

Effective 5/6/2026

17-81-304 Public nuisance ordinances.

- (1) A political subdivision shall ensure that any of the political subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:
 - (a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety;
 - (b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety; or
 - (c) for a critical infrastructure materials protection area, any critical infrastructure materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.
- (2)
 - (a) For an agricultural protection area, an ordinance of a political subdivision does not apply to an agricultural operation that is conducted in the normal and ordinary course of an agricultural operation or conducted in accordance with sound agricultural practices if that ordinance:
 - (i) would make the agricultural operation, or appurtenances to the agricultural operation, a public nuisance; or
 - (ii) provides for abatement of the agricultural operation as a public nuisance.
 - (b) An agricultural operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, is presumed to be operating within sound agricultural practices.
- (3)
 - (a) A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.
 - (b) A vested mining use that is consistent with sound mining practices:
 - (i) is presumed to be reasonable; and
 - (ii) may not constitute a private nuisance or public nuisance under Title 78B, Chapter 6a, Civil Actions for Nuisances, or a public nuisance under Section 76-9-1301.
 - (c) A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.
- (4) The county recorder shall, from time to time, ensure compliance with Section 17-79-716 in regard to subdivision development near a protection area.

Amended by Chapter 401, 2026 General Session