

**PROPOSED REGULATION OF THE
DIRECTOR OF THE OFFICE OF ENERGY**

LCB File No. R083-17

December 12, 2017

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-17, NRS 701A.100 and 701A.110.

A REGULATION relating to energy; revising provisions relating to the partial abatement of certain property taxes for the construction of a building or other structure that meets certain energy efficiency standards; revising references to certain energy efficiency standards; revising provisions relating to applications for such a partial tax abatement; revising reporting requirements for persons who receive such a partial tax abatement; revising criteria required to qualify for such a partial tax abatement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Office of Energy to adopt a Green Building Rating System and grant a partial abatement of certain property taxes for the construction of a building or other structure that meets certain energy efficiency standards under the Green Building Rating System adopted by the Director. (NRS 701A.100, 701A.110) Existing regulations provide for the manner in which an applicant applies for and receives such an abatement and prescribe the procedures for the local administration of the partial tax abatement. (Chapter 701A of NAC) **Sections 1-4, 7-11, 15 and 16** of this regulation make revisions to reflect changes in the standards of the U.S. Green Building Council and Green Building Initiative. **Section 6** of this regulation includes a change in the points for certain energy criteria which will affect the amount of a partial tax abatement as a significant change in the scope of a project. **Sections 8 and 10** of this regulation: (1) revise the requirements an applicant must satisfy to obtain a partial tax abatement; and (2) require an applicant for a partial tax abatement to submit a copy of the report or energy audit and findings of an independent third party pursuant to the prerequisites to the Director. **Section 10** also revises certain standards relating to energy to account for differences between the Green Globes standards for existing buildings and for new construction. **Section 11** of this regulation revises the information which must be included in an application for a partial tax abatement. **Section 11** also authorizes the Director to consider separate applications for partial tax abatements for buildings or other structures located on the same parcel if the U.S. Green Building Council or Green Building Initiative certify such buildings or other structures separately and authorizes certain projects involving a unit-owners' association to be submitted as a single project. **Section 12** of this regulation revises the date on which an application for a partial tax abatement must be submitted to the Director to receive a

certificate of eligibility. **Section 13** of this regulation revises the documentation which must be submitted to prove that a building or other structure has received a sufficient rating under the LEED Green Building Rating System or Green Globes standard. **Section 14** of this regulation revises the information which must be submitted to the Director by the tax abatement coordinator for a building or other structure to which a certificate of eligibility relates. **Section 15** of this regulation revises the number of points for certain criteria relating to energy that a building or other structure must receive to qualify for a partial tax abatement.

Section 1. NAC 701A.063 is hereby amended to read as follows:

701A.063 ~~“GG-CIEB”~~ **“GG-EB”** means the Green Globes standard for ~~Continual Improvement of~~ Existing Buildings.

Sec. 2. NAC 701A.100 is hereby amended to read as follows:

701A.100 ~~“LEED-EB”~~ **“LEED BD+C”** means the LEED Green Building Rating System for ~~Existing Buildings, Upgrades, Operations and Maintenance.~~ **Building Design and Construction.**

Sec. 3. NAC 701A.120 is hereby amended to read as follows:

701A.120 ~~“LEED-NC”~~ **“LEED O+M”** means the LEED Green Building Rating System for ~~New Construction & Major Renovations.~~ **Building Operations and Maintenance.**

Sec. 4. NAC 701A.130 is hereby amended to read as follows:

701A.130 “LEED standard” means all versions of a specific rating system within the LEED Green Building Rating System, including, without limitation, ~~LEED-NC, LEED-EB and LEED-CS.~~ **LEED BD+C and LEED O+M.**

Sec. 5. NAC 701A.140 is hereby amended to read as follows:

701A.140 “Local government approval” means any document which, in the judgment of the Director, demonstrates that the local government in which a construction project is located has granted approval to **occupy or** begin construction of the building or other structure that is the subject of an application for a partial tax abatement.

Sec. 6. NAC 701A.190 is hereby amended to read as follows:

701A.190 “Significant change in the scope of the project” means:

1. A change by more than 10 percent in the gross square footage of any building or other structure for which a partial tax abatement is sought;
2. A change in the level of certification under the applicable LEED standard or Green Globes standard being sought if the change will affect the amount of the partial tax abatement being sought; ~~for~~
3. *A change in the number of points being sought in the Optimize Energy Performance credit under the LEED Green Building Rating System or for Energy Performance or Energy Consumption, as applicable, under the Energy category of the Green Globes standard, if the change will affect the amount of the partial tax abatement being sought; or*
4. Any other change, including, without limitation, any change in the square footage or estimated costs of any building or other structure for which a partial tax abatement is sought, which will change the amount of the partial tax abatement being sought by more than 10 percent, except that changes resulting from increases in square footage, costs or any other factor affecting the amount of the partial tax abatement relating to the project as represented in the application therefor, including any amendments or disputed claims with a contractor or supplier relating to those costs, will not be considered a significant change in the scope of the project until they are reasonably final and known to the owner.

Sec. 7. NAC 701A.200 is hereby amended to read as follows:

701A.200 1. The LEED Green Building Rating System is adopted for use in this State with regard to certain buildings or other structures for the purposes of determining eligibility for partial tax abatements.

2. Except as otherwise provided in this subsection and NAC 701A.210:

(a) The Director hereby adopts by reference all versions of the following LEED standards:

(1) ~~LEED-NC;~~ *LEED BD+C; and*

(2) ~~LEED-EB; and~~

~~(3) LEED-CS;~~ *LEED O+M.*

(b) If the U.S. Green Building Council adopts a new or updated version of a LEED standard after December 4, 2007, the Director will determine whether the new or updated version is appropriate for use in this State and, if the Director determines that the new or updated version:

(1) Is appropriate for use in this State:

(I) The new or updated version becomes effective on such a date as may be determined by the Director; and

(II) The Director will post a notice of approval, a copy of the new or updated version and the effective date thereof at the State Library, Archives and Public Records and the Office of Energy, and on the Internet website of the Office of Energy; or

(2) Is not appropriate for use in this State, the version of the LEED standard that was most recently adopted by the Director or determined to be appropriate for use in this State pursuant to this subsection continues to be effective.

3. The Director will review, evaluate and consider new and updated versions of LEED standards at least once each year.

4. A copy of the LEED Green Building Rating System is available free of charge on the Internet website of the U.S. Green Building Council.

Sec. 8. NAC 701A.210 is hereby amended to read as follows:

701A.210 1. In accordance with the provisions of NRS 701A.100, the LEED Green Building Rating System adopted by the Director pursuant to NAC 701A.200:

(a) Does not include any LEED standard:

(1) That has not been included in the LEED Green Building Rating System for at least 2 years at the time the applicant provides proof to the Director pursuant to NAC 701A.240 and 701A.250 that the building or other structure meets the equivalent of the silver level or higher of the LEED Green Building Rating System adopted by the Director; or

(2) For homes.

(b) Shall be deemed to require a building or other structure to obtain:

(1) At least 5 points in the Optimize Energy Performance credit to meet the equivalent of the silver level;

(2) At least 7 points in the Optimize Energy Performance credit to meet the equivalent of the gold level; and

(3) At least 11 points in the Optimize Energy Performance credit to meet the equivalent of the platinum level.

2. An applicant for a partial tax abatement ~~must~~ :

(a) *Must* utilize an independent ~~third-party commissioning firm~~ *third party* to facilitate ~~the~~ :

(1) *The* fundamental building systems commissioning ~~for existing building commissioning, as applicable,~~ *process and report* required by the LEED ~~Green Building Rating System~~ *BD+C* Energy and Atmosphere (*EA*) Prerequisite ~~H~~ : *Fundamental commissioning and verification, or equivalent; or*

(2) The energy audit required by the LEED O+M Energy and Atmosphere (EA)

Prerequisite: Energy efficiency best management practices, or equivalent; and

(b) Shall submit to the Director with his or her application a copy of the report or energy audit, as applicable, and the findings of the independent third party as a result of the assessment conducted pursuant to paragraph (a).

3. As used in this section, “home” has the meaning ascribed to it in NRS 701A.100.

Sec. 9. NAC 701A.213 is hereby amended to read as follows:

701A.213 1. Except as otherwise provided in this subsection and NAC 701A.215:

(a) The Director hereby adopts for use in this State the following Green Globes standards which are in effect on June 23, 2014:

(1) GG-NC; and

(2) ~~GG-CIEB.~~ **GG-EB.**

(b) If the Green Building Initiative adopts a new or updated Green Globes standard after June 23, 2014, the Director will determine whether the new or updated standard is appropriate for use in this State and, if the Director determines that the new or updated standard:

(1) Is appropriate in this State:

(I) The new or updated standard becomes effective on such a date as may be determined by the Director; and

(II) The Director will post a notice of approval and the effective date thereof at the State Library, Archives and Public Records and the Office of Energy, and on the Internet website of the Office of Energy; or

(2) Is not appropriate in this State, the Green Globes standard that was most recently adopted by the Director or determined to be appropriate for use in this State pursuant to this subsection continues to be effective.

2. The Director will review, evaluate and consider any new and updated Green Globes standard at least once each year.

Sec. 10. NAC 701A.215 is hereby amended to read as follows:

701A.215 1. In accordance with the provisions of NRS 701A.100, the Green Globes standards adopted pursuant to NAC 701A.213:

(a) Do not include any Green Globes standard:

(1) That has not been a Green Globes standard for at least 2 years at the time the applicant provides proof to the Director pursuant to NAC 701A.240 and 701A.250 that the building or other structure meets the equivalent of a rating of two globes or higher under the Green Globes standard; or

(2) For homes.

(b) Shall be deemed to require a building or other structure *certified under GG-NC* to obtain:

(1) At least ~~{32}~~ 28 points for ~~{energy conservation under the}~~ Energy Performance ~~{standard}~~ *under the Energy category* of ~~{a Green Globes standard,}~~ *GG-NC* to meet the equivalent of a rating of two globes;

(2) At least ~~{40}~~ 36 points for ~~{energy conservation under the}~~ Energy Performance ~~{standard}~~ *under the Energy category* of ~~{a Green Globes standard,}~~ *GG-NC* to meet the equivalent of a rating of three globes; and

(3) At least ~~56~~ 52 points for ~~energy conservation under the~~ Energy Performance ~~standard~~ *under the Energy category* of ~~the Green Globes standard,~~ *GG-NC* to meet the equivalent of a rating of four globes.

(c) Shall be deemed to require a building or other structure certified under GG-EB to obtain:

(1) At least 32 points for Energy Consumption under the Energy category of GG-EB to meet the equivalent of a rating of two globes;

(2) At least 40 points for Energy Consumption under the Energy category of GG-EB to meet the equivalent of a rating of three globes; and

(3) At least 48 points for Energy Consumption under the Energy category of GG-EB to meet the equivalent of a rating of four globes.

2. An applicant for a partial tax abatement:

(a) Must use ~~the third-party assessor, assigned by the Green Building Initiative, to review and verify the information submitted by the applicant and approve the project for the purpose of obtaining certification by the Green Building Initiative,~~ *an independent third party to facilitate:*

(1) The fundamental building systems commissioning process and report required by the LEED BD+C Energy and Atmosphere (EA) Prerequisite: Fundamental commissioning and verification, or equivalent; or

(2) The energy audit required by the LEED O+M Energy and Atmosphere (EA) Prerequisite: Energy efficiency best management practices, or equivalent; and

(b) Shall submit to the Director with his or her application a copy of the report *or energy audit, as applicable*, and *the* findings of the ~~assessor~~ *independent third party* as the result of the assessment conducted pursuant to paragraph (a).

3. As used in this section, “home” has the meaning ascribed to it in NRS 701A.100.

Sec. 11. NAC 701A.220 is hereby amended to read as follows:

701A.220 1. A person who, with respect to a construction project involving a building or other structure, wishes to apply to the Director pursuant to this chapter and NRS 701A.110 for a partial tax abatement must, if the certification of the building or other structure:

(a) Will be based on ~~LEED-NC, LEED-CS~~ **LEED BD+C** or GG-NC, submit an application to the Office of Energy on a form prescribed by the Director within 120 days after receiving local government approval of the construction project; or

(b) Will be based on ~~LEED standard other than LEED-NC or LEED-CS~~ **LEED O+M** or ~~based on GG-CIEB,~~ **GG-EB**, submit an application to the Office of Energy on a form prescribed by the Director within 120 days after registering the project with the U.S. Green Building Council or the Green Building Initiative, as applicable.

2. The application must include:

(a) The name, address and telephone number of the applicant;

(b) The name and address of the owner of the affected real property, if the applicant is not the owner;

(c) The address *and assessor parcel number* of the real property;

(d) The address of the board of county commissioners of the county in which the real property is located;

(e) If the real property is located in a city, the name and address of the city manager and the address of the city council, if any, of that city;

(f) Any project title associated with the development or modification of the real property;

(g) For each building or other structure included within the construction project:

- (1) The estimated gross square footage and number of floors of the building or other structure;
- (2) The proposed use of the building or other structure;
- (3) ~~{The estimated cost of the design and construction or retrofit, and maintenance and operation, of the building or other structure;~~
- ~~—(4)}~~ (4) The actual or estimated date of the start of the construction or retrofit;
- ~~{(5)}~~ (4) The expected date of occupancy of the building or other structure;
- ~~{(6)}~~ (5) If applicable, a copy of each executed preconstruction or construction contract the applicant is relying upon to qualify as a pre-2007 applicant;
- ~~{(7)}~~ (6) Proof that the building or other structure has been registered with the U.S. Green Building Council or the Green Building Initiative, as applicable;
- ~~{(8)}~~ (7) The applicable LEED standard or Green Globes standard on which the certification of the building or other structure will be based;
- ~~{(9)}~~ (8) A statement containing the level or rating and number of points of the applicable LEED standard or Green Globes standard at which the applicant expects the building or other structure to be certified, in the form of a checklist identifying the specific credits or points that the project team intends to achieve under the applicable LEED standard or Green Globes standard;
- ~~{(10)}~~ (9) A statement whether any funding for the acquisition, design or construction of the building or other structure, and associated land, is being provided by a governmental entity in this State;

~~(11)~~ (10) A list of all sources of funding for the acquisition, design, construction or renovation of the building or other structure, and associated land, provided by a governmental entity in this State; and

~~(12)~~ (11) A statement whether the building or other structure is receiving or is expected to receive any other abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS;

(h) The name and contact information of the professional accredited by the U.S. Green Building Council or the Green Building Initiative and assigned to the design team for the project or other person designated as the contact person on the application;

(i) A statement whether the building or other structure, or any part thereof, is or is expected in the future to be exempt from the taxes imposed on real property by chapter 361 of NRS pursuant to any provision of law other than NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS;

(j) A list of any improvements in the project that are not expected to be considered for certification under the applicable LEED standard or Green Globes standard;

(k) If the project is registered with the U.S. Green Building Council or the Green Building Initiative in a campus or multibuilding setting, a list of the buildings or other structures on the affected real property and the construction phases of each building or other structure;

(l) A copy of the local government approval of the construction project; ~~land~~

(m) *The amount of energy and water, expressed in kilowatt-hours, therms or kilogallons, as appropriate, used by the building or other structure before the project and the actual or projected amount used after the project, including, without limitation, the difference between*

the amounts of energy and water used and the percentage of energy and water saved as a result of the project;

(n) One or more graphical depictions which clearly indicate the horizontal and vertical boundaries of the project and its relationship to any adjoining project that receives or may receive the partial tax abatement;

(o) The estimated total cost of the project which includes, without limitation:

(1) The total cost for design and construction;

(2) The total cost for maintenance and operation; and

(3) An estimated incremental cost for the portion of the project which exceeds the requirements of the energy code currently in use in this State; and

(p) Any other information requested by the Director.

3. Upon receipt of all information required by this section, the Director will:

(a) Notify the applicant in writing acknowledging that the application has been received; and

(b) In accordance with the provisions of NRS 701A.110, forward a copy of the application

and the written notification provided to the applicant to the:

(1) Chief of the Budget Division of the Office of Finance;

(2) Department of Taxation;

(3) County assessor;

(4) County treasurer;

(5) Board of county commissioners;

(6) City manager and city council, if any; and

(7) Office of Economic Development.

4. The applicant must:

(a) Identify any information included in the application which the applicant considers to be confidential; and

(b) Promptly amend the application if there is a significant change in the scope of the project.

5. The Director will not accept an application pursuant to this section for a building or other structure that on the date the application is ~~registered~~ *submitted to the Director* has been issued a certificate of occupancy and has been certified by the U.S. Green Building Council or the Green Building Initiative.

6. If more than one building or other structure is located on the same parcel, the Director may consider an application for a partial tax abatement for a building or other structure located on the parcel separately from all other buildings or other structures on the same parcel if the U.S. Green Building Council or Green Building Initiative certifies the building or other structure which is the subject of an application separately from all other buildings or other structures receiving a partial tax abatement on the same parcel.

7. A project which consists of multiple owners and a unit-owners' association may apply using a single application if the unit-owners' association has been granted the authority to apply on behalf of the owners of all buildings or other structures which will be included in the project.

8. As used in this section, "unit-owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.030.

Sec. 12. NAC 701A.240 is hereby amended to read as follows:

701A.240 1. Within 48 months after an application for a partial tax abatement is submitted to the Director pursuant to NAC 701A.220, or within such time as the Director, for good cause shown, extends the deadline, the applicant must submit to the Director:

(a) Proof that the building or other structure:

(1) Meets the silver level or higher of the LEED Green Building Rating System adopted by the Director pursuant to NAC 701A.200; or

(2) Obtains a rating of two globes or higher under a Green Globes standard adopted by the Director pursuant to NAC 701A.213; or

(b) An application to extend the period for providing such proof.

2. If an applicant has not submitted the proof or an application for extension required by subsection 1, the Director will consider the application abandoned and notify the:

(a) Applicant;

(b) Chief of the Budget Division of the Office of Finance;

(c) Department of Taxation;

(d) County assessor;

(e) County treasurer;

(f) Board of county commissioners;

(g) City manager and city council, if any; and

(h) Office of Economic Development.

3. If the Director, after reviewing the proof submitted by the applicant pursuant to subsection 1, concludes that the building or other structure is eligible for a partial tax abatement, the Director will, not later than 120 days after receiving that proof, issue a certificate of eligibility for the abatement and provide a copy to the:

(a) Applicant;

(b) Chief of the Budget Division of the Office of Finance;

(c) Department of Taxation;

- (d) County assessor;
- (e) County treasurer;
- (f) Board of county commissioners;
- (g) City manager and city council, if any; and
- (h) Office of Economic Development.

4. The certificate of eligibility will include the duration and annual percentage of the partial tax abatement as provided in NAC 701A.280 and subsection 5 of NRS 701A.110, and identify each building or other structure to which the abatement should be applied. The Director may indicate that the abatement should be applied to an ancillary structure if the ancillary structure was specified in the application. The Director will include as part of the certificate of eligibility his or her findings of fact, conclusions of law and order explaining the reasons for issuing the certificate.

5. If the Director, after reviewing the proof submitted by the applicant pursuant to subsection 1, concludes that the building or other structure is not eligible for a partial tax abatement, the Director will, not later than 120 days after receiving that proof, issue a certificate of ineligibility for the abatement and provide a copy to the:

- (a) Applicant;
- (b) Chief of the Budget Division of the Office of Finance;
- (c) Department of Taxation;
- (d) County assessor;
- (e) County treasurer;
- (f) Board of county commissioners;
- (g) City manager and city council, if any; and

(h) Office of Economic Development.

↳ The Director will include as part of the certificate of ineligibility his or her findings of fact, conclusions of law and order explaining the reasons for issuing the certificate of ineligibility.

6. If a certificate of eligibility is issued:

(a) On or after July 1 and on or before March 31 of a fiscal year, the abatement becomes effective on July 1 of the immediately following fiscal year. The Director will not issue a certificate of eligibility on or before March 31 of a fiscal year with respect to an application that is not submitted to the Director on or before ~~February~~ *December* 1 of that fiscal year.

(b) On or after April 1 and on or before June 30 of a fiscal year, the abatement becomes effective on July 1 of the fiscal year next following the immediately following fiscal year.

7. A certificate of eligibility or a certificate of ineligibility issued pursuant to this section is a final order of the Director for purposes of judicial review.

Sec. 13. NAC 701A.250 is hereby amended to read as follows:

701A.250 1. Except as otherwise provided in subsection 2, the Director will accept as proof submitted pursuant to paragraph (a) of subsection 1 of NAC 701A.240:

(a) An original or certified copy of a letter from:

(1) The U.S. Green Building Council informing the applicant that the building or other structure meets the LEED silver level or higher; or

(2) The Green Building Initiative informing the applicant that the building or other structure qualifies for a rating of two globes or higher under a Green Globes standard;

(b) Official documentation issued by the U.S. Green Building Council or Green Building Initiative setting forth the number of points obtained by the building or other structure under the applicable LEED standard or Green Globes standard; or

(c) ~~{Any}~~ *An electronic communication from the U.S. Green Building Council or Green Building Initiative, as applicable, or any* other information acceptable to the Director , that, in the judgment of the Director, evidences compliance with the requirements of the LEED Green Building Rating System or a Green Globes standard, as applicable.

2. In addition to the documentation required by subsection 1, the proof submitted pursuant to this section must include:

(a) A statement whether any funding for the acquisition, design or construction of the building or other structure, and associated land, is being provided by a governmental entity in this State;

(b) A statement whether the building or other structure is receiving or is expected to receive any other abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS;

(c) A statement whether the building or other structure, or any part thereof, is or is expected in the future to be exempt from the taxes imposed on real property by chapter 361 of NRS pursuant to any provision of law other than NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS;

(d) An overall project narrative;

(e) The documentation submitted to the U.S. Green Building Council or Green Building Initiative, as applicable, to obtain points for water efficiency under the LEED Green Building Rating System or a Green Globes standard;

(f) For pre-2007 applicants:

(1) The documentation submitted to the U.S. Green Building Council to comply with the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); or

(2) Any documentation that, in the judgment of the Director, demonstrates the energy efficiencies achieved through compliance with the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); ~~and~~

(g) For applicants other than pre-2007 applicants:

(1) The documentation submitted to the U.S. Green Building Council or Green Building Initiative, as applicable, to obtain points under the LEED Green Building Rating System or a Green Globes standard, including, without limitation, any pertinent information regarding general building energy model, energy performance, building energy performance baseline, baseline and proposed design input parameters, baseline performance, performance rating, percentage improvement and points achieved; or

(2) Any documentation that, in the judgment of the Director, demonstrates the energy efficiencies achieved through compliance with the LEED Green Building Rating System or a Green Globes standard, as applicable ~~H~~ ; and

(h) A copy of the report or energy audit and findings of the independent third party required to be submitted to the Director pursuant to paragraph (b) of subsection 2 of NAC 701A.210 or paragraph (b) of subsection 2 of NAC 701A.215, as applicable.

Sec. 14. NAC 701A.260 is hereby amended to read as follows:

701A.260 1. The Director may require an applicant who has been issued a certificate of eligibility pursuant to NAC 701A.240 or the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates to submit to the Director on an annual or

other reasonable basis such information as the Director requires to determine whether the ~~parcel~~ ~~on which the~~ building or other structure ~~is located~~ is receiving another abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS.

2. After a certificate of eligibility has been issued pursuant to NAC 701A.240, the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates:

(a) Shall:

(1) Notify the Director if the building or other structure is sold during the term of the partial tax abatement; and

(2) Provide the buyer of the building or other structure with written notice of the certificate of eligibility and a copy of the statutes and regulations regarding the owner's rights and responsibilities relating to the certificate of eligibility; *and*

(b) Must submit to the Director as prescribed in subsection 3:

(1) Documentation of energy performance which indicates the pertinent ENERGY STAR rating or equivalent ENERGY STAR rating, annual energy reduction, annual ~~summer peak demand reduction~~ *energy use and site energy use intensity, as compared to the year in which the certificate of eligibility was issued* and ~~is~~ *which*, if the applicant for that certificate of eligibility:

(I) Qualified as a pre-2007 applicant, *indicates* compliance with the requirements for the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); or

(II) Did not qualify as a pre-2007 applicant, *indicates* compliance with the requirements of the LEED Green Building Rating System or a Green Globes standard, as applicable;

(2) A summary of the *most recent* annual utility bills ~~†~~ *and a summary of the annual utility bills for each year after the issuance of the certificate of eligibility*, including the amount of cost and usage, for each type of energy used by the building or other structure;

(3) A summary of the *most recent* annual water bills ~~†~~ *and a summary of the annual water bills for each year after the issuance of the certificate of eligibility*, including the amount of cost and usage, for the building or other structure; ~~and†~~

(4) *A statement indicating that the building or other structure meets or exceeds the initial rating assigned pursuant to the LEED Green Building Rating System or Green Globes standard, as applicable, and the number of points obtained in the Optimize Energy Performance credit under the LEED Green Building Rating System or for Energy Performance or Energy Consumption, as applicable, under the Energy category of the Green Globes standard;*

(5) *A copy of the most recent property tax statement which shows the amount of property tax abated; and*

(6) Any other documentation that, in the judgment of the Director, demonstrates compliance with the LEED Green Building Rating System or a Green Globes standard, as applicable. ~~†; and~~

~~—(c) Must submit to the Director as prescribed in subsection 3 written recertification from a third-party commissioning firm or third-party assessor, as applicable, stating that the energy systems of the building or other structure are still operating in general compliance with the~~

~~original project requirements, with particular focus and emphasis on certifying that the energy conservation measures upon which the original certificate of eligibility was based are still being achieved. The third party commissioning firm or third party assessor, as applicable, providing the recertification letter should typically be the same firm or assessor that provided the original fundamental building systems commissioning or assessment or existing building commissioning or assessment services on the project.]~~

3. The documentation required by:

(a) Paragraph (b) of subsection 2 must be submitted ~~[on or before March 15 of the third and each subsequent year after the certificate of eligibility was issued.~~

~~—(b) Paragraph (c) of subsection 2 must be submitted]~~ within 60 days after the end of the ~~[:~~

~~—(1) Third]~~ *second and each subsequent* year after the certificate of eligibility was issued ~~[if the duration of the partial tax abatement is 5 or 6 years;~~

~~—(2) Third and fifth years after the certificate of eligibility was issued if the duration of the partial tax abatement is 7 or 8 years; and~~

~~—(3) Third, fifth and seventh years after the certificate of eligibility was issued if the duration of the partial tax abatement is 9 or 10 years.]~~ *during which the building or other structure receives a partial tax abatement.*

(b) Subparagraphs (1) to (4), inclusive, of paragraph (b) of subsection 2 must be summarized and submitted on a form prescribed by the Office of Energy.

4. Upon determining that the ~~[parcel on which the]~~ building or other structure ~~[is located]~~ is receiving another abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS, the Director will notify the owner of the building or other structure and the Department of Taxation

in writing that the certificate of eligibility relating to the building or other structure has been suspended, and indicate the term of the suspension.

5. Upon determining that the building or other structure may have ceased to qualify for the level of certification for which the partial tax abatement was issued, or that the owner of the building or other structure may have failed to comply with any conditions imposed by the Director in issuing the partial tax abatement, the Director will notify the owner of the building or other structure of the findings of the Director and provide the owner a reasonable opportunity to cure any noncompliance issues included in the findings. If the owner fails to cure the noncompliance issues within the time or in accordance with the terms provided by the Director, the Director will issue a certificate of termination or reduction of eligibility, including his or her findings of fact, conclusions of law and order, which declares that the building or other structure has ceased to meet the standard upon which the certificate of eligibility was based, specifies the areas of noncompliance, and terminates the partial tax abatement or reduces the partial tax abatement to the level of certification for which the building or other structure qualifies. The Director will provide a copy of the certificate of termination or reduction of eligibility to the:

- (a) Owner of the building or other structure;
- (b) Chief of the Budget Division of the Office of Finance;
- (c) Department of Taxation;
- (d) County assessor;
- (e) County treasurer;
- (f) Board of county commissioners;
- (g) City manager and city council, if any; and
- (h) Office of Economic Development.

6. A certificate of termination or reduction of eligibility issued pursuant to this section is a final order of the Director for purposes of judicial review.

7. For the purposes of this section:

(a) On or before the date of submission to the Director of proof that a building or other structure meets the equivalent of the silver level or higher of the LEED Green Building Rating System or the rating of two globes or higher under a Green Globes standard, the applicant for a partial tax abatement shall designate a tax abatement coordinator for the building or other structure, and submit the name and address of the tax abatement coordinator to the Director; and

(b) Within 60 days after:

(1) The sale or other transfer of ownership of the building or other structure during the term of the partial tax abatement, the purchaser or other transferee shall designate a tax abatement coordinator for the building or other structure, and submit the name and address of the tax abatement coordinator to the Director; and

(2) The designation of any successor tax abatement coordinator for the building or other structure during the term of the partial tax abatement, the successor shall submit his or her name and address to the Director.

Sec. 15. NAC 701A.280 is hereby amended to read as follows:

701A.280 1. If the Director issues a certificate of eligibility pursuant to NAC 701A.240 for a building or other structure that meets the equivalent of the silver level or higher under the LEED standard for ~~LEED-NC or LEED-CS,~~ **LEED BD+C**, or that meets the equivalent of the rating of two globes or higher under the Green Globes standard for GG-NC, the Director will set the duration of the partial tax abatement for the building or other structure based upon the number of points awarded by the U.S. Green Building Council or Green Building Initiative, as

applicable, for energy conservation in the Optimize Energy Performance credit or Energy Performance section under the applicable LEED standard or Green Globes standard as provided in the following table:

LEED or Green Globes Certification Level	5-6 points in the Optimize Energy Performance credit category (LEED) or 13-23 28-35 points in the Energy Performance section (Green Globes)	7-10 points in the Optimize Energy Performance credit category (LEED) or 14-55 36-51 points in the Energy Performance section (Green Globes)	11-12 points in the Optimize Energy Performance credit category (LEED) or 16-63 52-63 points in the Energy Performance section (Green Globes)	13-14 points in the Optimize Energy Performance credit category (LEED) or 64- 71 75 points in the Energy Performance section (Green Globes)	15-16 points in the Optimize Energy Performance credit category (LEED) or 72-79 76-91 points in the Energy Performance section (Green Globes)	17-21 points in the Optimize Energy Performance credit category (LEED) or 80-92 92-100 points in the Energy Performance section (Green Globes)
Silver level or 2 globes	25 percent abatement for 5 years	25 percent abatement for 6 years	25 percent abatement for 7 years	25 percent abatement for 8 years	25 percent abatement for 9 years	25 percent abatement for 10 years
Gold level or 3 globes	25 percent abatement for 5 years	30 percent abatement for 6 years	30 percent abatement for 7 years	30 percent abatement for 8 years	30 percent abatement for 9 years	30 percent abatement for 10 years
Platinum level or 4 globes	25 percent abatement for 5 years	30 percent abatement for 6 years	35 percent abatement for 7 years	35 percent abatement for 8 years	35 percent abatement for 9 years	35 percent abatement for 10 years

2. If the Director issues a certificate of eligibility pursuant to NAC 701A.240 for a building or other structure that meets the equivalent of the silver level or higher under the LEED standard for ~~LEED-EB,~~ **LEED O+M**, or that meets the equivalent of the rating of two globes or higher under the Green Globes standard for ~~GG-CIEB,~~ **GG-EB**, the Director will set the duration of the partial tax abatement for the building or other structure based upon the number of points awarded by the U.S. Green Building Council or Green Building Initiative, as applicable, for energy conservation in the Optimize Energy Performance credit or Energy ~~Performance~~ **Consumption** section under the applicable LEED standard or Green Globes standard as provided in the following table:

LEED or Green Globes Certification Level	5-6 points in the Optimize Energy Performance credit category (LEED) or 32-39 points in the Energy {Performance} Consumption section (Green Globes)	7-10 points in the Optimize Energy Performance credit category (LEED) or 40- {55} 47 points in the Energy {Performance} Consumption section (Green Globes)	11 {12} or more points in the Optimize Energy Performance credit category (LEED) or {56-63} 48 or more points in the Energy {Performance} Consumption section (Green Globes)[[	{13-14 points in the Optimize Energy Performance credit category (LEED) or 64-71 points in the Energy Performance section (Green Globes)}	{15-16 points in the Optimize Energy Performance credit category (LEED) or 72-79 points in the Energy Performance section (Green Globes)}	{17-21 points in the Optimize Energy Performance credit category (LEED) or 80-100 points in the Energy Performance section (Green Globes)}
Silver level or 2 globes	25 percent abatement for 5 years	25 percent abatement for 5 years	25 percent abatement for 5 years[	{25 percent abatement for 5 years}	{25 percent abatement for 5 years}	{25 percent abatement for 5 years}
Gold level or 3 globes	25 percent abatement for 5 years	30 percent abatement for 5 years	30 percent abatement for 5 years[	{30 percent abatement for 5 years}	{30 percent abatement for 5 years}	{30 percent abatement for 5 years}
Platinum level or 4 globes	25 percent abatement for 5 years	30 percent abatement for 5 years	35 percent abatement for 5 years[	{35 percent abatement for 5 years}	{35 percent abatement for 5 years}	{35 percent abatement for 5 years}

Sec. 16. 1. The amendatory provisions of sections 1 to 13, inclusive, and 15 of this regulation apply only to a person who is issued a certificate of eligibility pursuant to NAC 701A.240 on or after the effective date of this regulation.

2. The amendatory provisions of section 14 of this regulation apply to a person who is issued a certificate of eligibility pursuant to NAC 701A.240 before, on or after the effective date of this regulation.

Sec. 17. NAC 701A.090 is hereby repealed.

TEXT OF REPEALED SECTION

701A.090 “LEED-CS” defined. “LEED-CS” means the LEED Green Building Rating System for Core and Shell Development.

