

AMENDING CHAPTER 23 "UNIFIED DEVELOPMENT ORDINANCE", ARTICLE 7 "SUPPLEMENTAL DISTRICT REGULATIONS" OF THE CITY OF DEKALB, ILLINOIS MUNICIPAL CODE AS IT PERTAINS TO CANNABIS BUSINESS ESTABLISHMENTS WITHIN THE CITY OF DEKALB.

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the City's Unified Development Ordinance (the "UDO") regulates the City's zoning and subdivision standards and procedures; and,

WHEREAS, the City wishes to amend the UDO to remove the 250-foot setback for a cannabis dispensary to a residential use as set forth in Exhibit A attached hereto and incorporated herein by reference (the "Text Amendment"); and

WHEREAS, on March 7, 2022, the City's Planning and Zoning Commission held a public hearing, pursuant to due notice, regarding the proposed Text Amendment and recommended adopting the Text Amendment; and

WHEREAS, the City's corporate authorities find that it is in the City's best interests for the promotion of the public health, morals and welfare to adopt the Text Amendment; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The City's corporate authorities adopt the Text Amendment to Chapter 23 "Unified Development Ordinance", Article 7 "Supplemental District Regulations", of the City's Municipal Code as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 2: Except as otherwise provided by the Text Amendment adopted by this Ordinance, all provisions of the UDO shall remain in full force and effect.

SECTION 3: This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 4: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a Regular meeting thereof held on the 14th day of March 2022 and approved by me as Mayor on the same day. Passed on First Reading by a 7-0-1 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Barnes. Nay: None. Absent: Faivre. Second Reading waived by a 7-0-1 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Barnes. Nay: None. Absent: Faivre.




COHEN BARNES, Mayor

ATTEST:


Ruth A. Scott, Executive Assistant

EXHIBIT A

ARTICLE 7

SUPPLEMENTAL DISTRICT REGULATIONS

7.18 Cannabis Business Establishment

7.18.01 Purpose and Intent

1. This Ordinance is intended to protect the public health, safety and welfare by establishing regulations to restrict the location of and/or create a setback between establishments which primarily engage in the businesses relating to medical cannabis, and incompatible uses.
2. The zoning contemplated herein shall only apply to businesses a cannabis business establishment duly licensed and operating under State law.
3. The following definitions shall apply:

“Adult-use Cannabis Craft Grower” means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Cultivation Center” means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Dispensing Organization” means a facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Infuser Organization” or *“Infuser”* means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Processing Organization” or *“Processor”* means a facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

“Adult-use Cannabis Transporting Organization” or *“Transporter”* means an organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis

Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

"Cannabis Business Establishment" means an adult-use cannabis dispensing organization and a medical cannabis dispensing organization.

"Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means concentrate and cannabis-infused products.

"Medical Cannabis Dispensing Organization" means a facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients, individuals with a provisional registration for qualifying patient cardholder status, or an Opioid Alternative Pilot Program participant, per the Compassionate Use of Medical Cannabis Act, 410 ILCS 130/1, *et seq.*, as it may be amended from time-to-time, and regulations promulgated thereunder.

"Medical Cannabis Cultivation Center" means a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

"Enclosed, locked facility" room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by agents of a licensed cannabis business establishment and acting pursuant to State law.

"State law governing statute" means the Cannabis Regulation and Tax Act, 410 ILCS 705/1, *et seq.*, and the Compassionate Use of Medical Cannabis Act, 410 ILCS 130/1, *et seq.*, as they may be amended from time-to-time, and regulations promulgated thereunder.

7.18.02 Compliance with Applicable Laws

A cannabis business establishment shall be required to comply with all applicable laws, ordinances, regulations, statutes or other regulatory authority applicable thereto, including but not limited to, State law and the City of DeKalb Municipal Code. Violation of any applicable law, regulation, or ordinance shall constitute a public nuisance and violation of any zoning authority or special use permit granted hereunder.

7.18.03 Submittal Requirements

After a pre-application meeting with the City, an applicant for any special use or other zoning approval required herein for a cannabis business establishment shall be required to submit plans and documents as deemed necessary by the City, including, but not limited to, a Plat of Survey, a Site Plan, Engineering Plan, Architectural Plans and Elevations, Building Material Samples, Lighting Plan, Signage Plan, Business and Operational Plan, Compliance with State law, Anticipated Parking and Traffic Plan, Impact on Surrounding Areas, and Security Plan.

7.18.04 Permitted Zoning Districts and Setback Requirements

1. A cannabis business establishment shall be permitted only as a special use in the following zoning districts: LC, GC, CBD and LI. A cannabis business establishment may also be permitted in the PD-C and PD-I Districts as a special use if the governing ordinance allows.
2. A cannabis business establishment may not be located within 250 feet of the property line of a ~~preexisting property zoned or used for residential purposes that contains a residential dwelling unit,~~ nursery school, preschool, primary or secondary school, daycare center, daycare home, ~~residential home,~~ and/or an academic building or residence hall of a State university.
3. An adult-use cannabis dispensary organization may not be located within 1,500 feet of the property line of a pre-existing adult-use cannabis dispensary organization.
4. A cannabis business establishment shall comply with the setback requirements and standards of the underlying zoning district, except as may be otherwise provided by this Section and the UDO.

7.18.05 Parking Requirements

1. A cannabis business establishment shall be required to comply with the parking requirements applicable to the facility under the provisions of this UDO (e.g. a dispensary shall comply with the parking requirements applicable to a Commercial Service Facility and Retail).
2. Parking shall be located in an area which is visible from a public road.
3. Parking areas shall be well lit and monitored by video surveillance equipment with live images that can be viewed by agents of the cannabis business establishment.

7.18.06 Exterior Display, Signage and Advertising

1. No cannabis business establishment shall be maintained or operated in a manner that causes, creates or allows the public viewing of cannabis, cannabis paraphernalia or similar products from any sidewalk, right-of-way or any property other than the lot on which the cannabis business establishment is located. No portion of the exterior of the cannabis business establishment shall use or contain any flashing lights, search lights, spotlights or any similar lighting system.
2. Signage shall comply with the standards of the underlying zoning district.
3. No cannabis business establishment shall have signage or engage in advertising that is not in compliance with State law, including but not limited to 410 ILCS 705/5520, which is adopted and incorporated herein by reference as if fully set forth herein.
4. A sign shall be posted in a conspicuous place at or near all dispensary entrances and shall include the following language: "Persons under the age of 21 are prohibited from entering." The required text shall be no smaller than 1 inch in height nor greater than 12 inches in height.

7.18.07 Other Development Restrictions

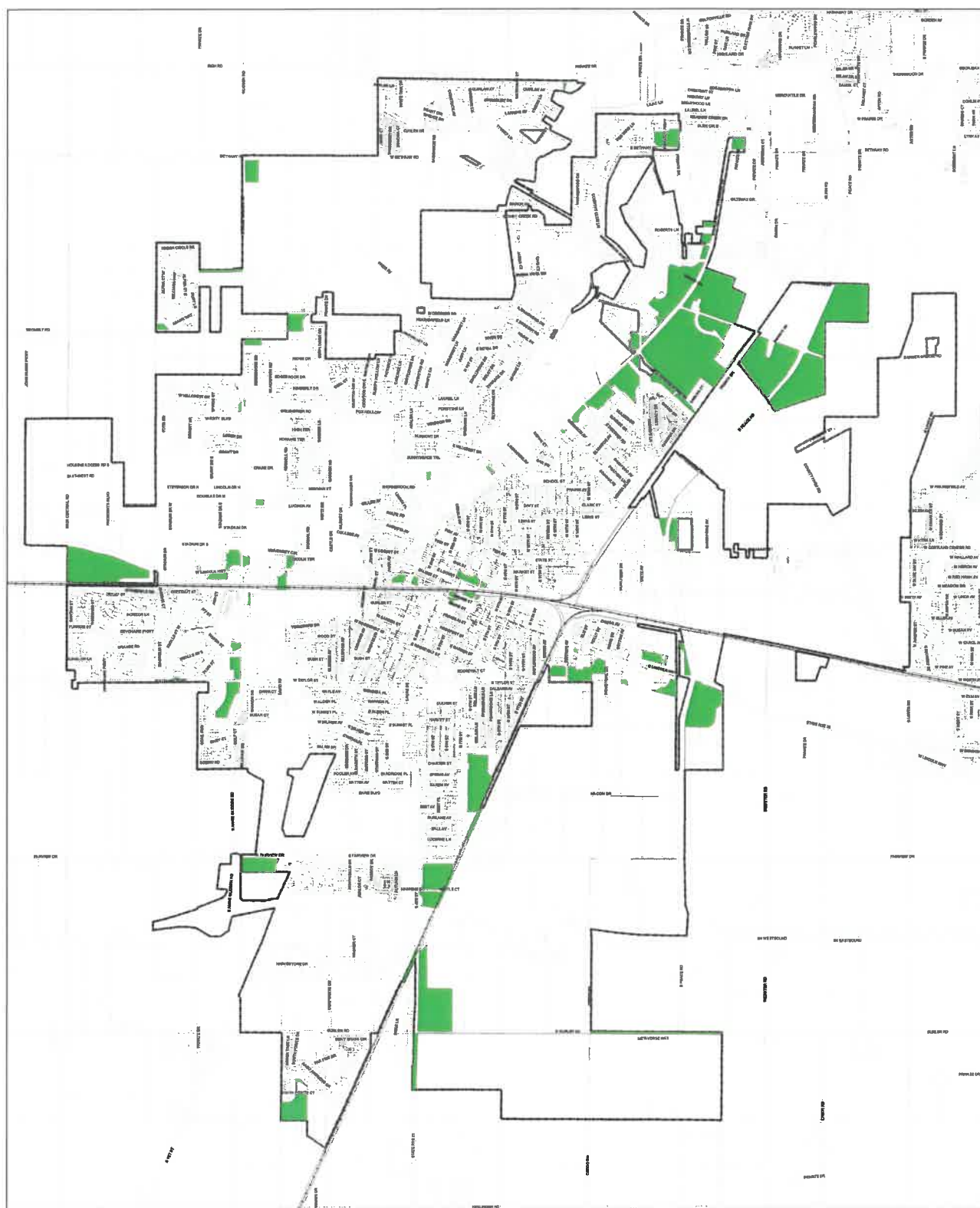
1. No more than five (5) special use permits for an adult-use cannabis dispensing organization shall be permitted within the City's corporate limits.
2. The terms and conditions for the location of a cannabis dispensary pursuant to a special use shall not be applicable to other types of cannabis businesses, including but not limited to, Adult-Use Cannabis Craft Growers, Adult-Use/medical Cannabis Cultivation Centers, Adult-Use Cannabis Infuser Uses, Adult-Use Cannabis Processing Uses, or Adult-Use Cannabis Transportation Uses unless otherwise approved by a subsequent amendment. Any type of cannabis business other than

a cannabis dispensary that wishes to locate in DeKalb may propose a text amendment to the City's Unified Development Ordinance as part of a zoning application that is in compliance with all State of Illinois statutes and regulations for legislative consideration and evaluation by the Planning and Zoning Commission and the City Council.

3. No cannabis business establishment shall allow any person who is not at least twenty-one (21) years of age on the premises. No cannabis business establishment shall employ anyone under the age of twenty-one (21).
4. A cannabis business establishment may operate between the hours of 6:00 a.m. to 10:00 p.m.
5. No cannabis business establishment shall have a drive-through service, drive-thru window, or any form of outdoor sales.
6. A cannabis business establishment shall maintain compliance with State law and local building, fire, and zoning requirements or regulations.
7. No adult-use cannabis dispensing organization shall operate in violation of the operational requirements and prohibitions set forth in 410 ILCS 705/15-70, which are adopted and incorporated herein by reference as if fully set forth herein.
8. No medical cannabis dispensing organization shall operate in violation of the requirements and prohibitions set forth in 410 ILCS 130/130, which are adopted and incorporated herein by reference as if fully set forth herein.
9. A cannabis business establishment shall provide to the City a security plan that includes, but is not limited to, the following:
 - a. The cannabis business establishment shall be an enclosed, locked facility and shall provide and maintain adequate security on the premises, including lighting, video surveillance and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft;
 - b. The parking area, client entrance, sales area, back room, storage areas and delivery bay and entrance shall be monitored by video surveillance equipment with live images that can be viewed by agents of the cannabis business establishment, continually recorded in a tamper proof format;
 - c. A sign shall be posted in a prominent location which includes the following language "This area is under live/recorded video surveillance to aid in the prosecution of any crimes committed against this facility or its patrons";
 - d. Reporting of criminal activity on the licensed premises to local law enforcement officials; and
 - e. The Chief of Police or designee shall review and approve the adequacy of lighting, security and video surveillance prior to the issuance of a ~~Conditional~~/Special Use Permit;
10. Loitering is prohibited on a ~~medical-cannabis~~ business establishment facility property.
11. No cannabis business establishment shall allow any person to smoke, inhale or consume cannabis on the property and the licenses premises occupied by the cannabis business establishment. A sign, at least 8.5 by 11 inches, shall be posted inside the cannabis business establishment building in a conspicuous place and visible to employees and clients and shall include the following

language: "Smoking, eating, drinking or other forms of consumption of cannabis products on the property is prohibited."¹⁹

Potential Cannabis Dispensary Locations - Current



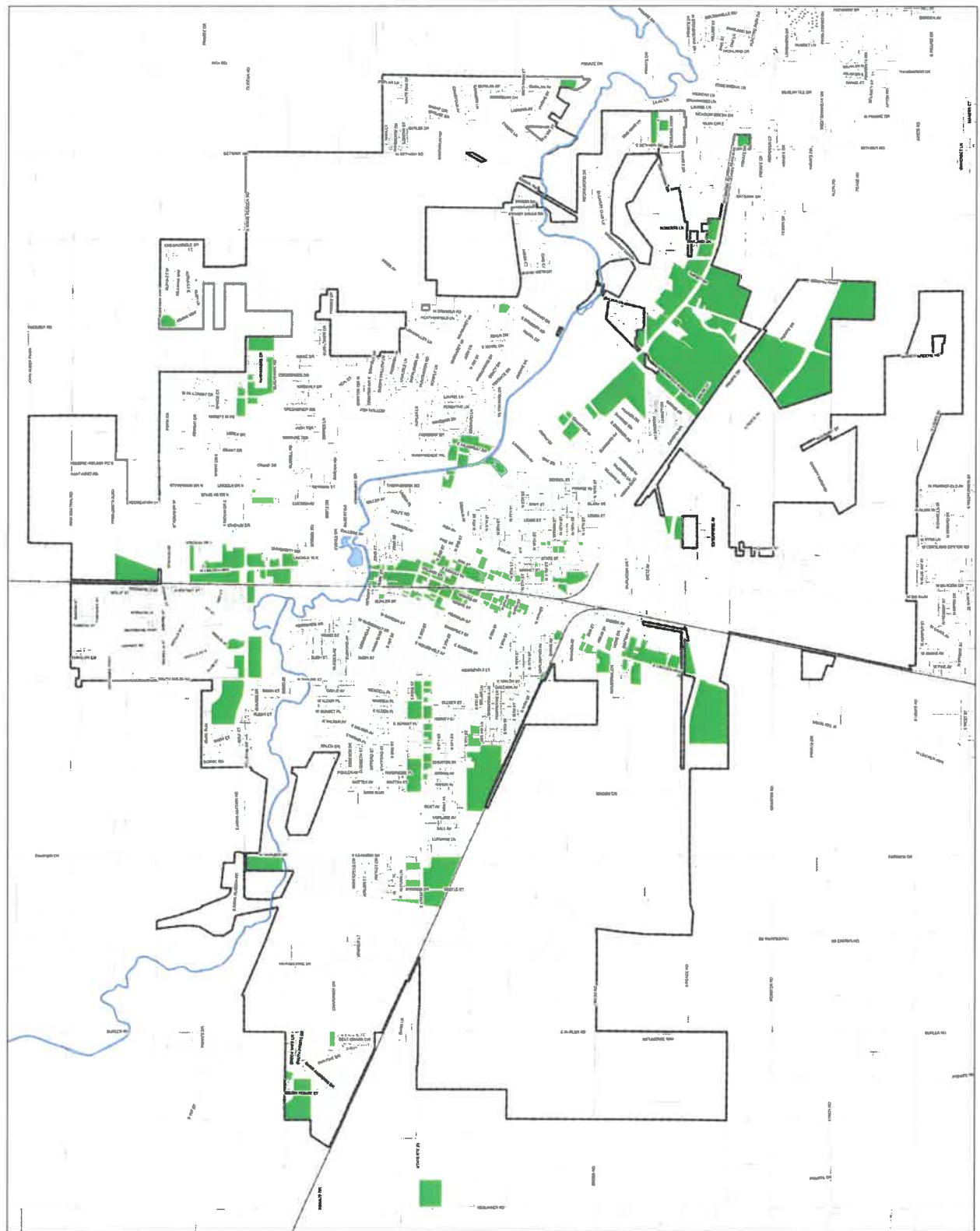
Possible Cannabis Dispensary Locations

For Community Development/City of DeKalb, 2018
Copyright 2018/2019
Last Updated: 1/15/2019 D.E.



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Potential Cannabis Dispensary Locations - Proposed

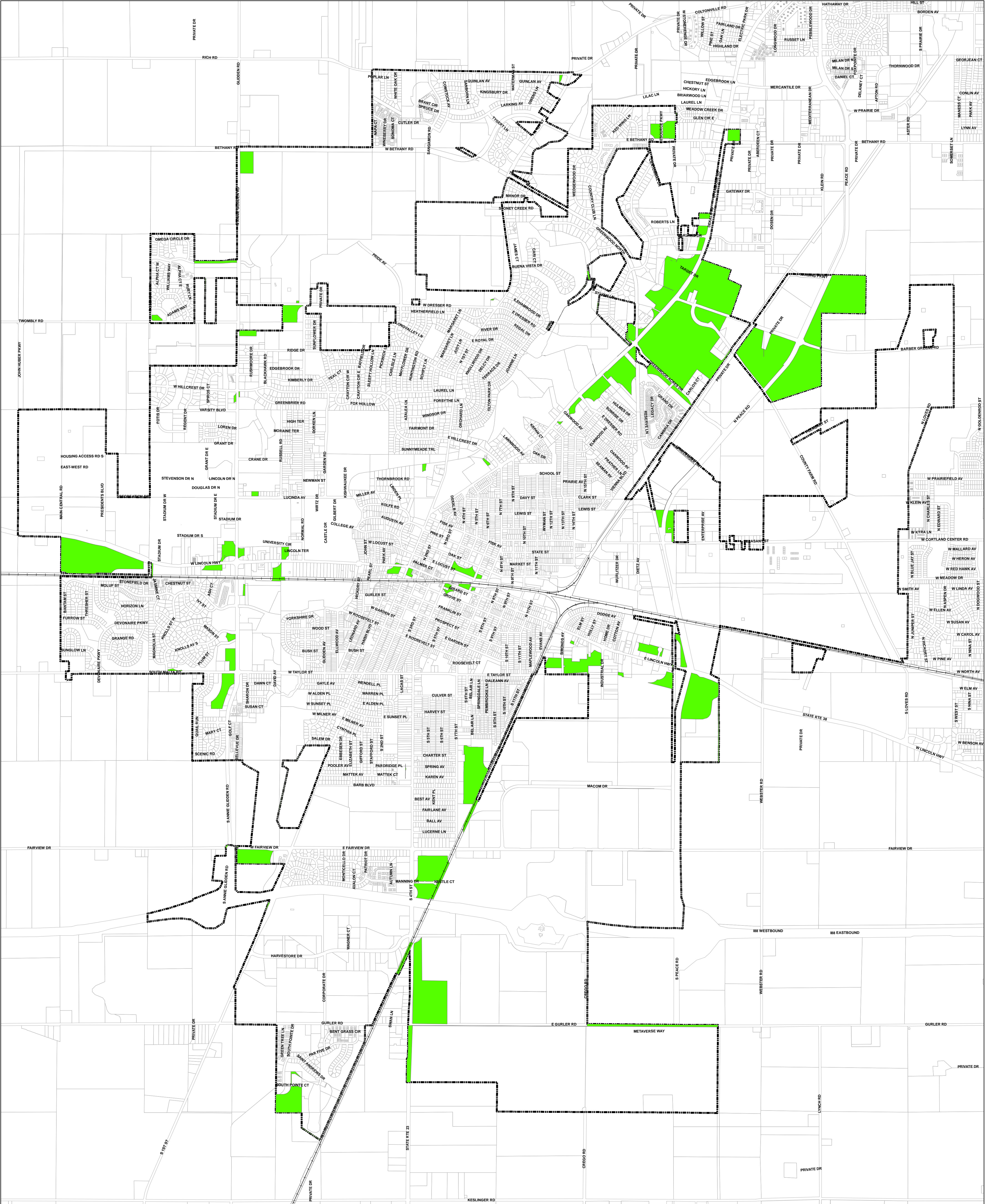


Potential Cannabis Dispensary Locations

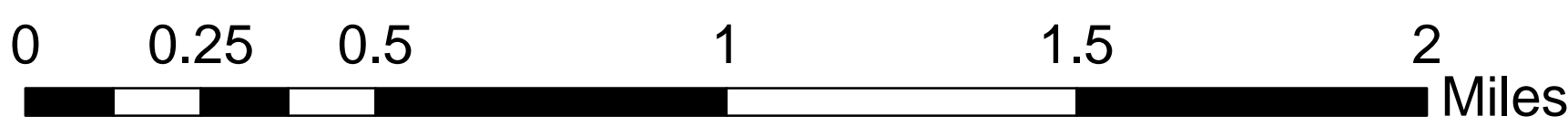
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Last Updated: 2/24/2022 10:01



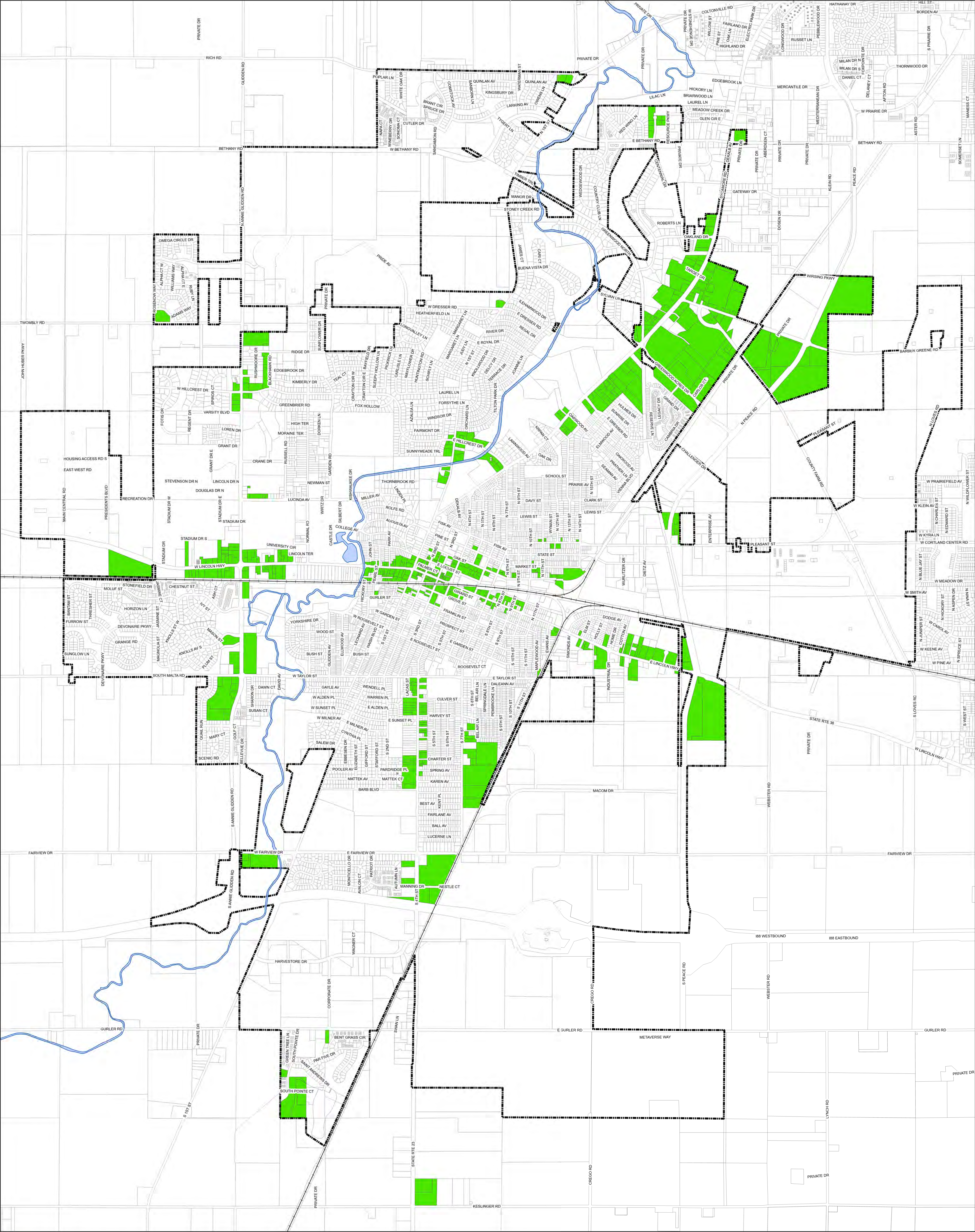
Potential Cannabis Dispensary Locations - Current



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Last Updated: 1/13/2020 DJE



Potential Cannabis Dispensary Locations - Proposed



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Last Updated: 2/24/2022 DJE

