

Memorandum

Date: July 30, 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 April 14 draft and the revised draft (July 30, 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 material change*)
2. **Boundary**
 - Added the following boundary areas so that all six Envision Eugene corridors and primary core commercial areas are included in the MUPTE boundary to support consistency with Envision Eugene implementation:
 - River Road
 - North Franklin
 - Coburg
 - Valley River Center commercial area
 - 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. The South Willamette area planning pilot project is an example 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.

3. **Compact Urban Development** (*formerly “Density”*)

For boundary areas other than Downtown, the area plan or other neighborhood process would set the requirement.

4. **Project Design / Compatibility**

Clarified that the basic design principals are those included in the *Community Design Handbook*, which will be finalized later this year.

5. **Green Building**

- Requirement applies to all boundary areas. Removed exemption for boundary areas C & D (6th/7th Trainsong Highway 99 Corridor and West 11th).
- Modified requirement to focus primarily on building energy performance as prioritized in Envision Eugene and the Climate and Energy Action Plan. Specifically, all MUPTE projects would perform at least 10-15% more efficiently than the performance established in the Oregon Energy Efficiency Specialty Code through one of the following 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 + annual energy use report

6. **Neighborhood Engagement**

- Added specificity on type and amount of outreach:
 - A. One or more of the applicant principals must participate
 - B. One meeting prior to MUPTE application submission
 - C. One meeting during the design process and before the final design drawings are completed
 - D. Opportunity to review and comment on the final design before the project is submitted for permits.
- Project specific neighborhood representatives seated on the MUPTE Review Panel (see Other Program Requirements #13 below).

7. **Affordable Housing** (*no change*)

8. **Local Economic Impact Plan** (*no change*)

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. The MUPTE Review Panel would consider the 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 *(no change)*

11. Location *(no change)*

12. Project Features

- Modified green building feature due to changes to Required Public Benefit Criteria.
- Added other features identified by neighborhood through the engagement process.

OTHER PROGRAM REQUIREMENTS

13. Financial Reporting *(no change)*

14. Program Volume Cap

Decreased the number of units to 1,500 (from 1,600) based on updated information regarding the 20-year projection for multi-family homes and land capacity.

15. MUPTE Review Panel

Added specificity to panel composition:

- Eight members
- Equal representation from neighborhoods and technical interests:
 - 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)

Revised MUPTE Criteria

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. 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.

3. Compact Urban Development

For the Downtown boundary area:

- Residential zones: 175% of minimum density for the zone with five units minimum¹
- Form-based zones with height limit of three or four stories: 30 units per acre with five units minimum
- Mixed-use development: five units minimum²
- 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.

4. 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.

5. 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

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.

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

6. 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.)

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.

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.

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

Awarded MUPTE projects must follow wage and tax 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.
- 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.

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 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 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 A117.1, 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 alternative transportation options, including bus passes, car share, bike share, bus shelter, pedestrian connections, 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.

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.