

*When a rural town adopts land use bylaws via Australian ballot at town meeting, must the selectboard hold its final public hearing on the proposed bylaw before posting the warning and notice for town meeting?*

Yes. The selectboard of “a rural town with a population of fewer than 2,500 persons” that adopts bylaws via Australian ballot [24 V.S.A. § 4442 (c) (2)], must conclude the bylaw amendment process before posting the annual town meeting warning and notice for the adoption of the bylaws by the voters. This year, the last day to post the warning and notice is January 31, 2010. 17 V.S.A. §§ 2521 and 2641. Even though there is no requirement that bylaws be voted on at town meeting, some municipalities only hold a single town meeting to conduct their business. Holding a single town meeting may encourage greater participation on issues, and reduce costs for towns.

The process for adopting land use bylaws is found in 24 V.S.A. § 4442. Actions must be taken in order, many within specific timeframes. And each step in the process must be completed prior to taking the next step.

The adoption process begins at the conclusion of the planning commission’s public hearing process, when the proposed bylaws are submitted to the selectboard. “Not less than 15 nor more than 120 days after” the planning commission submits the proposed bylaws to the selectboard, the selectboard must hold its first public hearing. Only one hearing is required under the law; however, a selectboard may make changes that require additional hearings. At the conclusion of its final public hearing, the selectboard in a rural town may then warn the proposed bylaw for adoption at town meeting (or a special meeting.)

Failure of a town to take action on a proposed bylaw within a year of the final hearing by the planning commission could result in disapproval of an amendment, “unless five percent of the voters of the municipality petition for a meeting of the municipality to consider the amendment and the petition is filed with 60 days of the end of that year.” If such a petition is filed, then a town meeting must be held to consider bylaw amendment via Australian ballot. 24 V.S.A. § 4442 (g).

Stephanie Smith (AICP), Senior Associate  
VLCT Municipal Assistance Center

***VLCT News, December, 2009***