

ASK THE LEAGUE, DEC. 2014

Can a planning commission have alternates?

It depends. It can, but only if and when it acts in a quasi-judicial capacity. The passage of Act 162 in the 2014 legislative session amended 24 V.S.A. § 4460(b) to allow local legislative bodies to appoint alternates to all appropriate municipal panels. State law defines an appropriate municipal panel as “a planning commission [PC] performing development review, a [zoning] board of adjustment [ZBA], a development review board [DRB], or a legislative body performing development review.” 24 V.S.A. § 4303(3). Since only planning commissions in a PC/ZBA municipal planning and zoning model hear applications for development review, this naturally precludes the appointment of alternates to planning commissions in a PC/DRB model or those in a PC/ZBA model serving in a legislative rather than a quasi-judicial capacity. In other words, if your town has a DRB, alternates to your planning commission aren’t allowed. If your town has a ZBA, the selectboard can appoint alternates to your planning commission, but only when they are hearing applications for development review (e.g., site plan review, subdivision applications, etc.). Even planning commissions in towns with a ZBA can’t have their alternates serve when carrying out their legislative planning duties (such as adopting, amending, or repealing the town plans or zoning bylaws).

In short, regardless of what model you have, alternates to a planning commission can only serve when the planning commission is acting like a court.

Garrett Baxter, Senior Staff Attorney
VLCT Municipal Assistance Center