

TRANSPORTATION CORRIDOR PRESERVATION ACT

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Marda Dillree

AN ACT RELATING TO TRANSPORTATION; PROVIDING DEFINITIONS; PROVIDING TRANSPORTATION CORRIDOR PRESERVATION POWERS; AMENDING OFFICIAL MAP AND GENERAL PLAN PROVISIONS; AND PROVIDING RULEMAKING.

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

AMENDS:

10-9-103, as last amended by Chapter 291, Laws of Utah 1999

10-9-301, as last amended by Chapters 23 and 93, Laws of Utah 1992

10-9-306, as enacted by Chapter 23, Laws of Utah 1992

17-27-103, as last amended by Chapters 139 and 291, Laws of Utah 1999

17-27-301, as last amended by Chapter 257, Laws of Utah 1994

17-27-306, as enacted by Chapter 23, Laws of Utah 1992

72-2-117, as last amended by Chapter 286, Laws of Utah 1999

72-5-111, as renumbered and amended by Chapter 270, Laws of Utah 1998

ENACTS:

72-5-401, Utah Code Annotated 1953

72-5-402, Utah Code Annotated 1953

72-5-403, Utah Code Annotated 1953

72-5-404, Utah Code Annotated 1953

72-5-405, Utah Code Annotated 1953

72-5-406, Utah Code Annotated 1953

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

Section 1. Section **10-9-103** is amended to read:

10-9-103. Definitions -- Notice.

(1) As used in this chapter:

(a) "Billboard" means a freestanding ground sign located on industrial, commercial, or

residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(b) "Chief executive officer" means:

(i) the mayor in municipalities operating under all forms of municipal government except the council-manager form; or

(ii) the city manager in municipalities operating under the council-manager form of municipal government.

(c) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(d) "Constitutional taking" has the meaning as defined in Section 63-34-13.

(e) "County" means the unincorporated area of the county.

(f) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

(g) (i) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality, as set forth in Sections 10-9-301 and 10-9-302.

(ii) "General plan" includes what is also commonly referred to as a "master plan."

(h) "Legislative body" means the city council or city commission.

(i) "Lot line adjustment" in a subdivision means the relocation of the property boundary line between two adjoining lots with the consent of the owners of record.

(j) "Municipality" means a city or town.

(k) "Nonconforming structure" means a structure that:

(i) legally existed before its current zoning designation; and

(ii) because of subsequent zoning changes, does not conform with the zoning regulation's setback, height restrictions, or other regulations that govern the structure.

(l) "Nonconforming use" means a use of land that:

(i) legally existed before its current zoning designation;
(ii) has been maintained continuously since the time the zoning regulation governing the land changed; and

(iii) because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

(m) "Official map" [~~means a map of proposed streets that has the legal effect of prohibiting development of the property until the municipality develops the proposed street~~] has the same meaning as provided in Section 72-5-401.

(n) (i) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of that part.

(ii) "Residential facility for elderly persons" does not include a health care facility as defined by Section 26-21-2.

(o) "Special district" means all entities established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

(p) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

(q) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(ii) "Subdivision" includes:

(A) the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and

(B) except as provided in Subsection (1)(q)(iii), divisions of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(iii) "Subdivision" does not include:

(A) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance;

(B) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(I) no new lot is created; and

(II) the adjustment does not result in a violation of applicable zoning ordinances; or

(C) a recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.

(iv) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this Subsection (1)(q) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(r) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) A municipality meets the requirements of reasonable notice required by this chapter if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) A municipal legislative body may enact an ordinance establishing stricter notice requirements than those required by this subsection.

(c) (i) Proof that one of the two forms of notice authorized by this subsection was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Section 10-9-1001 within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Section 2. Section **10-9-301** is amended to read:

10-9-301. General plan.

(1) In order to accomplish the purposes set forth in this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

- (a) present and future needs of the municipality; and
- (b) growth and development of the land within the municipality or any part of the municipality.

(2) The plan may provide for:

- (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;
- (b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
- (c) the efficient and economical use, conservation, and production of the supply of:
 - (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
- (d) the use of energy conservation and solar and renewable energy resources;
- (e) the protection of urban development; [~~and~~]
- (f) the protection and promotion of air quality[-]; and
- (g) an official map, pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor

Preservation.

(3) The municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 3. Section **10-9-306** is amended to read:

10-9-306. Effect of official maps.

(1) Municipalities may [~~not~~] adopt an official map [~~under this chapter~~] in accordance with

the provisions of Title 72, Chapter 5, Part 4, Transportation Corridor Preservation.

(2) (a) An official map [~~adopted under the previous enabling statute~~] does not:

(i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (b)(iii); or

(ii) require a municipality to immediately acquire property it has designated for eventual use as a public street.

(b) This section does not prohibit a municipality from:

(i) requiring a landowner to take into account the proposed streets in the planning of a development proposal;

(ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain;

or

(iii) requiring the dedication and improvement of a street if the street is found necessary by the municipality because of a proposed development.

(3) An official map may not be used to unconstitutionally prohibit the development of property designated for eventual use as a public street.

(4) An adopted official map shall be available for public inspection upon request.

Section 4. Section **17-27-103** is amended to read:

17-27-103. Definitions -- Notice.

(1) As used in this chapter:

(a) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(b) "Chief executive officer" means the county executive, or if the county has adopted an alternative form of government, the official who exercises the executive powers.

(c) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

- (d) "Constitutional taking" has the meaning as defined in Section 63-34-13.
- (e) "County" means the unincorporated area of the county.
- (f) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.
- (g) "Gas corporation" has the same meaning as defined in Section 54-2-1.
- (h) (i) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the land within the county, as set forth in Sections 17-27-301 and 17-27-302.
 - (ii) "General plan" includes what is also commonly referred to as a "master plan."
- (i) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- (j) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- (k) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.
- (l) "Lot line adjustment" means the relocation of the property boundary line between two adjoining lots with the consent of the owners of record.
- (m) "Municipality" means a city or town.
- (n) "Nonconforming structure" means a structure that:
 - (i) legally existed before its current zoning designation; and
 - (ii) because of subsequent zoning changes, does not conform with the zoning regulation's setback, height restrictions, or other regulations that govern the structure.
- (o) "Nonconforming use" means a use of land that:
 - (i) legally existed before its current zoning designation;
 - (ii) has been maintained continuously since the time the zoning regulation governing the land changed; and

(iii) because of subsequent zoning changes, does not conform with the zoning regulations that now govern the land.

(p) "Official map" [~~means a map of proposed streets that has the legal effect of prohibiting development of the property until the county develops the proposed street~~] has the same meaning as provided in Section 72-5-401.

(q) (i) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Part 5 and any ordinance adopted under authority of that part.

(ii) "Residential facility for elderly persons" does not include a health care facility as defined by Section 26-21-2.

(r) "Special district" means all entities established under the authority of Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

(s) "Street" means public rights-of-way, including highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements, and other ways.

(t) (i) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(ii) "Subdivision" includes the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument.

(iii) "Subdivision" does not include:

(A) a bona fide division or partition of agricultural land for agricultural purposes;

(B) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(I) no new lot is created; and

(II) the adjustment does not result in a violation of applicable zoning ordinances;

(C) a recorded document, executed by the owner of record, revising the legal description of

more than one contiguous parcel of property into one legal description encompassing all such parcels of property; or

(D) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels, an unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company.

(iv) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under this Subsection (1)(t) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(u) "Unincorporated" means the area outside of the incorporated boundaries of cities and towns.

(2) (a) A county meets the requirements of reasonable notice required by this chapter if it:

(i) posts notice of the hearing or meeting in at least three public places within the jurisdiction and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available; or

(ii) gives actual notice of the hearing or meeting.

(b) A county legislative body may enact an ordinance establishing stricter notice requirements than those required by this Subsection (2).

(c) (i) Proof that one of the two forms of notice authorized by this subsection was given is prima facie evidence that notice was properly given.

(ii) If notice given under authority of this section is not challenged as provided in Section 17-27-1001 within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Section 5. Section **17-27-301** is amended to read:

17-27-301. General plan.

(1) In order to accomplish the purposes set forth in this chapter, each county shall prepare and adopt a comprehensive general plan for:

(a) the present and future needs of the county; and
(b) the growth and development of the land within the county or any part of the county, including uses of land for urbanization, trade, industry, residential, agricultural, wildlife habitat, and other purposes.

(2) The plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development; ~~and~~

(f) the protection and promotion of air quality[-]; and

(g) an official map, pursuant to Title 72, Chapter 5, Part 4, Transportation Corridor Preservation.

(3) The plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(4) The county may determine the comprehensiveness, extent, and format of the general plan.

Section 6. Section **17-27-306** is amended to read:

17-27-306. Effect of official maps.

(1) Counties may ~~[not]~~ adopt an official map ~~[under this chapter]~~ in accordance with the provisions of Title 72, Chapter 5, Part 4, Transportation Corridor Preservation.

(2) (a) An official map ~~[adopted under the previous enabling statute]~~ does not:

(i) require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in Subsection (2)(b)(iii); or

(ii) require a county to immediately acquire property it has designated for eventual use as a

public street.

(b) This section does not prohibit a county from:

(i) requiring a landowner to take into account the proposed streets in the planning of a development proposal;

(ii) acquiring the property through purchase, gift, voluntary dedication, or eminent domain;

or

(iii) requiring the dedication and improvement of a street if the street is found necessary by the county because of a proposed development.

(3) An official map may not be used to unconstitutionally prohibit the development of property designated for eventual use as a public street.

(4) An adopted official map shall be available for public inspection upon request.

Section 7. Section **72-2-117** is amended to read:

72-2-117. Transportation Corridor Preservation Revolving Loan Fund -- Distribution -- Repayment -- Rulemaking.

(1) There is created the Transportation Corridor Preservation Revolving Loan Fund within the Transportation Fund.

(2) The fund shall be funded from the following sources:

(a) motor vehicle rental tax imposed under Section 59-12-1201;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) interest earnings on cash balances;

(e) all monies collected for repayments and interest on fund monies;

(f) all monies collected from rents and sales of real property acquired with fund monies; and

(g) proceeds from revenue bonds or other obligations issued in accordance with Title 63,

Chapter 9a, State Building Ownership, and Title 63B, Bonds.

(3) All monies appropriated to the Transportation Corridor Preservation Revolving Loan Fund are nonlapsing.

(4) (a) The commission shall authorize the expenditure of fund monies to allow the

department to acquire real property or any interests in real property for state, county, and municipal transportation corridors subject to:

- (i) monies available in the fund;
- (ii) rules made under Subsection (7); and
- (iii) Subsection (9).

(b) Fund monies may be used to pay interest on debts incurred in accordance with this section.

(5) Administrative costs of the Transportation Corridor Preservation Revolving Loan Fund shall be paid from the fund.

(6) The department:

(a) may apply to the commission under this section for monies from the Transportation Corridor Preservation Revolving Loan Fund for a specified transportation corridor project, including for county and municipal projects; and

(b) shall repay the fund monies authorized for the project to the fund as required under Subsection (7).

(7) The commission shall:

(a) administer the Transportation Corridor Preservation Revolving Loan Fund to preserve transportation corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land;

(b) prioritize fund monies based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes; and

(iv) the availability of other public and private matching funds for a project; and

(c) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, establishing ~~the~~:

- (i) the procedures for the awarding of fund monies;
- (ii) the procedures for the department to apply for transportation corridor preservation monies for projects; [~~and~~]
- (iii) repayment conditions of the monies to the fund from the specified project funds[-]; and
- (iv) an advisory council to assist with and help coordinate the corridor preservation efforts of the department and local governments and to provide recommendations and priorities concerning corridor preservation and the use of fund monies to the department and to the commission.

(8) (a) The proceeds from the revenue bonds or other obligations issued on revenues of the Transportation Corridor Preservation Revolving Loan Fund shall be used for:

- (i) the acquisition of real property in hardship cases; and
- (ii) any of the purposes authorized for funds in the Transportation Corridor Preservation Revolving Loan Fund under this section.

(b) The commission shall pledge the necessary part of the revenues of the Transportation Corridor Preservation Revolving Loan Fund to the payment of principal of and interest on the revenue bonds or other obligations.

(9) (a) The department may not apply for monies under this section for a highway authority that does not have an access management policy or ordinance in effect that meets the requirements under Subsection (9)(b).

(b) The access management policy or ordinance shall:

(i) be for the purpose of balancing the need for reasonable access to land uses with the need to preserve the smooth flow of traffic on the highway system in terms of safety, capacity, and speed; and

(ii) include provisions:

- (A) limiting the number of conflict points at driveway locations;
- (B) separating conflict areas;
- (C) reducing the interference of through traffic;
- (D) spacing at-grade signalized intersections; and
- (E) providing for adequate on-site circulation and storage.

(c) The department shall develop a model access management policy or ordinance that meets the requirements of this Subsection (9) for the benefit of a county or municipality under this section.

Section 8. Section **72-5-111** is amended to read:

72-5-111. Disposal of real property.

(1) (a) If the department determines that any real property or interest in real property, acquired for a highway purpose, is no longer necessary for the purpose, the department may lease, sell, exchange, or otherwise dispose of the real property or interest in the real property.

(b) (i) Real property may be sold at private or public sale [~~and the~~].

(ii) The proceeds of [the] any sale shall be [turned over to] deposited with the state treasurer and credited to the Transportation Fund.

(2) (a) In the disposition of land at any private sale, first consideration [~~may~~] shall be given to the original grantor or his [~~successor-in-interest~~] heirs.

(b) If no portion of a parcel of real property acquired by the department is used for transportation purposes, then the original grantor or the grantor's heirs shall be given the opportunity to repurchase the parcel of real property at the department's original purchase price from the grantor.

(c) Subsection (2)(b) does not apply if the department purchase was initially requested by the grantor.

(3) (a) Any sale, exchange, or disposal of real property or interest in real property made by the department [~~pursuant to~~] under this section, is exempt from the mineral reservation provisions of Title 65A, Chapter 6, Mineral Leases[~~, and any~~].

(b) Any deed made and delivered by the department [~~pursuant to~~] under this section without specific reservations in the deed is a conveyance of all the state's right, title, and interest in the real property or interest in the real property.

Section 9. Section **72-5-401** is enacted to read:

Part 4. Transportation Corridor Preservation

72-5-401. Definitions.

As used in this part:

(1) "Corridor" means the path or proposed path of a transportation facility that exists or that

may exist in the future. A corridor may include the land occupied or to be occupied by a transportation facility, and any other land that may be needed for expanding a transportation facility or for controlling access to it.

(2) "Corridor preservation" means planning or acquisition processes intended to:

(a) protect or enhance the capacity of existing corridors; and

(b) protect the availability of proposed corridors in advance of the need for and the actual commencement of the transportation facility construction.

(3) "Development" means:

(a) the subdividing of land;

(b) the construction of improvements, expansions, or additions; or

(c) any other action that will appreciably increase the value of and the future acquisition cost of land.

(4) "Official map" means a map, drawn by government authorities and recorded in county recording offices that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) for counties and municipalities may be adopted as an element of the general plan, pursuant to Title 17, Chapter 27, Part 3, General Plan, or Title 10, Chapter 9, Part 3, General Plan.

(5) "Taking" means an act or regulation, either by exercise of eminent domain or other police power, whereby government puts private property to public use or restrains use of private property for public purposes, and that requires compensation to be paid to private property owners.

Section 10. Section **72-5-402** is enacted to read:

72-5-402. Public purpose.

The Legislature finds and declares that the planning and preservation of transportation corridors is a public purpose, that the acquisition of public rights in private property for possible use

as a transportation corridor up to 20 years in advance is a public purpose, and that acquisition of public rights in private property for possible use as alternative transportation corridors is a public purpose, even if one or more of the transportation corridors is eventually not used for a public purpose, so long as reasonable evidence exists at the time of acquisition that the corridor will be developed within 20 years.

Section 11. Section **72-5-403** is enacted to read:

72-5-403. Transportation corridor preservation powers.

(1) The department, counties, and municipalities may:

(a) act in cooperation with one another and other government entities to promote planning for and enhance the preservation of transportation corridors and to more effectively use the monies available in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117;

(b) undertake transportation corridor planning, review, and preservation processes; and

(c) acquire fee simple rights and other rights of less than fee simple, including easement and development rights, or the rights to limit development, including rights in alternative transportation corridors, and to make these acquisitions up to 20 years in advance of using those rights in actual transportation facility construction.

(2) In addition to the powers described under Subsection (1), counties and municipalities may:

(a) limit development for transportation corridor preservation by land use regulation and by official maps; and

(b) by ordinance prescribe procedures for approving limited development in transportation corridors until the time transportation facility construction begins.

Section 12. Section **72-5-404** is enacted to read:

72-5-404. Disposition of excess property rights.

If the department has acquired property rights in land in proposed transportation corridors, and some or all of that land is eventually not used for the proposed transportation corridors, the department shall dispose of the rights in accordance with the provisions of Section 72-5-111.

Section 13. Section **72-5-405** is enacted to read:

72-5-405. Private owner rights.

(1) The department, counties, and municipalities shall observe all protections conferred on private property rights, including Title 63, Chapter 90, Private Property Protection Act, Title 63, Chapter 90a, Constitutional Taking Issues, and compensation for takings.

(2) Private property owners from whom less than fee simple rights are obtained for transportation corridors or transportation corridor preservation have the right to petition the department, a county, or a municipality to acquire the entire fee simple interest in the affected property.

(3) (a) A private property owner whose property's development is limited or restricted by a power granted under this part may petition the county or municipality that adopted the official map to acquire less than or the entire fee simple interest in the affected property, at the option of the property owner.

(b) If the county or municipality petitioned under Subsection (3)(a) does not acquire the interest in the property requested by the property owner, then the county or municipality may not exercise any of the powers granted under this part to limit or restrict the affected property's development.

Section 14. Section **72-5-406** is enacted to read:

72-5-406. Rulemaking.

In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department shall make rules providing for private property owner petition procedures described in Section 72-5-405.