

Land Use Code Maintenance 2015

Summary of Amendments - July 2015

Issue		Proposed Amendment (additions in <i>bold italic</i> and deletions in strikethrough)															
Corrective	1	<p><i>Parking Exempt Map:</i> The boundary of the West University Automobile Parking Exempt Area was inadvertently changed during approval of the package of code amendments to adopt the Downtown Riverfront Special Area zone for the EWEB property (which included a change to the Downtown Automobile Parking Exempt Area). The West University Automobile Parking Exempt Area boundary should be corrected to reflect the originally adopted boundary.</p> <p>Map 9.6410(4)(a) Downtown and West University Automobile Parking Exempt Areas</p> <p>See attached maps: Map A shows the original map prior to the Downtown Riverfront amendments (As adopted per Ordinance No. 20235) Map B shows the map adopted as part of Downtown Riverfront amendments with the incorrect boundary for West University. (As adopted per Ordinance No. Map C shows the corrected boundary for West University.</p>															
	2	<p><i>Exemptions to Sign Standards:</i> An incorrect section of the Fire Code is referenced when describing the exemption for building addresses. It reads Fire Code 901.4.4 and it should be corrected to 505.1.</p> <p>9.6610 Exemptions to Sign Standards.</p> <p>(2) Except as provided in subsection (3) of this section, the following signs are exempt from the requirements of EC 9.6600 through 9.6680, and are exempt from the requirement to obtain a sign permit if they are located on private property outside of vision clearance areas:</p> <p><u>Addresses.</u> Number and street name of any size. (Addresses are regulated per EC 8.005(21) <u>Numbering of Structures and Premises</u> and Fire Code 901.4.4 <u>Premise Identification.</u> 505.1 <u>Address Identification</u>)</p>															
	3	<p><i>Appeal Standing:</i> The appeal procedures sets out the parties who can file an appeal (i.e., those who have standing) of a hearings official or Historic Review Board decision. Current code language does not include those who participated <u>orally</u> and who did not submit written comments. The code should be revised to correct this omission and reflect that any participant in the hearing process should have the ability to file an appeal.</p> <p>9.7655 <u>Filing of Appeal of Hearings Official or Historic Review Board Initial Decision.</u></p> <p>(1) Within 12 days of the date of the mailing of the decision of the hearings official or historic review board, the decision may be appealed to the planning commission as specified in Table 9.7055 Applications and Review Authorities by the following:</p> <ul style="list-style-type: none"> (a) Applicant. (b) Owner of the subject property. (c) Neighborhood group officially recognized by the city that includes the area of the subject property. (d) Any person who submitted written comments in regard to the original application. (e) <i>Any person who provided oral testimony in regard to the original application at the public hearing.</i> 															
	4	<p><i>Process for Zone Changes:</i> For zone changes processed concurrently with Metro Plan amendments, the code references the procedures for Type IV and V applications. Since Metro Plan Amendments follow a separate process (as opposed to the Type IV or V application process), reference to that specific process should be added to correct the omission.</p> <p>9.1060 <u>Changes in Zone Boundaries and Overlay Zone Boundaries.</u> Changes in zone boundaries or overlay zone boundaries shall be processed pursuant to the Type III Application Procedures (EC 9.7300 - 9.7340) or, if processed concurrently with a refinement plan, or code amendment, Type IV Application Procedures (EC 9.7400 - 9.7455). or Metro Plan amendment shall follow the applicable procedure for each type of amendment. Decisions shall be based on the criteria contained in EC 9.8865 <u>Zone Change Approval Criteria</u></p> <p>9.4260 <u>Procedure for Applying the /ND Nodal Development Overlay Zone.</u> Rezoning to apply the /ND overlay zone concurrent with a Metro Plan diagram amendment to apply the /ND Nodal Development designation shall be processed as a Type V application as provided in EC 9.7500 through EC 9.7560 Type V Application Procedures consistent with the Metro Plan Amendment Procedures as provided in EC 9.7700 through 9.7730. Except as provided in EC 9.7840 EC 9.7820(3), rezoning to apply the /ND overlay zone to property shown as ND Nodal Development on the Metro Plan diagram shall be processed as a Type III application as provided in EC 9.7300 through EC 9.7340 Type III Application Procedures. Proceedings to apply the /ND overlay zone may be initiated only by the city council.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="2" style="text-align: center;">Table 9.7505 Type V Application Requirements and Criteria</th> </tr> <tr> <th style="text-align: left;">Type V Applications</th> <th style="text-align: left;">Beginning Reference</th> </tr> </thead> <tbody> <tr> <td>Land Use Code Amendments</td> <td>EC 9.8060</td> </tr> <tr> <td>Refinement Plan Amendments to policies and/or maps that are not limited to a specific site</td> <td>EC 9.8421</td> </tr> <tr> <td>Refinement Plan Adoption or Update</td> <td>EC 9.8421</td> </tr> <tr> <td>Zone Change concurrent with a Code Amendment</td> <td>EC 9.8850</td> </tr> <tr> <td>Special Area Zone Establishment or Amendment</td> <td>EC 9.3000</td> </tr> <tr> <td>Zone Change to apply the /ND Overlay Zone to Nodal Development Areas concurrent with a Metro Plan diagram amendment to apply the ND Nodal Development designation</td> <td>EC 9.4260</td> </tr> </tbody> </table>	Table 9.7505 Type V Application Requirements and Criteria		Type V Applications	Beginning Reference	Land Use Code Amendments	EC 9.8060	Refinement Plan Amendments to policies and/or maps that are not limited to a specific site	EC 9.8421	Refinement Plan Adoption or Update	EC 9.8421	Zone Change concurrent with a Code Amendment	EC 9.8850	Special Area Zone Establishment or Amendment	EC 9.3000	Zone Change to apply the /ND Overlay Zone to Nodal Development Areas concurrent with a Metro Plan diagram amendment to apply the ND Nodal Development designation
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		<p>9.8855 Applicability. Changes in zoning, including the application of or change of an overlay zone or special area zone shall be processed as a Type III application as provided in EC 9.7300 through EC 9.7340 Type III Application Procedures, with the following exceptions:</p> <p>(3) The proposed zone change involves a concurrent amendment to the Metro Plan or a refinement plan, or the adoption of a new refinement plan, in which case the zone change shall be processed as a Type IV or Type V application as provided in EC 9.7400 through EC 9.7455 Type IV Application Procedures and EC 9.7500 through 9.7560 Type V Application Procedures.</p> <p>(4) The proposed zone change involves a concurrent amendment to the Metro Plan, in which case the zone change shall be processed consistent with the Metro Plan Amendment Procedures as provided in EC 9.7700 through 9.7730.</p> <p>(4)(5) [Renumber remaining subsections . . .]</p>		
5	<p><i>Definition of a Legal Lot:</i> The definition of legal lot needs to be updated consistent with state law to include lots that were not lawfully established (for lots created prior to 2007) but could have complied with applicable land division time in effect when the land was sold, as provided for in state law. [ORS 92.176]</p>	<p>9.0500 Definitions Legal Lot. A lot of record that has boundary lines that were established:</p> <p>(A) Through a partition or subdivision procedure, or (B) By a deed that was signed before April 2, 1962, or (C) Through approval of an application to validate a unit of land consistent with ORS 92.176.</p>		
6	<p><i>Day Care Allowances:</i> Day cares are allowed in residential and commercial zones. For day cares serving between 3 and 12 people, the use is listed in the land use code as permitted. For day cares serving 13 or more, a conditional use permit is required. State law was changed to establish a minimum number of 4 people to qualify as a day care and to require that certified day cares with up to 16 people must be allowed as permitted uses in residential and commercial zones. To resolve this inconsistency with state law, the threshold must be raised from 3 -12 people to 4-16 people in all residential and commercial zones where day care is listed as a permitted use, and from 13 to 17 people where day care is listed as a conditional use. The corresponding provisions for bicycle and motor vehicle parking standards that reference day care uses must also be revised for consistency. [ORS 329A.250(4), ORS 329A.280 and ORS 329A.440]</p>	<p>9.0500 Definitions Day Care. Care or supervision of 3 four or more persons by a paid caregiver who is not the parent, guardian, or related by blood or marriage to the persons being served. Day care does not include boarding or temporary care or other support services for adult transitory persons.</p> <p>Table 9.2740 Residential Zone Land Uses and Permit Requirements Table 9.2160 Commercial Zone Land Uses and Permit Requirements Table 9.3115 S-CN Chase Node Special Area Zone Land Uses and Permit Requirements Table 9.3210 S-DW Downtown Westside Special Area Zone Uses and Permit Requirements Table 9.3310 S-E Elmira Road Special Area Zone Uses and Permit Requirements EC 9.3510 S-HB Blair Boulevard Historic Commercial Special Area Zone Uses (2) Areas Designated for Neighborhood Commercial. Table 9.3810 S-RN Royal Node Special Area Zone Land Uses and Permit Requirements Table 9.3910 S-W Whiteaker Special Area Zone Uses and Permit Requirements Table 9.6105(5) Minimum Required Bicycle Parking Spaces Table 9.6410 Required Off-Street Motor Vehicle Parking</p> <p><i>In each of the above referenced tables (which identify permitted and conditionally allowed uses), reference to the use of Day Care to be revised as follows:</i></p> <table border="1" data-bbox="1044 1211 1631 1272"> <tr> <td>Day Care (3 to 12 4 to 16 people served)</td> </tr> <tr> <td>Day Care (13-17 or more people served)</td> </tr> </table> <p>9.5200 Day Care, Small (3-12 4 to 16 people served) Standards. These standards apply to small, (3-12 4 to 16 people served) day care operations in residential zones where the Land Uses and Permit Requirements Table for the applicable zone indicates that the use(s) “permitted subject to zone verification and EC 9.5000 to 9.5850.”</p> <p>(1) In addition to the standard required parking for other uses on the property, 1 off-street parking space is required per each outside employee. (2) Education programs offered as a primary activity or specialized training in activities such as dance, drama, music or religion shall be limited to preschool children. (3) At least 1 of the business owners of a day care service serving 3-12 4 to 16 people in R-1 and R-2 zones shall reside in the building. (4) No overnight care permitted without a conditional use permit.</p>	Day Care (3 to 12 4 to 16 people served)	Day Care (13-17 or more people served)
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7	<p><i>Notice Requirements:</i> The public hearing notice procedures for Type III, IV and V applications require notice to be mailed to the State Department of Land Conservation and Development at least 45 days prior to the planning commission public hearing and describes what must be included in that notice. Notice of decision is required to be mailed 5 days after a decision is rendered.</p> <p>State law recently changed to require a 35 day notice for</p>	<p>Type III Application Procedures 9.7315 Public Hearing Notice. (1) When required by state law, at least 45 35 days prior to the public hearing, the city shall mail submit notice to the state Oregon Department of Land Conservation and Development that includes the proposed map change and the date of the hearing information required by state law.</p> <p>9.7335 Notice of Decision. (1) Within 5 days after the hearings official or historic review board renders a decision, notice of the decision shall be mailed to the following: (a) Applicant. (b) Owner of the subject property.</p>		

the initial notice and 20 days for the notice of decision, to allow for electronic submittal (in addition to mail submittal) and to clarify submittal requirements. The applicable code sections need to be updated accordingly. [ORS 197.610 and OAR 660-018-0020]

- (c) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
- (d) Any group or individual who provided written or oral testimony prior to the close of the public comment period.
- (e) For Willamette Greenway permits, to the Oregon Department of Transportation.
- (2) The notice shall include the following:
 - (a) A summary of the decision.
 - (b) An explanation of the appeal rights.
- (3) **Within 20 days of the decision, when required by state law, the city shall submit written notice to the Oregon Department of Land Conservation and Development that includes the information required by state law.**
[Renumber remaining subsections]

Type IV Application Procedures

9.7415 Public Hearing Notice.

- (1) In the case of a refinement plan amendment, at least ~~45~~ **35** days prior to the planning commission public hearing the city shall ~~mail~~ **submit** written notice to the State **Oregon** Department of Land Conservation and Development that includes the ~~text of the proposed amendment, any proposed change to the zoning map to be considered concurrently with a refinement plan amendment (unless notice is not required by state law), and the date of the planning commission hearing~~ **information required by state law.**

9.7455 Notice of Decision.

- (1) Within 5 days of the decision, written notice of the decision shall be mailed to all of the following:
 - (a) Applicant.
 - (b) Any person who has submitted written or oral testimony in a timely manner during the city council hearing procedures.
 - (c) Any person who requested notice of the city council's decision.
 - ~~(d) In the case of a refinement plan amendment, the Oregon Department of Land Conservation and Development.~~
- (2) The notice shall:
 - (a) Summarize the decision of the city council.
 - (b) Explain the appeal rights.
 - ~~(c) In case of a notice being provided to the Oregon Department of Land Conservation and Development, the notice shall also contain the text of the amendment and findings, and it must specify any substantial changes from the proposed text previously sent under EC 9.7440(1), state the date of the decision, include a certificate of mailing containing a statement signed by the person mailing the notice indicating the date the notice was deposited in the mail, and list the place where and the time when the adopted text may be reviewed.~~
- (3) **Within 20 days of the decision, the city shall submit written notice of a refinement plan amendment to the Oregon Department of Land Conservation and Development that includes the information required by state law.**
- (4) Responsibility and procedures for mailing the notice described in this section may be established by administrative rule of the city manager pursuant to section 2.019 of this code.

Type V Application Procedures

9.7520 Public Hearing Notice.

- (1) At least ~~45~~ **35** days prior to the planning commission public hearing, the city shall ~~mail~~ **submit** written notice to the State **Oregon** Department of Land Conservation and Development that includes the ~~text of the proposed amendment, any proposed change to the zoning map to be considered concurrently with a code amendment (unless notice is not required by state law), and the date of the planning commission hearing~~ **information required by state law.**

9.7560 Notice of Decision.

- (1) Within 5 days of the decision, written notice of the decision shall be mailed to all of the following:
 - (a) Any person who provided oral or written testimony in a timely manner during the city council hearing procedures.
 - (b) Any person who requested notice of the city council's decision.
 - ~~(c) The Oregon Department of Land Conservation and Development.~~
- (2) The notice shall summarize the decision of the city council and state the date of the decision.
- (3) **Within 20 days of the decision, the city shall submit written notice** ~~The notice to the Oregon Department of Land Conservation and Development must contain the text of the amendment and findings, and it must specify any substantial changes from the proposed text, if any, previously sent under EC 9.7520(1), state the date of the decision, include a certificate of mailing containing a statement signed by the person mailing the notice indicating the date the notice was deposited in the mail, and list the place where and the time when the adopted text may be reviewed~~ **that includes the information required by state law.**

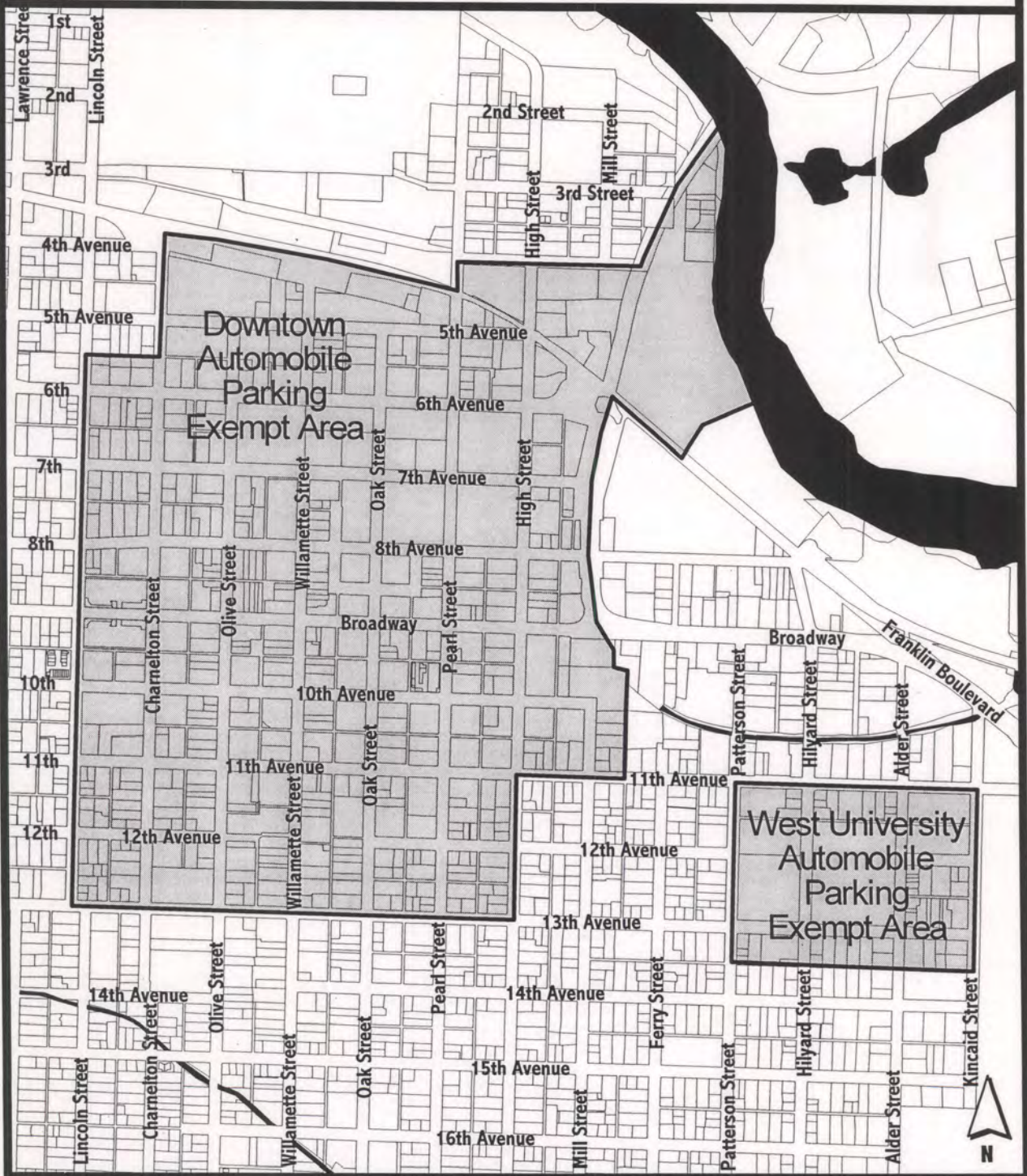
8 *Property Line Adjustments:* The code provides that

9.8400 Purpose of Property Line Adjustment. Sections 9.8400 through 9.8420 provide an expedited process for the review of property line

	<p>removal of a line that was platted through a partition or subdivision cannot be processed through a property line adjustment; removal of such a line would require a replat. State law has changed to allow removal of a property line without requiring a replat. For consistency with state law, the code needs to be revised to remove this provision. [ORS 92.010(12) and ORS 92.190(3)]</p>	<p>adjustments. A property line adjustment is the relocation of a single boundary line or the removal of non-platted boundary lines between two legal lots. Property line adjustments shall be considered in accordance with the Type I application procedures contained in EC 9.7100 <u>General Overview of Type I Application Procedures</u>.</p> <p>9.8405 <u>Applicability of Property Line Adjustment Applications.</u></p> <p>(1) A property line adjustment application is applicable to changes to the property lines of adjoining properties when all of the following exist:</p> <p>(a) A property line proposed for removal is not platted in a partition or subdivision plat. <i>[Renumber remaining subsections . . .]</i></p>
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Map 9.6410(4)(a)

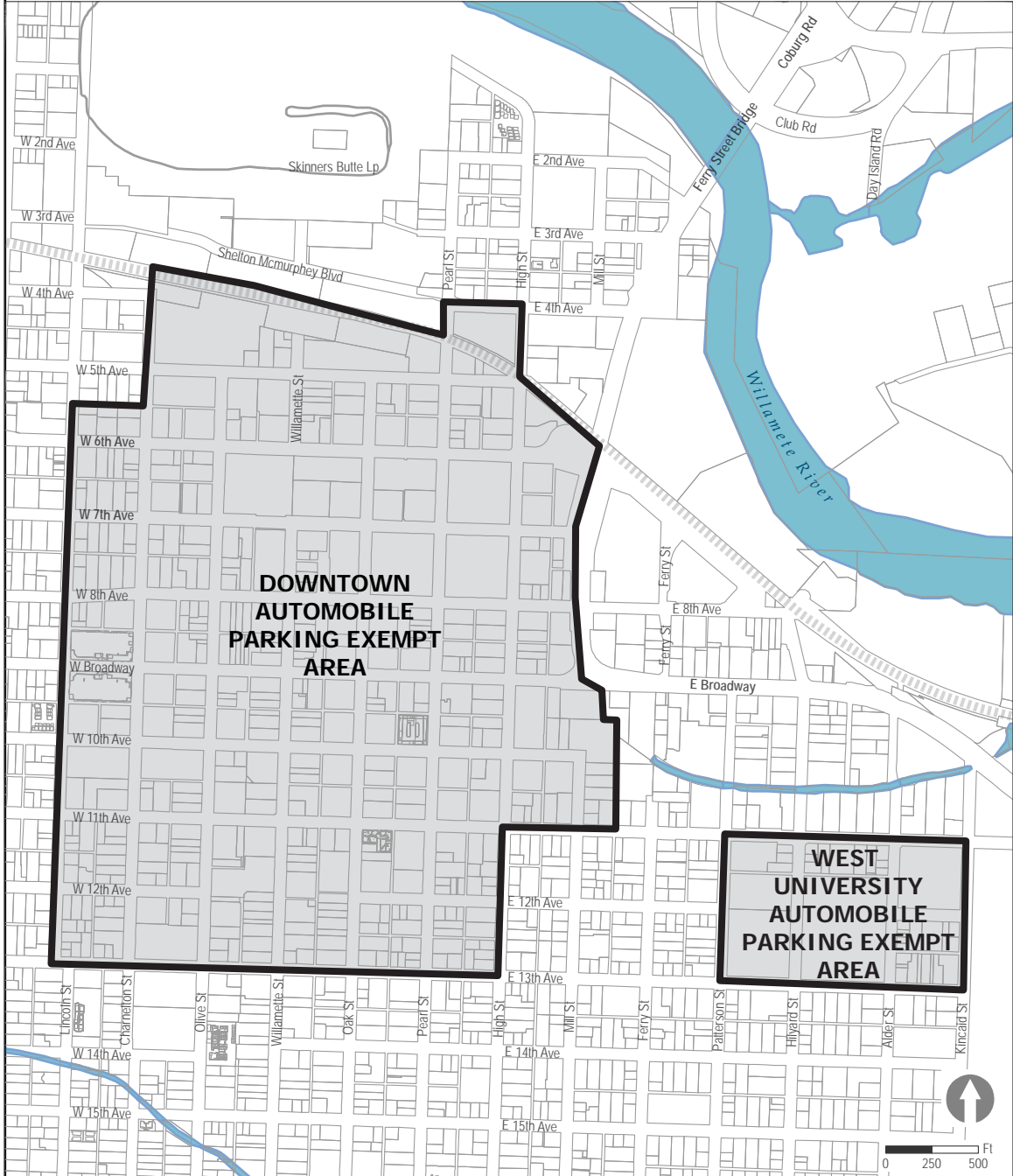
Downtown And West University Automobile Parking Exempt Areas





Map 9.6410(4)(a)

Downtown and West University Automobile Parking Exempt Areas



map date: 4/9/13



Map 9.6410(4)(a) Downtown and West University Automobile Parking Exempt Areas

