Are there differences in reviewing an application under interim and proposed, permanent zoning? What about enforcement?

Yes. For a period of 150 days from the date of the notice of the first hearing by the legislative body on a proposed permanent bylaw, amendment or repeal, any new application for land development automatically becomes subject to the proposed bylaw (24 V.S.A. § 4443(d)). The appropriate administrative officer or review board then determines whether the proposal is consistent with the proposed and any other applicable existing bylaws in accordance with standard review procedures. If the proposal is inconsistent with either the proposed or the existing bylaws, the application is denied.

Under § 4443(d), if the new bylaw or amendment is not adopted by the end of the 150-day period, or if the proposed bylaw or amendment is rejected, then the application must be reviewed under existing bylaws and ordinances. If the application is denied under a proposed bylaw, or under a bylaw amendment that has been rejected, or under a bylaw that has not been adopted within the 150-day period, the applicant may request a new review of the same application, at no cost, under the existing bylaws and ordinances.

Generally, interim bylaws are administered and enforced in the same manner as permanent bylaws. 24 V.S.A. § 4410(c). This means that projects proposed during the period of interim zoning continue to be reviewed and acted upon by the zoning administrator, planning commission, zoning board of adjustment or development review board, as the case may be, and that the zoning administrator's enforcement authority is preserved. However, as with most rules, there is an *exception*. The legislative body, as a conditional use, may authorize an application for a use that is not otherwise permitted under an interim bylaw. In this instance, jurisdictional review authority shifts from the administrative officer or local review board to the legislative body. Essentially, the legislative body would review the proposal at a public hearing after public notice subject to the criterion specified in 24 V.S.A. § 4410. Approval may only be granted if the proposed use is also consistent with the health, safety, and welfare of the municipality. Written notice of the hearing date and of the final determination by the legislative body must be given to the applicant and to all abutting property owners.

- Gail Lawson, VLCT Associate, Legal and Membership Services

VLCT News, March 2002