

1 **HISTORIC PRESERVATION AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill enacts provisions of the Municipal Land Use, Development, and Management
8 Act related to historic preservation.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ defines "historic preservation commission";
- 12 ▶ authorizes a legislative body to designate a historic preservation commission to
13 make administrative decisions on land use applications related to historically
14 significant real property;
- 15 ▶ addresses an appeal from a decision of a historic preservation commission; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **10-9a-103**, as last amended by Laws of Utah 2015, Chapter 327

24 **10-9a-701**, as last amended by Laws of Utah 2011, Chapter 92

25 **10-9a-703**, as last amended by Laws of Utah 2008, Chapter 326

26 **10-9a-704**, as last amended by Laws of Utah 2006, Chapter 240

27 **10-9a-707**, as enacted by Laws of Utah 2005, Chapter 254

28 ENACTS:

29 **10-9a-527**, Utah Code Annotated 1953

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

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

33 **10-9a-103. Definitions.**

34 As used in this chapter:

35 (1) "Affected entity" means a county, municipality, local district, special service
36 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
37 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
38 public utility, property owner, property owners association, or the Utah Department of
39 Transportation, if:

40 (a) the entity's services or facilities are likely to require expansion or significant
41 modification because of an intended use of land;

42 (b) the entity has filed with the municipality a copy of the entity's general or long-range
43 plan; or

44 (c) the entity has filed with the municipality a request for notice during the same
45 calendar year and before the municipality provides notice to an affected entity in compliance
46 with a requirement imposed under this chapter.

47 (2) "Appeal authority" means the person, board, commission, agency, or other body
48 designated by ordinance to decide an appeal of a decision of a land use application or a
49 variance.

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

53 (4) (a) "Charter school" means:

54 (i) an operating charter school;

55 (ii) a charter school applicant that has its application approved by a charter school
56 authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or

57 (iii) an entity that is working on behalf of a charter school or approved charter
58 applicant to develop or construct a charter school building.

59 (b) "Charter school" does not include a therapeutic school.

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

64 (6) "Constitutional taking" means a governmental action that results in a taking of
65 private property so that compensation to the owner of the property is required by the:

66 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

67 (b) Utah Constitution, Article I, Section 22.

68 (7) "Culinary water authority" means the department, agency, or public entity with
69 responsibility to review and approve the feasibility of the culinary water system and sources for
70 the subject property.

71 (8) "Development activity" means:

72 (a) any construction or expansion of a building, structure, or use that creates additional
73 demand and need for public facilities;

74 (b) any change in use of a building or structure that creates additional demand and need
75 for public facilities; or

76 (c) any change in the use of land that creates additional demand and need for public
77 facilities.

78 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
79 or more of a person's major life activities, including a person having a record of such an
80 impairment or being regarded as having such an impairment.

81 (b) "Disability" does not include current illegal use of, or addiction to, any federally
82 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
83 802.

84 (10) "Educational facility":

85 (a) means:

86 (i) a school district's building at which pupils assemble to receive instruction in a
87 program for any combination of grades from preschool through grade 12, including
88 kindergarten and a program for children with disabilities;

89 (ii) a structure or facility:

90 (A) located on the same property as a building described in Subsection (10)(a)(i); and

91 (B) used in support of the use of that building; and

92 (iii) a building to provide office and related space to a school district's administrative
93 personnel; and

94 (b) does not include:

95 (i) land or a structure, including land or a structure for inventory storage, equipment
96 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

97 (A) not located on the same property as a building described in Subsection (10)(a)(i);
98 and

99 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
100 (ii) a therapeutic school.

101 (11) "Fire authority" means the department, agency, or public entity with responsibility
102 to review and approve the feasibility of fire protection and suppression services for the subject
103 property.

104 (12) "Flood plain" means land that:

105 (a) is within the 100-year flood plain designated by the Federal Emergency
106 Management Agency; or

107 (b) has not been studied or designated by the Federal Emergency Management Agency
108 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
109 the land has characteristics that are similar to those of a 100-year flood plain designated by the
110 Federal Emergency Management Agency.

111 (13) "General plan" means a document that a municipality adopts that sets forth general
112 guidelines for proposed future development of the land within the municipality.

113 (14) "Geologic hazard" means:

114 (a) a surface fault rupture;

115 (b) shallow groundwater;

116 (c) liquefaction;

117 (d) a landslide;

118 (e) a debris flow;

119 (f) unstable soil;

120 (g) a rock fall; or

121 (h) any other geologic condition that presents a risk:

122 (i) to life;

123 (ii) of substantial loss of real property; or

124 (iii) of substantial damage to real property.

125 (15) "Historic preservation commission" means a board, commission, or other body

126 designated by a legislative body to make administrative decisions on land use applications that
127 affect:

128 (a) historically significant real property; or

129 (b) real property located within a local historic district or area, as defined in Subsection
130 10-9a-503(4).

131 [~~15~~] (16) "Hookup fee" means a fee for the installation and inspection of any pipe,
132 line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or
133 other utility system.

134 [~~16~~] (17) "Identical plans" means building plans submitted to a municipality that:

135 (a) are clearly marked as "identical plans";

136 (b) are substantially identical to building plans that were previously submitted to and
137 reviewed and approved by the municipality; and

138 (c) describe a building that:

139 (i) is located on land zoned the same as the land on which the building described in the
140 previously approved plans is located;

141 (ii) is subject to the same geological and meteorological conditions and the same law
142 as the building described in the previously approved plans;

143 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
144 and approved by the municipality; and

145 (iv) does not require any additional engineering or analysis.

146 [~~17~~] (18) "Impact fee" means a payment of money imposed under Title 11, Chapter
147 36a, Impact Fees Act.

148 [~~18~~] (19) "Improvement completion assurance" means a surety bond, letter of credit,
149 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
150 by a municipality to guaranty the proper completion of landscaping or an infrastructure
151 improvement required as a condition precedent to:

152 (a) recording a subdivision plat; or

153 (b) development of a commercial, industrial, mixed use, or multifamily project.

154 [~~19~~] (20) "Improvement warranty" means an applicant's unconditional warranty that
155 the applicant's installed and accepted landscaping or infrastructure improvement:

156 (a) complies with the municipality's written standards for design, materials, and

157 workmanship; and

158 (b) will not fail in any material respect, as a result of poor workmanship or materials,
159 within the improvement warranty period.

160 [~~(20)~~] (21) "Improvement warranty period" means a period:

161 (a) no later than one year after a municipality's acceptance of required landscaping; or

162 (b) no later than one year after a municipality's acceptance of required infrastructure,
163 unless the municipality:

164 (i) determines for good cause that a one-year period would be inadequate to protect the
165 public health, safety, and welfare; and

166 (ii) has substantial evidence, on record:

167 (A) of prior poor performance by the applicant; or

168 (B) that the area upon which the infrastructure will be constructed contains suspect soil
169 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

170 [~~(21)~~] (22) "Infrastructure improvement" means permanent infrastructure that an
171 applicant must install:

172 (a) pursuant to published installation and inspection specifications for public
173 improvements; and

174 (b) as a condition of:

175 (i) recording a subdivision plat; or

176 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily
177 project.

178 [~~(22)~~] (23) "Internal lot restriction" means a platted note, platted demarcation, or
179 platted designation that:

180 (a) runs with the land; and

181 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
182 the plat; or

183 (ii) designates a development condition that is enclosed within the perimeter of a lot
184 described on the plat.

185 [~~(23)~~] (24) "Land use application" means an application required by a municipality's
186 land use ordinance.

187 [~~(24)~~] (25) "Land use authority" means:

188 (a) a person, board, commission, agency, or body, including the local legislative body,
189 designated by the local legislative body to act upon a land use application; or

190 (b) if the local legislative body has not designated a person, board, commission,
191 agency, or body, the local legislative body.

192 ~~[(25)]~~ (26) "Land use ordinance" means a planning, zoning, development, or
193 subdivision ordinance of the municipality, but does not include the general plan.

194 ~~[(26)]~~ (27) "Land use permit" means a permit issued by a land use authority.

195 ~~[(27)]~~ (28) "Legislative body" means the municipal council.

196 ~~[(28)]~~ (29) "Local district" means an entity under Title 17B, Limited Purpose Local
197 Government Entities - Local Districts, and any other governmental or quasi-governmental
198 entity that is not a county, municipality, school district, or the state.

199 ~~[(29)]~~ (30) "Lot line adjustment" means the relocation of the property boundary line in
200 a subdivision between two adjoining lots with the consent of the owners of record.

201 ~~[(30)]~~ (31) "Moderate income housing" means housing occupied or reserved for
202 occupancy by households with a gross household income equal to or less than 80% of the
203 median gross income for households of the same size in the county in which the city is located.

204 ~~[(31)]~~ (32) "Nominal fee" means a fee that reasonably reimburses a municipality only
205 for time spent and expenses incurred in:

206 (a) verifying that building plans are identical plans; and

207 (b) reviewing and approving those minor aspects of identical plans that differ from the
208 previously reviewed and approved building plans.

209 ~~[(32)]~~ (33) "Noncomplying structure" means a structure that:

210 (a) legally existed before its current land use designation; and

211 (b) because of one or more subsequent land use ordinance changes, does not conform
212 to the setback, height restrictions, or other regulations, excluding those regulations, which
213 govern the use of land.

214 ~~[(33)]~~ (34) "Nonconforming use" means a use of land that:

215 (a) legally existed before its current land use designation;

216 (b) has been maintained continuously since the time the land use ordinance governing
217 the land changed; and

218 (c) because of one or more subsequent land use ordinance changes, does not conform

219 to the regulations that now govern the use of the land.

220 ~~(34)~~ (35) "Official map" means a map drawn by municipal authorities and recorded in
221 a county recorder's office that:

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

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

227 (c) has been adopted as an element of the municipality's general plan.

228 ~~(35)~~ (36) "Parcel boundary adjustment" means a recorded agreement between owners
229 of adjoining properties adjusting their mutual boundary if:

230 (a) no additional parcel is created; and

231 (b) each property identified in the agreement is unsubdivided land, including a
232 remainder of subdivided land.

233 ~~(36)~~ (37) "Person" means an individual, corporation, partnership, organization,
234 association, trust, governmental agency, or any other legal entity.

235 ~~(37)~~ (38) "Plan for moderate income housing" means a written document adopted by
236 a city legislative body that includes:

237 (a) an estimate of the existing supply of moderate income housing located within the
238 city;

239 (b) an estimate of the need for moderate income housing in the city for the next five
240 years as revised biennially;

241 (c) a survey of total residential land use;

242 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
243 income housing; and

244 (e) a description of the city's program to encourage an adequate supply of moderate
245 income housing.

246 ~~(38)~~ (39) "Plat" means a map or other graphical representation of lands being laid out
247 and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

248 ~~(39)~~ (40) "Potential geologic hazard area" means an area that:

249 (a) is designated by a Utah Geological Survey map, county geologist map, or other

250 relevant map or report as needing further study to determine the area's potential for geologic
251 hazard; or

252 (b) has not been studied by the Utah Geological Survey or a county geologist but
253 presents the potential of geologic hazard because the area has characteristics similar to those of
254 a designated geologic hazard area.

255 ~~[(40)]~~ (41) "Public agency" means:

256 (a) the federal government;

257 (b) the state;

258 (c) a county, municipality, school district, local district, special service district, or other
259 political subdivision of the state; or

260 (d) a charter school.

261 ~~[(41)]~~ (42) "Public hearing" means a hearing at which members of the public are
262 provided a reasonable opportunity to comment on the subject of the hearing.

263 ~~[(42)]~~ (43) "Public meeting" means a meeting that is required to be open to the public
264 under Title 52, Chapter 4, Open and Public Meetings Act.

265 ~~[(43)]~~ (44) "Receiving zone" means an area of a municipality that the municipality
266 designates, by ordinance, as an area in which an owner of land may receive a transferable
267 development right.

268 ~~[(44)]~~ (45) "Record of survey map" means a map of a survey of land prepared in
269 accordance with Section 17-23-17.

270 ~~[(45)]~~ (46) "Residential facility for persons with a disability" means a residence:

271 (a) in which more than one person with a disability resides; and

272 (b) (i) which is licensed or certified by the Department of Human Services under Title
273 62A, Chapter 2, Licensure of Programs and Facilities; or

274 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter
275 21, Health Care Facility Licensing and Inspection Act.

276 ~~[(46)]~~ (47) "Rules of order and procedure" means a set of rules that govern and
277 prescribe in a public meeting:

278 (a) parliamentary order and procedure;

279 (b) ethical behavior; and

280 (c) civil discourse.

281 ~~[(47)]~~ (48) "Sanitary sewer authority" means the department, agency, or public entity
282 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
283 wastewater systems.

284 ~~[(48)]~~ (49) "Sending zone" means an area of a municipality that the municipality
285 designates, by ordinance, as an area from which an owner of land may transfer a transferable
286 development right.

287 ~~[(49)]~~ (50) "Specified public agency" means:

- 288 (a) the state;
289 (b) a school district; or
290 (c) a charter school.

291 ~~[(50)]~~ (51) "Specified public utility" means an electrical corporation, gas corporation,
292 or telephone corporation, as those terms are defined in Section 54-2-1.

293 ~~[(51)]~~ (52) "State" includes any department, division, or agency of the state.

294 ~~[(52)]~~ (53) "Street" means a public right-of-way, including a highway, avenue,
295 boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement,
296 or other way.

297 ~~[(53)]~~ (54) (a) "Subdivision" means any land that is divided, resubdivided or proposed
298 to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the
299 purpose, whether immediate or future, for offer, sale, lease, or development either on the
300 installment plan or upon any and all other plans, terms, and conditions.

301 (b) "Subdivision" includes:

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

304 (ii) except as provided in Subsection ~~[(53)]~~ (54)(c), divisions of land for residential and
305 nonresidential uses, including land used or to be used for commercial, agricultural, and
306 industrial purposes.

307 (c) "Subdivision" does not include:

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

312 (ii) a recorded agreement between owners of adjoining unsubdivided properties
313 adjusting their mutual boundary if:

314 (A) no new lot is created; and

315 (B) the adjustment does not violate applicable land use ordinances;

316 (iii) a recorded document, executed by the owner of record:

317 (A) revising the legal description of more than one contiguous unsubdivided parcel of
318 property into one legal description encompassing all such parcels of property; or

319 (B) joining a subdivided parcel of property to another parcel of property that has not
320 been subdivided, if the joinder does not violate applicable land use ordinances;

321 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting
322 their mutual boundary if:

323 (A) no new dwelling lot or housing unit will result from the adjustment; and

324 (B) the adjustment will not violate any applicable land use ordinance;

325 (v) a bona fide division or partition of land by deed or other instrument where the land
326 use authority expressly approves in writing the division in anticipation of further land use
327 approvals on the parcel or parcels; or

328 (vi) a parcel boundary adjustment.

329 (d) The joining of a subdivided parcel of property to another parcel of property that has
330 not been subdivided does not constitute a subdivision under this Subsection [~~(53)~~] (54) as to
331 the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
332 subdivision ordinance.

333 [~~(54)~~] (55) "Suspect soil" means soil that has:

334 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
335 3% swell potential;

336 (b) bedrock units with high shrink or swell susceptibility; or

337 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
338 commonly associated with dissolution and collapse features.

339 [~~(55)~~] (56) "Therapeutic school" means a residential group living facility:

340 (a) for four or more individuals who are not related to:

341 (i) the owner of the facility; or

342 (ii) the primary service provider of the facility;

343 (b) that serves students who have a history of failing to function:

344 (i) at home;

345 (ii) in a public school; or

346 (iii) in a nonresidential private school; and

347 (c) that offers:

348 (i) room and board; and

349 (ii) an academic education integrated with:

350 (A) specialized structure and supervision; or

351 (B) services or treatment related to a disability, an emotional development, a
352 behavioral development, a familial development, or a social development.

353 ~~[(56)]~~ (57) "Transferable development right" means a right to develop and use land that
354 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
355 land use rights from a designated sending zone to a designated receiving zone.

356 ~~[(57)]~~ (58) "Unincorporated" means the area outside of the incorporated area of a city
357 or town.

358 ~~[(58)]~~ (59) "Water interest" means any right to the beneficial use of water, including:

359 (a) each of the rights listed in Section 73-1-11; and

360 (b) an ownership interest in the right to the beneficial use of water represented by:

361 (i) a contract; or

362 (ii) a share in a water company, as defined in Section 73-3-3.5.

363 ~~[(59)]~~ (60) "Zoning map" means a map, adopted as part of a land use ordinance, that
364 depicts land use zones, overlays, or districts.

365 Section 2. Section **10-9a-527** is enacted to read:

366 **10-9a-527. Historic preservation.**

367 A legislative body may designate a historic preservation commission.

368 Section 3. Section **10-9a-701** is amended to read:

369 **10-9a-701. Appeal authority required -- Condition precedent to judicial review --**
370 **Appeal authority duties.**

371 (1) Each municipality adopting a land use ordinance shall, by ordinance, establish one
372 or more appeal authorities to hear and decide:

373 (a) requests for variances from the terms of the land use ordinances;

374 (b) appeals from decisions applying the land use ordinances; and

375 (c) appeals from a fee charged in accordance with Section 10-9a-510.

376 (2) Each municipality that designates a historic preservation commission shall, by
377 ordinance, establish an appeal authority that is comprised of one or more elected officials to
378 hear and decide appeals from decisions of the historic preservation commission.

379 ~~(2)~~ (3) As a condition precedent to judicial review, each adversely affected person
380 shall timely and specifically challenge a land use authority's decision, in accordance with local
381 ordinance.

382 ~~(3)~~ (4) An appeal authority:

383 (a) shall:

384 (i) act in a quasi-judicial manner; and

385 (ii) serve as the final arbiter of issues involving the interpretation or application of land
386 use ordinances; and

387 (b) may not entertain an appeal of a matter in which the appeal authority, or any
388 participating member, had first acted as the land use authority.

389 ~~(4)~~ (5) By ordinance, a municipality may:

390 (a) designate a separate appeal authority to hear requests for variances than the appeal
391 authority it designates to hear appeals;

392 (b) designate one or more separate appeal authorities to hear distinct types of appeals
393 of land use authority decisions;

394 (c) require an adversely affected party to present to an appeal authority every theory of
395 relief that it can raise in district court;

396 (d) not require an adversely affected party to pursue duplicate or successive appeals
397 before the same or separate appeal authorities as a condition of the adversely affected party's
398 duty to exhaust administrative remedies; and

399 (e) provide that specified types of land use decisions may be appealed directly to the
400 district court.

401 ~~(5)~~ (6) If the municipality establishes or, prior to the effective date of this chapter, has
402 established a multiperson board, body, or panel to act as an appeal authority, at a minimum the
403 board, body, or panel shall:

404 (a) notify each of its members of any meeting or hearing of the board, body, or panel;

405 (b) provide each of its members with the same information and access to municipal
406 resources as any other member;

407 (c) convene only if a quorum of its members is present; and

408 (d) act only upon the vote of a majority of its convened members.

409 Section 4. Section **10-9a-703** is amended to read:

410 **10-9a-703. Appealing a land use authority's decision -- Panel of experts for**
411 **appeals of geologic hazard decisions -- Automatic appeal for certain decisions.**

412 (1) The applicant, a board or officer of the municipality, or any person adversely
413 affected by the land use authority's decision administering or interpreting a land use ordinance
414 may, within the applicable time period [~~provided by ordinance~~], appeal that decision to the
415 appeal authority by alleging that there is error in any order, requirement, decision, or
416 determination made by the land use authority in the administration or interpretation of the land
417 use ordinance.

418 (2) (a) An applicant who has appealed a decision of the land use authority
419 administering or interpreting the municipality's geologic hazard ordinance may request the
420 municipality to assemble a panel of qualified experts to serve as the appeal authority for
421 purposes of determining the technical aspects of the appeal.

422 (b) If an applicant makes a request under Subsection (2)(a), the municipality shall
423 assemble the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the
424 applicant and municipality:

425 (i) one expert designated by the municipality;

426 (ii) one expert designated by the applicant; and

427 (iii) one expert chosen jointly by the municipality's designated expert and the
428 applicant's designated expert.

429 (c) A member of the panel assembled by the municipality under Subsection (2)(b) may
430 not be associated with the application that is the subject of the appeal.

431 (d) The applicant shall pay:

432 (i) 1/2 of the cost of the panel; and

433 (ii) the municipality's published appeal fee.

434 Section 5. Section **10-9a-704** is amended to read:

435 **10-9a-704. Time to appeal.**

436 (1) The municipality shall enact an ordinance establishing a reasonable time of not less
437 than 10 days to appeal to an appeal authority a written decision issued by a land use authority.

438 (2) In the absence of an ordinance establishing a reasonable time to appeal, an
439 adversely affected party shall have 10 calendar days to appeal to an appeal authority a written
440 decision issued by a land use authority.

441 (3) Notwithstanding Subsections (1) and (2), for an appeal from a decision of a historic
442 preservation commission, an adversely affected person may appeal the decision within 30 days
443 after the day on which the historic preservation commission issues a written decision.

444 Section 6. Section **10-9a-707** is amended to read:

445 **10-9a-707. Standard of review for appeals.**

446 (1) ~~[A]~~ Except as provided in Subsection (3), a municipality may, by ordinance,
447 designate the standard of review for appeals of land use authority decisions.

448 (2) If the municipality fails to designate a standard of review of factual matters, the
449 appeal authority shall review the matter de novo.

450 (3) An appeal authority established under Subsection 10-9a-701(2) to hear and decide
451 appeals from a decision of a historic preservation commission shall review each appeal de
452 novo.

453 ~~[(3)]~~ (4) The appeal authority shall determine the correctness of a decision of the land
454 use authority in its interpretation and application of a land use ordinance.

455 ~~[(4)]~~ (5) Only those decisions in which a land use authority has applied a land use
456 ordinance to a particular application, person, or parcel may be appealed to an appeal authority.