

# Invasive Species Bylaws

## What is an Invasive Species?

The Government of Alberta defines an invasive species as any “non-native species that has been introduced, intentionally or unintentionally, from other countries or ecosystems and threaten Alberta’s ecosystem and biodiversity.”<sup>1</sup>

Beyond this general description, legislation including the *Agricultural Pests Act*<sup>2</sup>, the *Fisheries (Alberta) Act*,<sup>3</sup> the *Weed Control Act*<sup>4</sup> and their respective regulations also define invasive species particular to each legislative mandate. Some examples of invasive species in Alberta include goldfish, flowering rush, brown rats, prussian carp, and leafy spurge.

Invasive species in Alberta are managed differently depending on whether they fall under the category of agricultural pest, aquatic species, or weed.

### *Agricultural Pests:*

In Alberta, invasive species can be declared as either a pest or nuisance under the *Agricultural Pests Act* and these characterizations can apply to the province as a whole or can be restricted to certain areas.<sup>5</sup> The species characterized as either an agricultural pest or nuisance are then set out in Parts 1 and 2, respectively, of Schedule 1 to the *Pest and Nuisance Control Regulation*.<sup>6</sup>

For example, wild boars are considered a pest wherever they are found in the province<sup>7</sup> while horses are only considered a nuisance if found in certain wildlife management units.<sup>8</sup>

For municipal purposes it is important to note that neither the *Agricultural Pests Act* nor the accompanying *Pest and Nuisance Control Regulation* specifically authorize municipalities to deal with these pest and nuisance species under their own bylaws.<sup>9</sup>

### *Aquatic Species*

The *Fisheries (Alberta) Act* defines invasive organisms, species and fish for the Act, listing the species that apply under the attached Schedules.<sup>10</sup> It also authorizes the Minister to appoint



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<sup>1</sup> Alberta Environment, “Invasive species overview” *Government of Alberta* online: <https://www.alberta.ca/invasive-species-overview.aspx#toc-0>.

<sup>2</sup> *Agricultural Pests Act*, RSA 2000, c A-8 [Agricultural Pests Act].

<sup>3</sup> *Fisheries (Alberta) Act*, RSA 2000, c F-16 [Fisheries (Alberta) Act].

<sup>4</sup> *Weed Control Act*, SA 2008, c W-5.1 [Weed Control Act].

<sup>5</sup> *Agricultural Pests Act*, *supra* note 2, s 2(1) & (2).

<sup>6</sup> *Pest and Nuisance Control Regulation*, Alta Reg 184/2001, Sched 1 [Pests and Nuisance Control Regulation].

<sup>7</sup> *Pest and Nuisance Control Regulation*, *supra* note 6, s 2(2).

<sup>8</sup> *Pest and Nuisance Control Regulation*, *supra* note 6, s 3(2).

<sup>9</sup> *Pest and Nuisance Control Regulation*, *supra* note 6.

<sup>10</sup> *Fisheries (Alberta) Act*, *supra* note 3, ss 1(j.3)-(1(j.5) & Sched.

inspectors at the provincial level to ensure these species are properly managed.<sup>11</sup> Again, it does not refer to the creation of municipal bylaws.

## Weeds

The *Weed Control Regulation* created under the *Weed Control Act* does specifically authorize municipalities to create their own invasive species bylaws.<sup>12</sup> In doing so, municipalities can designate plants as noxious weeds or prohibited noxious weeds within the municipal boundaries through bylaw. A list of plants that are characterized as noxious weeds is set out in Schedule 2 of the *Weed Control Regulation* while prohibited noxious weeds are set out in Schedule 1.

The Alberta Invasive Species Council defines a noxious species as a species that landowners must control to prevent from spreading - these are non-native species that are already widely distributed in Alberta and have significant economic or ecological impact and can easily spread.<sup>13</sup>

## What is an invasive species bylaw?

In addition to the provincial legislation, the *Weed Control Regulation* authorizes municipalities to create their own bylaws to control weeds.<sup>14</sup> These are municipal bylaws that can set out the requirements and enforcement mechanisms for invasive species, specifically in this case noxious and prohibited noxious weeds, located within the municipality's jurisdiction.

In contrast, neither the *Fisheries (Alberta) Act* nor the *Agricultural Pests Act* include specific reference to the creation of a corresponding municipal bylaw. It is likely that municipalities could create a bylaw that manages these species, so long as it does not conflict with the Act and corresponding Regulation.

## How can municipalities use these bylaws?

Through a bylaw, municipalities can control how to manage invasive species in their jurisdiction, including through the appointment of inspectors.

For weeds, an invasive species bylaw can also classify weeds at a higher prohibited level if deemed necessary by the municipality. This means that if a weed is designated as a prohibited noxious weed under the Schedule, the municipality must designate it as such.<sup>15</sup> However, if a weed is designated as a noxious weed in the Schedule, the municipality has the option of designating that species as either a noxious weed or a prohibited noxious weed – the more stringent classification level.<sup>16</sup> This enables a higher level of categorization if the municipality deems it necessary.

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<sup>11</sup> *Fisheries (Alberta) Act*, *supra* note 3, s 20.1.

<sup>12</sup> *Weed Control Act*, *supra* note 4; *Weed Control Regulation*, Alta Reg 19/2010, s 9 [*Weed Control Regulation*].

<sup>13</sup> Alberta Invasive Species Council, "Noxious Species" online: <https://abinvasives.ca/invasive-species/fact-sheets/noxious-species/>.

<sup>14</sup> *Weed Control Regulation*, *supra* note 12, s 9.

<sup>15</sup> *Weed Control Regulation*, *supra* note 12, s 9(3).

<sup>16</sup> *Weed Control Regulation*, *supra* note 12, s 9(2).

## What are the advantages?

The creation of invasive species bylaws gives municipalities control and flexibility. Bylaws also enable flexible regulation such as differentiating between nuisance weeds which are governed differently depending on whether they are located on private or public property and noxious weeds which are controlled in the same way regardless of where they are located.<sup>17</sup> This is valid so long as it is authorized by, or does not conflict with, the corresponding Act.

## What are the disadvantages?

The only invasive species legislation with specific reference to municipal bylaws is the *Weed Control Act*. If municipalities wish to create a bylaw that deals with other invasive species such as aquatic species of pests, they will need to ensure it is compatible with the relevant Act and they will not have a legislative guide to turn to.

If they choose not to enact a bylaw for these other types of invasive species, the municipality will need to continue to turn to provincial inspectors. This leads to a more disjointed set of requirements dependent on the type of invasive species.

## Resources

**Alberta Invasive Species Council:** A not-for-profit society dedicated to informing and educating Albertans about the destructive impacts invasive species have on our environment, economy, and society. Website: <https://abinvasives.ca/>

**Government of Alberta Invasive Species Information:** includes sections on Invasive Species, Weeds, and Aquatic Invasive Species. Website: <https://www.alberta.ca/invasive-species.aspx>

**City of Edmonton Community Standards Bylaw:** See Part V for Weed and Pest Control. Website: <https://cityarchives.edmonton.ca/uploads/r/null/f/e/a/fea108e2be4025fbb999a7b3788f52e1283f79681f80081f791bae2da0cd1fcb/C14600.pdf>

**City of Calgary Community Standards Bylaw:** See Part 11 for Weeds and Grass. Website: <https://www.calgary.ca/CSPS/ABS/Pages/Bylaws-by-topic/Weeds.aspx>

**Grow Me Instead:** A Gardener's Guide to Invasive Plants. Website: [https://www.edmonton.ca/documents/AISC\\_GrowMeInstead\\_2015\\_web.pdf](https://www.edmonton.ca/documents/AISC_GrowMeInstead_2015_web.pdf)

**Identification Guide for Alberta Invasive Plants:** Guide to prohibited noxious & noxious weeds legislated under the Alberta *Weed Control Act*. Website: [https://www.edmonton.ca/documents/PDF/Weed\\_Identification\\_Book.pdf](https://www.edmonton.ca/documents/PDF/Weed_Identification_Book.pdf).

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<sup>17</sup> City of Edmonton, "Weed Control on Private Property" online: [https://www.edmonton.ca/city\\_government/bylaws/weed-control-private-property.aspx](https://www.edmonton.ca/city_government/bylaws/weed-control-private-property.aspx).

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