

AGRICULTURE PROTECTION AREAS AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

AN ACT RELATING TO CITIES AND TOWNS AND COUNTIES; REQUIRING THE CONSENT OF THE OWNERS OF ALL PROPERTY WITHIN AN AGRICULTURE PROTECTION AREA FOR AN ANNEXATION PETITION OF THAT AREA OR FOR WITHDRAWAL OF THE AREA FROM THE AGRICULTURE PROTECTION AREA AFTER ANNEXATION; REMOVING A CONDITION TO THE INITIATION OF THE PROCESS TO CREATE AN AGRICULTURE PROTECTION AREA IN A CITY OR TOWN; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

10-2-403, as last amended by Chapter 3, Laws of Utah 1997, Second Special Session

17-41-301, as last amended by Chapter 356, Laws of Utah 1998

17-41-306, as last amended by Chapter 356, Laws of Utah 1998

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-2-403** is amended to read:

10-2-403. Annexation petition -- Requirements.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) Each petition under Subsection (1) shall:

(a) be filed with the city recorder or town clerk, as the case may be, of the proposed annexing municipality;

(b) contain the signatures of the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (2)(b)(ii)(B), covers a majority of the private land area within the area proposed for annexation; and

(B) covers 100% of the private land area within the area proposed for annexation, if the

area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture Protection Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by an accurate plat or map, prepared by a licensed surveyor, of the area proposed for annexation; and

(d) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(3) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(4) A petition under Subsection (1) may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2-103 or a petition under Section 10-2-125 if:

(a) the request or petition was filed before the filing of the annexation petition; and

(b) the request, a petition under Section 10-2-109 based on that request, or a petition under Section 10-2-125 is still pending on the date the annexation petition is filed.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn along the boundaries of existing special districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities:

(a) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(b) to facilitate the consolidation of overlapping functions of local government;

(c) to promote the efficient delivery of services; and

(d) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to:

- (a) the clerk of the county in which the area proposed for annexation is located; and
- (b) the chair of the planning commission of each township in which any part of the area proposed for annexation is located.

Section 2. Section **17-41-301** is amended to read:

17-41-301. Proposal for creation of agriculture protection area.

(1) (a) A proposal to create an agriculture protection area may be filed with:

(i) the legislative body of the county in which the area is located, if the area is within the unincorporated part of a county; or

(ii) the legislative body of the city or town in which the area is located, if the area is within a city or town [~~that has adopted an ordinance permitting the creation of an agriculture protection area within the city or town~~].

(b) (i) To be accepted for processing by the applicable legislative body, a proposal under Subsection (1)(a) shall be signed by a majority in number of all owners of real property and the owners of a majority of the land area in agricultural production within the proposed agriculture protection area.

(ii) For purposes of Subsection (1)(b)(i), the owners of real property shall be determined by the records of the county recorder.

(2) The proposal shall identify:

(a) the boundaries of the land proposed to become part of an agriculture protection area;

(b) any limits on the types of agriculture production to be allowed within the agriculture protection area; and

(c) for each parcel of land:

(i) the names of the owners of record of the land proposed to be included within the agriculture protection area;

(ii) the tax parcel number or account number identifying each parcel; and

(iii) the number of acres of each parcel.

(3) An agriculture protection area may include within its boundaries land used for a roadway, dwelling site, park, or other nonagricultural use if that land constitutes a minority of the total acreage

within the agriculture protection area.

(4) A county or municipal legislative body may establish:

- (a) the manner and form for submission of proposals; and
- (b) reasonable fees for accepting and processing the proposal.

(5) Each county and municipal legislative body shall establish the minimum number of continuous acres that must be included in an agriculture protection area.

Section 3. Section **17-41-306** is amended to read:

17-41-306. Adding land to or removing land from an agriculture protection area.

(1) (a) Any owner may add land to an existing agriculture protection area by:

(i) filing a proposal with:

(A) the county legislative body, if the agriculture protection area and the land to be added are within the unincorporated part of the county; or

(B) the municipal legislative body, if the agriculture protection area and the land to be added are within a city or town; and

(ii) obtaining the approval of the applicable legislative body for the addition of the land to the area.

(b) The applicable legislative body shall comply with the provisions for creating an agriculture protection area in determining whether or not to accept the proposal.

(2) (a) Any owner may remove land from an agriculture protection area by filing a petition for removal of the land from the agriculture protection area with the applicable legislative body.

(b) (i) The applicable legislative body shall:

(A) grant the petition for removal of land from an agriculture protection area even if removal of the land would result in an agriculture protection area of less than the number of acres established by the applicable legislative body as the minimum under Section 17-41-301; and

(B) in order to give constructive notice of the removal to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the agriculture protection area and the land removed from the agriculture protection area, file a legal description of the revised boundaries of the agriculture protection area with the county recorder of deeds and the affected planning commission.

(ii) The remaining land in the agriculture protection area is still an agriculture protection area.

(3) (a) [~~When~~] If a municipality annexes any land that is part of an agriculture protection area located in the unincorporated part of the county, the county legislative body shall, within 30 days after the land is annexed, review the feasibility of that land remaining in the agriculture protection area according to the procedures and requirements of Section 17-41-307.

(b) [~~If appropriate, the~~] The county legislative body shall remove the annexed land from the agriculture protection area if:

(i) the county legislative body concludes, after the review under Section 17-41-307, that removal is appropriate; and

(ii) the owners of all the annexed land that is within the agriculture protection area consent in writing to the removal.

(c) Removal of land from an agriculture protection area under this Subsection (3) does not affect whether that land may be:

(i) included in a proposal under Section 17-41-301 to create an agriculture protection area within the municipality; or

(ii) added to an existing agriculture protection area within the municipality under [~~Section 17-41-306~~] Subsection (1).