

218B.130 Local government -- Ordinances regulating or prohibiting cannabis -- City within a county that prohibits cannabis may enact ordinance to approve - - Public question -- Procedures.

- (1) For the purposes of this section, "local government" means a city, county, urban-county government, consolidated local government, charter county government, or unified local government.
- (2) A local government may:
 - (a) Enact ordinances not in conflict with this chapter or with the cabinet's administrative regulations, regulating the time, place, and manner of cannabis business operations, except that a local government shall not enact ordinances that impose an undue burden or make cannabis business operations unreasonable or impractical;
 - (b) Prohibit all cannabis business operations within its territory through the passage of an ordinance; or
 - (c) Enact resolutions directing that the question of prohibiting cannabis businesses from operating within its territory be submitted to the voters of its territory at the next regular election pursuant to subsection (5)(j) of this section.
- (3) If a county, consolidated local government, charter county government, or unified local government prohibits all cannabis business operations, the legislative body of a city located within the county, consolidated local government, charter county government, or unified local government may:
 - (a) Approve cannabis business operations within the limits of the city through the passage of an ordinance; or
 - (b) Enact resolutions directing that the question of allowing cannabis businesses to operate within the limits of the city be submitted to the voters who are eligible to vote in that city's elections at the next regular election pursuant to subsection (5)(j) of this section.
- (4) If a local government legislative body with jurisdiction prohibits cannabis business operations through the passage of an ordinance, a public question that is initiated by petition and that proposes allowing a cannabis business to operate within the affected territory is authorized.
- (5) A public question that is initiated by petition and is authorized by subsection (4) of this section shall be submitted to the voters within the affected territory at the next regular election by complying with the following requirements:
 - (a) Before a petition for submission of the proposal may be presented for signatures, an intent to circulate the petition, including a copy of the unsigned petition, shall be filed with the county clerk of the affected territory by any person or group of persons seeking the submission of the public question. The statement of intent shall include the addresses of the person or group of persons and shall specify the person or group of persons, as well as the address, to whom all notices are to be sent. Within ten (10) days after the intent to circulate the petition is filed, the county clerk shall deliver a copy of the intent to circulate the petition, including a copy of the unsigned petition, to

- the legislative body of the affected territory;
- (b) The petition shall set out in full the following question: "Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in (affected territory)?";
 - (c) The petition for the submission of the proposal shall be signed by a number of constitutionally qualified voters of the territory to be affected equal to five percent (5%) of registered voters for the affected territory;
 - (d) Each signature shall be executed in ink or indelible pencil and shall be followed by the legibly printed name of each voter, followed by the voter's residence address, year of birth, and the correct date upon which the voter's name was signed;
 - (e) No petition for the submission of the proposal shall be circulated for more than six (6) months prior to its filing;
 - (f) After a petition for the submission of the proposal has received no fewer than the number of qualifying signatures required by paragraph (c) of this subsection, the signed petition shall be filed with the county clerk. When it is filed, each sheet of the petition shall have an affidavit executed by the circulator stating that he or she personally circulated the sheet, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of registered voters within the affected territory, and that each signer had an opportunity before signing to read the full text of the proposal;
 - (g) No signer of the petition may withdraw his or her name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition for submission of the public question without that person's authority, the person may, at any time prior to certification of sufficiency of the petition by the county clerk as required by paragraph (h) of this subsection, request the removal of his or her name by the county board of elections and, upon proof that the person's name was placed on the petition without his or her authority, the person's name and personal information shall be eliminated, and he or she shall not be counted as a petitioner;
 - (h) Within thirty (30) days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency or, if it is insufficient, specifying the particulars of the insufficiency, and shall send a copy to the person or persons specified in the statement of intent to receive all notices and to the legislative body of the affected territory, all by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once by filing a supplemental petition upon additional sheets within thirty (30) days after receiving the certificate of insufficiency. The supplemental petition shall comply with the requirements applicable to the original petition and, within ten (10) days after it is filed, the county clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of the certificate to the person or persons specified to receive all notices and to the legislative body of the affected territory by registered mail;

- (i) A final determination as to the sufficiency of a petition shall be subject to review in the Circuit Court of the county of the affected territory and shall be limited to the validity of the county clerk's determination. A final determination of insufficiency shall not prejudice the filing of a new petition for the same purpose; and
 - (j) If, not later than the second Tuesday in August preceding the day established for a regular election, the county clerk has certified that a petition is sufficient or has received a local government resolution pursuant to subsection (2) or (3) of this section, the county clerk shall have prepared to place before the voters of the affected territory at the next regular election the question, which shall be "Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in (affected territory)? Yes....No....". The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as the remaining voter information, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal.
- (6) If the question submitted to the voters under subsection (3) or (5) of this section fails to pass, three (3) years shall elapse before the question of medicinal cannabis sales and cannabis business operations may be included on a regular election ballot for the affected territory.
 - (7) If the question submitted to the voters under subsection (3) or (5) of this section passes, medicinal cannabis sales and cannabis business operations may be conducted in the affected territory, notwithstanding any local government ordinances which prohibit all cannabis business operations within its territory.
 - (8) In circumstances where a county, consolidated local government, charter county government, or unified local government prohibits cannabis business operations but a city within that county, consolidated local government, charter county government, or unified local government approves cannabis business operations either through the adoption of an ordinance or following the affirmative vote of a public question allowing cannabis business operations, then:
 - (a) The cannabis business operations may proceed within the limits of the city; and
 - (b) The county, consolidated local government, charter county government, or unified local government may assess an additional reasonable fee to compensate for any additional corrections impact caused by the approval of cannabis business operations. Any additional fees collected pursuant to this subsection shall not exceed the additional corrections impact caused by the approval of cannabis business operations.
 - (9) In circumstances where neither a city nor the county, urban-county government, consolidated local government, charter county government, or unified local government in which the city is located prohibit cannabis business operations, a cannabis business that is located within the jurisdiction of both the city and the county shall only pay the reasonable established local fees of either the city or the county. The fee shall be established, assessed, collected, and shared between the city and the county, in a manner to be negotiated between the city and the county.

(10) The provisions of general election law shall apply to public questions submitted to voters under this section.

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