

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

- (1) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities to hear and decide:
  - (a) requests for variances from the terms of the land use ordinances;
  - (b) appeals from decisions applying the land use ordinances; and
  - (c) appeals from a fee charged in accordance with Section 10-9a-510.
- (2) As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge a land use authority's decision, in accordance with local ordinance.
- (3) An appeal authority:
  - (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 it 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 it can raise in district court;
  - (d) not require an adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected 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 its members of any meeting or hearing of the board, body, or panel;
  - (b) provide each of its members with the same information and access to municipal resources as any other member;
  - (c) convene only if a quorum of its members is present; and
  - (d) act only upon the vote of a majority of its convened members.

Amended by Chapter 92, 2011 General Session