

## **Part 3 Protections**

### **23-28-301 Farmland Assessment Act.**

- (1) Creation of a migratory bird production area does not impair the ability of land within the migratory bird production area to qualify for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act.
- (2) The eligibility of land for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act, is determined exclusively by the provisions of that act, notwithstanding the land's location within a migratory bird production area.

Enacted by Chapter 273, 2009 General Session

### **23-28-302 Limitations on local regulations.**

- (1)
  - (a) A county within which a migratory bird production area is located shall encourage the continuity, development, and viability of the migratory bird production area.
  - (b) A structure or improvement historically or customarily used in conjunction with a migratory bird production area is considered a permitted use under the county's zoning law, ordinance, or regulation.
- (2) A county within which a migratory bird production area is located may not:
  - (a) enact a law, ordinance, or regulation that unreasonably restricts an activity normally associated with the migratory bird production area;
  - (b) change the zoning designation of, or a zoning regulation applying to land within a migratory bird production area unless the county receives written approval for the change from all the landowners within the migratory bird production area; or
  - (c) enact a law, ordinance, or regulation concerning the use, operation, or discharge of a firearm that is more restrictive than state law, except as provided by Subsection 23-14-1(3)(b).

Enacted by Chapter 273, 2009 General Session

### **23-28-303 Nuisances.**

- (1)
  - (a) A county shall exclude the activities described in Subsection (1)(b) from the definition of public nuisance in a county law or ordinance regulating a public nuisance.
  - (b) An activity or occurrence normally associated with a migratory bird production area is not a nuisance, including:
    - (i) hunting;
    - (ii) discharging a firearm;
    - (iii) improving habitat;
    - (iv) trapping;
    - (v) eradicating weeds;
    - (vi) discing;
    - (vii) planting;
    - (viii) impounding water;
    - (ix) raising a bird or other domestic animal;
    - (x) grazing;

- (xi) an activity conducted in the normal course of an agricultural operation as defined in Section 78B-6-1101; and
  - (xii) an odor.
- (2) In a civil action for nuisance or a criminal action for public nuisance under Section 76-10-803, it is a complete defense if the action is:
- (a) normally associated with a migratory bird production area;
  - (b) conducted within a migratory bird production area; and
  - (c) not in violation of any federal or state law.
- (3) An owner of a new development located in whole or in part within 1,000 feet of a migratory bird production area shall provide the following notice on any plat filed with the county recorder:
- "Migratory Bird Production Area  
This property is located in the vicinity of an established migratory bird production area in which hunting and activities related to the management and operation of land for the benefit of migratory birds have been afforded the highest priority use status. It can be anticipated that these uses and activities may now or in the future be conducted on land within the migratory bird production area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from activities normally associated with a migratory bird production area."

Enacted by Chapter 273, 2009 General Session

**23-28-304 Annexation restrictions.**

A municipality may annex real property within a migratory bird production area as provided by Title 10, Chapter 2, Part 4, Annexation.

Enacted by Chapter 273, 2009 General Session

**23-28-305 Application of Water Quality Act.**

A migratory bird production area is subject to Title 19, Chapter 5, Water Quality Act.

Enacted by Chapter 273, 2009 General Session