



COUNCIL ORDINANCE NO. 20556

COUNCIL BILL 5142

AN ORDINANCE CONCERNING MULTIPLE-UNIT PROPERTY TAX EXEMPTIONS AND SYSTEMS DEVELOPMENT CHARGES; AMENDING SECTIONS 2.945, AND 2.947 OF THE EUGENE CODE, 1971; AND ADDING SECTIONS 2.946 AND 7.731 TO THAT CODE.

ADOPTED: July 13, 2015

SIGNED: July 20, 2015

PASSED: 7:1

REJECTED:

OPPOSED: Taylor

ABSENT:

EFFECTIVE: August 20, 2015



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THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 2.945 of the Eugene Code, 1971, is 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)** The provisions of ORS 307.600 to 307.637 are hereby adopted as the city's multiple-unit housing property tax exemption program.
- (3)** Applications for property tax exemption hereunder shall be filed with the city manager and shall be accompanied by an application fee. The application shall contain the information required by, and be processed in accordance with, administrative rules adopted by the city manager in the manner described in section 2.019 of this code. Prior to filing the application, the applicant, including at least one of the applicant's principals, must have arranged for and attended one public engagement opportunity with residents in the neighborhood, including the board of any city-recognized affected

neighborhood association, and then included in the application copies of comments received from the meeting or documentation of the applicant's attempt to solicit comments.

- (4)** Following receipt of a completed application, the city manager shall retain an independent outside professional consultant to review the project's financial pro-forma, with the costs of that review to be paid for by the applicant. The city manager shall also convene the review panel authorized by subsection (13) of this section to review the application and the independent consultant's conclusions. The review panel shall make a recommendation to the city manager about whether the application meets the criteria in section 2.946, and provide any other comments about the project's financial projections. After the city manager receives the review panel's recommendation and comments, but in no event later than 135 days following submission of the application, the city manager shall provide the council with the city manager's recommendation on the application, and shall provide to the council the independent consultant's conclusions as well as the review panel's conclusions.
- (5)** 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 on the application. If the council fails to act on an application within 180 days from the date it was filed, the application shall be deemed approved and processed thereafter in accordance with subsection (10) of this section.
- (6)** At the meeting at which the city manager's recommendation on an application is considered, or at a subsequent meeting, 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.
- (7)** The council shall approve an application if the council determines that the criteria described in section 2.946 of this code have been met. The resolution approving the exemption shall set forth any specific conditions of approval. The exemption may not include the land or any improvements not a part of the multiple-unit housing. The exemption may include parking constructed as part of the multiple-unit housing construction, addition or conversion, and commercial property 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 the city. 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 may be exempt from taxation.
- (8)** If the council determines that one or more of the criteria in section 2.946 of this code are not met, the council shall deny the application. The resolution denying an application shall set forth the specific reasons for denial.
- (9)** 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. In addition, on or before April 1 following approval, the city manager shall file with the county assessor a copy of the resolution approving an application.
- (10)** With respect to an application deemed approved through inaction of the council under subsection (5) 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.

(11) 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 may be exempt from taxation.

(12) Notwithstanding subsection (6) of section 2.947 of this code, 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.

(13) Review Panel.

(a) The city manager shall create a review panel to provide third-party review of individual applications. The panel shall be comprised of the following members:

1. Two at-large neighborhood representatives selected by neighborhood association boards;
2. An additional two representatives selected by the board of the neighborhood association from the neighborhood in which a proposed project is located; and
3. Six technical professionals from the following six groups: architects/green building specialists; building trades union; developers; environmental professionals; public health professionals; and human rights representatives.

In order to be eligible to serve on the review panel, members must sign a confidentiality agreement in a form approved by the city manager.

(b) The review panel shall:

1. Review project applications, including compliance with the criteria contained in section 2.946 and the independent outside professional consultant's review of the proforma as described in subsection (4);
2. Midway through construction, upon completion of construction, and during the tax exemption period, assist the city manager in reviewing an approved project's compliance with the requirements of section 2.946 of this code, and the resolution approving the tax exemption; and
3. Assist the city manager in preparing annual reports to the council on the progress that will also include information about the program volume cap and review of the documentation required under subsection (3)(c) of section 2.946 of this code.

Section 2. Section 2.946 of the Eugene Code, 1971, is added to provide as follows:

2.946 Multiple-Unit Housing – Threshold Criteria and Public Benefits.

(1) Boundaries.

(a) Sections 2.945 through 2.947 of this code shall initially apply only to the property that is:

1. In the downtown area as depicted on Map 2.946 attached to Ordinance 20556 and appended to chapter 2 of this code; and

2. East of Charnelton Street.
- (b) The council may expand the boundaries covered by sections 2.945 through 2.947 of this code to include one or more of the areas listed in this subsection (b) upon city council's approval of:
1. Amendments to sections 2.945 to 2.947 of this code that require that a percentage of the units in an approved tax exemption project must be workforce housing as that term is defined in subsection (2)(h) of this section 2.946, or that the developer must make a commensurate "in-lieu of" payment to the city that is based on workforce housing rental rates, and that those payments shall be used to facilitate or develop workforce housing; and
 2. Refinement plan policies that specifically provide for multiple-family and mixed use projects within that area, and that those policies are acknowledged pursuant to ORS 197.625.

The areas that the council may approve pursuant to this subsection are: the downtown area west of Charnelton; 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; and North Coburg Road. Any resolution approving one or more of these areas shall have a map appended to it identifying the precise boundaries of the area being approved.

(2) Criteria for Approval. No exemption may be approved under subsection (7) of section 2.945 of this code unless all of the following criteria are met:

- (a) Eligible Project Types. The project will provide multiple-unit housing of five or more new units through new construction, an addition to an existing structure, or a conversion of a structure from another use to dwelling units. Notwithstanding the preceding sentence, no exemption may be granted for a project designed for the leasing of individual rooms or beds, rather than entire apartment units, or a project otherwise designed primarily for individuals attending college.
- (b) Project Need. The proposal could not financially be built "but for" the tax exemption. The burden is on the applicant to demonstrate that absent the exemption, the project would not be financially viable.
- (c) Compact Urban Development. For the downtown area, the project meets one of the following density requirements:
 1. Residential zones: 175% of minimum density for the zone.
 2. Form-based zones with height limit of three or four stories: 30 units per acre.

For any other area that council activates under subsection (1)(b) above, density requirements shall be stated in the area plan or other process that activates the area.

- (d) The project complies with any requirements in administrative rules adopted by the city manager related to proximity to historic resources.
- (e) Project Design and Compatibility.
 1. The applicant has included 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 principles in the context of the project location. The city manager shall adopt as part of the administrative rules to implement these sections a more detailed

description of the required design principles, including the scale, form, and quality of the building; the mix of project elements; and the relationship to the street and surrounding uses.

2. Compliance with the project design elements that were reviewed at the time of council approval is a condition of approval of the exemption, except that the city manager may approve a deviation from those design elements if the city manager determines in writing that the deviations provide the same or greater degree of adherence to the design principles.
- (f) Green Building.
1. Green building requirements apply only to the residential occupancy areas and common areas such as hallways, stairwells, centralized HVAC or hot water heating, and laundry facilities. The requirements do not apply to the commercial areas or ancillary amenities such as parking garage, swimming pools, and recreation centers.
 2. The project will perform at least 10% more efficiently than the performance established in the Oregon Energy Efficiency Specialty Code (OEESC) or similar code adopted by the State of Oregon.
 - a. Green building requirements for one to three story multiple-family buildings are as follows:
 - (1) Obtain LEED v4 for homes low-rise multiple-family basic certification and modeled at least 10% above current OEESC;
 - (2) Obtain earth advantage multiple-family silver level certification and provide a commissioning report; or
 - (3) Obtain NW Energy Star certification through the Eugene Water and Electric Board program and provide a commissioning report.
 - b. Green building requirements for four stories and above multiple-family buildings are as follows:
 - (1) Obtain LEED for homes midrise basic certification and modeled at 10% above current OEESC; or
 - (2) City review of the project demonstrates that:
 - (A) Model building energy performance, utilizing the LEED for homes midrise energy modeling methodology, shows that the building will perform 10% above current OEESC performance;
 - (B) The building is constructed to modeled plans;
 - (C) Commissioning report has been provided prior to issuance of certificate of occupancy; and
 - (D) Applicant commits to working with city to report multiple-family occupancy energy use data to city for the tax exempt period.
 3. Projects that will provide onsite parking are required to install conduit for future electric vehicle charging stations.
- (g) Local Economic Impact Plan.
1. The applicant must provide a plan that provides for more than 50% of the dollar volume of the combined professional services

and construction contracts to include local firms. "Local firm" means a business that is based in Lane County.

2. The applicant must ensure that qualified minority and women business enterprises have an equitable opportunity to compete for contracts and subcontracts.
 3. The city manager shall include in the administrative rules adopted to implement sections 2.945 through 2.947 of this code provisions that:
 - a. Identify additional requirements for the local economic impact plan, including definitions and exceptions such as when trades are not available locally;
 - b. Enable qualified minority and women business enterprises to have an equitable opportunity to compete; and
 - c. Ensure that the developer and its contractors and subcontractors comply with wage, tax and licensing laws in the development of the project and posts information about the city's rights assistance program.
- (h) Following the city council's compliance with the requirements of subsection (1)(b) of this section 2.946 related to workforce housing and the council's activation of one or more areas listed in subsection (1)(b) of this section 2.946, a developer shall include as workforce housing units not less than the percentage of the units specified in those future code amendments, or alternatively shall pay to the city an equivalent workforce housing fee. "Workforce housing" is housing with rents equal to or less than 30% of the area median income. "Equivalent workforce housing fee" is a fee equal to the difference between the rent charged and workforce housing rents for the percentage of the units specified by the future code amendments.
1. If the developer chooses to include the workforce housing units, the application shall identify which units in the project will be the workforce housing units, and shall maintain those units as such for the duration of the tax exemption period. As part of the administrative rules adopted pursuant to section 2.019 of this code, the city manager may further define "workforce housing unit" and shall establish requirements to ensure that the units are maintained as such during the tax exempt period. For purposes of this subsection, "project" means all new development that occurs after approval of the application on one or more contiguous lots all owned by a single entity or covered by a city-approved master plan.
 2. If the developer chooses to pay the equivalent workforce housing fee, the fee may be paid annually in years 3 through 10 of the exemption, or may be paid up front. Funds received by the city under this paragraph shall be used for workforce housing.
 3. The provisions of this subsection (h) do not apply to tax exemption projects that are located in the downtown area east of Charnelton Street. However, the owner of the property shall pay to the city an amount equal to 10% of the total property tax exemption and all such payments shall be dedicated to the facilitation or creation of workforce housing. The fee may be paid annually in years 3 through 10 of the exemption, or may be paid upfront.

Alternatively, the owner may comply with the requirement to include not less than 30% of the units as workforce housing pursuant to subsection (2)(h)1. of this section 2.946.

- (i) In the case of the construction of, or the addition or conversion to multiple-unit housing, the construction, addition or conversion will be completed on or before January 1, 2022.
 - (j) 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, 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.
 - (k) The multiple-unit housing is not designed for, and will not be used as transient accommodations.
- (3) Additional and On-Going Obligations of Project Approved for Exemption.**
- (a) Following approval of an exemption under section 2.946 of this code, the city manager shall monitor the development of the project to ensure that the project complies with the requirements of sections 2.945 through 2.947 of this code, including the provision related to workforce housing, the administrative rules adopted pursuant to this code, and any other conditions of approval of the exemption.
 - (b) During the developer's design process and before the final design drawings are completed, the developer shall hold at least one neighborhood engagement opportunity to allow members of that neighborhood to provide comments on the proposal. At least one of the applicant's principals must attend that meeting. In addition, once the final design is completed and before it is submitted for permits, the developer shall allow the neighborhood an opportunity to review and comment on that final design.
 - (c) During the exemption period, the project's owner must annually submit documentation to evaluate compliance with workforce housing requirements, unless the project's owner is paying the equivalent workforce housing fee or is exempt pursuant to subsection (2)(h) of this section. The regular reporting shall include the home city or zip code of the construction labor workers, and any other information required by administrative rules adopted pursuant to section 2.019 of this code.

Section 3. Section 2.947 of the Eugene Code, 1971, is amended to provide as follows:

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

- (1)** Except as provided in subsection (8) of this section, 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, developer or other owner of the project has failed to comply with the provisions of ORS 307.600 to 307.637 or the provisions

- of this code or administrative rules adopted thereunder, or
- (c) The applicant, developer or other owner of the project has failed to comply with any conditions imposed in the resolution approving the application and the city manager has not determined in writing that project design deviations provide the same or greater degree of adherence to the design principles that council approved for the project, or
- (d) Construction of multiple-unit housing was not completed on or before January 1, 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, 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 may be exempt from ad valorem taxation for more than 10 successive years. The first year of exemption 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 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 is in addition to any other exemption provided by law. However, no property 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.
- (8) Notwithstanding subsections (1) through (7) of this section, if applicant, developer or other owner of the project has failed to comply with the requirements of ORS 307.600 through 307.637, sections 2.945 through 2.947 of this code or the administrative rules adopted thereunder, or a resolution adopted pursuant subsection (7) of section 2.945 of this code, in lieu of subsections (1) through (7) of this section, the city manager may impose penalties as set forth in section 2.1995 of this code. Each day in which a violation is caused or permitted to exist constitutes a separate violation. Failure to pay an administrative penalty authorized by this subsection shall be grounds for terminating the exemption under subsections (1) through (3) of this section.

Section 4. Section 7.731 of the Eugene Code, 1971, is added to provide as follows:

7.731 SDC – Credits for Multiple-Unit Housing.

- (1) A developer of a multiple-family residential project consisting of 5 or more dwelling units may receive a credit of up to fifty percent of the appropriate systems development charges otherwise due under Section 7.720 in connection with the development if all of the following conditions are met:
 - (a) The developer constructs, pays for or contributes to the cost of a capital improvement on the Plan described in subsection (2) of section 7.715 of this Code, and the capital improvement would be eligible for SDC funding under the Plan;
 - (b) The improvement is located within the boundaries of the neighborhood association in which the development is being constructed;

- (c) Credit for the construction of or contribution to the improvement is permissible under state law; and
 - (d) The City Council, the developer, and the applicable neighborhood association board of directors each:
 1. Agree that the improvement will mitigate one or more impacts resulting from the multiple-family residential project in the neighborhood; and
 2. Approve the grant of SDC credit in exchange for the construction of, or contribution to, the improvement.
- (2) The credit described in this section may be applied only toward the system development charge attributable to the same system (transportation, wastewater, stormwater, parks) as the improvement which the developer constructs or to the cost of which the developer contributes.

Section 5. Additional areas may become eligible for the MUPTE program upon Council's adoption of a Resolution approving the area. Council's determination to add areas to the program shall be based upon reports submitted by a Review Panel. The Review Panel shall meet not less than every 12 months to review the efficacy of the program in reaching the City's desired goals, and shall be comprised of the members described in subsections (13)(a)1. and (13)(a) 3. of Section 2.945 of the Eugene Code, 1971. Members of the Review Panel must sign a confidentiality agreement in a form approved by the City Manager.

Section 6. The Multiple-Unit Property Tax Exemption Program goal is to assist in the creation of 1,500 new, multiple-family housing units after adoption of this Ordinance, which will, in part, assist in the implementation of Envision Eugene. The 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 program volume cap, Council shall conduct a comprehensive review to determine if continuation of the program is in the best interest of the City.

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Section 7. 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

13TH day of July, 2015

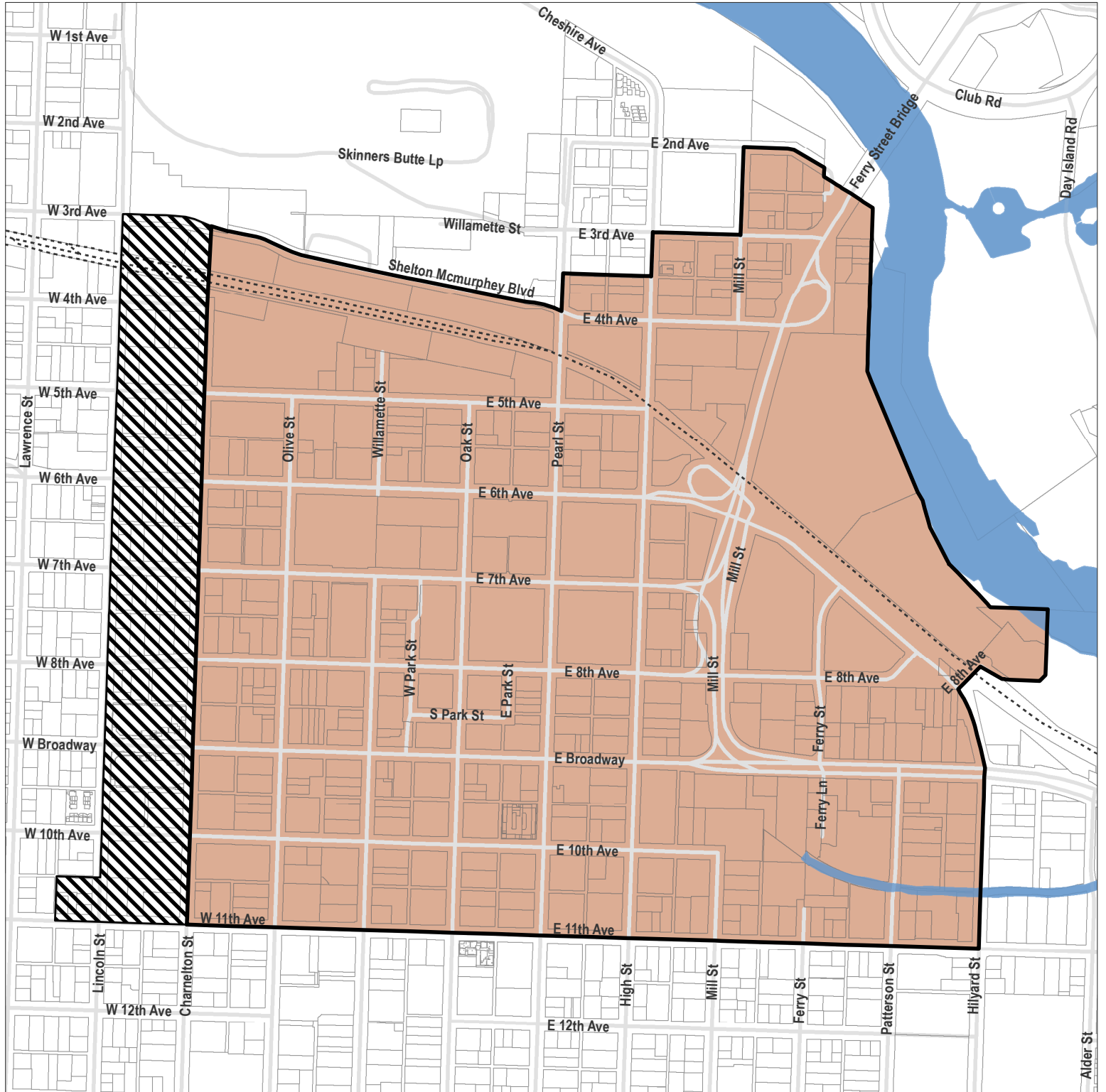
Beth Forrest
City Recorder



Approved by the Mayor this

20 day of July, 2015

Kathy Perry
Mayor

Map 2.946 MUPTE Downtown Area



-  Available for MUPTE
-  Not available for MUPTE at this time

