

# State of Wisconsin



2005 Assembly Bill 59

Date of enactment: **December 21, 2005**

Date of publication\*: **January 6, 2006**

## 2005 WISCONSIN ACT 79

AN ACT *to renumber and amend* 60.61 (2) (a); *to amend* 59.69 (4) (a) and 62.23 (7) (b); and *to create* 823.075 of the statutes; **relating to:** actions against forestry operations and granting rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 59.69 (4) (a) of the statutes is amended to read:

59.69 (4) (a) The areas within which agriculture, forestry, industry, mining, trades, business and recreation may be conducted, except that no ordinance enacted under this subsection may prohibit forestry operations that are in accordance with generally accepted forestry management practices, as defined under s. 823.075 (1) (d).

**SECTION 2.** 60.61 (2) (a) of the statutes is renumbered 60.61 (2) (a) (intro.) and amended to read:

60.61 (2) (a) (intro.) Regulate, restrict and determine: the all of the following:

1. The areas within which agriculture, forestry, mining and recreation may be conducted; the, except that no ordinance enacted under this subsection may prohibit forestry operations that are in accordance with generally accepted forestry management practices, as defined under s. 823.075 (1) (d).

2. The location of roads, schools, trades and industries; the.

3. The location, height, bulk, number of stories and size of buildings and other structures; the.

4. The percentage of a lot which may be occupied; the.

5. The size of yards, courts and other open spaces; the.

6. The density and distribution of population; the.

7. The location of buildings designed for specified uses; the.

8. The trades, industries or purposes that may be engaged in or subject to regulation; and the.

9. The uses for which buildings may not be erected or altered.

**SECTION 3.** 62.23 (7) (b) of the statutes is amended to read:

62.23 (7) (b) *Districts.* For any and all of said purposes the council may divide the city into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this section; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings and for the use of land throughout each district, but the regulations in one district may differ from those in other districts. No ordinance enacted or regulation adopted under this subsection may prohibit forestry operations that are in accordance with generally accepted forestry management practices, as defined under s. 823.075 (1) (d). The council may with the consent of the owners establish special districts, to be called planned development districts, with regulations in each, which in addition to those pro-

\* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

vided in par. (c), will over a period of time tend to promote the maximum benefit from coordinated area site planning, diversified location of structures and mixed compatible uses. Such regulations shall provide for a safe and efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities and insure adequate standards of construction and planning. Such regulations may also provide for the development of the land in such districts with one or more principal structures and related accessory uses, and in such districts the regulations need not be uniform.

**SECTION 4.** 823.075 of the statutes is created to read:

**823.075 Actions against forestry operations. (1)**

In this section:

(a) "Department" means the department of natural resources.

(b) "Forest" means a parcel of land in which at least 80 percent of the parcel is producing or is capable of producing at least 20 cubic feet of merchantable timber, as defined in s. 77.81 (3), per acre per year.

(c) "Forestry operation" means any activity related to the harvesting, reforestation, and other forest management activities, including thinning, pest control, fertilization, and wildlife management.

(d) "Generally accepted forestry management practices" means forestry management practices that promote sound management of a forest, as determined by the department by rule. The rule promulgated by the department may incorporate by reference the most recent version of the department's publication known as Wisconsin Forest Management Guidelines and identified as publication number PUB-FR-226.

(2) A forestry operation is not a nuisance if the forestry operation alleged to be a nuisance conforms to generally accepted forestry management practices.

(3) A forestry operation that conforms to generally accepted forestry management practices is not a nuisance as a result of any of the following:

(a) A change in ownership or size of a forest.

(b) Cessation or interruption of forestry operations.

(c) Enrollment of all or part of the forest in governmental forestry or conservation programs.

(d) Adoption of new forestry technology.

(4) In any action in which a forestry operation is alleged to be a nuisance, if the party who was alleged to commit the nuisance prevails, the court may award that party the actual and necessary costs incurred in the action and, notwithstanding s. 814.04 (1), reasonable attorney fees.

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