

City of Eugene Human Rights Commission



The mission of the Human Rights Commission is to promote implementation of universal human rights values and principles in all City of Eugene programs and throughout the wider community.

To carry out this mission the commission shall affirm, encourage and initiate programs and services within the City of Eugene and in the wider community designed to place priority upon protecting, respecting, and fulfilling the full range of universal human rights as enumerated in the Universal Declaration of Human Rights. To support and promote human rights, the commission will: provide human rights education, be proactive in human rights efforts, address human rights violations, ensure active public participation, be transparent and open, and be publicly accountable for human rights progress.

Human Rights Commissioners: Andrew Thomson Chair, Chris Nunes Vice Chair, Richie Weinman, Ken Neubeck, Jennifer Frenzer, Edward Goehring, Philip Carrasco, Mary Clayton, Arun Toke, Debra Merskin, Greg Evans

Equity and Human Rights Office staff: Michael Kinnison, Lindsey Foltz

The Human Rights Commission typically meets on the third Tuesday of each month.

Tuesday, October 21 , 2014

5:30 – 7:30 PM Meeting

Atrium Building, Sloat Room, 99 W. 10th Avenue, Eugene

Contact: Lindsey Foltz, 541-682-5619, lindsey.m.foltz@ci.eugene.or.us

ITEM

TIME ON TASK

<u>ITEM</u>		<u>TIME ON TASK</u>
1. Welcome from Chair, Agenda/Minutes Review	VOTE	5 minutes (5:30 pm)
2. Public Comment		10 minutes (5:35 pm)
3. Councilor Greg Evans Liaison Report		10 minutes (5:45 pm)
4. Homelessness Work Group		30 minutes (5:55 pm)
5. MUPTE		10 minutes (6:25 pm)
6. Staff Update		10 minutes (6:35 pm)
7. Liaison Update		15 minutes (6:45 pm)
8. Work Group Lead Update		10 minutes (7:00 pm)
9. Open Discussion		15 minutes (7:10 pm)
10. Closing		5 minutes (7:25 pm)

Upcoming events, activities or meetings the HRC needs to be aware of:

International Human Rights Day – December 10, 2014, 6-8 pm

The Eugene Human Rights Commission welcomes your interest in these agenda items. This meeting location is wheelchair accessible. For the hearing impaired, FM-assistive listening devices are available or an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact staff at (541) 682-5177.

La Comisión de Derechos Humanos agradece su interés por participar en los asuntos de esta agenda. El local de la reunión tiene acceso para personas en silla de ruedas. Para las personas con dificultades auditivas ofrecemos sistemas FM para ayudarlo a escuchar, o intérpretes de lenguaje de señas. También ofrecemos intérpretes de español. Si necesita cualquiera de estos servicios por favor solicítelos con 48 horas de anticipación, llamando al (541) 682-5177.

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Chief of Police Pete Kerns
Via pete.m.kerns@ci.eugene.or.us

July 3, 2014

We at the National Law Center on Homelessness & Poverty write to urge the city of Eugene to resume its historically positive engagement with homeless persons to produce cost-effective, humane solutions to homelessness and discontinue its recent trend toward criminalizing ordinances and practices which represent a more expensive, less effective approach, potentially in violation of Eugene's constitutional, civil rights, and human rights obligations. In particular, we are concerned with the proposed modifications to ordinance 4.872 regarding curfew and dog registration, the proposed new ordinance regarding smoking on all public property in the Downtown Activity Zone, the heightened enforcement of criminal trespass laws, and the recent re-interpretation of state laws ORS 203.077 and .079 requiring notice and humane treatment during evictions of encampments. We ask the city to not pass these ordinances that criminalize the state of being homeless, to cease its criminalizing practices, and to take a constructive approach to public safety and issues surrounding homelessness and poverty.

We commend Eugene for its recent history of positive engagement with homeless communities. Since the adoption of the Opportunity Eugene Task Force Recommendations in 2012, the city has worked to create constructive alternatives to criminalization, including legalized camping rest stops, expansion of the car camping program, adoption of a commitment to be a Human Rights City, and inclusion of homelessness as a priority issue for the Human Rights Commission. We have highlighted several of Eugene's policies as best practices in our recent reports and trainings.

However, we are concerned about the proposed ordinance changes and recent practices which undermine the commitment in the 2012 Recommendations to improve laws that criminalize homeless individuals. Eugene has recognized

that these types of ordinances have negative effects on the nearly 3,000 homeless individuals in the community and make it more difficult for them to access permanent housing and employment. To implement them now would be counter-productive and poor policy.

Proposed ordinances

Curfew: The proposed modification to ordinance 4.872(j) would impose a curfew from 11PM to 6AM in Kesey Square. Alternatively, we understand Eugene may also be considering making Kesey Square into park property to implement similar curfew and other restrictions. This is currently Eugene's only public property that is accessible to homeless individuals after 11PM. Curfew laws may implicate due process and equal process concerns. *See Gaffney v. City of Allentown*, 1997 U.S. Dist. LEXIS 14565 (D. Pa. 1997); *Ramos v. Town of Vernon*, 353 F.3d 171 (2d Cir. 2003). Curfew laws also restrict an individual's ability to participate in a range of traditionally protected forms of speech and expression and therefore may violate the First Amendment. *Hodgkins v. Peterson*, 355 F.3d 1048 (7th Cir. 2004). An ordinance prohibiting loitering in one place more than five minutes after 11:00 PM was found to be unconstitutional because it interfered with the fundamental right to stand and walk in public places and there was no plausible safety justification for the ordinance. *City of Salida v. Edelstein*, Case No. 97CR62 (Colo. Dist. Ct. 1998). Eugene already has ordinances providing penalties for all the activities that it wishes to discourage in Kesey Square. Anyone violating these ordinances can already be easily ticketed or arrested. Imposing a curfew by separate ordinance or by converting Kesey Square into park property will only serve to evict and penalize those who are not already violating the existing ordinances, and in particular homeless individuals who are doing nothing more than existing in public because they have no private alternative.

Dog licensing: The proposed modification to ordinance 4.872(g) would make it a jailable offense and increase the fine for having an unlicensed dog. Homeless individuals may not be able to license their pets because they do not have all the necessary documents, immunizations, or cannot afford the licensing fee. It is unlikely Eugene will direct its police officers to go door-to-door to verify the licenses of dogs whose owners have regular housing, but because homeless persons have no private space, they will be disparately cited for violations. Pets provide comfort and companionship to their owners. For many people, their dogs are family. Dogs are also a necessity for both the physical and emotional safety of those who sleep without the protection of walls and a locked door and windows. Homeless individuals should not be deprived of the necessary protection and companionship that their dogs provide. If the city truly has public safety concerns, it could make licenses and immunizations available to homeless persons and their pets free of charge.

Smoking ban: Eugene already prohibits smoking in public buildings, and limits it to designated areas of restaurants and bars or employee smoking entrances of publicly owned buildings. The modification proposed by Councilmember Evans to ban smoking in the Downtown Activity Zone would only implicate individuals without private dwellings, public employment, or the money to purchase alcohol or food in downtown Eugene. The simple act of engaging in the otherwise legal behavior of smoking in public should not serve as a pretext for the criminalization of homeless persons.

Policy modifications

Humane eviction of campsites: ORS 203.077 and .079 require cities to develop policies that "ensure the most humane treatment for removal of homeless individuals from camping sites on public property" and provide 24 hours-notice to individuals being evicted. Eugene previously followed these requirements but has recently decided to no longer provide notice when the land is posted as no-camping, and to immediately confiscate the property of homeless individuals. Seizure of the property of homeless individuals, which includes "the very necessities of life: shelter, medicine, clothing, identification documents, and personal effects of unique and sentimental value," without notice implicates the Fourth Amendment right to be free from illegal search and seizure. *Kincaid v. City of Fresno*, 2006 WL 3542732 (E.D. Cal. Dec. 8, 2006). Eugene should return to its previous policies that followed the humane spirit the state law dictates. Moreover, the city should affirmatively make other public spaces available for temporary camping that are adequate in terms of safety, access to jobs and transport, sanitation, and community resources, and should not criminalize the act of being present in public spaces at night until it can provide adequate housing for all its homeless residents.

Criminal Trespass: The city has recently escalated enforcement of its criminal trespass ordinance and used city workers to encourage businesses to sign agreements enabling police to charge homeless individuals with trespass on business property. Arresting homeless persons for being on the only space available to them, and not providing alternative shelter may effectively be excluding homeless persons from remaining in or traveling to Eugene-impinging on the fundamental right to travel. *See State v. Burnett*, 755 N.E.2d 857 (Ohio 2001). Broadly banning access to public areas creates a "severe restriction" on the right to travel that requires strict scrutiny. *Johnson v. City of Cincinnati*, 310 F.3d 484, 502 (6th Cir. 2002). If such an exclusion results and homeless persons cannot remain in their city of residence, their fundamental right to travel is being given less recognition than the same right of non-homeless persons and an equal protection violation may have occurred.

Policy Considerations

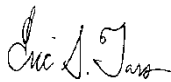
The imposition of severe penalties for relatively minor offenses only exacerbates the difficulties faced by homeless individuals, places unnecessary burdens on the criminal justice system and violates homeless individuals' civil and human rights. Individuals cited or arrested will develop criminal records, making it more difficult for them to access needed employment, housing, and benefits. Efforts to move homeless persons out of downtown areas also disrupt existing relationships with service providers, making it more difficult for homeless persons to get the assistance they need. Moreover, cost studies in thirteen geographic areas demonstrate that the average cost of housing a homeless individual in jail is \$87 per night, considerably more than the \$31 and \$28 average costs of housing a homeless individual in supportive housing and in emergency shelter, respectively.

For all these reasons, the approach of criminalizing acts of living by unsheltered homeless individuals has been criticized by the U.S. Interagency Council on Homelessness, the U.S. Department of Justice, U.N. experts, and the Opportunity Eugene Task Force as a civil and human rights violation. Earlier this year, the U.N. Human Rights Committee condemned criminalization of homelessness as cruel, inhuman, and degrading and called on communities to cease their practice and implement more constructive alternatives. Human Rights Committee, *Concluding observations on the fourth report of the United States of America*, ¶ 19, U.N. Doc. CCPR/C/USA/CO/4 (2014).

Implementing these constructive alternatives to criminalization not only avoids potential litigation, but actually works toward solving the problem of homelessness. Philadelphia reduced the number of unsheltered homeless persons in the downtown area from 800 to 200 by working with local advocates to create a police protocol that promotes outreach and referrals to housing and services, mandating no arrests if no shelter space is available, and increasing resources for services, shelter, and housing. Likewise, Portland created public bathrooms maintained by a local nonprofit that stay open 24-hours a day, leading to a decrease in public urination and defecation with no increase in crime around the new bathrooms.

The Law Center emphatically agrees that tents are not adequate housing and alternatives to performing necessary life activities in public spaces should be found. However, until those adequate alternatives are provided, criminalization only puts more barriers between homeless persons and housing, and far from being cost-effective, will actually cost the city more than providing housing. Eugene can and should return to the constructive approaches to the problems of poverty and homelessness that it previously utilized, reject the proposed curfew, dog licensing, and smoking ordinances and rescind the escalated no-notice/inhumane enforcement approach of the anti-camping and criminal trespass ordinances. If we at the Law Center can be of any assistance in this process, please do not hesitate to contact us.

Sincerely,



Eric S. Tars
Senior Attorney

Cc: Lauren Reagan
Via lreagan@cldc.org

Eugene SLEEPS
Via contact@EugeneSLEEPS.org

Eugene Human Rights Commission

October 12, 2014

Dear Eugene Mayor and City Council.

The Human Rights Commission is mandated by ordinance to encourage implementation of the principles and standards of the Universal Declaration of Human Rights in the City of Eugene. Therefore, the Human Rights Commission is deeply concerned about issues raised in the July 3 letter to the City from Eric S. Tars, Senior Attorney at the National Law Center on Homelessness and Poverty. A copy of Mr. Tars' letter is attached.

Mr. Tars correctly notes that the Opportunity Eugene Community Task Force on Homeless Solutions recommended in early 2012 that the City address the criminalization of homelessness. Specifically, the Final Report of the Task Force recommended that:

“(T)he city council empower the city manager to conduct a review of city policies, ordinances, zoning requirements and codes, and propose revisions to those that have the consequence of criminalizing life-sustaining activities as well as those that create undue barriers to accessing permanent housing or shelter.”

To our knowledge, this recommendation has not been acted upon by either the City Manager or the Council. Indeed, Mr. Tars' letter highlights actions that the City has taken or has contemplated taking that function to *increase* criminalization, such as reinterpreting state laws ORS 203.077 and .079 requiring 24 hour notice and humane treatment during evictions of encampments. Some in the community also believe that proposals to impose a curfew in Broadway Plaza or turn the Plaza into a City park with a curfew and exclusion policies; and proposing to ban smoking in the Downtown Activity Zone have the unintended consequence of unfairly targeting homeless people. The homeless population has limited safe and legal places to be and this further eliminates options.

Since Mr. Tars' letter was sent to the City, members of Eugene's homeless community have observed the replacement of many No Camping signs with No Trespassing signs, which escalates the penalty for illegal camping from a citation and fine to possible arrest and jail. They have pointed to numerous Eugene businesses that are now “renting” their sidewalk space from the City and putting out a sandwich board sign to signal possession, thus enabling them to trespass people who are simply standing on the sidewalk or sitting down to rest in this previously public space. Such actions ratchet up the criminalization of homelessness in Eugene.

With a cold and rainy winter becoming imminent, we grow especially mindful of the dangers to health and life itself from lack of safe and legal places for people who are homeless to be during the day and to sleep through the night. The criminalization of camping, the reinterpretation of state law regarding 24 hour notice and humane eviction of campers, and the recent increase in the severity of penalties for illegal camping, fall most heavily on those who are not only homeless but unsheltered. According to a Guest Viewpoint by Rev. Dan Bryant published in the Register Guard, Eugene has a much higher proportion of unsheltered homeless than most cities in the U.S.

Finally, we wish to underscore the fact that criminalization of homelessness has been criticized as a human rights violation by United Nations bodies, by the federal Interagency Council on Homelessness, and by the U.S. Department of Housing and Urban Development. We have attached a recent mailing from HUD, a major housing program funder on which Lane County and Eugene rely, which states very succinctly why criminalization of homelessness is both ineffective and expensive in comparison to non-criminalizing solutions that support human rights.

In light of the above, the Human Rights Commission respectfully requests:

1. That the Council ask the City Manager to identify sections of City parks and other City properties where people who are homeless and unsheltered can take emergency refuge at all hours this winter, and that the Council approve several such sites no later than November 15, 2014.
2. That the Council schedule a work session to consider implementation of the 2012 Opportunity Eugene Task Force recommendation regarding the review and revision of policies, ordinances, etc. that effectively criminalize or pose other barriers to people who are homeless in obtaining permanent housing or shelter.

The Human Rights Commission and its Homelessness Work Group, consisting of three Commissioners as well as homeless advocates and members of the homeless community, looks forward to your response. If there is help we can provide, we would be more than happy to do so. Please note that this letter was discussed and **(unanimously?)** approved at the October 21 meeting of the Commission.

Sincerely yours,

Andrew Thomson
Chair, Human Rights Commission

CC: Jon Ruiz, City Manager

DRAFT



HUD Exchange Mailing List

SNAPS In Focus: The Case Against Laws that Criminalize Homelessness

As we were thinking about priority topics to include in this *In Focus* series, we returned again and again to the intersection between the homeless services system and the criminal justice system. Things like discharge planning, the definition of an institution, and how we work with the Department of Justice came up – but the most compelling and, frankly, the most disturbing topic that emerged is the increase in laws and practices that criminalize homelessness and therefore adversely impact people experiencing homelessness across the country. We thought it was time to talk about it.

As all of you know, people experiencing homelessness are often forced to sleep in public spaces, such as parks and sidewalks, or in abandoned buildings. Across the country, communities have implemented laws and policies that criminalize homelessness as a means to move people out of these locations. According to a recent report by the National Law Center on Homelessness and Poverty (who collaborated with us on this message), [*No Safe Place: The Criminalization of Homelessness in U.S. Cities*](#), there has been a significant increase in city-wide bans on camping, loitering, and begging in public areas. This increase in city-wide bans shows that the nature of criminalization is changing and that many cities are resorting to measures that prohibit life sustaining activities throughout entire communities, effectively criminalizing people's *need to survive*.

A growing body of research comparing the cost of homelessness, including the cost of criminal justice involvement, with the cost of providing housing to homeless people shows that housing is the most affordable option. With state and local budgets stretched to their limit, rational, cost-effective policies are needed – not ineffective measures that waste precious taxpayer dollars. So not only are these practices inhumane, they are short-sighted and ultimately not cost-effective.

Criminalization measures do not prevent or end homelessness; they only exacerbate existing problems. After people experiencing homelessness are arrested, they are returned to their communities, still with nowhere to live and now laden with financial obligations, such as court fees, that they cannot pay. Moreover, criminal convictions – even for minor crimes – can create barriers to obtaining critical public benefits, employment, or housing, thus making homelessness more difficult to escape.

Criminalization is not the answer to meeting the needs of cities that are concerned about homelessness. There are sensible, cost-effective, and humane solutions to

homelessness, which a number of cities have pursued. In 2012, the United States Interagency Council on Homelessness (USICH), in partnership with Department of Justice and HUD, published [Searching out Solutions: Constructive Alternatives to Criminalization](#), which outlines “alternatives for communities who implement local measures that criminalize ‘acts of living’”. *Searching Out Solutions* emphasizes a human rights approach to ending homelessness and points out that criminalization measures are not aligned with this approach.

I urge homeless service providers and leaders in every community to consider this issue in the context of your work on strategic resource allocation. Talk about it within your CoC, and engage your public sector members in a discussion about how to work with elected officials, the police and other stakeholders to avoid these practices. Continue to educate the community about why this issue is important.

We all know that the solution to street and unsheltered homelessness is to achieve the goals of *Opening Doors* by providing permanent housing for people sleeping on the streets, not criminalizing their very existence.

If you want more information on this issue, go to the [NLCHP’s website](#) or the [USICH’s website](#).

As always, thank you for your service to people who are experiencing homeless.

Ann Marie Oliva
 Deputy Assistant Secretary for Special Needs
 Acting Director, Office of Special Needs Assistance Programs

[Download this SNAPS In Focus: The Case Against Laws that Criminalize Homelessness](#)



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EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Multi-Unit Property Tax Exemption (MUPTE) Program Revisions

Meeting Date: October 15, 2014
Department: Planning & Development
www.eugene-or.gov

Agenda Item: A
Staff Contact: Denny Braud
Contact Telephone Number: 541-682-5536

ISSUE STATEMENT

This work session is a continuation of the discussion on potential Multi-Unit Property Tax Exemption (MUPTE) program reforms. Council will review and discuss staff recommendations with an opportunity to provide direction for next steps. (Updated MUPTE criteria for council consideration is provided in Attachment A.)

BACKGROUND

The MUPTE program is enabled by state legislation and designed to encourage higher density housing and redevelopment in the core area and along transit corridors. The program provides a tax exemption for up to 10-years on qualified, new multi-unit housing investments that occur within a targeted area, meet program requirements, and are reviewed and approved by council. MUPTE works by lowering the operating cost enough to make a project financially feasible. The MUPTE program is currently suspended through November 30, 2014.

In 2013, council met to discuss the MUPTE program on April 22, May 13, June 24, July 24, and November 18. Council received input from key stakeholders at a workshop on May 22, 2013. In July 2013, council highlighted the importance of:

- Aligning the MUPTE tool and availability of the tool with the goals of Envision Eugene.
- Consideration of affordable housing needs and the role that MUPTE can play in advancing this goal.
- Local hiring and the need to support local businesses and talent.
- Identifying community benefits and the need for MUPTE projects to advance community goals.
- Thoughtful and timely reforms that can be implemented to support redevelopment opportunities.

On November 18, 2013, council added the West 11th area to the potential boundary and identified the following areas for further discussion: local hiring practices, financial gain cap, affordable housing (fee vs. providing units within the project), energy-efficient buildings, application scoring system, and percentage-of-median-income housing qualification. Council also expressed support for seeking stakeholder and community input opportunities.

At the April 14, 2014 work session, staff presented revised criteria based on input from these several stakeholder groups:

- Housing Policy Board committee for feedback specifically related to Affordable Housing criteria;
- Development related fields including three developers, an appraiser, and a banker;
- Construction industry including general contractors, specialized trades, and union representatives;
- Human Rights Commission subcommittee; and
- Technical Resource Group (TRG) comprised of community members with expertise in real estate, land use, and business. This group provided independent review and a technical analysis that informed the March 2012 Envision Eugene Recommendations.

Council provided direction to reach out to the neighborhood organizations for input on the various program revisions under consideration. In May, staff held two meetings to collect feedback from neighborhood leaders on the changes council reviewed in April. Based on those discussions, staff had several individual meetings with neighborhood leaders and then held a meeting on June 25 to collect feedback on a further revised concept. Neighborhood leaders were also able to complete two online surveys.

Following the April work session, the TRG invited councilors to learn more about the technical analysis and met with Mayor Piercy, Councilor Brown, Councilor Clark, Councilor Evans, and Councilor Syrett.

At the July 30 work session, council reviewed the neighborhood leader feedback and continued the discussion. Staff provided an overview of a draft concept to activate the downtown area first, subject to new criteria, and proceed with other areas after neighborhood planning processes.

Based on the feedback received to date, updated MUPTE criteria for council consideration is provided in Attachment A, which includes a summary memo of the differences between the July 30 draft and the revised draft. The potential MUPTE boundary is in Attachment B. At the April work session, council expressed interest in voting on individual aspects of the revisions as a process for moving forward. The decision guide in Attachment C provides key questions, staff recommendation and rationale, and comparison between the suspended program and the recommended changes. A major point of consideration is MUPTE's role in advancing affordable housing goals. As background for that topic, Attachment D provides information on the City's work to create stable, safe housing opportunities for Eugene residents, including property tax exemptions exclusively for affordable housing.

RELATED CITY POLICIES

Utilization of the MUPTE program to stimulate new multi-unit housing development addresses many goals for Eugene and downtown, including:

Envision Eugene Pillars

- Promote compact urban development and efficient transportation options.
 - Integrate new development and redevelopment in the downtown, in key transit corridors and in core commercial areas.
 - Meet the 20-year multi-family housing need within the existing Urban Growth Boundary.
 - Make compact urban development easier in the downtown, on key transit corridors, and in core commercial areas.
- Provide housing affordable to all income levels.
- Plan for Climate Change and Energy Resiliency.
 - Make energy efficiency in buildings and vehicles the first line of action in reducing energy dependence and greenhouse gas emissions.
 - Align incentives, costs and city processes to promote resource efficient buildings, smaller homes and development towards the city core.

Regional Prosperity Economic Development Plan

- Strategy 5: Identify as a Place to Thrive - Priority Next Step - Urban Vitality
 - As we foster a creative economy, dynamic urban centers are an important asset. Eugene, Springfield and many of the smaller communities in the region recognize the importance of supporting and enhancing vitality in their city centers. Building downtowns as places to live, work and play will support the retention and expansion of the existing business community and be a significant asset to attract new investment. The Cities of Eugene and Springfield will continue to enhance their efforts to promote downtown vitality through development and redevelopment.

City Council Goal of Sustainable Development

- Increased downtown development

Eugene Downtown Plan

- Stimulate multi-unit housing in the downtown core and on the edges of downtown for a variety of income levels and ownership opportunities.
- Downtown development shall support the urban qualities of density, vitality, livability and diversity to create a downtown, urban environment.
- Actively pursue public/private development opportunities to achieve the vision for an active, vital, growing downtown.
- Use downtown development tools and incentives to encourage development that provides character and density downtown.
- Facilitate dense development in the courthouse area and other sites between the core of the downtown and the river.

Climate and Energy Action Plan

- Buildings & Energy Section:
 - Objective 2: Reduce GHG emissions from new construction by 50 percent by 2030.

- Action 2.2: Increase incentives for highly energy-efficient new buildings aiming toward net zero energy and carbon neutral buildings.

COUNCIL OPTIONS

1. Direct the City Manager to schedule a public hearing on an ordinance to modify the MUPTE program consistent with the criteria included in Attachment A.
2. Amend the criteria included in Attachment A, and direct the City Manager to schedule a public hearing on an ordinance to modify the MUPTE program as amended.
3. Take no action and continue the discussion on MUPTE program reform at another work session.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends scheduling a public hearing on an ordinance to modify the MUPTE program consistent with the criteria included in Attachment A.

SUGGESTED MOTION

Move to direct the City Manager to schedule a public hearing on an ordinance to modify MUPTE program revisions consistent with the criteria included in Attachment A.

ATTACHMENTS

- A. Revised Draft – MUPTE Program Criteria
- B. Potential MUPTE Boundary
- C. Decision Guide
- D. Creating Stable, Safe Housing Opportunities for Eugene Residents

FOR MORE INFORMATION

Staff Contact: Denny Braud
Telephone: 541-682-5536
Staff E-Mail: denny.braud@ci.eugene.or.us

Memorandum

Date: October 15, 2014
To: Mayor & City Council
From: Denny Braud, Division Manager AIC
Subject: Revised Draft Criteria Cover Memo

Below is a summary of the differences between the July 30 draft and the revised draft (October 15, 2014) all based on stakeholder feedback and additional staff research, as further described in the Agenda Item Summary. The revised draft immediately follows the summary.

REQUIRED PUBLIC BENEFIT CRITERIA – All MUPTE projects must provide these benefits.

1. **Eligible Project Types** *(no change)*
2. **Compact Urban Development** *(no change)*
3. **Project Design / Compatibility** *(no change)*
4. **Green Building**
Added requirement to install conduit for future electric vehicle charging stations, for projects that provide onsite parking.
5. **Neighborhood Engagement** *(no change)*
6. **Boundary** *(no change)*
7. **Affordable Housing** *(no change)*
8. **Local Economic Impact Plan**
Added licensing to the laws that must be followed and a reminder reference to the program wide consequences of non-compliance (administrative civil penalty or exemption termination).
9. **Project Need** *(no change)*

ADDITIONAL PUBLIC BENEFIT CRITERIA – In the event that a project is not eligible for a 10-year exemption (due to Required Public Benefit #9 “Project Need”), the Additional Public Benefit Criteria shall be used to determine eligibility for qualifying for an exemption up to, but no longer than, 10 years.

10. **Documented Local Economic Impact** *(no change)*
11. **Location** *(no change)*

12. Project Features

Added to item I “transportation options” meeting LEED v4 ‘Green Vehicle’ Credit Description, which includes installing electric vehicle charging stations.

OTHER PROGRAM REQUIREMENTS

13. Financial Reporting

Added requirement for year 1 reporting to include construction labor residency information (home city or zip codes only).

14. Program Volume Cap *(no change)*

15. MUPTE Review Panel *(no change)*

Revised MUPTE Criteria

Below are summaries of the nine Required Public Benefit criteria, the three Additional Public Benefit criteria, and Other Program Features. In the event that a project is not eligible for a 10-year exemption (see Required Public Benefit #9 “Project Need”), the Additional Public Benefit Criteria shall be used to determine eligibility for qualifying for an exemption up to, but no longer than, 10 years. Failure to comply with the requirements included in the MUPTE program ordinance and any subsequent individual project approval resolutions may result in an administrative civil penalty under EC 2.1996 and the procedures in EC 2.018. In addition, failure to comply with any applicable provision of ORS 307.600 to 307.637 [the MUPTE statutes], the applicable Eugene Code provisions, City administrative rules or any condition of approval may result in termination of the tax exemption under procedures described in Code and state law.

REQUIRED PUBLIC BENEFIT CRITERIA

To be considered for MUPTE approval, projects must provide the following public benefits.

1. Eligible Project Types

Multi-unit redevelopment housing projects (excluding “student housing”) that are newly constructed, additions to existing multi-unit housing, or structures converted in whole or in part from other use to dwelling units. The commercial portion of a project is eligible for an exemption if deemed a public benefit by council.

“Student housing” is housing specifically built for living space for undergraduate and graduate students where the leasing unit is by room or bed (not an entire residential unit), and unit configurations take the form of several bedrooms with individual bathrooms and sparse common space. Project amenities and location are selected to appeal only to students and offer limited viability as potential housing for the general population, particularly families.

2. Compact Urban Development

For the Downtown boundary area:

- Residential zones: 175% of minimum density for the zone with five units minimum ¹
- Form-based zones with height limit of three or four stories: 30 units per acre with five units minimum
- Mixed-use development: five units minimum ²
- All other areas, including residential-only development in commercial or mixed use zones: 50 units/acre with five units minimum

For all other boundary areas, the requirement would be based on the area plan or other neighborhood process.

¹ Projects on R1 property do not qualify for MUPTE as multi-unit projects are not allowed outright in the R1 zone.

² Mixed-Use Development incorporates both commercial and residential use in the same building.

3. Project Design/Compatibility

Application must include a detailed description of the proposed project and graphic information including site plans and elevations containing sufficient detail to demonstrate that the project addresses a set of basic design principals in the context of the project location. Design Principles include the scale, form, and quality of the building; the mix of project elements; and the relationship to the street and surrounding uses. The draft *Community Design Handbook* describes and illustrates a complete summary of design principles for Eugene. Although not all principles will apply to a given project, the *Community Design Handbook* will serve as the primary resource for achieving design outcomes. As a condition of MUPTE approval, the project will be required to adhere to the project design elements that were reviewed at the time of Council approval, unless the City Manager determines in writing that proposed deviations from the approved design provide the same or greater degree of adherence to the Design Principals.

4. Green Building

The green building criteria focus is on building energy performance, as prioritized within Envision Eugene and the Climate and Energy Action Plan. MUPTE projects must perform at least 10-15% more efficiently than the performance established in the Oregon Energy Efficiency Specialty Code.

Due to the complexity of building design, building code requirements, and certification programming, the MUPTE Green Building Required Public Benefit applies only to the residential occupancy and common areas associated with residential areas (e.g. hallways, stairwells, centralized HVAC or hot water heating, laundry facilities) and does not apply to the commercial areas or ancillary amenities (e.g. parking garage, swimming pools, recreation centers). Detailed requirements are provided below and in Table 1.

1-3 Story Multifamily Buildings: Pathways for complying with the 10-15% above code requirement include:

- A. Obtain LEED v4 for Homes Low-rise Multifamily basic certification and modeled at least 10% above current OEESC or;
- B. Obtain Earth Advantage Multi-Family-Silver level certification and provide a commissioning report or;
- C. Obtain NW ENERGY STAR certification through the Eugene Water and Electric Board (EWEB) program and provide a commissioning report.

4 Stories and above Multifamily Buildings: Pathways for complying with the 10% above code requirement include:

- A. Obtain LEED for Homes Midrise basic certification and modeled at 10% above current OEESC or;
- B. City of Eugene Building and Permit Services review of project. Model building energy performance, utilizing the LEED for Homes Midrise energy modeling methodology, showing the building performs 10% above current OEESC performance, construct to modeled plans, provide a commissioning report (prior to issuance of Certificate of

Occupancy), and work with the City to report multi-family occupancy energy use data to the City for the life of the MUPTE tax exemption.

Table 1: MUPTE Energy Performance Pathways

Pathway	Building Size	
	1-3 Stories	>3 Stories
<i>LEED v4 for Homes</i>	Low-Rise: Certified + modeled at 10% above Oregon code	Mid-Rise: Certified + modeled at 10% above Oregon code
<i>Earth Advantage</i>	Multifamily: Certified + commissioning report	N/A
<i>EWEB</i>	NW Energy Star + commissioning report	N/A
<i>City of Eugene BPS</i>	N/A	Model at 10% above Oregon code + commissioning report

Additionally, all projects that will provide onsite parking are required to install conduit for electric future electric vehicle charging stations.

5. Neighborhood Engagement

Although neighborhood association support is not required for MUPTE approval, the applicant must make an effort to contact the appropriate neighborhood association to share project information and to seek input. Specifically, one or more of the principals of the applicant entity must attend two neighborhood engagement opportunities (discussions/presentations):

- One of the opportunities must be prior to MUPTE application submission.
- The second opportunity must be during the design process and before the final design drawings are completed.
- Additionally, the neighborhood must have the opportunity to review and comment on the final design before the project is submitted for permits.

Evidence of such effort must be included in the application and shall include a copy of the comments received from the neighborhood association or documentation of the applicant’s attempt to solicit comments. For projects in neighborhoods without an active neighborhood organization, the applicant must complete engagement activities consistent with the requirements stated above.

In addition to providing comments to the applicant, the neighborhood association will have two neighborhood representatives seated on the MUPTE Review Panel who can voice project specific neighborhood issues and concerns, including additional neighborhood specific public benefits, during the application review process. (See “MUPTE Review Panel” under Other Program Requirements below for more information.)

6. Boundary

A MUPTE boundary to include sections along the six Envision Eugene Corridors and primary core commercial areas:

- A. Downtown (current boundary plus one property on 11th & Lincoln that was in the 2004 to 2011 boundary and EWEB property north of 4th Avenue),
- B. Mid-town,
- C. South Willamette,
- D. West 11th,
- E. 6th/7th Trainsong Highway 99 Corridor,
- F. Valley River Center commercial area,
- G. North Franklin,
- H. South River Road,
- I. Mid-River Road,
- J. North River Road,
- K. South Coburg Road,
- L. Mid-Coburg Road, and
- M. North Coburg Road.

A MUPTE boundary area would not become active (eligible for MUPTE project applications) until one of the following two actions occur:

- 1) Area planning is completed with the neighborhoods. (For example, the South Willamette area planning pilot project that will result in code provisions for that specific area that address transitions and compatibility.)
- 2) City-wide code amendments that address the transition between commercial and multi-family zoned properties with single-family zoned properties. If neighborhood organizations are satisfied that city-wide code amendments address their concerns regarding design and transitions, they can request MUPTE activation.

A specific site within an inactive boundary could be eligible for consideration if brought forward by a partnership of property owner / developer / neighborhood as an "Opportunity Site."

The Downtown area would be activated as soon as City Council lifts the MUPTE program suspension. This area would be subject to the new MUPTE criteria to be approved by City Council.

7. Affordable Housing

For rental projects, each owner will pay a fee to be dedicated to affordable housing/emergency shelter. The fee will be 5 – 10% of the total MUPTE benefit for the 10-year benefit. The owner can choose to pay the fee annually during years three through ten (to accommodate the project stabilization period each project experiences) or upfront with a discount. The fee is not paid in boundary area D (West 11th) and area E (6th/7th Trainsong Highway 99 Corridor), as an additional incentive for multi-unit housing.

The MUPTE affordable housing fee would generate a local, more flexible source of funding to support affordable housing not constrained by federal regulations. For example, the fee could

be a source of predevelopment funds to replace HOME funds that are no longer eligible for that use. If the potential volume cap of 1,500 MUPTE units is reached, and depending on the number, size, and value of projects, preliminary estimates indicate that the fee could potentially generate an estimated one to three million dollars dedicated to affordable housing / emergency shelter.

The City has a 20-year property tax exemption for affordable housing (LIRPTE), which the City of Portland does not currently have. Since 1990, LIRPTE has benefited 1,168 affordable housing units.

8. Local Economic Impact Plan

To ensure that a substantial portion of the local tax benefit yields a benefit to the local community, applicants must provide a plan to meet the following goal:

- Provide for more than 50% of the dollar volume of the combined professional services and construction contracts include local firms. A local firm is one based in Lane County. Trades not available locally will be identified and exempted when appropriate.

Additionally, the applicant must ensure that qualified Minority and Women Business Enterprises (MWBE) have an equitable opportunity to compete for contracts and subcontracts. The City supports the utilization of Minority, Women, Emerging Small Businesses, local businesses, Disadvantaged Business Enterprises and Qualified Rehabilitation Facilities at both a prime and subcontracting level.³

The City encourages approved applicants to use the following practices to promote open competitive opportunities for MWBE businesses:

- Access lists of certified minority, women, emerging small business or disadvantaged business enterprises from the Oregon State Office of Minority, Women and Emerging Small Business (OMWESB) by visiting their website at: <http://www4.cbs.state.or.us/ex/dir/omwesb/>
- Visit the Oregon State Qualified Rehabilitation Facilities Program website at <http://dasapp.oregon.gov/qrf/index.aspx> to search for Qualified Rehabilitation Facilities from whom to procure products or services.
- Advertise in general circulation, trade association, and minority focused media about prime and subcontracting opportunities.

Awarded MUPTE projects must follow wage, tax, and licensing laws. As a condition of receiving MUPTE:

- The owner must ensure or exercise due diligence in ensuring that all the contractors performing work are licensed and in compliance with Oregon Revised Statutes Chapter 701 (Construction Contractors and Contracts). The owner must compile a list of all contractors performing work on the project before the contractor performs any work on the project. The owner must confirm the proper licensing, insurance, bonding and workers comp coverage for each contractor.

³ Admin Order No. 44-08-06-F, Exhibit A, Article 6, section 6.2.4

- The contractor must provide an affidavit to the owner that the contractor, owner or responsible managing individual of the contractor does not have any unpaid judgments for construction debt, including unpaid wages. The contractor affidavit should also attest that the contractor is in compliance with Oregon tax laws described in ORS 305.620 (local taxes) and ORS Chapters 316, 317, and 318 (state income taxes).

The City's existing Rights Assistance Program is an available resource for the community at large and MUPTE project related parties. Awarded MUPTE projects must post information on the Rights Assistance Program in English and Spanish.

As noted in the introduction, failure to comply with these (and all MUPTE) requirements may result in an administrative civil penalty under or in termination of the tax exemption.

9. Project Need

Analysis of the project pro forma must establish that the project would not be built but for the benefit of the tax exemption. The applicant must submit documentation, including a pro forma and an analysis of the projected rate of return (as measured by the Cash on Cash return) for the proposed project demonstrating that the anticipated overall average annual rate of return for the project (with MUPTE) for the maximum period of exemption (10 years) will not exceed 10 percent. The pro forma and assumptions will be analyzed by the MUPTE review panel.

If the projected overall average annual rate of return for the maximum exemption period is:

- Less than 10 percent and the Required Public Benefits are met, then the project would be eligible to receive the maximum 10-year exemption.
- Greater than 10 percent, then:
 - o The term of the exemption will be decreased by the number of years necessary to bring the rate of return down to 10 percent, or
 - o The applicant can propose adding project elements from the Additional Public Benefit Criteria to increase the term of the exemption up to 10 years. The MUPTE Review Panel would consider any proposed Additional Public Benefit Criteria features and make a recommendation to the City Manager.

ADDITIONAL PUBLIC BENEFIT CRITERIA

In the event that a project is not eligible for a 10-year exemption (see Required Public Benefit #9 "Project Need" above), the Additional Public Benefit Criteria shall be used to determine eligibility for qualifying for an exemption up to, but no longer than, 10 years. The MUPTE Review Panel would consider any proposed Additional Public Benefit Criteria features and make a recommendation to the City Manager. The Additional Public Benefit Criteria would not be scored with the intent of providing a flexible menu of options to maximize public benefit based on individual location and neighborhood factors.

10. Documented Local Economic Impact

The extent to which the project meets the goal established in the Local Economic Impact Plan (Required Public Benefit #8 above), demonstrates solicitation of bids from WMBE, and commits to completing certified payroll.

11. Location

Projects located within the Downtown Plan Area or within a HUD Low-Mod Income Area, on a brownfield site, or projects that include the redevelopment of a valuable historic resource.

12. Project Features

The extent to which the project incorporates the following features:

- A. Payment of an increased affordable housing fee,
- B. Exceed the Green Building Required Public Benefit Criteria,
- C. Provision of Americans with Disabilities Act (ADA) *accessible* dwelling units. [This is beyond the code requirements. The building code requires that projects include a minimum number of Americans with Disabilities Act (ADA) *adaptable* dwelling units (Type A and/or Type B; the number depends on specific project details). ADA *accessible* units have already been adapted and include specific features in accordance with ICC/ANSI A1117.1, 2003 edition, for example, maneuvering clearances, grab bars, and hallway width.],
- D. Provision of dwelling units available for home ownership,
- E. Inclusion of open space, community gardens, or gathering space that is accessible to the surrounding community,
- F. Inclusion of ground floor commercial/retail that addresses a neighborhood need,
- G. Design excellence and neighborhood compatibility,
- H. Provision of embedded or structured parking,
- I. Encourage transportation options, including bus passes, car share, bike share, bus shelter, pedestrian connections, meeting LEED v4 'Green Vehicle' Credit Description, and minimum parking where appropriate, and
- J. Other features identified by neighborhood through the engagement process.

OTHER PROGRAM REQUIREMENTS

Financial Reporting

During the exemption period, the project's owner must submit annual accountant-prepared financial information (audited financial statements, tax returns, and 10-year operating cash flow with to-date rate of return) to evaluate a to-date cash-on-cash rate of return for the project. The financial information will be used by the City Manager to analyze the overall effectiveness of the MUPTE program and may be used in the aggregate as part of the Annual Report. Information submitted by owners would be kept confidential to the extent state public records law allows. Year 1 reporting will include construction labor residency information (home city or zip codes only).

Program Volume Cap

The MUPTE program goal is to assist in the creation of 1,500 new, multi-family housing units after adoption of the 2014 ordinance. The MUPTE Review Panel will review the cap as part of the Annual Report. At such time that the MUPTE-assisted number of dwelling units constructed

reaches the cap, council shall conduct a comprehensive review to determine if continuation of the program is desired.

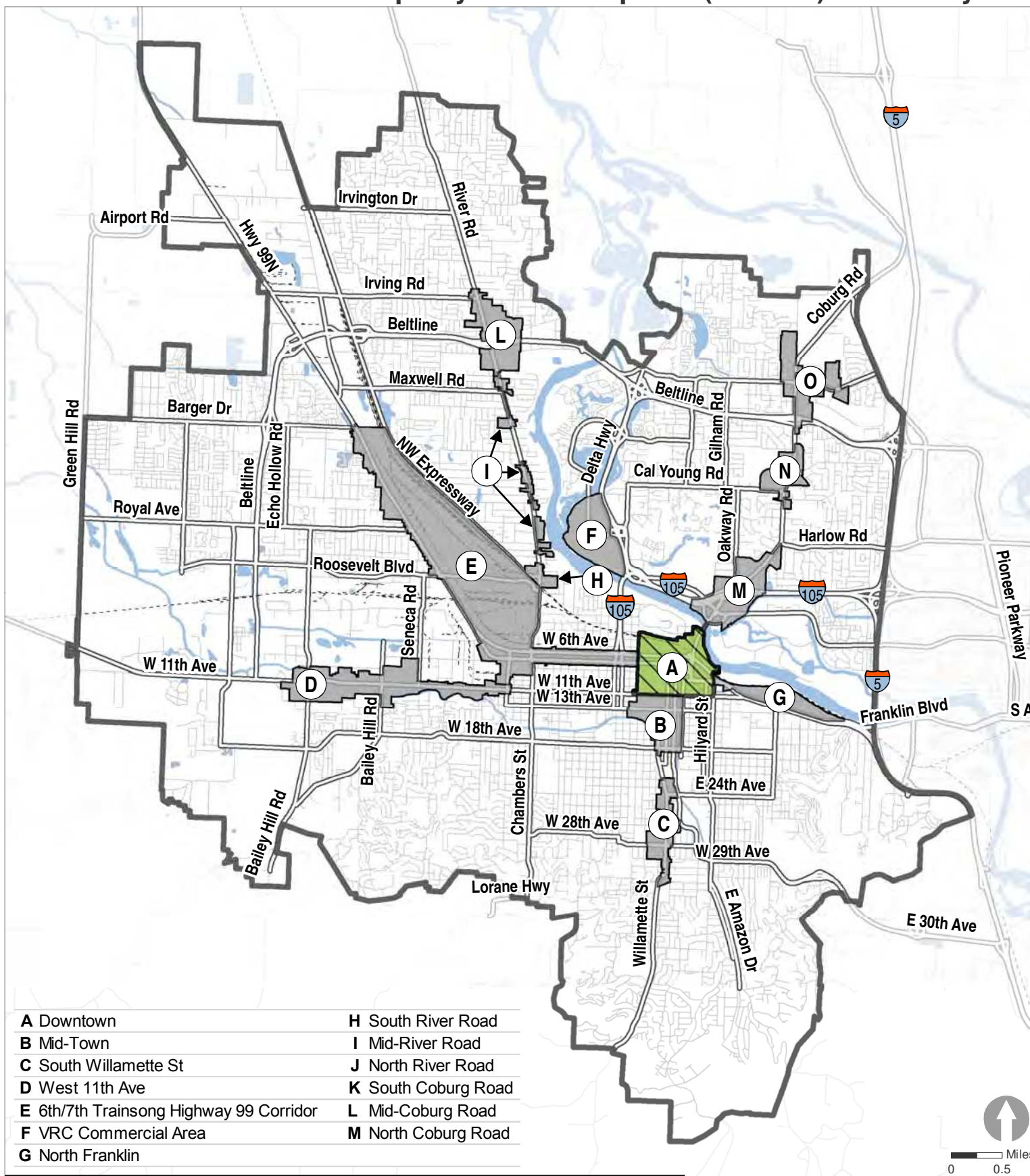
MUPTE Review Panel

A newly formed MUPTE review panel to provide a third-party review of the MUPTE program for the City Manager including:

- Review of project applications, with emphasis on analyzing the project’s financial projections.
- Review applicant’s conformance with the Required Public Benefits and any proposed Additional Public Benefit Criteria and make recommendations regarding approval/denial of the tax exemption to the City Manager.
- Assist the City Manager in preparing an Annual Report on the MUPTE program that will also cover the program volume cap.
- The Panel will be comprised of eight members with equal representation from technical interests and neighborhoods:
 - o 2 at-large neighborhood representatives; appointed by the Mayor
 - o 2 neighborhood representatives from the specific neighborhood in which a proposed MUPTE project is located
 - o 4 technical interests (such as, architect/green building, lender, labor, and developer)

Review Panel members would sign a confidentiality agreement.

Potential Multi-Unit Property Tax Exemption (MUPTE) Boundary



Area A active immediately to accept MUPTE applications
Area B – M active upon completion of area planning focused on transition zones and compatability. Opportunity sites could apply, if brought forward with support of neighborhood, property owners, and developers.



Caution: This map is based on imprecise source data, subject to change, and for general reference only.

Decision Guide

Each criteria or program feature has its own page(s) and lists the Question(s), Options, Recommendation, and Rationale followed by a table comparing the proposed draft (10/15) to the suspended program. There are nine Required Public Benefit criteria, three Additional Public Benefit criteria, and three Other Program Features for Council to consider.

As a reminder, the Additional Public Benefit Criteria come in to play in the event that a project is not eligible for the full 10-year exemption (see Required Public Benefit #9 “Project Need”), and are used to determine eligibility for qualifying for additional years of exemption up to, but no longer than, 10 years.

Additionally, the proposed draft includes enforcement language stating that failure to comply with the requirements included in the MUPTE program ordinance and any subsequent individual project approval resolutions may result in an administrative civil penalty under EC 2.1996 and the procedures in EC 2.018. Also, failure to comply with any applicable provision of ORS 307.600 to 307.637 [the MUPTE statutes], the applicable Eugene Code provisions , City administrative rules or any condition of approval may result in termination of the tax exemption under procedures described in Code and state law.

REQUIRED PUBLIC BENEFIT

1. Eligible Project Type

Question: Should projects with “student housing” characteristics be ineligible?

Options: Yes or No

Recommendation: Yes.

Rationale: Focuses program on creation of traditional market rate housing.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<ul style="list-style-type: none">○ Multi-unit redevelopment housing projects with 5+ units (per State law)○ Commercial portion if deemed public benefit○ Not student housing	<ul style="list-style-type: none">○ Multi-unit housing projects with 5+ units (per State law)○ Commercial portion if deemed public benefit

REQUIRED PUBLIC BENEFIT

2. Compact Urban Development

Question: Should requirement be:

- A. Same density as required by code
- B. Exceed minimum density code for downtown; per area planning or other process for all other areas
- C. Other

Options: Pick A, B, or C

Recommendation: B

Rationale: For downtown, Option B promotes density beyond the code minimums where density is most easily absorbed. For other areas, Option B is in line with neighborhood engagement results from May and June and with neighborhood livability. Option B was deemed reasonable by the Developer Stakeholder group and the Technical Resource Group of Envision Eugene.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>For the downtown boundary area, specific density based on zone (with minimum of 5 units no matter the zone, per State law).</p> <p>For all other boundary areas, the requirement would be based on the area plan or other neighborhood process (with minimum of 5 units, per State law)</p>	<p>Not required public benefit.</p> <p>One of eight possible public benefit categories for scoring points, based on the degree to which the project exceeds the minimum density requirements for the location:</p> <ul style="list-style-type: none"> - 10 points/unit in excess of minimum required, with 50 points maximum. - 100 points for "Opportunity Site"

REQUIRED PUBLIC BENEFIT

3. Project Design / Compatibility

Question A: Should there be basic design principles (*Community Design Handbook*)

Options: Yes or No

Recommendation: Yes, design principles

Rationale: Aligns criteria with work already in progress in the Planning Division. Enables enforcement of design information submitted in the application. This was deemed reasonable by Developer Stakeholder group.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
Project must address basic design principles (<i>Community Design Handbook</i>) in the context of the location	Not required public benefit.
Project must adhere to the project design elements that were reviewed at the time of Council approval and attached to the approval resolution	Schematic drawing / site plan required with application

REQUIRED PUBLIC BENEFIT

4. Green Building

Question A: Should requirement be:

- a) LEED v4 Certified
- b) 10-15% above Oregon Energy Code through specific pathways based on building size and selected by applicant
- c) Other

Options: Pick a), b), or c)

Recommendation: b)

Rationale: The focus is on building energy performance, as prioritized within Envision Eugene and the Climate Energy Action Plan. Deemed acceptable by Green Building staff, the Technical Resource Group of Envision Eugene, and the Developer Stakeholder Group.

Question B: When onsite parking is provided, should an electric vehicle charging station requirement be included?

- a) Install conduit for future stations
- b) Installed number of stations

Options: Pick a) or b)

Recommendation: a)

Rationale: The idea for including electric vehicle charging station related items came from Representative Barnhart through Councilor Zalenka. Having projects with onsite parking install conduit for future electric vehicle charging will provide the infrastructure needed for future installation when actual users or additional demand are identified. The downtown parking garages have had 16 charging stations in place since 2012 and have had an average of one use every two weeks per station. The Broadway Place South Garage with housing above has averaged one use per month for each of the two charging stations, for a total of 2 hours of charging over the two and a half years since being installed.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>Focused on building energy performance – all projects would perform at least 10-15% more efficiently than the performance established in the Oregon Energy Efficiency Specialty Code through one of several pathways.</p> <p>Additionally, all projects that provide onsite parking will be required to install conduit for future electric vehicle charging stations.</p>	<p>Not required public benefit.</p> <p>One of eight possible public benefit categories for scoring points, based on the certification program:</p> <ul style="list-style-type: none"> – 100 points for LEED certification – 25 – 75 points for Earth Advantage Silver, Gold, Platinum, respectively

REQUIRED PUBLIC BENEFIT

5. Neighborhood Engagement

Question: Should contact requirement:

- A. Stay the same
- B. Expand to specify principal of applicant entity participate in outreach and increase amount of outreach:
 - o Pre-mupte application submission,
 - o During design before drawings final, and
 - o Before project submitted for permits
- C. Other

Options: Pick A, B, or C

Recommendation: B

Rationale: Based on feedback from May and June neighborhood leader outreach to support neighborhood engagement and neighborhood livability.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>Applicant required to contact appropriate neighborhood association to share project information, to seek input, and to provide received comments with application.</p> <p>Specifically, one or more of the principals of the applicant entity must attend two neighborhood engagement opportunities (discussions/presentations):</p> <ul style="list-style-type: none"> – One of the opportunities must be prior to MUPTE application submission. – The second opportunity must be during the design process and before the final design drawings are completed. <p>Additionally, the neighborhood must have the opportunity to review and comment on the final design before the project is submitted for permits.</p> <p>Neighborhood association where the project is located will have two neighborhood representatives seated on the MUPTE Review Panel who can voice project specific neighborhood issues and concerns, including additional neighborhood specific public benefits, during the application review process.</p>	<p>Applicant required to contact appropriate neighborhood association to share project information, to seek input, and to provide received comments with application.</p>

REQUIRED PUBLIC BENEFIT

6. Boundary

Question A: Should the Downtown area be activated immediately?

Options: Yes or No

Recommendation: Yes.

Rationale: Puts program in place to respond to three known projects: Obie's development on 6th Avenue, Brokaw development on East Broadway, and EWEB Riverfront redevelopment.

Question B: Should the boundary include other areas (sections along the six Envision Eugene Corridors and another core commercial area) that would be inactive (not yet eligible for applications)?

- B. Mid-town
- C. South Willamette
- D. West 11th
- E. 6th/7th Trainsong Highway 99 Corridor
- F. Valley River Center commercial area
- G. North Franklin
- H. South River Road
- I. Mid-River Road
- J. North River Road
- K. South Coburg Road
- L. Mid-Coburg Road
- M. North Coburg Road

Options: Yes or No; If No, include which areas B through M?

Recommendation: Yes.

Rationale: Aligns with Envision Eugene implementation.

Question C: Should areas outside of downtown only be activated after one of the following two actions occur?

- 1) Area planning that addresses design and transitions such as in the South Willamette Pilot Project
- 2) City-wide code amendments that address transitions (also requires neighborhood request for activation)

Options: Yes or No

Recommendation: Yes

Rationale: Supports neighborhood engagement and livability. Deemed reasonable by the Technical Resource Group of Envision Eugene and neighborhood leaders who attended the June meetings.

Boundary Required Public Benefit Continued...

Question D: Should individual sites in inactive boundary areas be eligible if brought forward by a partnership of property owner / neighborhood as an “opportunity site”?

Options: Yes or No

Recommendation: Yes

Rationale: Aligns with Opportunity Siting policy direction. Supports neighborhood engagement and livability. Deemed reasonable by the Technical Resource Group of Envision Eugene and neighborhood leaders who attended the June meetings.

<i>Recommendation Boundary</i>	<i>Old / Suspended Program Boundary</i>
<p>Downtown area activated as soon as City Council lifts program suspension (current boundary plus one property on 11th & Lincoln that was in the 2004 to 2011 boundary and EWEB property north of 4th Avenue)</p> <p>Area eligible for applications after area planning or city-wide code amendments to include EE corridors & primary commercial area:</p> <ul style="list-style-type: none"> - Mid-town - South Willamette - West 11th - 6th/7th Trainsong Highway 99 Corridor - Valley River Center commercial area - North Franklin - South River Road - Mid-River Road - North River Road - South Coburg Road - Mid-Coburg Road - North Coburg Road <p>Site within inactive boundary eligible if brought forward by a partnership of property owner / developer / neighborhood as an “opportunity site”</p>	<p>Downtown Plan Area</p>

REQUIRED PUBLIC BENEFIT

7. Affordable Housing

Question A: Should a fee be charged to each project that goes to a dedicated affordable housing/emergency shelter fund?

Options: Yes or No

Recommendation: Yes, fee

Question B: What % of the total MUPTE benefit for the 10-year benefit 5-10%?

Options: ___% or sliding scale reviewed by Panel

Recommendation: 10%

Rationale: The MUPTE affordable housing fee would generate a local, more flexible source of funding to support affordable housing not constrained by federal regulations. For example, the fee could be a source of predevelopment funds to replace HOME funds that are no longer eligible for that use. Based on the recommendation from the Housing Policy Board Committee. The fee is preferred over the provision of affordable units within MUPTE projects because:

- Provision of units would provide a shorter period of benefit when compared to the benefit periods attained through City affordable housing work. In addition, there could be difficult displacement issues when the period of affordability ends and the owner raises the rents;
- Paying the fee is more efficient for all parties. For-profit developers do not have experience in collecting income documentation. Record keeping, reporting, and monitoring are costly for owners and City staff.
- Mixed-income projects are highly unlikely (based on the MUPTE program history from 1989 – 2004, when the City last required an affordable housing component in MUPTE projects);
- Eliminates the need to reach agreement on the level of affordability for the units (percentage Area Median Income), which would be difficult; and
- Funds collected through fee will leverage other funds in projects.

Additionally, the Committee agreed that the fee could be waived at Council discretion in existing low-income areas, due to both the economic feasibility implications and the Housing Dispersal Policy, in that any new housing in that area could be viewed as a public benefit. As a reminder, the Committee was comprised of Norton Cabell, Morgan Greenwood, Councilor Chris Pryor, Virginia Thompson, John Vanlandingham, Jacob Fox (HACSA), Kristen Karle (SVDP), Richard Herman (Metro), and Susan Ban (Shelter Care). The Developer Stakeholder Group also concluded that an affordable housing fee would be preferable to providing units.

The City has a 20-year property tax exemption for affordable housing (LIRPTE), which the City of Portland does not currently have. Since 1990, LIRPTE has benefited 1,168 affordable housing units.

If the potential volume cap of 1,500 MUPTE units is reached, and depending on the number, size, and value of projects, preliminary estimates indicate that the fee could potentially generate an estimated one to three million dollars dedicated to affordable housing / emergency shelter.

Affordable Housing Required Public Benefit Continued...

<p><i>Recommendation Affordable Housing</i></p>	<p><i>Old / Suspended Program Affordable Housing</i></p>
<p>Required payment to dedicated affordable housing/emergency shelter of 10% of the total MUTPE benefit for the 10-year benefit.</p> <p>Not paid in the West 11th or 6th/7th Trainsong Highway 99 Corridor areas as additional incentive for multi-unit housing.</p>	<p>Not a required public benefit.</p> <p>One of eight possible public benefit categories for scoring points, based on the number of units dedicated to rental housing that is affordable to households at 60% of area median income at 10 points per unit.</p>

REQUIRED PUBLIC BENEFIT

8. Local Economic Impact

Question A: Should a local economic impact plan be required with the following features:

- goal of a set percentage dollar volume of the combined professional services and construction contracts to local firms
- local is Lane County
- Minority and Women Business Enterprises (MWBE) efforts consistent with what City requires of itself and of contractors it hires
- awarded projects be required to follow wage, tax, and licensing laws

Options: Yes or No

Recommendation: Yes

Rationale: Construction stakeholder group and Developer stakeholder group recommended the focus be on firms (rather than employees) because:

- local firms hire local works as normal course of business
- tracking the many workers per project would be extensive
- construction workers are transient
- local firms have reputation at stake / motivated to comply with laws to increase likelihood of getting the next job
- local firms pay local taxes

MWBE section is aligned with the City’s internal practices. Wage, tax, and licensing laws section based on feedback from Representative Holvey and the Human Rights Commission subcommittee, with additional input from the City Attorney. Rights Assistance Program added based on feedback from Human Rights Commission subcommittee.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>Applicant to provide a plan for meeting the goal to provide for more than 50% of the dollar volume of the combined professional services and construction contracts include local firms. A local firm is one based in Lane County.</p> <p>Applicant must ensure that qualified Minority and Women Business Enterprises (MWBE) have an equitable opportunity to compete for contracts and subcontracts, with approved applicants encouraged to use specific practices.</p> <p>Awarded projects must follow wage, tax, and licensing laws, with specific due diligence and documentation steps.</p> <p>Awarded projects must post information on the Rights Assistance Program in English and Spanish.</p>	<p>Not a required public benefit.</p>

<i>Recommendation Continued... Local Economic Impact</i>	<i>Old / Suspended Program Continued... Local Economic Impact</i>
<p>As noted in the introduction, failure to comply with these (and all MUPTE) requirements may result in an administrative civil penalty or termination of the tax exemption.</p>	

REQUIRED PUBLIC BENEFIT

9. Project Need

Question: For determining the number of years of exemption at the time of application, should the max cash-on-cash return be 10%?

Options: Yes or No, higher / No, lower

Recommendation: Yes

Rationale: As requested by several councilors and deemed reasonable by the Developer Stakeholder group.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>Projected financials to show the project:</p> <ul style="list-style-type: none"> ○ Would not be possible “but for” the tax exemption, and ○ Will not exceed overall average annual rate of 10% cash-on-cash rate of return for the project with MUPTTE for the maximum period of exemption (10 years). <p>If the projected overall average annual rate of return for the maximum exemption period is:</p> <ul style="list-style-type: none"> ○ Less than 10% and the Required Public Benefits are met, then the project be eligible to receive the maximum 10-year exemption, ○ Exceeds 10%, then: <ul style="list-style-type: none"> A. The term of the exemption will be decreased by the number of years necessary to bring the rate of return down to 10%, or B. The applicant can propose adding project elements from the Additional Public Benefits Criteria to increase the term of the exemption up to 10 years. <p>Submits with application: 10-year proforma and analysis of 10-year return.</p>	<p>Projected financials to show the project:</p> <ul style="list-style-type: none"> ○ Would not be possible to build “but for” the tax exemption. <p>Submits with application: 1 year proforma</p>

ADDITIONAL PUBLIC BENEFIT

Additional Public Benefit Criteria Concept

Question: In the event that a project is not eligible for a 10-year exemption due to Required Public Benefit #9 “Project Need,” do you want to have a way for an applicant to qualify for additional exemption years by providing additional public benefits: Documented Local Economic Impact, Location, Project Features.

Options: Yes or No

Recommendation: Yes

Rationale: Having additional public benefits provides a flexible menu of options, can enable higher quality projects, provides ability for a project to be more responsive to needs expressed by neighborhood, and adds to the public benefits. Project features add cost to project and benefits to community. Item I. includes green vehicle LEED requirement to cover installation of electric vehicle charging stations as recommended by Representative Barnhart. Item J. based on feedback from May and June neighborhood leader outreach to support neighborhood engagement and neighborhood livability.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>Applicants have the ability to earn additional years by providing Additional Public Benefits in the following three categories:</p> <p>Documented Local Economic Impact The extent to which the project:</p> <ul style="list-style-type: none"> ○ Meets the goal established in the Local Economic Impact Plan (Required Public Benefit), ○ Demonstrates solicitation of bids from WMBE, and ○ Commits to completing certified payroll. <p>Location Projects located within:</p> <ul style="list-style-type: none"> ○ The Downtown Plan Area, ○ A HUD low-mod income area, ○ On a brownfield site, or ○ Projects that include the redevelopment of a valuable historic resource. 	<p>Council able to approve exemption for fewer years. Nothing in the program ordinance specifies the conditions under which the Council may limit the number of years.</p> <p>Documented Local Economic Impact Not included</p> <p>Location Two of eight possible public benefit categories for scoring points, based on:</p> <ul style="list-style-type: none"> – Location within the <i>Downtown Area Plan</i> at 100 points. – <i>Historic Sensitivity</i> for any project that is immediately adjacent or contiguous to a historic locale shall include a plan to mitigate impacts to the historic locale. The plan needs to be reviewed and accepted by a PDD staff person and have an accompanying confirmation letter for 25 points.

<p style="text-align: center;"><i>Recommendation Continued... Additional Public Benefit Concept</i></p>	<p style="text-align: center;"><i>Old / Suspended Program Continued... Additional Public Benefit Concept</i></p>
<p>Project Features The extent to which the project incorporates the following features:</p> <ul style="list-style-type: none"> A. Payment of an increased affordable housing fee, B. Exceed the Green Building Required Public Benefit Criteria, C. Provision of Americans with Disabilities Act (ADA) <i>accessible</i> dwelling units. [This is beyond the code requirements. The building code requires that projects include a minimum number of Americans with Disabilities Act (ADA) <i>adaptable</i> dwelling units] D. Provision of dwelling units available for home ownership, E. Inclusion of open space, community gardens, or gathering space that is accessible to the surrounding community, F. Inclusion of ground floor commercial/retail that addresses a neighborhood need, G. Design excellence and neighborhood compatibility, H. Provision of embedded or structured parking, I. Encourage alternative transportation options, including bus passes, car share, bike share, bus shelter, pedestrian connections, meeting LEED v4 'Green Vehicle' Credit Description, and minimum parking where appropriate, and J. Other features identified by neighborhood through the engagement process. 	<p>Project Features Three of eight possible public benefit categories for scoring points, based on:</p> <ul style="list-style-type: none"> - ADA <i>accessible</i> units in the project at 10 points/unit. - Homeownership: 50% or more of the housing dedicated to homeownership earned 100 points. - Parking spaces provided beyond the number required by the Code (only for projects within the Residential Parking Permit Program zones) at 10 points/parking space.

OTHER PROGRAM REQUIREMENTS

Financial Reporting

Question: Should the project owners submit annual accountant-prepared financial information to evaluate cash-on-cash return and, in the first year, provide a list of construction labor residence information?

Options: Yes or No

Recommendation: Yes

Rationale: Used by City Manager to analyze the overall effectiveness of the program and may be used in the aggregate as part of the Annual Report.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>During exemption period, project owner must submit annual accountant-prepared financial information to evaluate a to-date cash on cash rate of return for the project:</p> <ul style="list-style-type: none"> ○ Audited financial statements ○ Tax returns ○ 10-year operating cash flow with to-date rate of return ○ Year 1 to include list of construction labor residence information (zip codes) <p>Information submitted by owners to be kept confidential to the extent state public records law allows.</p>	<p>Not included</p>

OTHER PROGRAM REQUIREMENTS

Program Volume Cap

Question A: Should the program have a volume cap of 1,500 units?

Options: Yes or No (If No, Unit or monetary cap; cumulative or annual)

Recommendation: Yes

Rationale: Capping the cumulative number of units is aligned with Envision Eugene identified gap using updated information regarding the 20-year projection for multi-family homes and land capacity. Currently there is insufficient demand to warrant a competitive process. Having an annual cap would unnecessarily limit multi-unit housing redevelopment opportunities. Program has averaged just under one project per year over the 30 active years of the program.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>Program goal is to assist in the creation of 1,500 new, multi-family housing units through redevelopment (after adoption of the 2014 ordinance).</p> <p>Cap to be reviewed annually by the MUPTE Review Panel as part of the Annual Report. At such time that the MUPTE-assisted number of dwelling units constructed reaches the cap, council shall conduct a comprehensive review to determine if continuation of the program is desired.</p>	<p>Not included</p>

OTHER PROGRAM REQUIREMENTS

MUPTE Review Panel

Question A: Should a Review Panel replace the current Loan Advisory Committee review to advise the City Manager with the panel features listed below?

- make recommendation related to Additional Public Benefit Criteria, when applicable (if Additional Public Benefit Criteria was approved above)
- assist with an annual report that also covers the program volume cap
- include members from the following sectors:
 - 4 with technical expertise, such as financial, development, architects/green building, labor/construction
 - 4 neighborhood leaders
 - 2 at-large, standing representatives
 - 2 project specific representatives
- Mayor appointed the neighborhood leaders

Options: Yes or No

Recommendation: Yes

Rationale: Panel composition includes feedback from the May and June neighborhood leader outreach to support neighborhood engagement.

<i>Recommendation</i>	<i>Old / Suspended Program</i>
<p>A newly formed MUPTE review panel to provide a third-party review of the MUPTE program for the City Manager including:</p> <ul style="list-style-type: none"> • Review of project applications, with emphasis on analyzing the project’s financial projections. • Review applicant’s conformance with the Required Public Benefits and any proposed Additional Public Benefit Criteria and make recommendations regarding approval/denial of the tax exemption to the City Manager. • Assist the City Manager in preparing an Annual Report on the MUPTE program that will also cover the program volume cap. • The Panel will be comprised of eight members with equal representation from technical interests and neighborhoods: <ul style="list-style-type: none"> - 2 at-large neighborhood representatives; appointed by the Mayor - 2 neighborhood representatives from the specific neighborhood in which a proposed MUPTE project is located - 4 technical interests (such as, architect/green building, lender, labor, and developer) <p>Review Panel members would sign a confidentiality agreement.</p>	<p>The City’s Loan Advisory Committee reviews the projects financial projections and comes to a conclusion on whether the tax exemption is needed.</p>



Creating Stable, Safe Housing Opportunities for Eugene Residents

The City of Eugene seeks to create a range of stable, safe, and affordable housing opportunities for area residents through a suite of funding, programs, and supportive policies. Eugene programs provide financial and regulatory incentives for the development of permanent, transitional and emergency housing by primary nonprofit partner organizations. City programs are guided through the Eugene-Springfield 2010 Consolidated Plan. Through the investments of the City of Eugene and many other organizations, our community has created over 3,000 units of permanent affordable housing,

Affordable Housing Development – Housing Development programs includes funding for acquisitions, new development construction, rehabilitation, and project-related soft costs incurred by the jurisdictions. Eugene awards funds in this category through an annual Housing RFP. Subsidies for development include land, HOME Investment Partnership Program funds, system development charge waivers, and property tax exemptions. Regulatory incentives include density bonuses and reduction of parking requirements. Projects receiving funds include small developments for special need populations as well as medium sized affordable housing development.

Low-income Rental Housing Property Tax Exemption (LIRPTE) and Low-Income Housing Property Tax Exemption (LITE): Both the low-income housing property tax exemption (LITE) and the 20 year low-income rental housing property tax exemption (LIRPTE) are enabled by state statute. A LITE provides an annual exemption for properties that are used for the purposes of a nonprofit corporation. This housing is not required to be rental housing. For more information, refer to Eugene City Code 2.910-2.922. The LIRPTE provides a 20-year exemption for properties constructed after February 12, 1990 and is offered for rent or held for the purpose of developing low-income rental housing. An applicant requesting a 20-year exemption is not required to be a nonprofit in certain instances. For more information, refer to Eugene City Code 2.937-2.940. Since 1990, LIRPTE has benefited 1,168 affordable housing units.

Housing Rehabilitation Fund – The Housing Rehabilitation Fund (HRF) is a revolving loan fund created with CDBG funds. The HRF generates \$400,000 per year in program income which is made available for low-interest loans for rehabilitation of rental and homeownership units for low-income persons. This is a critical resource for maintain the existing housing units available to low-income persons.

Emergency Home Repair – The program offers emergency repair grants and loans of up to \$5,000 to very low-income homeowners for minor repairs and accessibility features. Grants are available for accessibility improvements for rental units occupied by very low-income tenants with disabilities. About 30 repair projects are completed each year.

Capital Grants for Emergency and Transitional Housing Facilities – This program provides grants for acquisition or rehabilitation of facilities for nonprofit organizations that provide serves for low-income persons. Such facilities include emergency and transitional housing for people who are homeless or at risk of homelessness.

Temporary Residences for Persons Experiencing Homelessness – In addition, the City of Eugene supports programs for homeless persons to find safe spaces through the Homeless Car Camping Program, Opportunity Village, and Rest Stops.

Condominium and Manufactured Home Park Conversions – The City of Eugene regulates the conversion of rental units to condominiums and the closure of manufactured home parks in order to provide appropriate supports for the tenants residing in such properties.

Rental Housing Code – This code creates minimum standards for habitability of rental properties and establishes a process to help renters and owners resolve concerns.