

ORDINANCE NO. 792

AN ORDINANCE AMENDING THE CITY OF LAKEWOOD MUNICIPAL CODE, TITLE 3, REVENUE AND FINANCE, PROPERTY TAX EXEMPTIONS FOR MULTIFAMILY HOUSING, CHAPTER 3.64

WHEREAS, the Multi-Family Housing Property Tax Exemption (MFTE) program began in 1995, codified as RCW 84.14, to incentivize residential development in urban centers, designated as “residential targeted areas,” for Washington’s largest cities; and

WHEREAS, the City of Lakewood has in place an MFTE program, Lakewood Municipal Code, Title 3, Revenue & Finance, Property Tax Exemptions for Multifamily Housing, Chapter 3.64, originally adopted in 2002, which has been subsequently amended; and

WHEREAS, in 2021, SB 5287 made substantial changes to the Multifamily Housing Tax Exemption (MFTE) Program with the Legislature intending to achieve multiple goals by: Incentivizing the development of multiple-unit housing including creating additional affordable housing; Encouraging urban development and density; Increasing market rate workforce housing; Developing permanently affordable housing opportunities; Promoting economic investment and recovery; and Creating family-wage jobs; and

WHEREAS, the Washington Department of Commerce was charged by the Washington State Legislature to develop guidance, complete a study, evaluate the impact of MFTE programs on cities and develop an MFTE auditing program; and

WHEREAS, the Washington Department of Commerce has completed its work; and

WHEREAS, in response to state legislative changes, the City of Lakewood proposed to make amendments to the City MFTE program; and

WHEREAS, the Community & Economic Development Department, as part of its work plan included an annual report on the City’s MFTE program; and

WHEREAS, on April 19, 2023, the Lakewood Planning Commission, received a presentation regarding updates to Lakewood’s MFTE program; and

WHEREAS, on June 7, 2023, the Lakewood Planning Commission, adopted Resolution 2023-02 recommending amendments to the MFTE program; and

WHEREAS, on June 26, 2023, the Lakewood City Council conducted a study session on the Planning Commission's recommendations; and

WHEREAS, on November 6, 2023, the Lakewood City Council conducted a duly noticed public hearing on the proposed amendments to the City of Lakewood's MFTE regulations; and

WHEREAS, on November 6, 2023, the Lakewood City Council closed the public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

Section 1. Adoption of Amendments to the Lakewood Municipal Code.

Amendments to the City's Lakewood Municipal Code, Title 3, Revenue & Finance, Property Tax Exemptions for Multifamily Housing, Chapter 3.64, and Title 18A, Land Use and Development Code, Chapter 18A.10, Section 18A.10.180. Definitions are adopted as summarized below and included in full in Exhibit A.

Section 2. Severability. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Effective Date. That this Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.

ADOPTED by the City Council this 20th day of November, 2023.

CITY OF LAKEWOOD

Jason Whalen, Mayor

Attest:

Briana Schumacher, City Clerk

Approved as to Form:

Heidi Ann Wachter, City Attorney

Exhibit A
Ordinance No. 792

Chapter 3.64
PROPERTY TAX EXEMPTIONS FOR MULTIFAMILY HOUSING

Sections:

- 3.64.010 Definitions.
- 3.64.020 Property tax exemption - Requirements and process.
- 3.64.030 Residential target area designation and standards.

3.64.010
Definitions.

See LMC 18A.10.180 for definitions related to this chapter.

3.64.020
Property tax exemption - Requirements and process.

A. Intent. Limited eight (8), or twelve (12) year exemptions from ad valorem property taxation for Residential Targeted Areas are intended to:

1. Encourage additional housing, all types, including permanently affordable housing opportunities, market rate workforce housing, and market rate housing within areas of the City designated by the City Council as residential target areas;
2. Achieve development densities which are more conducive to transit use within areas of the City designated by the City Council as residential target areas;
3. Promote economic investment and recovery and create family-wage jobs; and
4. Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multifamily housing in residential target areas to increase and improve housing opportunities.

B. Duration of Exemption. The value of improvements qualifying under this chapter will be exempt from ad valorem property taxation for eight (8), or twelve (12) successive years (depending on if affordable housing units are included as described in subsections E, and F), beginning January 1 of the year immediately following the calendar year of issuance of the Final Certificate of Tax Exemption.

C. Limits on Exemption. The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land and non-qualifying improvements. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this chapter.

D. Rehabilitation Provisions. Per RCW 84.14.030, property proposed to be rehabilitated must fail to comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995.

E. Eight-Year (8) Exemption Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:

1. Location. The project must be located within a residential target area, as designated in LMC 3.64.030(C).
2. Size. The project must include at least fifteen (15) units of multifamily housing within a residential structure or as part of a mixed-use development. A minimum of fifteen (15) new units must be constructed or at least fifteen (15) additional multifamily units must be added to existing occupied multifamily housing. Existing multifamily housing that has been vacant for 12 months or more does not have to provide additional units so long as the project provides at least fifteen (15) units of new, converted, or rehabilitated multifamily housing.
3. Property tax exemptions for Accessory Dwelling Units (ADUs) are not permitted under this Chapter.
4. Permanent Residential Occupancy. At least 50 percent of the space designated for multifamily housing must be provided for permanent residential occupancy, as defined in LMC 3.64.010.
5. Proposed Completion Date. New construction multifamily housing and rehabilitation improvements must be scheduled to be completed within three (3) years from the date of approval of the application.
6. Compliance with Guidelines and Standards. The project must be designed to comply with the City's comprehensive plan, building, housing, and zoning codes, and any other applicable regulations in effect at the time the application is approved. Rehabilitation and conversion improvements, and new construction, must comply with Chapter 15.05 LMC. The project must also comply with any other standards and guidelines adopted by the City Council for the residential target area (RTA) in which the project will be developed.
7. Vacancy Requirement. Existing dwelling units proposed for rehabilitation must have one or more violations of Chapter 15.05 or 15.25 LMC. If the property proposed to be rehabilitated is not vacant or, in the case of applications for property to be developed as new construction which currently has a residential rental structure on it, an applicant must provide each existing household a one-hundred and twenty (120) calendar-day move notice as well as provide housing of comparable size, quality, and price which meets standards acceptable to the City. If any household being provided a 120-calendar-day move notice is qualified as a low-income household, the applicant will provide the household with moving expenses according to the current Department of Transportation Fixed Residential Moving Costs Schedule.

F. Twelve-Year (12) exemption requirements. A proposed project must meet the following requirements for consideration for a 12-year property tax exemption:

1. All requirements set forth in subsection E; and
2. The applicant must commit to renting or selling at least twenty (20) percent of the multifamily housing units as affordable housing units to low- and moderate-income households respectively, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the City of Lakewood. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate-income households.

G. Extension for projects receiving an initial eight-year or 12-year exemption. Any project in the Lakewood Station District and Springbrook Residential Target Areas receiving an eight or 12 year extension may apply for a subsequent 12-year extension in exchange for continued or increased income restrictions on affordable units.; and

1. Application must be received within 18 months of expiration of current exemption;
2. At least 20 percent of the housing must be occupied by households earning no more that 70 percent of the Pierce County family median income;
3. Conversion from market rate to affordable units must comply with the procedures outlined in the City's policies and procedures;
4. Applicants must provide notice to tenants in rent-restricted units at the end of the tenth and eleventh years of the continued 12-year exemption that the exemption will expire and the landlord will provide relocation assistance;
5. Landlords must provide one month's rent as relocation assistance to a qualified tenant in their final month when affordability requirements no longer apply, even when the affordable rent period extends beyond the expiration of the tax exemption;
6. New extensions are not permitted on or after January 1, 2046.

Any project in the Downtown Residential Target Areas receiving an eight or 12-year extension is prohibited from making an application for a 12-year extension.

H. Application Procedure. A property owner who wishes to propose a project for a tax exemption shall complete the following procedures:

1. File with the Community and Economic Development Department the required application along with the required fees as set in the Lakewood Master Fee Schedule (adopted annually by resolution). If the application shall result in a denial by the City, the City will retain that portion of the fee attributable to its own administrative costs and refund the balance to the applicant.
2. A complete application shall include:

- a. A completed City of Lakewood application setting forth the grounds for the exemption;
- b. Preliminary floor and site plans of the proposed project;
- c. A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter;
- d. For rehabilitation projects and for new development on property upon which an occupied residential rental structure previously stood, the applicant shall also submit an affidavit stating that each existing household was sent a one-hundred and twenty day (120) calendar-day move notice and that each household was provided housing of comparable size, quality, and price acceptable to the City;
- e. For any household being provided a one-hundred and twenty (120) calendar day move notice that qualifies as a low-income household, the applicant will also submit an affidavit stating that moving expenses have been or will be provided according to the current Department of Transportation Fixed Residential Moving Costs Schedule;
- f. In addition, for rehabilitation projects, the applicant shall secure from the City verification of the property's noncompliance with Chapter 15.05 LMC; and
- g. Verification by oath or affirmation of the information submitted.

I. Application Review and Issuance of Conditional Certificate. The Director may certify as eligible an application which is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within 90 calendar days of receipt of a complete application.

1. Approval. If an application is approved, the applicant shall enter into a contract with the City, subject to approval by resolution of the City Council regarding the terms and conditions of the project. Such contract shall require the applicant to comply with the City's Nuisance Code, Title 8, for the property at issue. Upon Council approval of the contract, the Director shall issue a Conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.

2. Denial. The Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten (10) calendar days of the denial. An applicant may appeal a denial to the City Council within fourteen (14) calendar days of receipt of notice. On appeal, the Director's decision will be upheld unless the applicant can show that there is no substantial evidence on the record to support the Director's decision. The City Council's decision on appeal will be final.

J. Extension of Conditional Certificate. The Conditional Certificate may be extended by the Director for a period not to exceed twenty-four (24) consecutive months. The applicant must submit a written request stating the grounds for the extension,

accompanied by a processing fee, the amount of which is listed in the City's Master Fee Schedule. An extension may be granted if the Director determines that:

1. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;
2. The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and
3. All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.

K. Application for Final Certificate. Upon completion of the improvements agreed upon in the contract between the applicant and the City and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a Final Certificate of Tax Exemption. The applicant must file with the Community and Economic Development Department the following:

1. The total number and type of units produced;
2. The number, size, and type of units produced meeting affordable housing requirements;
3. The development cost of each unit produced;
4. The total monthly rent or total sale amount of each unit produced, affordable and market rent;
5. The annual income and household size of each renter household for each of the affordable units; and
6. A statement that the work was completed within the required three-year period or any authorized extension.

Within thirty (30) calendar days of receipt of all materials required for a Final Certificate, the Director shall determine which specific improvements satisfy the requirements of this chapter.

L. Issuance of Final Certificate. If the Director determines that the project has been completed in accordance with the contract between the applicant and the City and has been completed within the authorized time period, the City shall, within ten (10) calendar days, file a Final Certificate of Tax Exemption with the Pierce County Assessor.

1. Denial and Appeal. The Director shall notify the applicant in writing that a Final Certificate will not be filed if the Director determines that:
 - a. The improvements were not completed within the authenticated time period;

b. The improvements were not completed in accordance with the contract between the applicant and the City; or

c. The owner's property is otherwise not qualified under this chapter.

2. Within ten (10) calendar days of receipt of the Director's denial of a Final Certificate, the applicant may file an appeal with the City's Hearing Examiner, as provided in Chapter 1.36 LMC. The applicant may appeal the Hearing Examiner's decision in Pierce County Superior Court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty (30) calendar days of notification by the City to the owner of the decision being challenged.

M. Annual Compliance Review. Annually, when requested by the Community & Economic Development Department, for a period of eight (8) or twelve (12) years, the property owner shall file a notarized declaration with the Director indicating the following:

1. The number, size, and type of each unit, market rate and affordable;
2. The total monthly rent each unit, affordable and market rent; and
3. A description of any subsequent improvements or changes to the property.

The City shall also conduct on-site verification of the declaration. Failure to submit the annual declaration may result in the tax exemption being canceled.

N. Cancellation of Tax Exemption. If the Director determines the owner is not complying with the terms of the contract, the tax exemption will be canceled. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the owner intends to convert the multifamily housing to another use, the owner must notify the Director and the Pierce County Assessor within 60 days of the change in use.

1. **Effect of Cancellation.** If a tax exemption is canceled due to a change in use or other noncompliance, the Pierce County Assessor may impose an additional tax on the property, together with interest and penalty, and a priority lien may be placed on the land, pursuant to state legislative provisions.

2. **Notice and Appeal.** Upon determining that a tax exemption is to be canceled, the Director shall notify the property owner by certified mail. The property owner may appeal the determination by filing a notice of appeal with the City Clerk within thirty (30) calendar days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing at which all affected parties may be heard and all competent evidence received. The Hearing Examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. An aggrieved party may appeal the Hearing Examiner's decision to the Pierce County Superior Court.

3.64.030

Residential target area designation and standards.

A. Criteria. Following a public hearing, the City Council may, in its sole discretion, designate one or more residential target areas (RTAs). Each designated RTA must meet the following criteria, as determined by the City Council:

1. The target area lacks sufficient available, desirable, and convenient residential housing to meet the needs of the public who would likely live in the residential target area, if desirable, attractive, and livable places were available; and
2. The providing of additional housing opportunity in the target area will assist in achieving the following purposes:
 - a. Encourage increased residential opportunities within the target area; or
 - b. Stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing.
3. In designating an RTA, the City Council may also consider other factors, including, but not limited to: whether additional housing in the target area will attract and maintain a significant increase in the number of permanent residents; whether an increased residential population will help alleviate detrimental conditions and social liability in the target area; and whether an increased residential population in the target area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020.
4. When designating a residential target area, the city council shall give notice of a hearing to be held on the matter and that notice shall be published, not less than fifteen (15) days nor more than thirty (30) days before the date of the hearing. The notice shall be published on the city's website. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated.
5. The City Council may, by ordinance, amend or rescind the designation of an RTA at any time pursuant to the same procedure as set forth in this chapter for original designation.

B. Target Area Standards and Guidelines. For each designated residential target area (RTA), the City Council shall adopt basic requirements for both new construction and rehabilitation supported by the City's property tax exemption for multifamily housing program, including the application procedures specified in LMC 3.64.020(I). The City Council may also adopt guidelines including the following:

1. Requirements that address demolition of existing structures and site utilization; and
2. Building requirements that may include elements addressing parking, building height, density, environmental impact, public benefit features, site

security including installation of approved fencing and ingress/egress gates, compatibility with the surrounding property, and such other amenities as will attract and keep permanent residents and will properly enhance the livability of the residential target area. The required amenities shall be relative to the size of the proposed project and the tax benefit to be obtained as determined by the Director.

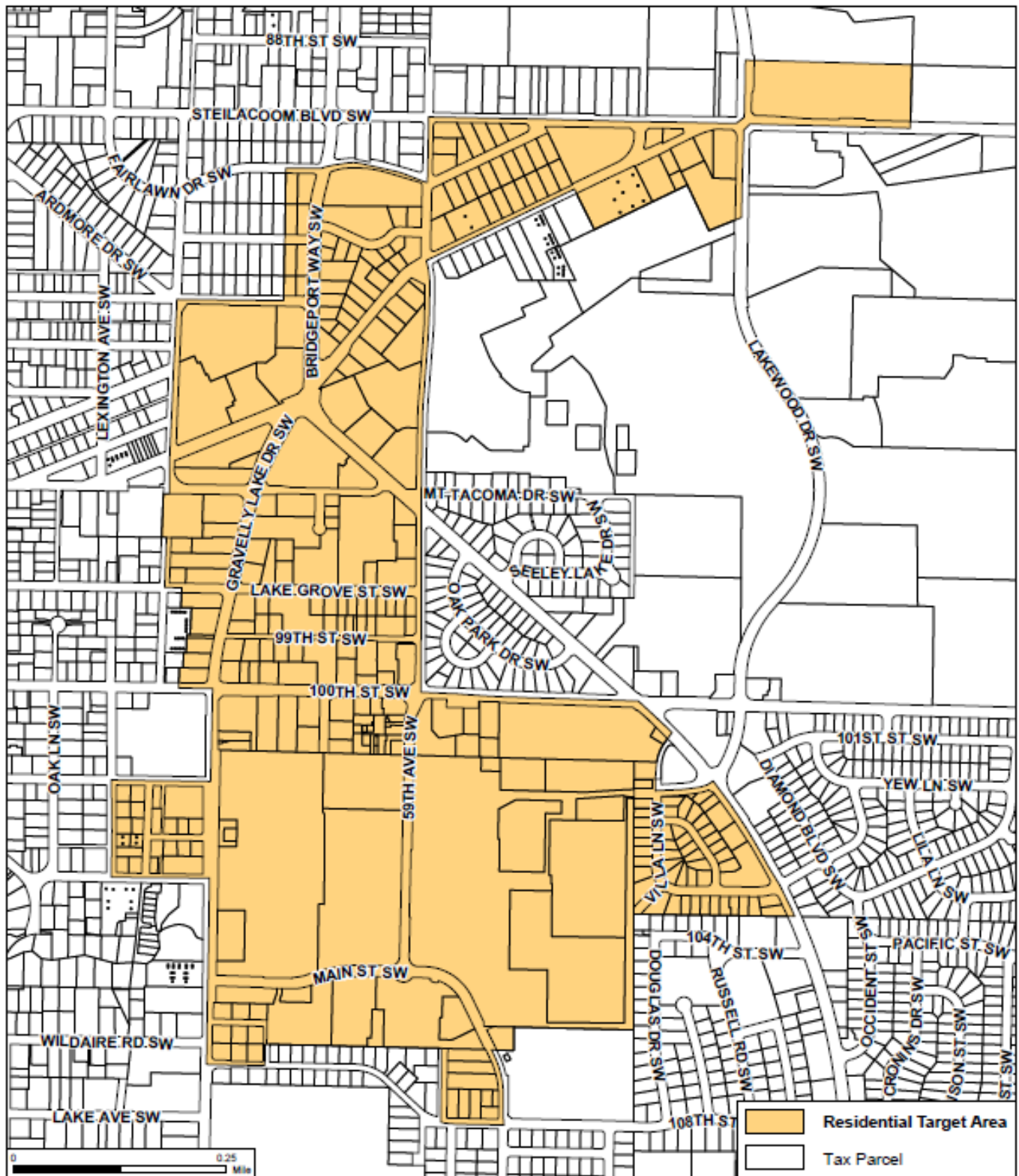
- a. Minimum parking requirements: studio apartment, one (1) parking space; one (1) bedroom apartment unit, 1.25 parking spaces; two (2) + bedroom apartment, 1.5 parking space; and at least ten (10)-percent of the total parking spaces must be set aside for unreserved guest parking.

C. Designated Residential Target Areas (RTAs).

1. The proposed boundaries of the “residential target areas” include the boundaries of the geographic areas listed below and as indicated in the Comprehensive Plan, which are incorporated herein by reference and on file in the City Clerk’s Office.

(See next page.)

MAP 1: CBD Residential Target Area

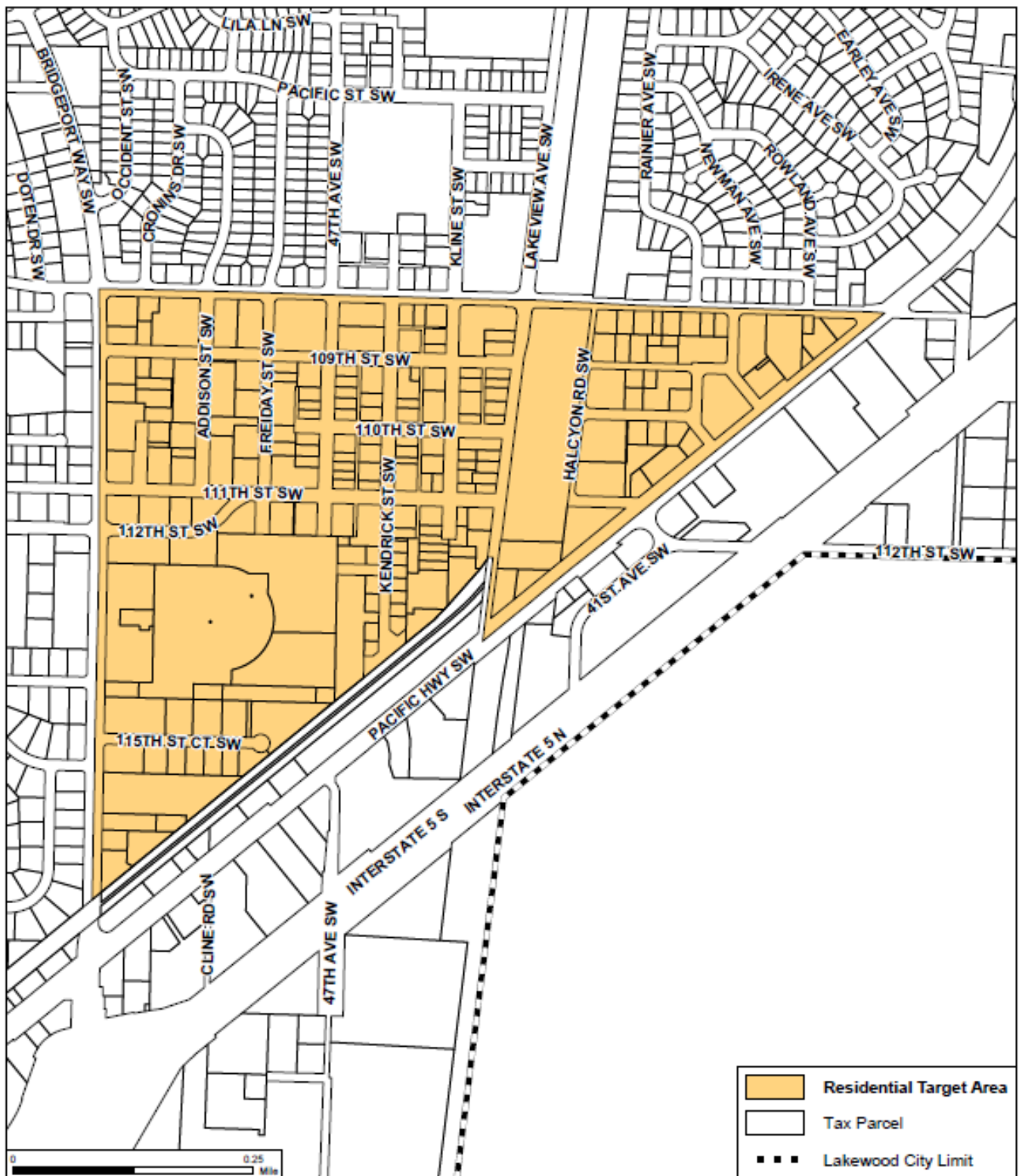


Central Business District Residential Target Area (RTA)

Map Date: August 15, 2023
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MAP 2: Lakewood Station District Target Area



Lakewood Station Residential Target Area (RTA)

Map Date: August 15, 2023
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MAP 3: Springbrook Target Area

