NATIONAL ASSEMBLY

THIRD SESSION THIRTY-FOURTH LEGISLATURE

Bill 28

An Act to amend the Act respecting land use planning and development

Introduction

Introduced by
Mr Claude Ryan
Minister of Municipal Affairs

Québec Official Publisher
1994

EXPLANATORY NOTES

This bill amends the Act respecting land use planning and development to enable local municipalities to make agreements with building promoters on the sharing of responsibilities as regards the construction and financing of certain municipal equipment and infrastructures. Municipalities wishing to do so must adopt a by-law which defines the intervention and the scope of the agreement. In matters where the by-law applies, the bill provides that the issue of a building or subdivision permit or of a certificate of authorization or occupancy will be subordinated to the making of such an agreement.

In addition, the bill enables municipalities adopting a by-law for the construction of equipment or infrastructures to determine the proportion of the expenditures incurred for the financing of the work to be borne by those benefitted by the equipment or infrastructures, other than the holder of the permit or certificate.

Bill 28

An Act to amend the Act respecting land use planning and development

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 48 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), amended by section 16 of chapter 3 of the statutes of 1993, is again amended by replacing the words "or site planning and architectural integration programs" in the second paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

2. Section 53.10 of the said Act, amended by section 30 of chapter 3 of the statutes of 1993, is again amended by replacing the words "or site planning and architectural integration programs" in the first paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

3. Section 58 of the said Act, enacted by section 32 of chapter 3 of the statutes of 1993, is amended by replacing the words "or site planning and architectural integration programs" in the third and fourth lines of subparagraph 1 of the second paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

4. Section 59.1 of the said Act, enacted by section 32 of chapter 3 of the statutes of 1993, is amended by adding, after subparagraph 7 of the first paragraph, the following subparagraph:

"(8) its by-law respecting municipal works agreements."

5. Section 59.5 of the said Act, enacted by section 32 of chapter 3 of the statutes of 1993, is amended by replacing the words "or the

site planning and architectural integration programs" in the third and fourth lines of paragraph 1 of the second paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

6. Section 59.6 of the said Act, enacted by section 32 of chapter 3 of the statutes of 1993, is amended by adding, after subparagraph 6 of the first paragraph, the following subparagraph:

"(7) its by-law respecting municipal works agreements."

7. Section 95 of the said Act is amended by replacing the words "or site planning and architectural integration programmes" in the third and fourth lines of the third paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

8. Section 110.4 of the said Act, enacted by section 50 of chapter 3 of the statutes of 1993, is amended by replacing the words "or site planning and architectural integration programs" in the third and fourth lines of subparagraph 1 of the second paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

9. Section 110.5 of the said Act, enacted by section 50 of chapter 3 of the statutes of 1993, is amended by replacing the words "or the site planning and architectural integration programs" in the fifth and sixth lines of the first paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

10. Section 110.6 of the said Act, enacted by section 50 of chapter 3 of the statutes of 1993, is amended by replacing the words "or the site planning and architectural integration programs" in the sixth and seventh lines of the first paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

11. Section 120 of the said Act is amended by inserting the words "and with the by-law adopted under section 145.21" after the figure "116" in the third line of paragraph 1.

12. Section 121 of the said Act is amended by inserting the words "and, where applicable, with the by-law adopted under section 145.21" after the word "by-law" in paragraph 1.

13. Section 122 of the said Act is amended by inserting the words "and, where applicable, with the by-law adopted under section 145.21" after the word "by-laws" in the third line of subparagraph 1 of the first paragraph.

14. Section 123 of the said Act, amended by section 62 of chapter 3 of the statutes of 1993, is again amended by replacing the words "or site planning and architectural integration programmes" in the fourth and fifth lines by the words ", site planning and architectural integration programs or municipal works agreements".

15. Section 130.1 of the said Act, enacted by section 64 of chapter 3 of the statutes of 1993, is amended by replacing the words "or site planning and architectural integration programs" in the fifth line of the first paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

16. Section 137.2 of the said Act, enacted by section 66 of chapter 3 of the statutes of 1993, is amended by replacing the words "or a by-law respecting site planning and architectural integration programs or after the adoption of a by-law amending any of the last three by-laws" in the fifth, sixth and seventh lines of the first paragraph by the words ", a by-law respecting site planning and architectural integration programs or a by-law respecting municipal works agreements, or after the adoption of a by-law amending any of the last four by-laws".

17. The said Act is amended by inserting, after section 145.20, the following division:

"DIVISION IX

"MUNICIPAL WORKS AGREEMENTS

"**145.21** The council of a municipality may, by by-law, subordinate the issue of a building or subdivision permit or a certificate of authorization or occupancy to the making of an agreement between the applicant and the municipality pertaining to work for the construction of municipal infrastructures or equipment and to the payment or apportionment of expenditures incurred in respect of such work.

"**145.22** A by-law under section 145.21 must indicate

(1) the zones in respect of which it applies;

(2) the classes of structure, land or work in respect of which the issue of a building or subdivision permit or a certificate of authorization or occupancy is subordinated to an agreement;

(3) the classes of infrastructure or equipment to which the agreement applies and specify, where applicable, that the agreement may pertain to infrastructures and equipment destined, regardless of location, to serve not only immovables to which the permit or certificate applies but also other immovables in the territory of the municipality;

(4) where applicable, the terms and conditions governing the establishment of the share of the expenditures incurred in respect of the work which is to be borne by the holder of the permit or certificate, according to the classes of structure, land, work, infrastructure or equipment specified in the by-law;

(5) where applicable, the terms and conditions governing the establishment of the share of the expenditures incurred in respect of the work to be borne by any person benefitted by the work, other than the holder of the permit or certificate, according to the classes of structure, land, work, infrastructure or equipment specified in the by-law, prescribe the terms and conditions of payment and collection of aliquot shares, and fix the rate of interest payable on any unpaid amount.

The by-law may also subordinate the issue of a building or subdivision permit or a certificate of authorization or occupancy applied for by a person benefitted by the work, within the meaning of subparagraph 5 of the first paragraph, to prior payment, by the latter, of any part of his aliquot share or to the deposit of any guarantee determined by the by-law.

"**145.23** The agreement must include

(1) the designation of the parties;

(2) the description of the work and the designation of the party responsible for the carrying out of all or part of the work;

(3) where applicable, the date on which the work must be completed by the holder of the permit or certificate;

(4) a determination of the expenditures incurred in respect of the work which must be borne by the holder of the permit or certificate;

(5) the penalty recoverable from the holder of the permit or certificate in the event of a delay in the carrying out of the work for which the holder is responsible;

(6) where applicable, the terms and conditions of payment by the holder of the permit or certificate of the expenditures incurred in respect of the work and the interest payable on any unpaid amount;

(7) where applicable, the terms and conditions of remittance by the municipality to the holder of the permit or certificate of the aliquot share of the expenditures incurred for the work paid by a person benefitted by the work;

(8) the financial guarantees required of the holder of the permit or certificate.

"**145.24** The council of a municipality party to an agreement must, where applicable, identify the immovables of the persons benefitted by the work, within the meaning of subparagraph 5 of the first paragraph of section 145.22, or indicate any criterion based on which they may be identified.

"**145.25** Any part of the aliquot share that is not due to the municipality shall, after deduction of the collection costs, be remitted to the person who is party to the agreement with the municipality or, as the case may be, to any other rightful claimant.

"**145.26** 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. However, the rules prescribed by that Act in relation to the method of financing of the work by the municipality apply.

"**145.27** Section 29.3 of the Cities and Towns Act and article 14.1 of the Municipal Code of Québec do not apply to an agreement.

"**145.28** Sections 573 and 573.1 of the Cities and Towns Act and articles 935 and 936 of the Municipal Code of Québec do not apply to work carried out, in accordance with an agreement, by the holder of a permit or certificate.

However, the said sections and articles, except paragraph 9 of section 573 of the Cities and Towns Act and paragraph 9 of article 935 of the Municipal Code of Québec apply, adapted as required, in respect of work carried out by a third person chosen by the holder of a permit or certificate otherwise than after the deposit of tenders at a bid depository established under the Master Electricians Act (R.S.Q., chapter M-3) or the Master Pipe-Mechanics Act (R.S.Q., chapter M-4).

"**145.29** An amount paid pursuant to a provision enacted under subparagraph 4 or 5 of the first paragraph of section 145.22 does not constitute a tax, a compensation or the imposition of a tariff."

18. Section 221 of the said Act, amended by section 76 of chapter 3 of the statutes of 1993, is again amended by replacing the words "or site planning and architectural integration programs" in the first paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

19. Section 227 of the said Act, amended by section 78 of chapter 3 of the statutes of 1993, is again amended

(1) by inserting the word and figure "or 145.21" after the figure "116" in subparagraph 1 of the first paragraph;

(2) by inserting the words "or with an agreement under section 145.21" after the figure "145.19" in subparagraph 1 of the first paragraph.

20. Section 228 of the said Act, amended by section 79 of chapter 3 of the statutes of 1993, is again amended

(1) by replacing the words "or interim" in the second and third lines of the first paragraph by the words "by-law, a by-law under section 145.21 or an interim";

(2) by replacing the words "or a plan approved in accordance with section 145.19" in the third and fourth lines of the first paragraph by the words ", a plan approved in accordance with section 145.19 or an agreement made under section 145.21".

21. Section 240 of the said Act, amended by section 85 of chapter 3 of the statutes of 1993, is again amended by replacing the words "or site planning and architectural integration programs" in the first paragraph by the words ", site planning and architectural integration programs or municipal works agreements".

22. Section 246 of the said Act is amended by adding, at the end, the following paragraph:

"The first paragraph does not apply to the extraction of sand, gravel or building stone on private lands where, under the Mining Act (R.S.Q., chapter M-13.1), the right to those mineral substances belongs to the owner of the soil."

23. No by-law or resolution adopted by a municipality before (*insert here the date of assent to this Act*) for the construction and financing of municipal infrastructure or equipment and no agreement arising therefrom and to which the municipality is a party may be invalidated on the grounds that the municipality was not empowered to adopt such a by-law or resolution or to enter into such an agreement.

The first paragraph does not apply to cases pending on (*insert here the date of introduction of this Act*).

24. No act performed or refusal to act before (*insert here the date of coming into force of this Act*) is illegal on the sole ground that the person who performed the act or refused to act did so under a provision of the Act respecting land use planning and development, a development plan, an interim control by-law or a zoning, subdivision or building by-law in order to prevent the extraction of sand, gravel or building stone on private lands where, under the Mining Act (R.S.Q., chapter M-13.1), the right to those mineral substances belongs to the owner of the soil.

The first paragraph does not apply to cases pending on (*insert here the date of introduction of this Act*).

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