

Relevant section of Wireless Telecommunications Act of 1996

entity (including the owner of such pole, duct, conduit, or right-of-way).'

SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY- Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

`(7) PRESERVATION OF LOCAL ZONING AUTHORITY-

`(A) GENERAL AUTHORITY- Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

`(B) LIMITATIONS-

`(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--

`(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

`(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

`(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

`(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

`(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

`(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such

action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C) DEFINITIONS- For purposes of this paragraph--

(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services; and

(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).'

(b) RADIO FREQUENCY EMISSIONS- Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93-62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY- Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

SEC. 705. MOBILE SERVICES DIRECT ACCESS TO LONG DISTANCE CARRIERS.

Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end

1.3.4 - Addition of Permitted Uses

- (A) **Purpose Statement.** The purpose of the Addition of Permitted Use process is to allow for the approval of a particular land use to be located on a specific parcel within a zone district that otherwise would not permit such a use. Under this process, an applicant may submit a plan that does not conform to the zoning, with the understanding that such plan will be subject to a heightened level of review, with close attention being paid to compatibility and impact mitigation. This process is intended to allow for consideration of unforeseen uses and unique circumstances on specific parcels with evaluation based on the context of the surrounding area. The process allows for consideration of emerging issues, site attributes or changed conditions within the neighborhood surrounding and including the subject property. For residential neighborhoods, land use flexibility shall be balanced with the existing residential character. Projects are expected to continue to meet the objectives of any applicable sub-area plan and City Plan. The process encourages dialogue and collaboration among applicants, affected property owners, neighbors and City Staff.
- (B) **Applicability.** This Section is applicable only under the following circumstances:
- (1) Where the proposed use is not listed as a permitted use in any zone district, does not fall within any existing use classification and is proposed as being appropriate to be added to the permitted uses in the zone district. If approved under this Section, such use shall be considered for inclusion into the zone district pursuant to Division 2.9; or
 - (2) Where the proposed use is listed as a permitted use in one (1) or more zone district(s) and is proposed based solely on unique circumstances and attributes of the site and development plan.
- (C) **Procedures and Required Findings.** The following procedures and required findings shall apply to addition of permitted use determinations made by the Director, Planning and Zoning Board, and City Council respectively:
- (1) **Director Approval.** In conjunction with an application for approval of an overall development plan, a project development plan, or any amendment of the foregoing (the "primary application" for purposes of this Section only), for property not located in any zone district listed in subsection (G), the applicant may apply for the approval of an Addition of Permitted Use for uses described in subsection (B)(1) to be determined by the Director. If the applicant does not apply for such an addition of permitted use in conjunction with the primary application, the Director in his or her sole discretion may initiate the addition of permitted use process. The Director may add to the uses specified in a particular zone district any other use which conforms to all of the following criteria:
 - (a) Such use is appropriate in the zone district to which it is added.
 - (b) Such use conforms to the basic characteristics of the zone district and the other permitted uses in the zone district to which it is added.
 - (c) The location, size and design of such use is compatible with and has minimal negative impact on the use of nearby properties.
 - (d)

Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added.

- (e) Such use will not change the predominant character of the surrounding area.
 - (f) Such use is compatible with the other listed permitted uses in the zone district to which it is added.
 - (g) Such use, if located within or adjacent to an existing residential neighborhood, shall be subject to two (2) neighborhood meetings, unless the Director determines, from information derived from the conceptual review process, that the development proposal would not have any significant neighborhood impacts. The first neighborhood meeting must take place prior to the submittal of an application. The second neighborhood meeting must take place after the submittal of an application and after the application has completed the first round of staff review.
 - (h) Such use is not a medical marijuana business as defined in Section 15-452 of the City Code or a retail marijuana establishment as defined in Section 15-603 of the City Code.
- (2) *Planning and Zoning Board Approval.* In conjunction with a primary application for a project not located, in whole or in part, in any zone district listed in subsection (G), the applicant may apply for approval of an addition of permitted use for uses described in subsection (B)(2) to be determined by the Planning and Zoning Board. The Planning and Zoning Board may add a proposed use if the Board specifically finds that such use: (1) conforms to all of the eight (8) criteria listed in subsection (C)(1); (2) would not be detrimental to the public good; (3) would be in compliance with the requirements and criteria contained in Section 3.5.1; and (4) is not specifically listed as a "prohibited use" in the zone district in which the proposed site is located. The addition of a permitted use by the Board shall be specific to the proposed project and shall not be considered for a text amendment under subsection (D) below.
- (3) *City Council Approval.* In conjunction with a primary application for a project located, in whole or in part, in a zone district listed in subsection (G), any application for the approval of an addition of permitted use shall be determined by the City Council after a Planning and Zoning Board recommendation on the addition of permitted use. The Planning and Zoning Board shall remain the decision maker on the primary application.
- (a) The Planning and Zoning Board may recommend to the City Council that a proposed use described in subsection (B)(1) be added if the Board specifically finds that such use conforms to all of the eight criteria listed in subsection (C)(1). The Planning and Zoning Board may recommend to the City Council that a proposed use described in subsection (B)(2) be added if the Board specifically finds that such use: (1) conforms to all of the eight (8) criteria listed in

subsection (C)(1); (2) would not be detrimental to the public good; (3) would be in compliance with the requirements and criteria contained in Section 3.5.1; and (4) is not specifically listed as a "prohibited use" in the zone district in which the proposed site is located. The Planning and Zoning Board shall consider only the requirements set forth in this subsection in making a recommendation on the addition of permitted use and shall follow the notice and hearing requirements that are established for zonings and rezonings of areas of no more than six hundred forty (640) acres in size as set forth in Section 2.9.4 of this Land Use Code.

- (b) In considering the recommendation of the Planning and Zoning Board and in determining whether a proposed use should be added, the City Council shall follow the notice requirements for Council action that are established for zonings and rezonings of areas of no more than six hundred forty (640) acres in size as set forth in Section 2.9.4 of this Land Use Code and shall follow the applicable hearing procedures established by the City Council by resolution for such hearings. In determining the addition of permitted use, the City Council shall consider only the requirements set forth in subsection (c) below.
- (c) In deciding the addition of permitted use application for uses described in subsection (B)(1), the City Council, after considering the Planning and Zoning Board recommendation, may add a proposed use if the Council specifically finds that such use conforms to all of the eight (8) criteria listed in subsection (C)(1). In deciding the addition of permitted use application for uses described in subsection (B)(2), the City Council, after considering the Planning and Zoning Board recommendation, may add a proposed use if the Council specifically finds that such use: (1) conforms to all of the eight (8) criteria listed in subsection (C)(1); (2) would not be detrimental to the public good; (3) would be in compliance with the requirements and criteria contained in Section 3.5.1; and (4) is not specifically listed as a "prohibited use" in the zone district in which the proposed site is located. The City Council's action on the addition of permitted use shall be by ordinance. The addition of a permitted use by City Council shall be specific to the proposed project and shall not be considered for a text amendment under subsection (D). The City Council's decision on the addition of permitted use shall not be appealable and, if applicable, shall be subject only to a vested rights and takings determination pursuant to Land Use Code Article 2, Division 2.13.
- (d) If the addition of permitted use is denied, any primary application that has been approved by the Planning and Zoning Board contingent upon the City Council's approval of an additional permitted use under this Section shall be automatically terminated and made null if such condition is not met; and any pending appeal of such conditional approval shall also be automatically terminated if such condition is not met, whereupon the appellant shall be promptly refunded any appeal fee that was paid to the City.

(D) **Codification of New Use.** When any use described in subsection (B)(1) has been added by the Director to the list of permitted uses in any zone district in accordance with subsection (C)(1) above, such use shall be promptly considered for an amendment to the text of this Code under Division 2.9. If the text

amendment is approved, such use shall be deemed to be permanently listed in the appropriate permitted use list of the appropriate zone district and shall be added to the published text of this Code, at the first convenient opportunity, by ordinance of City Council pursuant to Division 2.9. If the text amendment is not approved, such use shall not be deemed permanently listed in the zone district, except that such use shall continue to be deemed a permitted use in such zone district for only the development proposal for which it was originally approved under subsection (C)(1) above.

- (E) **Conditions.** When any use has been added to the list of permitted uses in any zone district in accordance with this Section, the Director or the Planning and Zoning Board with respect to any zone district not listed in subsection (G), or the City Council with respect to any zone district listed in subsection (G), may impose such conditions and requirements, including, but not limited to, conditions related to the location, size and design on such use as are necessary or desirable to: (1) accomplish the purposes and intent of this Code, (2) ensure consistency with the City Plan and its adopted components and associated sub-area plans, or (3) prevent or minimize adverse effects and impacts upon the public and neighborhoods, and to ensure compatibility of uses.
- (F) **Changes to Approved Addition of Permitted Use.** Approvals under this Section are specific to the subject addition of permitted use application. Any changes to the use or to its location, size and design, in a manner that changes the predominant character of or increases the negative impact upon the surrounding area, will require the approval of a new addition of permitted use.
- (G) **Zones Subject to City Council Addition of Permitted Use Review.** The City Council shall make all final determinations regarding any addition of permitted use under subsection (C)(3) with respect to a project located, in whole or in part, in any of the following zone districts:
1. Rural Lands District (R-U-L)
 2. Urban Estate District (U-E)
 3. Residential Foothills District (R-F)
 4. Low Density Residential District (R-L)
 5. Low Density Mixed-Use Neighborhood District (L-M-N)
 6. Neighborhood Conservation, Low Density District (N-C-L)
 7. Neighborhood Conservation, Medium Density District (N-C-M)
 8. Neighborhood Conservation, Buffer District (N-C-B).

(Ord. No. 90, 1998, 5/19/98; Ord. No. 177, 1998 §4, 10/20/98; Ord. No. 59, 2000 §2, 6/6/00; Ord. No. 073, 2008 §1, 7/1/08; Ord. No. 006, 2009 §1, 7/7/09; Ord. No. 026, 2010 §1, 3/16/10; Ord. No. 068, 2010 §1, 7/6/10; Ord. No. 010, 2012 §1, 2/21/12; Ord. No. 143, 2012 §1, 1/15/13; Ord. No. 042, 2014 §1, 3/18/14; Ord. No. 086, 2014 §1, 7/1/14; Ord. No. 125, 2014 §§1,2, 10/7/14; Ord. No. 175, 2014 §1, 12/16/14; Ord. No. 080, 2015, 9/1/15; Ord. No. 155, 2015 §2, 12/15/15)

3.8.13 - Wireless Telecommunication

- (A) **Location** . Subject to the requirements of paragraph (B) of this Section, wireless telecommunication equipment may be attached to or mounted on any existing building or structure (or substantially similar replacement structure) located in any zone district of the city. Wireless telecommunication equipment shall not, however, be permitted to be attached to or mounted on any residential building containing four (4) or fewer dwelling units.
- (B) **Co-location** . No wireless telecommunication facility or equipment owner or lessee or employee thereof shall act to exclude or attempt to exclude any other wireless telecommunication provider from using the same building, structure or location. Wireless telecommunication facility or equipment owners or lessees or employees thereof, and applicants for the approval of plans for the installation of such facilities or equipment, shall cooperate in good faith to achieve co-location of wireless telecommunication facilities and equipment. Any application for the approval of a plan for the installation of wireless telecommunication facilities or equipment shall include documentation of the applicant's good faith efforts toward such cooperation.
- (C) **Standards** .
- (1) **Setbacks** . With respect to a wireless telecommunication facility that is a tower or a monopole, the setback of the facility from the property lines shall be one (1) foot for every foot of height. However, to the extent that it can be demonstrated that the structure will collapse rather than topple, this requirement can be waived by the Director. In addition, the setbacks for ground-mounted wireless telecommunication equipment shall be governed by the setback criteria established in Articles 3 and/or 4.
 - (2) **Wireless Telecommunication Facilities**. Whether manned or unmanned, wireless telecommunication facilities shall be consistent with the architectural style of the surrounding architectural environment (planned or existing) considering exterior materials, roof form, scale, mass, color, texture and character. Such facilities shall also be compatible with the surrounding natural environment considering land forms, topography, and other natural features. If such facility is an accessory use to an existing use, the facility shall be constructed out of materials that are equal to or better than the materials of the principal use.
 - (3) **Wireless Telecommunication Equipment**. Wireless telecommunication equipment shall be of the same color as the building or structure to which or on which such equipment is mounted. Whenever a wireless telecommunication antenna is attached to a building roof, the height of the antenna shall not be more than fifteen (15) feet over the height of the building. All wireless telecommunication equipment shall be located as far from the edge of the roof as possible. Even if the building is constructed at or above the building height limitations contained in Section 3.8.17, the additional fifteen (15) feet is permissible.

Whenever wireless telecommunication equipment is mounted to the wall of a building or structure, the equipment shall be mounted in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted. Such equipment shall, to the maximum extent feasible, also feature the smallest and most discreet components that the technology will allow so as to have the least possible impact on the architectural character and overall aesthetics of the building or structure.

Roof- and ground-mounted wireless telecommunication equipment shall be screened by parapet walls or screen walls in a manner compatible with the building's design, color and material.

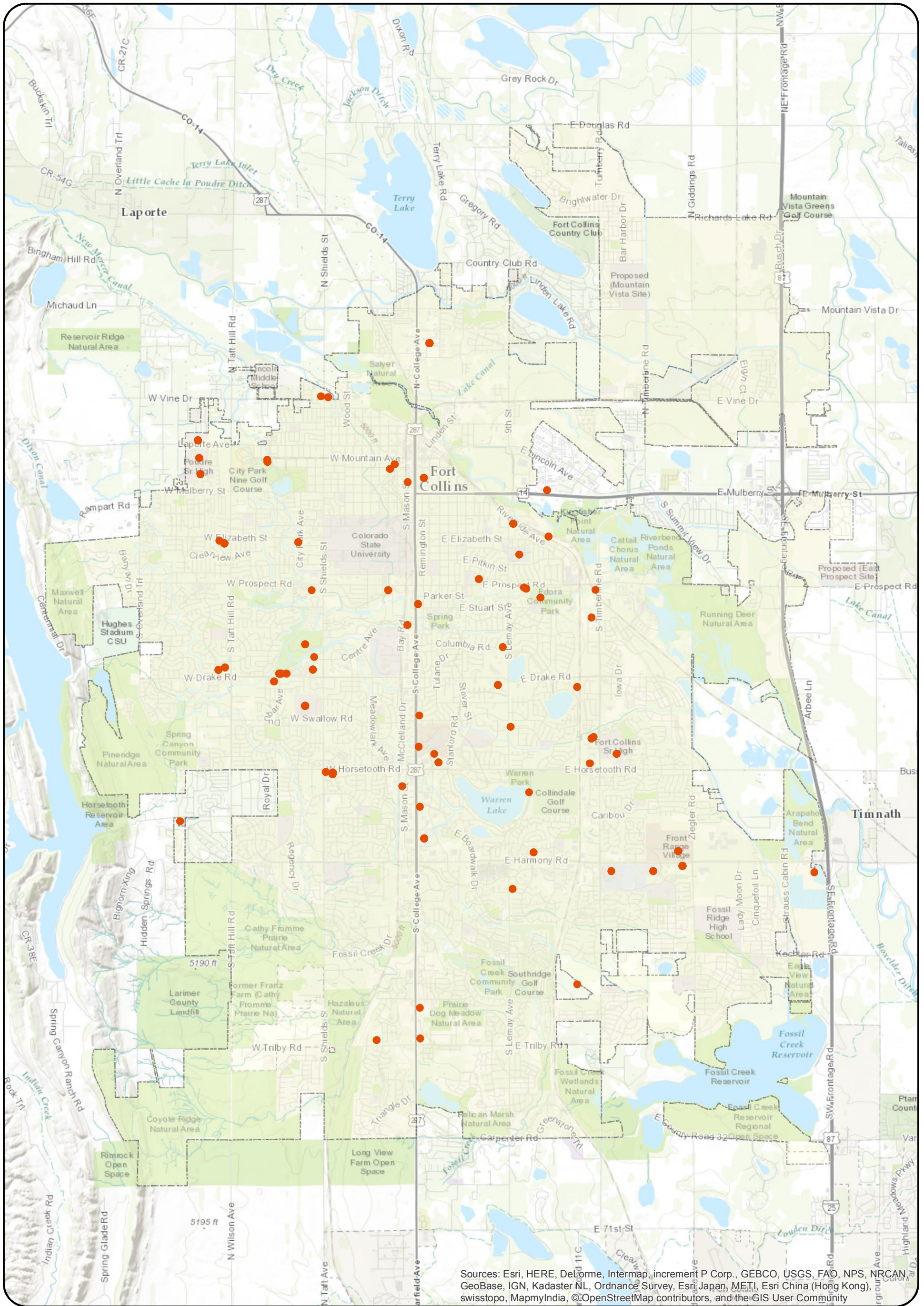
- (4) *Landscaping* . Wireless telecommunication facilities and ground-mounted wireless telecommunications equipment may need to be landscaped with landscaping materials that exceed the levels established in Section 3.2.1, due to the unique nature of such facilities. Landscaping may therefore be required to achieve a total screening effect at the base of such facilities or equipment to screen the mechanical characteristics. A heavy emphasis on coniferous plants for year-round screening may be required.
- If a wireless telecommunication facility or ground-mounted wireless telecommunication equipment has frontage on a public street, street trees shall be planted along the roadway in accordance with the policies of the City Forester.
- (5) *Fencing* . Chain link fencing shall be unacceptable to screen facilities. Fencing material shall consist of wood, masonry, stucco or other acceptable materials and be opaque. Fencing shall not exceed six (6) feet in height.
- (6) *Berming* . Berms shall be considered as an acceptable screening device. Berms shall feature slopes that allow mowing, irrigation and maintenance.
- (7) *Irrigation* . Landscaping and berming shall be equipped with automatic irrigation systems meeting the water conservation standards of the city.
- (8) *Color* . All wireless telecommunication facilities and equipment shall be painted to match as closely as possible the color and texture of the wall, building or surrounding built environment. Muted colors, earth tones and subdued colors shall be used.
- (9) *Lighting* . The light source for security lighting shall be high pressure sodium and feature down-directional, sharp cut-off luminaries so that there is no spillage of illumination off-site. Light fixtures, whether freestanding or tower-mounted, shall not exceed twenty-two (22) feet in height.
- (10) *Interference* . Wireless telecommunication facilities and equipment shall operate in such a manner so as not to cause interference with other electronics such as radios, televisions or computers.
- (11) *Access Roadways* . Access roads must be capable of supporting all of the emergency response equipment of the Poudre Fire Authority.
- (12)

Foothills and Hogbacks . Wireless telecommunication facilities and equipment located in or near the foothills bear a special responsibility for mitigating visual disruption. If such a location is selected, the applicant shall provide computerized, three-dimensional, visual simulation of the facility or equipment and other appropriate graphics to demonstrate the visual impact on the view of the city's foothills and hogbacks.

- (13) *Airports and Flight Paths* . Wireless telecommunication facilities and equipment located near airports and flight paths shall obtain the necessary approvals from the Federal Aviation Administration.
- (14) *Historic Sites and Structures* . Wireless telecommunication facilities and equipment shall not be located on any historic site or structure unless permission is first obtained from the city's Landmark Preservation Commission as required by Chapter 14 of the City Code.
- (15) *Stealth Technology* . To the extent reasonably feasible, the applicant shall employ "stealth technology" so as to convert the wireless telecommunication facility into wireless telecommunication equipment, as the best method by which to mitigate and/or camouflage visual impacts. Stealth technology consists of, but is not limited to, the use of grain bins, silos or elevators, church steeples, water towers, clock towers, bell towers, false penthouses or other similar "mimic" structures. Such "mimic" structures shall have a contextual relationship to the adjacent area.

(Ord. No. 59, 2000 §26, 6/6/00; Ord. No. 107, 2001 §34, 6/19/01; Ord. No. 204, 2001 §24, 12/18/01)

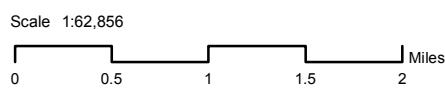
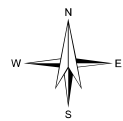
Wireless Projects



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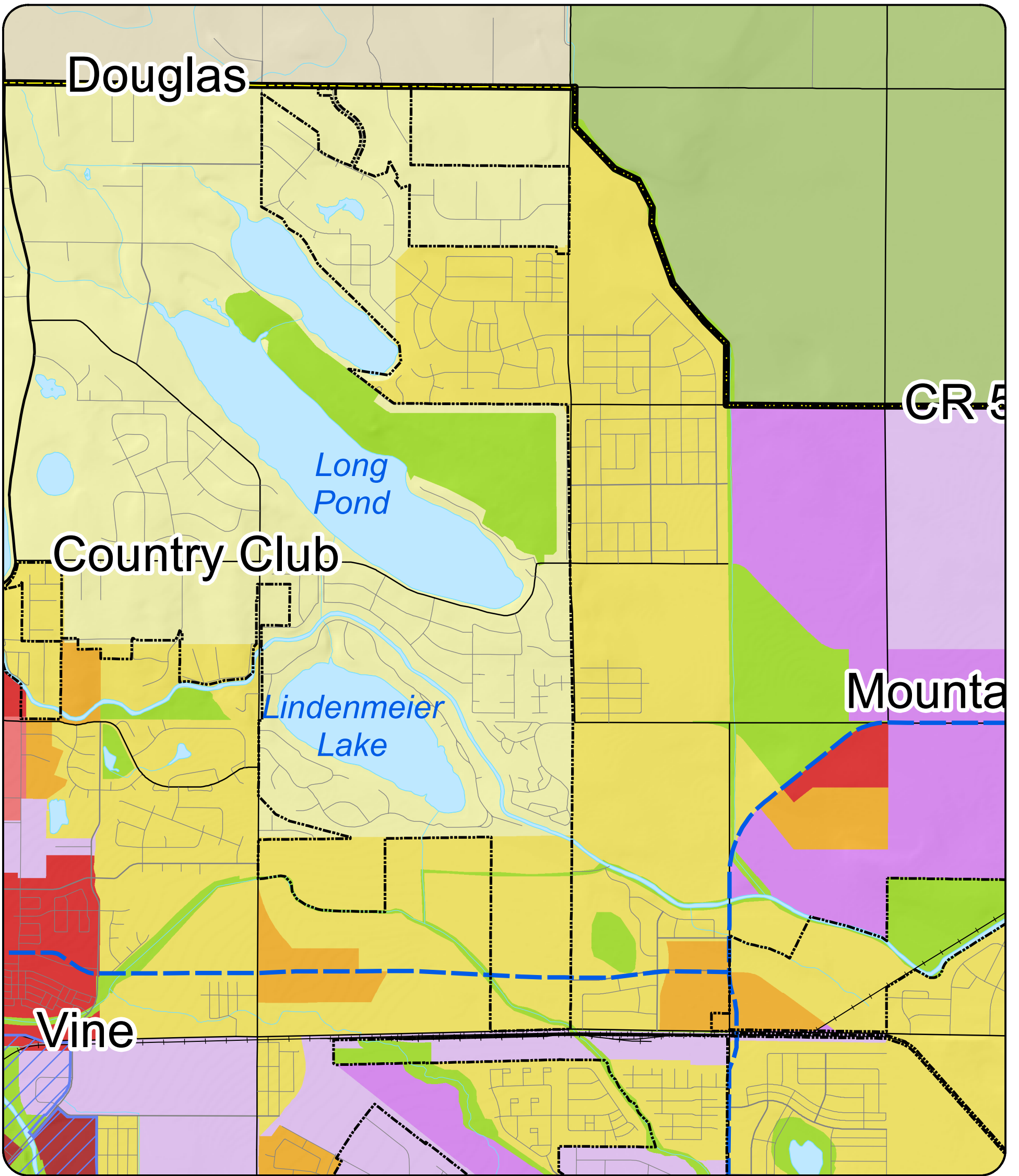
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- Wireless Projects
- City Limits - Area



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Boundaries

- Fort Collins GMA
- Potential GMA Expansion
- Other City GMA
- Planning Area
- Adjacent Planning Areas
- City Limits
- County Boundary

Districts

- Downtown District
- Community Commercial District
- General Commercial District
- Neighborhood Commercial District
- Campus District
- Employment District
- Industrial District

Neighborhoods

- Urban Estate
- Low Density Mixed-Use
- Medium Density Mixed-Use

Edges

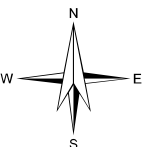
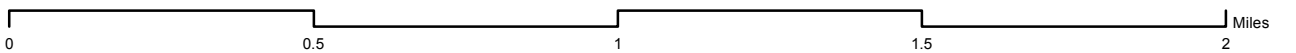
- Community Separator
- Foothills
- Rural Lands

Corridors

- Open Lands, Parks and Water Corridors
- Poudre River Corridor
- Enhanced Travel Corridor (Transit)

**CITY OF FORT COLLINS
GEOGRAPHIC INFORMATION SYSTEM MAP PRODUCTS**

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