



# AGENDA REPORT

**To:** Planning Commission

**From:** Ben Song, Community Development Director

**Agenda:** November 6, 2023 Planning Commission Meeting

**Item:** Zoning Ordinance Text Amendment (A-23-002) to Regulate Medical Cannabis Dispensaries in Johns Creek

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## Item Summary

In order to promote quality of life in Johns Creek and minimize potential impact of medical cannabis dispensaries on neighborhoods and residential areas, staff recommends defining “Medical Cannabis Dispensary” and adding the use to the C-2 Zoning District, by modifying Article III “Definitions” and Article IX “Community Business District” of the City of Johns Creek Zoning Ordinance.

## Background

State of Georgia allows for the sale and distribution of medical cannabis to registered patients and their caregivers in the form of low tetrahydrocannabinol (THC) oil.

In 2015, the General Assembly approved Haleigh’s Hope Act (House Bill 1), which allows registered patients with qualifying conditions (cancer, seizure disorder, Parkinson’s disease, etc.) and their caregivers to possess up to 20 fluid ounces of low-THC oil with a doctor’s certification. Low-THC oil contains less than 5% THC, which is the psychoactive component in cannabis. The Act also created the Georgia Access to Medical Cannabis Commission (GAMCC) to manage the medical marijuana program in Georgia.

In 2017, the Governor signed Senate Bill 16 to expand the set of medical conditions covered by House Bill 1. Medical conditions such as Alzheimer’s disease, Tourette’s syndrome, AIDS, and Autism were added to the list of qualifying conditions for low-THC oil therapy. However, in-state sales of low-THC oil was not permitted by law at that time.

In 2019, Georgia’s Hope Act (House Bill 324) was enacted to provide for licensed and regulated cultivation, production, and dispensation of low-THC oils, which is overseen by GAMCC under the auspices of the Secretary of State’s Office. This Act prohibits the issuance of dispensing licenses for low-THC oil within 1,000 feet of any public or private school, early care and education program, church, synagogue, or other place of worship, as measured from property boundary to property boundary. The Act also prohibits advertisement or marketing of low-THC oil to either registered patients or the public.

In 2021, Senate Bill 195 took effect, providing for new treatment and delivery methods for medical cannabis, revising provisions relating to the dispensation of low-THC oil products, and allowing medical cannabis producers to obtain state dispensation licenses.

Thus far, the Georgia Access to Medical Cannabis Commission has officially issued two licenses for a total of nine dispensaries. One license was issued to Trulieve for locations in Evans, Macon, Marietta, Newnan and Pooler, and the second license was issued to Botanical Sciences, which has dispensary licenses in Chamblee, Marietta (not yet opened by licensed), Pooler and Stockbridge. Current state law allows for 30 total dispensaries statewide and many are expected to be clustered around Metro Atlanta. Technically, only patients with a valid Low-THC Registry card issued by the Georgia Department of Public Health may purchase low-THC oils at these dispensaries. The dispensaries cannot sell marijuana in plant or leaf form, nor any food products infused with low-THC oil.

At the August 22 City Council meeting, in response to two medical cannabis dispensary inquiries received by staff, the Mayor and Council imposed a 3-month moratorium on accepting and processing business tax certificates and building permit applications for medical cannabis dispensaries throughout the City, to allow staff the time required to research and evaluate appropriate zoning regulations.

### **Update**

Staff reviewed ordinances from adjacent and nearby jurisdictions related to medical cannabis dispensaries, and also conducted in-depth discussions with those jurisdictions' planning staff members. Five jurisdictions (Alpharetta, Doraville, Dunwoody, Forsyth County, Roswell) impose various restrictions (included in Attachment 3) on medical cannabis dispensaries. These restrictions include:

- Requiring a conditional or special use permit, which requires a City Council or Board of Commissioners hearing (Alpharetta, Doraville, Forsyth, and Roswell);
- Limiting the use by-right to only industrial zoning districts (Roswell);
- Imposing stricter distance separation requirements from schools, churches, government buildings, parks, residential dwellings, etc. than the minimum required by State law (Alpharetta);
- Limiting the number of dispensaries within the city by imposing a citywide cap (Doraville), or imposing a minimum distance separation between dispensaries (Alpharetta, Dunwoody);
- Limiting the gross floor area of medical cannabis dispensaries (Doraville);
- Prohibiting consumption on the premises (Dunwoody).

### **Analysis**

Allowing for medical cannabis dispensaries in the higher-intensity C-2 Zoning District would be appropriate, as there are only four C-2 zoned properties in Johns Creek, and all have specific uses regulated by zoning conditions and/or site plans. Therefore, even if medical cannabis dispensaries were made a permitted use in C-2 Zoning District, no property could currently allow for medical cannabis dispensaries without requiring rezoning. Additional distance separation requirements from churches, schools, government facilities, and other medical cannabis dispensaries would further minimize potential impact on neighborhoods and residential areas.

## Staff Recommendations

Staff recommends defining “Medical Cannabis Dispensary” and adding the use to the C-2 Zoning District, by modifying Article III “Definitions” and Article IX “Community Business District” of the City of Johns Creek Zoning Ordinance, as follows:

### 1. Add definition of “Medical Cannabis Dispensary”

#### 3.3.13.M.

**Medical Cannabis Dispensaries.** Any business establishment that sells and distributes medical cannabis products, as defined in O.C.G.A. § 16-12-190 or related products as defined in O.C.G.A. § 16-12-200(15).” This definition shall not include any bona fide full-service pharmacy that holds a dispensing license as authorized by O.C.G.A. § 16-12-206(b). All medical cannabis dispensaries shall adhere to all applicable state and local laws, rules, regulations, and ordinances, including, but not limited to, O.C.G.A. §§16-12-200 to 16-12-236 and the rules and regulations promulgated by the Georgia Access to Medical Cannabis Commission.

No medical cannabis dispensaries shall be allowed within 2,000 feet of any residential dwelling, residential substance abuse diagnostic or treatment facility, any licensed drug or alcohol rehabilitation facility, religious institution or Place of Worship, Early Care and Education Program as defined in O.C.G.A. § 20-1A-2, Public or Private School, College or University, Governmental Facility or Park, and not within 3 miles of another medical cannabis dispensary. Distance shall be measured by a straight line without regard to intervening structures or objects, from the front door of the medical cannabis dispensary to the closest point on a boundary of any parcels containing a residential dwelling, Church, Temple or Place of Worship, Early Care and Education Program, School, College, University, Government Facility or Park, or another Medical Cannabis Dispensary.

### 2. Limit “Medical Cannabis Dispensary” to C-2 Zoning District

#### **Section 9.2. C-2 Community Business District**

##### **Section 9.2.2.A. Permitted Uses.**

1. Any Use Permitted in the C-1 District
2. Automotive Garage
3. Automotive Repair Garage
4. Automobile & Light Truck Sales/Leasing
5. Batting Cage, Outdoor
6. Bowling Alley
7. Brewery
8. Car Wash
9. Check Cashing Establishment
10. Drive-in Theater
11. Garage, Automobile Repair
12. Landscaping Business
13. Lawn Service Business
14. Laundry and/or Dry Cleaning Plant Distribution Center. Not including processing, fabrication or manufacturing.
15. Medical Cannabis Dispensary
- ~~15.16.~~ Pawn Shop
- ~~16.17.~~ Plant Nursery
- ~~17.18.~~ Plumbing Shop associated with retail sales

- ~~18-19.~~ *Radio and Television Stations*
- ~~19-20.~~ *Service Establishments*
- ~~20-21.~~ *Skating Rink*
- ~~21-22.~~ *Smoke Shop*
- ~~22-23.~~ *Tinsmithing Shop associated with retail sales*

On September 22, 2023, Staff presented the proposed text amendment to One Johns Creek, a non-profit organization dedicated to reduce youth drug use, and received unanimous support for this recommended amendment to the Zoning Ordinance to regulate medical cannabis dispensaries.

#### **Attachments**

1. Moratorium Resolution
2. State legislation: House Bill 1, Senate Bill 16, House Bill 324, Senate Bill 195
3. Research on Jurisdictions with Medical Cannabis Dispensary Regulations