

CITY OF ASHEVILLE
OFFICE OF THE CITY ATTORNEY
P. O. BOX 7148
ASHEVILLE, NC 28802-7148
(828) 259-5610

DATE: March 7, 2008

TO: Mayor and Council
FROM: Bob Oast, City Attorney *hwo*
RE: Towing in Downtown Area

In anticipation that Council may want to discuss the City's ordinances regulating towing from private lots in downtown, the following information is attached:

1. Staff report from Council meeting of September 23, 2003, when the ordinance requiring posting of notices was adopted.
2. Ordinance No. 3057, requiring the posting of notices.
3. Sign format and content guidelines.
4. Maps of areas where ordinance applies.
5. Samples of letters sent to property owners, tow truck operators, and sign shops.

In addition, some information was collected last summer by an intern in the City Manager's office as to what other cities do. A table summarizing that information is attached.

ORDINANCE NO. 3057

ORDINANCE REQUIRING A PRE-TOWING NOTICE PRIOR TO TOWING ILLEGALLY PARKED VEHICLES FROM PRIVATE LOTS, GARAGES OR OTHER PARKING FACILITIES.

WHEREAS, pursuant to 2003 N.C. Sess. Laws 165, the City of Asheville has authority to adopt an ordinance to require a private property owner to post pre-towing notices before a motor vehicle can be towed from a private lot, garage or other parking facility; and

WHEREAS, the City of Asheville has a significant governmental interest in insuring that vehicles are not towed from a private lots without giving the owner of the vehicle proper notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Chapter 11 of the Asheville City Code be amended as follows:

A. By adding a new Section 11-18, "Pre-towing Notices on Private Lots," to read:

(a) It shall be unlawful to tow or remove or immobilize, by the use of a wheel lock or other method, a vehicle that parked on private property without the permission of the owner or lessee of the private property unless notice in accordance with the provisions of this section is posted on the private property from which the towing, removal, or immobilization is made. Such notice shall meet following requirements:

(1) A notice, in the form of a sign structure, not less than 24 inches by 24 inches in size and not larger than 6 square feet, shall be prominently placed on the private property at each access or curb cut allowing vehicular access to the property, within 5 feet of the street right-of-way line. If there are no curb or access barriers, signs shall be posted not less than one sign each 50 feet of the frontage to the public street. As an alternative, notice, in the form of a sign structure, not less than 12 inches by 18 inches in size, shall be posted at each parking space from which an unauthorized vehicle could be towed, removed, or immobilized.

(2) The notice shall clearly display the following:

a. In not less than one-and-one-half inch high letters on a contrasting background, the words "tow-away" or "tow-away-zone" or "towing enforced".

- b. In not less than one inch high letters on a contrasting background, a statement indicating that parking by unauthorized vehicles is prohibited by the use of a phrase such as "private property", "leased parking", "no parking", "parking for customers only", "parking for residents only", or a similar phrase. If parking by unauthorized vehicles is prohibited on a 24 hour per day basis, the sign shall so state, and shall state the days of the week during which said prohibition is in effect. If parking by unauthorized vehicles is not prohibited on a twenty-four (24) hour continuous basis, the sign shall state the days of the week and hours of the day during which unauthorized parking is prohibited. The sign shall also state the cost for the tow and for recovery of the vehicle, which may be stated as a total cost, and shall include any storage fees.
- c. In not less than one-half inch high letters on a contrasting background, the telephone number at which a person available to release the vehicle that has been towed, removed, or immobilized may be contacted at any time. Calls to the telephone number must be answered by a person, and a person with the authority and ability to release the vehicle must respond to the location of the vehicle within thirty (30) minutes of a call.
- (b) The sign structure displaying the required notices shall be permanently installed with the bottom of the sign not less than one foot above ground level and not more than 8 feet above ground level. Pedestrian safety shall be taken into consideration when locating freestanding signs.
- (c) All signs in the Biltmore Historic District shall comply with Chapter 5, Guideline 24, Book 1 of the Biltmore Village Historic District Design Guidelines.
- (d) The provisions of this section shall apply to private property upon which is located a lot, garage, or other parking facility not owned or leased by the City of Asheville or another governmental entity and which is located within the Central Business District and the Biltmore Historic District as set forth in the official zoning map of the City of Asheville.
- (e) Notwithstanding any other provision of this section, no notice shall be required for the towing or removal or immobilization of a vehicle (i) if the vehicle obstructs adequate ingress and egress to businesses or residences or (ii) if the vehicle has been left on the private property for a period of time greater than forty eight (48) hours, or (iii) if the vehicle is being removed pursuant to the direction of a law enforcement officer or city employee in accordance with the provisions of the Asheville City Code or state law.

(f) The provisions of this section shall be enforced by the City Manager or his designee, and shall be subject to civil penalties as prescribed in Appendix B, and may be enforced by equitable remedies as set forth in Sec. 1-5. Violations of this section are not subject to criminal penalties."

B. By amending Appendix B, "Schedule of Civil Penalties" to add a new paragraph G. to read as follows:

"G. Violations of pre-towing notice provisions established in Sec. 11-18.

First violation.....	\$100.00
Second violation within 12 months.....	\$200.00
Third or subsequent violation within 12 months.....	\$300.00"

Section 2. That if any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. That all ordinances and clauses of ordinances in conflict herewith be and are hereby repealed, to the extent of such conflict.

Section 4. That this ordinance shall be in full force and effect sixty (60) days after its adoption.

Read, approved and adopted this the 23rd day of September, 2003

Magdalen Boulton
City Clerk

Charles R. Worley
Mayor

Approved as to form:

[Signature]
City Attorney

Private Property Towing Sign Guidelines

Requirement	Specifications
Required size of sign	Minimum of 24 inches by 24 inches, not to exceed 6 square feet
Location of signage	At each vehicular access or curb cut to property and within 5 feet or ROW line. If no curb barriers, then signage must be placed every 50 feet on the frontage to public street. <i>Alternative: signage not less than 12 by 18 inches may be placed at each towing enforced parking place.</i>
Required Verbage	
"Tow Away" or "Tow Away Zone" or "Towing Enforced"	Lettering at least 1 1/2 inches high on a contrasting background
AND	
"Private Parking" or "Parking for Customers" (or residents) or similar statement, specific days and hours parking is enforced, cost of towing	Lettering at least 1 inch high on a contrasting background
AND	
Contact phone number	Lettering at least 1/2 inch high on a contrasting back ground

Example of Sign for Each Entrance to Lot

At Least 24 Inches Wide

Parking For Customers Only

(At Least 1 Inch Letters)

Towing Enforced

(At Least 1 1/2 Inch Letters)

**No Parking
Seven Days a Week
24 Hours a Day**

(At Least 1 Inch Letters)

Tow & Recovery = \$125.00

(At Least One Inch Letters)

To Recover Vehicle Call 123-4567

(At Least One Half Inch Letters)

At Least 24 Inches High

Example of Sign for Individual Spaces In Parking Lot

At Least 18 Inches Wide

At Least 12 Inches High

Private Property

(At Least 1 Inch Letters)

Tow-Away-Zone

(At Least 1 1/2 Inch Letters)

No Parking

Monday—Friday 8:00 AM to 5:30 PM

(At Least 1 Inch Letters)

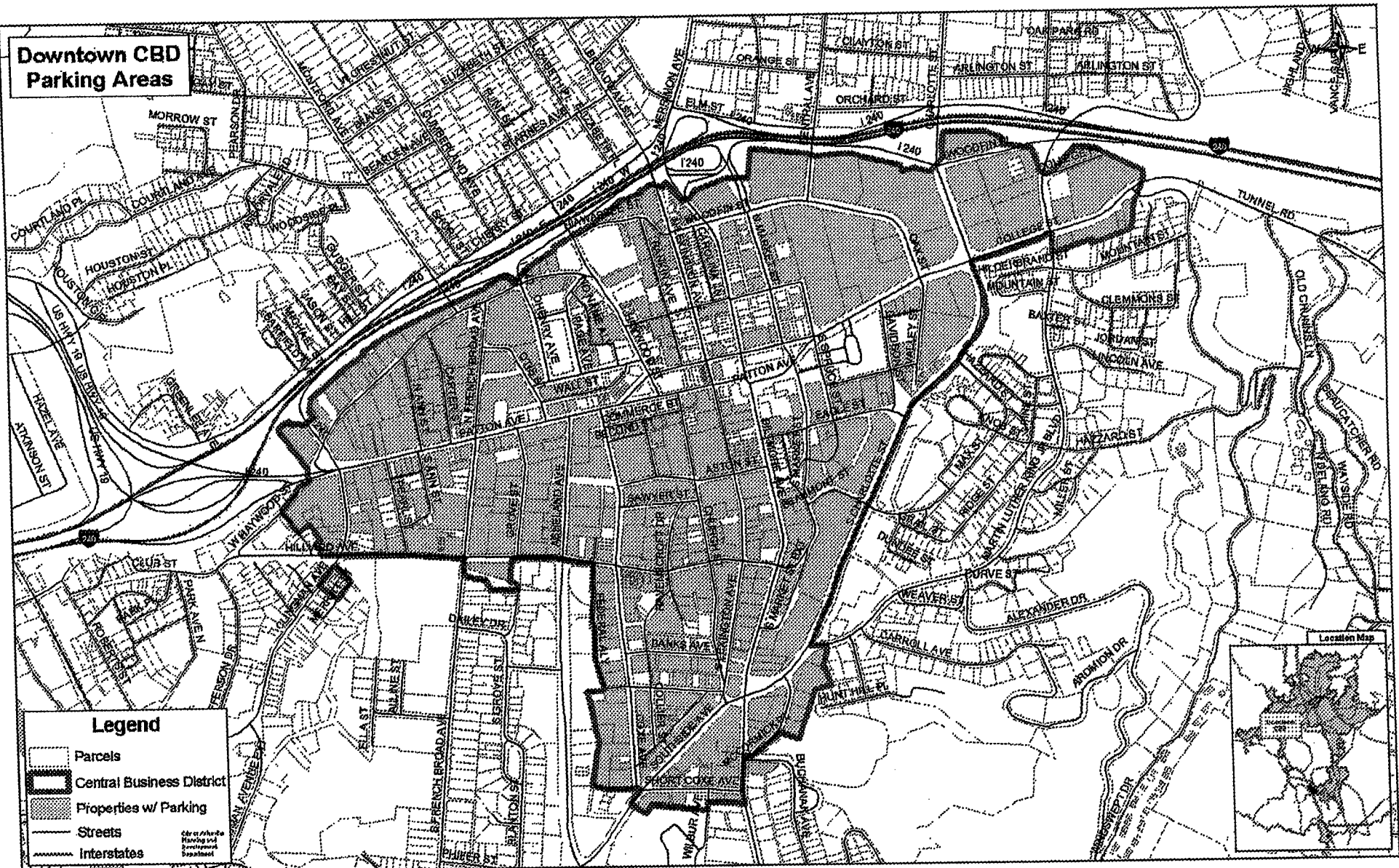
Tow & Recovery = \$125.00

(At Least One Inch Letters)






To Recover Vehicle Call 123-4567

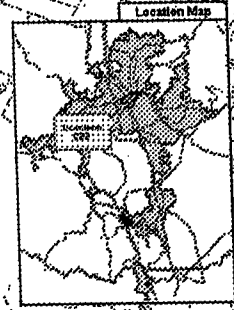
(At Least One Half Inch Letters)

Downtown CBD Parking Areas

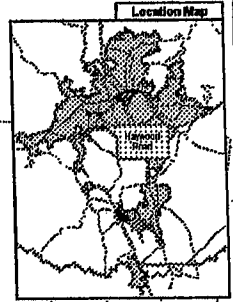
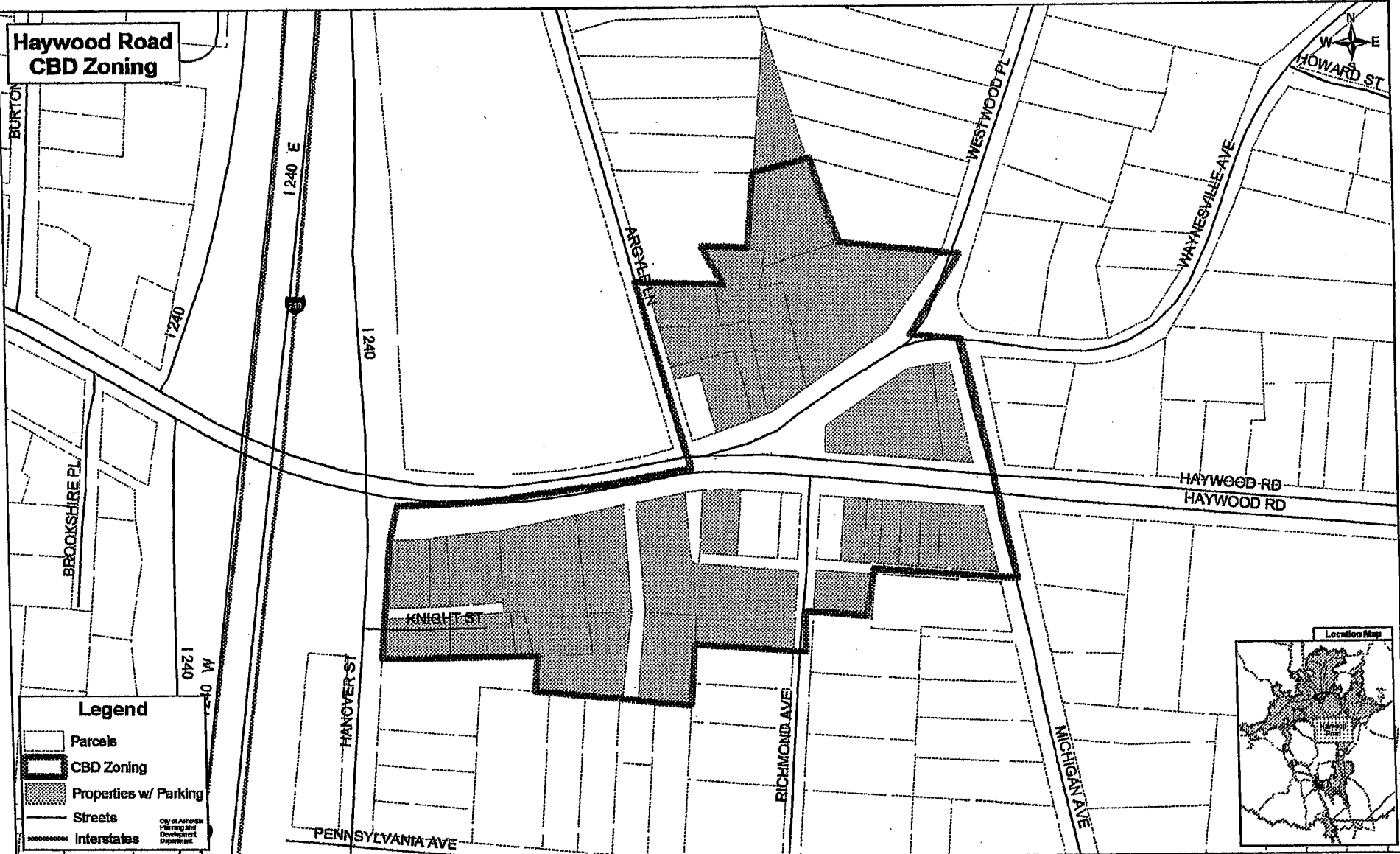


Legend

-  Parcels
-  Central Business District
-  Properties w/ Parking
-  Streets
-  Interstates



Haywood Road CBD Zoning

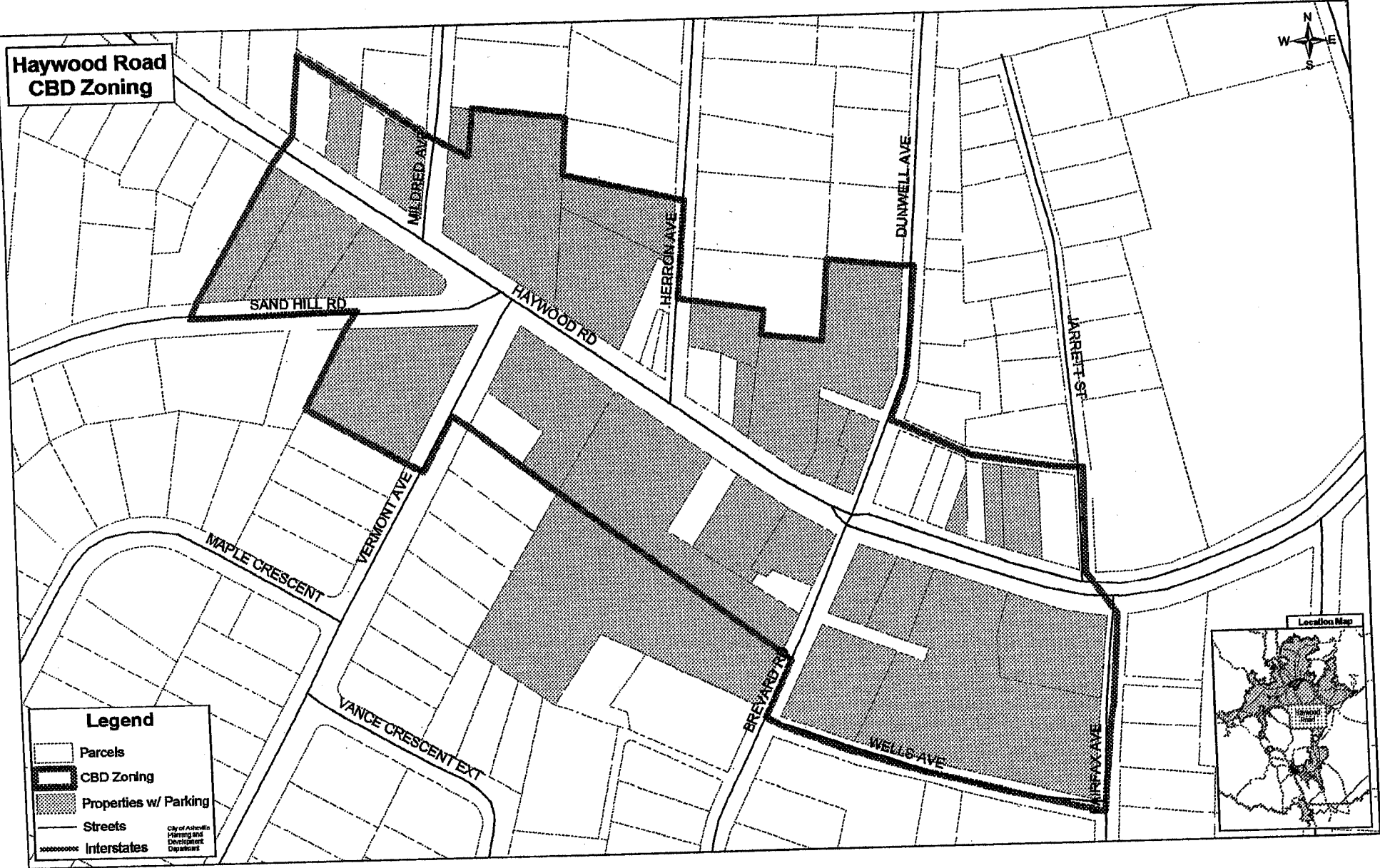


Legend

- Parcels
- CBD Zoning
- Properties w/ Parking
- Streets
- Interstates

City of Annapolis
Planning and
Development
Department

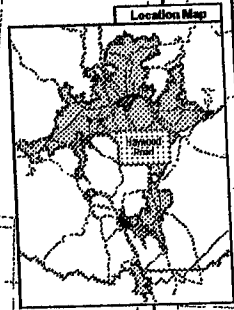
Haywood Road CBD Zoning



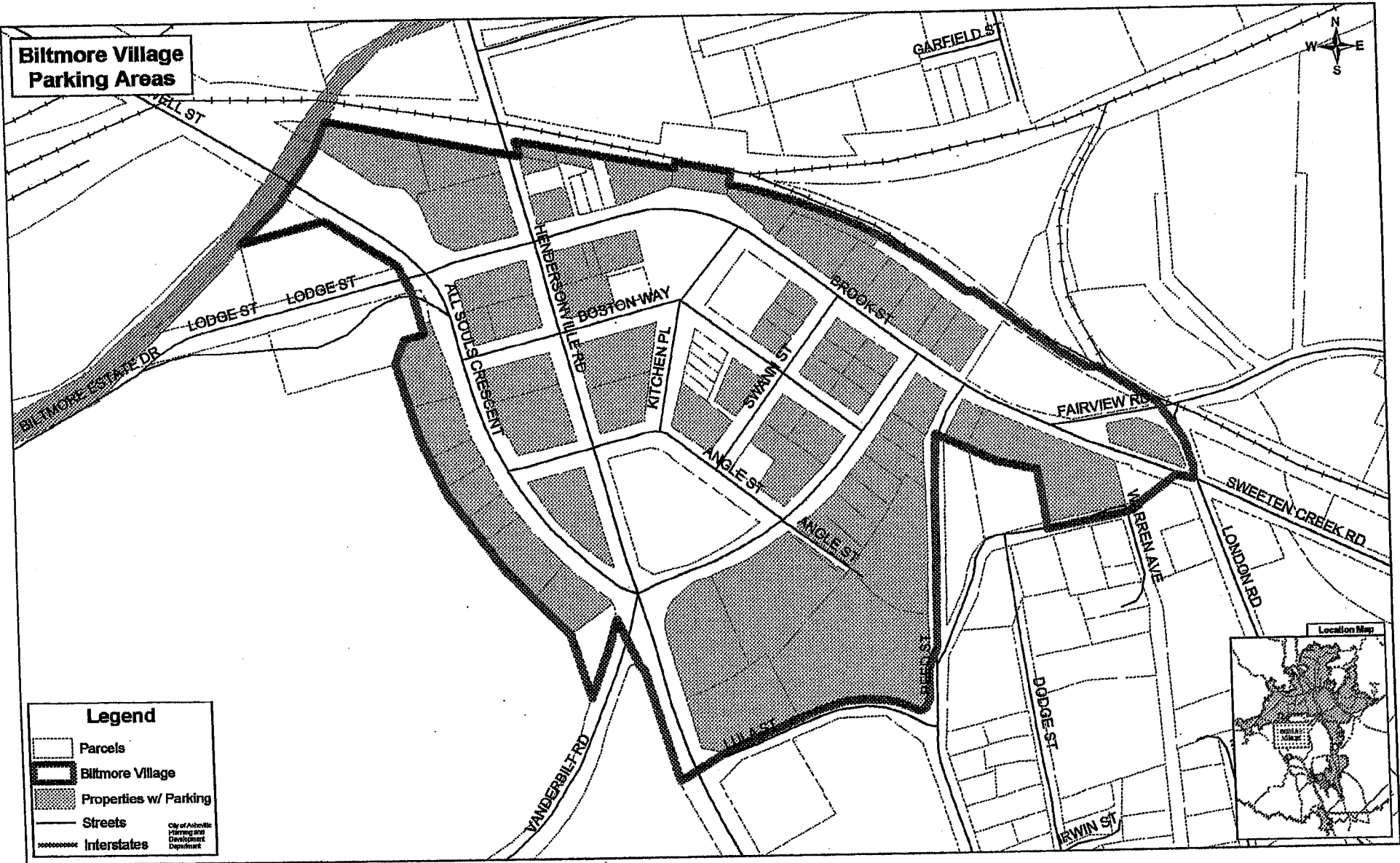
Legend

- Parcels
- CBD Zoning
- Properties w/ Parking
- Streets
- Interstates






City of Asheville
Planning and
Development
Department

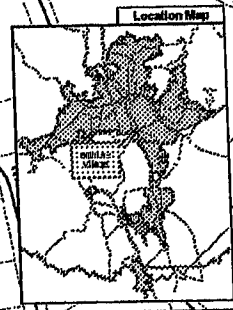


**Biltmore Village
Parking Areas**



Legend

-  Parcels
 -  Biltmore Village
 -  Properties w/ Parking
 -  Streets
 -  Interstates
- City of Asheville
Planning and
Development
Department





City of Asheville, NC

*F.I.C. -
pin towing with*

Transit Services

To All Owners of Parking Facilities in the Central Business and Biltmore Village Historic Districts:

On September 23, 2003, the City of Asheville approved an ordinance requiring specific notice to be posted in parking lots enforced by towing located in the Central Business District or in the Biltmore Village Historical District. The ordinance prohibits towing cars from any parking area, including privately owned parking lots without proper notice as defined by the ordinance. This notice must be prominently displayed on the property from which the vehicle is towed. This ordinance will go into effect on November 23, 2003.

Attached you will find a copy of the new Pre-Towing Ordinance (Ordinance No. 3057), a map of the affected areas, and a schematic illustrating sign requirements including size, information that must be included, size of the lettering and sign positioning.

Failure to abide by this ordinance carries a civil penalty of \$100.00 per vehicle towed, assessed against both the parking lot's owner and the company towing the vehicle. Please take the time to read the ordinance and familiarize yourself with it.

There will be an informational meeting to discuss the implementation of this ordinance at the City of Asheville, Public Works Building on South Charlotte Avenue, on November 19th at 5:30 p.m. Please plan to attend if you have any questions about the ordinance's implementation and/or requirements.

Sincerely,

Bruce Black, Director
Transit and Parking Services Department

P.O. Box 7148 • Asheville, N.C. 28802 • 828-253-5691 • www.ashevillenc.gov



To All Tow Truck Operators:

On September 23, 2003, the City of Asheville approved an ordinance requiring specific notice to be posted in parking lots enforced by towing located in the Central Business District or in the Biltmore Village Historical District. The ordinance prohibits towing cars from any parking area, including privately owned parking lots without proper notice as defined by the ordinance. This notice must be prominently displayed on the property from which the vehicle is towed. This ordinance will go into effect on November 23, 2003.

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Sincerely,

Bruce Black, Director
Transit and Parking Services Department



To All Sign Shop Owners:

Asheville City Council passed a pre-towing ordinance prohibiting towing cars from public or private parking lots located in the Central Business District without first posting proper and prescribed signage.

Parking lot owners actively towing unauthorized cars from their lots may soon retain your services to create required pre-towing signage for their property. In order to assist you in facilitating signage compliant with the ordinance, please review the attached illustration of an acceptable sign along with the ordinance describing the sign parameters and requirements. No other information may be included with this sign other than what is described in the ordinance.

If you have questions about the ordinance and sign requirements, please plan to attend an information session on Wednesday, Nov. 19, at 5:30 p.m. in the City of Asheville Public Works Building, 161 S. Charlotte St.

Sincerely,

Bruce Black
Transit and Parking Department

The chart below compares Asheville's current pre-towing notification ordinance to Raleigh's and Wilmington's regulations.

Terms	Asheville	Raleigh	Wilmington
Release Fee	Not Currently Regulated by the City; towing cost must be included on signage	\$100 plus an additional \$20 storage fee after 24 hrs.	Not Currently Regulated by the City
Required Hours of Operation	24 hr.	24 hr.	7 a.m.-7 p.m.
Parking Lot Signage	Required	Required	Required
Payment Method	Not Specified	Cash/Credit/Debit	Not Specified
Notification	N/A	Police Notification 1 hr.	Police Notification 30 min.
Enforcement	Graded Scale: \$300 Maximum Fine	\$500 Fine	N/A
Access to Personal Property	N/A	Yes/ No Charge	N/A
The use of other devices	N/A	\$50 Boot Removal	\$50 Boot Removal
Early Release while still in lot	N/A	\$50	N/A