



QUESTIONS AND ANSWERS

Order to establish
a special planning zone
following flooding
in the spring of 2019

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OBJECTIVES AND DESCRIPTION

OF THE SPECIAL PLANNING ZONE (SPZ)

1. WHAT IS A SPECIAL PLANNING ZONE (SPZ)?

- Section 159 of the Act respecting land use planning and development stipulates the possibility for the Government to create a special planning zone for the purpose of solving a planning problem whose seriousness warrants its intervention.
- The SPZ is declared by Government order and replaces local and regional land use planning and development regulations. In particular, the order must include a description of the perimeter of the area to which it applies, a statement of the objectives pursued and the applicable regulations.
- The urban planning bylaws that are compatible with the provisions in the SPZ remain in force and the municipal sector is responsible for the application of the normative framework overall, in particular by means of the granting of construction permits.

2. WHY HAS A SPECIAL PLANNING ZONE BEEN ESTABLISHED IN 2019?

- In April 2019, an exceptional spring freshet caused major flooding in several municipalities, which significantly damaged numerous homes and other buildings.
- This marks the second time in two years that major flooding has occurred. The Government believes that it is a planning problem whose seriousness warrants its intervention.
- Comprehensive reflection is necessary concerning land-use planning in flood-prone areas.
- The Government is of the opinion that work in flood-prone areas must be carried out according to the normative framework set out in the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains. The urban planning bylaws of certain municipalities do not conform to the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains and are applied unevenly.
- Moreover, spring freshet episodes in 2017 and 2019 revealed the need to review the delimitation of flood-prone areas. Certain municipalities have still not adopted cartography or delimited flood-prone areas, and, in certain regions, the floods exceeded the mapped flood-prone areas.
- The creation of the SPZ facilitates the implementation of uniform rules respecting construction and reconstruction in flood-prone areas, the assessment of damaged buildings, and the flood-proofing measures required. However, special provisions are stipulated for Sainte-Marthe-sur-le-Lac (see the section devoted to this territory).
- The establishment of an SPZ is a transition measure adopted in a spirit of precaution and prevention until the normative framework applicable to flood-prone areas has been reviewed and such tools have been incorporated into municipal bylaws.

3. WHAT ARE THE OBJECTIVES OF THE SPZ IN 2019?

- The creation of the SPZ seeks to:
 - ensure the security of individuals and property;
 - promote the stringent management of flood-prone areas;
 - impose a moratorium on construction and reconstruction for the period that precedes the elaboration by the Government of a new normative framework and its implementation by the municipalities;
 - ensure the uniform application of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q- 2, r. 35).

4. WHAT IS THE PERIMETER OF THE AREA TO WHICH THE SPZ APPLIES?

- The SPZ applies to the zero-to-20-year flood-prone area in Québec as a whole and the territory flooded by the 2017 and 2019 spring freshets, as delimited by the government.
 - The zero-to-20-year flood-prone area is determined by either of the following documents:
 - the land use planning and development plan;
 - the interim control bylaw (ICB).
 - The floodplain determined in a land use planning and development plan or an interim control bylaw without distinction between a zero-to-20-year and a 20-to-100-year zone falls into the same category as a zero-to-20-year zone.
- The delimitation of the territory flooded by the 2017 and 2019 spring freshets is accessible on the MELCC website (<http://www.cehq.gouv.qc.ca/zones-inond/carto-zones-inondees-2017-2019.htm>).
- It is also possible to download the information in a specialized file form from the Données Québec website. Downloading the information will, for example, allow a municipality to incorporate the information into its own geomatics applications.

5. HOW WAS THE TERRITORY FLOODED BY THE 2017 AND 2019 SPRING FRESHETS DELIMITED?

- The Ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC) has delimited the territory flooded by the 2017 and 2019 spring freshets in collaboration with the Ministère des Forêts, de la Faune et des Parcs, the Ministère de l'Énergie et des Ressources naturelles and the Ministère de la Sécurité publique (MSP).
- The delimitation has been determined by means of several layers of information, namely aerial photographs, 2019 land surveys such as observations of high-water marks, satellite remote sensing images taken in 2017 and 2019, and claims submitted to the MSP.

6. HOW WAS THE DELIMITATION OF THE TERRITORY FLOODED BY THE 2017 AND 2019 SPRING FRESHETS ADJUSTED IN THE WAKE OF COMMENTS MADE AT THE PUBLIC MEETINGS?

- Following the publication of the draft Order, a number of individuals and municipalities indicated inaccuracies in the delimitation of the territory flooded, in particular that sectors that were neither flooded in 2017 nor in 2019 appear within the delimited territory.
- The Government has adjusted the delimitation of the territory flooded by the 2017 and 2019 spring freshets.
- The delimitation of the territory flooded in the adjusted version is based on aerial photographs and land surveys. In the absence of these sources of information, satellite remote sensing images have been used by superimposing images from 2017 and 2019. Ministère de la Sécurité publique data concerning the addresses of disaster victims have only been used if they are corroborated by another source of information mentioned earlier.
- The information provided, in particular, by the Communauté métropolitaine de Montréal, Gatineau and Hydro-Québec has also been used to enhance the accuracy of the data used.
- The new delimitation of the territory flooded more accurately reflects the reality observed, but if inaccuracies persist, the individuals concerned are encouraged to submit their comments to their municipality. The municipalities will have until August 19, 2019 to fill out the form on the Ministère des Affaires municipales et de l'Habitation website and submit it by email to zis2019@mamh.gouv.qc.ca.

7. CAN THE DELIMITATION OF THE TERRITORY FLOODED BY THE 2017 AND 2019 SPRING FRESHETS BE CONSIDERED A NEW CARTOGRAPHY OF FLOOD-PRONE AREAS?

- No. The delimitation of the territory flooded by the 2017 and 2019 spring freshets does not constitute a cartography of flood-prone areas. It is a spatial representation of two flooding events based on the data available. It is used solely to apply the provisions of the SPZ for its duration.
- By December 2019, the Government will elaborate an action plan relating to land-use planning pertaining to flood-prone areas. One of the measures in the plan consists in reviewing the standards governing the management of flood-prone areas in force in the territory overall in order to protect Québec families during flooding.

8. HOW MANY MUNICIPALITIES DOES THE ORDER COVER?

- The SPZ covers 783 local municipalities.

9. WHY ARE MUNICIPALITIES THAT WERE NOT FLOODED BY THE 2017 OR 2019 SPRING FRESHETS INCLUDED IN THE TERRITORY THAT THE SPZ COVERS?

- The delimitation of the territory flooded by the 2017 and 2019 spring freshets was adjusted to take into account the comments received and more accurately reflect the territory flooded.
- The wording of the Order was also simplified to facilitate understanding of it and clarify certain provisions, especially in respect of land management and urban planning bylaws governing building repairs and flood-proofing measures.
- The Order was amended to subject the zero-to-20-year flood-prone area in Sainte-Marthe-sur-le-Lac already integrated into the planning tools of the Municipalité régionale de comté de Deux-Montagnes into the general provisions of the Order.

10. WHAT AMENDMENTS WERE MADE TO THE ORDER IN THE WAKE OF THE PUBLIC MEETINGS HELD ON JULY 4, 2019 AND THE COMMENTS RECEIVED FROM INDIVIDUALS AND MUNICIPALITIES?

- The delimitation of the territory flooded by the 2017 and 2019 spring freshets was adjusted to take into account the comments received and more accurately reflect the territory flooded.
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- The Order was amended to subject the zero-to-20-year flood-prone area in Sainte-Marthe-sur-le-Lac already integrated into the planning tools of the Municipalité régionale de comté de Deux-Montagnes into the general provisions of the Order.
- The date starting on which lots are vacant in Sainte-Marthe-sur-le-Lac and on which construction is prohibited has been changed in the Order, from June 10, 2019 to April 1, 2019, to take into account the situation of certain resident who could have demolish their home in the wake of the spring 2019 flood.

LAND MANAGEMENT AND URBAN PLANNING

BYLAWS APPLICABLE TO THE SPZ

11. WHAT ARE THE KEY PROVISIONS APPLICABLE TO THE TERRITORY THAT THE SPZ COVERS?

- In the high-velocity zone (the zero-to-20-year zone or the entire flood-prone area if no distinction between the high-velocity and low-velocity zones is stipulated in municipal bylaws) and the territories flooded in 2017 and in 2019:
 - Reconstruction and new construction are prohibited.
 - It is possible to repair a building that is not a total loss, that is, a building to which the damage is assessed at less than 50% of its value.
 - The flood-proofing measures stipulated in the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains and enhanced measures for major works carried out must be applied.

- The measures stipulated in paragraphs 4.2.1 and 4.2.2 of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains are permitted in the littoral zone and the floodplain.
- In the littoral zone, the measures permitted by the order must also comply with paragraph 3.3 of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains.
- The exemption mechanism stipulated in paragraph 4.2.2 of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains allows the realization of certain types of structures such as thoroughfares, public utilities, water collection and wastewater treatment plants. In order to realize such structures, the land use planning and development plan of the RCM must be amended beforehand, in accordance with the Act respecting land use planning and development.
- Work on an existing building that is ancillary to the main building, for example, a shed, garage, and so on, may be carried out (reconstruction and repair). However, expansions of existing ancillary buildings and the erection of new buildings are prohibited.
- Special provisions are stipulated for Sainte-Marthe-sur-le-Lac (see the section devoted to this territory).

12. CAN A FLOODED BUILDING BE RENOVATED?

- It is possible to renovate any building the damage to which represents less than 50% of the new construction cost. Major work carried out on a building or a structure must include the flood-proofing of the entire building or structure.
- Special provisions apply to Sainte-Marthe-sur-le-Lac (see the section devoted to this territory).

13. WHAT FLOOD-PROOFING MEASURES ARE STIPULATED WITH RESPECT TO REPAIRS?

- The following flood-proofing rules stipulated in Annex 1 of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains must be observed:
 - no opening (window, cellar window, door, garage, and so on) may be lower than the 100-year flood elevation;
 - no ground floor is allowed at a level that is lower than the level of the 100-year flood elevation;
 - drains must have a non-return valve.
 - For any structure or part of a structure located below the 100-year flood level, a study must show the structures' resistance to flooding and must include calculations relating to:
 - waterproofing;
 - structural stability;
 - the reinforcement necessary;
 - seepage water pumping capacity; and
 - the resistance of the concrete to compression and tension.
 - The filling of land should be restricted to protecting the area immediately around the reconstruction and should not extend to the entire landsite. The average slope downward from the top of the fill next to the building or the protected structure to its foot should not be less than 33 1/3 % (vertical to horizontal ratio of 1:3).

- The rules apply insofar as the requisite data to apply them are available.
- The following flood-proofing measures apply to residential buildings:
 - no habitable room such as a bedroom or a living room must be outfitted in a basement;
 - no significant component of a building mechanicals system such as an electrical system, plumbing, heating or ventilation may be installed in a basement, unless it must necessarily by its nature be located there;
- a basement must, if need be, be finished with water-resistant materials.

ASSESSMENT OF FLOODED BUILDINGS

14. HOW DO YOU DETERMINE WHETHER A BUILDING CAN BE RENOVATED?

- A document produced by an expert mandated by the MSP or a damage assessment expert must specify if any of the following characteristics applies to the building:
 - water reached the first floor;
 - the foundations must be replaced;
 - stabilization work must be carried out.
- Repair work on a building is possible if none of the preceding characteristics applies and no damage assessment is required in this instance.
- If one of the foregoing characteristics is observed, a damage assessment is necessary. If the damage assessment concludes that the damage represents more than 50% of its value, the building will be deemed a total loss. Consequently, it cannot be rebuilt and must be demolished, except in Sainte-Marthe-sur-le-Lac.

15. WHO IS RESPONSIBLE FOR THE DAMAGE ASSESSMENT?

- It is incumbent upon the municipality to ascertain whether the damage assessment report submitted by the individual is compliant.
- The property owner is responsible for obtaining a damage assessment, which must be conducted by a professional with expertise in the field. The Order does not stipulate a specific profession but could include a claims adjuster, a building evaluator, an architect, and so on.

16. WHY IS A DAMAGE ASSESSMENT NOT REQUIRED FOR CERTAIN TYPES OF WORKS?

- The objective is to simplify the administration of the regulations applicable.
- A municipality does not have to require a damage assessment in cases where none of the three characteristics (see question 14) is observed. This will accelerate the issuing of construction permits for disaster victims who sustained less significant damage to their properties.

17. WHY DOES THE ORDER DEFINE THE NOTION OF THE RECONSTRUCTION OF A BUILDING WHEN THE DAMAGE SUSTAINED IS MORE THAN 50% OF ITS NEW CONSTRUCTION COST?

- This definition standardizes the notion of reconstruction for the municipalities and the Government.
- The choice is in keeping with the MSP's general compensation program, which also uses this notion.
- Standardizing the notion of reconstruction facilitates the application by the municipalities of the regulations, especially for property owners who do not take advantage of the MSP's financial assistance program or who are ineligible for it.
- The municipality must rule on the nature of the works (repairs or reconstruction) in light of the assessment conducted by any professional who possesses expertise in the realm of damage assessment.
- This choice relies on a measure that is fairer than the property assessment, especially for certain waterfront homeowners whose building has low value and whose lot has high value on the assessment roll.

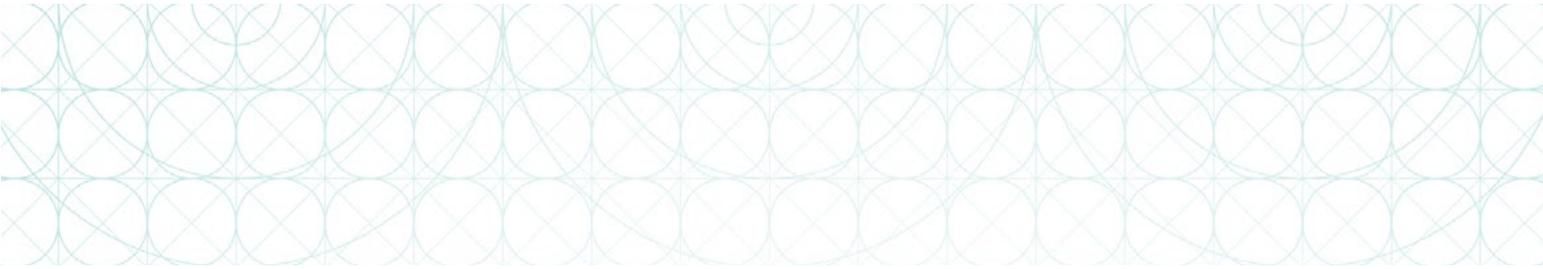
FOLLOW-UP IN RESPECT OF THE SPECIAL PLANNING ZONE

18. WHAT FOLLOW-UP AND ACCOUNTABILITY MECHANISMS ARE STIPULATED TO ENABLE THE GOVERNMENT TO ASCERTAIN THE APPLICATION OF THE SPZ?

- Local municipalities must submit to their RCMs the permits granted, the damage assessments and the violations detected in the territory that the SPZ covers.
- The RCMs must then submit each year for the duration of application of the SPZ a report to the Government explaining in detail the construction permits and violation tickets issued.

19. WHEN AND HOW WILL THE SPZ END?

- No end date has been planned to the SPZ.
- The regulations implemented by the SPZ may be lifted gradually RCM by RCM, by Order of the Minister of Municipal Affairs and Housing, when all of the municipalities in an RCM have integrated the new normative framework and accountability confirms the sound administration of the SPZ.



SPECIAL RULES FOR THE TERRITORY OF SAINTE-MARTHE-SUR-LE-LAC

20. WHAT SPECIAL RULES APPLY TO SAINTE-MARTHE-SUR-LE-LAC?

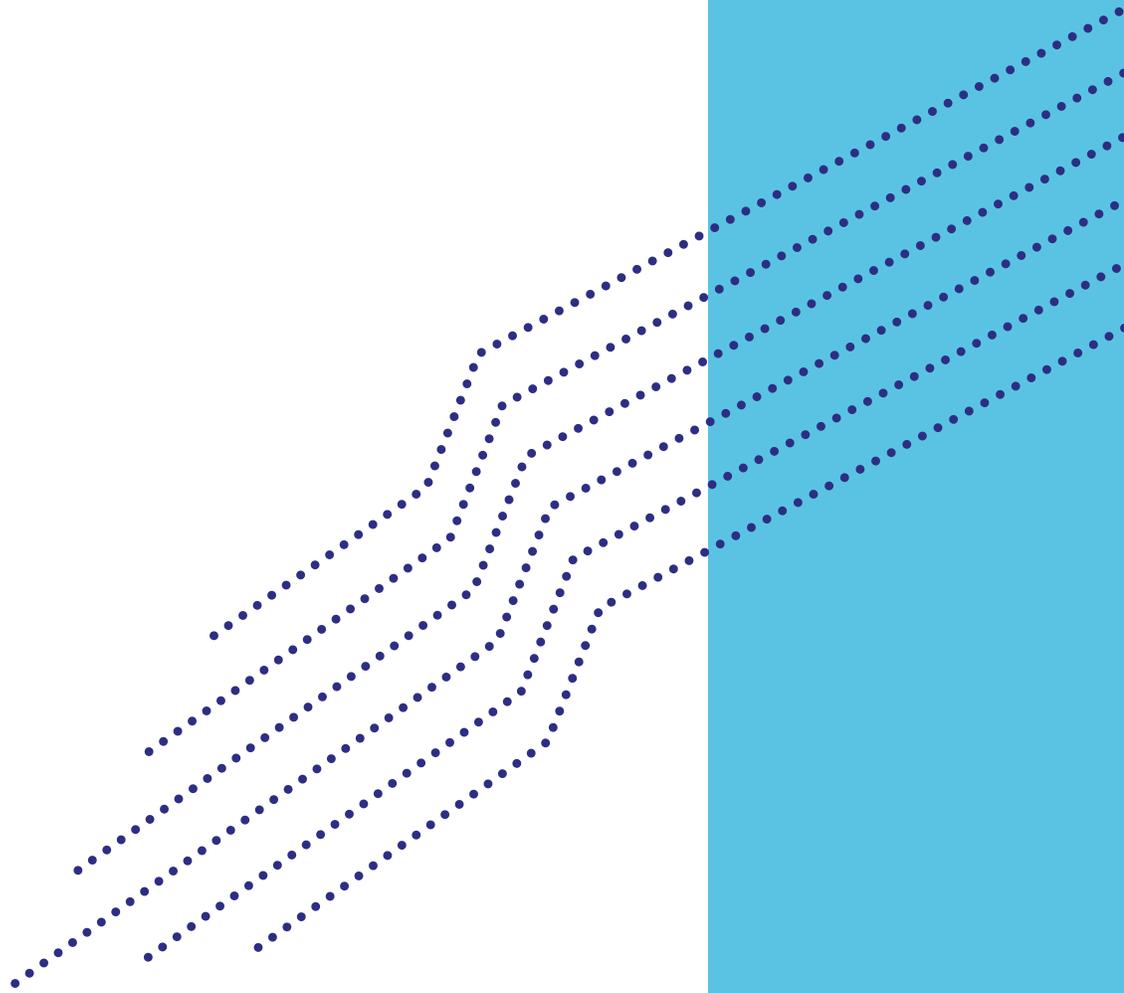
- It is possible to rebuild buildings destroyed by flooding in the territory of Sainte-Marthe-sur-le-Lac.
- The flood-proofing measures are not required in the cases of reconstruction and major works.
- The construction of buildings on lots that were vacant on April 1, 2019 is prohibited.
- However, it will be possible to construct buildings on lots that become vacant because of the demolition of a building destroyed by the spring 2019 floods.
- Like other municipalities that the SPZ covers, the city has an accountability obligation and must submit to the RCM the construction permits granted in the territory of application of the SPZ.
- The SPZ also applies to the zero-to-20-year flood-prone areas integrated into the planning tools of the Municipalité régionale de comté de Deux-Montagnes.

21. WHY DO SPECIAL RULES APPLY TO SAINTE-MARTHE-SUR-LE-LAC?

- The territory of the city flooded in 2019 was not designated as a flood-prone area since the cartography took into account the existing dike.
- In this context, the Government has decided to allow the reinforcement of the dike to facilitate the residents' reintegration into their living environments.

22. THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTRÉAL (CMM) HAS ADOPTED A NEW CARTOGRAPHY OF FLOOD-PRONE AREAS IN ITS TERRITORY. WILL THE CARTOGRAPHY APPLY TO SAINTE MARTHE SUR LE-LAC?

- On June 20, 2019, the CMM adopted an interim control bylaw concerning the updating of the cartography of watercourses in its territory, especially in respect of Lac des Deux-Montagnes and Sainte-Marthe-sur-le-Lac.
- A significant portion of Sainte-Marthe-sur-le-Lac flooded in 2019 would lie within the zero-to-20-year flood-prone area or the 20-to-100-year flood-prone area since the CMM would not take into consideration in its cartography the presence of protective dikes along the watercourses.
- The provisions in the SPZ take precedence over those adopted by the CMM, even though the latter were more stringent than the SPZ. Consequently, regulatory measures in the interim control bylaw integrating this new cartography will not apply to Sainte-Marthe-sur-le-Lac during the period of application of the SPZ.
- Through this decision, the Government wishes to enable the city to fully recover from the rupture of the dike before the new rules are applied governing the management of flooding stemming from rises in the water levels of watercourses.



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