

1999 BILL 202

Third Session, 24th Legislature, 48 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 202

FARMING PRACTICES PROTECTION STATUTES
AMENDMENT ACT, 1999

MR. THURBER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 202
Mr. Thurber

BILL 202

1999

FARMING PRACTICES PROTECTION STATUTES AMENDMENT ACT, 1999

(Assented to _____, 1999)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Agricultural Operation Practices Act

Amends SA
1987 cA-7.7

1(1) The *Agricultural Operation Practices Act* is amended by this section.

(2) Section 1 is amended by adding the following after clause (d):

- (e) “nuisance” includes an activity which
 - (i) arises from unreasonable, unwarranted or unlawful use by a person of the person’s own property which causes obstruction or injury to the right of another person or to the public and produces such material annoyance, inconvenience and discomfort that damage will result,
 - (ii) creates smoke, odour, noise or vibration which interferes with the reasonable and comfortable use of a person’s property, or
 - (iii) is found to be a nuisance at common law.

(3) Section 2 is amended by adding the following after subsection (3):

- (4) In an action in nuisance against a person who carries on

Explanatory Notes

Agricultural Operation Practices Act

1(1) Amends chapter A-7.7 of the Statutes of Alberta, 1987.

(2) Definition of “nuisance”.

(3) Section 2 presently reads:

2(1) A person who carries on an agricultural operation and who, in respect of that operation, does not contravene any of the following:

an agricultural operation, a court may

- (a) order the party that commenced the action to furnish security for costs in any amount the court considers proper;
- (b) award party and party costs and solicitor and client costs or either of them.

Municipal Government Act

Amends SA
1994 cM-26.1

2(1) The *Municipal Government Act* is amended by this section.

(2) Section 616 is amended by renumbering clause (a)

- (a) *the land use by-law of the municipality or Metis settlement in which the agricultural operation is carried on;*
- (b) *the regulations made by the Minister under section 3;*
- (c) *the generally accepted practices for similar agricultural operations;*

is not liable to any person in an action in nuisance resulting from the agricultural operation and shall not be prevented by injunction or other order of a court from carrying on the agricultural operation because it causes or creates a nuisance.

(2) Subsection (1) continues to apply notwithstanding that 1 or more of the following occur:

- (a) *the land use by-law of the municipality or Metis settlement in which the agricultural operation is carried on changes;*
- (b) *the ownership of the agricultural land on which the agricultural operation is carried on changes;*
- (c) *the agricultural operation is carried on by other persons;*
- (d) *the use of land adjacent to the land on which the agricultural operation is carried on changes.*

(3) Where a plaintiff or claimant in a proceeding against a person who carries on an agricultural operation

- (a) *claims damages in nuisance resulting from the agricultural operation, or*
- (b) *applies for an injunction or other order of a court preventing or restricting the carrying on of the agricultural operation because it causes or creates a nuisance,*

the onus of proving that the defendant contravened the land use by-law, regulation or practice referred to in subsection (1) is on the plaintiff or claimant, as the case may be.

Municipal Government Act

2(1) Amends chapter M-26.1 of the Statutes of Alberta, 1994.

(2) Definition of “agricultural operation”.

as clause (a.1) and by adding the following before clause (a.1):

- (a) “agricultural operation” means an agricultural operation as defined in the *Agricultural Operation Practices Act*;

(3) Section 632(3) is amended by striking out “and” at the end of clause (d), by adding “and” at the end of clause (e) and by adding the following after clause (e):

- (f) must contain policies respecting the protection of agricultural operations including, but not limited to, the need for written notice to be provided to the owners of land situated adjacent to agricultural operations.

(3) Section 632(3) presently reads:

632(3) A municipal development plan

(a) must address

- (i) the future land use within the municipality,*
- (ii) the manner of and the proposals for future development in the municipality,*
- (iii) the co-ordination of land use, future growth patterns and other infrastructure with adjacent municipalities if there is no intermunicipal development plan with respect to those matters in those municipalities,*
- (iv) the provision of the required transportation systems either generally or specifically within the municipality and in relation to adjacent municipalities, and*
- (v) the provision of municipal services and facilities either generally or specifically,*

(b) may address

- (i) proposals for the financing and programming of municipal infrastructure,*
- (ii) the co-ordination of municipal programs relating to the physical, social and economic development of the municipality,*
- (iii) environmental matters within the municipality,*
- (iv) the financial resources of the municipality,*
- (v) the economic development of the municipality, and*
- (vi) any other matter relating to the physical, social or economic development of the municipality,*

Protection of
agricultural
operations

(4) By adding the following after section 639:

639.1 In preparing a land use bylaw, a municipality must consider the protection of agricultural operations.

(5) Section 640 is amended in subsection (2) by adding the following after clause (e):

- (f) must establish a method of providing written notice to owners of land situated adjacent to an agricultural operation.

- (c) *may contain statements regarding the municipality's development constraints, including the results of any development studies and impact analysis, and goals, objectives, targets, planning policies and corporate strategies,*
 - (d) *must contain policies compatible with the subdivision and development regulations to provide guidance on the type and location of land uses adjacent to sour gas facilities, and*
 - (e) *must contain policies respecting the provision of municipal, school or municipal and school reserves, including but not limited to the need for, amount of and allocation of those reserves and the identification of school requirements in consultation with affected school authorities.*
- (4) Protection of agricultural operations.

- (5) Section 640(2) presently reads:

640(2) A land use bylaw

- (a) *must divide the municipality into districts of the number and area the council considers appropriate;*
- (b) *must, unless the district is designated as a direct control district pursuant to section 641, prescribe with respect to each district,*
 - (i) *the one or more uses of land or buildings that are permitted in the district, with or without conditions, or*
 - (ii) *the one or more uses of land or buildings that may be permitted in the district at the discretion of the development authority, with or without conditions,*

or both;
- (c) *must establish a method of making decisions on applications for development permits and issuing development permits for any development, including*

Coming into Force

- 3 This Act comes into force on Proclamation.**

provision for

- (i) the types of development permit that may be issued,*
 - (ii) applying for a development permit,*
 - (iii) processing an application for, or issuing, cancelling, suspending or refusing to issue, a development permit,*
 - (iv) the conditions that are to be attached, or that the development authority may attach, to a development permit either generally or with respect to a specific type of permit,*
 - (v) how long any type of development permit remains in effect,*
 - (vi) the discretion that the development authority may exercise with respect to development permits, and*
 - (vii) any other matters necessary to regulate and control the issue of development permits that to the council appear necessary;*
- (d) must provide for how and to whom notice of the issuance of a development permit is to be given;*
- (e) must establish the number of dwelling units permitted on a parcel of land.*

Coming into Force

3 Coming into force.