Offered by Councilor SAM YOON and Turner

CITY OF BOSTON
IN CITY COUNCIL

HOME RULE PETITION

WHEREAS, The City of Boston is committed to leadership in protecting the environment; and

WHEREAS, Green roofs contribute positively to the quality of life and environment by promoting energy efficiency, reducing stormwater runoff, improving air quality, lessening the urban heat island effect, reducing noise, promoting productivity, beautifying rooftops, and extending roof life; and

WHEREAS, Many Boston community members have led the way in green roof installation, including the Boston Children's Museum, the Boston World Trade Center's West Podium, the Four Seasons Hotel, MGH Yawkey Center for Outpatient Care, the MassArt Green Roof Pilot, Simmons College, WBGH Boston, and the Manulife Financial United States Headquarters building; and

WHEREAS, Other cities, such as New York, Portland, OR, Annapolis, MD, and Chicago, implemented initiatives to promote green roofs as part of their environmental consciousness; and

WHEREAS, Countries with longstanding policies incentivizing green roofs experience long-term success and substantial growth of a green industry; and

WHEREAS, Such blossoming of the green roof industry stimulates economic activity, creating "green collar" jobs and spurring a new market for green roof products; and

WHEREAS, The creation of a property tax incentive will help stimulate the green industry and encourage green roofs to better Boston's environment. THEREFORE BE IT

ORDERED, That a petition to the General Court, accompanied by a bill for a special law relating to the City of Boston to be filed with an attested copy of this order be, and hereby is, approved under Clause 1 of Section 8 of Article II, as amended, of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

PETITION FOR A SPECIAL LAW RE:

PROPERTY TAX EXEMPTION FOR GREEN ROOFS IN THE CITY OF BOSTON

Section 1. Property Tax Exemption for Green Roof Installation and Maintenance.
Notwithstanding the provisions of chapter 59 of the Massachusetts General Laws or any other general or special law to the contrary, the City of Boston shall provide for a property tax exemption as established by this act known as "The Green Roof Tax Exemption." This shall be made available to an applicant on a one-time tax exemption of five dollars ($5) per square foot.

Section 2. Definitions.
As used in this act, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(a) "Abatement application filing period" shall mean the period during which an applicant may file an application for tax exemption for the following fiscal year. The application shall be filed with the Assessor after the property tax assessment date for the following fiscal year. The abatement filing period ends when 3rd Quarter taxes are due, unless the due date falls on a weekend; if the due date falls on a weekend, then the filing deadline is the first business day following the deadline date. This period shall conform to the Assessor's abatement application filing period as it may be changed from time to time.

(b) "Applicant" shall mean (1) with respect to an eligible building held in the cooperative or condominium form of ownership, the board of managers of a condominium or the board of directors of a cooperative apartment corporation, or (2) with respect to any other eligible building, the owner of such building.

(c) "Application for tax exemption" shall mean an application for a green roof tax abatement pursuant to the statutory exemption created by this act.

(d) "Architect" shall mean a person licensed and registered to practice the profession of architecture under sections 60A through 60O, inclusive, of chapter 112 of the Massachusetts General Laws.

(e) "Assessor" shall mean the City of Boston's Commissioner of Assessing.

(f) "Compliance period" shall mean the tax year in which a tax exemption is taken.

(g) "Designated agency" shall mean the city department designated by the Mayor of the City of Boston to exercise the functions, powers and duties of the designated agency pursuant to this act.

(h) "Eligible building" shall mean any residential, industrial or commercial real property located within the City of Boston. Both new construction projects and existing buildings with green roof retrofitting are eligible for tax exemption under this act. No building shall be eligible for more than one tax abatement pursuant to this act.

(i) "Eligible rooftop space" shall mean the total space available on an eligible building to support a green roof, as certified by an engineer or architect or other certified or licensed professional whom the designated agency assigns by rule.

(j) "Engineer" shall mean a person licensed and registered to practice the profession of engineering under sections 81D through 81T, inclusive, of chapter 112 of the Massachusetts General Laws.

(k) "Green roof" shall mean an addition to a roof of an eligible building that covers at least fifty percent (50%) of such building's eligible rooftop space, is compliant with applicable state and local construction, environmental and fire codes and includes:

(1) weatherproof and waterproof roofing membrane layer;
(2) root barrier layer;
(3) insulation layer;
(4) drainage layer designed so the drains may be inspected and cleaned;
(5) growth medium, including natural or simulated soil, with a depth of at least two inches;
(6) if the depth of the growth medium is less than three inches, an independent water holding layer that is designed to prevent the rapid drying of the growth medium unless the green roof is certified not to need regular irritation to maintain live plants;
(7) vegetation layer, at least eighty percent (80%) of which must be covered by live plants such as sedum or equally drought-resistant and hardy plant species; and
(8) any other requirements as promulgated by the designated agency.

Section 3. Eligibility and Application for the Exemption.
To obtain a tax exemption pursuant to this act, an applicant shall file an application for tax exemption during the abatement application filing period as determined by the Assessor. The application shall be submitted during the abatement filing period for the fiscal year in which the green roof was installed. The application shall be in the format prescribed by the Assessor, and shall contain the following:

(a) The name and address of the applicant and the location of the green roof;

(b) Proof that the applicant received all required certifications, permits and other approvals to construct the green roof;

(c) Certification, in a form prescribed by the designated agency, from an engineer or architect or other licensed professional whom the designated agency assigns. The designated professional(s) shall certify:

(1) amount of eligible roof top space;
(2) that a structural analysis of an eligible building was performed, establishing that the building can sustain the load of the green roof in a fully saturated condition, including anticipated load of projected snow accumulation;

(3) that the green roof was constructed on an eligible building in accordance with this act, the rules promulgated hereunder, and local construction and fire codes; and
(4) that the green roof comports with subsection (k) of section two of this act;

(d) An agreement and plan by the applicant to maintain the green roof during the compliance period and for a minimum of four years thereafter in such a manner that it continuously constitutes a green roof within the meaning of this act and the rules promulgated hereunder;

(e) An agreement to permit the designated agency or its designee to inspect the green roof and any related structures and equipment upon reasonable notice; and

(f) Any other information or certifications required by the designated agency pursuant to this act and the rules promulgated hereunder.

No applicant shall submit an application, certification, report or other document containing a false or misleading statement as to a material fact or omitting to state any material fact necessary to make the statement therein not false or misleading. The applicant bears the burden of proof to show by clear and convincing evidence that the requirements for granting a tax exemption have been satisfied.

Section 4. Certification and Approval.
The designated agency shall certify the applicant's compliance upon determining that the applicant has submitted adequate proof that the requirements under this act and its accompanying rules have been met.

The Assessor, upon notification from the designated agency of such certification, shall review the application and apply the tax exemption, provided there are no outstanding liens on the property.

Section 5. Continuing Requirements.
The tax abatement shall be conditioned upon continued compliance with all applicable provisions of law, including local construction, fire, and safety codes, during the compliance period and for a minimum of four years thereafter (a total period of five years). The applicant must maintain the green roof in such a manner that it continuously constitutes a green roof within the meaning of subsection (k) of section two of this act and the rules promulgated hereunder, permitting the designated agency or its designee to inspect the green roof and any related structures and equipment upon reasonable notice.

Section 6. Calculation and Amount of the Exemption.
An eligible building shall receive an exemption of real property taxes as provided in this act and the rules promulgated hereunder. The Assessor shall apply the amount of the exemption to the actual amount of property tax liability assessed to the applicant. The amount of the tax abatement shall be five dollars ($5) per square foot of a green roof pursuant to an approved application for tax exemption; provided, however, that the amount of such tax exemption shall not exceed the lesser of (a) one hundred thousand dollars or (b) the tax liability for the eligible building in the tax year in which the tax exemption is taken. The tax exemption shall not exceed one year.

With respect to any eligible building held in the condominium form of ownership that receives a tax exemption pursuant to this act, such tax exemption benefits shall be apportioned among all of the condominium tax lots within such eligible building.

If the assessment value for the fiscal year in which the tax exemption is taken is reduced after the assessment roll becomes final, the Assessor shall recalculate the exemption so that the exemption granted shall not exceed the annual tax liability as so reduced. The amount equal to the difference between the exemption originally granted and the exemption as so recalculated shall be deducted from any refund otherwise payable or remission otherwise due as a result of such reduction in assessment value.

Section 7. Revocation.
The Assessor shall revoke, in whole or in part, any tax exemption granted pursuant to this act whenever the designated agency has determined and notified the Assessor that an applicant has failed to comply with a requirement of this act or any rule promulgated hereunder.

Section 8. Enforcement and Administration.
In addition to any other functions, powers, and duties that may be conferred by law:

(a) The Assessor shall have the following functions, powers and duties to be exercised in accordance with this act: (1) to approve and apply a tax exemption; (2) to revoke all or part of any such tax exemption; (3) to make and promulgate rules pursuant to this act; (4) any other function, power or duty necessarily implied by this act; and

(b) The designated agency shall have the following functions, powers, and duties to be exercised in accordance with this act: (1) to receive, review, and certify for compliance applications for tax exemption; (2) to inspect green roofs and any related structures and equipment; (3) to prescribe forms and make and promulgate rules to carry out the purposes of this act; (4) to make determinations provided for in sections four, five, and seven of this act; and (5) any other function, power or duty necessarily implied by this act; and

(c) The designated agency may provide for reasonable administrative charges or fees necessary to defray expenses of administering the tax exemption program established by this act.

Section 9. Severability.
If any provision of this act or application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of this act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

Section 10. Implementation.
This act shall take effect upon passage and shall be in effect for a period of five years. This act shall only apply to green roofs installed on or after the effective date of this act.