

Emerging Risk Alert

Marijuana Legalization in Virginia

Who is Impacted?

The Virginia General Assembly has voted to move up the legalization of recreational marijuana to July 1, 2021. Retail sales will follow, starting in 2024.

Few, if any public issues have presented a more dramatic emerging risk - economically and emotionally - to local governments than the legalization of marijuana.

Local elected leaders will be required to make legislative decisions to manage complex uncertainties for their communities.

What is the Risk?

Even though marijuana will be allowed to be grown and personally used in Virginia, **local governments have the authority to impose taxes and regulate or prohibit uses and possession of marijuana** within their jurisdictions through their zoning and other ordinances.

If local governments do not pass ordinances applicable to marijuana, there will be confusion as to whether and what extent marijuana cultivation, sale, or public use is allowed.

A locality may hold a referendum to decide to withdraw from retail sales prior to Dec. 31, 2022.

Zoning

Zoning is an essential means by which local governments can control and manage the cultivation, sale, and uses of marijuana. In other states, existing local zoning classification ordinances have been amended in order to prohibit

or permit the cultivation, sale and public use of marijuana in residential, retail, commercial, industrial, or agricultural zones, as well as to prohibit or restrict activity near schools and children's facilities, residential, retail, office, commercial, and agricultural areas.

Zoning ordinances have also been used to restrict the size, number of rooms, height, and setback of buildings or structures involved in the cultivation, sale, or public use of marijuana.

Zoning can also limit uses in properties classified retail, such as the indoor cultivation of marijuana in industrial or commercial spaces, or the sale of marijuana or consumption or use in retail or commercial spaces.

As with the sale of alcohol, local ordinances can also regulate the licensure, sale, taxation, and public use or consumption of marijuana to limit the sales and public use. Many municipalities also require cannabis stores to be situated a certain distance away from other residences.

Some will argue in favor of lessor restrictions due to potential increases in government revenue. Others will argue in favor of prohibition or significant restrictions due to the effects on public health, safety and welfare.

What To Do To Prepare

As legal marijuana becomes a reality in Virginia, local governments should begin now to evaluate, debate and develop land use and licensure regulations for your jurisdiction as it relates to the cultivation, sale and public use of marijuana.