

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, including a public transit facility, that exists or that may exist in the future, and 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 27a, Part 4, General Plan, or Title 10, Chapter 9a, Part 4, 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.

Amended by Chapter 424, 2018 General Session

72-5-402 Public purpose.

- (1) 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 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 transportation facility will be developed within the time period established under this part.
- (2) The Legislature finds and declares that the acquisition of private property rights for the preservation of transportation corridors should be done on a voluntary basis and not by the use of eminent domain powers.

Amended by Chapter 300, 2003 General Session

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 money available in the Marda Dillree Corridor Preservation 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 a projected 40 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.
- (3)
 - (a) The department shall identify and the commission shall approve transportation corridors as high priority transportation corridors for transportation corridor preservation.
 - (b) The department shall notify a county or municipality if the county or municipality has land within its boundaries that is located within the boundaries of a high priority transportation corridor.
 - (c) The department may, on a voluntary basis, acquire private property rights within the boundaries of a high priority transportation corridor for which a notification has been received in accordance with Section 10-9a-206 or 17-27a-206.

Amended by Chapter 39, 2023 General Session

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 property rights in accordance with the provisions of Section 78B-6-521.

Amended by Chapter 3, 2008 General Session

72-5-405 Private owner rights.

- (1) The department, counties, and municipalities shall observe all protections conferred on private property rights, including Title 63L, Chapter 3, Private Property Protection Act, Title 63L, Chapter 4, Constitutional Takings Issues Act, 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.

Amended by Chapter 382, 2008 General Session

72-5-406 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for private property owner petition procedures described in Section 72-5-405.

Amended by Chapter 382, 2008 General Session

72-5-407 Voluntary purchase of property for corridor preservation -- Notice requirements.

- (1) As used in this section:
 - (a) "Greenbelt property" means land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.
 - (b) "Rollback tax" means the tax imposed under Section 59-2-506.
- (2) Before purchasing greenbelt property for corridor preservation on a voluntary basis, the department, county, or municipality shall:
 - (a) provide written notice to the property owner that notifies the property owner that:
 - (i) because the property owner has agreed to sell the greenbelt property to a governmental entity on a voluntary basis, the property owner:
 - (A) is required to pay the rollback tax in accordance with Subsection 59-2-511(2)(b); and
 - (B) is not eligible to receive relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act; and
 - (ii) if the property owner does not sell the greenbelt property to the governmental entity on a voluntary basis and a governmental entity later acquires the greenbelt property under eminent domain or under the threat or imminence of eminent domain proceedings, the property owner:
 - (A) would not be required to pay the rollback tax in accordance with Subsection 59-2-511(3); and
 - (B) may be eligible to receive relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act; and
 - (b) obtain a signed statement from the property owner acknowledging that the property owner received the written notice described in Subsection (2)(a).
- (3) Before purchasing any other real property not described in Subsection (2) for corridor preservation on a voluntary basis, the department, county, or municipality shall:
 - (a) provide written notice to the property owner that notifies the property owner that:
 - (i) because the property owner has agreed to sell the real property to a governmental entity on a voluntary basis, the property owner is not eligible to receive relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act; and
 - (ii) if the property owner does not sell the real property to the governmental entity on a voluntary basis and a governmental entity later acquires the real property under eminent domain or under the threat or imminence of eminent domain proceedings, the property owner may be eligible to receive relocation assistance under Title 57, Chapter 12, Utah Relocation Assistance Act; and

- (b) obtain a signed statement from the property owner acknowledging that the property owner received the written notice described in Subsection (3)(a).
- (4) The department shall create and publish the form of:
 - (a) the notices described in Subsections (2)(a) and (3)(a); and
 - (b) the statements described in Subsections (2)(b) and (3)(b).

Enacted by Chapter 69, 2020 General Session