



# Zoning & Planning Committee Report

## City of Newton In City Council

**Monday, October 28, 2024**

Present: Councilors Oliver (Vice Chair), Baker, Albright, Wright, Krintzman, Getz, Danberg, and Kalis

Also Present: Councilors Lucas, Farrell, Malakie, and Greenberg

City Staff: William Ferguson, Co-Director of Sustainability; Andrew Lee, Senior Assistant City Solicitor; Josh Morse, Director of Public Buildings; Barney Heath, Director of Planning; Anthony Ciccariello, Commissioner of Inspectional Services; Mollie Hutchings, CPA Program Manager; Lara Kritzer; Director of Housing and Community Development; and Jaclyn Norton, Committee Clerk

All agendas and reports, both past and present can be found at the following link: [Zoning & Planning Committee | City of Newton, MA \(newtonma.gov\)](https://www.newtonma.gov/zoning-planning)

For more information regarding this meeting, a video recording can be found at the following link: [Zoning & Planning Committee - October 28, 2024](https://www.newtonma.gov/zoning-planning)

**#372-24      Appointment of Jennifer Pucci to Zoning Board of Appeals**

HER HONOR THE MAYOR appointing Jennifer Pucci, 22 Florence Court, Newtonville as a member of the Zoning Board of Appeals for a term of office set to expire on April 30, 2025. (60 Days: 12/06/24)

**Action:**      **Zoning & Planning Approved 8-0**

**Note:**      Ms. Pucci described her professional experience as a litigator and spoke about her time as an alternate on the Zoning Board of Appeals. A Councilor asked how she goes about understanding plans for projects that come before the ZBA when her background is not in being an architect. Ms. Pucci stated that it requires significant dedication to reviewing the materials along with reaching out to the Planning and Law Departments when you are unsure of something. Councilors also asked her views on the City achieving Safe Harbor status. Ms. Pucci noted how it is a valuable tool that can be utilized on a project-by-project basis. She plans to utilize guidance from the Planning and Law Department on whether it can be invoked when the next 40B project comes before the Zoning Board of Appeals. Committee members voted 8-0 on a motion to approve from Councilor Albright.

**#42-24 Request for Discussion and Ordinance to require energy use reporting**  
COUNCILORS ALBRIGHT, DANBERG, and LEARY on behalf of the Newton Citizens Commission on Energy (NCCE), requesting discussion and an ordinance that would require large property owners (campuses and large commercial buildings) to report energy use and associated greenhouse gas emissions annually to the city of Newton, to be used to encourage reductions in said energy use and greenhouse gas emissions in accordance and support of the goals set forth in the Newton Climate Action Plan.

**Action:** **Zoning & Planning Held 8-0**

**Note:** The Vice Chair outlined that the Committee has a few questions before it as it pertains to the inclusion of large residential buildings over 20,000sf with central heating and cooling systems, and what exemption if any to allow for Newton Wellesley Hospital.

### **Newton Wellesley Hospital**

Earlier in the day before this meeting, an updated version of the draft ordinance was received from Bill Ferguson, Co-Director of Sustainability, that included a draft exemption for Newton Wellesley Hospital along with a second draft exemption from Newton Wellesley Hospital. Due to these materials not being received within 48 Hours of the meeting, these would need to be accepted by a majority vote of the Committee per City Council Rules. Councilors noted that the hospital will need to come before the Committee to discuss this potential exemption. Committee members voted 3-5 (Councilors Oliver, Wright, Krintzman, Baker, and Kalis Opposed) on a motion to accept the materials. This motion failed and the items were not accepted to be discussed.

### **Preparedness of City Buildings**

Josh Morse, Director of Public Buildings, described that the City began preparing to move public buildings to fully electric starting in 2008. He outlined a number of projects the City has completed along with phase electrification projects that have been done as well. In looking at the compliance of public buildings, all current buildings will be in compliance until 2040 and projects in the CIP will be compliant until 2045.

A Councilor asked which schools would be last to be updated. Director Morse stated that this would be the most recent elementary schools along with both high schools. Director Morse also responded to a question on whether this is in the budget by reaffirming that his Department works with the CFO and has been planning this transition for multiple years. The City will also look into subsidies to aid in this transition.

### **Other Topics Not Including Residential**

A Councilor asked how the number of buildings needing to make changes immediately in Newton compares to other Communities. Philip Eash Gates from Synapse Energy stated that 67% of buildings in Newton and all affordable housing would be compliant until 2040. In Boston and Cambridge, a majority of buildings needed to begin making changes once eligible in the program.

Councilors expressed interest in the creation of a review board similar to Boston to aid in the development of regulations and to offer an appeal process. Mr. Ferguson and Andrew Lee, Senior Assistant City Solicitor, noted that this ordinance would be administered with objective criteria with no discretion and that an individual can currently sue the City instead of having a review board. It was added by Mr. Ferguson that they did not want to make the administration overly bureaucratic and will utilize individuals' expertise in drafting regulations along with having a public hearing on the regulations before finalized. Councilors noted the wealth of experience on several boards and commissions within the city which can create a pool of applicants for a potential advisory board.

### **Inclusion of Large Residential**

Councilor Danberg proposed an amendment to include residential buildings over 20,000 sf with central heating systems. This amendment would have the ordinance be similar to that presented last term. Currently, the draft ordinance only includes commercial buildings over 20,000sf. The proposing Councilor stated that revisiting this topic in a year would disadvantage owners of these residential buildings as it would give them less time to prepare as it would not move the proposed timeline for reporting compared to if it was included now. Mr. Ferguson noted that the City is working with National Grid and Eversource to enable easy reporting for building owners on portfolio manager. When asked as to why the draft ordinance this term does not include residential, Mr. Ferguson stated that this was due to the significant backlash received in Cambridge which led to them not including residential. A Councilor expressed caution about including residential at this time to allow the City more time to gain experience administering the program. Attorney Lee went over the attached redline of the proposed amendment with the Committee.

Discussion was had regarding potentially setting the first reporting date to September 15, 2025 (same as commercial) and a majority of committee members expressed interest in keeping it as drafted in the attached ordinance.

The Committee took two straw votes. First was a straw vote of 8-0 on BERDO as originally proposed. Second was a straw vote of 6-2 (Councilors Baker and Krintzman Opposed) on including residential buildings over 20,000sf with central heating and cooling systems in the ordinance with a first reporting date of September 15, 2026.

Committee members voted 8-0 on a motion to hold from Councilor Krintzman.

**#85-24 Request for discussion and possible amendments to enhance the preservation of existing homes.**

COUNCILORS BAKER, OLIVER, MALAKIE, KALIS, GETZ, LUCAS, LOBOVITS, AND WRIGHT requesting a discussion and possible amendments to Chapter 30 Zoning or other City Ordinances to enhance the preservation of existing homes over their replacement by larger and more expensive structures.

**Zoning & Planning Held 7-0 on 02/15/24**

**Zoning & Planning Held 6-0 (Councilor Albright Not Voting) on 03/11/24**

**Zoning & Planning Held 8-0 on 04/08/24**

**Zoning & Planning Held 7-0 on 07/22/24**

**Zoning & Planning Held 7-0 on 09/09/24**

**Zoning & Planning Held 7-0 on 10/10/24**

**Action:** **Zoning & Planning Held 8-0**

**Note:** Barney Heath, Director of Planning, outlined that this is a continued examination of the current conditions impacting development within the City. This meeting will focus on the perspectives of Director Morse and Anthony Ciccariello, Commissioner of Inspectional Services, about the specialized energy code. Director Morse described that the considerations taken regarding the specialized energy code are similar in both the public and private sectors and that he has seen renovation and addition become less viable over time. This is due to complying with the envelope requirements in the energy code and this problem is not unique to Newton. The attached slide demonstrates the number of MSBA projects that are a renovated or new construction since 2009. He also noted that the embodied carbon of a project and site conditions are also considered when deciding on an addition and renovation versus a new construction.

Councilors asked if individuals could do a renovation that does not meet the criteria for a significant renovation and does not have to comply with the specialized energy code. Commissioner Ciccariello stated that renovations under 50% of the gross floor area or 1000sf do not have to comply with the requirements in the specialized code. He added that his office is also getting inquiries from people looking to do renovations in stages and how to do this and have this new equipment comply with the specialized energy code if it is triggered. It was stated by multiple Councilors the need for a balancing act in deciding to renovate vs new construction along with there being a market for existing homes in Newton. Director Morse responded that the building importantly needs to meet the needs of the buyer and that it also meets market demands. Later in the discussion, He added that for smaller homes in Newton, it is cost-prohibitive for individuals starting due to the median home price being \$1.4 million. Multiple Councilors expressed interest in finding ways to increase more affordable housing options in the City and one Councilor stated the need to find the reason that 90% of homes sold each year are not torn down.

Councilors voted 8-0 on a motion to hold items #85-24 and #41-24 from Councilor Krintzman.

**#41-24 Amend the setbacks in the MR zones to encourage preservation of existing buildings**

COUNCILORS ALBRIGHT, DANBERG, KRINTZMAN, AND LEARY seeking a discussion with the Planning Department to consider ordinance amendments that would revise the metrics in the multi-residence (MR1, MR2 and MR3) zones, to regulate the size of new buildings better, enable a wider range of housing options close to public transit, and better incentivize preservation and renovation of existing housing stock.

**Zoning & Planning Held 7-0 on 02/15/24**

**Zoning & Planning Held 6-0 (Councilor Albright Not Voting) on 03/11/24**

**Zoning & Planning Held 8-0 on 04/08/24**

**Zoning & Planning Held 7-0 on 07/22/24**

**Zoning & Planning Held 7-0 on 09/09/24**

**Zoning & Planning Held 7-0 on 10/10/24**

**Action:** Zoning & Planning Held 8-0

**Note:** This item was discussed jointly with item #85-24. A written report can be found with item #85-24.

**Referred to Zoning & Planning and Finance Committees**

**#403-24 CPC Recommendation to appropriate \$1,841,719.78 in CPA funding**

COMMUNITY PRESERVATION COMMITTEE recommending appropriation of one million eight hundred forty one thousand seven hundred and nineteen dollars and seventy eight cents (\$1,841,719.78) from Community Housing FY24 Reserve Account and Unrestricted Prior Year Reserves to the control of the Planning & Development Department for a grant to the Newton Affordable Housing Trust for their FY25 funding.

**Action:** Zoning & Planning Approved 8-0

**Note:** Susan Lunin, Community Preservation Commission (CPC) Chair, outlined that this request is part of the effort of the CPC to allocate its annual target for Community Housing to the Affordable Housing Trust. This target is equal to 35% of FY25 annual funds and the attached presentation details that the full amount will be this 35% along with funds reimbursed to the City through the sale of an affordable unit. The funding sources for this request are the Unrestricted Prior Year Reserves and the Community Housing FY25 Reserve Account. Mollie Hutchings, CPA Program Manager, presented the current account balances and the balance if this funding request is approved.

A Councilor asked what the Trust has accomplished since its creation. Since the creation of the Affordable Housing Trust in December 2021 they have developed program guidelines and an application process and are accepting funding applications. Ann Houston, Chair of the Affordable Housing Trust, stated that two projects have been funded so far by the Trust (Family Aid's work

at the West Newton Navigation Center and 2Life Communities' Coleman House). Other projects are in the pipeline but have not submitted a funding request as of the time of this meeting.

Committee members voted 8-0 on a motion to approve from Councilor Albright.

The meeting adjourned at 10:10 pm.

**Respectfully Submitted,**

**John Oliver, Vice Chair**

# City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment

**WHEREAS:** Buildings contribute to 64 percent of greenhouse gas emissions in the City of Newton; and

**WHEREAS:** ~~Non-Residential~~ Buildings over 20,000 Gross Floor Area contribute 2823 percent of greenhouse gas emissions in the City of Newton; and

**WHEREAS:** The City of Newton's Climate Action Plan details strategies to reduce carbon emissions from buildings; and

**WHEREAS:** The Newton City Council passed a resolution unanimously in April 2022 declaring that the City should pass a Building Emissions and Reduction Ordinance.

## **THEREFORE, THE FOLLOWING ORDINANCE IS ADOPTED:**

### SECTION 1. Building Emissions Reduction and Disclosure

#### **(a) Purpose**

It is the intent of this Ordinance to reduce the emissions of air pollutants, including greenhouse gases, from building energy consumption, and thereby to encourage efficient use of energy; to develop further investment in building a green economy, and to protect public health. To do so, the provisions of this Ordinance require the reporting and disclosure of annual energy use in all

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covered Buildings and compliance with emissions reduction requirements in accordance with this Ordinance.

## (b) Definitions

When used in this Ordinance, unless a contrary intention clearly appears, the following terms shall have the following meaning:

*Alternative Compliance Payment* means a per-metric ton payment based on the average cost per metric ton of CO<sub>2</sub>e to decarbonize Buildings subject to this Ordinance.

*BERDO Administrator* means the City employee designated as the individual employed to implement the BERDO program.

*Building* means a building that equals or exceeds 20,000 square feet in Gross Floor Area ~~and in which at least 20,000 square feet of Gross Floor Area is used for non-residential purposes.~~

*Building Portfolio* means two or more Buildings, on one or more properties, provided that all Buildings within the Portfolio have the same Owner; for this purpose, a Building management company does not constitute an Owner.

*Building Use* means (i) space type as defined in the Regulations, which refers to the primary activity for which a given space is utilized, as entered into the EPA Energy Star Portfolio Manager



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reporting tool; or (ii) other activities as defined in Portfolio Manager or by the Regulations.

*Carbon Dioxide Equivalent (CO<sub>2e</sub>)* means greenhouse gas Emissions, including carbon dioxide, methane, and nitrous oxide. CO<sub>2e</sub> shall be calculated using a methodology as set forth in the Regulations.

*Emergency Backup Generation/Backup Power* means a device or mechanism, such as battery storage, reciprocating internal combustion engine, or turbine, that serves solely as a secondary source of mechanical or electrical power whenever the primary Energy supply is disrupted or discontinued during power outages or natural disasters that are beyond the control of the Owner, occupant, or operator of a Building.

*Emissions* means the emission of greenhouse gases, measured in units of CO<sub>2e</sub> associated with the Energy used by a Building, excluding electricity.

*Emissions Factor* means CO<sub>2e</sub> calculated according to regional Energy and greenhouse gas factors as set forth in the Regulations.

*Energy* means electricity and any fuel source including, but not limited to, natural gas, fuel oil, propane and any other sources of Energy that the BERDO Administrator may designate.

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*Portfolio Manager or EPA ENERGY STAR Portfolio Manager* means the U.S. Environmental Protection Agency's online tool for reporting and managing Building Energy data.

*Environmental Justice Population* means a neighborhood that meets one or more of the following criteria: (i) the annual median household income is not more than 65 percent of the statewide annual median household income; (ii) minorities comprise 40 percent or more of the population; (iii) 25 percent or more of households lack English language proficiency; or (iv) minorities comprise 25 percent or more of the population and the annual median household income of the municipality in which the neighborhood is located does not exceed 150 percent of the state annual median income; or such other meaning as is adopted or amended by the Commonwealth's Executive Office of Energy and Environmental Affairs, by state statute, or defined in the Regulations.

*Gross Floor Area (GFA)* means the sum of the floor area of the Building measured from the exterior face of the exterior walls of the Building as per the City of Newton Assessors' records. The BERDO Administrator shall publish Regulations governing the calculation of Gross Floor Area, including types of areas that shall be excluded from the calculation.

*Hardship Compliance Plan* means alternative Emissions reduction targets and/or timelines for a Building or Building Portfolio.

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*Individual Compliance Schedule* means an alternative timeline for complying with the Emissions Standards outlined in this Ordinance.

*Non-Residential Building* means a Building in which at least 20,000 square feet of the Gross Floor Area is used for commercial, retail, office, professional, educational, or other non-residential purposes.

*Owner* means a Building's Owner of record, provided that the "Owner" may be deemed to include (i) multiple Owners in common ownership and (ii) the association or organization of unit Owners responsible for overall management in the case of a condominium. In the case of a Building subject to a lease that assigns maintenance, regulatory compliance, and/or capital improvement costs to Tenants with a term of at least 30 years, inclusive of all renewal options, the Owner may designate the lessee as "Owner" for purposes of compliance with this Ordinance; such designation must be provided in writing to the BERDO Administrator as required by the Regulations. An Owner may designate an agent to act on its behalf, including reporting as required by this Ordinance; provided, however, that any designation (i) must be provided in writing to the—BERDO Administrator, and (ii) does not relieve the Owner of any compliance obligation under this Ordinance.

*Regulations* means the Newton Building Emissions Reduction and Disclosure Regulations.

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*Residential Building* means a Building in which 50 percent or more of the Gross Floor Area, including hallways and other common spaces, are used for residential purposes, and the Building utilizes centralized heating systems.

*Tenant* means any tenant of a Building covered by this Ordinance.

*Verification Year* means any year in which an Owner must report third-party verified reporting data. Verification Years will be the second reporting year for each building category following the enactment of this Ordinance, and every five years thereafter.

## (c) **Building Portfolios**

Building Portfolios must be approved by the BERDO Administrator and Building Portfolio Owners must submit documentation confirming eligibility as a Building Portfolio. Notwithstanding the approval of a Building Portfolio, Owners must continue to report the Energy use, Emissions data, and any other information required by this Ordinance for each individual Building. If a Building is removed from or added to a Building Portfolio for any reason, including transfer to a different Owner, the Building shall retain its individual reporting data and be subject to the Emissions standards, and the Building Portfolio shall be adjusted to reflect the removal or addition of the Building.

## (d) **Energy and Emissions Reporting Required**

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## *(i) Data Reporting Requirements*

Each year, the Owner of each Building subject to reporting requirements shall accurately report to the BERDO Administrator, via the Portfolio Manager or as required by the Regulations, the following information for the previous calendar year:

- (a) Energy use of each Building and other Building characteristics necessary to evaluate CO<sub>2</sub>e Emissions on a kilogram (kg) CO<sub>2</sub>e per square foot (SF) per year basis.
- (b) The primary Building Use(s) of each Building in accordance with the categories listed in the Portfolio Manager and the Regulations. Multiple primary Building Uses shall be reported, provided that each use occupies at least 10 percent of the Building's Gross Floor Area.
- (c) Contact information for Owners and any designated agents.

## *(ii) Reporting Schedules*

The initial reports shall occur according to the following schedule:

1. For every Non-Residential Building equal to or greater than 100,000 square feet Gross Floor Area, the first report shall be submitted no later than September 15, 2025.

## City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment

2. For every Non-Residential Building equal to or greater than 20,000 square feet Gross Floor Area but less than 100,000 square feet Gross Floor Area, the first report shall be submitted no later than September 15, 2026.

2.3. For every Residential Building, the first report shall be submitted no later than September 15, 2026.

Building Owners may apply to the BERDO Administrator for a one-time six-month extension of their reporting deadline.

**(e) Direct Upload**

Provided that the necessary mechanisms already exist, Building Owners may authorize electric and gas utilities or other third party to report Building-specific data on their behalf to the BERDO Administrator. Such authorization shall not create an obligation on the part of electrical and gas utilities or remove the obligation of Building Owners to comply with reporting requirements.

**(f) Equitable Emissions Investment Fund**

The City Comptroller shall establish the Equitable Emissions Investment Fund (hereinafter, the “Fund”) as a separate account, and credit to the Fund all Alternative Compliance Payments, penalties and fees paid pursuant to this Ordinance.

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The City may incur liabilities against and spend monies from the Fund.

At the discretion of the BERDO Administrator, and with approval by the Mayor, expenditures from the Fund may be made for the following purposes:

- a. Projects that benefit Environmental Justice Populations
- b. Costs incurred by the City in administering the program created pursuant to this Ordinance;
- c. Costs incurred by the City in complying with the program created pursuant to this Ordinance;
- d. Costs incurred by non-profit entities that operate within the City, including but not limited to entities that operate affordable housing, in complying with the program created pursuant to this Ordinance;
- e. Other projects intended to reduce greenhouse gas emissions within the City; or
- f. Technical assistance to property owners subject to BERDO related to implementation of the requirements of this ordinance.

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## **(g) Data Verification**

- a. Building Owners shall self-certify their reporting data every year.

In a Building's second year of reporting, Building Owners shall provide a third-party verification of their reporting data for the previous year. For every Verification Year thereafter, Building Owners shall provide a third-party verification for the five calendar years prior to, but not including the current year. Third-party verifications must be performed by qualified Energy professionals, as defined by the Regulations, and submitted no later than the reporting deadline of the relevant year.

## **(h) Emissions Requirements**

Each Building subject to the reporting requirements of this Ordinance shall comply with the CO<sub>2</sub>e Emissions standards set forth in Table 1 below; unless the Building Owner has received an approved Individual Compliance Schedule pursuant to the requirements in SECTION 1(k) or an approved Hardship Compliance Plan pursuant to SECTION 1(l). Buildings must comply with the Emissions standards on an annual basis and compliance shall be measured as a total of kg of CO<sub>2</sub>e Emissions per square foot. Buildings will be subject to the emissions standards in Table 1 based on the schedule for each Tier and Building Category in Tables 2 through 5.



**City of Newton Proposed Building Emissions  
Reduction and Disclosure Ordinance (BERDO)  
Councilor Danberg Proposed Amendment**

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**City of Newton Proposed Building Emissions  
Reduction and Disclosure Ordinance (BERDO)  
Councilor Danberg Proposed Amendment**

Table 1: CO<sub>2</sub>e Emissions Standards by Building Use

Building Use	Emission standards (kgCO <sub>2</sub> e/SF/yr)				
	Period 1	Period 2	Period 3	Period 4	Period 5
Assembly	6.1	3.7	2.3	1.1	0.0
College/University	9.5	5.7	3.5	1.5	0.0
Education	4.1	2.8	1.9	0.9	0.0
Food Sales & Service	6.8	4.4	3.2	1.5	0.0
Healthcare	14.3	9.2	6.5	3.2	0.0
Lodging	4.6	3.1	2.1	1.0	0.0
Manufacturing/Industrial	3.9	2.9	2.2	1.0	0.0
Office	3.1	2.0	1.2	0.5	0.0
<u>Residential</u>	<u>4.8</u>	<u>2.8</u>	<u>1.7</u>	<u>.08</u>	<u>0.0</u>
Retail	3.4	2.3	1.4	0.6	0.0
Services	6.5	4.2	2.9	1.4	0.0
Storage	2.5	1.8	1.3	0.6	0.0
Technology/Science	14.6	10.7	6.7	2.8	0.0

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Table 2. Compliance Periods by Building Use—Tier 1 Buildings:  
Buildings equal to or greater than 100,000 square feet Gross Floor  
Area.

Building Use	Emission standards (kgCO <sub>2</sub> e/SF/yr)				
	2027- 2032	2033- 2038	2039- 2044	2045- 2049	2050-
Assembly	6.1	3.7	2.3	1.1	0.0
College/University	9.5	5.7	3.5	1.5	0.0
Education	4.1	2.8	1.9	0.9	0.0
Food Sales & Service	6.8	4.4	3.2	1.5	0.0
Healthcare	14.3	9.2	6.5	3.2	0.0
Lodging	4.6	3.1	2.1	1.0	0.0
Manufacturing/Industrial	3.9	2.9	2.2	1.0	0.0
Office	3.1	2.0	1.2	0.5	0.0
<u>Residential</u>	<u>4.8</u>	<u>2.8</u>	<u>1.7</u>	<u>.08</u>	<u>0.0</u>
Retail	3.4	2.3	1.4	0.6	0.0
Services	6.5	4.2	2.9	1.4	0.0
Storage	2.5	1.8	1.3	0.6	0.0
Technology/Science	14.6	10.7	6.7	2.8	0.0

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Table 3. Compliance Periods by Building Use—Tier 2 Buildings:  
Non-Residential Buildings equal to or greater than 50,000 square  
feet and less than 100,000 square feet Gross Floor Area.

Building Use	Emission standards (kgCO <sub>2</sub> e/SF/yr)				
	2028- 2033	2034- 2039	2040- 2044	2045- 2049	2050-
Assembly	6.1	3.7	2.3	1.1	0.0
College/University	9.5	5.7	3.5	1.5	0.0
Education	4.1	2.8	1.9	0.9	0.0
Food Sales & Service	6.8	4.4	3.2	1.5	0.0
Healthcare	14.3	9.2	6.5	3.2	0.0
Lodging	4.6	3.1	2.1	1.0	0.0
Manufacturing/Industrial	3.9	2.9	2.2	1.0	0.0
Office	3.1	2.0	1.2	0.5	0.0
<u>Residential</u>	<u>4.8</u>	<u>2.8</u>	<u>1.7</u>	<u>.08</u>	<u>0.0</u>
Retail	3.4	2.3	1.4	0.6	0.0
Services	6.5	4.2	2.9	1.4	0.0
Storage	2.5	1.8	1.3	0.6	0.0
Technology/Science	14.6	10.7	6.7	2.8	0.0

## City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment

Table 4. Compliance Periods by Building Use—Tier 3 Buildings:  
Residential Buildings Equal to or Greater than 50,000 Square Feet  
and Non-Residential Buildings equal to or greater than 35,000  
square feet and less than 50,000 square feet Gross Floor Area.

Building Use	Emission standards (kgCO <sub>2</sub> e/SF/yr)				
	2029- 2034	2035- 2039	2040- 2044	2045- 2049	2050-
Assembly	6.1	3.7	2.3	1.1	0.0
College/University	9.5	5.7	3.5	1.5	0.0
Education	4.1	2.8	1.9	0.9	0.0
Food Sales & Service	6.8	4.4	3.2	1.5	0.0
Healthcare	14.3	9.2	6.5	3.2	0.0
Lodging	4.6	3.1	2.1	1.0	0.0
Manufacturing/Industrial	3.9	2.9	2.2	1.0	0.0
Office	3.1	2.0	1.2	0.5	0.0
<u>Residential</u>	<u>4.8</u>	<u>2.8</u>	<u>1.7</u>	<u>.08</u>	<u>0.0</u>
Retail	3.4	2.3	1.4	0.6	0.0
Services	6.5	4.2	2.9	1.4	0.0
Storage	2.5	1.8	1.3	0.6	0.0
Technology/Science	14.6	10.7	6.7	2.8	0.0

## City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment

Table 5. Compliance Periods by Building Use—Tier 4 Buildings:  
Buildings equal to or greater than 20,000 square feet and less than  
35,000 square feet Gross Floor Area.

Building Use	Emission standards (kgCO <sub>2</sub> e/SF/yr)				
	2030- 2034	2035- 2039	2040- 2044	2045- 2049	2050-
Assembly	6.1	3.7	2.3	1.1	0.0
College/University	9.5	5.7	3.5	1.5	0.0
Education	4.1	2.8	1.9	0.9	0.0
Food Sales & Service	6.8	4.4	3.2	1.5	0.0
Healthcare	14.3	9.2	6.5	3.2	0.0
Lodging	4.6	3.1	2.1	1.0	0.0
Manufacturing/Industrial	3.9	2.9	2.2	1.0	0.0
Office	3.1	2.0	1.2	0.5	0.0
<u>Residential</u>	<u>4.8</u>	<u>2.8</u>	<u>1.7</u>	<u>.08</u>	<u>0.0</u>
Retail	3.4	2.3	1.4	0.6	0.0
Services	6.5	4.2	2.9	1.4	0.0
Storage	2.5	1.8	1.3	0.6	0.0
Technology/Science	14.6	10.7	6.7	2.8	0.0

## City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment

Table 6. Compliance Periods by Building Use—Tier 5 Buildings: Residential Buildings Equal to or Greater than 20,000 Square Feet and Less than 50,000 square feet Gross Floor Area.

<u>Building use</u>	<u>Emission standards (kgCO<sub>2</sub>e/SF/yr)</u>				
	<u>2031-2034</u>	<u>2035-2039</u>	<u>2040-2044</u>	<u>2045-2049</u>	<u>2050-</u>
<u>Residential</u>	4.8	2.8	1.7	.08	0.0

**(i) Blended Emissions Standard**

Buildings or Building Portfolios with more than one primary use may comply with a blended CO<sub>2</sub>e Emissions standard as defined by Regulation; provided, however, that a use may constitute a primary use only if it occupies at least 10 percent of a Building’s

or Building Portfolio’s Gross Floor Area. Building Owners using a blended CO<sub>2</sub>e Emissions standard must (i) designate the blended standard in annual reports to the BERDO Administrator, and (ii) provide documentation verifying the qualification of each primary use in annual reports to the BERDO Administrator for the first year a blended CO<sub>2</sub>e Emissions standard is used and in any subsequent year for which the blended Emissions standard or primary use(s) changes.

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### **(j) Energy Use Exempt from Emissions Requirements**

- i. Electricity which is used by a covered Building or Building Portfolio is exempt from the CO<sub>2</sub>e Emissions Standard of this ordinance;
- ii. Building Owners may deduct Energy used by Emergency Backup Generation/Backup Power supply equipment from a Building's total Energy use subject to the CO<sub>2</sub>e Emissions standard of this Ordinance, provided that emergency Backup Generation/Backup Power provides Energy only to the Building or Building Portfolio; and:
- iii. Building Owners annually report (i) Energy used by Emergency Backup Generation / Backup Power; (ii) the date(s), hour(s) and conditions that required the use of Emergency Backup Generation/Backup Power; and (iii) any other information required by the Regulations. Such reporting shall be subject to the self-certification and third-party verification procedures in SECTION 1(g);
- iv. In the event that Emergency Backup Generation/Backup Power serves, or has the potential to serve, multiple Buildings in a Building Portfolio, the Energy use from such activities shall be allocated to individual Buildings in proportion to the gross square footage of each Building.



## City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment

The BERDO Administrator may revise the availability and use of these exemptions or add additional exemptions pursuant to the Regulations.

### **(k) Individual Compliance Schedules**

Owners of Buildings or Building Portfolios may apply for an Individual Compliance Schedule as an alternative to the CO<sub>2e</sub> Emissions standard reduction schedule in Tables 2 through 5. Individual Compliance Schedules must establish declining CO<sub>2e</sub> Emissions standards in 5- to 6-year increments, and such standards must (i) decline on a linear basis, (ii) reduce Emissions 40 percent by period 3, and (iii) reduce Emissions 100 percent by period ~~5~~<sup>6</sup>; and

Use a baseline from any year between 2013 and the first required reporting year, provided, however, that the Building or Building Portfolio Owner provides documentation of Energy use, Gross Floor Area, and relevant Emissions Factors by the Building or Building Portfolio for the selected baseline year and the year in which an Individual Compliance Schedule is requested, in accordance with the data verification requirements of this Ordinance and the Regulations.

A Building or Building Portfolio that failed to comply with previous reporting requirements may use an Individual Compliance Schedule; provided, however, that the necessary data

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has been submitted to the BERDO Administrator and any applicable penalties for past non-compliance are paid in full.

Individual Compliance Schedules must be approved by the BERDO Administrator. Building and Building Portfolio Owners must submit the information required in this Ordinance, and any other documentation specified in the Regulations, when requesting an Individual Compliance Schedule. The BERDO Administrator may include additional conditions on the approval of Individual Compliance Plans, consistent with the Regulations.

### **(l) Hardship Compliance Plans**

A Building Owner may apply to the BERDO Administrator for a Hardship Compliance Plan if there are extraordinary characteristics or circumstances associated with the Building in complying with the Emissions standards in this Ordinance. Such characteristics or circumstances may include historic Building designations, pre-existing long-term Energy contracts without reopeners, or extraordinary financial hardship. Implementation guidelines will be further detailed in the Regulations. The application, review process, and conditions for Hardship Compliance Plans shall be set forth in the Regulations. The BERDO Administrator shall have sole discretion in approving Hardship Compliance Plans; such plans may include alternative Emissions standards and timelines for compliance. The BERDO Administrator may include additional conditions on the approval of Hardship Compliance Plans consistent with the Regulations.

# City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment

## **(m) Alternative Compliance Payments**

Owners of Buildings or Building Portfolios may mitigate CO<sub>2</sub>e Emissions from Energy use by making Alternative Compliance Payments. The price of an Alternative Compliance Payment shall be based on the average cost per metric ton of CO<sub>2</sub>e to decarbonize Buildings subject to this Ordinance. The initial cost of an Alternative Compliance Payment shall be \$234 per metric ton of CO<sub>2</sub>e. The cost of an Alternative Compliance Payment shall be reviewed every five years by the BERDO Administrator, which shall make recommended adjustments, if any, to the City Council.

## **(n) Preservation of Documents**

Building Owners shall preserve records and information (i) required to be submitted by this Ordinance and/or (ii) submitted pursuant to this Ordinance in order to demonstrate compliance with the Emissions standards, including but not limited to information regarding Building Uses, Emissions Factors, compliance mechanisms outlined in this Ordinance, Individual Compliance Schedules, and Hardship Compliance Plans, for such time as set forth in the Regulations, and shall make such records available for inspection and audit by the BERDO Administrator or the Law Department upon request.

## **(o) Obligation to Request and Report Information**

## **City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment**

Where a unit or other space in a Building is occupied by a Tenant and the unit or space is separately metered, the Tenant of such space shall, within 30 days of request by the Owner and in a form to be determined by the BERDO Administrator, provide all information that cannot otherwise be acquired by the Owner and that is needed to comply with the requirements of this Ordinance. Failure by Tenant to comply with the requirements of this Ordinance may result in penalties as provided in this Ordinance.

1. The Owner may request information related to the Tenant's metered Energy and other related information for the previous calendar year no earlier than January 1 and no later than January 31 of any year in which the Owner is required to report such information.
2. Failure of any Tenant to report the information required in this Ordinance does not relieve the Owner of the obligation to report.
3. Where an Owner of a Building is unable to obtain complete Energy use data due to the failure of any Tenant to report the information required, the Owner shall use values or formulas established by the BERDO Administrator to estimate whole Building Energy use.

# **City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment**

## **(p) Disclosure**

The BERDO Administrator shall make Energy and Emissions information for Buildings available to the public on the City's website no later than November 30 of every year, except for 2025, in which it shall make such information available to the public no later than December 15, 2025. Such disclosure shall include, at a minimum, Building identification, Energy use intensity, CO<sub>2</sub>e Emissions per square foot, and Emissions compliance status. Before any such disclosure, the BERDO Administrator shall subject all data to a quality-assurance/quality-control process.

1. At least 30 Days prior to disclosure, the BERDO Administrator shall provide Building Owners an opportunity to review the accuracy of information to be disclosed.
2. The Building Administrator shall also, from time to time, publicly report on implementation of, compliance with, and overall results from this Ordinance.

## **(q) Enforcement for Failure to Comply with this Ordinance**

Any violation of this ordinance shall be punishable by a fine of three hundred (\$300.00) dollars per day for each day the violation continues. Each day a violation continues shall constitute a separate offense. Where noncriminal disposition of this section by

## **City of Newton Proposed Building Emissions Reduction and Disclosure Ordinance (BERDO) Councilor Danberg Proposed Amendment**

civil fine has been provided for in sections 17-22 and 17-23 of these ordinances, as amended, pursuant to the authority granted by M.G.L. c. 40, section 21D, said violation may be enforced in the manner provided in such statute. Penalties under this section will not be levied prior to the third year of the effective date of the emissions requirement.

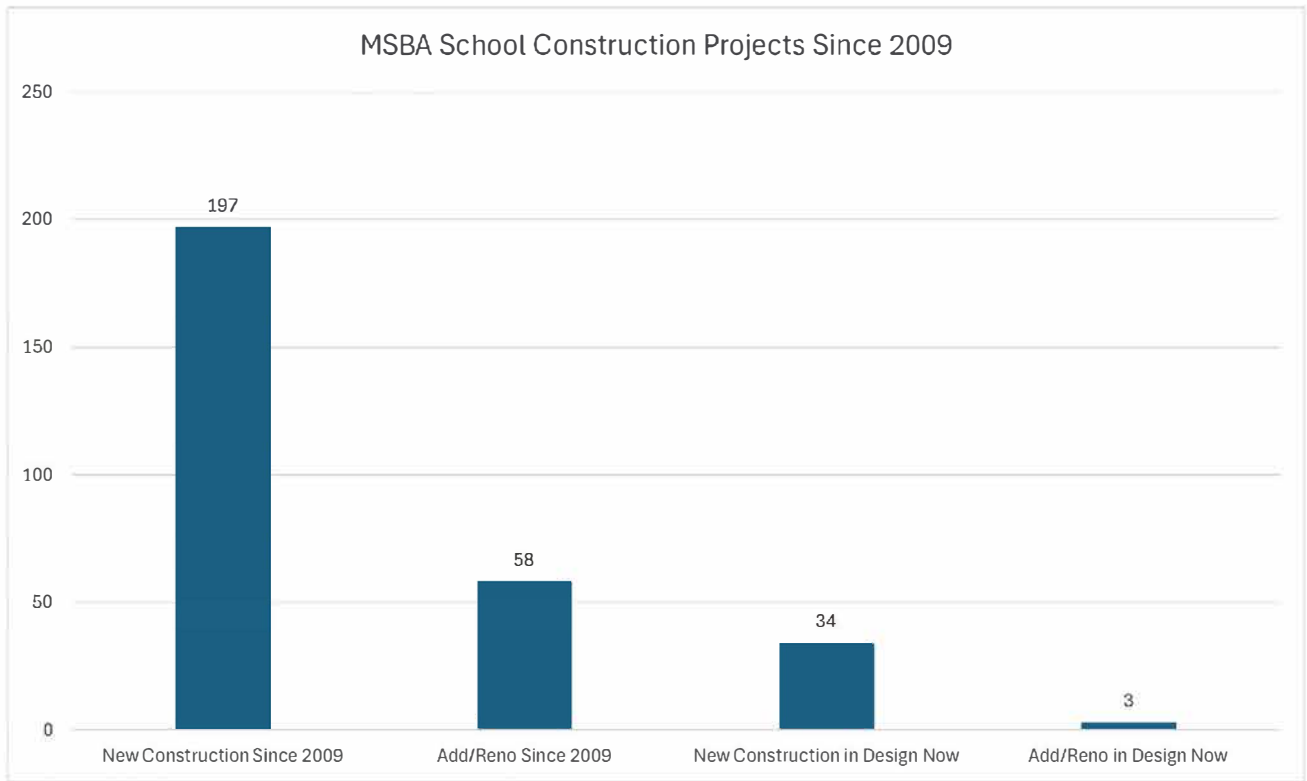
### **(r) Notice**

Within two months of the adoption of this Ordinance, notification concerning reporting and disclosure obligations and emissions reductions obligations shall be provided to Owners subject to the requirements of this Ordinance.

This notice, and any other notice required by this Ordinance shall be delivered to the contact information in the Assessor's database unless an Owner provides alternative contact information to the City Assessor's office.

SECTION 2. If any provision of this ordinance is held invalid by a court of competent jurisdiction, then such provision should be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 3. The provisions of this Ordinance shall be effective upon passage.



# Newton Affordable Housing Trust Community Preservation Funding

Presentation to Zoning and Planning

October 28, 2024

## Program Overview

- ▶ City Council established the Newton Affordable Housing Trust in December 2021
- ▶ The seven member Trust began meeting bi-monthly in June 2022
- ▶ Over the last year, Trustees have developed program guidelines and an application process and are now accepting funding applications
- ▶ During the initial Ordinance review process, the CPC agreed to allocate its annual target for Community Housing funds to the Trust for use in future housing projects





## Current Funding Request

The Newton Affordable Housing Trust (NAHT) annual funding application requests that the Community Preservation Program's target amount for Community Housing, which is currently equal to 35% of FY25 annual funds, be allocated to the NAHT for future projects which acquire, create, support, preserve, and restore/rehabilitate affordable housing in Newton

Funding Source	Amount
Original 35% Request	\$1,753,541.65
Reimbursement	\$88,578.13
<b>Total Funding</b>	<b>\$1,841,719.78</b>

## Project Budget

Account Name	Account Number	Proposed Amount
Unrestricted Prior Year Reserves	#5800 3599	\$1,341,719.78
Community Housing FY24 Reserve Account	#58R10498 57900C	\$500,000.00
	Total	\$1,841,719.78

## Recommended Funding

CPA Funds	Balance 10/28	Balance (after NAHT funding)
Housing Prior Year Reserves	\$0	\$0
Housing Current Year	\$513,000	\$13,000
Unrestricted Fund Prior Year	\$6,482,600	\$4,640,880
Unrestricted Fund Current Year	\$522,709	\$522,709

Thank you

