

LGA MODEL MARIJUANA ORDINANCE

Welcome to the LGA Model Marijuana Ordinance. This document is inspired by the Virginia General Assembly 2026 Special Session I's marijuana legislation available here: <https://budget.lis.virginia.gov/item/2026/2/HB30/Chapter/4/4-14.00/>. The codified version of the Cannabis Control Act (Virginia Code Title 4.1, Subtitle II) is available here: <https://law.lis.virginia.gov/vacodefull/title4.1/subtitleII/>.

This document:

- (a) Is intended to (1) introduce localities to their regulatory options and requirements under relevant marijuana legislation and (2) provide template language.
- (b) Was written as if a locality were to adopt a chapter dedicated to marijuana regulation, regardless of the type of regulation. For example, this document contains language related to personal conduct, taxation, and zoning in the same model ordinance. The drafters understand that localities are not likely to include zoning regulations outside of their dedicated zoning ordinance. Nevertheless, zoning regulations are included alongside other items herein to avoid multiplying documents. LGA members may consider inserting provisions of this document in appropriate areas of their locality's code or noncodified ordinances.
- (c) Includes explanatory footnotes and comments directing the reader to relevant authorities.
- (d) Was written as if the adopting locality applied zoning regulations by marijuana establishment type. LGA member localities may organize their zoning ordinances differently. However, the zoning section includes a footnote about zoning authority over marijuana establishments that may be useful.

This document may be updated from time to time. If you have any questions regarding this document, please feel free to contact Marijuana Committee Chair Donnie Autry at dautry@arlingtonva.us. The model ordinance begins on the following page.

ORDINANCE TO AMEND THE [INSERT LOCALITY NAME HERE] CODE TO ADD A NEW CHAPTER [] TO REGULATE CERTAIN LOCAL ASPECTS OF ADULT-USE CANNABIS BUSINESSES

BE IT ORDAINED by the [INSERT NAME OF THE LOCALITY'S GOVERNING BODY HERE] of [INSERT NAME OF LOCALITY HERE], Virginia:

1. That the [INSERT LOCALITY NAME HERE] Code is amended by adding a new Chapter [] as follows:

[INSERT LOCALITY NAME HERE] Code

Chapter []

CANNABIS

Sec. 1 – Title.

This chapter shall be known as the “Cannabis Ordinance of [INSERT LOCALITY NAME HERE].”

Sec. 2 – Definitions (Effective until August 15, 2026).

This section is effective upon adoption and expires at 12:00 am on August 15, 2026. As used in this chapter, unless the context requires a different meaning:

“Cannabis dispensing facility” means the same as that term is defined in Virginia Code § 4.1-1600.

“Cultivation” means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, packaging, or other similar manufacturing of marijuana for use or sale. “Cultivation” does not include processing or testing.

“Hemp product” means a product, including any raw materials from industrial hemp that are used for or added to a food or beverage, that (i) contains industrial hemp and has completed all stages of processing needed for the product and (ii) when offered for retail sale (a) contains a total tetrahydrocannabinol concentration of no greater than 0.3 percent and (b) contains no more than two milligrams of total tetrahydrocannabinol per package or an amount of cannabidiol that is no less than 25 times greater than the amount of total tetrahydrocannabinol per package.

“Industrial hemp” means the same as that term is defined in Virginia Code § 3.2-4112.

“Industrial hemp extract” means the same as that term is defined in Virginia Code § 3.2-5145.1.

“Licensed” means the holding of a valid license or permit granted by the Virginia Cannabis Control Authority.

Commented [A1]: If your locality's zoning ordinance is not codified, this obviously will not change.

Commented [A2]: Consider how your locality would like to frame the object of this ordinance in its caption. *See* Virginia Code § 15.2-1426.

Commented [A3]: Authority: Virginia Code section 4.1-600. Please note that this Virginia Code section has two different versions with differing effective dates. The seventh and ninth enactments of the 2026 Special Session I language clarify that a new version of Virginia Code section 4.1-600 takes effect on August 15, 2026. [Link](#). Consequently, this Model Ordinance has two definition sections reflecting the variable dates.

It is not likely that localities will be in a position to update their codes with this language before August 15, 2026. Thus, the pre-August 15, 2026, language is presented here mostly for informational purposes. **Takeaway: Your locality will most likely need to use the definitions found in section 2.1 of this model ordinance and not in section 2.**

Additionally, please note that the defined terms listed in sections 2 and 2.1 in this model ordinance are only those that appear elsewhere in the model ordinance. Your locality's ordinance may use more than the terms listed here.

Furthermore, the terms “cannabis dispensing facility” and “pharmaceutical processor” are not defined by either version of Virginia Code section 4.1-600. However, both are considered “marijuana establishments” and discussed in section 7 of this model ordinance. Their definitions in this model ordinance are derived from Virginia Code 4.1-1600.

“Marijuana” means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. “Marijuana” does not include (i) the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*; (ii) industrial hemp that is possessed by a person registered pursuant to subsection A of Virginia Code § 3.2-4115 or his agent; (iii) industrial hemp that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product; (v) an industrial hemp extract; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been placed by the Virginia Board of Pharmacy into one of the schedules set forth in the Drug Control Act (Virginia Code § 54.1-3400 et seq.) pursuant to Virginia Code § 54.1-3443.

“Marijuana concentrate” means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

“Marijuana cultivation facility” means a facility licensed under Virginia Code § 4.1-800.

“Marijuana delivery operator” means an entity licensed under Virginia Code § 4.1-805.

“Marijuana establishment” means a marijuana cultivation facility, marijuana microbusiness, marijuana deliver operator, marijuana testing facility, marijuana processing facility, marijuana transporter, retail marijuana store, or pharmaceutical processor or cannabis dispensing facility authorized to exercise dual-use privileges pursuant to Virginia Code § 4.1-1602.1.

“Marijuana processing facility” means a facility licensed under Virginia Code § 4.1-801.

“Marijuana products” means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

“Marijuana testing facility” means a facility licensed under Virginia Code § 4.1-806.

“Marijuana transporter” means a facility licensed under Virginia Code § 4.1-804.

“Microbusiness” means a facility licensed under Virginia Code § 4.1-803.

“Pharmaceutical processor” means the same as that term is defined in Virginia Code § 4.1-1600.

“Processing” or “process” means that production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana or marijuana products, including marijuana extraction or preparation by means of chemical synthesis. “Processing” or “process” does not include cultivation or testing.

“Retail marijuana store” means a facility licensed under Virginia Code § 4.1-802.

“Sale” includes soliciting or receiving an order; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering other than gratuitously, by any means.

“Testing” means the research and analysis of marijuana, marijuana products, or other substances for contaminants, safety, or potency. “Testing” does not include cultivation or processing.

“Tetrahydrocannabinol” means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purposes of this definition, “isomer” means the optical, position, and geometric isomers.

“Total tetrahydrocannabinol” means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

Sec 2.1 – Definitions (Effective August 15, 2026).

This section is effective at 12:00 am on August 15, 2026. As used in this chapter, unless the context requires a different meaning:

“Cultivation” or “cultivate” means the planting, propagation, growing, harvesting, drying, curing, grading, trimming, packaging, or other similar manufacturing of marijuana for use or sale. “Cultivation” or “cultivate” does not include processing or testing.

“Hemp product” means a product, including any raw materials from industrial hemp that are used for or added to a food or beverage, that (i) contains industrial hemp and has completed all stages of processing needed for the product and (ii) when offered for retail sale (a) contains a total tetrahydrocannabinol concentration of no greater than 0.3 percent and (b) contains no more than two milligrams of total tetrahydrocannabinol per package.

“Immature plant” means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches, is produced from a cutting, clipping, or seedling, and is growing in a container.

“Industrial hemp” means the same as that term is defined in Virginia Code § 3.2-4112.

“Industrial hemp extract” means the same as that term is defined in Virginia Code § 3.2-5145.1.

“Licensed” means the holding of a valid license or permit granted by the Virginia Cannabis Control Authority.

Commented [A4]: See comment regarding section 2 above. Takeaway: This language is likely to be more helpful for your locality than the language in section 2.

“Marijuana” means any part of a plant of the genus *Cannabis*, whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, its resin, or any extract containing one or more cannabinoids. “Marijuana” does not include (i) the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seed of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*; (ii) industrial hemp that is possessed by a person registered pursuant to subsection A of Virginia Code § 3.2-4115 or his agent; (iii) industrial hemp that is possessed by a person who holds a hemp producer license issued by the U.S. Department of Agriculture pursuant to 7 C.F.R. Part 990; (iv) a hemp product; (v) an industrial hemp extract; or (vi) any substance containing a tetrahydrocannabinol isomer, ester, ether, salt, or salts of such isomer, ester, or ether that has been placed by the Virginia Board of Pharmacy into one of the schedules set forth in the Drug Control Act (Virginia Code § 54.1-3400 et seq.) pursuant to Virginia Code § 54.1-3443.

“Marijuana concentrate” means marijuana that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a marijuana plant is a concentrate for purposes of this subtitle.

“Marijuana cultivation facility” means a facility licensed by the Board of Directors of the Virginia Cannabis Control Authority to cultivate, label, and package marijuana; to purchase or take possession of marijuana plants and seeds from other marijuana cultivation facilities; to transfer possession of and sell marijuana, immature marijuana plants, and marijuana seeds to retail marijuana stores; to transfer possession of marijuana, immature marijuana plants, and marijuana seeds to marijuana transporters; to transfer possession of and sell marijuana, marijuana plants, and marijuana seeds to other marijuana cultivation facilities; to transfer possession of and sell marijuana to marijuana processing facilities; and to transport marijuana, immature marijuana plants, and marijuana seeds from the marijuana cultivation facility's licensed premises to another licensed marijuana establishment.

“Marijuana delivery operator” means an entity licensed by the Board of Directors of the Virginia Cannabis Control Authority to take possession of marijuana or marijuana products from a retail marijuana store, microbusiness, pharmaceutical processor, or cannabis dispensing facility and deliver such marijuana or marijuana products only in person to patients or consumers at their residence or business.

“Marijuana establishment” means a marijuana cultivation facility, marijuana microbusiness, marijuana delivery operator, marijuana testing facility, marijuana processing facility, marijuana transporter, retail marijuana store, or pharmaceutical processor or cannabis dispensing facility authorized to exercise dual-use privileges.

“Marijuana paraphernalia” means all equipment, products, and materials of any kind that are either designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing into the human body marijuana.

“Marijuana processing facility” means a facility licensed by the Board of Directors of the Virginia Cannabis Control Authority to process, label, and package marijuana and marijuana products; to purchase or take possession of marijuana from a marijuana cultivation facility or another marijuana processing facility; to transfer possession of and sell marijuana and marijuana products to retail marijuana stores or other marijuana processing facilities; to transfer possession of marijuana and marijuana products to marijuana transporters; and to transport marijuana and marijuana products from the marijuana processing facility's licensed premises to another licensed marijuana establishment.

“Marijuana products” means (i) products that are composed of marijuana and other ingredients and are intended for use or consumption, ointments, and tinctures or (ii) marijuana concentrate.

“Marijuana testing facility” means a facility licensed by the Board of Directors of the Virginia Cannabis Control Authority to develop, research, transport, or test marijuana, marijuana products, or other substances.

“Marijuana transporter” means a facility licensed by the Board of Directors of the Virginia Cannabis Control Authority to take possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds from a marijuana cultivation facility, a marijuana processing facility, a retail marijuana store, a microbusiness, or another marijuana transporter; to transfer possession of marijuana, marijuana products, immature marijuana plants, and marijuana seeds to a marijuana cultivation facility, marijuana processing facility, retail marijuana store, microbusiness, or another marijuana transporter; and to transport marijuana, marijuana products, immature marijuana plants, and marijuana seeds from one licensed establishment to another.

“Microbusiness” means a facility licensed by the Board of Directors of the Virginia Cannabis Control Authority to conduct any activities authorized for marijuana cultivation facilities, marijuana processing facilities, and retail marijuana stores, as determined by the Board of Directors of the Virginia Cannabis Control Authority.

“Processing” or “process” means the production of marijuana products or the blending, infusing, compounding, or other preparation of marijuana or marijuana products, including marijuana extraction or preparation by means of chemical synthesis. “Processing” or “process” does not include cultivation or testing.

“Residence” means any building or part of a building or structure where a person resides, but does not include any part of a building that is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

“Retail marijuana store” means a facility licensed by the Board of Directors of the Virginia Cannabis Control Authority to purchase or take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a marijuana cultivation facility or marijuana processing facility; to take possession of marijuana, marijuana products, immature marijuana plants, or marijuana seeds from a marijuana transporter; to sell marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to consumers on premises approved by the Board of Directors of the Virginia Cannabis Control Authority; to

deliver marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds only in person to consumers; to transfer possession of marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, or marijuana seeds to marijuana delivery operators; and to transport marijuana, marijuana products, marijuana paraphernalia, immature marijuana plants, and marijuana seeds from the retail marijuana store's licensed premises to another retail marijuana store.

“Sale” and “sell” includes soliciting or receiving an order; keeping, offering, or exposing for sale; peddling, exchanging, or bartering; or delivering other than gratuitously, by any means.

“Testing” or “test” means the research and analysis of marijuana, marijuana products, or other substances for contaminants, safety, or potency. “Testing” or “test” does not include cultivation or processing.

“Tetrahydrocannabinol” means any naturally occurring or synthetic tetrahydrocannabinol, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of tetrahydrocannabinol. For the purpose of this definition, “isomer” means the optical, position, and geometric isomers.

“Total tetrahydrocannabinol” means the sum, after the application of any necessary conversion factor, of the percentage by weight of tetrahydrocannabinol and the percentage by weight of tetrahydrocannabinolic acid.

Sec. 3 – Prohibited acts in certain areas; penalties.

(a) *Prohibited acts.* The following acts are prohibited:

- (1) In local public parks, playgrounds, public streets, or any sidewalk adjoining any public street:
 - (i) Consuming marijuana or a marijuana product.
 - (ii) Offering marijuana or a marijuana product to another, whether accepted or not.
- (2) Possessing, consuming, or serving any marijuana or marijuana products in or upon the grounds of any public elementary or secondary school during school hours or student activities.

(b) *Penalties.*

- (1) Effective upon adoption and expiring at 12:00 am on July 1, 2027:

Commented [A5]: Authority: Virginia Code § 4.1-629(B)(1). Virginia Code section 4.1-629(B)(1) allows localities to prohibit the acts described in Virginia Code sections 4.1-1108 or 4.1-1109 in local public parks, playgrounds, public streets, or any sidewalk adjoining any public street. Please note the awkward wording of Virginia Code 4.1-629(B)(1) with respect to Virginia Code section 4.1-1109, which concerns marijuana activities at schools. The language presented here presumes that it was not the General Assembly’s intent to disallow localities from ordaining the school-related language here.

Any person who violates section 3(a)(1) is subject to a civil penalty of no more than \$25 for a first offense. A person who is convicted under section 3(a)(1) of a second offense is subject to a \$25 civil penalty and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. A person convicted under section 3(a)(1) of a third or subsequent offense is guilty of a Class 4 misdemeanor.

(2) Effective at 12:00 am on July 1, 2027:

Any person who violates section 3(a)(1) is subject to a civil penalty of no more than \$250 for a first offense. A person who is convicted under section 3(a)(1) of a second offense is subject to a \$250 civil penalty and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. A person convicted under section 3(a)(1) of a third or subsequent offense is guilty of a Class 4 misdemeanor.

(3) Effective upon adoption:

Any person convicted of a violation of section 3(a)(2) is guilty of a Class 2 misdemeanor.

Sec. 4 – Time of sale of marijuana and marijuana products.

(a) *Prohibited times.* No marijuana or marijuana products shall be sold between [INSERT START TIME HERE] and [INSERT END TIME HERE] on [INSERT ANY DAYS OF THE WEEK HERE].

(b) *Enforcement.* Any violation of this section shall be enforced as if the violation were a Class 1 misdemeanor with a right of appeal pursuant to Virginia Code section 16.1-106.

Sec. 5 – Taxation.¹

¹ Virginia Code section 4.1-1004 is the authority for this section, which has a few notable points. First, Virginia Code section 4.1-1004(A) states that taxes levied thereunder “shall be in addition to any tax imposed under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) or any other provision of . . . local law.” Contrastingly, as is stated in this model ordinance section, Virginia Code section 4.1-1004(B)(2) states “Other than the tax authorized and identified in this subsection, a locality shall not impose any other tax on a sale taxable under subsection A.” Virginia Code section 4.1-1004(B)(2) further contrasts the language in subsections A and (B)(1) by expressly stating that Virginia Code section 4.1-1004(B)(2) does not (a) prohibit localities from imposing taxes “authorized by law on a person or property regulated under [Virginia Code Title 4.1, Subtitle II]” and (b) limit local authority to impose certain license or privilege taxes or fees. Given this information, the scope of the quoted language from Virginia Code section 4.1-1004(A) is uncertain. Localities should use discretion before imposing taxes beyond what is expressly authorized in Virginia Code section 4.1-1004.

Commented [A6]: Explanation regarding the differences between subdivisions (1) and (2) herein:

The authority for this subsection and subsection (a) is Virginia Code section 4.1-629(B)(1). This Virginia Code section allows localities to “may adopt an ordinance that prohibits the acts described in § 4.1-1108 or the acts described in § 4.1-1109 in its local public parks, playgrounds, public streets, or any sidewalk adjoining any public street. **A penalty may be prescribed by the locality for a violation of such ordinance.**” (emphasis added) Virginia Code section 4.1-629(B)(1) never specifies the amount for the “penalty” allowed therein. However, Virginia Code section 15.2-1429 allows “[a]ny locality [to] prescribe fines and other punishments for violations of ordinances, which shall be enforced by proceedings as if such violations were misdemeanors. However, no fine or term of confinement for the violation of ordinances shall exceed the penalties provided by general law for the violation of a Class 1 misdemeanor, **and such penalties shall not exceed those penalties prescribed by general law for like offenses.**” (emphasis added)

Commented [A7]: Authority: Virginia Code section 4.1-630. Regulating time of sale is not required. For counties and towns, note that this section would only be “effective in that portion of such county not embraced within the corporate limits of any incorporated town . . .” *Id.*

Commented [A8]: Please note that the authority for this language, Virginia Code section 4.1-630, states that a “right of appeal pursuant to [Virginia Code section] 16.1-106” is applicable here.

The General Assembly’s inclusion of the above in the underlying bill requires discernment from the local ordinance drafter. Virginia Code section 16.1-106 already provides for what happens when cases are heard in district court. Interestingly, this section

Commented [A9]: Note: Virginia Code section 4.1-1004(B) requires that “Each locality shall, within 30 days, notify the Authority and any retail marijuana store and microbusiness in such locality of the ordinance enacted pursuant to this subsection.”

Commented [A10]: Authority: Virginia Code § 4.1-1004.

There shall be a local sales tax at a rate of of [CHOOSE NOT LESS THAN ONE BUT NOT GREATER THAN THREE AND ONE-HALF] percent on any sale taxable under subsection A of Virginia Code § 4.1-1004. Other than the tax authorized and identified in this section, the [COUNTY, CITY, OR TOWN] shall not impose any other tax on a sale taxable under subsection A of Virginia Code § 4.1-1004. Such tax shall be collected, remitted, and disposed of in the manner provided by Virginia Code Title 4.1 Chapter 10.

Nothing in this section shall be construed to (i) prohibit the [COUNTY, CITY, OR TOWN] from imposing any tax authorized by law on a person or property regulated under Virginia Code Title 4.1, Subtitle II or (ii) limit the authority of the [COUNTY, CITY, OR TOWN] to impose a license or privilege tax or fee on a business engaged in whole or in part in sales taxable under subsection A of Virginia Code § 4.1-1004 if such tax or fee is (a) based on an annual or per-event flat fee authorized by law or (b) an annual license or privilege tax authorized by law and such tax includes sales or receipts taxable under subsection A of Virginia Code § 4.1-1004 in its taxable measure.

* * *

Commented [A11]: For towns and counties with towns: Please note that Virginia Code 4.1-1004(B)(1) states "The tax imposed by a surrounding county under this subsection shall not apply within the limits of any town."

For towns: Please note that Virginia Code section 1427(G) requires that "no tax shall be imposed except by a two-thirds vote of the council members."

Commented [A12]: Please note the following language from Virginia Code section 58.1-3007, which means that your notice must include the "proposed increase:"

Before any local tax levy shall be increased in any county, city, town, or district, such proposed increase shall be published in a newspaper having general circulation in the locality affected at least seven days before the increased levy is made and the citizens of the locality shall be given an opportunity to appear before, and be heard by, the local governing body on the subject of such increase.

Sec. 6 – Zoning.²

Commented [A13]: Authority: Virginia Code § 4.1-629.

(a) *Legislative findings.* The [GOVERNING BODY] hereby finds and declares that:

(1) General findings.

The public necessity, convenience, general welfare, and good zoning practice require that the [COUNTY, CITY, OR TOWN] amend, supplement, or change its regulations, district boundaries, or classifications of property with respect to marijuana establishments. Location and siting standards for marijuana

² Virginia Code section 4.1-629 (“Local Section”) is the authority for this section except as otherwise specified in comments. The relationship between subsections A and C of the Local Section is a matter of ongoing debate. Some reconcile the tension between subsections A and C by arguing as follows: (1) A locality can only exercise its zoning or business licensing authority through its implementation of subsection B of the Local Section or other express authority grants like section 4.1-630; and (2) With respect to any regulatory powers other than zoning or business licensing, the locality can only use its powers insofar as it does not do something forbidden by subsection A (which expansively includes regulating the “sale” of marijuana or marijuana products). Essentially, this interpretation narrowly construes subsection C of the Local Section. Those adopting this interpretation would either not enact this section of the Model Ordinance or would exercise significant caution in doing so.

Others reconcile the tension between subsections A and C of the Local Section as follows: (1) Subsection C broadly preserves localities’ zoning, business licensing, or other regulatory powers insofar as localities do not completely prohibit the actions described in subsection A; (2) The language in subsection A about “regulating” the items therein refers to a locality directly regulating those items in a manner already occupied by the Cannabis Control Authority (*e.g.*, a locality banning marijuana gummies shaped in a certain way or products at a certain THC level); and (3) The language in subsection C of the Local Section stating “**Except as provided in this section**, nothing in this subtitle shall be construed to supersede or limit . . .” is solely referencing subdivision B(2) of the Local Section without limiting the rest of the locality’s zoning powers (*i.e.*, the quoted language is just saying that localities cannot increase but can decrease distance requirements). Virginia Code section 4.1-1000(H)(3) lends credence to this interpretation because it indicates the possibility of marijuana establishments that do “not meet local zoning and land use laws.” *See also* Virginia Code §§ 4.1-803(B), 4.1-810(B)(3)(a), 4.1-810(B)(3)(b), 4.1-810(B)(5), 4.1-900(A)(2)(a), 4.1-1402(G) (discusses sign ordinances and advertisement requirements). Essentially, this interpretation broadly construes subsection C of the Local Section. Those adopting this interpretation would have less hesitancy to enact this section of the Model Ordinance than those adopting the other interpretation. Virginia Supreme Court cases interpreting language like subsection A of the Local Section in the ABC context may provide support for this interpretation. *See e.g., County of Chesterfield v. Windy Hill*, 263 Va. 197 (2002); *Norfolk v. Tiny House, Inc.*, 222 Va. 414 (1981).

In light of the above, please consider your locality’s risk profile before enacting restrictions on marijuana establishments beyond what is expressly authorized (whether through zoning, business licensing, or other powers). Ultimately, regardless of which interpretation you find more persuasive, it is not possible to entirely ban marijuana establishments within the boundaries of your locality.

establishments are necessary to secure and promote the safety, health, peace, good order, comfort, convenience, morals, trade, commerce and industry of the [COUNTY, CITY, OR TOWN] and the inhabitants thereof.

(2) Public Safety Considerations.

Marijuana establishments can attract increased vehicular traffic and require enhanced security measures.

(3) Community Impacts.

Without appropriate location standards and operational controls, marijuana-related uses may adversely affect nearby residential neighborhoods, schools, parks, childcare facilities, and other sensitive land uses, and may contribute to incompatible land use patterns.

(4) Public Health Considerations.

Reasonable zoning controls on the location and concentration of marijuana establishments help reduce unintended access by minors, mitigate exposure to secondhand emissions and odors, and support responsible, regulated access consistent with state law.

(5) Land Use Compatibility.

Proper zoning treatment of marijuana establishments promotes compatibility with surrounding uses, preserves neighborhood character, supports orderly development, and advances long-range planning goals set forth in the [COUNTY, CITY, OR TOWN'S] Comprehensive Plan.

(6) Economic and Regulatory Balance.

The regulation of marijuana establishments through zoning is not intended to prohibit lawful marijuana activity but rather to ensure that such activity occurs in appropriate locations and under conditions that minimize potential adverse impacts on the community.

(b) *Purpose and intent.* The purpose and intent of this section is to:

- (1) Promote the health, safety, and general welfare of the public by establishing clear, reasonable, and enforceable zoning standards for marijuana-related uses.
- (2) Ensure that marijuana establishments are located only in zoning districts where such uses are compatible with surrounding land uses and infrastructure capacity.

- (3) Protect residential neighborhoods and sensitive land uses from potential adverse secondary effects associated with marijuana establishments.
- (4) Provide objective standards for siting, spacing, and operation to guide applicants, staff, and decision-makers and to reduce uncertainty in land use decision-making.
- (5) Support the responsible implementation of state marijuana laws while preserving local land use authority.
- (6) Advance the goals and policies of the [COUNTY, CITY, OR TOWN'S] Comprehensive Plan and zoning ordinance as a whole.
- (7) Provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime, and other dangers.
- (8) Reduce or prevent congestion in the public streets.
- (9) Facilitate the creation of a convenient, attractive, and harmonious community.
- (10) Encourage economic development activities that provide desirable employment and enlarge the tax base.

(c) Cannabis dispensing facility.

- (1) Except as otherwise provided in this chapter, cannabis dispensing facilities are allowed as of right in the following districts:
 - a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]
- (2) Except as otherwise provided in this chapter, cannabis dispensing facilities may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:
 - a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(d) Marijuana cultivation facility.

- (1) Except as otherwise provided in this chapter, marijuana cultivation facilities are allowed as of right in the following districts:
 - a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

Commented [A14]: Please note that the types of facilities referenced in this and subsequent subsections of this section are based on the facilities included in the definition of "Marijuana Establishment" in sections 2 and 2.1. The authority for this section (Virginia Code section 4.1-629(C)) clarifies that localities have the ability to "regulate businesses licensed pursuant to [Virginia Code Title 4.1, Subtitle II]." Applicable definition sections never define "marijuana business," but the closest term is "marijuana establishment." Thus, the types of facilities listed herein are the types included in the definition of "marijuana establishment."

Commented [A15]: Please note that subsections (c) and (j) of this section are regarding medical marijuana facilities. Please consult the Virginia Cannabis Control Authority's regulations regarding these types of facilities. [Link](#).

Commented [A16]: For this reference to use permits and every subsequent reference in this document, please see footnote 2.

- (2) Except as otherwise provided in this chapter, marijuana cultivation facilities may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:

a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(e) *Marijuana microbusiness.*

- (1) Except as otherwise provided in this chapter, marijuana microbusinesses are allowed as of right in the following districts:

a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

- (2) Except as otherwise provided in this chapter, marijuana microbusinesses may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:

a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(f) *Marijuana delivery operator.*

- (1) Except as otherwise provided in this chapter, marijuana delivery operator facilities are allowed as of right in the following districts:

a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

- (2) Except as otherwise provided in this chapter, marijuana delivery operator facilities may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:

a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(g) *Marijuana testing facility.*

- (1) Except as otherwise provided in this chapter, marijuana testing facilities are allowed as of right in the following districts:

Commented [A17]: The defined term is “marijuana delivery operator,” but that applies to the entity, so I added “facility” at the end.

- a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

- (2) Except as otherwise provided in this chapter, marijuana testing facilities may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:

- a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(h) *Marijuana processing facility.*

- (1) Except as otherwise provided in this chapter, marijuana processing facilities are allowed as of right in the following districts:

- a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

- (2) Except as otherwise provided in this chapter, marijuana processing facilities may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:

- a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(i) *Marijuana transporter.*

- (1) Except as otherwise provided in this chapter, marijuana transporters are allowed as of right in the following districts:

- a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

- (2) Except as otherwise provided in this chapter, marijuana transporters may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:

- a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(j) *Pharmaceutical processor.*

- (1) Except as otherwise provided in this chapter, pharmaceutical processors are allowed as of right in the following districts:
 - a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]
- (2) Except as otherwise provided in this chapter, pharmaceutical processors may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:
 - a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(k) *Retail marijuana store.*

- (1) Except as otherwise provided in this chapter, retail marijuana stores are allowed as of right in the following districts:
 - a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]
- (2) Except as otherwise provided in this chapter, retail marijuana stores may be allowed subject to approval of a use permit as provided in [INSERT SECTION OF ZONING ORDINANCE THAT TALKS ABOUT USE PERMITS HERE] in the following districts:
 - a. [LIST DISTRICTS HERE AND IN SUBSEQUENT SUBDIVISIONS b, c, etc.]

(l) *Minimum distance – Between retail marijuana stores and microbusinesses.* No retail marijuana store or microbusiness shall be located within [INSERT NUMBER LESS THAN DISTANCE REQUIREMENT PROMULGATED BY THE BOARD OF DIRECTORS OF THE CANNABIS CONTROL AUTHORITY] feet of any other retail marijuana store or microbusiness.

(m) *Minimum distance – Between retail marijuana stores and microbusinesses and various other facilities.* No retail marijuana store or microbusiness shall be located within [INSERT NUMBER LESS THAN DISTANCE REQUIREMENT PROMULGATED BY THE BOARD OF DIRECTORS OF THE CANNABIS CONTROL AUTHORITY] feet of any hospital; public, private, or parochial school or institution of higher education; or child day program.

(n) *Street frontage required.* Every marijuana establishment building hereafter erected shall be located on a lot with frontage on a public street having a minimum width of 30 feet as defined in this chapter.

Commented [A18]: Authority: Virginia Code section 4.1-629(B)(2). Please note that the regulations for distances are not available yet.

(o) *Use of buildings and land.* No marijuana establishment building or structure shall be erected, reconstructed, structurally altered, enlarged or moved, and no marijuana establishment land or building shall be used or designed to be used for any purpose other than as may be herein permitted.

(p) *Minimum requirements.* The provisions of this section shall be held to be the minimum requirements adopted for the promotion of health, safety, convenience, morals, comfort, prosperity and general welfare of the public. It is not intended by this section to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of law or ordinance, any easement, covenant or private agreement, or any rules, regulations, or permits other than zoning regulations.

Sec. 7 – General provisions.

(a) *Severability.* Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

(b) *Headings and illustrations.* Headings are provided for convenience and reference only and do not define or limit the scope of any provision of this chapter. In case of any difference of meaning or implication between the text of this chapter and any heading, the text controls.

(c) *Construction.* This chapter shall be construed and applied in a manner consistent with state law and shall not be interpreted to permit any use prohibited by statute or to conflict with applicable licensing requirements.

Sec. 8 – Relation to various other ordinances.

(a) *Relation to [INSERT NAME OF LOCALITY'S ZONING ORDINANCE HERE].* This chapter supplements the [INSERT NAME OF LOCALITY'S ZONING ORDINANCE HERE]. All marijuana establishments are subject to this chapter's requirements in addition to the [INSERT NAME OF LOCALITY'S ZONING ORDINANCE HERE], including [CITE PROVISIONS RELATED TO VIOLATIONS, ENFORCEMENT, AND PENALTIES HERE].

(b) *Relation to [INSERT NAME OF LOCALITY'S BUSINESS LICENSE REQUIREMENTS ORDINANCE.]* This chapter supplements the [INSERT NAME OF LOCALITY'S BUSINESS LICENSE REQUIREMENTS ORDINANCE]. All marijuana establishments are subject to this chapter's requirements in addition to the [INSERT NAME OF LOCALITY'S BUSINESS LICENSE REQUIREMENTS ORDINANCE], including [CITE PROVISIONS RELATED TO VIOLATIONS, ENFORCEMENT, AND PENALTIES HERE].

(c) *Relation to other requirements.* In addition to the requirements of this chapter, marijuana establishments are subject to all other applicable [COUNTY, CITY, OR TOWN] requirements.

Commented [A19]: Authority: Virginia Code § 4.1-629(C). The thought behind this section was to add some commonplace language from zoning ordinances to make this truly look like a zoning ordinance.

Commented [A20]: See page 1 of this model ordinance regarding the Committee's decision to include zoning-related provisions in the same ordinance as other marijuana-related regulations. Again, the drafters realize that localities are not likely to include zoning provisions outside of their preexisting zoning ordinances. Notwithstanding, this subsection is included as if a locality were to do so.

Commented [A21]: The same logic described in the comment on subsection a applies here.

2. That provisions of section 5 (Taxation) of this Ordinance shall take effect on the first day of the second month following this Ordinance's enactment. All other provisions of this Ordinance shall take effect upon adoption.

Commented [A22]: Please note that this and the subsequent numbered items in this list are the second through sixth enactments of this model ordinance.

3. That the rate imposed pursuant to section 5 (Taxation) of this Ordinance shall be effective for [INSERT TIME PERIOD EQUAL TO OR GREATER THAN THREE YEARS HERE].

4. That the Clerk is hereby directed to, within thirty days of enactment of this Ordinance, certify and provide a copy of this Ordinance to the Board of Directors of the Virginia Cannabis Control Authority, the Virginia Cannabis Control Authority, and any retail marijuana store and microbusiness in the [COUNTY, CITY, OR TOWN].

Commented [A23]: Authority: Virginia Code § 4.1-1004(B).

5. That the [TOWN MANAGER, CITY MANAGER, COUNTY ADMINISTRATOR, OR OTHER DESIGNEE OF THE LOCALITY] is designated to receive notices under Virginia Code section 4.1-1000(G).

Commented [A24]: Authority: Virginia Code § 4.1-630, at least with respect to providing a copy to the Cannabis Control Authority Board.

6. That everything herein is effective upon adoption unless specified otherwise.

Commented [A25]: Authority: Virginia Code § 4.1-1000(G) only have thirty days to submit objections. Your locality may want to consider setting up a process to fast-track objections.