



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 397

Municipal Charter

Introduction

**Introduced by
Mr. André Spénard
Member for Beauce-Nord**

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EXPLANATORY NOTES

The purpose of this bill is to recognize the municipality as a democratically elected body and to confer on it the areas of jurisdiction and the powers, resources and autonomy it needs to respond, at the local level, to the varied and changing needs of its citizens.

The municipality is established as the political body best suited to respond, at the local level, to the needs of its citizens.

Governance principles are introduced to guide the municipalities and their elected officials; the decisions, directives and policies of each municipality must be consistent with those principles. The bill lists the areas of jurisdiction conferred on the municipalities and grants them regulatory and non-regulatory powers within those areas.

A framework for relations between the Gouvernement du Québec and the municipalities is provided in the form of principles to guide government action. Any new powers concerning municipal matters must be delegated to the municipalities.

An amendment procedure is set out for any Act, regulation, program, policy or directive that concerns or affects municipalities.

The Minister of Municipal Affairs, Regions and Land Occupancy must, not later than 31 December 2015, table before the National Assembly a report on the carrying out of this Act.

Finally, the bill sets out certain interpretive provisions.

Bill 397

MUNICIPAL CHARTER

AS the principle of subsidiarity must guide the Government's actions in ensuring the occupation and vitality of territories;

AS it is necessary and urgent that the municipality be recognized as a democratically elected political body;

AS it is necessary and urgent that the areas of jurisdiction and the powers, resources and autonomy municipalities need to fully discharge their responsibilities be conferred on them on a permanent basis;

AS it is therefore appropriate that the status, jurisdiction and powers of municipalities be solemnly affirmed in this Charter;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

MUNICIPAL POLITICAL BODY

1. The purpose of this Charter is to recognize the municipality as a democratically elected body and to confer on it the areas of jurisdiction and the powers, resources and autonomy it needs to respond, at the local level, to the varied and changing needs of its citizens.

2. This Charter applies to local municipalities but not to Northern, Cree and Naskapi villages.

Unless the wording or the context indicates otherwise, in this Charter, "municipality" means a local municipality.

3. This Charter binds the State.

CHAPTER II

MUNICIPAL GOVERNANCE

DIVISION I

GOVERNANCE PRINCIPLES

4. The municipality is the political body that is best suited to respond, at the local level, to the needs of its citizens.

In that capacity, the municipality has

(1) the jurisdiction and the powers necessary to meet the current and future needs of its citizens;

(2) the discretion necessary to decide, in the local public interest, which measures to implement to ensure those needs are met; and

(3) the autonomy necessary to determine and establish the level of municipal expenses and the means at its disposal to finance those expenses in accordance with applicable legislative and regulatory provisions.

5. The actions of the municipality and its elected officials must be in keeping with the following governance principles:

(1) the accountability of public office holders and the proper management of public municipal funds;

(2) transparency and ethics in the management of public municipal funds;

(3) sustainable development;

(4) citizen participation in the decision-making process; and

(5) integrity, probity and fairness.

The decisions, directives and policies of the municipality, as well as their implementation and application, must be consistent with these governance principles.

DIVISION II

MUNICIPAL JURISDICTION

6. In addition to the areas of jurisdiction conferred on it by other Acts, a municipality has jurisdiction, at the local level, in the following fields:

(1) land use planning and development;

- (2) sanitation;
- (3) nuisances;
- (4) the environment;
- (5) safety;
- (6) transportation;
- (7) public services;
- (8) culture, recreation, community activities and parks;
- (9) economic development;
- (10) the production and sale of energy, except the development of natural resources;
- (11) community telecommunications systems and information technologies;
- (12) childcare services;
- (13) social housing;
- (14) the municipal court;
- (15) the organization and operation of the municipality; and
- (16) peace, order, good government, and the general welfare of its citizens.

In these fields, a municipality may adopt any regulatory or non-regulatory measure, in accordance with applicable legislative and regulatory provisions.

7. A municipality exercises its non-regulatory powers by resolution.

A municipality adopts a by-law when it wishes to make a general and impersonal rule mandatory.

8. In exercising its regulatory powers in its areas of jurisdiction, a municipality may, in particular,

- (1) prescribe prohibitions;
- (2) specify the cases in which a permit is required, limit the number of permits and prescribe the cost, conditions and terms of issue and the rules governing the suspension or revocation of a permit;

(3) provide that one or more provisions of a by-law apply to part or all of its territory;

(4) create classes and make specific rules for each of them;

(5) prescribe the obligation to provide security to ensure that premises are restored to their original state when a person carries on an activity or carries out work in the public domain;

(6) prescribe rules that refer to standards established or approved by a third person. These rules may provide that changes made to the standards form part of the standards as if they had been adopted by the local municipality. Such changes come into force on the date set by the municipality under a resolution the adoption of which must be the subject of a public notice in accordance with the Act governing that municipality;

(7) impose any fee, compensation, tax or tariff associated with the regulatory measures adopted in accordance with the applicable legislative and regulatory provisions; and

(8) prescribe the sanctions and penalties for contravening an adopted regulatory measure.

CHAPTER III

RELATIONS BETWEEN QUÉBEC AND MUNICIPALITIES

DIVISION I

PRINCIPLES

9. In its relations with municipalities, the Gouvernement du Québec must

(1) take into account the subsidiarity principle, which entails that powers and responsibilities must be delegated to the appropriate level of authority and that decision-making centres should be adequately distributed and as close as possible to the citizens and communities concerned;

(2) ensure that municipalities have sufficient sources of revenue to exercise their powers in the areas of jurisdiction conferred on them by this Charter;

(3) not delegate or otherwise assign new responsibilities to municipalities before ensuring that they have the necessary additional financial resources to assume them;

(4) ensure the implementation or support of information and liaison mechanisms aimed at supporting municipalities in the application and development of the principles of good municipal governance set out in section 5; and

(5) ensure, after consulting the associations of municipalities and bodies it considers relevant, that municipal interests are defended before interprovincial, national and international authorities whenever subjects affecting municipalities are being considered, and promote international municipal cooperation on the economic, political and social levels.

10. When the Gouvernement du Québec wishes to delegate new powers, areas of jurisdiction or responsibilities in municipal matters, such new powers, areas of jurisdiction or responsibilities must be delegated to the municipalities.

When making such a delegation, the Gouvernement du Québec must be guided by the principles set out in section 9.

A municipality may exercise alone, or agree with one or more municipalities to share the exercise of, such delegated powers, areas of jurisdiction or responsibilities.

A municipality may also delegate powers, areas of jurisdiction or responsibilities to a supra-local or regional body; such delegated powers, areas of jurisdiction or responsibilities are in addition to those conferred on the supra-local or regional body by the Act respecting land use planning and development (chapter A-19.1).

DIVISION II

AMENDMENTS AFFECTING MUNICIPAL POLITICAL BODIES

11. This Charter can only be amended in accordance with the procedure set out in this division.

12. When the Government or one of its departments or bodies drafts an Act, regulation, program, policy or directive that concerns or affects municipalities, the Government must, in a timely manner, consult the associations of municipalities, in particular the Union des municipalités du Québec and the Fédération québécoise des municipalités and any other body it considers relevant.

In addition, the associations of municipalities and the relevant bodies, if any, must

(1) receive the information communicated by the Government regarding the proposed amendments to Acts, regulations, programs, policies or directives that concern the municipalities;

(2) obtain and document the respective positions of the members of the associations and, as applicable, the respective positions of the members of the relevant bodies; and

(3) communicate to the Government their point of view or recommendations regarding the proposed measure within the prescribed time.

In developing the draft, the Government takes into account the opinions or recommendations expressed by the associations of municipalities and by the relevant bodies and, when necessary, replies within a reasonable time.

13. When the proposed measure concerning municipalities is included in a bill, the opinions or recommendations of the associations of municipalities and of the relevant bodies and the Government's reply, if any, are tabled at the first sitting of the parliamentary committee responsible for studying it. The associations of municipalities and the relevant bodies are invited to present their opinions or recommendations at the first sitting of that parliamentary committee.

When the proposed measure is included in a regulation or an order, the opinions or recommendations and the Government's reply, if any, must be attached to the memorandums and draft orders prepared by the ministerial committees or the members of the Conseil exécutif.

DIVISION III

REVIEW OF MUNICIPAL ACTS

14. The Minister must, not later than 31 December 2015, table before the National Assembly a report on the carrying out of this Act and the advisability of amending the Acts listed in Schedule I.

The report is examined by the competent committee of the National Assembly.

The Government may, by order, extend the time period set in the first paragraph with respect to some or all of the Acts listed in Schedule I.

Before adopting such an order, the Government must obtain the opinion of the associations of municipalities and of any other body it considers relevant. Section 13 applies, with the necessary modifications, to such an order.

The Government may, by order, include additional Acts in Schedule I.

15. The associations of municipalities or any other body the Minister considers relevant may propose to the Minister an order of priority for reviewing the Acts listed in Schedule I, as well as guidelines for amending them.

CHAPTER IV

INTERPRETATION

16. The principles set out in Division I of Chapter II must be used as a guide in interpreting this Charter and any other Act governing municipalities.

The following principles are in addition to the principles referred to in the first paragraph:

- (1) the strengthening of local democracy in order to move decision-making power closer to the citizens;
- (2) the use of existing municipal structures to carry out regional development;
- (3) the transfer of responsibilities to the municipalities along with the appropriate resources required to assume them;
- (4) the delivery of services as close as possible to citizens;
- (5) consideration of the Government's decentralization efforts into account when dealing with matters related to the financing of municipalities;
- (6) transparency and accountability in decision-making and the management of public funds.

17. The jurisdiction and powers granted by this Charter are expressed in general terms in order to allow municipalities to meet varied and changing local needs, in the interest of their citizens.

Such jurisdiction and powers are not to be interpreted in a literal or restrictive manner.

18. No provision of any Act, even subsequent to the Charter, can derogate from the Charter, unless the Act expressly states that the provision applies despite the Charter.

19. The provisions of this Charter prevail over any incompatible provision of any Act listed in Schedule I or any regulation under such an Act.

20. Any regulatory or non-regulatory measure adopted by a municipality that is incompatible with an Act or regulation of the Government or one of its ministers is inoperative.

CHAPTER V

FINAL PROVISIONS

21. The Minister of Municipal Affairs, Regions and Land Occupancy is responsible for the administration of this Charter.

22. This Act comes into force on *(insert the date of assent to this Act)*.

SCHEDULE I
(Sections 14 and 15)

ACTS TO BE REVIEWED

Act respecting municipal contribution to railway crossing protection (chapter A-15);

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

Charter of Ville de Gatineau (chapter C-11.1);

Charter of Ville de Lévis (chapter C-11.2);

Charter of Ville de Longueuil (chapter C-11.3);

Charter of Ville de Montréal (chapter C-11.4);

Charter of Ville de Québec (chapter C-11.5);

Cities and Towns Act (chapter C-19);

Municipal Code of Québec (chapter C-27.1);

Act respecting the Commission municipale (chapter C-35);

Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);

Act respecting the Communauté métropolitaine de Québec (chapter C-37.02);

Municipal Powers Act (chapter C-47.1);

Act respecting municipal debts and loans (chapter D-7);

Act respecting duties on transfers of immovables (chapter D-15.1);

Act respecting elections and referendums in municipalities (chapter E-2.2);

Municipal Ethics and Good Conduct Act (chapter E-15.1.0.1);

Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);

Act respecting municipal taxation (chapter F-2.1);

Act respecting municipal industrial immovables (chapter I-0.1);

Municipal Aid Prohibition Act (chapter I-15);

Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (chapter M-22.1);

Act respecting municipal territorial organization (chapter O-9);

Act respecting the Régie du logement (chapter R-8.1);

Act respecting the Pension Plan of Elected Municipal Officers (chapter R-9.3);

Act respecting retirement plans for the mayors and councillors of municipalities (chapter R-16);

Act respecting municipal regulation of public buildings (chapter R-18);

Act respecting the Société d'habitation du Québec (chapter S-8);

Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01);

Act respecting the remuneration of elected municipal officers (chapter T-11.001);

Municipal Works Act (chapter T-14);

Cree Villages and the Naskapi Village Act (chapter V-5.1);

Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);

Charter of Ville de Laval (1965, 1st session, chapter 89);

Act respecting the town of Schefferville (1990, chapter 43);

Act respecting the negotiation of agreements concerning the reduction of labour costs in the municipal sector (1998, chapter 2);

Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais (2000, chapter 56);

Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14);

Act to again amend various legislative provisions concerning municipal affairs (2005, chapter 50).