

# Legislative developments



FÉDÉRATION  
QUÉBÉCOISE DES  
MUNICIPALITÉS

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# Introduction

- > Presentation of recent legislative developments of interest to the municipal world
  - Cannabis
  - Animal welfare
  - Framework with regard to dogs
  - Laicity of the State
  - Disclosure of wrongdoings
  - Public contracts
  - Authorization from the CPTAQ
  - Société d'habitation du Québec
  - Labour standards



# / Cannabis

- > Bill n°2 - *An Act to tighten the regulation of cannabis* presented to the National Assembly of Québec on December 5, 2018
- > Under study as of September 3, 2019
- > Aim to tighten the regulation of cannabis, in particular :
  - Raise the legal age for buying and possessing cannabis to 21 years
  - Prohibit the smoking of cannabis on public roads and in all other outdoor places that are open to the public (parks, playgrounds, etc.)

# Raising the legal age in Quebec

- > Only persons 21 years of age or older will be able to obtain and legally possess cannabis
  - “ s. 4 : It is prohibited for a person under 21 years of age to possess cannabis or give cannabis”
- > Possibility of challenging the Act if it comes into force :
  - Discrimination on the basis of age (s. 15(1) *Canadian Charter of rights and freedoms* and s. 10 *Charter of human rights and freedoms*)
  - Contrary to the federal objective to fight organized crime and the provincial objective to protect the health and safety of the population, particularly youth.
    - S. 7 Cannabis Act
    - S. 1 *Cannabis regulation act*



# Prohibition to smoke cannabis in public spaces

- > S. 16 of the Cannabis regulation act is replace to prohibit people from smoking cannabis on:
  - Public roads
  - Bus shelters
  - Tents or big tops, temporary or permanent
  - Outdoor areas operated as part of a commercial activity(ex : terraces)
  - Other outdoor places that are open to the public(ex : parks, playgrounds, grounds of day camps, etc.)

- > Amendment adopted by the National Assembly empowering local municipalities to allow smoking cannabis in certain municipal parks (s. 16.1)
  - Places where smoking is permitted must be indicated on visible signs
  - May not allow cannabis to be smoked in areas subject to the smoking ban under *the Tobacco control Act*
  - May not allow cannabis to be smoked where public events are held

- > New dispositions create a legal impossibility for some citizens to smoke cannabis
  - Prohibition in certain apartment buildings
  - Prohibition on public roads
  - Prohibition in public parks
  
- > Overly strict legislation could lead people to ignore the law that prevents them from legally exercising their right to smoke cannabis





# Prohibition of possessing cannabis plants

- > S. 5 and 10 of the Cannabis regulation act were struck down by the superior Court on September 3, 2019
- > Possession of cannabis plants for personal production are under the exclusive jurisdiction of the federal government regarding criminal matters
- > A province may restrict the number of plants that a person may own, but cannot prohibit it completely



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# Animal welfare

- > *Regulation respecting animal welfare and safety and the designation of other animals governed by the Animal Welfare and Safety Act*
- > Draft regulation presented on January 9, 2019
- > Not in force
- > Will replace the *Regulation respecting the safety and welfare of cats and dogs*

- > Aim to determine the classes of permits and the conditions and restrictions attached to their issue and renewal
- > Set minimum standards of welfare and safety relating to the custody of animals (ex : clean and fresh water, grooming, euthanasia, etc.)
- > Set standards for the place of custody of animals (environment, salubrity, temperature, etc.)
- > Municipalities may institute penal proceedings before the municipal court for an offence to this regulation

# Framework with regard to dogs

- > *Regulation respecting the application of the Act to promote the protection of persons by establishing a framework with regard to dogs*
- > Draft regulation presented on May 15, 2019 (not in force)
- > To standardize the regulation and supervision of dogs
- > Minimum standards imposed on municipalities.
- > Municipalities can adopt stricter standards

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- > Veterinary surgeon must report without delay to the local municipality concerned dog-inflicted injuries (s. 2)
  - > Dog owners must register their dogs with their local municipality (s. 16)
  - > Municipalities must appoint inspectors to ensure compliance with the minimum standards
  - > Offence provisions for non-compliance with the regulation by owner or custodian of a dog
  - > May represent a financial burden for some municipalities

## > Several powers granted to municipalities :

- Require that its owner or custodian have the dog undergo an examination by a veterinary to evaluate its condition and dangerousness (s. 5)
- Declare a dog potentially dangerous if it poses a risk to public health and safety according to the veterinarian's report or if it has bitten or attacked a person (s. 8 and 9)
- Order the owner or custodian of a dog to have it euthanized if it has bitten or attacked a person and caused serious injury or death (s. 10)
- Order the owner or custodian to comply with measures that are proportional to the risk posed by the dog (s. 11)



# / Laicity of the State

- > *An Act respecting the laicity of the State* in force since June 16, 2019
- > Municipalities are government institutions within the meaning of the law (s. 3)
- > Municipalities must comply with the principles set out in the *Act* (s. 2):
  - Separation of State and religions
  - Religious neutrality of the State
  - Equality of all citizens
  - Freedom of conscience and freedom of religion

- > “8. Personnel members of a body must exercise their functions with their face uncovered.

Similarly, persons who present themselves to receive a service from a personnel member of a body must have their face uncovered where doing so is necessary to allow their identity to be verified or for security reasons. Persons who fail to comply with that obligation may not receive the service requested, where applicable.”

- > In the event of failure to comply with this measure, personnel members are subject to a disciplinary sanctions (s. 13)
- > The General director of the municipality is responsible for the application of the *Act*
- > No requirement to alter a movable property adorning an immovable (s. 17)


- > Request to challenge the Act filed on March 28, 2019
- > Request to stay the application of s. 6 and 8 of the Act, pending the decision on the challenge, dismissed by the superior Court on July 18, 2019
  - *Hak c. Procureure générale du Québec*, 2019 QCCS 2989
- > The Court of Appeal agreed to hear the appeal of this decision on August 1, 2019
  - > *Hak c. Procureure générale du Québec*, 2019 QCCA 1404





# Disclosure of wrongdoings

- > Bill n° 198 - *An Act to facilitate disclosure of wrongdoings* presented to the National Assembly on May 9, 2019
- > If passed, will repeal the *Act to facilitate the disclosure of wrongdoings relating to public bodies*
- > Aim to facilitate disclosure, in the public interest, of wrongdoings and to establish a new general regime to protect persons making disclosures from reprisal
- > Municipalities are public bodies within the meaning of the *Act*

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- > 2. For the purposes of this Act, the following constitute wrongdoings:
    - (1) contravention of a Québec statute, federal statute applicable in Québec or regulation made pursuant to such a statute;
    - (2) a serious breach of a public body's standards of ethics and professional conduct;
    - (3) misuse of funds or property belonging to a public body, including funds or property it manages or holds for others;
    - (4) gross mismanagement within a public body, including abuse of authority;
    - (5) any act or omission that seriously threatens or may seriously threaten a person's health or safety or the environment; or
    - (6) ordering or advising a person to commit a wrongdoing referred to in paragraphs 1 to 5.



- > Disclosure of wrongdoings concerning a municipality are made to and processed by the minister responsible for municipal affairs (s. 4 and 16)
  - Must establish a procedure for filing and processing a disclosure (s. 7)
  - Can investigate to verify information (s. 10)
  - Forward the information to the Anti-Corruption Commissioner (s. 11)

> Act does not apply to some disclosures (s. 3) :

- Disclosures of contravening an Act or regulation regarding the tendering or awarding process of a public contract referred to in the first paragraph of section 20 of the *Act respecting the Autorité des marchés publics*
- Disclosures regarding an ethics or conduct-related violation covered by Division I of Chapter III of the *Municipal Ethics and Good Conduct Act*
- Disclosures of condition of employment of the person making the disclosure

# Public contracts

- > Coming into force of certain provisions of the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* on May 25, 2019
- > Municipalities, metropolitan communities and intermunicipal boards are public bodies within the meaning of the *Act*
- > A person who wishes to file a complaint against the conditions for awarding a public contract must do so with the public body before complaining the *Autorité des marchés publics* (s.37 to 42)



> The Act also modifies :

- *Cities an Towns Act*
- *Municipal Code of Québec*
- *Act respecting the Communauté métropolitaine de Montréal*
- *Act respecting the Communauté métropolitaine de Québec*

> Requirement for municipalities to have procedure for receiving and examining complaints that must be published on their website

# Authorization from the CPTAQ

- > *Regulation respecting the authorization for the alienation or use of a lot without the authorization of the Commission de protection du territoire agricole du Québec* in force since January 24, 2019
- > Eliminates the requirement to obtain authorization from the CPTAQ for certain uses of an agricultural lot (s. 11) :
  - Use ancillary to an agricultural operation or an equestrian centre
  - Farm tourism-related use
  - Secondary use in a residence or a multigenerational dwelling in a residence
  - Land improvements promoting the practice of agriculture.
- > Municipalities must verify whether the conditions are met for a project not to require an authorization from the CPTAQ

> Use of a lot for municipal or public utility purposes is allowed in certain cases without the need for an authorization from the CPTAQ (s. 2) :

- Installation and use of a dry hydrant, tank or body of water to ensure a municipal fire safety service
- Work for stabilizing a bank or shore to ensure the conservation of a public road
- Use and maintenance of a ditch for drainage purpose
- Dismantling, replacement, repair or maintenance of a section of 2 km or less of a pipe or an electric power line
- Installation of an electric power line or a natural gas distribution pipe on a lot contiguous to an immovable to be served
- Encroachment necessary outside the right of way of a public road during work referred to in section 6 of the *Preservation of Agricultural Land and Agricultural Activities Regulation* or during work for the replacement of a bridge or culvert.



# ✓ The Société d'habitation du Québec

- > Bill n° 16 - *An Act mainly to regulate building inspections and divided co-ownership, to replace the name and improve the rules of operation of the Régie du logement and to amend the Act respecting the Société d'habitation du Québec and various legislative provisions concerning municipal affairs*
- > Presented on April 3, 2019
- > Under study as of September 3, 2019
- > Gives municipalities the right to contribute to residential projects supported by the SHQ outside their territory (s. 106 of the Bill)

- > Modifies the *Cities and Towns Act* and the *Municipal Code of Québec*
- > A municipality may, by mutual agreement and gratuitously, unite with various organization in order to perform work or in order to obtain supplies or services (s. 112 et 119 of the Bill)
  - Public bodies
  - Non-profit bodies
  - Educational institutions
  - Another municipality
  - Etc.



- > Modifies the *Municipal Powers Act*
- > A local municipality will be able to adopt a program to grant assistance in the form of a tax credit to a private seniors' residence (s. 122 of the Bill)

# / Labour standards

- > *An Act to amend the Act respecting labour standards and other legislative provisions mainly to facilitate family-work balance* assented to on 12 June, 2018
- > Some sections came into force on January 1, 2019
- > An employer may not discriminate on the basis of employment status with respect to wage and annual leave (s. 41.1 and 74.1)
  - In particular, no distinction between full-time and part-time employees

- > An employee who is credited with three years of uninterrupted service is entitled to an annual leave for a minimum duration of three consecutive weeks (s. 69)
  - Instead of five years of uninterrupted service
- > Employers must adopt psychological and sexual harassment prevention and complaint processing policy (s. 81.19)

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