



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Draft Bill

Sustainable Regional and Local Land Use Planning Act

**Tabled by
Mr. Laurent Lessard
Minister of Municipal Affairs, Regions and
Land Occupancy**

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EXPLANATORY NOTES

This draft bill proposes a new Sustainable Regional and Local Land Use Planning Act.

The draft bill establishes a legal framework for regional and local land use planning in Québec and confirms the responsibilities of the Government, the metropolitan communities, the regional county municipalities and the local municipalities.

Metropolitan communities and regional county municipalities are responsible for maintaining in force a strategic vision statement with respect to cultural, economic, environmental and social development in their territories. Metropolitan communities and regional county municipalities are also responsible, respectively, for a metropolitan land use and development plan and an RCM land use and development plan; the two plans must be in conformity and harmonized with each other, and mechanisms are established for that purpose. The Government is responsible for determining the content elements of those documents that must be in conformity with government policy directions with respect to land use planning, and mechanisms are established for that purpose.

Each local municipality is in charge of a comprehensive plan and planning by-laws, and the regional county municipalities are granted specific powers with respect to regional planning by-laws. The comprehensive plan and planning by-laws must be in conformity and harmonized with the RCM plan, and mechanisms are established to that end. The substance of the existing legal framework with respect to agriculture is maintained.

Local municipalities are granted powers to make the application of the regulatory framework more flexible. They may grant the municipal council or a planning decision committee discretionary powers to be exercised in individual cases on the recommendation of a planning advisory committee, and may make the issue of some permits or the amendment on request of certain planning by-laws subject to compliance with certain requirements.

An amendment and revision process is established for all planning documents and planning by-laws. In the case of metropolitan and regional planning documents, interim control measures related

to the amendment or revision process may be imposed. In all cases, prior public consultations are to be held in accordance with the policies to be established by the municipal bodies concerned.

The coming into force of certain planning by-laws of a local municipality is made subject to referendum approval in accordance with the Act respecting elections and referendums in municipalities, and a specific prior consultation process is established for such by-laws. The council of a municipality may also designate zones in its comprehensive plan within which referendum approval is not required.

The Government is responsible for determining which government interventions, including those of its mandataries, must be examined beforehand for conformity with the objectives of metropolitan plans or RCM plans, and processes are set in place to ensure such conformity. The Government may delimit a special intervention zone in order to enact planning by-laws designed to prevent or solve a problem the Government considers urgent or serious enough to warrant intervention in the public interest.

The Minister of Municipal Affairs, Regions and Land Occupancy may request amendments to any metropolitan plan or RCM plan which, in the Minister's opinion, is not in conformity with a government policy direction with respect to land use planning, or any amendment which the Minister considers necessary for health, public security or environmental reasons. The Minister may also request the revision of a metropolitan plan or RCM plan.

The Minister may request amendments to any planning by-law of a regional county municipality or local municipality which the Minister considers necessary for health, public security or environmental reasons.

Lastly, the draft bill includes sanctions and remedies necessary for the implementation of the Act, and miscellaneous ancillary measures.

LEGISLATION REPEALED BY THIS DRAFT BILL:

– Act respecting land use planning and development (R.S.Q., chapter A-19.1).

Draft Bill

SUSTAINABLE REGIONAL AND LOCAL LAND USE PLANNING ACT

AS the territory of Québec is the common heritage of all Quebecers and must be the subject of responsible and thoughtful land use planning in keeping with sustainable development principles, under the joint responsibility of the Government and elected municipal officers and in consultation with the general public;

AS land use planning is a political responsibility and as it is expedient to recognize and confirm the role municipalities play in regional and local land use planning and procure appropriate tools for them to use to define, in consultation with their citizens, the type of land use planning their communities desire looking to the future, so they can play an effective role within the framework of a modern State;

AS land use planning requires concerted action on the part of the various competent authorities involved to ensure harmonious and coherent interventions and encourage dynamic and sustainable land occupancy;

AS the Government, in consultation with municipalities, is responsible for defining public policy directions with respect to land use planning;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

PURPOSE AND PRINCIPLES

1. This Act establishes a regime to foster land use planning and land occupancy in keeping with sustainable development principles for the territory of Québec and ensure that it is based on clear, coherent objectives and the achievement of results.

The authorities responsible for land use planning are

(1) the Government, which has competence to define government policy directions for land use planning;

(2) the competent municipal bodies with respect to the metropolitan and regional planning documents provided for in this Act; and

(3) local municipalities, which have competence with respect to local planning and planning by-laws.

2. The authorities responsible for land use planning must coordinate activities affecting territorial organization and strive to encourage land occupancy that is in keeping with the harmonious development of the whole territory of Québec.

Through various land use planning and development measures, they support initiatives undertaken, among other things,

(1) to protect the natural foundations of life such as soil, air, water, forests and landscape;

(2) to create and maintain a built environment that is harmonious, safe and favourable to settlement, public health and economic activity; and

(3) to foster the social, economic and cultural life of the different regions of Québec.

TITLE II

REGIONAL PLANNING

CHAPTER I

METROPOLITAN AND REGIONAL PLANNING DOCUMENTS AND COMPETENT BODIES

3. Metropolitan and regional land use planning and development documents comprise metropolitan land use and development plans and regional county municipality land use and development plans.

In this Act, these documents are also referred to, respectively, as a “metropolitan plan” and an “RCM plan”.

4. All metropolitan communities are competent bodies with respect to a metropolitan plan.

All regional county municipalities are competent bodies with respect to an RCM plan.

In this Act, “competent body” refers to any of those bodies.

For the purposes of the functions of the Communauté métropolitaine de Québec as a competent body, the territory of the metropolitan community is deemed to include any unorganized territory situated within the territory of Municipalité régionale de comté de La Jacques-Cartier or Municipalité régionale de comté de La Côte-de-Beaupré.

CHAPTER II

STRATEGIC VISION STATEMENT

DIVISION I

OBLIGATION TO MAINTAIN STRATEGIC VISION STATEMENT

5. In order to facilitate the coherent exercise of its powers under the law, every competent body is required to maintain in force, at all times, a strategic vision statement for cultural, economic, environmental and social development in its territory.

However, a regional county municipality whose territory is wholly or partially situated within the territory of a metropolitan community is not required to maintain a statement in force for the common territory.

The regional county municipality's statement must take into consideration the metropolitan community's statement with respect to the common territory.

DIVISION II

ADOPTION AND AMENDMENT PROCESS FOR STRATEGIC VISION STATEMENT

§1.—Application

6. The process provided for in this division applies to the maintenance in force of an adaptable strategic vision statement.

In the following provisions, a reference to a strategic vision statement includes, in addition to the first or a replacement statement, any amendment made to the strategic vision statement in force.

7. For the purposes of this division, the following are partner bodies:

(1) in all cases, every local municipality whose territory is situated within the territory of the competent body;

(2) in the case of the strategic vision statement of a metropolitan community, every regional county municipality whose territory is wholly or partially situated within the territory of the metropolitan community; and

(3) in the case of the strategic vision statement of a regional county municipality whose territory is wholly or partially situated within the territory of a metropolitan community, that metropolitan community.

§2.—Adoption of draft strategic vision statement, and opinion of partner bodies

8. The council of the competent body initiates the process by adopting a draft strategic vision statement.

Authenticated copies of the draft strategic vision statement are sent to the Minister and every partner body.

9. The council of a partner body may give its opinion on the draft strategic vision statement within 120 days.

§3.—Information and public consultation

10. The competent body makes available for public inspection, at its office, the draft strategic vision statement and a document explaining its nature and objectives.

A copy of the draft strategic vision statement and the explanatory document may be obtained free of charge from the competent body.

11. The competent body holds a public consultation on the draft strategic vision statement, in accordance with an information and public consultation policy adopted by a by-law of its council.

The policy must provide for at least one public consultation meeting and include measures to ensure that the following information is adequately circulated throughout the territory of the competent body:

(1) clear, complete information concerning the draft strategic vision statement;

(2) information relating to the availability of the draft strategic vision statement and the explanatory document for public inspection under section 10; and

(3) information enabling any person to attend a public consultation meeting.

The policy must also include measures to encourage public participation and open discussion on the subject of the consultation at one or more consultation meetings and to allow members of the public to make comments or suggestions orally or in writing at the meetings, or in writing within a reasonable period after the last meeting is held.

§4.—*Adoption and coming into force of strategic vision statement*

12. After the consultation period on the draft strategic vision statement, the council of the competent body adopts the strategic vision statement, with or without changes.

However, the strategic vision statement may not be adopted before the later of

(1) the day after the day on which the last of the partner bodies that were sent the draft strategic vision statement gives an opinion on it or the day after the deadline for doing so; and

(2) the day after the deadline for addressing written comments to the municipality in accordance with its consultation policy.

13. The strategic vision statement comes into force on the passage of the resolution adopting it.

As soon as practicable after the coming into force of the strategic vision statement, the competent body sends to the Minister, and to each partner body, an authenticated copy of the strategic vision statement and of the resolution adopting it.

14. In the case of a metropolitan community, the decision to adopt the strategic vision statement requires a two-thirds majority of the votes cast.

In the case of the Communauté métropolitaine de Québec, this majority must also include a majority of the votes cast by the representatives of Ville de Lévis and a majority of the total votes cast by the representatives of Municipalité régionale de comté de L'Île-d'Orléans, Municipalité régionale de comté de La Côte-de-Beaupré and Municipalité régionale de comté de La Jacques-Cartier.

CHAPTER III

METROPOLITAN LAND USE AND DEVELOPMENT PLAN

DIVISION I

OBLIGATION TO MAINTAIN METROPOLITAN PLAN

15. Every metropolitan community must maintain in force, at all times, a metropolitan plan applicable to its whole territory.

DIVISION II

CONTENT OF METROPOLITAN PLAN

16. A metropolitan plan defines policy directions, objectives and criteria to ensure the competitiveness and attractiveness of the territory of the metropolitan community, in a sustainable development perspective.

The subjects to be addressed by the policy directions, objectives and criteria are

- (1) land transportation planning;
- (2) the protection and enhancement of the natural and built environment, and of landscapes;
- (3) the identification of any part of the territory of the metropolitan community that requires integrated land use and transportation planning;
- (4) the definition of minimum density levels according to the characteristics of the locality;
- (5) the development of agricultural activities;
- (6) the definition of areas singled out for optimal urbanization;
- (7) the identification of any part of the territory of the metropolitan community situated within the territory of two or more regional county municipalities that is subject to significant constraints for reasons of public security, public health or general well-being; and
- (8) the identification of any facility that is of metropolitan interest, and the determination of the site, use and capacity of any new such facility.

To support the policy directions, objectives and criteria defined under the first paragraph with regard to a subject referred to in subparagraph 6 of the second paragraph, the plan may delimit any metropolitan boundary.

To support the policy directions, objectives and criteria defined under the first paragraph with regard to a subject referred to in any of subparagraphs 1 to 5, 7 and 8 of the second paragraph, the plan may also delimit any part of the territory and determine any location.

17. In order to ensure compliance with or the achievement of the policy directions, objectives and criteria it defines, the metropolitan plan may make it mandatory for any RCM plan applicable in the territory of the metropolitan community to include one or more specified elements from among those that may be included in an RCM plan under section 21.

CHAPTER IV

REGIONAL COUNTY MUNICIPALITY LAND USE AND DEVELOPMENT PLAN

DIVISION I

OBLIGATION TO MAINTAIN RCM PLAN

18. Every regional county municipality must maintain in force, at all times, an RCM plan applicable to its whole territory.

DIVISION II

CONTENT OF RCM PLAN

19. An RCM plan must provide for land use planning and development in the territory of the regional county municipality; it must take into account the strategic vision statement and the evolution of social, economic and environmental factors in that territory.

The main purpose of the RCM plan is

(1) to contribute to efforts to increase energy efficiency and reduce greenhouse gases;

(2) to ensure an optimal distribution of urban spaces and spaces singled out for urbanization;

(3) to support urbanization models conducive to reducing automobile use and changing commuting habits;

(4) to ensure the protection, development and sustainability of the land and of agricultural activities, and give priority to agricultural uses of the land;

(5) to prevent and reduce dangers, risks or nuisances that could affect public security or public health;

(6) to contribute to the preservation, protection and development of natural heritage, built heritage and landscapes; and

(7) to contribute to the protection and development of natural resources such as water and forests, and to promote biodiversity.

20. An RCM plan must define objectives, strategies and targets and contain any measure needed to ensure or facilitate its implementation.

In particular, an RCM plan must

- (1) determine general policies on land use and the principal characteristics of land occupancy in the territory;
- (2) delimit urban growth boundaries;
- (3) describe and plan the organization of land transportation;
- (4) delimit any part of the territory that is subject to constraints, whether natural or related to human activity, which must be taken into consideration for health, safety or environmental reasons;
- (5) delimit any part of the territory that is of particular historical, cultural, aesthetic or ecological interest and in respect of which conservation or development measures are advisable;
- (6) list and define major facility and infrastructure projects and the services conducive to or required for the pursuit of defined objectives, strategies and targets; and
- (7) contain measures to prevent or reduce any major anticipated environmental impacts of its implementation.

21. An RCM plan must set out rules, criteria or obligations with respect to the content of any planning by-law that a municipality may adopt under this Act, including the requirement that such a by-law contain provisions that are at least as restrictive as those of the RCM plan.

CHAPTER V

AMENDMENT OF METROPOLITAN PLAN OR RCM PLAN

DIVISION I

COMMON PROCESS FOR METROPOLITAN PLAN AND RCM PLAN

§1.—Adoption of draft amendment

22. The council of the competent body initiates the amendment process by adopting a draft amendment.

An authenticated copy of the draft amendment and the resolution adopting it are served on the Minister.

The Minister may give an opinion on the draft amendment to the competent body within 45 days after a copy of the draft amendment is served on the Minister.

23. Authenticated copies of the draft amendment, the resolution adopting it and the document referred to in the first paragraph of section 36 or 38 are sent to each partner body.

The council of a partner body may give its opinion on the draft amendment within 45 days after a copy of the draft amendment is sent to the partner body.

The council of the competent body may shorten the period provided for in the second paragraph; however, the period may not be less than 20 days. The resolution modifying the period must be passed unanimously; an authenticated copy of the resolution is sent to each partner body at the same time as the copy of the draft amendment.

For the purposes of this chapter, the following are partner bodies:

(1) with regard to the amendment of a metropolitan plan, every regional county municipality whose territory is situated wholly or partially within the territory of the metropolitan community and, except with respect to a negative ministerial opinion under section 31, every regional county municipality whose territory is contiguous to that of the metropolitan community;

(2) with regard to the amendment of an RCM plan, every local municipality whose territory is situated within the territory of the regional county municipality and, except with respect to a negative ministerial opinion under section 31, every regional county municipality whose territory is contiguous to that of the regional county municipality; and

(3) in addition to those referred to in subparagraph 2, with regard to an RCM plan covering part of the territory of a metropolitan community, that metropolitan community.

§2.—Information and public consultation

24. The competent body makes available for public inspection, at its office, the draft amendment, a document explaining its nature and objectives and specifying what parts of the competent body's territory it affects, and any other relevant document in the competent body's possession.

A copy of the draft amendment and the explanatory document provided for in the first paragraph may be obtained free of charge from the competent body.

25. The competent body holds a public consultation on the draft amendment, in accordance with an information and public consultation policy adopted by a by-law of its council.

The policy must provide for at least one public consultation meeting and include measures to ensure that the following information is adequately circulated:

(1) clear, complete information concerning the subject of the consultation;

(2) information relating to the availability of the draft amendment and relevant documents for public inspection under section 24; and

(3) information enabling any person to attend a public consultation meeting.

The policy must also include measures to encourage public participation and open discussion on the subject of the consultation at one or more consultation meetings, and to allow members of the public to make comments or suggestions orally or in writing at the meetings, or in writing within a reasonable period after the last meeting is held.

26. The competent body must see that a consultation report is prepared.

The consultation report must give an account of the information provided by the competent body and of any concerns expressed, questions raised, comments and suggestions made, and answers and explanations given during the consultation.

The report must be tabled before the council of the competent body.

A copy of the report may be obtained free of charge from the competent body.

§3.—Adoption

27. The amendment may be adopted as of the later of

(1) the day after the day on which the last of the Minister and the partner bodies gives an opinion on the draft amendment or the day after the deadline for doing so; and

(2) the day after the day on which the consultation report is tabled under section 26.

Authenticated copies of the amendment, the resolution adopting it and the documents referred to in the second paragraph are served on the Minister. The Minister serves an acknowledgement of receipt of the copies on the competent body.

Authenticated copies of the amendment, the resolution adopting it and the document referred to in the first paragraph of section 36 or 38 are sent to each partner body.

§4.—Examination of conformity with government policy directions for land use planning

28. A declaration, signed by the secretary of the competent body, stating whether the draft amendment or the amendment contains any content element

that must be examined for conformity with government policy directions for land use planning must be served on the Minister at the same time as the copy of the draft amendment under section 22 and the copy of the amendment under section 27.

The content elements that must be examined for conformity with government policy directions and the form of the declaration provided for in the first paragraph are determined by regulation of the Government.

“Government policy directions for land use planning” means the objectives and aims pursued by the Government, its ministers, mandataries of the State and public bodies with respect to land use planning, including the land use plan prepared under section 21 of the Act respecting the lands in the domain of the State (R.S.Q., chapter T-8.1), and the facility, infrastructure and development projects they intend to carry out in the territory of the competent body.

In this Act, they are also referred to as “government policy directions”.

29. Where, according to the declaration required under section 28, a draft amendment contains no content element that must be examined for conformity with government policy directions, the Minister, if of a contrary opinion, may identify, in the opinion given under the third paragraph of section 22, any provision of the draft amendment that in the Minister’s opinion contains such a content element, and give an opinion, including reasons, on the conformity of the provision with government policy directions.

The opinion may contain any other particular which the Minister considers relevant.

30. An amendment must be examined for conformity with government policy directions if

(1) it contains a provision the substance of which was contained in the draft amendment and which was identified for that purpose by the Minister under section 29; or

(2) according to the declaration required under section 28, it contains a content element that must be examined for conformity with government policy directions.

The Minister serves an opinion on such conformity not later than 60 days after the date on which the Minister acknowledges receipt of the documents needed to formulate an informed opinion as to conformity with government policy directions.

31. A ministerial opinion on an amendment stating that any of the content elements that must be examined for conformity is not in conformity with government policy directions must include reasons. In such a case, the Minister may request the competent body to replace the amendment with one that is in conformity with government policy directions.

The provisions of sections 22 to 26 relating to the adoption of a draft amendment, to information and to public consultation do not apply to a new amendment that differs from the amendment it replaces only so as to take into account the ministerial opinion.

32. Not later than 90 days after service of a negative ministerial opinion, the competent body must replace the amendment with one that is in conformity with government policy directions if

(1) the Minister has requested so under section 31;

(2) the amendment that obtained the negative ministerial opinion was adopted to comply with a ministerial request made under section 311 or to replace such an amendment; or

(3) the amendment was adopted for harmonization purposes in accordance with section 54 or to replace an amendment adopted for harmonization purposes.

§5.—Coming into force

33. An amendment to a metropolitan plan or an RCM plan which, according to the declaration required under section 28, does not contain any content element that must be examined for conformity with government policy directions comes into force on the date on which the acknowledgement of receipt is served under the second paragraph of section 27.

34. An amendment to a metropolitan plan or an RCM plan which, according to the declaration required under section 28, contains at least one content element that must be examined for conformity with government policy directions comes into force

(1) on the day the ministerial opinion is served on the competent body stating that the amendment is in conformity with government policy directions; or

(2) if the ministerial opinion is not served within the period prescribed in section 30, on the sixty-first day after the date of the acknowledgement of receipt provided for in that section.

35. As soon as practicable after the coming into force of the amendment, the competent body publishes a notice of the date of coming into force in a newspaper circulated in its territory.

DIVISION II

PROVISIONS SPECIFIC TO METROPOLITAN PLAN

36. When the council of a metropolitan community passes a resolution adopting a draft amendment to the metropolitan plan, it also adopts a document

stating whether amendments to any RCM plan applicable in the territory of the metropolitan community will be required to harmonize with the proposed amendment to the metropolitan plan; if so, the document must specify the nature of those amendments.

After the coming into force of the amendment, the council adopts a document stating whether amendments must actually be made to any RCM plan applicable in the territory of the metropolitan community to harmonize with the amendment to the metropolitan plan; if so, the document must specify the nature of those amendments.

Instead of adopting a document under the second paragraph that is identical to the document under the first paragraph, the council may simply refer to the latter document.

37. The decision to adopt the amendment requires a two-thirds majority of the votes cast.

In the case of the Communauté métropolitaine de Québec, the majority must also include a majority of the votes cast by the representatives of Ville de Lévis and a majority of the total votes cast by the representatives of Municipalité régionale de comté de L'Île-d'Orléans, Municipalité régionale de comté de La Côte-de-Beaupré and Municipalité régionale de comté de La Jacques-Cartier.

DIVISION III

PROVISIONS SPECIFIC TO RCM PLAN

§1. — Provisions applicable to all RCM plans

38. When the council of a regional county municipality passes a resolution adopting a draft amendment to an RCM plan, it also adopts a document stating whether amendments to any comprehensive plan or planning by-law applicable in the territory of the regional county municipality will be required to harmonize it with the proposed amendment to the RCM plan; if so, the document must specify the nature of those amendments.

After the coming into force of the amendment, the council adopts a document stating whether amendments must actually be made to any comprehensive plan or planning by-law applicable in the territory of the regional county municipality to harmonize it with the amendment to the RCM plan; if so, the document must specify the nature of those amendments.

Instead of adopting a document under the second paragraph that is identical to the document under the first paragraph, the council may simply refer to the latter document.

39. When the council of the regional county municipality passes a resolution adopting an amendment to the RCM plan, it also adopts a diagnosis setting out the factual and forecast data taken into consideration to establish its content, and an analysis of any anticipated major environmental impacts of its implementation.

§2. — *Conformity with metropolitan plan*

40. Any amendment that affects part of the territory of a metropolitan community must be examined by the council of the metropolitan community for conformity with the metropolitan plan.

To that end, an authenticated copy of the amendment is sent to the metropolitan community, which acknowledges receipt.

41. The council of the metropolitan community must give its opinion not later than 60 days after receiving the copy of the amendment.

As soon as the resolution giving the opinion of the council of the metropolitan community is passed, an authenticated copy of the resolution is sent to the regional county municipality and served on the Minister.

If the resolution denies approval of the amendment, it must include reasons and identify the provisions that are not in conformity with the metropolitan plan.

If the resolution approves the amendment, the metropolitan community issues a certificate of conformity.

42. If the council of the metropolitan community denies approval of the amendment or fails to give its opinion within the period prescribed in section 41, the council of the regional county municipality may request the Commission municipale's opinion on the conformity of the amendment with the metropolitan plan.

An authenticated copy of the resolution requesting the opinion and of the amendment are served on the Commission; an authenticated copy of the resolution requesting the opinion is served on the metropolitan community and the Minister.

The copy of the resolution requesting the opinion must be received by the Commission not later than 45 days after the copy of the resolution denying approval of the amendment is sent to the regional county municipality or, as applicable, after the expiry of the period prescribed in section 41.

43. If the council of the metropolitan community denies approval of the amendment, the council of the regional county municipality, instead of requesting the opinion of the Commission, may adopt

(1) a single document containing only the content elements of the amendment that did not cause approval to be denied; or

(2) both such a document and another document containing content elements that caused approval to be denied.

The provisions of sections 22 to 26 relating to the adoption of a draft amendment, to information and to public consultation do not apply to a document adopted under the first paragraph.

If the council of the regional county municipality adopts a document containing content elements that caused approval to be denied, it may request the opinion of the Commission on the conformity of the document with the metropolitan plan.

44. The Commission must give its opinion not later than 60 days after receiving a copy of the resolution requesting the opinion under section 42 or 43.

An opinion stating that the amendment is not in conformity with the metropolitan plan may include suggestions of the Commission on how to ensure such conformity.

The secretary of the Commission sends an authenticated copy of the opinion to the regional county municipality, the metropolitan community and the Minister.

If the opinion states that the amendment is in conformity with the metropolitan plan, the secretary of the metropolitan community must, as soon as practicable after receiving a copy of the opinion, issue a certificate of conformity and send an authenticated copy of the certificate to the regional county municipality.

45. If the opinion of the Commission states that the amendment is not in conformity with the metropolitan plan or if the Commission did not receive a request for an opinion within the period prescribed in section 42, the council of the metropolitan community must request the regional county municipality to replace the amendment, within the period it prescribes, with an amendment that is in conformity with the metropolitan plan, if

(1) the amendment was adopted to comply with a ministerial request under section 311 or to replace an amendment adopted to comply with a ministerial request; or

(2) the regional county municipality is required under section 54 or 55 to amend its RCM plan for harmonization purposes.

The period prescribed for the replacement may not end before the expiry of 45 days after an authenticated copy of the resolution requesting the replacement is sent to the regional county municipality.

46. The provisions of sections 22 to 26 relating to the adoption of a draft amendment, to information and to public consultation do not apply to a new amendment that differs from the one it replaces only so as to ensure its conformity with the metropolitan plan.

47. If the council of the regional county municipality fails to adopt an amendment within the period prescribed under section 45, the council of the metropolitan community may do so in its place.

The provisions of sections 22 to 26 relating to the adoption of a draft amendment, to information and to public consultation and those of sections 40 to 46 relating to conformity with the metropolitan plan do not apply to an amendment adopted by the council of the metropolitan community under the first paragraph; the provisions of sections 28 to 32 relating to conformity with government policy directions apply, with the necessary modifications. The amendment is deemed to have been adopted by the council of the regional county municipality and approved by the council of the metropolitan community. As soon as practicable after the amendment is adopted, the secretary of the metropolitan community issues a certificate of conformity in respect of the amendment.

As soon as practicable, authenticated copies of the amendment and the certificate of conformity are sent to the regional county municipality. The copy of the amendment sent to the regional county municipality stands in lieu of the original for the purposes of the issue of authenticated copies by the regional county municipality.

The expenses incurred by the metropolitan community to act in the place of the regional county municipality are reimbursed by the regional county municipality.

As well, the council of the metropolitan community may, in accordance with the first four paragraphs, adopt in the place of a regional county municipality an amendment the latter adopted within the period prescribed but which cannot come into force because it was found by the Minister not to be in conformity with government policy directions.

48. The amendment comes into force on the later of the date determined in accordance with section 33 or 34, as applicable, and the date on which the metropolitan community issues the certificate of conformity. It is deemed to be in conformity with the metropolitan plan.

CHAPTER VI

REVISION OF METROPOLITAN PLAN OR RCM PLAN

49. A metropolitan plan or an RCM plan may be revised by the competent body.

50. The metropolitan plan or RCM plan is revised in accordance with the provisions of Chapter V relating to the amendment of a plan, which apply with the necessary modifications and subject to the following provisions:

(1) the competent body does not file the strategic vision statement provided for in section 28 or adopt any of the documents provided for in sections 36 and 38;

(2) the council of any partner body may give its opinion on the draft of the revised metropolitan plan or RCM plan within 90 days after it is sent a copy of the draft, and the third paragraph of section 23 does not apply;

(3) the ministerial opinion under section 22 must be given not later than 90 days after the Minister acknowledges receipt of the documents needed to formulate an informed opinion as to the conformity of the draft with government policy directions;

(4) as for the revised RCM plan, it must be accompanied, in addition to the diagnosis and the analysis provided for in section 39, by an implementation program for the various actions to be taken by the different public powers and private bodies and by a document describing outcome evaluation and monitoring measures that the regional county municipality undertakes to put in place; and

(5) a ministerial opinion on the content elements of the revised metropolitan plan or RCM plan that must be examined for conformity with government policy directions must be given not later than 120 days after the date on which the Minister acknowledges receipt of the documents needed to formulate an informed opinion as to such conformity.

51. Not later than 90 days after service of a ministerial opinion stating that the revised metropolitan plan or revised RCM plan is not in conformity with government policy directions, the competent body must replace it with one that is in conformity with government policy directions if

(1) the Minister so requested under section 31; or

(2) the revised metropolitan plan or revised RCM plan that is the subject of the negative ministerial opinion was adopted to comply with a ministerial request under section 314 or to replace a plan adopted to comply with such a request.

In the case of a revised RCM plan, on giving an opinion stating that the plan is not in conformity with the metropolitan plan, the council of the metropolitan community must request the regional county municipality to replace the RCM plan, within the period it prescribes, with another revised RCM plan that is in conformity with the metropolitan plan if

(1) the revised RCM plan was adopted to comply with a ministerial request made under section 314 or to replace a plan adopted to comply with such a request; and

(2) the opinion of the Commission states that the revised RCM plan is not in conformity with the metropolitan plan or the Commission did not receive a request for an opinion on the revised RCM plan within the period prescribed in section 42.

52. A revised metropolitan plan or revised RCM plan comes into force on the day a ministerial opinion confirming its conformity with government policy directions is served on the competent body or, in the absence of such an opinion, on the expiry of the period prescribed in paragraph 5 of section 50.

A revised RCM plan that affects part of the territory of a metropolitan community comes into force on the later of the date determined under the first paragraph and the date on which the certificate of conformity is issued by the metropolitan community.

CHAPTER VII

HARMONIZATION FOLLOWING AMENDMENT OR REVISION OF METROPOLITAN PLAN OR RCM PLAN

DIVISION I

OBLIGATION TO HARMONIZE

53. In the case of the amendment or revision of a metropolitan plan, “harmonization resolution” means any resolution to amend an RCM plan covering part of the territory of the metropolitan community to reflect the amendment or revision of the metropolitan plan, and “competent council” means the council of the regional county municipality that is responsible for that RCM plan.

In the case of the amendment or revision of an RCM plan, “harmonization resolution” and “harmonization by-law” mean, respectively, any resolution and any by-law to amend a comprehensive plan or a planning by-law applicable in the territory of the regional county municipality to reflect the amendment or revision of the RCM plan, and “competent council” means the council of the local municipality or regional county municipality that adopted the plan or by-law to be amended.

54. Within six months after the coming into force of an amendment to the metropolitan plan or RCM plan, the competent council must adopt any necessary harmonization resolution or by-law in accordance with the second paragraph of section 36 or 38, as applicable.

55. Within 12 months after the coming into force of a revised metropolitan plan or revised RCM plan, the competent council must adopt any necessary harmonization resolution or by-law.

56. If, following the amendment or revision of the metropolitan plan, the council of a regional county municipality fails to adopt a harmonization resolution within the period prescribed in section 54 or 55, the council of the metropolitan community may do so in its place. The council of the metropolitan community may also adopt in the place of the regional county municipality a resolution the latter adopted within the period prescribed but which cannot come into force because it was found by the Minister not to be in conformity with government policy directions.

The provisions of sections 40 to 46 relating to the examination of conformity with the metropolitan plan do not apply to a resolution adopted by the council of the metropolitan community under the first paragraph.

If, following the amendment or revision of the RCM plan, the council of a local municipality fails to adopt a harmonization by-law within the period prescribed in section 54 or 55, the council of the regional county municipality may do so in its place.

The provisions of sections 224 to 232 relating to the examination of the conformity of the RCM plan do not apply to a by-law adopted by the council of the regional county municipality under the third paragraph.

57. Any harmonization resolution or by-law adopted by an authority in the place of another authority is deemed to be adopted by the latter authority. As soon as it is adopted, an authenticated copy of the resolution or by-law, accompanied by a certificate of conformity, is sent to that authority; the copy stands in lieu of the original for the purposes of the issue of other authenticated copies by that authority. The expenses incurred to act in the place of another authority are reimbursed by the latter authority.

58. The following do not apply to a harmonization resolution or by-law:

(1) the provisions of sections 22 to 26 and 237 to 239 relating to the adoption of a draft amendment, to information and to public consultation;

(2) the provisions of sections 87 to 91 relating to information and to public consultation concerning a draft amendment to the comprehensive plan;

(3) the provisions of sections 206 to 216 relating to information and to public consultation concerning a draft planning by-law; and

(4) the provisions of sections 218 to 221 relating to referendum approval of a planning by-law.

DIVISION II

EXEMPTION FROM OBLIGATION TO HARMONIZE WITH REVISED METROPOLITAN PLAN

59. If the council of a regional county municipality considers that the RCM plan is already in conformity with the revised metropolitan plan, it may resolve that the RCM plan does not need to be amended to reflect the revision of the metropolitan plan.

An authenticated copy of the resolution is sent to the metropolitan community.

60. If the council of the metropolitan community considers that the RCM plan is in conformity with the revised metropolitan plan, it approves the resolution.

If not, it must identify the provisions of the RCM plan that are not in conformity with the revised metropolitan plan and give reasons.

As soon as a resolution approving or denying approval of the regional county municipality's resolution is passed, an authenticated copy is sent to the regional county municipality.

The regional county municipality's resolution is deemed to be approved if the council of the metropolitan community does not pass a resolution approving or denying approval of the resolution within 120 days after it is sent to the metropolitan community.

61. If the council of the metropolitan community denies approval of the resolution, the council of the regional county municipality may request the opinion of the Commission municipale on the conformity of the provisions of the RCM plan specified in the resolution adopted under the second paragraph of section 60 with the revised metropolitan plan.

As soon as the resolution requesting the Commission's opinion is passed, authenticated copies of the resolution, the RCM plan concerned and the resolution adopted under the second paragraph of section 60 are served on the Commission; an authenticated copy of the resolution requesting the opinion is also sent to the metropolitan community.

The copy of the resolution must be received by the Commission within 15 days after the copy of the resolution of the council of the metropolitan community denying approval of the regional county municipality's resolution is sent to the regional county municipality.

62. The Commission must give its opinion within 60 days after receiving a copy of the resolution requesting the opinion.

An opinion stating that the provisions of the RCM plan specified in the resolution adopted under the second paragraph of section 59 are not in conformity with the revised metropolitan plan may include suggestions of the Commission on how to ensure such conformity.

The secretary of the Commission sends an authenticated copy of the opinion to the regional county municipality and the metropolitan community.

If the opinion states that the provisions of the RCM plan specified in the resolution adopted under the second paragraph of section 60 are in conformity with the revised metropolitan plan, the RCM plan does not need to be amended to reflect the revision of the metropolitan plan.

DIVISION III

EXEMPTION FROM OBLIGATION TO HARMONIZE WITH REVISED RCM PLAN

63. A planning by-law adopted by the council of a regional county municipality under any of sections 198 to 201, which, according to an opinion expressed by resolution of that council, is already in conformity with the revised RCM plan does not need to be amended to reflect the revision of the RCM plan.

64. If the council of a local municipality considers that the comprehensive plan or any of the by-laws concerned are already in conformity with the revised RCM plan, it may resolve that the comprehensive plan or by-law does not need to be amended to reflect the revision of the RCM plan.

An authenticated copy of the resolution is sent to the regional county municipality.

65. If the council of the regional county municipality considers that the comprehensive plan and the by-laws referred to in the resolution of the local municipality are all in conformity with the revised RCM plan, it approves the resolution.

If not, the resolution of the council of the regional county municipality stating that the comprehensive plan or one or more of the by-laws concerned is not in conformity with the revised RCM plan must include reasons.

As soon as the resolution approving or denying approval of the local municipality's resolution is passed, an authenticated copy is sent to the local municipality.

66. If the council of the regional county municipality denies approval of the resolution or fails to give its opinion within 120 days after it is sent the resolution, the council of the local municipality may request the opinion of the

Commission on the conformity of the comprehensive plan or by-law which is the subject of the resolution with the revised RCM plan.

As soon as the resolution requesting the Commission's opinion is passed, authenticated copies of the resolution and the comprehensive plan or by-law concerned are served on the Commission; an authenticated copy of the resolution is also sent to the metropolitan community.

The copy of the resolution must be received by the Commission within 15 days after the copy of the resolution of the council of the regional county municipality denying approval of the local municipality's resolution is sent to the local municipality.

67. The Commission must give its opinion within 60 days after receiving a copy of the resolution requesting it.

An opinion stating that the comprehensive plan or the by-law concerned is not in conformity with the revised RCM plan may include suggestions of the Commission on how to ensure such conformity.

The secretary of the Commission sends an authenticated copy of the opinion to the local municipality and the regional county municipality.

If the opinion states that the comprehensive plan or the by-law concerned is in conformity with the revised RCM plan, it does not need to be amended to reflect the revision of the RCM plan.

CHAPTER VIII

INTERIM CONTROL MEASURES

DIVISION I

INTERIM CONTROL MEASURES

68. A competent body whose council has adopted a draft amendment or revision of its metropolitan plan or RCM plan may, in accordance with this chapter, impose interim control measures related to the process.

A competent body whose council has resolved to adopt a draft amendment or revision of its metropolitan plan or RCM plan in the near future may also impose interim control measures related to the process.

69. The council of the competent body may prohibit any new land use, structure or cadastral operation, in all or part of the territory of the competent body.

The council may specify cases in which a prohibition does not apply, or terms under which a prohibition may be lifted on the issue of a permit. It may designate an officer for that purpose in every local municipality in which the

prohibition that may be lifted applies; the designation is valid only if the council of the local municipality gives its consent.

In any provision of this Act, “cadastral amendment” means amendments to the cadastre described in article 3043 of the Civil Code.

70. As soon as the resolution is passed, an authenticated copy is sent to the Minister and

(1) in all cases, to every local municipality whose territory is situated within the territory of the competent body;

(2) in addition to the municipalities referred to in subparagraph 1, if the interim control measures are related to the amendment or revision of a metropolitan plan, to every regional county municipality whose territory is wholly or partially situated within the territory of the metropolitan community; and

(3) in addition to the municipalities referred to in subparagraph 1, if the interim control measures are related to the amendment or revision of an RCM plan covering all or part of the territory of a metropolitan community, to that metropolitan community.

As soon as practicable after the resolution is passed, a notice of the date of passage is published in a newspaper circulated in the territory of the competent body.

DIVISION II

EFFECTS OF INTERIM CONTROL MEASURES

71. Interim control measures do not operate to prohibit new land uses, structures or cadastral operations

(1) for agricultural purposes on land under cultivation;

(2) for the purposes of the installation, by a municipality, of water or sewer services in a public street in execution of an order under the Environment Quality Act (R.S.Q., chapter Q-2);

(3) for the purposes of the installation of components of electricity, gas, telecommunication or cable distribution networks; or

(4) for the purposes of a forest development activity or wildlife development activity on lands in the domain of the State.

Nor do interim control measures operate to prohibit applications for cadastral operations made necessary by a declaration of co-ownership under article 1038

of the Civil Code or by the alienation of part of a building requiring the partitioning of the land on which it is situated.

72. An interim control measure, imposed by the council of a regional county municipality, which prohibits an activity in a part of its territory is without effect if a metropolitan interim control measure authorizes the activity in that part of the territory on the issue of a permit.

An interim control measure that authorizes an activity on the issue of a permit is without effect if a metropolitan interim control measure prohibits the activity in that part of the territory, or authorizes the activity on the issue of a permit but subject to different terms.

DIVISION III

DURATION OF INTERIM CONTROL MEASURES

§1.—Prior interim control measures

73. Interim control measures imposed under the second paragraph of section 68 before the adoption of a draft amendment or revision of the metropolitan plan or RCM plan cease to have effect 90 days after the resolution imposing them is passed if the draft amendment or revision is not adopted by that date.

§2.—Interim control measures related to amendment of metropolitan plan or RCM plan

74. Interim control measures related to a metropolitan plan or RCM plan amendment that is in force cease to have effect, in the territory of a local municipality, on the coming into force of the last harmonization by-law that must be adopted to reflect the amendment.

For the purposes of the first paragraph, “harmonization by-law” in the case of metropolitan interim control measures means any by-law that must be adopted to reflect the amendment made to the RCM plan to harmonize it with the amended metropolitan plan.

§3.—Interim control measures related to revised metropolitan plan

75. Interim control measures related to a revised metropolitan plan that is in force cease to have effect in the territory of a local municipality

(1) on the day on which it is determined, in accordance with section 60 or 62, that the RCM plan applicable in the territory of the local municipality does not need to be amended to reflect the revision of the metropolitan plan;

(2) on the coming into force of the last harmonization by-law adopted to reflect the amendment of the RCM plan to harmonize it with the revised metropolitan plan; or

(3) on the day on which the document referred to in the second paragraph of section 38 is adopted if the document states that the municipality does not need to amend its by-laws to reflect the amendment of the RCM plan to harmonize it with the revised metropolitan plan.

§4. — *Interim control measures related to revised RCM plan*

76. Interim control measures related to a revised RCM plan that is in force cease to have effect in the territory of a local municipality

(1) on the coming into force of the last harmonization by-law that must be adopted under section 55 to reflect the revision of the RCM plan; or

(2) on the day on which all the by-laws applicable in the territory of the local municipality that do not need to be amended by a harmonization by-law to reflect the revision of the RCM plan are determined under section 65 or 67, if that day is after the day referred to in paragraph 1 or if none of the by-laws need to be amended.

DIVISION IV

PROVISION SPECIFIC TO METROPOLITAN INTERIM CONTROL MEASURES

77. Every decision made under this chapter by the council of a metropolitan community requires a two-thirds majority of the votes cast.

In the case of the Communauté métropolitaine de Québec, the majority must also include a majority of the votes cast by the representatives of Ville de Lévis and a majority of the total votes cast by the representatives of Municipalité régionale de comté de L'Île-d'Orléans, Municipalité régionale de comté de La Côte-de-Beaupré and Municipalité régionale de comté de La Jacques-Cartier.

CHAPTER IX

OBLIGATION TO MONITOR AND MEASURE IMPLEMENTATION OF REGIONAL PLANNING TOOLS

78. A competent body must use indicators to monitor and measure implementation of its metropolitan plan or RCM plan and to evaluate progress toward plan objectives and success in carrying out plan proposals. The council of the competent body must adopt a biennial report on those subjects.

79. The Minister may determine indicators for a competent body and prescribe how they are to be used.

TITLE III

LOCAL PLANNING

CHAPTER I

COMPREHENSIVE PLAN

DIVISION I

OBLIGATION TO MAINTAIN COMPREHENSIVE PLAN

80. Every local municipality must maintain in force, at all times, a comprehensive plan applicable to its whole territory.

DIVISION II

CONTENT OF COMPREHENSIVE PLAN

81. The comprehensive plan guides the council of the local municipality in the exercise of its powers with respect to planning by-laws. The purpose of the comprehensive plan is to promote coherent and rational planning and development in the territory of the municipality, taking into account changing social, economic and environmental factors and in accordance with the objectives, strategies and targets it defines.

It must contain any measure needed to ensure or facilitate its implementation.

82. The comprehensive plan may delimit any part of the territory of the local municipality that is considered a priority for urban renewal, rehabilitation or densification and designate it as a zone exempt from referendum approval within which no regulatory amendment is to be subject to referendum approval.

It must define specific objectives, strategies and targets for that purpose.

CHAPTER II

SPECIAL COMPREHENSIVE PLANS

83. A comprehensive plan may include a special comprehensive plan for any part of the territory of the local municipality that it specifies.

84. A special comprehensive plan is a detailed land use plan for a part of the territory of the local municipality (“the area concerned”) which, in the opinion of the local municipality, requires special attention.

The special comprehensive plan must include, with respect to the area concerned,

- (1) a description of the proposed development;
- (2) a statement of the objectives of the comprehensive plan;
- (3) detailed land uses, authorized uses, and land occupation density and characteristics;
- (4) development rules and criteria;
- (5) a description of current and proposed thoroughfares and transportation networks, and a commuting plan;
- (6) the nature, location and type of proposed facilities and infrastructures, and the order in which they are to be constructed; and
- (7) an implementation program.

85. A special comprehensive plan may include a revitalization program for all or part of the area concerned.

Despite the Municipal Aid Prohibition Act (R.S.Q., chapter I-15), a revitalization program may include a subsidy policy for work carried out in conformity with the program.

86. A revitalization program may provide for the acquisition of immovables by a municipality with a view to alienating or leasing them for the purposes set out in the special comprehensive plan.

The municipality may carry out the immovable acquisition program once the planning by-laws in conformity with the special comprehensive plan are in force; the municipality may administer and carry out work on any immovable it holds under the program.

CHAPTER III

AMENDMENT OR REPLACEMENT OF COMPREHENSIVE PLAN

DIVISION I

INFORMATION AND PUBLIC CONSULTATION

87. The council of the local municipality initiates the comprehensive plan amendment or replacement process by adopting a draft amendment or replacement and a document stating what major changes could be made to the planning by-laws in order to implement the amendment or replacement of the comprehensive plan.

If applicable, the document must also state that, under the draft amendment or replacement, a zone is designated as exempt from referendum approval in accordance with section 82.

88. Authenticated copies of the draft amendment or replacement and the document provided for in section 87 are sent to every contiguous local municipality and to the regional county municipality; those municipalities may give their opinion within 45 days after the draft amendment or replacement and the document are sent to them.

89. The local municipality makes available for public inspection, at its office, the draft amendment or replacement and the document as well as another document explaining the nature and objectives of the draft amendment or replacement and, in the case of a draft amendment, identifying the parts of the territory of the municipality that are concerned; if applicable, the latter document must specifically identify any part of the territory that is designated as a zone exempt from referendum approval in accordance with section 82.

A copy of the draft amendment or replacement and the two documents specifically referred to in the first paragraph may be obtained free of charge from the municipality.

90. The local municipality holds a public consultation in accordance with an information and public consultation policy adopted by the council.

The policy must provide for at least one public consultation meeting and include measures to ensure that the following information is adequately communicated to the persons concerned

(1) clear, complete information concerning the subject of the consultation;

(2) if applicable, the fact that the draft amendment or replacement designates part of the territory as a zone exempt from referendum approval in accordance with section 82 and information allowing that part of the territory to be easily located;

(3) information relating to the availability of the draft amendment or replacement and the relevant documents for public inspection under section 89; and

(4) information enabling any person to attend a public consultation meeting.

The policy must also include measures to encourage public participation and open discussion on the subject of the consultation at one or more consultation meetings and to allow members of the public to make comments or suggestions orally or in writing at the meetings, or in writing within a reasonable period after the last meeting is held.

91. A consultation report must be prepared under the responsibility of the local municipality.

The report must give an account of the information provided by the municipality and of any concerns expressed, questions raised, comments and suggestions made, and answers and explanations given during the consultation.

The report must be tabled before the council of the municipality.

A copy of the report may be obtained free of charge from the municipality.

DIVISION II

PASSAGE

92. The resolution amending the comprehensive plan or establishing a new comprehensive plan may not be passed before the later of

(1) the day after the day on which the last of the municipalities entitled to do so gives an opinion under section 88 or the day after the deadline for doing so; and

(2) the day after the day on which the consultation report is tabled under section 91.

93. An amendment to the comprehensive plan must be accompanied by a diagnosis setting out the factual and forecast data taken into consideration to determine its content, and an analysis of any anticipated major environmental impacts of its implementation.

In addition to the diagnosis and the analysis provided for in the first paragraph, a new comprehensive plan must be accompanied by an implementation program for the various actions to be taken by the different public powers and private bodies and by a document describing the outcome evaluation and monitoring measures that the local municipality undertakes to put in place.

DIVISION III

CONFORMITY WITH RCM PLAN

94. Any amendment to the comprehensive plan or any new comprehensive plan must be examined by the council of the regional county municipality for conformity with the RCM plan.

To that end, an authenticated copy of the amendment or new comprehensive plan is sent to the regional county municipality, which acknowledges receipt.

95. The council of the regional county municipality must give its opinion not later than 120 days after the day it is sent the copy of the amendment or new comprehensive plan.

As soon as the resolution containing the opinion of the council of the regional county municipality is passed, an authenticated copy is sent to the local municipality.

If the resolution denies approval of the amendment or the new comprehensive plan, it must include reasons and identify the provisions that are not in conformity with the RCM plan.

If the resolution approves the amendment or the new comprehensive plan, the regional county municipality issues a certificate of conformity.

96. If the council of the regional county municipality denies approval of the amendment or the new comprehensive plan or fails to give its opinion within the period prescribed in section 95, the council of the local municipality may request the opinion of the Commission municipale on the conformity of the amendment with the RCM plan.

Authenticated copies of the resolution requesting the opinion and the amendment or the new comprehensive plan are served on the Commission; an authenticated copy of the resolution is served on the regional county municipality.

The copies must be received by the Commission not later than 45 days after the day on which the local municipality is sent the copy of the resolution denying approval of the amendment or the new comprehensive plan or after the expiry of the 120-day period prescribed in section 95.

97. If the council of the regional county municipality denies approval of the amendment, the council of the local municipality, instead of requesting the opinion of the Commission, may adopt

(1) a single document containing only the content elements of the amendment that did not cause approval to be denied; or

(2) both such a document and another document containing content elements that caused approval to be denied.

The provisions of sections 87 to 91 relating to the adoption of a draft amendment, to information and to public consultation do not apply to a document adopted under the first paragraph.

If the council of the local municipality, in accordance with subparagraph 2 of the first paragraph, adopts a document that contains content elements that caused approval to be denied, it may request the opinion of the Commission on the conformity of the document with the RCM plan.

The first three paragraphs do not apply to the replacement of a comprehensive plan.

98. The Commission must give its opinion not later than 60 days after the day on which it receives a copy of the resolution requesting the opinion under section 96 or 97.

An opinion stating that the amendment or new comprehensive plan is not in conformity with the RCM plan may include suggestions of the Commission on how to ensure such conformity.

The secretary of the Commission sends an authenticated copy of the opinion to the regional county municipality and the local municipality.

If the opinion of the Commission states that the amendment or new comprehensive plan is in conformity with the RCM plan, the regional county municipality must, as soon as practicable after receiving a copy of the opinion, issue a certificate of conformity and send a copy of it to the local municipality.

99. If the amendment whose approval has been denied by the council of the regional county municipality is a harmonization amendment referred to in section 38, that council must request the council of the local municipality to replace the amendment if

(1) the local municipality did not request the opinion of the Commission; or

(2) the opinion of the Commission states that the amendment is not in conformity with the RCM plan.

The council of the regional county municipality sets a deadline for the replacement, which must not be earlier than the forty-fifth day following the day on which an authenticated copy of the resolution requesting the replacement is sent to the local municipality.

The provisions of sections 87 to 91 relating to information and to public consultation do not apply to a document that differs from the document it replaces, at the request of the council of the regional county municipality, only so as to bring it into conformity with the RCM plan.

100. If the council of the local municipality fails to adopt the amendment by the deadline set under section 99, the council of the regional county municipality may do so in its place.

The provisions of sections 87 to 91 relating to the adoption of a draft amendment, to information and to public consultation and those of sections 94 to 99 relating to conformity with the RCM plan do not apply to an amendment adopted by the council of the regional county municipality under the first paragraph. The amendment is deemed to be adopted by the council of the local municipality and approved by the council of the regional county municipality. As soon as practicable after the amendment is adopted, the secretary of the

regional county municipality issues a certificate of conformity in respect of the amendment.

As soon as practicable, authenticated copies of the amendment and the certificate of conformity are sent to the local municipality. The copy sent to the local municipality stands in lieu of the original for the purposes of the issue of authenticated copies of the amendment by the local municipality.

The expenses incurred by the regional county municipality to act in the place of the local municipality are reimbursed by the local municipality.

101. The amendment comes into force on the date of the issue of the certificate of conformity. It is deemed to be in conformity with the RCM plan.

CHAPTER IV

OBLIGATION TO MONITOR AND MEASURE IMPLEMENTATION OF COMPREHENSIVE PLAN

102. A local municipality must use indicators to monitor and measure the implementation of its comprehensive plan and to evaluate progress toward plan objectives and success in carrying out plan proposals; the council of the local municipality must adopt a biennial report on those subjects.

TITLE IV

PLANNING BY-LAWS

CHAPTER I

GENERAL PROVISIONS

103. Planning by-laws are local or regional.

Chapter II defines powers and obligations with respect to local planning by-laws; Chapter III defines powers with respect to regional planning by-laws.

104. Sections 2, 3, 5 and 6 of the Municipal Powers Act (R.S.Q., chapter C-47.1) apply to this Title and the regulatory provisions adopted under this Title, which, more specifically, must be interpreted so as to facilitate rational land use planning and the harmonious development by municipalities of their territory, ensure the protection of the environment and promote a quality built environment.

However, unless expressly authorized or required by the RCM plan, the provisions of this Title do not entail the power to enact a prohibition applicable throughout the territory of a local municipality or a regional county municipality.

CHAPTER II

LOCAL PLANNING BY-LAWS

DIVISION I

PLANNING COMMITTEES

§1. — *Planning advisory committee*

105. The council of a local municipality may, by by-law, establish a planning advisory committee.

106. The planning advisory committee must include at least one member of the council and, forming a majority, citizens residing in the territory of the municipality selected through a public application process, of which the number and the selection criteria are defined by by-law.

The planning advisory committee may not include any employee of the municipality.

The term of a member, set by by-law at a maximum of four years, may be renewed once.

107. The planning advisory committee gives the council or the planning decision committee, if any, the opinions and recommendations provided for by law and exercises powers of examination and recommendation in the cases provided for by by-law or at the request of the council.

108. The planning advisory committee must be established prior to the exercise of regulatory powers attributing discretionary powers in individual cases under Division III or regulatory powers relating to the amendment of planning by-laws on request under Division VI.

§2. — *Planning decision committee*

109. The council of a local municipality may, by by-law, establish a planning decision committee.

However, a borough council composed of fewer than seven members may not establish a planning decision committee.

110. The planning decision committee must be composed of three members of the council.

111. Sitzings of the planning decision committee are public.

112. The planning decision committee exercises the discretionary powers in individual cases under Division III that are delegated to it by by-law of the council.

However, a delegation of powers under the first paragraph is without effect with respect to a matter

(1) in which the applicant is a member of the committee; or

(2) in whose respect a member of the committee is obliged to disclose his or her interest in accordance with section 361 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2).

113. A committee decision referred to in section 114 may be reviewed by the council on an application, including reasons, from any interested person made not later than 15 days after the decision is published under section 150.

After publishing a notice within the period and according to the rules provided for in section 148, the council renders its decision not later than at the second regular sitting after receipt of the application; it renders any decision it considers appropriate in replacement of the committee's decision. The decision of the council is without appeal.

The provisions of the Act respecting elections and referendums in municipalities that determine how a legal person exercises its rights apply, with the necessary modifications, to the signature of the application.

Any member of the council who is also a member of the committee may participate in the deliberations and vote on the matter, unless the person applied for the review.

For the purposes of the first paragraph, an interested person is any person who would be a qualified voter, within the meaning of the Act respecting elections and referendums in municipalities, and would be entitled to be registered on the referendum list of the zone if the committee's decision were subject to approval by referendum and if the date of reference were, within the meaning of that Act, the date of the committee's decision.

114. The following are subject to review:

(1) any decision under section 128 authorizing or denying a conditional use, or imposing conditions on a conditional use;

(2) any decision under section 132 approving or denying approval of an undertaking under an incentive by-law;

(3) any decision under section 135 approving or denying approval of a site and architectural integration plan, including the possibility of attaching conditions to it;

(4) any decision under section 139 granting or denying a minor exemption, including the possibility of attaching conditions to it; and

(5) any decision under section 143 authorizing or prohibiting a demolition and, if the demolition is authorized, any decision approving a program for the reutilization of the vacated land, requiring work, setting a time limit and granting or denying an extension.

§3. — *Operation*

115. The council of the local municipality appoints the members of a planning committee by resolution, including in cases where such members are to replace members appointed by by-law. In the case of the planning decision committee, the council designates the chair.

The council may appoint to a planning committee persons whose services are useful for the exercise of its functions, and make available the necessary sums.

A planning committee makes its own by-laws.

116. The quorum at sittings of a planning committee is the majority of its members.

117. A planning committee's opinions, recommendations and decisions require a majority of the votes cast and must include reasons.

DIVISION II

ZONING, SUBDIVISION AND BUILDING BY-LAWS

118. A local municipality is required to maintain in force at all times a zoning by-law, a subdivision by-law and a building by-law applicable to its whole territory.

119. The purpose of the zoning by-law is to regulate the land occupancy and development throughout the territory of the local municipality, authorize various uses, activities, structures and works in various parts of the territory and make them subject to standards.

A standard adopted under the first paragraph with respect to signage is not applicable to posters and billboards posted during an election or referendum period for election or referendum purposes.

120. The purpose of a subdivision by-law is to regulate the subdivision of the land throughout the territory of the local municipality, and prescribe dimension and lay-out standards for public and private thoroughfares.

121. The zoning by-law may prohibit new land uses or the erection of any new structure or work, in any part of the territory specified in the comprehensive plan as being subject to constraints related to public security, public health or the environment.

The subdivision by-law may also prohibit subdivision of the land in any such part of the territory.

Such prohibitions may also be imposed on a part of the territory not described in the first paragraph; in such a case, the resolution adopting the by-law must give reasons for the prohibition.

Regulatory provisions adopted under the first or second paragraph may provide for an exemption from the prohibition in respect of a specific immovable or a specific land use, structure or work.

122. For the purpose of controlling development in the territory of the municipality, the council may, by by-law, prohibit the construction, alteration, enlargement or addition of buildings on land that does not form a separate lot on the cadastre; such a by-law may also, to the extent it determines, prohibit such work on, and any subdivision of, land that is not properly served by a public utility determined by the council.

For the purposes of the first paragraph, a utility is public even if permanent infrastructures that must be maintained or installed by the utility are private property.

123. The purpose of the building by-law is to ensure that structures are of good quality, solid, safe, sanitary and functional, and prescribe standards to that effect. It may also establish standards and prescribe measures relating to the maintenance of structures and the occupancy of buildings, and regulate their demolition.

If the by-law incorporates, by reference, standards established by another authority, it may include a procedure for incorporating amendments adopted by the other authority into the by-law.

DIVISION III

REGULATORY POWERS ATTRIBUTING DISCRETIONARY POWERS IN INDIVIDUAL CASES

§1. — *General provisions*

124. This chapter makes provision for the adoption by the council of a local municipality of by-laws whose purpose is to attribute discretionary powers in individual cases that are to be exercised, prior to the issue of a permit, by resolution of the council or by resolution of the planning decision committee, if any, following a delegation of powers under section 112.

125. Any regulatory provision adopted under this chapter must establish the procedure for applying to the council or the planning decision committee, if any, for the exercise of discretionary powers. So that the council or the committee will be provided with the information necessary or helpful to

exercising those powers, the regulatory provision must also prescribe what documents or plans must be filed with the application and their minimum content.

126. The following resolutions of the council or the planning decision committee require a prior recommendation of the planning advisory committee:

- (1) any resolution authorizing or denying a conditional use;
- (2) any resolution providing for or prohibiting the application of an alternate standard under an incentive by-law;
- (3) any resolution approving or denying approval of site and architectural integration plans;
- (4) any resolution granting or denying a minor variance; and
- (5) any resolution authorizing or prohibiting a demolition.

Any decision set out in such a resolution must include reasons; if a favourable decision is made subject to conditions, financial guarantees may be required in order to ensure they are met.

§2.—Conditional uses

127. The zoning by-law may provide that certain uses are subject to prior authorization, which itself may be made subject to conditions to facilitate the integration of the uses and reduce its impact on the neighbourhood.

It must establish the criteria for evaluating applications and determining conditions for each conditionally authorized use.

128. Any resolution authorizing a conditional use must determine conditions for the integration or exercise of that use.

An authenticated copy of the resolution is sent as soon as practicable to the applicant and must be attached to the permit issued by the competent officer.

§3.—Incentive by-laws

129. A zoning by-law may, in respect of any part of the territory identified for that purpose in the comprehensive plan and in accordance with the objectives, strategies and targets defined for that purpose in the comprehensive plan, provide that, in replacement of a standard contained in the by-law, except any standard concerning land use, an alternate standard set out in the by-law will apply, subject to an undertaking by the permit applicant to make a certain layout or build certain facilities of general interest on the site covered by the permit application.

130. The by-law must, for each alternate standard it provides, define the types of undertakings that could be required from the permit applicant.

To warrant the application of the alternate standard, an undertaking must involve work that is in addition to the work inherent in the project initially submitted by the permit applicant.

131. The permit applicant's undertaking must include a detailed description and an estimate of the cost of the work involved.

132. An authenticated copy of the approved undertaking must be attached to the resolution approving it; the resolution must identify which of the alternate standards set out in the by-law applies.

An authenticated copy of the documents must be attached to the permit issued by the competent officer.

§4. — *Site and architectural integration plans*

133. The council may, by by-law and on the basis of specified objectives, make the issue of a permit subject to the approval of site, architectural and layout plans, and of the related work plans.

The by-law must establish criteria to evaluate whether the objectives that can be evaluated before the permit is issued have been met.

134. The council or the planning decision committee, if any, may order that the plans be submitted beforehand to public consultation under sections 207 to 209, with the necessary modifications.

135. The decision must comply with the applicable by-laws and meet the objectives and criteria set out in the by-laws. If the decision approves the plans, it may provide, as one of the conditions, that the owner must assume the cost of certain elements, in particular that of infrastructures or public facilities, or that the owner must carry out the project within a certain time, failing which the permit will be revoked.

An authenticated copy of the resolution containing the decision must be sent as soon as practicable to the applicant and be attached to the permit issued by the competent officer.

§5. — *Minor variances*

136. The council may, by by-law, provide for the possibility of granting, on an application, minor variances to the zoning or the subdivision by-law, except to any provision relating to land uses.

The by-law must list the provisions of the zoning and subdivision by-laws to which a minor variance may be applied for.

137. A variance may only be granted if it is obviously minor in nature or shown to be so by the applicant, in particular with respect to the following criteria:

(1) if the variance were not granted, the application of the by-law would cause serious prejudice to the applicant, specifically in relation to the immovable that is the subject of the application;

(2) the variance would prevent prejudice, not procure an advantage to the applicant;

(3) the variance would have little or no effect on neighbouring properties and the enjoyment of those properties by the owners or occupants;

(4) the variance does not involve any increased risk to public health, public security or the environment; and

(5) if the variance concerns work in progress or already carried out, the work is being or was carried out in good faith.

The variance must be consistent with the overall intentions and principles of the comprehensive plan and the planning by-laws.

138. If the variance is granted, the reasons must be explicitly based on the criteria set out in section 137. The resolution must explain, in particular and specifically,

(1) the nature of the serious prejudice invoked in support of the application;

(2) the specificity of the prejudice and how it differs from a normal inconvenience inherent in the measure to which a variance is applied for; and

(3) why the variance will have little or no effect on the neighbouring properties and the enjoyment of those properties by the owners or occupants.

139. The resolution granting a variance may make the variance subject to any condition that will reduce its impact.

An authenticated copy of the resolution containing the decision must be sent as soon as practicable to the applicant; if applicable, it must be attached to the permit issued by the competent officer.

140. The by-law allowing the council to grant minor variances may provide that any nonconforming situation resulting from the granting of a variance is to be considered a nonconforming situation protected by vested rights and to be subject to the regulatory provisions adopted under Division IV.

If there is no such provision in the by-law, any resolution granting a variance may so provide with respect to that variance.

§6. — *Demolition*

141. The council may, by by-law, make the issue of any permit to demolish an immovable subject to prior authorization by the council.

If the immovable contains one or more dwellings within the meaning of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1), the application must be filed with a sworn statement to the effect that a copy of the application was sent to each of the tenants of the immovable or that the immovable is uninhabited.

142. At any time before the sitting at which the application is to be discussed, any person may object in writing to the application.

If the objection is from a person who claims to be undertaking or pursuing negotiations to acquire the immovable to preserve it as rental housing, the decision may not be rendered before the expiry of 60 days after receipt of the objection; the decision may, however, be rendered after the expiry of that time despite any other objection received in the meantime.

143. After holding a public hearing if it considers it advisable, the council or the planning decision committee, if any, authorizes the demolition if it is convinced that the demolition is warranted.

In addition to the public interest and any other criterion considered relevant, the state of the immovable and the impact that its demolition would have on the architectural and aesthetic character of the neighbourhood and on the conservation of built heritage must be taken into consideration in evaluating whether the demolition is warranted. If the immovable includes one or more dwellings, housing needs in the neighbourhood, the potential prejudice caused to the tenants by the demolition, and the tenants' relocation difficulties must also be taken into consideration.

An authenticated copy of the resolution containing the decision must be sent without delay to every party concerned.

144. The council or the planning decision committee, if any, may make the authorization of the demolition subject to the filing by the applicant of a project, compliant with the by-laws, for the reutilization of the vacated land. In such a case, acceptance of the project includes authorization of the demolition.

The council or committee may also make the authorization of the demolition subject to an undertaking by the applicant to carry out site revitalization or preservation work or work conducive to integration of the site into the neighbourhood.

The council or committee may set a time limit for carrying out the project or, as applicable, the work, including the demolition work.

145. If the demolition does not begin within the time granted, the authorization is without effect and the permit lapses, unless the council or planning decision committee extended the time limit by a resolution adopted before that date; if a dwelling in the immovable is still occupied by a tenant, the lease is extended of right and the lessor may, in the following month, apply to the Régie du logement for determination of the rent.

146. If the immovable includes one or more dwellings, the authorization entails, for the lessor, the right to evict tenants on the later of the expiry of their current lease and the date occurring three months after the date of the authorization.

The eviction may be made subject to compliance with any condition, determined in the authorization, relating to the relocation of tenants.

147. An evicted tenant is entitled to an indemnity equal to the three months' rent plus moving costs. If the prejudice caused to the tenant exceeds that sum, the tenant may apply to the Régie du logement to set the amount of damages.

§7.—*Public notices*

148. A notice must be published at the applicant's expense not less than 15 days before the day of any sitting at which a decision on an application under this division is to be made.

The notice must describe the immovable in a way that makes it identifiable, explains the nature of the application and specifies the date, time and place of the sitting at which any interested person will be heard.

The notice is published in accordance with the rules applicable to the municipality; in the case of an application for a minor variance, an application for a conditional use or an application for demolition, and in any other case in which a by-law of the municipality so requires, the notice must be posted on the building and clearly noticeable and visible from the public highway.

149. In the case of an application for the demolition of an immovable, the notice must also mention that any person may, at any time before the sitting at which the application is to be discussed, object in writing to the application; the notice must also state the rule set out in the second paragraph of section 142.

150. Any decision made by the planning decision committee, including a decision on an application for demolition, that is subject to review by the council under section 113 must also be made public by means of a notice under section 148 as soon as practicable after its adoption.

DIVISION IV

VESTED RIGHTS

151. The council may, by by-law, provide that there are no vested rights against regulatory provisions that govern signage, that prohibit elements comparable to protective elements or fortifications or that require the presence of plants on land.

The by-law must prescribe the period allotted to ensure compliance with the regulatory provisions concerned. The period may not be less than six months and begins on the sending by registered or certified mail of a notice to that effect by the municipality.

152. The council may, by by-law, provide for the loss of a vested right to a nonconforming use if the use ceases for a certain period.

The by-law defines the duration of the period, which may not be less than six months, that entails the loss of the vested right.

153. The council may, by by-law, regulate or prohibit the modification or worsening of any nonconforming situation protected by vested rights.

154. The council may, by by-law, adopt rules applicable to the repair or reconstruction of a nonconforming building with regard to compliance with the by-laws applicable at the time of the repair or reconstruction.

The rules adopted under the first paragraph may, among other things,

(1) include criteria with respect to the loss of value of the building as a result of a fire or any other cause; and

(2) set a time limit, starting on the date of the loss of value, on the expiry of which an application for a permit for reconstruction or repair should comply with the by-laws in force at the time of the application.

DIVISION V

PERMITS

§1. — *General provisions*

155. In order to ensure compliance with the by-laws adopted under this Act, a by-law of the council may provide that a permit must be obtained.

A permit, within the meaning of this Act, is an authorization given by the municipality to perform an act or exercise an activity in accordance with the applicable by-laws and, if applicable, with any discretionary decision in an individual case. A permit may also be called a certificate.

The by-law must designate a municipal officer responsible for issuing permits. So that the officer will be provided with the information necessary or helpful to exercising his or her functions, the by-law may also prescribe what documents or plans must be filed with a permit application and their minimum content.

156. The Government may, by regulation, require the officer responsible for issuing permits to obtain certain information before issuing a permit.

The regulation may require the information to be recorded on a prescribed form and require the municipality to send such forms periodically to a recipient designated in the regulation, according to the procedure determined in the regulation.

157. Before issuing a building permit, the officer responsible for issuing permits must obtain a written declaration from the applicant stating whether or not the permit applied for concerns a building to be used as a seniors residence.

On 1 April of each year, the officer sends the health and social services agency whose territory includes that of the municipality all declarations received in the preceding 12 months stating that the permit applied for concerns a building to be used as a seniors residence.

A seniors residence is a congregate residential facility where rooms or apartments for seniors and a varied range of services, principally in the areas of security, housekeeping assistance and assistance with social activities, are provided in return for rent, except a facility operated by an institution within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) or a building or residential facility where services are provided by an intermediate resource or a family-type resource within the meaning of that Act.

158. No permit authorizing the subdivision of or construction work on a parcel of land entered on the list of contaminated lands provided for in section 31.68 of the Environment Quality Act that is subject to a land rehabilitation plan approved by the Minister of Sustainable Development, Environment and Parks under Division IV.2.1 of Chapter I of that Act may be issued unless the application is filed with a certificate from an expert referred to in section 31.65 of that Act attesting that the application is consistent with the rehabilitation plan.

159. The subdivision by-law may make the issue of subdivision permits subject to compliance with the planned layout of thoroughfares provided for in the comprehensive plan and to payment of any outstanding taxes and compensations relating to the immovable concerned.

§2.—*Special requirements related to certain constraints*

160. The council may, in any part of territory identified in the comprehensive plan as being subject to constraints related to health, security or the environment, make the issue of any permit subject to the filing by the applicant of an expert report determining

- (1) whether the permit may be issued given the applicable constraints;
- (2) if appropriate, the conditions and prescriptions to which the issue of the permit must be made subject, which may include the carrying out of work by the applicant, before or after the issue of the permit and in addition to work covered by the application, for the purpose of effectively preventing the occurrence of the risks related in the applicable constraints.

The by-law must identify the constraints and determine what expert opinions are required on the basis of those constraints.

If the report requires work to be carried out before the permit is issued, the permit may be issued on receipt by the municipality of a certificate from the expert attesting that the work has been carried out to the expert's satisfaction, in accordance with the conditions and prescriptions set out in the report.

A copy of the expert report must be attached to the permit issued by the competent municipal officer.

§3.—*Parks, playgrounds and natural spaces*

161. In order to promote the establishment, maintenance and improvement of parks and playgrounds and the preservation of natural spaces, the council may, by by-law and in the cases it determines, make the issue of subdivision permits and building permits subject to an undertaking by the applicant to transfer free of charge to the municipality the ownership of an immovable or a land servitude suitable for those purposes.

In the case of a subdivision permit, a requirement under the first paragraph does not apply to applications relating to a lot number cancellation, correction or replacement that does not entail any increase in the number of lots.

In the case of a building permit, a requirement under the first paragraph applies, with respect to an immovable, only if

- (1) the immovable is under a redevelopment project defined in the by-law; and
- (2) the building permit applied for relates to the construction of a new main building on an immovable whose registration as a separate lot did not entail the issue of a subdivision permit because it resulted from cadastral renewal.

162. The by-law may determine cases in which the undertaking to make a transfer under section 161 may be replaced in whole or in part by the payment of a sum of money prior to the issue of the permit; it may also delegate to the council or the executive committee the power to allow such a replacement on a case-by-case basis.

163. The by-law must include rules to determine the land area involved in a transfer under section 161 and its location and, if applicable, the sum of money to be paid.

The by-law may not require a land area greater than 10% of the total area of the site, nor a sum of money greater than 10% of the value of the site. If both a transfer and a payment are required, the total of the value of the land area involved in the transfer and the sum paid must not exceed 10% of the value of the site.

The rules concerning requirements prior to the issue of subdivision permits must take into account, in the applicant's favour, any transfer or any payment made at the time of a previous application concerning all or part of the site.

For the purposes of this subdivision, "site" means

(1) in the case of an application for a subdivision permit, the whole parcel of land covered by the application; or

(2) in the case of an application for a building permit, the site of the immovable covered by the application.

164. The location involved in a transfer under section 161 is determined by agreement with the municipality or, in the absence of agreement, by the council.

If the location is not part of the site, the rules provided for in section 163 do not apply.

165. For the purposes of this subdivision, property values are determined by a chartered appraiser commissioned by the municipality at the applicant's expense on the date of the application, according to the rules applicable to expropriation.

However, the by-law may provide that, if the property values to be determined concern parcels of land constituting units of assessment entered on the property assessment roll or parts of such a unit of assessment whose values are entered separately on the roll, the property values shown on the property assessment roll of the municipality apply. In such a case, the value considered is the product obtained by multiplying the value entered on the roll for the unit or part of a unit corresponding to the parcel of land whose value must be determined by the factor of the roll determined under section 264 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

166. Any value determined by the appraiser commissioned by the municipality may be contested before the Administrative Tribunal of Québec.

Such a proceeding does not exempt the applicant from paying the sum of money and, if applicable, making the transfer on the basis of the value determined by the appraiser.

167. To submit the matter to the Tribunal, a party must serve a notice of contestation on the other party and file it and proof of service with the Tribunal. The notice must be filed with the building or subdivision permit, as applicable, and a plan and a description, signed by a land surveyor, of the parcel of land whose value is contested; an authenticated copy of such documents may be filed in place of the originals.

The notice of contestation must mention the value determined by the appraiser, refer to the plan and description, summarily set out the grounds for contestation, specify the date of receipt by the municipality of the application for a building permit or of the plan relating to the cadastral amendment authorized by the subdivision permit, as applicable, and request the Tribunal to determine the value of the parcel of land concerned.

The documents mentioned in the first paragraph must, on pain of dismissal of the proceeding, be filed within 30 days of the issue of the building or subdivision permit.

168. On the filing of the documents mentioned in the first paragraph of section 167, the applicant and the municipality become parties to the proceeding.

Within 60 days after service of the notice of contestation, each party must submit a statement containing its estimate of the value of the parcel of land concerned and the reasons on which it is based.

If one party fails to submit a statement, the other party may proceed by default.

169. The burden of proof lies with the party contesting the value determined by the appraiser.

170. The Tribunal may, in a decision giving reasons, either confirm the value determined by the appraiser, or quash that value and determine the value of the land concerned as at the date the municipality received the application for a permit; it is not bound to determine a value that is situated somewhere between the estimates submitted by the parties. It also rules on the costs.

171. The provisions of the Expropriation Act (R.S.Q., chapter E-24) that are not inconsistent with sections 167 to 170 apply, with the necessary modifications, to the contestation of the value determined by the appraiser.

172. If it follows from the Tribunal's decision that the sum of money paid to the municipality by the applicant is too high, the municipality must refund the overpayment to the applicant.

If it follows from the Tribunal's decision that the total of the value of the land involved in the transfer under section 161 and the sum of money paid is more than it should have been, the municipality must refund an amount equal to that excess to the applicant.

In addition to the capital of the amount to be refunded, the municipality must pay to the applicant, at the same time, the interest which would have accrued on such capital, at the rate applicable to arrears on taxes in the municipality, from the date of payment to the date of the refund.

173. If it follows from the Tribunal's decision that the sum of money paid to the municipality by the applicant is insufficient, the applicant must pay the difference to the municipality.

If it follows from the Tribunal's decision that the total of the value of the land involved in the transfer under section 161 and the sum of money paid is less than it should have been, the applicant must pay to the municipality an additional sum equal to the difference.

In addition to the capital of the amount to be paid, the applicant must also pay to the municipality the interest that would have accrued on the capital, at the rate applicable to arrears on taxes in the municipality, from the date of the payment prior to the Tribunal's decision to the date of the payment provided for in this section.

The amount to be paid is secured by a legal hypothec on the unit of assessment that includes the site.

174. The land involved in a transfer under section 161 is reserved for the establishment or enlargement of parks or playgrounds or for the preservation of natural spaces.

All sums of money paid in lieu of a transfer under section 161 and all amounts received by the municipality as consideration for the sale of land that the municipality would have received in full ownership under section 161 form part of a special fund.

The fund is earmarked exclusively for the development of parks or playgrounds, the preservation of natural spaces or the purchase of plants for municipal property.

175. Sums of money paid in lieu of a transfer under section 161 do not constitute a tax, compensation or mode of tariffing.

§4. — *Parking*

176. The council may, by by-law, make the issue of any building permit subject to payment by the applicant, in exchange for an exemption from providing all or part of the parking spaces required by the by-laws, of a sum

of money to be paid into a fund earmarked exclusively for the increased supply of public parking and the financing of any facility or infrastructure to promote alternative transportation.

The by-law must include rules for determining the amount to be paid.

“Alternative transportation” means active transportation such as walking or cycling, as well as public transit and any other type of group transportation.

Any sums of money the municipality pays out of the fund to the body responsible for public transit in its territory is in addition to the aliquot share normally payable under the applicable rules, and must be used for capital expenditures to improve service in the territory of the municipality.

§5. — Transfer in respect of streets

177. The council may, by by-law, provide that, prior to the issue of a subdivision permit, the owner of an immovable must undertake to transfer free of charge to the municipality parts of the immovable, duly identified on a plan filed with the application or agreed on with the municipality and in compliance with the by-laws, to be used as a right-of-way for public thoroughfares.

§6. — Agreements relating to municipal work

178. The council of a local municipality may, by by-law, make the issue of any permit subject to the signing of an agreement between the applicant and the municipality concerning the carrying out of infrastructure work or work on municipal facilities and concerning the related bearing or sharing of costs.

The by-law must set out the terms for determining what portion of the costs will be borne by the permit holder and what portion will be borne by other persons benefited by the work; it must set out the terms of payment and collection of aliquot shares from the different persons benefited by the work and set the interest rate applicable to any unpaid amounts.

The by-law may also make the issue of any permit to the persons benefited by work other than the permit holder subject to the prior payment of all or part of their aliquot shares or the provision of a guaranty or security.

179. The agreement must describe the work concerned and assign responsibility for carrying out the work. The agreement may concern infrastructures or facilities, regardless of their location, intended to serve not only immovables covered by the permit but also other immovables in the territory of the municipality.

If all or part of the work is under the responsibility of the permit holder, the agreement must determine the costs related to the work, set a time limit for the

work to be carried out and prescribe the penalty applicable if the work is not completed within that time.

If applicable, the agreement must determine how the permit holder is to pay aliquot shares to the municipality, and must set the interest payable on any unpaid amounts.

The agreement also determines how the municipality is to remit the aliquot shares payable by the other persons benefited by the work to the permit holder; it must set time limits for the municipality to pay to the permit holder the amounts equivalent to the aliquot shares not paid by those persons.

The agreement must provide for the financial guaranties or securities to be required from the permit holder.

If the agreement provides for the payment of aliquot shares by other persons benefited by the work, it must identify in a schedule the immovables that make them subject to such payment or prescribe the criteria to identify those immovables; the schedule may be amended by resolution of the council of the municipality to update it or to add any immovable that makes a person benefited by the work subject to the payment of an aliquot share.

180. The sums of money collected by the municipality under the agreement and owed to the permit holder are paid to the permit holder after deduction of the collection costs.

181. Sections 1 to 3 of the Municipal Works Act (R.S.Q., chapter T-14) do not apply to work carried out in accordance with an agreement under this subdivision. However, the rules of that Act relating to the financing of work by a municipality apply.

Section 29.3 of the Cities and Towns Act (R.S.Q., chapter C-19) and article 14.1 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) do not apply to an agreement under this subdivision.

Sections 573 to 573.4 of the Cities and Towns Act and articles 935 to 938.4 of the Municipal Code of Québec do not apply to work carried out under the responsibility of a permit holder pursuant to an agreement under this subdivision.

182. An aliquot share paid under this subdivision does not constitute a tax, compensation or mode of tariffing.

§7. — Affordable housing

183. The council may, by by-law and in accordance with the objectives, strategies and targets defined for that purpose in the comprehensive plan, make the issue of a building permit for the construction of a housing project subject to the signing of an agreement between the applicant and the municipality

concerning the inclusion of a determined number of affordable dwellings in the housing project.

“Housing project” means any construction project of 20 or more housing units.

“Affordable dwelling” means a housing unit that a person with low or moderate income can afford to purchase or rent.

184. The by-law must contain rules to determine the number and type of affordable dwellings that can be required under the agreement; the rules may provide that the number is to be determined in the agreement, subject to a minimum and maximum number determinable under the rules.

185. The agreement must establish rules under which the purchase or rental of the housing units concerned, for their whole useful life, will be reserved for persons with low or moderate income.

The agreement may contain rules or standards for the dimensions of the housing units concerned, the number of rooms they comprise, their location in the housing project and their design and construction.

The municipality must publish the agreement at the registry office; on its publication, the agreement becomes enforceable against any person during the useful life of the immovable.

186. Rules to determine what constitutes low or moderate income and what constitutes an affordable dwelling are prescribed by regulation of the Government.

DIVISION VI

AMENDMENT OF PLANNING BY-LAWS UPON APPLICATION

§1. — *General provisions*

187. The council of a local municipality may, by by-law, regulate applications for the amendment of the planning by-laws of the municipality; the by-law must establish, among other things, the procedure for making an application and, so that the council will be provided with information that is necessary or helpful to exercising that power, it must prescribe what documents or plans must be filed with the application and their minimum content.

188. Any resolution of the council authorizing or refusing a specific project in accordance with a by-law under section 189 or authorizing or refusing an overall development plan in accordance with section 196 requires a prior recommendation of the planning advisory committee.

The decision set out in such a resolution must include reasons; if a favourable decision is made subject to conditions, financial guarantees may be required in order to ensure they are met.

§2. — *Amendment concerning a specific project*

189. A by-law of the council may allow the council, on application and subject to certain conditions, to authorize a specific construction, building alteration or building occupancy project that does not conform to a by-law provided for in Division II or III.

To be authorized, the project must be consistent with the objectives of the comprehensive plan of the municipality and must conform to all provisions imposing constraints for public security reasons.

190. The by-law must delimit the parts of the territory where a specific project may be authorized.

It must establish the applicable procedure, specify what documents must be filed with the application and establish criteria for evaluating the application.

191. The amendments required for the carrying out of a specific project authorized by the council are integrated into the planning by-laws by a by-law which is adopted and comes into force in accordance with Title V.

The resolution adopting the by-law must set out any condition to be met with regard to the project.

192. As soon as practicable after the resolution is passed, an authenticated copy of the resolution is sent to the applicant.

§3. — *Overall development plans*

193. A by-law of the council may allow the council to require, as a prior condition to the amendment, on application, of the planning by-laws the production of an overall development plan for the zone concerned.

194. The by-law must identify any zone with respect to which an amendment of the planning by-laws is subject to the production of an overall development plan.

It must specify, for each zone, the land uses and occupation densities applicable to an overall development plan.

It must establish the procedure for an application for an amendment to the planning by-laws when the production of an overall development plan is required.

It must prescribe the mandatory components of an overall development plan and the required accompanying documents, and determine the criteria for the evaluation of such a plan.

195. Before approving an overall development plan, the council may require that the owners of the immovables situated in the zone concerned bear the cost of certain components of the plan, particularly that of infrastructures and facilities, that they implement the plan within a specified time, and that they provide financial guarantees.

196. As soon as practicable after the passage of a resolution approving or denying approval of an overall development plan, an authenticated copy of the resolution is sent to the applicant.

197. An approved overall development plan is integrated into the planning by-laws by a by-law which is adopted and comes into force in accordance with Title V.

CHAPTER III

REGIONAL PLANNING BY-LAWS

198. A regional county municipality may regulate the planting and felling of trees in order to protect private forests and promote their development in keeping with the principles of sustainable development.

199. A regional county municipality may establish separation distances in or near agricultural zones to reduce the inconvenience caused by odours from certain agricultural activities or protect a water supply source.

200. A regional county municipality may, with respect to a determined place, establish zoning or subdivision standards in view of

(1) any factor, specific to the nature of the place, that it considers must be taken into consideration for public health or public security or to protect riverbanks and lakeshores, littoral zones, floodplains, water environments and wetlands; or

(2) the actual or potential proximity of an immovable or activity that subjects land occupancy to significant constraints related to public security or public health.

201. For the purposes of this chapter, the council of a regional county municipality has the powers provided for in sections 119, 120 and 152 to 155 with respect to zoning, subdivision, vested rights and permits, with the necessary modifications.

The council of a regional county municipality also has, in the territory of the local municipalities that have a planning advisory committee, the powers

provided for in sections 136 to 140 with respect to minor variances. However, the by-law on minor variances to regional planning by-laws must specify which council, from among those of the regional county municipality and the local municipalities in its territory, has the power to grant variances; in the latter case, a delegation to the planning decision committee by the council of a local municipality in accordance with section 112 also applies to variances from regional planning by-laws.

For the purposes of the third paragraph of section 155, the council of the regional county municipality may designate an officer in each local municipality in whose territory the by-law applies; the designation is only valid if the council of the local municipality consents to it.

202. The coming into force, in the territory of a local municipality, of a provision of a regional planning by-law adopted under this chapter entails the lapse of any local regulatory provision concerning the same subject and of the power of the local municipality to adopt such a provision.

TITLE V

ADOPTION AND COMING INTO FORCE OF PLANNING BY-LAWS OF LOCAL MUNICIPALITY

CHAPTER I

INTRODUCTORY PROVISIONS

203. This Title determines the formality requirements for the adoption and coming into force of a planning by-law of a local municipality.

These requirements concern prior information and public consultation with respect to a draft by-law, referendum approval of certain by-laws, and the examination of certain by-laws for conformity with the RCM plan of the regional county municipality.

204. For the purposes of this Title, a provision which, once in force, would operate to modify the following in a specific place is subject to referendum approval:

- (1) the list of authorized uses, including conditional uses;
- (2) a standard relating to the authorized dimension, volume or type of buildings.

A provision adopted under section 129 establishing, as an incentive, an alternate standard with respect to any of the subjects listed in subparagraph 2 of the first paragraph is also subject to referendum approval.

205. Despite section 204, the following are not subject to referendum approval:

(1) any provision insofar as it applies to a zone exempt from referendum approval delimited in accordance with section 82;

(2) a provision adopted for public security, public health or environmental reasons.

CHAPTER II

INFORMATION AND PUBLIC CONSULTATION WITH RESPECT TO DRAFT BY-LAW

DIVISION I

RESOLUTION OF INTENTION AND DRAFT BY-LAW

206. The council of a local municipality that intends to adopt a by-law to which this section applies must express that intention by resolution beforehand. The council adopts a draft by-law by the same resolution.

The resolution must explain the content and objectives of the draft by-law and relate them to the objectives, strategies and targets defined in the comprehensive plan; if the purpose of a provision of the draft by-law is to allow a real estate development project to be carried out, it must explain the nature of the project.

DIVISION II

INFORMATION AND PUBLIC CONSULTATION WITH RESPECT TO DRAFT BY-LAW CONTAINING NO PROVISIONS SUBJECT TO REFERENDUM APPROVAL

207. A by-law of the council must determine the information and consultation procedure that applies to a draft by-law containing no provisions subject to referendum approval. The by-law may prescribe different rules according to the class of draft by-law it specifies.

If no such by-law is in force, Division IV applies to such a draft by-law, with the necessary modifications.

208. The by-law must prescribe, as a minimum requirement, the publication of a notice addressed to the persons concerned and stating the purpose of the draft by-law and the date of the sitting of the council at which the draft by-law is to be adopted.

If the by-law provides that a public consultation meeting is to be held, it must specify the composition of a commission for that purpose; in such a case, the notice provided for in the first paragraph must also contain information enabling any person to attend the meeting.

209. The adoption of the by-law is preceded by the adoption of a draft by-law, to which Division III applies, with the necessary modifications.

DIVISION III

INFORMATION AND PUBLIC CONSULTATION WITH RESPECT TO DRAFT BY-LAW CONTAINING ONE OR MORE PROVISIONS SUBJECT TO REFERENDUM APPROVAL

§1.—Application

210. This division applies to a draft by-law containing one or more provisions subject to referendum approval.

§2.—Information

211. The municipality makes available for public inspection, at its office, a document that explains the nature and objectives of the draft by-law and how it will contribute to achieving the objectives, strategies and targets defined in the comprehensive plan, and identifies the parts of the territory of the municipality concerned.

If applicable, the document identifies the provisions of the draft by-law that are exempt from referendum approval in accordance with section 82 and explains the reasons for the exemption in relation to the objectives, strategies and targets referred to in that section.

212. With respect to any provision of the draft by-law whose purpose is to amend the by-laws in order to allow a real estate development project to be carried out, the document must state the reasons why the project is admissible, in the opinion of the council, in particular in relation to the achievement of the objectives, strategies and targets defined in the comprehensive plan; it must also explain as thoroughly as possible, given the availability of information at that time,

- (1) the nature of the real estate development project;
- (2) the components of the real estate development project that do not comply with the applicable by-laws and thus require an amendment to those by-laws;
- (3) the nature of the amendments to the by-laws that are required to allow the real estate development project to be carried out; and
- (4) the significant impacts the project will have on its immediate environment.

The municipality makes available for public inspection copies of the resolution and of any document referred to in the resolution, and of the

comprehensive plan, the draft by-law and any other relevant document in its possession, subject to the rights of any third party in those documents.

A copy of the draft by-law and the explanatory document referred to in the first paragraph may be obtained free of charge from the municipality.

213. An information meeting is held by a commission whose members are designated by the council, possibly from among council members; the council also designates the chair of the commission. The commission may be assisted by any officer or employee of the municipality or any expert commissioned for that purpose by the council.

The purpose of the information meeting is to give attendees the information required to understand the draft by-law and answer their questions.

A further purpose of the information meeting is to identify the provisions of the draft by-law that are subject to referendum approval, and to explain those provisions and the referendum approval procedure provided for in sections 218 to 221 in greater detail.

§3. — *Consultation*

214. A consultation meeting is held by the same commission at least seven days after the information meeting.

The purpose of the consultation meeting is to reiterate and complete the information already given during the information meeting, answer questions from attendees and give them an opportunity to voice their views.

215. At the latest 15 days before the information meeting, a public notice is given by the municipality.

The notice must contain the information required to understand the purpose and objectives of the draft by-law; it must also contain all particulars concerning the information and consultation meetings that will enable any person to attend those meetings.

The notice must also state

(1) that an information document is available for public inspection at the office of the municipality;

(2) that any person may obtain a copy of the document free of charge;

(3) whether or not the draft by-law contains one or more provisions subject to referendum approval;

(4) that the commission will receive oral and written comments at the consultation meeting, and that the meeting may involve more than one session,

any subsequent sessions to be announced to the attendees of the first session;
and

(5) that the municipality will receive written comments until the date specified in the notice, which must not be prior to the fifteenth day after the consultation meeting.

The notice must include information identifying the parts of the territory of the municipality affected by the draft by-law; if that information is of a general nature, the notice must mention that more specific information on the subject is available at the office of the municipality.

If the purpose of a provision of the draft by-law is to allow a real estate development project to be carried out, a notice must be posted on the immovable or as close to the immovable as possible to ensure that it is noticeable and clearly visible from the public thoroughfare. The notice must summarize the nature of the draft by-law, state where necessary information may be obtained and contain all particulars concerning the information and consultation meetings that will enable any person to attend the meetings. The notice must remain posted from 15 days before the information meeting until the deadline for receiving written comments referred to in subparagraph 5 of the third paragraph.

216. After the expiry of the period for the receipt of written comments after the consultation meeting, the municipality sees that a consultation report is prepared.

The report must contain the information presented by the municipality and any concerns expressed, questions raised and comments made, and answers and explanations given during the consultation.

The report must be tabled before the council.

A copy of the report may be obtained free of charge from the municipality.

CHAPTER III

ADOPTION OF BY-LAW

217. After the consultation report is tabled, the council adopts the by-law with or without changes.

Despite section 356 of the Cities and Towns Act and article 445 of the Municipal Code of Québec, no notice of motion is necessary prior to the adoption of the by-law.

CHAPTER IV

REFERENDUM APPROVAL

DIVISION I

AMENDING BY-LAW

218. Any provision of the by-law that is subject to referendum approval must be approved by the qualified voters in accordance with the Act respecting elections and referendums in municipalities.

For the purposes of Title II of the Act respecting elections and referendums in municipalities,

(1) each provision subject to referendum approval is deemed to constitute a separate by-law;

(2) for each provision subject to referendum approval, the sector concerned comprises every zone in whose respect the provision operates to modify, add or eliminate any of the standards referred to in section 204 and any zone contiguous to such a zone;

(3) subparagraph 3 of the first paragraph of section 532 of that Act does not apply; and

(4) for the purposes of section 535 of that Act, the number of applications considered is the total number of applications required with respect to the whole by-law.

For the purposes of the second paragraph, if a provision of the by-law affects two or more zones, it is deemed to constitute as many separate provisions applicable to each of those zones.

219. If it is necessary to hold a simultaneous registration procedure in respect of several provisions of the by-law, in accordance with section 540 of the Act respecting elections and referendums in municipalities, a single notice may, despite the second paragraph of that section, be published with respect to the provisions of the by-law which do not concern the same qualified voters.

In such a case, section 539 of that Act applies with the following modifications:

(1) the obligation, imposed by the second paragraph of that section, to identify, in the title of the notice, the group of persons for whom the notice is intended is met if the title mentions that the notice is intended for two or more separate groups of qualified voters;

(2) a summary description and a sketch and description for each sector concerned, and a statement of the number of applications required for each sector in order for a referendum poll to be held may, if they are not included in the notice, be included in separate notices, meeting the requirements of that section, distributed by mail or otherwise in each sector concerned; and

(3) a statement of the object of each provision, required under subparagraph 1 of the third paragraph of that section, may be replaced by a statement to the effect that the purpose of the provisions is explained in an information document, a copy of which may be obtained free of charge by any person.

In addition to the information required under section 539 of that Act, the notice must identify the number of every provision of the by-law which the notice and the register concern.

The notice distributed in accordance with subparagraph 2 of the second paragraph must be received not later than five days before the register opens.

220. If, following the qualified voter registration procedure, a referendum poll must be held with respect to any provision of the by-law, the by-law may not come into force.

The council may, as a replacement and without formality, adopt a by-law that contains no provisions with respect to which a referendum poll must be held; the by-law is deemed to be approved by the qualified voters.

221. The council may also adopt one or more by-laws each of which contains, from among the provisions of the by-law adopted under section 217, only those that must be submitted to a referendum poll involving the same group of qualified voters. Any such by-law must be adopted at the meeting at which the council sets the polling date in accordance with section 558 of the Act respecting elections and referendums in municipalities.

For the purposes of the provisions of that Act that concern the holding of a referendum poll, the date of reference is the date on which the by-law referred to in section 217 is adopted.

DIVISION II

REPLACEMENT BY-LAW

222. The council of a local municipality must, on pain of nullity, adopt a new zoning by-law to replace the existing one on the same day it adopts a by-law establishing a new comprehensive plan to replace the existing one.

Moreover, the council may not initiate a simultaneous comprehensive plan and by-law replacement process under the first paragraph before the expiry of 10 years after the coming into force of the comprehensive plan to be replaced.

223. Despite sections 218 to 221, a by-law establishing a new zoning by-law to replace the existing one in accordance with section 222 must be approved by the qualified voters in the whole territory of the municipality, in accordance with the Act respecting elections and referendums in municipalities.

However, the referendum approval process provided for in that Act may not begin before the by-law is found to be in conformity with the RCM plan. Consequently, the period during which the register is to be open under section 535 of that Act and the 120-day period during which the referendum poll is to be held under section 568 of that Act both begin on the day after the day on which the by-law is found to be in conformity with the RCM plan by the council of the regional county municipality or by the Commission municipale in accordance with Chapter V.

The first paragraph does not apply to a by-law adopted at the same time as the comprehensive plan in accordance with section 222 and already approved by the qualified voters which must be readopted, in accordance with that section, without amendment and at the same time as another by-law that must be adopted to replace a by-law that did not come into force because it was found not to be in conformity with the RCM plan or was not approved by the qualified voters.

CHAPTER V

EXAMINATION OF CONFORMITY WITH RCM PLAN

DIVISION I

PROVISIONS APPLICABLE TO ALL BY-LAWS

224. A by-law must be examined by the council of the regional county municipality for conformity with the RCM plan in accordance with this chapter. For that purpose, an authenticated copy of the by-law is sent to the regional county municipality, which acknowledges receipt.

However, this chapter does not apply to a by-law referred to in any of sections 105, 109, 136, 141, 155, 176, 177 and 187.

225. The council of the regional county municipality must give its opinion within 120 days after it is sent the copy of the by-law.

As soon as the resolution is passed, an authenticated copy is sent to the local municipality.

A resolution denying approval of the by-law must include reasons and identify the provisions that are not in conformity with the RCM plan.

If the resolution approves the by-law, the regional county municipality issues a certificate of conformity and sends an authenticated copy of the certificate to the local municipality.

226. If the council of the regional county municipality denies approval of the by-law or fails to give an opinion within the period prescribed, the council of the local municipality may request the opinion of the Commission municipale on the conformity of the by-law with the RCM plan.

Authenticated copies of the resolution requesting the opinion and the by-law are served on the Commission; an authenticated copy of the resolution is served on the regional county municipality.

The copies must be received by the Commission not later than 45 days after the copy of the resolution denying approval of the by-law is sent to the local municipality or, as applicable, after the expiry of the 120-day time limit prescribed in section 225.

227. If the council of the regional county municipality denies approval of the by-law, the council of the local municipality, instead of requesting the opinion of the Commission, may adopt

(1) a single by-law containing only the elements of the by-law that did not cause approval to be denied; or

(2) both such a by-law and another by-law containing elements of the original by-law that caused approval to be denied.

The provisions of sections 206 to 216 relating to the adoption of a draft by-law, to information and to public consultation do not apply to a by-law adopted under the first paragraph. The council of the local municipality may, by the same resolution, request the opinion of the Commission on a by-law provided for in subparagraph 2 of the first paragraph.

The first two paragraphs do not apply to a replacement by-law adopted under section 222.

228. The Commission must give its opinion not later than 60 days after receiving a copy of the resolution requesting it under section 226 or 227.

An opinion stating that the by-law is not in conformity with the RCM plan may include suggestions of the Commission on how to ensure such conformity.

The secretary of the Commission sends an authenticated copy of the opinion to the regional county municipality and the local municipality.

229. If the opinion of the Commission states that the by-law is in conformity with the RCM plan, the regional county municipality must, as soon as practicable after receiving a copy of the opinion, issue a certificate of conformity with respect to the by-law and send an authenticated copy of the certificate to the local municipality.

230. If the by-law for which the council of the regional county municipality denies approval is a harmonization by-law referred to in section 53, the council of the regional county municipality must ask the council of the local municipality to replace it if

(1) the local municipality has not requested the opinion of the Commission; or

(2) the opinion of the Commission states that the by-law is not in conformity with the RCM plan.

The council of the regional county municipality sets a deadline for the replacement, which must not be earlier than the forty-fifth day following the day on which an authenticated copy of the resolution requesting the replacement is sent to the local municipality.

The provisions of sections 206 to 216 relating to the adoption of a draft by-law, to information and to public consultation do not apply to a by-law that differs from the by-law it replaces, at the request of the council of the regional county municipality, only so as to ensure its conformity with the RCM plan.

DIVISION II

PROVISIONS SPECIFIC TO BY-LAW SUBJECT TO REFERENDUM APPROVAL

231. If, at the time an authenticated copy of the by-law is sent to the regional county municipality in accordance with section 224, the by-law is not yet deemed approved by the qualified voters, the local municipality must inform the regional county municipality that the by-law must receive such approval; in such a case, despite sections 225 and 229, the regional county municipality may only issue the certificate of conformity on or after the date on which the local municipality informs it that the by-law is deemed to have received that approval.

If, at the time an authenticated copy of the by-law is sent to the regional county municipality, the by-law is deemed approved by the qualified voters, the local municipality informs the regional county municipality of that fact.

In the case of a replacement by-law referred to in section 222, an authenticated copy of the by-law must be sent to the regional county municipality as soon as practicable after the by-law is adopted.

232. Any by-law adopted under section 227 containing a provision that entailed, in respect of the by-law approval of which was denied by the council of the regional county municipality, the application of the referendum approval process must be approved by the same qualified voters, regardless of any change in the date of reference within the meaning of the Act respecting elections and referendums in municipalities. However, the by-law is deemed to have received such approval if, on the date of its adoption, the by-law approval of which was

denied by the council of the regional county municipality is deemed to have been approved by the qualified voters.

CHAPTER VI

COMING INTO FORCE

233. Any by-law to which Chapter V applies comes into force on the date on which a certificate of conformity is issued in its regard. However, if the certificate of conformity is, despite the first paragraph of section 231, issued by the regional county municipality before the by-law receives the approval of the qualified voters, the by-law comes into force at the time it is deemed to have received such approval under the Act respecting elections and referendums in municipalities.

In the case of a replacement by-law adopted under section 222, a certificate of conformity for each of the by-laws adopted simultaneously must be issued on the same day, failing which both by-laws come into force on the date on which the latter of the certificates is issued.

A by-law that comes into force in accordance with the first or the second paragraph is deemed to be in conformity with the RCM plan. As soon as practicable after the coming into force of a by-law, the local municipality publishes a notice to that effect in a newspaper circulated in its territory and posts it in the office of the municipality.

234. Any other by-law adopted under this Act comes into force in accordance with the Act that governs the municipality.

CHAPTER VII

TEMPORARY RESTRICTIONS TO ISSUING PERMITS

235. On adopting a draft by-law under section 206, the council of a local municipality may prohibit the issue of any permit authorizing an act that will be prohibited should the by-law resulting from the draft by-law come into force.

A resolution passed under the first paragraph ceases to have effect eight months after the date on which it is passed if the by-law is not in force on that date. However, the council may specify that the resolution will cease to have effect before that date.

236. A council that plans to adopt a draft by-law in accordance with section 206 may, before adopting it, prohibit the issue of any permit that authorizes an action that will be prohibited should the by-law resulting from the draft by-law it plans to adopt come into force.

A resolution passed under the first paragraph must specify the nature of the permits that may not be issued; the resolution ceases to have effect 60 days after the date on which it is passed if the draft by-law has not been adopted by that date; otherwise, it ceases to have effect eight months after the adoption of the draft by-law.

TITLE VI

ADOPTION AND COMING INTO FORCE OF PLANNING BY-LAWS OF REGIONAL COUNTY MUNICIPALITY

CHAPTER I

DRAFT BY-LAW, INFORMATION AND PUBLIC CONSULTATION

237. The council of the regional county municipality adopts a draft by-law.

The regional county municipality makes available for public inspection, at its office, the draft by-law and a document that explains the nature and objectives of the draft by-law and identifies the parts of its territory it affects, and any other relevant document in its possession.

A copy of the draft by-law and of the explanatory document referred to in the second paragraph may be obtained free of charge from the regional county municipality.

238. The regional county municipality holds a public consultation on the draft by-law, in accordance with an information and public consultation policy adopted by a by-law of its council.

The policy must provide for at least one public consultation meeting, and include measures to ensure that the following is adequately communicated to the persons concerned:

- (1) clear, complete information concerning the subject of the consultation;
- (2) information relating to the availability of the draft by-law and the relevant documents for public inspection under section 237; and
- (3) information enabling any person to attend a public consultation meeting.

The policy must also include measures to encourage public participation and open discussion on the subject of the consultation at one or more consultation meetings and to allow members of the public to make comments or suggestions orally or in writing at the meetings, or in writing within a reasonable period after the last meeting is held.

239. The regional county municipality must see that a consultation report is prepared.

The report must give an account of the information provided by the regional county municipality and of any concerns expressed, questions raised, comments and suggestions made, and answers and explanations given during the consultation.

The report must be tabled before the council.

A copy of the report may be obtained free of charge from the regional county municipality.

CHAPTER II

ADOPTION OF BY-LAW AND EXAMINATION OF CONFORMITY WITH RCM PLAN

240. The by-law may be adopted as of the day after the consultation report provided for in section 239 is tabled.

An authenticated copy of the by-law is sent to every local municipality whose territory is situated within the territory of the regional county municipality.

241. If the council of a local municipality whose territory is affected by the by-law considers that the by-law is not in conformity with the RCM plan, it may request the opinion of the Commission municipale on the matter.

The resolution setting out the request must be served on the Commission and received by it not later than 30 days after an authenticated copy of the by-law is sent to the local municipality under the second paragraph of section 240.

242. The Commission must give its opinion not later than 60 days after receiving a copy of the resolution requesting it.

An opinion stating that the by-law is not in conformity with the RCM plan may include suggestions of the Commission on how to ensure such conformity.

The secretary of the Commission sends an authenticated copy of the opinion to the regional county municipality and to each local municipality whose territory is situated within the territory of the regional county municipality.

243. Sections 237 to 239 do not apply to a new by-law that differs from the by-law it replaces, following an opinion of the Commission, only so as to ensure its conformity with the RCM plan.

CHAPTER III

COMING INTO FORCE

244. The by-law comes into force on the day the Commission gives an opinion stating that the by-law is in conformity with the RCM plan or, if no request has been made under section 241, 31 days after the authenticated copy of the by-law is sent to the local municipality under the second paragraph of section 240.

245. On the coming into force of the by-law, the regional county municipality has a notice to that effect published in a newspaper circulated in its territory.

CHAPTER IV

TEMPORARY RESTRICTIONS TO ISSUE OF PERMIT

246. On adopting a draft by-law under section 235, the council of the regional county municipality may prohibit the issue of any permit authorizing an act that will be prohibited should the by-law resulting from the draft by-law come into force.

A resolution passed under the first paragraph ceases to have effect eight months after the date on which it is passed if the by-law is not in force on that date. However, the council may specify that the resolution will cease to have effect before that date.

CHAPTER V

PARTICIPATION IN DECISIONS AND EXPENSES

247. Only representatives of the local municipalities whose territories are affected by a regional by-law may participate in the deliberations and vote, including with respect to the exercise of the functions arising from the by-law. Only those municipalities contribute to the payment of expenses resulting from the adoption and administration of the by-law.

TITLE VII

AGRICULTURAL MATTERS

CHAPTER I

APPLICATION

248. In this Act, “agricultural zone” means an agricultural zone established under the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., chapter P-41.1) and “agricultural activities” means agricultural activities within the meaning of that Act.

CHAPTER II

AGRICULTURAL ADVISORY COMMITTEE

249. A competent body whose territory includes an agricultural zone must establish an agricultural advisory committee.

Any other competent body may, by by-law, establish such a committee.

250. A competent body that has established an agricultural advisory committee must, by by-law, determine the number of members who are to sit on the committee.

251. The competent body appoints the committee members from among the following persons:

- (1) the members of the council of the competent body;
- (2) the members of the council of any municipality whose territory is situated within the territory of the competent body;
- (3) farm producers, within the meaning of the Farm Producers Act (R.S.Q., chapter P-28), who are not members of a council referred to in subparagraph 1 or 2, who reside in the territory of the competent body, and who are entered on a list drawn up by the certified association within the meaning of that Act;
- (4) persons residing in the territory of the competent body who are not eligible under any of subparagraphs 1 to 3.

A majority of the committee members must be farm producers.

If the territory of the competent body includes that of a core city and the competent body appoints committee members from among its own council members, one of them must be a representative of the core city, unless the core city has previously waived that requirement. A “core city” is any local municipality whose territory corresponds to a census agglomeration, as defined by Statistics Canada, or any local municipality whose territory is situated within such an agglomeration and whose population is the highest among all local municipalities whose territories are situated within that agglomeration.

The competent body may, by by-law and subject to the second and third paragraphs, determine the number of committee members who must be chosen under a particular subparagraph of the first paragraph.

The list referred to in subparagraph 3 of the first paragraph must contain a number of names equal to the lesser of twice the minimum number of committee members required to be chosen from among the persons mentioned in that subparagraph and the total number of farm producers, within the meaning of the Farm Producers Act, who reside in the territory of the competent body.

252. The competent body must, by by-law, determine the term of office of the members of the committee. It may, in the same manner, provide for cases in which a member of the committee may be replaced before the expiry of his or her term.

A member ceases to hold office either on the expiry of the term or on being replaced, resigning, or ceasing to be eligible under the first paragraph of section 251. A member who, in accordance with the second paragraph of that section or with a by-law adopted under the third paragraph of that section, was appointed under a particular subparagraph of that paragraph ceases to hold office on ceasing to be eligible under that subparagraph.

A resigning member sends a signed resignation to the competent body. The resignation takes effect on the date it is received.

253. The competent body designates the chair of the committee from among its members. The first paragraph of section 252 applies, with the necessary modifications, to the chair.

The chair ceases to hold office as chair either on the expiry of the term or on being replaced, ceasing to be a member of the committee or resigning from the office of chair.

A resigning chair sends a signed resignation to the competent body. The resignation takes effect on the date it is received.

254. The function of the committee is to examine, at the request of the council of the competent body or on its own initiative, any matter relating to agricultural land use planning, agricultural activities, and environmental considerations pertaining to such planning and activities.

A further function of the committee is to make appropriate recommendations to the council of the competent body with respect to matters it has examined.

255. The committee may make internal rules.

Subject to sections 256 to 259, the meetings of the committee are called and held according to those rules.

256. The chair of the committee presides at meetings of the committee.

If the chair is unable to act, or if the office of chair is vacant, the committee members present at a meeting of the committee designate a member from among their number to preside at the meeting.

257. The quorum at committee meetings is a majority of its members.

258. Each committee member has one vote.

259. The adoption of the internal rules and the recommendations of the committee require a majority of the votes cast.

The committee reports on its work and makes recommendations in a report signed by the chair or a majority of the committee members.

The report is tabled at a sitting of the council of the competent body.

260. The competent body may allocate funds to the committee and assign personnel to assist the committee in carrying out its functions.

261. For the purposes of the legislative provisions governing the competent body with respect to the reimbursement of the expenses of council members, the office of chair or committee member is deemed to be an office for which council members may be entitled to be reimbursed for their expenses.

The competent body may, following the same procedure as for the reimbursement of the expenses of council members, establish rules relating to the reimbursement of the expenses of the chair and other committee members if they are not council members.

CHAPTER III

PROVISIONS SPECIFIC TO AGRICULTURAL MATTERS

262. The RCM plan of a regional county municipality whose territory includes an agricultural zone must include parameters to determine, under section 263, separation distances to reduce the inconvenience caused by odours from agricultural activities.

263. A zoning by-law may not establish a separation distance in an agricultural zone except for the purpose of protecting a water supply source or reducing the inconvenience caused by odours from agricultural activities. For the same purposes, the zoning by-law may establish any separation distance between places where manure is spread and non-agricultural structures or uses.

For any other purpose, the separation distances may only apply to structures or different uses on adjacent lots situated in contiguous zones.

264. A provision of a zoning by-law limiting similar or identical uses in an agricultural zone may not apply to agricultural activities other than hog farms.

265. A resolution granting a minor variance in accordance with section 139 may impose, from among the conditions referred to in that section, any condition set out in section 271 if the variance granted concerns non-compliance, during the construction or expansion of a livestock facility or building not referred to in the second paragraph of section 269 and intended for hog farming, with

separation distances prescribed in a provision of the zoning by-law of the municipality or, if there is no such provision in the zoning by-law, under the Guidelines respecting odours caused by manure from agricultural activities (2003, G.O. 2, 1919A) applicable in such a case under section 38 or 39 of the Act to amend the Act respecting the preservation of agricultural land and agricultural activities and other legislative provisions (2001, chapter 35).

266. A prohibition under section 122 on the grounds that a parcel of land is not properly served by public water and sewer services does not apply to structures for agricultural purposes on lands under cultivation.

The zoning by-law may also exempt such structures from any other prohibition it specifies, except for a prohibition applicable to a residence on the grounds that the residence is or will not be properly served by private water or sewer services in compliance with the Environment Quality Act and the regulations or any municipal by-law relating to the same subject.

267. No provision on conditional uses adopted under section 127 is applicable to agricultural activities in an agricultural subject.

CHAPTER IV

PROVISIONS SPECIFIC TO HOG FARMS

DIVISION I

GENERAL PROVISIONS

268. An applicant for a permit to build, convert or expand a building intended for hog farming must file the following documents signed by a member of the Ordre des agronomes du Québec together with the application:

(1) a document stating whether or not an agro-environmental fertilization plan has been established for the hog farm;

(2) a summary of the plan referred to in subparagraph 1, if any; and

(3) a document, incorporated into the summary required under subparagraph 2, if any, mentioning

(a) for each parcel of land under cultivation, the doses of fertilizer materials to be used and the manuring methods and periods;

(b) the name of any other municipality, designated as “other interested municipality” in this chapter, in whose territory liquid manure from the hog farm is to be spread; and

(c) the annual phosphoric anhydride production resulting from the activities of the hog farm.

For the purposes of this chapter, “annual phosphoric anhydride production” means the product obtained by multiplying the annual volume, in cubic metres, of manure produced by the hog farm by the average phosphoric anhydride concentration, in kilograms per cubic metre, of that manure.

269. Within 30 days after receiving the permit application, the competent municipal officer informs the applicant of the admissibility or inadmissibility of the application under the applicable municipal by-laws, and issues the permit if the application is admissible.

However, sections 270 to 287 apply prior to the issue of the permit

(1) if the application concerns the establishment of a new hog farm in the territory of the municipality; or

(2) if the application involves an increase of more than 3,200 kilograms in the annual phosphoric anhydride production of an existing hog farm, either itself or in combination with the production resulting from an application made less than five years before.

For the purposes of the second paragraph, a hog farm is deemed to be a new hog farm if it cannot be operated on the immovable where an existing hog farm is operated or on an immovable that is contiguous to it or would be contiguous to it were it not separated by a watercourse, a thoroughfare or a public utility network.

270. The municipality must notify any other interested municipality in whose territory liquid manure from the hog farm is to be spread.

DIVISION II

CONDITIONS

271. In the particular context of the application and in order to ensure the harmonious coexistence of hog farms and non-agricultural uses while promoting the development of hog farms, the council may make the issue of a permit subject to any or all of the following conditions:

(1) that liquid manure storage facilities be covered at all times in order to substantially reduce odours from such storage;

(2) that liquid manure be spread in such a way as to ensure that it is incorporated into the soil within 24 hours whenever it is possible to do so without harming the crops, even in the territory of any other interested municipality;

(3) that separation distances between the facility or building for which the permit application is made and non-agricultural uses, specified by the council and different from those applicable under a provision of the zoning by-law of

the municipality or, if there is no such provision in the zoning by-law, under the Guidelines respecting odours caused by manure from agricultural activities, be complied with;

(4) that an odour barrier of the nature determined by the council and designed to substantially reduce the odour dispersion be installed within the time specified by the council;

(5) that facilities or buildings have equipment designed to reduce the consumption of water.

272. Not later than 15 days after the resolution is passed, the clerk or the secretary-treasurer of the municipality sends the applicant an authenticated copy of the resolution and a notice stating that the applicant may request conciliation in accordance with section 284.

If, in accordance with section 275, sections 276 to 283 apply prior to the issue of the permit, a copy of the report adopted under section 281 and of the resolution adopting it must also be sent to the applicant.

The clerk or the secretary-treasurer also posts at the office of the municipality and publishes in a newspaper circulated in the territory of the municipality and in the territory of any other interested municipality a notice stating that any person may consult the report and the resolution referred to in the first or second paragraph at the office of the municipality, or obtain a copy of them on payment of a fee.

273. Failure to comply with a condition imposed under section 271 constitutes an offence that may be prosecuted by the municipality that issued the permit. Section 369 of the Cities and Towns Act or article 455 of the Municipal Code of Québec applies for the purpose of determining the amount of the fine.

274. The holder of a permit that is subject to the condition set out in paragraph 2 of section 271 must send notice of that condition, by registered or certified mail, to any person who, under an agreement, may spread liquid manure from the hog farm for which the permit was issued, failing which the permit holder is liable for the payment of any fine imposed on that person. A copy of the notice must also be sent, in the same manner, to the municipality and to any other interested municipality.

DIVISION III

INFORMATION AND PUBLIC CONSULTATION

275. Sections 276 to 283 apply prior to the issue of a permit.

However, they apply optionally, on a decision of the council, if the council, in accordance with section 271, makes the issue of the permit subject to all the conditions set out in that section.

276. If the project for which the application is made requires an authorization certificate under the Environment Quality Act, the Minister of Sustainable Development, Environment and Parks sends the municipality an authenticated copy of the certificate; otherwise, a written confirmation that no certificate is required is sent to the municipality by that Minister.

The certificate or confirmation must be sent within 15 days after it is issued.

277. Within 30 days after the later of the date on which the copy of the certificate or written confirmation is received and the date on which the competent municipal officer informed the applicant of the admissibility of the application in accordance with section 269, a public meeting must be held on the permit application in order to inform and to hear the citizens of the municipality and any other interested municipality, receive their comments and answer their questions; written comments are also accepted by the municipality until 15 days after the meeting is held.

The meeting is held by a commission chaired by the mayor of the municipality and composed of the mayor and at least two other council members designated by the mayor.

The applicant or a representative designated by the applicant must also be present.

If the applicant is the mayor, the commission is chaired by the acting mayor. A council member who is also the applicant may not sit on the commission.

278. The council sets the date, time and place of the meeting; it may delegate all or part of that power to the clerk or the secretary-treasurer of the municipality.

The council may make any rule to govern the conduct of the meeting.

279. At the latest 15 days before the meeting, the clerk or the secretary-treasurer of the municipality posts a notice of the date, time, place and purpose of the meeting at the office of the municipality and publishes the notice in a newspaper circulated in both the territory of the municipality and the territory of any other interested municipality, and sends the notice, by registered or certified mail, to the applicant and

(1) to any other interested municipality;

(2) to the competent body with respect to the RCM plan applicable to the territory of the municipality;

(3) to the Minister of Agriculture, Fisheries and Food, the Minister of Sustainable Development, Environment and Parks and the public health director for the region appointed under section 372 of the Act respecting health services and social services, who must each delegate a representative to attend the meeting.

The notice must state the location for which the application is made, using the names of thoroughfares insofar as possible, and illustrate that location by means of a sketch.

The notice must mention that all the documents filed by the applicant are available for public inspection at the office of the municipality; it must also mention that the commission will receive written comments at the meeting and that such comments will be accepted by the municipality until 15 days after the meeting.

280. During the meeting, the applicant or the applicant's representative presents the project.

The commission hears the citizens of the municipality and of any other interested municipality; the applicant or the applicant's representative, the commission, the representatives of the ministers and the public health director referred to in subparagraph 3 of the first paragraph of section 279 answer the questions asked by citizens.

Written comments may be received at the meeting; the commission must mention that such comments will be accepted by the municipality until 15 days after the meeting.

281. Not later than 30 days after the expiry of the period during which the municipality accepts written comments, the council adopts a report.

The resolution adopting the report must include reasons and list the conditions which the council intends to make the issue of the permit subject to in accordance with section 271.

DIVISION IV

INFORMATION AND CONSULTATION BY REGIONAL COUNTY MUNICIPALITY

282. The public meeting provided for in section 277 must be held by the regional county municipality whose territory includes the territory of the local municipality if the council of the local municipality passes a resolution to that effect and sends an authenticated copy of the resolution and a copy of all the documents filed by the applicant in support of the application to the regional county municipality, by registered or certified mail, not later than 15 days after the later of the date on which the municipality received a copy of the certificate or the written confirmation referred to in section 276 from the Minister of

Sustainable Development, Environment and Parks and the date on which the competent municipal officer informed the applicant of the admissibility of the application.

The public meeting is held within 30 days after receipt of the resolution referred to in the first paragraph by a commission chaired by the warden and also composed of the mayor of the municipality and at least one other member of the council of the regional county municipality designated by the warden. It must be held in the territory of the local municipality.

If the warden or the mayor is also the applicant, that person is replaced by the deputy warden or the acting mayor, as applicable.

283. The council of the regional county municipality sets the date, time and place of the meeting; it may delegate all or part of that power to the secretary-treasurer.

Sections 279 to 281 apply, with the necessary modifications.

Not later than 10 days after the report is adopted under the first paragraph of section 281, the competent body sends an authenticated copy to the municipality. The council of the municipality adopts the resolution referred to in the second paragraph of that section at its first regular meeting following receipt of the copy of the report.

DIVISION V

CONCILIATION

284. Not later than 15 days after the notice is sent under section 272, the applicant may send the Minister of Municipal Affairs, Regions and Land Occupancy a request for conciliation, by registered or certified mail. The applicant must send a copy of the request to the municipality at the same time and in the same manner.

285. If the Minister receives a request for conciliation within the period prescribed, the Minister appoints a conciliator not later than 15 days after receiving the request from among the persons named on a list jointly prepared beforehand by the Minister and the Minister of Agriculture, Fisheries and Food.

The remuneration of the conciliator and the rules governing the reimbursement of the conciliator's expenses are determined by the Minister; the remuneration and the expenses are paid by the Government.

The Minister may not exercise the power conferred by the first paragraph if the municipality did not receive a copy of the request within the period prescribed.

286. Not later than 30 days after being appointed, the conciliator reports to the municipality and to the applicant.

If the parties have agreed on conditions, set out in section 271, for the issue of the permit, the report gives an account of the agreement. If no agreement has been reached, the conciliator must, in making recommendations, reflect the impact they will have on the financial viability of the proposed hog farm and on the harmonious coexistence of hog farms and non-agricultural uses.

The clerk or the secretary-treasurer of the municipality posts at the office of the municipality and publishes in a newspaper circulated in the territory of the municipality a notice stating that any person may consult the report or obtain a copy of it on payment of a fee.

287. Not later than 30 days after the conciliator's report is submitted, the council of the municipality determines the conditions, among those set out in section 271, for the issue of the permit. However, if the report states that the parties have agreed on such conditions, the council confirms them.

DIVISION VI

ISSUE OF PERMIT

288. If the application complies with the applicable by-laws, the competent municipal officer issues the permit

(1) on presentation of an authenticated copy of the resolution referred to in the first paragraph of section 272, if the municipality did not receive a copy of an application for conciliation within the period prescribed in section 284; or

(2) on presentation of an authenticated copy of the resolution provided for in section 287 in other cases.

289. The municipality posts at the office of the municipality and publishes in a newspaper circulated in the territory of the municipality a notice stating that any person may consult the resolution at the office of the municipality, or obtain a copy of it on payment of a fee.

DIVISION VII

AGREEMENTS

290. The municipality and the permit holder may make an agreement to modify the terms of implementation of any condition prescribed by the municipality under section 271 or 287.

The municipality posts at the office of the municipality and publishes in a newspaper circulated in the territory of the municipality a notice stating that

any person may consult the agreement and the resolution adopting it at the office of the municipality, or obtain a copy of them on payment of a fee.

291. The permit holder may, by agreement with the municipality, undertake to carry out any measure, as defined in the agreement, either for the monitoring of the hog farming activities at the site for which the permit has been issued, or in addition to the conditions prescribed by the municipality under section 271 or 287 or instead of any of those conditions.

The municipality posts at the office of the municipality and publishes in a newspaper circulated in the territory of the municipality a notice stating that any person may consult the agreement at the office of the municipality, or obtain a copy of it on payment of a fee.

TITLE VIII

GOVERNMENT POWERS

CHAPTER I

GOVERNMENT INTERVENTIONS IN TERRITORY OF COMPETENT BODY

DIVISION I

MANDATORY CONFORMITY OF GOVERNMENT INTERVENTION WITH METROPOLITAN PLAN AND RCM PLAN

292. A government regulation determines the cases in which a planned intervention by the Government, any of its ministers or bodies or a mandatory of the State in the territory of the metropolitan community or a regional county municipality must, in accordance with this chapter, be examined beforehand for conformity with the objectives of any metropolitan plan or RCM plan applicable in that territory.

The government regulation defines what constitutes, for the purposes of the regulation, an intervention referred to in the first paragraph. It may also, with respect to any intervention or any type of intervention it determines, make provision for exemptions from this chapter.

If both a metropolitan plan and an RCM plan are in force in the territory to be affected by the planned intervention, the intervention must only be examined for conformity with the objectives of the plan whose provisions applicable to that territory came into force the most recently.

293. The Minister must serve a notice on the competent body describing the planned intervention.

The council of the competent body gives its opinion on the conformity of the planned intervention by a resolution of which an authenticated copy must

be served on the Minister not later than 60 days after the notice was served on the competent body under the first paragraph; the Minister acknowledges receipt of the copy.

If the competent body fails to serve the opinion within the period prescribed in the second paragraph, the intervention is deemed to be conforming.

DIVISION II

NONCONFORMING INTERVENTION

294. If the competent body is of the opinion that the planned intervention is nonconforming, the Minister may

(1) request the opinion of the Commission municipale on the conformity of the intervention; or

(2) request the competent body to amend the metropolitan plan or RCM plan to ensure conformity.

Any request made under the first paragraph must be served on the Commission or the competent body, as applicable, not later than 60 days after the Minister receives the opinion of non-conformity formulated by the competent body.

If the opinion of the Commission is requested, an authenticated copy of the request is also sent to the competent body at the same time.

A request addressed to the competent body must include reasons and state what amendments must be made to ensure conformity.

295. Not later than 60 days after receiving a request under section 294, the Commission must serve its opinion on the Minister and the competent body.

An opinion stating that the planned intervention is nonconforming may include suggestions of the Commission on how to ensure conformity.

If the opinion states that the planned intervention is nonconforming, the Minister may request the council of the competent body to amend the metropolitan plan or RCM plan to ensure such conformity. The request must be served on the competent body not later than 120 days after the Commission serves its opinion in accordance with the first paragraph.

DIVISION III

OBLIGATION FOR COMPETENT BODY TO AMEND METROPOLITAN PLAN OR RCM PLAN

296. At the Minister's request, the council of the competent body amends the metropolitan plan or RCM plan so that the planned intervention will be in

conformity with the metropolitan plan or RCM plan. Sections 22 to 34, the first and third paragraphs of sections 36 and 38, section 39 and sections 40 to 48 do not apply to an amendment to the metropolitan plan or RCM plan made for the sole purpose of complying with the Minister's request.

As soon as the amendment is adopted, an authenticated copy is served on the Minister.

297. The amendment comes into force on the day the Minister serves an opinion on the competent body stating that the amendment ensures the conformity of the planned intervention with the metropolitan plan or RCM plan.

DIVISION IV

AMENDMENT OF METROPOLITAN PLAN OR RCM PLAN BY GOVERNMENT

298. If, within 60 days after a request is made under the first paragraph of section 294 or the third paragraph of section 295, the council of the competent body does not adopt an amendment to the metropolitan plan or RCM plan that is likely to receive a positive ministerial opinion, the Government may act in the place of the council in accordance with the provisions of this division.

299. The Minister produces a document setting out the planned intervention and the amendments required to the metropolitan plan or RCM plan to ensure the conformity of the intervention; the Minister sends an authenticated copy to the competent body.

300. The Minister holds at least one public consultation meeting on the document.

The Minister takes the measures necessary

(1) to communicate clear, complete information to the persons concerned concerning the subject of the consultation, and information enabling any person to attend a public consultation meeting;

(2) to encourage public participation and open discussion on the subject of the consultation at one or more consultation meetings; and

(3) to allow members of the public to make comments or suggestions orally or in writing at the meetings, or in writing within a reasonable period after the last meeting is held.

301. The Minister produces a consultation report, makes it available for public inspection and takes measures to facilitate its consultation.

The report must give an account of the information provided by the Minister and of any concerns expressed, questions raised, comments and suggestions made, and answers and explanations given during the consultation.

A copy of the report may be obtained free of charge from the Minister.

302. After the consultation report is produced, the Government may, by order, amend the metropolitan plan or RCM plan so that the planned intervention will be in conformity with the amended plan. The amendment is deemed to have been adopted by the council of the competent body.

The Minister sends an authenticated copy of the order and the amendment to the competent body as soon as practicable after the Government makes the order.

The order specifies the date of coming into force of the amendment; it is published in the *Gazette officielle du Québec*.

DIVISION V

INTERVENTION DEEMED IN CONFORMITY

303. The planned intervention is deemed to be in conformity with the metropolitan plan or RCM plan as of

(1) the day on which the council of the competent body or the Commission gives its opinion that such conformity exists;

(2) the day after the expiry of the period prescribed in the second paragraph of section 293 if the council of the competent body fails to give its opinion during that period; or

(3) the coming into force of a by-law amending the metropolitan plan or RCM plan adopted in accordance with this chapter by the council of the competent body or by the Government.

304. The planned intervention must begin within two years after the day as of which it is deemed to be in conformity; if it does not begin within that period, a new notice must be served on the competent body in accordance with the first paragraph of section 293 with respect to the conformity of the planned intervention with the metropolitan plan or RCM plan as it exists at that time.

CHAPTER II

SPECIAL INTERVENTION ZONE

305. The purpose of delimiting a special intervention zone, by government order and in accordance with this chapter, is to make planning rules for that

zone to prevent or resolve a problem which, in the opinion of the Government, is urgent or serious enough to warrant its intervention in the public interest.

306. In addition to describing the boundary of the zone, a special intervention zone order must state the objectives of the order, explain the problem it seeks to prevent or resolve and establish the planning by-laws applicable within the zone.

The by-laws are, with respect to any part of the zone situated within the territory of a local municipality, deemed to be by-laws of that municipality, which exercises the powers conferred on it by this Act with respect to those by-laws. However, the order may include any rule, including a rule that is at variance with any provision of this Act, concerning the administration, amendment, revision or repeal of the by-laws it establishes.

307. Before the order is made, the Government makes a draft order.

The draft order is published in the *Gazette officielle du Québec* and served on each metropolitan community, regional county municipality and local municipality whose territory wholly or partially includes the zone delimited by the order.

The draft order is also the subject of a public consultation in accordance with sections 300 and 301.

308. The Government may, in all or part of the special intervention zone delimited by the draft order, prohibit any new land use, structure or cadastral amendment, except land uses or buildings on cultivated land for agricultural purposes. It may specify the cases in which a prohibition does not apply, or prescribe conditions or a procedure for the lifting of the prohibition on the issue of a permit. It may designate for that purpose an officer from each local municipality in the territory in which the prohibition that may be lifted applies.

Such a prohibition takes effect on the date of publication of the draft order in the *Gazette officielle du Québec*; it ceases to have effect

(1) at the time, if any, specified in the draft order;

(2) in all or part of the territory subject to the prohibition, on the date of the publication, in the *Gazette officielle du Québec*, of an order, if any, adopted by the Government for that purpose delimiting the part of the territory concerned; or

(3) at the latest, on the coming into force of the special intervention zone order.

309. The special intervention zone order comes into force on the date of its publication in the *Gazette officielle du Québec* or any later date specified in the order.

An authenticated copy of the order is served on each metropolitan community, regional county municipality and local municipality whose territory includes all or part of the territory delimited by the order.

310. A draft order or an order made in accordance with this chapter is not a proposed regulation or a regulation for the purposes of the Regulations Act (R.S.Q., chapter R-18.1).

CHAPTER III

AMENDMENT OF METROPOLITAN PLAN OR RCM PLAN AT MINISTER'S REQUEST

311. The Minister may request amendments to any metropolitan plan or RCM plan which the Minister considers not to be in conformity with a government policy direction with respect to land use planning. The Minister may also request an amendment which the Minister considers necessary for health, public security or environmental reasons.

The Minister serves a notice with reasons on the competent body specifying the nature and purpose of the required amendments.

312. Not later than 90 days after the Minister serves a notice on the competent body, the council of the competent body must adopt any amendment required to comply with the Minister's request.

The provisions of sections 22 to 26 relating to the adoption of a draft amendment, to information and to public consultation do not apply to a resolution that amends the metropolitan plan or RCM plan only so as to comply with the Minister's request.

The amendment is subject to examination for conformity with government policy directions in accordance with sections 28 to 32, with the necessary modifications. For the purposes of those sections, the Minister's request is considered to be a government policy direction and the amendment is deemed to concern a content element determined by the by-law referred to in the second paragraph of section 28.

313. If the Minister requests the amendment of both a metropolitan plan and an RCM plan applicable to a part of the territory of the metropolitan community concerned, the provisions of sections 40 to 48 relating to the examination for conformity of the metropolitan plan do not apply with respect to amendments to the RCM plan that the council of the regional county municipality adopts to comply with the request. Any such amendment to the RCM plan comes into force in accordance with section 34.

CHAPTER IV

REVISION OF METROPOLITAN PLAN OR RCM PLAN AT MINISTER'S REQUEST

314. The Minister may, by a notice with reasons served on the competent body, request the revision of any metropolitan plan or RCM plan; the Minister sets the time limits for the adoption of the draft revised metropolitan plan or RCM plan or of the revised metropolitan plan or RCM plan.

CHAPTER V

AMENDMENT OF BY-LAW AT MINISTER'S REQUEST

315. The Minister may request the amendment of any planning by-law of a regional county municipality or a local municipality if the Minister considers the amendment necessary for health, public security or environmental reasons.

The Minister serves a notice with reasons on the regional county municipality or the local municipality specifying the nature and purpose of the required amendments.

316. Not later than 90 days after the Minister serves the notice on the municipality, the council must adopt a by-law to comply with the Minister's request.

If the by-law only makes the amendments that are necessary to comply with the Minister's request, the following do not apply:

- (1) the provisions of sections 206 to 216 relating to public consultation on a draft by-law;
- (2) the provisions of sections 218 to 221 relating to approval by qualified voters; and
- (3) the provisions of sections 224 to 232 relating to the examination of the by-law for conformity with the RCM plan.

TITLE IX

PENALTIES AND REMEDIES

CHAPTER I

PENALTIES

317. Any demolition carried out contrary to a by-law or a discretionary decision in an individual case provided for in Title IV renders the perpetrator liable to a fine the minimum amount of which is equal to the loss of value

resulting from the demolition. However, if the demolition causes the total loss of a building entered separately on the property assessment roll of the municipality, the minimum amount of the fine is equal to the value of the building entered on the roll.

318. The minimum fine for felling trees in contravention of a municipal zoning by-law or a by-law adopted by a regional county municipality under section 198 is \$500 plus,

(1) for felling trees on less than one hectare of land, an amount varying from \$100 to \$200 per tree illegally felled, up to a total of \$5,000; or

(2) for felling trees on one hectare of land or more, an amount varying from \$5,000 to \$15,000 per hectare deforested, in addition to an amount determined in accordance with subparagraph 1 for each fraction of a hectare.

The amounts prescribed in the first paragraph are doubled for a second or subsequent offence.

The council may, by by-law, prescribe any maximum amount exceeding the amounts prescribed in the first and second paragraphs.

CHAPTER II

REMEDIES

319. Any contravention of this Act, an instrument made, passed or adopted under this Act or an agreement entered into under such an instrument, and any failure to meet a condition or a prescription set out in such an instrument or in a report referred to in section 160 may, on a motion of the Attorney General, the competent body, the municipality or any other interested person, be submitted to the Superior Court with a view to obtaining an order prescribing any measure to put an end to the contravention or to compel compliance with the condition or prescription. To that end, the court may, for instance, order the cessation of any use, land or structure use or activity, the restoration of a site, the carrying out of work or the cancellation of any subdivision or cadastral amendment; it may also, if there is no other useful remedy, order the demolition of a structure or the cancellation of a lease or sale made contrary to an agreement referred to in section 183 and published at the registry office in accordance with the third paragraph of section 185.

The first paragraph also applies to any departure from a rehabilitation plan approved by the Minister of Sustainable Development, Environment and Parks under Division IV.2.1 of Chapter I of the Environment Quality Act. In such a case, and in the case of a contravention of a regulatory provision concerning the protection of lakeshores, riverbanks, littoral zones and floodplains, the motion may also be submitted to the Superior Court by the Minister of Sustainable Development, Environment and Parks.

The first paragraph does not permit the cancellation of a subdivision or cadastral amendment confirmed by the registration of immovables as part of the cadastral renewal or review in the territory concerned according to a renewal plan prepared under Chapter II of the Act to promote the reform of the cadastre in Québec (R.S.Q., chapter R-3.1) or a plan drawn up after 30 September 1985 under the Act respecting land titles in certain electoral districts (R.S.Q., chapter T-11).

320. Any municipality which, in its building by-law, has established standards or prescribed measures relating to the maintenance of structures or to the conditions of occupancy of buildings may require restoration, repair or maintenance work. It must send the owner a written notice specifying the work to be carried out and the time limit for carrying it out. The municipality may grant additional time.

Any municipality may, with respect to a structure it considers uncompleted, abandoned, dilapidated or partly destroyed to the point of being dangerous or very unsightly, serve a formal notice on the owner to carry out any work and take any measure the municipality considers necessary to remedy the situation, which may include the demolition of the structure, within the time it specifies.

If the owner fails to comply, a judge of the Superior Court sitting in the district where the structure is situated may, on a motion of the municipality, order any work or measure, including the demolition of the structure.

321. Any court order under this chapter may authorize the municipality or the competent body to act in the place of the person named in the order if that person fails to act, or if the owner or occupant is not known or cannot be found. The costs incurred by the municipality or the competent body constitute a prior claim constituting a real right on the immovable, in the same manner and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code.

Any motion under this chapter is heard and decided by preference.

TITLE X

MISCELLANEOUS PROVISIONS

322. If a competent body or local municipality has failed or will likely fail to meet a deadline prescribed by this Act or by a by-law, order, notice or opinion provided for in this Act, the Minister may, on the Minister's initiative or at the request of the body, set a new deadline.

The first paragraph also applies to a failure to comply with a new deadline.

The request from a competent body or local municipality must, to the Minister's satisfaction, include reasons and a work plan proving its willingness to meet any new deadline. When granting any new deadline, the Minister may also, on the Minister's own initiative, require the competent body or local municipality concerned to produce such a work plan within the period specified by the Minister.

A notice of the Minister's decision and of the date of the decision is published in the *Gazette officielle du Québec*.

323. If a competent body or local municipality fails to meet a deadline prescribed by this Act or by a by-law, order, notice or opinion provided for in this Act, or any new deadline set under section 322, the Minister may act in its place. Any act performed by the Minister has the same effect as if it had been performed by the competent body or local municipality and any resolution, by-law or other document adopted by the Minister is deemed to be that of the competent body or local municipality.

The Minister serves on the competent body or local municipality an authenticated copy of the decision and of any document adopted in the place of the competent body or local municipality; the Minister publishes a notice of the decision in the *Gazette officielle du Québec*.

The first paragraph does not apply to a failure to meet the deadline prescribed in section 298.

324. The council of a metropolitan community may, by by-law, determine the cases in which the amendment of an RCM plan does not need to be examined for conformity with the metropolitan plan.

The council of a regional county municipality may do likewise in respect of by-laws amending a planning by-law of a local municipality in respect of their examination for conformity with the RCM plan.

A by-law adopted under either of the first two paragraphs may not concern a harmonization resolution or by-law referred to in section 53 or a resolution or by-law whose purpose is referred to in a provision of the metropolitan plan or RCM plan adopted in accordance with section 17 or 21.

An authenticated copy of such a by-law is sent to each regional county municipality or local municipality, as applicable, whose territory is situated within the territory of the metropolitan community or the regional county municipality.

325. A request to the Commission for examination of a document for conformity must include reasons, specifying which elements of the document are believed to be nonconforming and why.

The Commission may summarily reject any request that does not include sufficient reasons or that is clearly frivolous, unfounded or founded on arguments beyond the scope of the examination for conformity requested.

The first two paragraphs do not apply to a request under section 294.

326. Any service provided for in this Act is made through a bailiff or by registered mail. In the latter case, service is deemed to have been made on the date of mailing.

327. No provision of this Act, or of a metropolitan plan, an RCM plan, an interim control resolution or a zoning, subdivision or building by-law may operate to prevent the staking or designation on a map of a claim, or the exploration or search for, or the development or mining of, mineral substances or underground reservoirs, in accordance with the Mining Act (R.S.Q., chapter M-13.1).

The first paragraph does not apply to the extraction of sand, gravel or building stone on private lands where, under the Mining Act, the right to those mineral substances belongs to the owner of the soil.

328. Non-compliance with a formality provided for in this Act is not grounds for invalidating an act unless serious prejudice can be proved.

329. This Act does not apply to the territories north of the fifty-fifth parallel or the lands excluded from the territory of Municipalité de Baie-James by paragraph 2 of section 40 of the James Bay Region Development and Municipal Organization Act (R.S.Q., chapter D-8.2).

330. The second paragraphs of sections 10 and 24, the fourth paragraph of section 26, the second paragraph of section 89, the fourth paragraph of section 91, the third paragraph of section 212, the fourth paragraph of section 216, the third paragraph of section 237, the fourth paragraph of section 239 and the third paragraph of section 301 apply despite the second paragraph of section 11 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

331. The Act respecting land use planning and development (R.S.Q., chapter A-19.1) is repealed.

332. The Minister of Municipal Affairs, Regions and Land Occupancy is responsible for the administration of this Act. For the purpose of preparing policy directions, opinions and other documents referred to in any of sections 22, 29, 30, 50, 51, 293, 294, 295, 297, 298, 299, 311, 314, 315, 322 and 323 or any other provision of this Act, the Minister seeks the opinion of the other interested ministers, to the extent that is deemed necessary or useful.

The Minister may delegate to another minister or a mandatory of the State the exercise of some or all of the powers, duties and responsibilities conferred on the Minister by sections 292 to 304 and 305 to 311.

**SUSTAINABLE REGIONAL AND LOCAL LAND USE
PLANNING ACT
TABLE OF CONTENTS**

	SECTIONS
TITLE I	PURPOSE AND PRINCIPLES 1-2
TITLE II	REGIONAL PLANNING 3-79
CHAPTER I	METROPOLITAN AND REGIONAL PLANNING DOCUMENTS AND COMPETENT BODIES 3-4
CHAPTER II	STRATEGIC VISION STATEMENT 5-14
DIVISION I	OBLIGATION TO MAINTAIN STRATEGIC VISION STATEMENT 5
DIVISION II	ADOPTION AND AMENDMENT PROCESS FOR STRATEGIC VISION STATEMENT 6-14
	§1. — <i>Application</i> 6-7
	§2. — <i>Adoption of draft strategic vision statement, and opinion of partner bodies</i> 8-9
	§3. — <i>Information and public consultation</i> 10-11
	§4. — <i>Adoption and coming into force of strategic vision statement</i> 12-14
CHAPTER III	METROPOLITAN LAND USE AND DEVELOPMENT PLAN 15-17
DIVISION I	OBLIGATION TO MAINTAIN METROPOLITAN PLAN 15
DIVISION II	CONTENT OF METROPOLITAN PLAN 16-17
CHAPTER IV	REGIONAL COUNTY MUNICIPALITY LAND USE AND DEVELOPMENT PLAN 18-21
DIVISION I	OBLIGATION TO MAINTAIN RCM PLAN 18
DIVISION II	CONTENT OF RCM PLAN 19-21
CHAPTER V	AMENDMENT OF METROPOLITAN PLAN OR RCM PLAN 22-48
DIVISION I	COMMON PROCESS FOR METROPOLITAN PLAN AND RCM PLAN 22-35
	§1. — <i>Adoption of draft amendment</i> 22-23
	§2. — <i>Information and public consultation</i> 24-26
	§3. — <i>Adoption</i> 27
	§4. — <i>Examination of conformity with government policy directions for land use planning</i> 28-32
	§5. — <i>Coming into force</i> 33-35
DIVISION II	PROVISIONS SPECIFIC TO METROPOLITAN PLAN 36-37
DIVISION III	PROVISIONS SPECIFIC TO RCM PLAN 38-48
	§1. — <i>Provisions applicable to all RCM plans</i> 38-39
	§2. — <i>Conformity with metropolitan plan</i> 40-48

CHAPTER VI	REVISION OF METROPOLITAN PLAN OR RCM PLAN	49-52
CHAPTER VII	HARMONIZATION FOLLOWING AMENDMENT OR REVISION OF METROPOLITAN PLAN OR RCM PLAN	53-67
DIVISION I	OBLIGATION TO HARMONIZE	53-58
DIVISION II	EXEMPTION FROM OBLIGATION TO HARMONIZE WITH REVISED METROPOLITAN PLAN	59-62
DIVISION III	EXEMPTION FROM OBLIGATION TO HARMONIZE WITH REVISED RCM PLAN	63-67
CHAPTER VIII	INTERIM CONTROL MEASURES	68-77
DIVISION I	INTERIM CONTROL MEASURES	68-70
DIVISION II	EFFECTS OF INTERIM CONTROL MEASURES	71-72
DIVISION III	DURATION OF INTERIM CONTROL MEASURES	73-76
	§1. — <i>Prior interim control measures</i>	73
	§2. — <i>Interim control measures related to amendment of metropolitan plan or RCM plan</i>	74
	§3. — <i>Interim control measures related to revised metropolitan plan</i>	75
	§4. — <i>Interim control measures related to revised RCM plan</i>	76
DIVISION IV	PROVISION SPECIFIC TO METROPOLITAN INTERIM CONTROL MEASURES	77
CHAPTER IX	OBLIGATION TO MONITOR AND MEASURE IMPLEMENTATION OF REGIONAL PLANNING TOOLS	78-79
TITLE III	LOCAL PLANNING	80-102
CHAPTER I	COMPREHENSIVE PLAN	80-82
DIVISION I	OBLIGATION TO MAINTAIN COMPREHENSIVE PLAN	80
DIVISION II	CONTENT OF COMPREHENSIVE PLAN	81-82
CHAPTER II	SPECIAL COMPREHENSIVE PLANS	83-86
CHAPTER III	AMENDMENT OR REPLACEMENT OF COMPREHENSIVE PLAN	87-101
DIVISION I	INFORMATION AND PUBLIC CONSULTATION	87-91
DIVISION II	PASSAGE	92-93
DIVISION III	CONFORMITY WITH RCM PLAN	94-101
CHAPTER IV	OBLIGATION TO MONITOR AND MEASURE IMPLEMENTATION OF COMPREHENSIVE PLAN	102
TITLE IV	PLANNING BY-LAWS	103-202
CHAPTER I	GENERAL PROVISIONS	103-104
CHAPTER II	LOCAL PLANNING BY-LAWS	105-197

DIVISION I	PLANNING COMMITTEES	105-117
	§1. — <i>Planning advisory committee</i>	105-108
	§2. — <i>Planning decision committee</i>	109-114
	§3. — <i>Operation</i>	115-117
DIVISION II	ZONING, SUBDIVISION AND BUILDING BY-LAWS	118-123
DIVISION III	REGULATORY POWERS ATTRIBUTING DISCRETIONARY POWERS IN INDIVIDUAL CASES	124-150
	§1. — <i>General provisions</i>	124-126
	§2. — <i>Conditional uses</i>	127-128
	§3. — <i>Incentive by-laws</i>	129-132
	§4. — <i>Site and architectural integration plans</i>	133-135
	§5. — <i>Minor variances</i>	136-140
	§6. — <i>Demolition</i>	141-147
	§7. — <i>Public notices</i>	148-150
DIVISION IV	VESTED RIGHTS	151-154
DIVISION V	PERMITS	155-186
	§1. — <i>General provisions</i>	155-159
	§2. — <i>Special requirements related to certain constraints</i>	160
	§3. — <i>Parks, playgrounds and natural spaces</i>	161-175
	§4. — <i>Parking</i>	176
	§5. — <i>Transfer in respect of streets</i>	177
	§6. — <i>Agreements relating to municipal work</i>	178-182
	§7. — <i>Affordable housing</i>	183-186
DIVISION VI	AMENDMENT OF PLANNING BY-LAWS ON APPLICATION	187-197
	§1. — <i>General provisions</i>	187-188
	§2. — <i>Amendment concerning a specific project</i>	189-192
	§3. — <i>Overall development plans</i>	193-197
CHAPTER III	REGIONAL PLANNING BY-LAWS	198-202
TITLE V	ADOPTION AND COMING INTO FORCE OF PLANNING BY-LAWS OF LOCAL MUNICIPALITY	203-236
CHAPTER I	INTRODUCTORY PROVISIONS	203-205
CHAPTER II	INFORMATION AND PUBLIC CONSULTATION WITH RESPECT TO DRAFT BY-LAW	206-216
DIVISION I	RESOLUTION OF INTENTION AND DRAFT BY-LAW	206

DIVISION II	INFORMATION AND PUBLIC CONSULTATION WITH RESPECT TO DRAFT BY-LAW CONTAINING NO PROVISIONS SUBJECT TO REFERENDUM APPROVAL	207-209
DIVISION III	INFORMATION AND PUBLIC CONSULTATION WITH RESPECT TO DRAFT BY-LAW CONTAINING ONE OR MORE PROVISIONS SUBJECT TO REFERENDUM APPROVAL	210-216
	§1. — <i>Application</i>	210
	§2. — <i>Information</i>	211-213
	§3. — <i>Consultation</i>	214-216
CHAPTER III	ADOPTION OF BY-LAW	217
CHAPTER IV	REFERENDUM APPROVAL	218-223
DIVISION I	AMENDING BY-LAW	218-221
DIVISION II	REPLACEMENT BY-LAW	222-223
CHAPTER V	EXAMINATION OF CONFORMITY WITH RCM PLAN	224-232
DIVISION I	PROVISIONS APPLICABLE TO ALL BY-LAWS	224-230
DIVISION II	PROVISIONS SPECIFIC TO BY-LAW SUBJECT TO REFERENDUM APPROVAL	231-232
CHAPTER VI	COMING INTO FORCE	233-234
CHAPTER VII	TEMPORARY RESTRICTIONS TO ISSUING PERMITS	235-236
TITLE VI	ADOPTION AND COMING INTO FORCE OF PLANNING BY-LAWS OF REGIONAL COUNTY MUNICIPALITY	237-247
CHAPTER I	DRAFT BY-LAW, INFORMATION AND PUBLIC CONSULTATION	237-239
CHAPTER II	ADOPTION OF BY-LAW AND EXAMINATION OF CONFORMITY WITH RCM PLAN	240-243
CHAPTER III	COMING INTO FORCE	244-245
CHAPTER IV	TEMPORARY RESTRICTIONS TO ISSUE OF PERMIT	246
CHAPTER V	PARTICIPATION IN DECISIONS AND EXPENSES	247
TITLE VII	AGRICULTURAL MATTERS	248-291
CHAPTER I	APPLICATION	248
CHAPTER II	AGRICULTURAL ADVISORY COMMITTEE	249-261
CHAPTER III	PROVISIONS SPECIFIC TO AGRICULTURAL MATTERS	262-267
CHAPTER IV	PROVISIONS SPECIFIC TO HOG FARMS	268-291
DIVISION I	GENERAL PROVISIONS	268-270
DIVISION II	CONDITIONS	271-274
DIVISION III	INFORMATION AND PUBLIC CONSULTATION	275-281

DIVISION IV	INFORMATION AND CONSULTATION BY REGIONAL COUNTY MUNICIPALITY	282-283
DIVISION V	CONCILIATION	284-287
DIVISION VI	ISSUE OF PERMIT	288-289
DIVISION VII	AGREEMENTS	290-291
TITLE VIII	GOVERNMENT POWERS	292-316
CHAPTER I	GOVERNMENT INTERVENTIONS IN TERRITORY OF COMPETENT BODY	292-304
DIVISION I	MANDATORY CONFORMITY OF GOVERNMENT INTERVENTION WITH METROPOLITAN PLAN AND RCM PLAN	292-293
DIVISION II	NONCONFORMING INTERVENTION	294-295
DIVISION III	OBLIGATION FOR COMPETENT BODY TO AMEND METROPOLITAN PLAN OR RCM PLAN	296-297
DIVISION IV	AMENDMENT OF METROPOLITAN PLAN OR RCM PLAN BY GOVERNMENT	298-302
DIVISION V	INTERVENTION DEEMED IN CONFORMITY	303-304
CHAPTER II	SPECIAL INTERVENTION ZONE	305-310
CHAPTER III	AMENDMENT OF METROPOLITAN PLAN OR RCM PLAN AT MINISTER'S REQUEST	311-313
CHAPTER IV	REVISION OF METROPOLITAN PLAN OR RCM PLAN AT MINISTER'S REQUEST	314
CHAPTER V	AMENDMENT OF BY-LAW AT MINISTER'S REQUEST	315-316
TITLE IX	PENALTIES AND REMEDIES	317-321
CHAPTER I	PENALTIES	317-318
CHAPTER II	REMEDIES	319-321
TITLE X	MISCELLANEOUS PROVISIONS	322-332

