

TO: Municipal and Regional Planning and Development Review Officials
FROM: Molly Dugan, Acting Commissioner
Department of Housing and Community Affairs
DATE: September 1, 2008
RE: 2008 Legislative Revision to Vermont's Planning and Development Act and
Downtown Development Act.

Act 121 of 2008, entitled "An Act Relating to Miscellaneous Amendments to Local Election and Municipal Government Laws," amends the process, contained in 24 V.S.A. § 4442(c)(1) and (2) of Vermont's Planning and Development Act, for the adoption, amendment and repeal of municipal land use bylaws. This amendment is not captured in the current reprint of 24 V.S.A. Chapter 117 and the Downtown Development Act but is explained below.

Prior to Act 121, the general rule in all towns, regardless of their size, was that bylaws, amendments, and repeals were adopted by the legislative body after a public hearing and became effective 21 days after adoption. 24 V.S.A. § 4442(c)(1). Rural towns (population of 2,500 or less), , had the option of adopting bylaws, amendments, and repeals by Australian ballot if the legislative body or the electorate voted to do so at a regular or special town meeting. 24 V.S.A. § 4442(c)(2). In such a case, towns were required to continue to vote bylaws, amendments, and repeals by Australian ballot until that procedure was rescinded by the voters at a regular or special town meeting. 24 V.S.A. § 4442(c)(2).

Act 121 now provides that the general rule is that the legislative body, in all towns, adopts bylaws, amendments, and repeals after a public hearing unless the legislative body warns the bylaw, amendment, or repeal for adoption by Australian ballot by the voters at a special or regular meeting. This allows the legislative bodies in all towns to choose to adopt bylaws, amendments, and repeals by Australian ballot on a case by case basis.

For rural towns, however, Act 121 now provides that town residents may vote to retain authority to adopt all bylaws, amendments, and repeals by Australian ballot. This vote eliminates the legislative body's ability to elect, on a case-by-case basis, to adopt all bylaw changes by Australian ballot and places that decision solely with the voters. Furthermore, once a rural town has voted to have the right to approve bylaw changes, only the electorate may vote to rescind this process and return authority for bylaw changes back to the legislative body.

With the passage of Act 121, the legislative bodies in urban and rural towns can now choose to adopt bylaws, amendments, and repeals by Australian ballot on a case by case basis. In rural towns, however, only the voters can elect to adopt or amend all bylaws, by Australian ballot and, if they do, they must retain that process until it is subsequently rescinded by a town vote.

If you have questions on any of the above, please contact DHCA's Planning Division staff at 828-3211. You can also find assistance from the Vermont League of Cities and Towns, or your regional planning commission.