” after “structures,” in subparagraph 1 of the second paragraph;

(3) by inserting “demolitions,” after “structures,” in the third paragraph.

93. Section 123 of the Act is amended by replacing “XI” in subparagraph 3 of the first paragraph by “XII or Chapter V.0.1”.

94. Section 137.2 of the Act is amended by replacing “XI or XIII” in subparagraph 2 of the first paragraph by “XIII, Chapter V.0.1”.

95. Section 145.41 of the Act is amended

(1) by replacing the first paragraph by the following paragraphs:

“Every municipality is required to maintain in force a by-law relating to the occupancy and maintenance of buildings, which must contain standards to

(1) prevent the decline of buildings; and

(2) protect buildings from weather damage and preserve the integrity of their structure.

The by-law may

(1) establish any standard and prescribe any measure relating to the occupancy and maintenance of buildings;

(2) determine any building, other than a heritage immovable within the meaning of paragraph 1 of section 148.0.1, that is not subject to the by-law; and

(3) define classes of buildings and prescribe different rules according to such classes, to parts of territory, or to combinations of such a class and such a part.”;

(2) by striking out “where a by-law under the first paragraph is in force” in the second paragraph.

96. Section 145.41.1 of the Act is amended by replacing “second” in the first paragraph by “third”.

97. Section 145.41.5 of the Act is amended by inserting the following subparagraph after subparagraph 2 of the first paragraph:

“(3) the immovable is a heritage immovable within the meaning of paragraph 1 of section 148.0.1.”

98. The Act is amended by inserting the following sections after section 145.41.5:

“145.41.6. The by-law relating to the occupancy and maintenance of buildings may provide that an offence under any of its provisions is punishable by a fine of which it prescribes the minimum and maximum amounts, provided the maximum does not exceed \$250,000.

The by-law may prescribe separate minimum and maximum amounts for a second or subsequent offence or for cases where the offender is not a natural person.

The fine prescribed for a second or subsequent offence may be imposed, regardless of a change in owner, if a notice of deterioration was registered in the land register in accordance with this division before the new owner acquired the building.

“**145.41.7.** In determining the penalty for an offence referred to in section 145.41.6, the judge shall take into account the following aggravating factors, among others:

- (1) whether the offender acted intentionally or was negligent or reckless;
- (2) the seriousness of the harm or the risk of harm to human health or safety;
- (3) the intensity of the nuisances suffered by the neighbourhood;
- (4) the foreseeable character of the offence or the failure to follow the recommendations or warnings to prevent it, including where work described in a notice referred to in the third paragraph of section 145.41 or in a deterioration notice was not carried out;
- (5) whether the building concerned is a heritage immovable within the meaning of paragraph 1 of section 148.0.1;
- (6) whether the offender’s actions or omissions resulted in so much deterioration to the building that the only useful remedy is to demolish it; and
- (7) the offender’s attempts to cover up the offence or failure to try to mitigate its consequences.

A judge who, despite the presence of an aggravating factor, decides to impose the minimum fine must give reasons for the decision.”

99. Section 148.0.1 of the Act is replaced by the following section:

“**148.0.1.** In this Chapter,

- (1) “heritage immovable” means an immovable recognized in accordance with the Cultural Heritage Act (chapter P-9.002) situated on a heritage site recognized in accordance with that Act or registered in an inventory referred to in the first paragraph of section 120 of that Act; and
- (2) “dwelling” means a dwelling within the meaning of the Act respecting the Administrative Housing Tribunal (chapter T-15.01).”

100. Section 148.0.2 of the Act is replaced by the following sections:

“148.0.2. Every municipality is required to maintain in force a by-law relating to the demolition of immovables, which by-law must

(1) prohibit the demolition of an immovable, except if the owner has obtained authorization to demolish it from a committee referred to in section 148.0.3;

(2) prescribe the procedure for applying for an authorization;

(3) establish the criteria to be used to assess an application for authorization, including the condition of the immovable that is the subject of the application, its heritage value, the deterioration of the quality of life in the neighbourhood, the cost of its restoration, the intended use of the vacated land and, when the immovable includes one or more dwellings, the prejudice caused to lessees and the effects on housing needs in the area; and

(4) establish specific criteria for assessing an application for authorization relating to a heritage immovable, including the immovable’s history, contribution to local history, degree of authenticity and integrity, representativeness of a particular architectural movement, and contribution to an ensemble to be preserved.

“148.0.2.1. The by-law provided for in section 148.0.2 may

(1) prescribe that, before an application for authorization is considered, the owner must submit an expert assessment to the committee, in particular a heritage study, or a preliminary program for the utilization of the vacated land;

(2) prescribe that a document referred to in paragraph 1 be submitted after the committee has rendered an affirmative decision on the application for authorization to demolish, rather than before the application is considered, in which case authorization to demolish is conditional on confirmation by the committee of its decision after it has analyzed the document;

(3) prescribe that the owner must provide the municipality, prior to the issuance of an authorization certificate, with a financial guarantee to ensure that all conditions set by the committee are complied with;

(4) provide, in the case of an application for authorization not relating to a heritage immovable, that the public notice provided for in section 148.0.5 is not required;

(5) exempt any decision of the committee, excluding an authorization to demolish a heritage immovable, from the review provided for in section 148.0.19, or prescribe the qualifications required to apply for the review of a decision of the committee other than such an authorization;

(6) determine any immovable, other than a heritage immovable, that is not subject to the by-law; and

(7) define classes of immovables and prescribe different rules according to such classes, to parts of territory or to combinations of a class and such a part.”

101. Section 148.0.3 of the Act is amended

(1) by replacing “A council that has adopted a by-law under section 148.0.2” in the first paragraph by “The council”;

(2) by replacing “, 148.0.2, 148.0.4” and “148.0.21” in the third paragraph by “to 148.0.2.1, 148.0.5” and “148.0.20.1”, respectively.

102. Section 148.0.4 of the Act is repealed.

103. Section 148.0.5 of the Act is amended by adding the following paragraph at the end:

“If the application relates to a heritage immovable, a copy of the public notice must immediately be sent to the Minister of Culture and Communications.”

104. Section 148.0.7 of the Act is amended by replacing the third paragraph by the following paragraph:

“The committee must hold a public hearing when the application for authorization relates to a heritage immovable and in any other case where it considers it advisable to do so.”

105. Section 148.0.8 of the Act is amended by adding the following paragraph at the end:

“Such an intervention may also be made by a person wishing to acquire a heritage immovable that is the subject of an application for authorization to demolish so as to preserve its heritage character.”

106. Section 148.0.10 of the Act is replaced by the following section:

148.0.10. If the committee is seized of an application relating to a heritage immovable and the municipality has a local heritage council within the meaning of section 117 of the Cultural Heritage Act (chapter P-9.002), the committee must consult that council before rendering its decision.

The committee may consult the local heritage council or the planning advisory committee in any other case where it considers it advisable to do so.”

107. Section 148.0.18 of the Act is amended by adding the following paragraph at the end:

“The decision must be accompanied with a notice explaining the rules that are applicable from among those set out in sections 148.0.19 to 148.0.21.”

108. Section 148.0.19 of the Act is replaced by the following section:

“**148.0.19.** Subject to the provisions of a by-law referred to in section 148.0.2, any person may, within 30 days of a decision of the committee, apply to the council for a review of the decision.

The council may, on its own initiative, within 30 days of a decision of the committee authorizing the demolition of a heritage immovable, pass a resolution stating its intention to review the decision.

Any member of the council, including a member of the committee, may sit on the council to review a decision of the committee.”

109. The Act is amended by inserting the following sections after section 148.0.20:

“**148.0.20.1.** If the committee authorizes the demolition of a heritage immovable and that decision is not the subject of a review under section 148.0.19, a notice of the decision must be notified without delay to the regional county municipality whose territory includes that of the municipality. If the council authorizes such a demolition following the review of a decision of the committee, a notice of the review decision must also be notified without delay to the regional county municipality.

A notice under the first paragraph must be accompanied with copies of all the documents produced by the owner.

The council of the regional county municipality may, within 90 days after receiving the notice, disallow the decision of the committee or council. It may, if the regional county municipality has a local heritage council within the meaning of section 117 of the Cultural Heritage Act (chapter P-9.002), consult that council before exercising its power of disallowance.

A resolution passed by the regional county municipality under the third paragraph must include reasons and a copy must immediately be sent to the municipality and to every party concerned, by registered mail.

“**148.0.20.2.** Section 148.0.20.1 does not apply to Ville de Gatineau, Ville de Laval, Ville de Lévis, Ville de Mirabel, Ville de Rouyn-Noranda, Ville de Saguenay, Ville de Shawinigan, Ville de Sherbrooke and Ville de Trois-Rivières.”

110. Section 148.0.21 of the Act is amended

- (1) by replacing “an appeal” by “a review”;
- (2) by adding the following paragraph at the end:

“Where section 148.0.20.1 applies, no certificate authorizing demolition may be issued before the earlier of the following:

- (1) the date on which the regional county municipality notifies the municipality that it does not intend to avail itself of the power of disallowance provided for in the third paragraph of that section; or
- (2) the expiry of the 90 days provided for in that paragraph.”

111. Section 148.0.22 of the Act is amended by adding the following sentence at the end of the first paragraph: “However, the maximum fine is \$1,140,000 in the case of the demolition, by a legal person, of an immovable recognized in accordance with the Cultural Heritage Act (chapter P-9.002) or situated on a heritage site recognized in accordance with that Act.”

112. Section 264.0.3 of the Act is amended by inserting the following subparagraph after subparagraph 2 of the second paragraph:

“(3) the powers conferred on the council of the regional county municipality by section 148.0.20.1 must be exercised by the city council if the immovable concerned is situated in the territory of the city.”

CHARTER OF VILLE DE MONTRÉAL, METROPOLIS OF QUÉBEC

113. Section 88 of the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4) is amended

- (1) by inserting “or in section 169 of Schedule C” after “in section 131” in the first paragraph;
- (2) by inserting “or under section 169 of Schedule C” after “under section 131” in the second paragraph.

114. Section 48 of Schedule C to the Charter is amended

- (1) by replacing “, deterioration of buildings due to lack of maintenance, abuse or defacement, or” in the first paragraph by “or”;
- (2) by striking out the third paragraph.

115. Section 49 of Schedule C to the Charter is repealed.

116. Sections 50.1 to 50.6 of Schedule C to the Charter are replaced by the following section:

“**50.1.** The executive committee has jurisdiction with regard to any notice provided for in Division XII of Chapter IV of Title I of the Act respecting land use planning and development (chapter A-19.1).”

117. Section 169 of Schedule C to the Charter is amended by striking out “; the committee may also hold a public hearing if it considers it advisable” in the second paragraph.

CHARTER OF VILLE DE QUÉBEC, NATIONAL CAPITAL OF QUÉBEC

118. Section 115 of the Charter of Ville de Québec, national capital of Québec (chapter C-11.5) is amended by striking out “96,” in the first paragraph.

119. Section 84.4 of Schedule C to the Charter is amended

(1) by replacing “, deterioration of buildings due to lack of maintenance or to abuse or defacement, or” in the first paragraph by “or”;

(2) by striking out the third paragraph.

120. Section 96 of Schedule C to the Charter is replaced by the following section:

“**96.** The city council may, in the by-law relating to the demolition of immovables adopted under section 148.0.2 of the Act respecting land use planning and development (chapter A-19.1), delegate to a borough council the establishment of the committee provided for in section 148.0.3 of that Act. It may also delegate to the borough council the exercise of the power to review decisions under section 148.0.19 of that Act, in which case the powers conferred on the council of the regional county municipality by section 148.0.20.1 of that Act are exercised by the city council.

The by-law may prescribe that the functions devolved by the Act respecting land use planning and development to the committee established under section 148.0.3 of that Act are to be exercised by the Commission d’urbanisme et de conservation de Québec as regards any part of the city’s territory or any class of immovable determined by the by-law, despite sections 124 and 125. The Commission’s meetings held for that purpose are public.”

121. Sections 105.1 to 105.6 of Schedule C to the Charter are replaced by the following section:

“**105.1.** The executive committee has jurisdiction with regard to any notice provided for in Division XII of Chapter IV of Title I of the Act respecting land use planning and development (chapter A-19.1).”

122. Section 122.1 of Schedule C to the Charter is repealed.

ACT RESPECTING ADMINISTRATIVE JUSTICE

123. Section 34 of the Act respecting administrative justice (chapter J-3) is amended by replacing “or the erection of certain roadside advertising signs” by “the erection of certain roadside advertising signs, or certain acts relating to heritage property”.

124. Schedule III to the Act is amended by inserting the following paragraph before paragraph 2:

“(1.6) proceedings under section 75.2 or 75.6 of the Cultural Heritage Act (chapter P-9.002);”.

ACT RESPECTING THE ADMINISTRATIVE HOUSING TRIBUNAL

125. Section 32 of the Act respecting the Administrative Housing Tribunal (chapter T-15.01) is amended by replacing “situated outside a local municipal territory where a by-law made under section 148.0.2 of the Act respecting land use planning and development (chapter A-19.1) is in force” by “for which an authorization to demolish is not required by a by-law adopted under section 148.0.2 of the Act respecting land use planning and development (chapter A-19.1)”.

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

126. The following are deemed to be classified as a “heritage ensemble” within the meaning of the Cultural Heritage Act (chapter P-9.002):

(1) the classified objects and documents entered as follows in the register kept under section 5 of the Cultural Heritage Act: “anges de l’église Saint-Pascal” (I-264 to I-0267), “bas-reliefs des chapelles du calvaire d’Oka” (I-001 to I-007), “bibliothèque Robert-Lionel-Séguin” (RPC-1836), “biens archéologiques du site des Basques-de-l’Anse-à-la-Cave” (V-013), “biens meubles de la maison Henry-Stuart” (II-676 to II-716), “ensemble de 22 statues en bois de l’église Saint-Dominique” (RPC-1619), “épave et collection archéologique du Elizabeth and Mary” (V-011), “géantes de la rue Saint-Jacques” (I-457 to I-460), “maquettes du chantier Davie inc.” (RPC-1083), “meubles et outils de la chalouperie Godbout” (II-322 to II-494), “mobilier de la maison Louis-Bernard” (II-789), “mobilier du restaurant de l’Île-de-France” (II-719), “objets de la crypte du Grand-Séminaire-de-Montréal” (RPC-746), “outillage de la fromagerie Perron” (II-657 to II-675), “outils de la forge Asselin” (II-011 to II-320), “outils de la forge-menuiserie Cauchon” (II-594 to II-654), “photographies du Grand séminaire de Rimouski” (II-524) and “vitraux de l’église de Saint-Mathieu” (I-343 to I-345, I-356 to I-361 and I-363 to I-365); and

(2) the classified objects and documents that, on 31 March 2021, are entered as a “collection”, “fonds” or “décor” in that register.

127. Any division, subdivision or parcelling out of an immovable on the vertical cadastral plan performed before 1 April 2021 in a protection area or on a declared or classified heritage site that was not the subject of an authorization of the Minister under section 49 or 64 of the Cultural Heritage Act or section 48 of the Cultural Property Act (chapter B-4), depending on the Act applicable at the time, is deemed to have been authorized.

Despite any contrary provision, the act referred to in the first paragraph may no longer be annulled because of a failure to obtain the Minister’s authorization prior to the performance of the act, and the related registration in the land register may no longer be cancelled for that reason.

128. Any parcelling out of an immovable situated in a protection area or on a declared or classified heritage site that was performed before 1 April 2021, that results from a document evidencing the acquisition or the transmission of ownership of part of that immovable, and that was not the subject of an authorization of the Minister under section 49 or 64 of the Cultural Heritage Act or section 48 of the Cultural Property Act, depending on the Act applicable at the time, is deemed to have been authorized if, at the time of the parcelling out, the immovable concerned was situated in non-renewed territory.

In addition, where the document referred to in the first paragraph contains a juridical act that should have been the subject of an authorization of the Minister under section 32 of the Cultural Property Act, or that was required to be accompanied by the carrying out of a formality under section 54 of the Cultural Heritage Act or under section 20, 21 or 32 of the Cultural Property Act, depending on the Act applicable at the time of the parcelling out, the authorization is deemed to have been issued and the formality is deemed to have been carried out.

Despite any contrary provision, a parcelling out referred to in the first paragraph may no longer be annulled because of a failure to obtain the Minister’s authorization prior to the parcelling out, and the registration in the land register of the document evidencing the acquisition or the transmission of ownership from which it results may no longer be cancelled for that reason. In addition, despite any contrary provision, where the act referred to in the second paragraph is an alienation, the rights of action to have the absolute nullity of the alienation recognized are prescribed.

129. Not later than 1 October 2021, the Minister must draw up and make public the consultation policy provided for in paragraph 1 of section 11.1 of the Cultural Heritage Act, enacted by section 6.

Not later than 1 October 2022, the Minister must draw up and make public the documents provided for in paragraphs 2 and 3 of that section.

130. Any heritage immovable or site that is classified on 1 October 2022 must be categorized not later than 1 April 2023, except such an immovable or site that is the subject of a notice of intent to declassify a heritage property sent under section 36 of the Cultural Heritage Act.

Before determining the category of the immovable or site, the Minister must send a notice of categorization to the person registered as the owner in the land register as well as to the clerk or the secretary-treasurer of the local municipality and to the secretary-treasurer of the regional county municipality in whose territories the immovable or site is situated.

The notice of categorization must contain the description of the property concerned and the proposed category, state the reasons supporting the choice of that category and include a note that the owner may, within 30 days after the notice is sent, submit observations and, if applicable, produce documents.

On the expiry of 60 days after the date the notice required under the second paragraph is sent, the Minister must inform the owner of the category assigned to the immovable or site.

The registrar must enter the assigned category in the cultural heritage register.

131. The Minister must send to the persons referred to in the second paragraph of section 130 a notice of categorization concerning any immovable or site that, on 1 October 2022, is the subject of a notice of intent to classify it.

The notice of categorization must contain the information prescribed in the third paragraph of section 130.

The periods provided for in the third paragraph of section 32 of the Cultural Heritage Act are then extended by six months.

132. The conservation plans established by the Minister under sections 37 and 61 of the Cultural Heritage Act in force on 31 March 2021 continue to apply

(1) in the case of a classified heritage immovable or site, until the Minister has determined the category of the immovable or site in accordance with section 130; and

(2) in the case of a declared heritage site, until a regulation has been made by the Government under subparagraph 1 of the first paragraph of section 80.1 of the Cultural Heritage Act, enacted by section 35.

During that period, the Minister must use those conservation plans when analyzing an application for the issue of an authorization under section 67.4 of the Cultural Heritage Act, enacted by section 30.

During the same period, Ville de Québec and Ville de Montréal, in exercising their powers under Chapter VI.1 of the Cultural Heritage Act, remain bound by those conservation plans.

133. For the purpose of drafting, for a declared heritage site, the first regulation made under section 80.1 of the Cultural Heritage Act, enacted by section 35, and the first directive made under section 61 of that Act, replaced by section 25, the conservation plan applicable to it under section 132 of this Act, if any, must be taken into account.

In a case provided for in the first paragraph, the directive must be established and take effect on the date of coming into force of the regulation applicable to the declared heritage site.

134. Sections 53.1 to 53.3 of the Cultural Heritage Act, enacted by section 21, apply to any application for the issue of an authorization referred to in subdivision 4 of Division IV or subdivision 3 of Division V of Chapter III of the Cultural Heritage Act that is pending on the date of coming into force of the first regulation made by the Minister under paragraph 4 of section 81 of that Act, enacted by section 36, and the time limit provided for in the first paragraph of section 53.2 of the Cultural Heritage Act, enacted by section 21, begins to run on that date.

If information or a document prescribed by the regulation referred to in the first paragraph has not already been provided in support of such an application, the time limit provided for in the first paragraph of section 53.2 of that Act, enacted by section 21, begins to run on the expiry of the period specified in a notice sent to the applicant specifying the information or document to be sent and the period of at least 30 days for doing so. Failure to send the information or document within the time prescribed renders the application inadmissible.

135. The right to apply for a review of the Minister's decision, provided for in section 75.1 of the Cultural Heritage Act, enacted by section 31, applies to every decision referred to in section 75.1 of the Cultural Heritage Act and rendered within 30 days before 1 April 2021.

In such a case, the period for applying for a review expires on 1 May 2021.

136. The inventory referred to in section 120 of the Cultural Heritage Act, replaced by section 42, must be adopted not later than 1 April 2026.

At any time before that date, an inventory may be adopted for only a part of the territory that must be the subject of an inventory. Such a partial inventory is then considered as an inventory for the application of any legislative provision referring to it with regard to the part of territory concerned.

137. Every local municipality referred to in section 148.0.2 of the Act respecting land use planning and development (chapter A-19.1), replaced by section 100, must, before 1 April 2023, adopt a by-law in conformity with the provisions of Chapter V.0.1 of Title I of that Act, as amended by this Act.

In addition, every local municipality referred to in section 145.41 of the Act respecting land use planning and development, amended by section 95, must, before 1 April 2026, adopt a by-law in conformity with the provisions of Division XII of Chapter IV of Title I of that Act, as amended by this Act.

A regional county municipality acting as a local municipality in respect of an unorganized territory must also, within the same time, adopt by-laws for that territory that are in conformity with those provisions, with the necessary modifications.

138. Every municipality referred to in the first or third paragraph of section 137 must, at least 90 days before the issue of a permit or an authorization certificate relating to the demolition of an immovable constructed before 1940, notify to the Minister of Culture and Communications a notice of intent, accompanied by any information or document required by the Minister, as long as the following conditions have not all been met:

(1) a by-law in conformity with the provisions of Chapter V.0.1 of Title I of the Act respecting land use planning and development, as amended by this Act, is in force in the territory of the municipality; and

(2) the inventory provided for in the first paragraph of section 120 of the Cultural Heritage Act, replaced by section 42, has been adopted with regard to its territory.

139. As long as a by-law in conformity with the provisions of Chapter V.0.1 of Title I of the Act respecting land use planning and development is not in force in the territory of the municipality referred to in the first or third paragraph of section 137 of this Act, section 141 of the Cultural Heritage Act applies in the territory of that municipality without taking into account the amendments made by paragraphs 2 and 3 of section 52 of this Act.

140. When the jurisdiction to adopt a by-law provided for in section 148.0.2 of the Act respecting land use planning and development, replaced by section 100, is under the authority of a borough council, each borough is subject to sections 137 to 139 of this Act, with the necessary modifications, as if it were a municipality.

141. A by-law adopted under the provisions of Division XII of Chapter IV of Title I of the Act respecting land use planning and development, Chapter V.0.1 of that Title or section 96 of Schedule C to the Charter of Ville de Québec, national capital of Québec before the coming into force of this Act remains in force until it is replaced or repealed.

142. Any act performed under sections 50.1 to 50.6 of Schedule C to the Charter of Ville de Montréal, metropolis of Québec, replaced by section 116, or under sections 105.1 to 105.6 of Schedule C to the Charter of Ville de Québec, national capital of Québec, replaced by section 121, is considered to have been performed under sections 145.41 to 145.41.5 of the Act respecting land use planning and development.

143. The provisions of this Act come into force on 1 April 2021, except

(1) paragraph 2 of sections 10 to 12, sections 13 and 14, section 21 as concerns paragraph 1 of section 53.4, and section 30 as concerns paragraph 1 of section 67.2 and the second paragraph of section 67.4 with regard to the element set out in paragraph 1 of sections 53.4 and 67.2, which come into force on 1 October 2022;

(2) section 21 as concerns sections 53.1 to 53.3, and section 30 as concerns section 67.1 with regard to the application of sections 53.1 to 53.3, which come into force on the date of coming into force of the first regulation made under paragraph 4 of section 81 of the Cultural Heritage Act, enacted by section 36;

(3) subparagraph 2 of the second paragraph and the third paragraph of section 120 of the Cultural Heritage Act, enacted by section 42, which come into force on 1 April 2026.