

### ***What is interim zoning and when should it be used?***

Interim zoning authority is available to municipalities as an *emergency* planning tool to protect the health, safety and general welfare of the public by providing for orderly physical and economic growth. An interim bylaw may consist of zoning, subdivision, shore land, flood hazard area regulations or an interim official map regulating land development in all or a part of the municipality. 24 V.S.A. §§ 4410, 4303(13).

The Vermont Legislature authorized interim zoning because it recognized that sound planning and zoning demands a considerable amount of lead-time and effort, and wished municipalities to have a more immediate tool available if needed.

Interim bylaws are temporary in nature and, under Vermont law, may only be enacted for a two-year period, with a one-year extension if needed and approved by the municipal legislative body. Vermont courts have recognized that interim zoning is not meant to be a stopgap measure or an end run around the standard bylaw adoption or amendment process. Rather, interim bylaws temporarily take the place of permanent bylaws to address an urgent or unanticipated planning need and to allow for the development of a comprehensive zoning plan and regulations for the area to be zoned.

Interim bylaws may be enacted in a municipality without zoning, provided that municipality is conducting, or has undertaken action to conduct studies within a reasonable time, or has held or is holding a hearing for the purpose of considering a bylaw enactment or a comprehensive plan. However, use of interim bylaws in this way presents some inherent political issues. Typically, zoning is hotly debated and contested in municipalities considering it for the first time; to create zoning on an interim basis without going through the formal zoning adoption process would certainly make it more so. We are not aware of any municipalities without zoning that have adopted interim zoning bylaws.

Interim bylaws take precedence over existing permanent regulations until new permanent bylaws are enacted under the standard bylaw adoption process. It is important to note that once interim zoning has been repealed or expired, the former permanent bylaws remain in effect if new permanent bylaws have not been adopted pursuant to 24 V.S.A. § 4404 et. seq. As a side benefit, the enactment of interim bylaws serves as additional notice to landowners of the proposed zoning changes in their neighborhood.

***VLCT News***, March 2002