§402. Local authorization of cannabis establishments within municipalities

1. Request for local authorization to operate cannabis establishment in municipality prohibited unless authorized by municipal ordinance or warrant article. A person seeking to operate a cannabis establishment within a municipality may not request local authorization to operate the cannabis establishment pursuant to subsection 3 and a municipality may not accept as complete the person's request for local authorization unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of cannabis establishments within the municipality, including the type of cannabis establishment the person seeks to operate; and [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

B. The person has been issued by the office a conditional license to operate the cannabis establishment pursuant to section 205, subsection 3. [PL 2023, c. 679, Pt. B, §53 (AMD).]

[PL 2023, c. 679, Pt. B, §53 (AMD).]

2. Minimum authorization criteria. A municipality may not authorize the operation of a cannabis establishment within the municipality if:

A. The cannabis establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality by ordinance or other regulation prohibits the location of cannabis establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" includes a public school, as defined in Title 20-A, section 1, subsection 24, a private school, as defined in Title 20-A, section 1, subsection 22, a public preschool program, as defined in Title 20-A, section 1, subsection 23-A or any other educational facility that serves children from prekindergarten to grade 12; or [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

B. The person requesting local authorization to operate the cannabis establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the cannabis establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

[PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

3. Local authorization required for operation of cannabis establishment within municipality. A person may not operate a cannabis establishment within a municipality unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of cannabis establishments within the municipality, including that type of cannabis establishment; [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

B. The person has obtained all applicable municipal approvals, permits or licenses that are required by the municipality for the operation of that type of cannabis establishment; and [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

C. The person has been issued by the office an active license to operate the cannabis establishment pursuant to section 205, subsection 4. [PL 2023, c. 679, Pt. B, §54 (AMD).]

A municipality may certify to the office a person's compliance with the requirements of paragraph B on the form prepared and furnished by the office pursuant to section 205, subsection 4, paragraph B. [PL 2023, c. 679, Pt. B, §§54, 55 (AMD).]

4. Municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant

article allowing some or all types of cannabis establishments within the municipality fails to act on a person's request for local authorization to operate a cannabis establishment within the municipality, the municipality's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B.

[PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

5. Appeal of municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of cannabis establishments within the municipality fails to act on a person's request for local authorization to operate a cannabis establishment within the municipality within 90 days after the date the person submitted the request to the municipality, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the municipality notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the municipality fails to act on the request within 180 days after the date the person submitted the request to the municipality.

[PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

SECTION HISTORY

PL 2017, c. 409, Pt. A, §6 (NEW). PL 2021, c. 669, §5 (REV). PL 2023, c. 679, Pt. B, §§53-55 (AMD).

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