

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Action: An Ordinance Concerning Multiple-Unit Housing Property Tax Exemptions and Amending Sections 2.945 and 2.947 of the Eugene Code, 1971

Meeting Date: September 26, 2011
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 4
Staff Contact: Nan Laurence
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ISSUE STATEMENT

City Council is asked to adopt an ordinance adopting a new sunset date for the Multi-Unit Property Tax Exemption (MUPTE) program in the Downtown Plan area. The ordinance also allows for an exemption to include the commercial portion of a multi-unit housing project to the extent that the commercial property is required or considered to be a public benefit. As previously, each MUPTE would be considered by the council on a case-by-case basis.

BACKGROUND

The Multi-Unit Property Tax Exemption (MUPTE) program is enabled by state legislation (ORS 307.600) and designed to encourage higher density housing and redevelopment in the core area and along transit corridors. The program provides a 10-year property tax exemption on qualified improvements; the land continues to be taxed during the exemption period. See Eugene City Council Agenda Item Summary for July 20, 2011, for additional background information.

On July 20, 2011, the council considered MUPTE in the context of Envision Eugene and directed the City Manager to proceed in two phases: 1) prepare an ordinance and hold a public hearing to extend the sunset date for MUPTE within the Downtown Plan area, and 2) conduct additional work sessions in the fall to discuss other priority areas for council consideration and future action.

On September 19, the council held a public hearing to consider an ordinance to extend MUPTE for the Downtown Plan area and allow for an exemption to include the "... commercial portion of a multi-unit housing project to the extent that the commercial property is a required design or public benefit element of a multiple-unit housing construction, addition or conversion approved by an authorizing city." No public testimony was given and the public hearing was closed.

The City Attorney recommends modifying the ordinance considered at the public hearing to make it clear that the new provisions would apply only to new applications. No change to the substance of the ordinance is proposed. Section 2 of the ordinance attached to the AIS reflects this modification.

Timing & Next Steps

City staff anticipates returning to the council for a work session later in the fall to discuss the application of MUPTE in areas other than the Downtown Plan area. The areas proposed for council discussion will reflect the insights and implementation strategies emerging from Envision Eugene.

RELATED CITY POLICIES

Encouraging housing in the core area is consistent with numerous adopted planning and policy documents. Examples include:

Growth Management Policies

- Policy 1 Support the existing Eugene Urban Growth Boundary by taking actions to increase density and use on existing vacant land and under-used land within the boundary more efficiently.
- Policy 2 Encourage in-fill, mixed-use, redevelopment, and higher density development.
- Policy 3 Encourage a mix of business and residential uses downtown using incentives and zoning.

Refinement Plans

The Downtown Plan and relevant neighborhood refinement plans include policies encouraging residential development at higher density as well as a variety or mix of structure types providing a range of housing opportunities.

Envision Eugene

The MUPTE program is consistent with the current Envision Eugene work and, specifically, the “Promote compact urban development and efficient transportation options” pillar.

Eugene Counts

Increased downtown development is one of the desired outcomes identified under the Council Goal of Sustainable Development.

COUNCIL OPTIONS

1. Adopt Council Bill 5055 adopting a new sunset date for the Multi-Unit Property Tax Exemption program in the Downtown Plan area.
2. Request modifications to Council Bill 5055 adopting a new sunset date for the Multi-Unit Property Tax Exemption program in the Downtown Plan area.
3. Do not adopt Council Bill 5055 adopting a new sunset date for the Multi-Unit Property Tax Exemption program in the Downtown Plan area.

CITY MANAGER’S RECOMMENDATION

The City Manager recommends adoption of Council Bill 5055 adopting a new sunset date for the Multi-Unit Property Tax Exemption program in the Downtown Plan area.

SUGGESTED MOTION

Move to adopt Council Bill 5055 adopting a new sunset date for the Multi-Unit Property Tax Exemption program in the Downtown Plan area.

ATTACHMENTS

- A. Proposed Ordinance

FOR MORE INFORMATION

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ORDINANCE NO. _____

AN ORDINANCE CONCERNING MULTIPLE-UNIT HOUSING PROPERTY TAX EXEMPTIONS AND AMENDING SECTIONS 2.945 AND 2.947 OF THE EUGENE CODE, 1971.

The City Council of the City of Eugene finds as follows:

A. In accordance with State law, Sections 2.945 and 2.947 of the Eugene Code 1971, were adopted setting forth provisions regarding approval of multiple-unit housing property tax exemptions. One of the criteria for approving a multiple-unit housing property tax exemption required that the project be completed on or before January 1, 2012.

B. State law has recently been amended and extended the January 1, 2012 project completion deadline to January 1, 2022, and authorized the granting of an exemption for a commercial use that is part of the multiple-unit housing building.

C. The Council has determined that Sections 2.945 and 2.947 of the Eugene Code 1971, should be amended to allow the City's multiple-unit housing property tax exemption program to continue, consistent with the new State law, for the downtown core. Although this Ordinance extends the program at this time only for the downtown core, the Council will be considering in the near future what other parts of the City should be eligible for the multiple-unit housing property tax exemption program.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 2.945 and 2.947 of the Eugene Code, 1971, are amended to provide as follows:

2.945 Multiple-Unit Housing – Property Tax Exemption.

(1) The provisions of ORS 307.600 to 307.637 enable cities to grant local property tax exemptions for multiple-unit housing located in core and transit oriented areas designated by the city. There is a need and demand for better housing at rental rates or sale prices accessible to a broad range of the general public in the core and transit oriented areas which is not likely to be produced without this incentive. This incentive is intended to:

(a) Stimulate the construction of transit supportive multiple-unit housing in the city's core and transit oriented areas to improve the

balance between the residential and commercial nature of those areas, and to ensure full-time use of the areas as places where citizens of the community have an opportunity to live as well as work;

- (b) Encourage the development of vacant or under utilized sites in core and transit oriented areas, rather than sites where sound or rehabilitable multiple-unit housing exists;
- (c) Encourage the development of multiple-unit housing, with or without parking, in structures that may include ground level commercial space;
- (d) Encourage the development of multiple-unit housing, with or without parking, on sites with existing single-story commercial structures;
- (e) Encourage the development of multiple-unit housing, with or without parking, on existing surface parking lots; and
- (f) Preserve existing publicly assisted housing that is affordable to low income persons by providing the incentives authorized in ORS 307.600 to 307.637 to existing multiple-unit housing that is subject to a low income housing assistance contract with an agency or subdivision of this state or the United States.

(2) ~~[In order to provide the incentives described in subsection (1) of this section,]~~ ~~[t]~~ The provisions of ORS 307.600 to 307.637 are hereby adopted as the city's multiple-unit housing property tax exemption program ~~[for the following areas]~~. **Sections 2.945 and 2.947 of this code shall apply in the downtown area depicted on Map 2.945(2) attached to Ordinance _____ and appended to chapter 2 of this code.**

~~[(a) The city's core area shall include the area generally bounded on the north by 1st Avenue, then south on Lawrence Street to 7th Avenue, then east to Lincoln Street, then south to 13th Avenue, but including a quarter block section on the northwest corner of Lincoln Street and 14th Avenue, then east to Olive Street, then south to 17th Avenue, then east to Kincaid Street, then north to the Willamette River and along the Willamette River to 4th Avenue, then west to Pearl Street, then north to 3rd Avenue, then west to Lincoln Street, then north to 1st Avenue, excepting therefrom Tax Lots 17-03-30-43-0010 and 17-03-30-44-04700 as more particularly depicted on Map 2.945(2)(a) attached to Ordinance 20424 and appended to chapter 2 of this code.~~

~~(b) The city's transit oriented area shall include the area generally bounded by a line that begins at the NW corner of the 5th Avenue Alley and Lincoln Street, then west on 5th Avenue Alley (including tax lots 17-04-36-12-06300, 17-04-36-12-06400, 17-04-36-12-07900 in the area the alley does not go through) to Chambers Street, then north on Chambers Street to Roosevelt Boulevard, then west on Roosevelt Boulevard to Bethel Drive, then north and~~

~~northwest on Bethel Drive to its intersection with Highway 99 North, then south on Highway 99 North to West 7th Avenue Alley, then east to the SW corner of Lincoln Street (including tax lots 17-04-35-11-00400, 17-04-35-11-00300, 17-04-35-11-00300, 17-04-35-11-00200, 17-04-36-23-00502, 17-04-36-23-00101, 17-04-36-23-00501, 17-04-36-21-06800, 17-04-36-23-00300, 17-04-36-21-06400, 17-04-36-12-14701, 17-04-36-12-15100, 17-04-36-12-16000, 17-04-36-12-16300, 17-04-36-12-157000, 17-04-36-12-16400, and 17-04-36-12-16600), then north to the NW corner of the 5th Avenue Alley and Lincoln Street, as more particularly depicted on Map 2.945(2)(b) attached to Ordinance 20424 and appended to chapter 2 of this code.]~~

- (3)** Applications for property tax exemption hereunder shall be filed with the city manager on or before February 1 immediately preceding the first assessment year for which exemption is requested and shall be accompanied by an application fee. The application shall be processed in accordance with standards and guidelines adopted by administrative rule of the city manager. As used in this section and section 2.947 of this code and the standards and guidelines, "city manager" includes the manager's designee. The standards and guidelines adopted by the city manager in the manner described in section 2.019 of this code shall contain provisions relating the net financial benefit from the property tax exemption to the public benefits provided by the improvements, including a public benefit scoring system for evaluating applications.
- (4)** Upon receipt of the city manager's written recommendation on an application, the council shall consider the application, the city manager's written recommendation, and any written comments submitted during the 30 day comment period on the application at its next scheduled meeting. If the council fails to act on an application which has been timely referred to it as provided in the standards and guidelines within 180 days from the date it was filed, the application shall be deemed approved and processed thereafter in accordance with subsection (9) of this section.
- (5)** At the meeting at which the city manager's recommendation on an application is considered, the council shall adopt a resolution approving the application and granting the property tax exemption, or adopt a resolution disapproving the application and denying the property tax exemption.
- (6)** In order to approve an application, the council must find that:
 - (a) The project will provide multiple-unit housing of five or more units;
 - (b) The project is located within the boundaries of the core or transit oriented areas described in subsection (2) above;
 - (c) The proposal could not financially be built "but for" the tax exemption;
 - (d) The applicant solicited comments from city-recognized affected neighborhood associations;

- (e) The requirements in the standards and guidelines related to proximity to historic resources have been satisfied;
 - (f) The applicant has complied with the provisions of the standards and guidelines;
 - (g) In case of multiple-unit housing located in the transit oriented area described in subsection (2)(b) of this section, the structure must:
 1. Be physically or functionally related to a light rail or mass transportation system; and
 2. Enhance the effectiveness of a light rail or mass transportation system.
 - (h) In the case of the construction of, or the addition or conversion to multiple-unit housing:
 1. The construction, addition or conversion will be completed on or before January 1, ~~[2012]~~**2022**;
 2. The owner has agreed to include in the construction, addition or conversion, as a part of the multiple-unit housing, one or more public benefits, including but not limited to **commercial uses of a portion of the multiple-unit housing structure**, open spaces, parks and recreational facilities, common meeting rooms, child care facilities, transit amenities and transit or pedestrian design elements, or benefits otherwise specified in the standards and guidelines;
 3. The proposed construction, addition or conversion project is, or will be at the time of completion, in conformance with all local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS chapters 195, 196, 197, 215 and 227, that are applicable at the time the application is approved;
 - (i) In the case of multiple-unit housing subject to a low income housing assistance contract with an agency or subdivision of this state or the United States,
 1. The application for exemption was made on or before January 1, ~~[2012]~~**2022**;
 2. It is important to the community to preserve the housing as low income housing and it is probable that the housing would not be produced as or remain low income housing without the exemption being granted;
 - (j) The multiple-unit housing is not designed for, and will not be used as transient accommodations; and
 - (k) Granting the application is in the public interest. In making this determination, council shall consider, among other things, the number of points awarded based on the public benefit scoring system contained in the standards and guidelines.
- (7)** Unless the council makes each of the findings required by subsection (6) of this section, the council shall deny the application. In addition to the owner's name and address, and a legal description of the

assessor's property account number for the subject multiple-unit housing, the resolution approving the application shall contain the above findings and set forth the specific conditions of approval or exclusions therefrom and specify the percentage and duration of the exemption. A resolution denying an application shall set forth the specific reasons for denial.

- (8) The city manager shall forward to the applicant a copy of the resolution adopted by the council within 10 days from the date the council acts on the application, and on or before April 1 following approval, shall file with the county assessor a copy of the resolution approving an application.
- (9) With respect to an application deemed approved through inaction of the council under subsection (4) of this section, on or before April 1 following the expiration of the 180-day period, the city manager shall file with the county assessor an administrative order containing the same findings and information as required to be set forth in a resolution approving an application and forward a copy thereof to the applicant.
- (10) In the case of a structure to which stories or other improvements are added or a structure that is converted in whole or in part from other use to dwelling units, only the increase in value attributable to the addition or conversion [shall] **may** be exempt from taxation.
- (11) **Notwithstanding subsection (6) of section 2.947 of this code**, [if] **if** the multiple-unit housing is **or becomes** subject to a low income rental assistance contract with an agency of this state or the United States, the city may extend the exemption through June 30 of the tax year during which the expiration date of the contract falls.

2.947 Multiple-Unit Housing - Termination of Approval, Review.

- (1) After a resolution approving an application has been filed, if the city manager finds that:
 - (a) Construction of multiple-unit housing was not completed within the time specified in the resolution, and no extensions as provided in subsection (5) hereof have been granted, or
 - (b) The applicant has failed to comply with the provisions of ORS 307.600 to 307.637, the provisions of this code, any provisions of the standards and guidelines adopted by the city manager, or
 - (c) The applicant has failed to comply with any conditions imposed in the resolution approving the application, or
 - (d) Construction of multiple-unit housing was not completed on or before January 1, [2012] **2022**, or
 - (e) In the event units within the development are sold individually, a unit owner fails to comply with applicable requirements described in paragraphs (b) or (c) of this section,the city manager shall notify the council; the owner of the property, at the owner's last known address; and any known lender, at the lender's last known address, of the manager's intention to recommend to the

council that the exemption be terminated. The notice shall clearly state the reasons for the proposed termination, and shall require the owner to appear before the council, at a time specified in the notice, which shall not be less than 20 days from the date the notice was mailed, to show cause, if any exists, why the exemption should not be terminated.

- (2) If the owner fails to appear and show cause why the exemption should not be terminated, the city shall further notify every known lender of the owner's failure to appear and shall allow the lender a period of not less than 30 days, beginning with the date that the notice of failure to appear and show cause is mailed to the lender, to cure any noncompliance or to provide adequate assurance that the noncompliance will be remedied.
- (3) If the owner fails to appear before the council at the time specified in the notice, or if the owner appears and fails to show cause why the exemption should not be terminated, and a lender fails to cure or give adequate assurance that any noncompliance will be cured, the council shall adopt a resolution terminating the exemption, which shall contain its findings in support thereof. Copies of the resolution shall be filed with the county assessor and mailed to the property owner, at the owner's last known address, and to any lender at the lender's last-known address, within 10 days from the date adopted. If a determination is made that the exemption should continue as previously granted, the council shall enter written findings of record in support of the continued exemption and forward a copy thereof to the property owner and to any lender within 10 days from the date of the hearing.
- (4) All reviews of council action in denying, approving, or terminating an application shall be governed by the procedures set forth in ORS 34.010 to 34.100, and correction of assessments and tax rolls and the evaluation of the property shall be in conformity with ORS 307.687. The council's action on an exemption shall not be a land use decision for purposes of administrative review.
- (5) If construction, addition, or conversion of multiple-unit housing is not completed by January 1, [2012]**2022**, upon receipt of a request from the property owner, the council may, by resolution, extend the deadline for completion of construction of multiple-unit housing for a period not to exceed 12 consecutive months, if it finds the failure to complete construction by the time specified in the resolution was due to circumstances beyond the control of the owner, and that the owner had been and could reasonably be expected to act in good faith and with due diligence.
- (6) In any event, no multiple-unit housing granted an exemption by the council [~~shall~~] **may** be exempt from ad valorem taxation for more than 10 successive years. The first year of exemption [~~shall be~~] **is** the assessment year beginning January 1 immediately following the calendar year in which construction, addition or conversion is completed, determined by that stage in the construction process when,

pursuant to ORS 307.330 the improvement would have gone on the tax rolls in the absence of the exemption. The exemption [shall] **may** not include the land, nor any improvements located thereon that are not a part of the multiple-unit housing but may include **commercial use of a portion of the structure and** parking constructed as part of the multiple-unit housing construction, addition or conversion, and [shall be] **is** in addition to any other exemption provided by law. However, no property [shall] **may** be exempt beyond 100 percent of its real market value.

- (7) Any exemption granted by the council shall terminate immediately, without right of notice or appeal, in the event the county assessor determines that a change of use to other than residential **or residential with commercial uses of a portion of the structure**, or housing has occurred for the multiple-use housing, or portion thereof, or if a low income housing assistance contract with an agency or subdivision of this state or the United States is breached or terminated prematurely, or a declaration as defined in ORS 100.005(12) is presented to the county assessor or tax collector for approval in connection therewith. Termination shall be in accordance with the provisions of ORS 307.627.

Section 2. Applications submitted or approved pursuant to Sections 2.945 and 2.947 of the Eugene Code, 1971, prior to the effective date of this Ordinance, shall be governed by the Code provisions that were in effect prior to the effective date of this Ordinance.

Section 3. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

___ day of _____, 2011

City Recorder

Approved by the Mayor this

___ day of _____, 2011

Mayor



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