

Effective 5/5/2021

10-9a-701 Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

- (1)
 - (a) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities.
 - (b) An appeal authority described in Subsection (1)(a) shall hear and decide:
 - (i) requests for variances from the terms of land use ordinances;
 - (ii) appeals from land use decisions applying land use ordinances; and
 - (iii) appeals from a fee charged in accordance with Section 10-9a-510.
 - (c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the enactment of a land use regulation.
- (2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.
- (3) An appeal authority described in Subsection (1)(a):
 - (a) shall:
 - (i) act in a quasi-judicial manner; and
 - (ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and
 - (b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.
- (4) By ordinance, a municipality may:
 - (a) designate a separate appeal authority to hear requests for variances than the appeal authority the municipality designates to hear appeals;
 - (b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;
 - (c) require an adversely affected party to present to an appeal authority every theory of relief that the adversely affected party can raise in district court;
 - (d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and
 - (e) provide that specified types of land use decisions may be appealed directly to the district court.
- (5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:
 - (a) notify each of the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;
 - (b) provide each of the members of the board, body, or panel with the same information and access to municipal resources as any other member;
 - (c) convene only if a quorum of the members of the board, body, or panel is present; and
 - (d) act only upon the vote of a majority of the convened members of the board, body, or panel.

Amended by Chapter 385, 2021 General Session