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MUNICIPAL LAND USE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides that an individual may bring a claim against a municipality regardless of certain other appeal processes.

Highlighted Provisions:

This bill:

► provides that an individual may bring a claim against a municipality regardless of certain other appeal processes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-509.5, as last amended by Laws of Utah 2020, Chapter 126

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

Section 1. Section **10-9a-509.5** is amended to read:

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.



28 (1) (a) Each municipality shall, in a timely manner, determine whether a land use
29 application is complete for the purposes of subsequent, substantive land use authority review.

30 (b) After a reasonable period of time to allow the municipality diligently to evaluate
31 whether all objective ordinance-based application criteria have been met, if application fees
32 have been paid, the applicant may in writing request that the municipality provide a written
33 determination either that the application is:

34 (i) complete for the purposes of allowing subsequent, substantive land use authority
35 review; or

36 (ii) deficient with respect to a specific, objective, ordinance-based application
37 requirement.

38 (c) Within 30 days of receipt of an applicant's request under this section, the
39 municipality shall either:

40 (i) mail a written notice to the applicant advising that the application is deficient with
41 respect to a specified, objective, ordinance-based criterion, and stating that the application shall
42 be supplemented by specific additional information identified in the notice; or

43 (ii) accept the application as complete for the purposes of further substantive
44 processing by the land use authority.

45 (d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application
46 shall be considered complete, for purposes of further substantive land use authority review.

47 (e) (i) The applicant may raise and resolve in a single appeal any determination made
48 under this Subsection (1) to the appeal authority, including an allegation that a reasonable
49 period of time has elapsed under Subsection (1)(a).

50 (ii) The appeal authority shall issue a written decision for any appeal requested under
51 this Subsection (1)(e).

52 (f) (i) The applicant may appeal to district court the decision of the appeal authority
53 made under Subsection (1)(e).

54 (ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of
55 the written decision.

56 (g) The appeal process described in Subsection (1)(f) for a land use appeal does not
57 preclude an individual from bringing a claim against a municipality that is not a land-use
58 appeal.

59 (2) (a) Each land use authority shall substantively review a complete application and an
60 application considered complete under Subsection (1)(d), and shall approve or deny each
61 application with reasonable diligence.

62 (b) After a reasonable period of time to allow the land use authority to consider an
63 application, the applicant may in writing request that the land use authority take final action
64 within 45 days from date of service of the written request.

65 (c) Within 45 days from the date of service of the written request described in
66 Subsection (2)(b):

67 (i) except as provided in Subsection (2)(c)(ii), the land use authority shall take final
68 action, approving or denying the application; and

69 (ii) if a landowner petitions for a land use regulation, a legislative body shall take final
70 action by approving or denying the petition.

71 (d) If the land use authority denies an application processed under the mandates of
72 Subsection (2)(b), or if the applicant has requested a written decision in the application, the
73 land use authority shall include its reasons for denial in writing, on the record, which may
74 include the official minutes of the meeting in which the decision was rendered.

75 (e) If the land use authority fails to comply with Subsection (2)(c), the applicant may
76 appeal this failure to district court within 30 days of the date on which the land use authority is
77 required to take final action under Subsection (2)(c).

78 (3) (a) With reasonable diligence, each land use authority shall determine whether the
79 installation of required subdivision improvements or the performance of warranty work meets
80 the municipality's adopted standards.

81 (b) (i) An applicant may in writing request the land use authority to accept or reject the
82 applicant's installation of required subdivision improvements or performance of warranty work.

83 (ii) The land use authority shall accept or reject subdivision improvements within 15
84 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as
85 practicable after that 15-day period if inspection of the subdivision improvements is impeded
86 by winter weather conditions.

87 (iii) The land use authority shall accept or reject the performance of warranty work
88 within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as
89 soon as practicable after that 45-day period if inspection of the warranty work is impeded by

90 winter weather conditions.

91 (c) If a land use authority determines that the installation of required subdivision
92 improvements or the performance of warranty work does not meet the municipality's adopted
93 standards, the land use authority shall comprehensively and with specificity list the reasons for
94 the land use authority's determination.

95 (4) Subject to Section [10-9a-509](#), nothing in this section and no action or inaction of
96 the land use authority relieves an applicant's duty to comply with all applicable substantive
97 ordinances and regulations.

98 (5) There shall be no money damages remedy arising from a claim under this section.