Ordinance No. 5-12 ORDINANCE: To amend Chapter 22 of the Rockville City Code entitled "Taxation" by adding a new Article IX. "High Performance Building Tax Credit for Existing Buildings" so as to establish a property tax credit for high performance buildings, definitions, eligibility requirements, tax credit amounts and duration, annual limits, and administration provisions.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that Chapter 22 of the Rockville City Code, entitled "Taxation" is hereby amended by adding a new Article IX. "High Performance Building Tax Credit for Existing Buildings" to read as follows:

CHAPTER 22. TAXATION

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ARTICLE IX. High Performance Building Tax Credit for Existing Buildings

Sec. 22-91. Establishment of tax credit.

In accordance with § 9-242 of the Tax-Property Article of the Annotated Code of Maryland, the Mayor and Council of a municipal corporation may grant a tax credit against the municipal corporation property tax imposed on a high performance building and establish the amount, duration, criteria and qualifications and any other provision necessary to carry out the tax credit. The purpose of the tax credit is to promote high performance, healthful, durable, affordable, and environmentally responsible buildings by supporting owners and managers of existing buildings that implement sustainable operations, processes, system upgrades, minor space-use changes, and minor facility alterations or additions.

Sec. 22-92. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section.

ASHRAE Building Energy Certificate means the technical report of building energy performance developed by the American Society of Heating, Refrigerating and Air-Conditioning Engineers for compliance with regulatory energy use disclosure requirements under the Advanced Building Energy Labeling (ABEL) program.

Chief means the Chief of Environmental Management for the City of Rockville or the Chief's designee.

Credit allowance year means the taxable year when the project, on which the credit allowed under this Article is based, is originally placed in service.

Director means the Director of the Department of Finance for the City of Rockville or the Director's designee.

ENERGY STAR Portfolio Manager means the online tool developed by the U.S. Environmental Protection Agency (EPA) that rates the performance of a qualifying building, relative to similar buildings nationwide, accounting for the impacts of year-to-year weather variations, building size, location, and several operating characteristics, using the EPA's national energy performance rating system.

GBCI means the Green Building Certification Institute.

Good faith effort means the demonstration and documentation of reasonable and feasible efforts made to determine the availability and competency of local vendors, including, but not limited to, efforts to notify, solicit bids and provide opportunities for local businesses to compete for contracts.

High performance building means a building that has been certified to achieve at least a Silver rating in the Leadership in Energy and Environmental Design for Existing Buildings: Operations and Maintenance™ (LEED®-EB: O&M), version 2009 or most current, green building certification program or a comparable standard in a LEED-equivalent rating system.

LEED® means the Leadership in Energy and Environmental Design green building certification program developed by the U.S. Green Building Council and administered by the Green Building Certification Institute.

LEED®-EB: O&M means the Leadership in Energy and Environmental Design for Existing Buildings: Operations and Maintenance™ green building rating system, version 2009 or most current version.

LEED-equivalent means green building design, construction, and operation standards that the City Manager, or his or her designee, may approve as being equivalent to a corresponding LEED rating of the LEED®-EB: O&M rating system.

Local business means a person, firm, corporation or other business entity that has its headquarters, a manufacturing facility, a locally-owned franchise or an operating branch physically located within the jurisdictional boundaries of the City of Rockville and has paid real property tax to the City during the most recent tax year.

Real property tax liability means the sum of all City real property tax rates used to calculate the property tax liability for a taxable year, including property tax rates in special taxing districts, excluding City special assessments and charges, such as for stormwater, water, sewer and the like, and interest and penalties on overdue real property taxes.

Statement of Energy Performance means the statement of building energy performance generated by *ENERGY STAR Portfolio Manager* and validated by a professional engineer or registered architect that includes facility information, contact

information, energy performance rating, site energy use summary, energy intensity and emissions estimates.

Tax credit means the credit granted under this Article to a property owner against the City real property tax assessed on a qualifying high performance building.

USGBC means U.S. Green Building Council.

Sec. 22-93. Eligibility for tax credit.

To qualify for a tax credit on real property under this Article, the property owner of a high performance building must, on or after July 1, 2012, satisfy all of the following requirements:

(a) Achieve Silver, Gold or Platinum certification by the GBCI in the LEED®-EB: O&M green building rating system or LEED-equivalent rating system.

(b) Obtain certification as meeting the requirements of at least three of the following six local priority credits, or equivalent credits, in the LEED-EB: O&M green building rating system:

(1) Integrated Pest Management, Erosion Control, and Landscape Management Plan;

(2) Alternative Commuting Transportation;

(3) Stormwater Quantity Control;

(4) Additional Indoor Plumbing Fixture and Fitting Efficiency;

(5) Optimize Energy Efficiency Performance; and

(6) On-site and Off-site Renewable Energy Systems.

(c) For the first year of the tax credit, achieve ENERGY STAR certification with the U.S. Environmental Protection Agency by benchmarking the building using the ENERGY STAR Portfolio Manager tool, provided that an appropriate building type is available, and make the Statement of Energy Performance available to the Chief.

(d) For years two through five of the tax credit, either achieve ENERGY STAR certification with the U.S. Environmental Protection Agency by benchmarking the building using the ENERGY STAR Portfolio Manager tool, provided that an appropriate building type is available, and make the Statement of Energy Performance available to the Chief or submit the ASHRAE Building Energy Certificate to the Chief demonstrating that the building has maintained or improved energy performance from the first year.

(e) Comply with all applicable state, county, and local regulations governing the construction or renovation of a building and related processes.

(f) Employ a good faith effort to solicit local businesses to supply the services, materials, labor, and equipment needed to meet the requirements of this Article by providing:

(1) Records of notices sent to local businesses soliciting bids for goods and services;

(2) The names, addresses, and phone numbers of local businesses that submitted bids;

(3) The names, addresses, and phone numbers of local businesses that were awarded contracts; and

(4) The total amount disbursed to local businesses to meet the requirements of this Article.

(g) Submit a letter certifying payment of all arrears owed to the City.

Sec. 22-94. Amount and duration of tax credit.

(a) For the purposes of this section, allowable cost shall:

(1) Include the total amount paid or incurred on or after July 1, 2012 to improve the structure and operations to meet certification as a high performance building;

(2) Include design, construction, and rehabilitation costs; architectural, engineering, energy analysis, commissioning, and other professional services; and the cost of building retrofits and improvements that are documented to be compliant with LEED-EB: O&M requirements, including, but not limited to plumbing fixtures, building envelop, lighting, renewable energy technologies, stormwater management, landscaping, green or cool roofs, meters and monitoring equipment, and heating, ventilation, air conditioning and refrigeration systems;

(3) Include itemized paid invoices or receipts for materials and services with LEED credit justification;

(4) Not include the cost of LEED registration and certification fees, telephone systems, computers, legal fees, land, security features, demolition, temporary features, building operations and maintenance, internal labor, taxes, mortgage loans and interest, furniture, and other improvements not directly related to LEED-EB: O&M requirements; and

(5) Not exceed four hundred thousand dollars ($400,000).

(b) The annual tax credit that a property owner may claim under this Article is the following percentage of the allowable cost refunded from the real property taxes paid:

(1) Five (5) percent for a building that achieves a Silver rating in the LEED-EB: O&M green building rating system;

(2) Ten (10) percent for a building that achieves a Gold rating in the LEED-EB: O&M green building rating system; and

(3) Fifteen (15) percent for a building that achieves a Platinum rating in the LEED-EB: O&M green building rating system.

(c) If the annual tax credit calculated in paragraph (b) is more than the annual City real property tax liability for the credit allowance year, then the annual tax credit will be limited to the annual City real property tax liability for the credit allowance year.

(d) The duration of the property tax credit granted under this Article is five (5) consecutive years and is subject to annual appropriation by the Mayor and Council.

(e) A property tax credit granted under this Article shall terminate if during the credit period, the Chief finds that the property has been altered so that it no longer complies with Section 22-93.

(f) A tax credit granted under this section runs with the property and a change in ownership does not result in a lapse of the tax credit.

Sec. 22-95. Annual limits.

(a) Subject to the annual limits in paragraph (b) and the carryover rules in paragraph (c), the Director must grant credits in the order in which the Chief receives completed final applications.

(b) During any fiscal year, the cumulative amount of tax credits granted to all applicants under this Article may not exceed $300,000; specific annual limits are subject to annual appropriation by the Mayor and Council.

(c) Approval of a complete final application that, if granted, would cause any of the limits set in paragraph (b) to be exceeded, may be granted in the next fiscal year or years in which available tax credits are available and appropriated.

Sec. 22-96. Administration of tax credit.

(a) The provisions of this article are subject to annual appropriation by the Mayor and Council.

(b) To reserve a tax credit for one year, the taxpayer shall submit a pre-application to the Chief that includes, but is not limited to:

(1) Documentation of LEED-EB: O&M project registration;

(2) LEED-EB: O&M Scorecard completed by a LEED Accredited Professional;

(3) A statement of how the project intends to comply with the requirements set forth in Sec. 22-93 within a reasonable time; and

(4) The estimated tax credit amount requested.

(c) Upon determination by the Chief that the pre-application is complete and meets the requirements of this Article and the requested tax credit amount is available, the Chief will issue the taxpayer a pre-application approval letter that states the tax credit amount reserved for the project, the earliest taxable year for which the reserved tax credit may be claimed, and the expiration date.

(d) The expiration date for the tax credit reservation may be extended for one year, provided that the taxpayer submits a written request and justification to the Chief at least thirty days prior to the expiration date and tax credits are available.

(e) Upon meeting all of the requirements set forth in Sec. 22-93, the taxpayer shall submit to the Chief, under oath, a final application that includes, but is not limited to:

(1) LEED-EB: O&M Scorecard and certificate of recognition;

(2) Annual Statement of Energy Performance demonstrating ENERGY STAR certification;

(3) Documentation demonstrating a good faith effort to solicit goods and services from local businesses; and

(4) Itemized expenditures with proof of payment in full and demonstrated compliance with Sec 22-94.

(f) Upon determination by the Chief that the final application is complete and meets the requirements of this Article, the Chief will encumber the funds, if available, and issue the taxpayer a final approval letter stating the tax credit amount that may be claimed, as calculated in Sec. 22-94, and the eligible taxable years for the credit.

(g) For years two through five of the tax credit, the taxpayer shall submit to the Chief by the first of February documentation demonstrating compliance with Section 22-93 (d) and (g); the Chief will then submit a request to the Director to issue the annual tax credit refund to the taxpayer.

(h) For years two through five of the tax credit, should the taxpayer fail to submit the documentation demonstrating compliance with Section 22-93 (d) and (g) to the Chief by the first of February, then the Chief shall revoke the tax credit.

(i) The Director may enter into agreements with the State Department of Assessments and Taxation, Montgomery County, Maryland, and other government entities or other persons or entities for the administration and/or maintenance of the tax credit.

(j) The City Manager may adopt guidelines, policies, or procedures to administer the tax credit.

(k) The City is not responsible for changes to LEED, ENERGY STAR or ASHRAE criteria or for third-party certification.

(l) A person who submits a false or fraudulent application, or withholds information, to obtain a tax credit under this Article has committed a misdemeanor. In addition, the person must repay the City for all amounts credited and all accrued interest and penalties that would apply to those amounts as overdue taxes. A person who violates this subsection is liable for all court costs and expenses, including attorney's fees, of the City in any civil action brought by the City against the violator. The City may collect any repayable tax credit, and otherwise enforce this Article, by any appropriate legal action.

(m) No new tax credit final applications will be accepted after February 1, 2017; however, any final approved credits will continue through completion, subject to annual appropriation.

(n) The provisions of this Article shall sunset on June 30, 2021.

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NOTE: [Brackets] indicate material deleted
Underlining indicates material added
Asterisks * * * indicate material unchanged by this ordinance

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I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council at its meeting of April 30, 2012.

Brenda F. Bean

Brenda F. Bean, Acting City Clerk