

**DRAFT - 01-27-21**  
**Amendments to Building Energy Reporting and Disclosure Ordinance**  
**Including a Building Performance Standard**

The intent of this standard is to reduce the emissions of air pollutants, including greenhouse gases, from Boston's large buildings by requiring the reporting and disclosure of annual energy use and compliance with emissions requirements in accordance with this ordinance. The standard will support emissions reduction and improved air quality, while prioritizing benefits for environmental justice communities, efficient energy use and reduced energy cost burdens, inclusive economic development, and local renewable energy production.

**Covered Buildings**

- Current: Buildings already covered by BERDO, i.e., all City buildings, buildings greater than or equal to 35,000 square feet or with 35 or more residential units, or multiple buildings on a single parcel that are cumulatively greater than 50,000 square feet (residential) or 100,000 square feet (commercial).
- New: Buildings greater than or equal to 20,000 square feet or with 15 or more residential units, or multiple buildings on a single parcel that are cumulatively greater than or equal to 20,000 square feet. Newly covered buildings must start reporting data in May 2022 for their emissions during 2021.

**Data Reporting and Verification**

- Current: Energy and water use;
- Current: Primary building uses;
- New: Any Renewable Energy Certificates (RECs), with proof of retirement;
- New: Any energy purchased via a Power Purchase Agreement and the emissions factor of the grid where the generating facility is located;
- New: Any CO<sub>2</sub>e emissions factors used, if different from ENERGY STAR Portfolio Manager;
- Optional reporting: Solid waste, occupancy, density, operational hours, net lessees, indoor air quality, and tenant surveys.

New: Building owners may authorize a utility or other third party to report on their behalf, but this does not obligate utilities to do so.

New: Building owners will self-certify their reporting data every year. Every fifth year, starting in 2026, they must provide a third-party verification of their data for the previous five years.

**Disclosure**

- Current: The City publicly discloses covered building and municipal building data.
- New: The City also regularly reports on metrics related to environmental justice and equitable implementation, such as energy cost burden and air quality. The review board may recommend regulation changes to further equitable implementation.

**New: Emissions Requirements**

- Emissions standards, measured in metric tons of CO<sub>2</sub>e per square foot, will start to apply in 2025 for already covered buildings and 2030 for newly covered buildings.
- Buildings may comply individually or apply to comply as part of a portfolio under common

ownership.

- The emissions standards decrease over time, according to:
  - Use-type thresholds schedule in Table 1;
  - Individual or hardship compliance schedule (see below).
- Buildings or portfolios with more than one primary use (at least 10% of a building's square footage, total annual energy use, or emissions) can choose a blended standard.
- The standards exclude emissions from emergency backup power or EV charging.

#### **New: Individual Compliance Schedules**

- Owners may apply for an individual compliance schedule.
- Individual schedules must decline on a linear or better basis and reduce emissions 50% by 2030 and 100% by 2050 in alignment with citywide goals.
- Baseline year may be from 2005 to 2022. Buildings constructed after 2022 may use the first complete year of operation.

#### **New: Hardship Compliance Plans**

A Hardship Compliance Plan may be approved by the Review Board for substantial obstacles to compliance, such as historic designation, deed restricted affordable housing financing constraints, pre-existing long-term energy contracts without reopeners, uniquely difficult building uses to decarbonize, or financial hardship.

#### **New: Compliance Mechanisms for Emissions Requirements**

- On-site energy efficiency or renewable energy measures;
- On-site fuel switching;
- Clean electricity purchase options:
  - Note: May only be counted towards emissions from on-site electricity consumption.
  - Municipal Aggregation: Electricity purchased through Community Choice Electricity will have the appropriate emissions factor applied.
  - Renewable Energy Certificates that: (1) Are generated by non-CO<sub>2</sub>e emitting sources and are RPS Class I eligible; (2) Are tracked by the New England Power Pool Generation Information System; (3) Are generated in the compliance period in which they are used and retired within six months of the end of the compliance period in which they are used.
  - Power Purchase Agreements with non-CO<sub>2</sub>e emitting renewable sources: (1) The energy purchased is generated during the compliance period; (2) RECs are retired within six months of the end of the compliance period.
- Alternative Compliance Payments may mitigate residual emissions:
  - The price of an ACP shall be the average cost of building decarbonization in Boston, initially \$234 per metric ton of CO<sub>2</sub>e, and will be reviewed every five years.

#### **New: Building Carbon Equitable Investment Fund**

- The City, through the Emissions Review Board, shall use ACP payments to support, implement, and administer local emissions reduction projects within Boston.
- Funds will prioritize benefits for environmental justice communities, including low-income affordable housing, high-quality jobs and economic inclusion, indoor air quality, community ownership, and local renewable energy development.

**Enforcement for Failure to Comply.**

- Current: Notice of violation, injunctive relief, fines for failure to report (\$150 to \$300 a day depending on building size, capped at \$3,000);
- New: Fines for failure to meet emissions standard:
  - One thousand dollars (\$1,000) a day for 35,000+ SF or 35 unit;
  - Three hundred dollars (\$300) a day for smaller buildings;
- New: Fines for inaccurate reporting:
  - One thousand (\$1,000) to five thousand (\$5,000) dollars depending on seriousness.

**New: Emissions Review Board.**

- A board appointed by the Mayor:
  - Nominations to be solicited from the community and local organizations for expertise in environmental justice, affordable housing, labor and equitable workforce development, building engineering and energy, public health, environmental protection and climate change, real estate development and management, and historic preservation.
  - Two-thirds of board members to be nominated by the community and community-based organizations, prioritizing environmental justice communities.
- Review board will:
  - Approve or disapprove hardship compliance plans or other waiver applications;
  - Approve expenditures from the Emissions Reductions Fund;
  - Propose regulations to APCC;
  - Oversee enforcement action.

**Table 1:** Building emissions standards

Building use	Emissions standards (kgCO <sub>2</sub> e/SF/yr.)					
	2025-2029	2030-2034	2035-2039	2040-2044	2045-2049	2050-
<u>Assembly</u>	7.8	4.6	3.3	2.1	1.1	0
<u>College/ University</u>	10.2	5.3	3.8	2.5	1.2	0
<u>Education</u>	3.9	2.4	1.8	1.2	0.6	0
<u>Food Sales &amp; Service</u>	17.4	10.9	8.0	5.4	2.7	0
<u>Healthcare</u>	15.4	10.0	7.4	4.9	2.4	0
<u>Lodging</u>	5.8	3.7	2.7	1.8	0.9	0
<u>Manufacturing/ Industrial</u>	23.9	15.3	10.9	6.7	3.2	0
<u>Multifamily housing</u>	4.1	2.4	1.8	1.1	0.6	0
<u>Office</u>	5.3	3.2	2.4	1.6	0.8	0
<u>Retail</u>	7.1	3.4	2.4	1.5	0.7	0
<u>Services</u>	7.5	4.5	3.3	2.2	1.1	0
<u>Storage</u>	5.4	2.8	1.8	1.0	0.4	0
<u>Technology/Science</u>	19.2	11.1	7.8	5.1	2.5	0