§403. Local authorization of cannabis establishments within towns, plantations and townships in the unorganized and deorganized areas

1. Request for local authorization to operate cannabis establishment in town, plantation or township in unorganized and deorganized areas prohibited unless generally allowed by town or plantation or by county commissioners on behalf of township. A person seeking to operate a cannabis establishment within a town, plantation or township located within the unorganized and deorganized areas may not request local authorization pursuant to subsection 3 to operate the cannabis establishment and the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located may not accept as complete the person's request for local authorization unless:

A. In the case of a town or plantation, the legislative body of the town or plantation has voted to allow some or all types of cannabis establishments within the town or plantation, including the type of cannabis establishment the person seeks to operate and the person has been issued by the office a conditional license to operate the cannabis establishment pursuant to section 205, subsection 3; or [PL 2023, c. 679, Pt. B, §56 (AMD).]

B. In the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of cannabis establishments within the township, including the type of cannabis establishment the person seeks to operate and 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, §56 (AMD).]

[PL 2023, c. 679, Pt. B, §56 (AMD).]

2. Minimum authorization criteria. The Maine Land Use Planning Commission may not certify to the office local authorization of a cannabis establishment within a town, plantation or township located within the unorganized and deorganized areas pursuant to subsection 3 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 the Maine Land Use Planning Commission prohibits the location of cannabis establishments within a town, plantation or township 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" has the same meaning as in section 402, subsection 2, paragraph A; 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 2023, c. 679, Pt. B, §57 (AMD).]

3. Local authorization required for operation of cannabis establishment in town, plantation or township in unorganized and deorganized areas. A person may not operate a cannabis establishment within a town, plantation or township located within the unorganized and deorganized areas unless:

A. The legislative body of the town or plantation has voted to allow some or all types of cannabis establishments within the town or plantation, including that type of cannabis establishment, or, in the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of cannabis establishments within the township, 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 local approvals, permits or licenses not relating to land use planning and development that are required for the operation of the cannabis establishment by the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located; [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

C. The person has obtained all applicable approvals, permits or licenses relating to land use planning and development that are required by the Maine Land Use Planning Commission for the development and operation of the cannabis establishment; and [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

D. 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, §58 (AMD).]

The town, plantation or, in the case of a township, the county commissioners of the county in which the township is located, shall certify to the Maine Land Use Planning Commission that the person has obtained all applicable local approvals, permits or licenses not relating to land use planning and development as required under paragraph B. The Maine Land Use Planning Commission may certify to the office a person's compliance with the requirements of paragraphs B and C on the form prepared and furnished by the office pursuant to section 205, subsection 4, paragraph B.
[PL 2023, c. 679, Pt. B, §§58, 59 (AMD).]

4. Failure to act on request for local authorization. This subsection governs a failure to act on a request for local authorization by a town or a plantation or, in the case of a township, by the county commissioners of the county in which the township is located, or by the Maine Land Use Planning Commission.

A. If a town or plantation whose legislative body has voted to allow some or all types of cannabis establishments within the town or plantation fails to act on a person's request for local authorization under subsection 3, paragraph B, the town or plantation'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).]

B. If the county commissioners of the county in which a township is located, who have voted to allow some or all types of cannabis establishments within the township, fail to act on a person's request for local authorization under subsection 3, paragraph B, the county commissioners' 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).]

C. If the Maine Land Use Planning Commission fails to act on a person's request for local authorization under subsection 3, paragraph C, the commission's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph C. [PL 2017, c. 409, Pt. A, §6 (NEW).]
[PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

5. Appeal of failure to act on request for local authorization. This subsection governs the appeal of a failure to act on a request for local authorization by a town or a plantation or, in the case of a township, by the county commissioners of the county in which the township is located, or by the Maine Land Use Planning Commission.

A. If a town or plantation whose legislative body has voted to allow some or all types of cannabis establishments within the town or plantation fails to act on a person's request for local authorization under subsection 3, paragraph B within 90 days after the date the person submitted the request to the town or plantation, 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 town or plantation 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 town or plantation fails to act on the request within 180 days after the date the person submitted the request to the town or plantation. [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

B. If the county commissioners of the county in which a township is located, who have voted to allow some or all types of cannabis establishments within the township, fail to act on a person's request for local authorization under subsection 3, paragraph B within 90 days after the date the person submitted the request to the county commissioners, 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 county commissioners notify 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 county commissioners fail to act on the request within 180 days after the date the person submitted the request to the county commissioners. [PL 2017, c. 409, Pt. A, §6 (NEW); PL 2021, c. 669, §5 (REV).]

C. If the Maine Land Use Planning Commission fails to act on a person's request for local authorization under subsection 3, paragraph C within 90 days after the date the person submitted the request to the commission, the request is deemed denied and the denial constitutes a final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that, if the commission 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 agency action only if the commission fails to act on the request within 180 days after the date the person submitted the request to the commission. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[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, §§56-59 (AMD).

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