

**10-9a-509.5 Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.**

- (1)
  - (a) Each municipality shall, in a timely manner, determine whether an application is complete for the purposes of subsequent, substantive land use authority review.
  - (b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:
    - (i) complete for the purposes of allowing subsequent, substantive land use authority review; or
    - (ii) deficient with respect to a specific, objective, ordinance-based application requirement.
  - (c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:
    - (i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or
    - (ii) accept the application as complete for the purposes of further substantive processing by the land use authority.
  - (d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.
  - (e)
    - (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).
    - (ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).
  - (f)
    - (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).
    - (ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.
- (2)
  - (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.
  - (b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.
  - (c) The land use authority shall take final action, approving or denying the application within 45 days of the written request.
  - (d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.
  - (e) If the land use authority fails to comply with Subsection (2)(c), the applicant may appeal this failure to district court within 30 days of the date on which the land use authority is required to take final action under Subsection (2)(c).

- (3)
  - (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.
  - (b)
    - (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.
    - (ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.
    - (iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.
  - (c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for its determination.
- (4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.
- (5) There shall be no money damages remedy arising from a claim under this section.

Amended by Chapter 378, 2010 General Session