

**Effective 5/13/2014**

**10-9a-509 Applicant's entitlement to land use application approval -- Exceptions -- Application relating to land in a high priority transportation corridor -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.**

- (1)
  - (a)
    - (i) An applicant who has filed a complete land use application, including the payment of all application fees, is entitled to substantive land use review of the land use application under the land use laws in effect on the date that the application is complete and as further provided in this section.
    - (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a land use application if the application conforms to the requirements of the municipality's land use maps, zoning map, a municipal specification for public improvements applicable to a subdivision or development, and an applicable land use ordinance in effect when a complete application is submitted and all application fees have been paid, unless:
      - (A) the land use authority, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
      - (B) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.
  - (b)
    - (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval of a land use application until the requirements of this Subsection (1)(b) have been met if the land use application relates to land located within the boundaries of a high priority transportation corridor designated in accordance with Section 72-5-403.
    - (ii)
      - (A) A municipality shall notify the executive director of the Department of Transportation of any land use applications that relate to land located within the boundaries of a high priority transportation corridor.
      - (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by certified or registered mail to the executive director of the Department of Transportation.
    - (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land use application that relates to land located within the boundaries of a high priority transportation corridor until:
      - (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for a building permit; or
      - (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the Department of Transportation if the land use application is for any land use other than a building permit.
  - (iv)
    - (A) If an application is an application for a subdivision approval, including any land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal, the land use authority shall:
      - (i) within 30 days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal operator has provided information under Section 10-9a-211; and

- (II) wait at least 10 days after the day on which the land use authority notifies a canal company or canal operator under Subsection (1)(b)(iv)(A)(I) to approve or reject the subdivision application described in Subsection (1)(b)(iv)(A).
- (B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by certified or registered mail to the canal company or canal operator contact described in Section 10-9a-211.
- (C) The location of land described in Subsection (1)(b)(iv)(A) shall be:
  - (I) provided by a canal company or canal operator to the land use authority; and
  - (II)
    - (Aa) determined by use of mapping-grade global positioning satellite units; or
    - (Bb) digitized from the most recent aerial photo available to the canal company or canal operator.
- (c)
  - (i) A land use application is exempt from the requirements of Subsections (1)(b)(i) and (ii) if:
    - (A) the land use application relates to land that was the subject of a previous land use application; and
    - (B) the previous land use application described under Subsection (1)(c)(i)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).
  - (ii) A municipality may approve a land use application without making the required notifications under Subsection (1)(b)(ii)(A) if:
    - (A) the land use application relates to land that was the subject of a previous land use application; and
    - (B) the previous land use application described under Subsection (1)(c)(ii)(A) complied with the requirements of Subsections (1)(b)(i) and (ii).
- (d) After a municipality has complied with the requirements of Subsection (1)(b) for a land use application, the municipality may not withhold approval of the land use application for which the applicant is otherwise entitled under Subsection (1)(a).
- (e) The municipality shall process an application without regard to proceedings initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:
  - (i) 180 days have passed since the proceedings were initiated; and
  - (ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.
- (f) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.
- (g) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
- (h) A municipality may not impose on an applicant who has submitted a complete application for preliminary subdivision approval a requirement that is not expressed in:
  - (i) this chapter;
  - (ii) a municipal ordinance; or
  - (iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.
- (i) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:
  - (i) in a land use permit;
  - (ii) on the subdivision plat;
  - (iii) in a document on which the land use permit or subdivision plat is based;

- (iv) in the written record evidencing approval of the land use permit or subdivision plat;
  - (v) in this chapter; or
  - (vi) in a municipal ordinance.
- (j) A municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:
- (i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or
  - (ii) in this chapter or the municipality's ordinances.
- (2) A municipality is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.
- (3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.
- (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use ordinances in effect on the date of submission.

Amended by Chapter 136, 2014 General Session