



Zoning & Planning Committee Agenda

City of Newton In City Council

Monday, November 25, 2024

7:00 pm

City Council Chambers (Room 207)

The Zoning and Planning Committee will hold this meeting as a hybrid meeting on Monday, November 25, 2024 at 7:00 PM that the public may access in-person or virtually via Zoom. To attend this meeting via Zoom use this link: <https://newtonma-gov.zoom.us/j/86459215381> or call 1-646-558-8656 and use the following Meeting ID: 864 5921 5381.

Item Scheduled for Discussion:

#417-24 Appointment of Lori Yarvis to Economic Development Commission

HER HONOR THE MAYOR appointing Lori Yarvis, 1469 Centre Street, Newton as a member of the Economic Development Commission for a term of office set to expire on October 30, 2026. (60 Days: 01/03/2025)

Chair's Note: *The Chair will entertain public comment regarding the inclusion of large residential buildings with central heating systems and a potential exemption for Newton Wellesley Hospital.*

#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.

Zoning & Planning Held 8-0 on 05/28/24

Zoning & Planning Held 5-0-1 (Councilor Danberg Abstaining) on 06/10/24

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

Zoning & Planning Held 8-0 on 09/23/24

Zoning & Planning Held 8-0 on 10/28/24

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

Referred to Zoning & Planning and Programs & Services Committees

- #267-24** **Request for discussion and possible amendments to require disclosure of any anticipated change in grade as part of a land use special permit application**
COUNCILORS BAKER, OLIVER, LEARY, KELLEY, GREENBERG, LAREDO, AND LUCAS
requesting appropriate amendments to City ordinances, or the Rules of the Council, or both, to require disclosure of any change in grade anticipated from the original grade as part of a land use special permit application in addition to disclosure of such a grade change in any engineering drawings submitted with the special permit application.

Respectfully Submitted,
R. Lisle Baker, Chair



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

#417-24

Telephone
(617) 796-1100
TDD/TTY
(617) 796-1089
Email
rfuller@newtonma.gov

October 28, 2024

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

To the Honorable City Councilors:

I am pleased to appoint Lori Yarvis of 1469 Centre Street, No.1, Newton as a member of the Economic Development Commission. Lori Yarvis' term of office shall expire on October 30, 2026 and the appointment is subject to your confirmation. Lori Yarvis will be completing Zach Knowlton's term which will end October 2026.

Thank you for your attention to this matter.

Warmly,

A handwritten signature in black ink that reads "Ruthanne Fuller".

Ruthanne Fuller
Mayor

Application Form

Profile

Lori _____ Yarvis _____
First Name Middle Initial Last Name

Email Address

1469 Centre Street, No. 1 _____
Home Address Suite or Apt

Newton _____ MA _____ 02461 _____
City State Postal Code

What Ward do you live in?

Ward 6

Primary Phone

Alternate Phone

Archstone Law Group, PC _____ Attorney and Shareholder _____
Employer Job Title

Which Boards would you like to apply for?

Economic Development Commission: Submitted

Ethnicity

Caucasian/Non-Hispanic

Gender

Female

Interests & Experiences

Please tell us about yourself and why you want to serve.

Why are you interested in serving on a board or commission?

My husband and I moved to Newton in 2002 from New York City. We were attracted by the diversity of the community and with two young daughters at the time, we were impressed by the school system and the amenities in the community. When our daughters graduated from college, and we decided to downsize, we stayed in Newton. Newton's thriving Village Centers and business community are significant assets. As a business lawyer, I am intimately familiar with the priorities business owners have when they are considering locating and growing their businesses. I also understand the issues they confront as they grow and thrive. As a Commissioner of the City of Newton Farm Commission, I have had an education in how the City's Commissions work and support the City and understand the duties and responsibilities of a Commissioner. I've already served several terms on the Farm Commission, would like to free my seat for another resident to so serve and would like to continue to volunteer my time and expertise on another Commission where my skillset can be put to productive use. I'd be honored to serve on the Economic Development Commission and to use the knowledge and experience I've acquired as a business attorney to support the City and its business community.

[Resume.docx](#)

Upload a Resume

LORI YARVIS

1469 Centre Street, No.
1
Newton, MA 02461



PROFESSIONAL EXPERIENCE:

Archstone Law Group, PC
Newton, Massachusetts

2011-Present

Shareholder; Corporate and Transactional Attorney: Teams with her clients to help them achieve their goals while managing growth and staying legally compliant. Clients include health care practices and providers, professional services companies, food industry companies, manufacturers and distributors, retailers and wholesalers and nonprofit organizations. Helps clients add value to their companies by adopting best practices.

Representative engagements in health care include: starting medical and dental practices, reviewing employment agreements when providers join a practice, counseling practitioners and health care practices through transitions and acquisitions, buy/sell agreements, and succession planning and exit strategies like partner buyouts or sales to a hospital, health care system or private equity company.

Representative engagements in other industry sectors: counseling clients on issues such as corporate structure, financing, contracting, risk management, acquisitions, sales, transitions and buyouts, and succession and exit planning.

General representation includes the following business transactions: Buy in and buy out agreements, commercial leases, corporate restructuring and spin-offs, master service agreements, client, vendor, supplier, distributor and other contracts, shareholder and operating agreements, stock and asset acquisitions, and general legal advice and counsel regarding asset protection, contracts and business agreements, corporate and regulatory compliance, data privacy compliance, financing, commercial leasing and risk management.

Schlesinger and Buchbinder, LLP
Newton, Massachusetts

2006-2011

Corporate and Transactional Attorney: Represented closely held and family businesses in their commercial transactions; negotiated and drafted agreements and provided counsel regarding business and asset acquisitions and sales, commercial financing and other business transactions; advised start-ups; negotiated and drafted shareholder and operating agreements, commercial leases and third-party contracts; handled licensing and permitting; and provided outside general counsel to companies.

Lori Yarvis, Attorney at Law

1999 - 2006

Newton, Massachusetts
Park Slope, New York City

Solo Practitioner, Private Practice: Represented established businesses and emerging companies by providing a full range of business legal services including drafting and negotiating business contracts, providing legal representation for business transactions and providing outside general counsel.

Lawyers Alliance for New York

1992-1996

New York, New York

Senior Attorney: Provided direct legal assistance to social service and community development nonprofit organizations with emphasis on corporate, tax exempt and transactional areas.

Winston & Strawn

1987-1992

New York, New York

Associate: General corporate and commercial law practice with emphasis on asset-based lending. Drafted and negotiated loan and restructuring agreements and security documents; conducted closings.

Satterlee, Stephens, Burke & Burke

New York, New York

1985 - 1987, Summer Associate 1984

Associate: General practice with emphasis on corporate and commercial law.

PROFESSIONAL ACTIVITIES:

Harvard Law School

Fall 2004

Cambridge, Massachusetts

Clinical Instructor: Instructed and supervised students in Harvard Law School's Clinical Program.

Northeastern University Law School

Summer 2004

Boston, Massachusetts

Adjunct Professor: Taught a survey course of the laws governing nonprofit organizations.

Co-Chaired, Solo and Small Firm Section, Boston Bar Association

2008-2010

Volunteer, Economic Justice Project, Lawyers' Committee for Civil Rights under Law of the Boston Bar Association, Boston, MA

Volunteer, Conservation Law Foundation, Legal Services Food Hub, Boston, MA

Board Member, Clerk and Governance Committee Chair, English for New Bostonians, Inc.

Mentor, Big Brothers Big Sisters of Eastern Massachusetts, Big Futures Program

Former Commissioner, City of Newton Farm Commission, Newton Community Farm

ARTICLES AND PUBLICATIONS:

Article, "Massachusetts Data Breach Law Affects Small Business and Law Firms", Boston Bar Association Solo and Small Firm Newsletter (August 2009)

Article, "The Massachusetts Independent Contractor Law", Boston Bar Association Solo and Small Firm Newsletter (Summer 2008)

Article, "Keeping Your Company Legally Healthy", Newton-Needham Chamber of Commerce InBusiness (June 2007)

Article, "Spotlight on the Law-Shareholder Agreements", Boston Bar Association Solo and Small Firm Newsletter (March 2006)

Co-edited Employment and Personnel: A Handbook, Lawyers Alliance for New York (1995)

Co-edited the Fourth Edition of Advising Nonprofits, Lawyers Alliance for New York (1995)

Authored Fiscal Sponsorship Arrangements, Lawyers Alliance for New York (1992)

Note, "Signal Piracy: The Theft of United States Satellite Signals", 8 Fordham International L.J., 62-95 (1985)

Cited in "Worth Reading", The National Law Journal 5/13/85

EDUCATION:

Fordham University School of Law, New York, NY

J.D., May 1985

Business Editor, International Law Journal

Dartmouth College, Hanover, NH

A.B., Magna Cum Laude, June 1982

Major: English Literature

Phillips Andover Academy, Andover, MA

Diploma Cum Laude, June 1978

BAR MEMBERSHIPS:

New York State Bar and Federal Courts (S.D.N.Y. and E.D.N.Y.) 1986

New Jersey Bar 1986

Massachusetts Bar 2003

USA 500 New England Chapter

TO: Zoning and Planning Committee
FROM: Andrew S. Lee, Senior Assistant City Solicitor
SUBJECT: Building Emissions Reduction and Disclosure Ordinance (“BERDO”)
Docket No. 42-24
DATE: November 21, 2024

Attached to this cover letter are three different proposed versions of BERDO. Attachment A is a version of BERDO that requires emissions disclosure and reduction for non-residential buildings only. Attachment B is a version of BERDO that requires emissions disclosure for residential and non-residential buildings, and emissions reduction for non-residential buildings only. Attachment C is a version of BERDO that requires emissions disclosure and reduction for residential and non-residential buildings.

In redline on all three versions is a proposed provision to create an Advisory Commission to make recommendations on the establishment of the BERDO regulations and a provision providing an exemption from the emissions reduction requirements for hospital buildings.

ATTACHMENT A

**City of Newton Proposed Building Emissions
Reduction and Disclosure Ordinance (BERDO)
NON-RESIDENTIAL ONLY November 25, 2024**

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

WHEREAS: Non-Residential Buildings with over 20,000 Gross Floor Area contribute 23 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 unanimously passed a resolution 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 covered Buildings and compliance with emissions reduction requirements in accordance with this Ordinance.

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(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 CO₂e 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 in which 50 percent or more of the Gross Floor Area, including hallways and other common spaces, are used for commercial, retail, office, professional, educational, or other 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 reporting tool; or (ii) other activities as defined in Portfolio Manager or by the Regulations.

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Carbon Dioxide Equivalent (CO_{2e}) means greenhouse gas Emissions, including carbon dioxide, methane, and nitrous oxide. CO_{2e} 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_{2e} associated with the Energy used by a Building, excluding electricity.

Emissions Factor means CO_{2e} 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 in the Regulations.

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.

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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.

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

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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.

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.

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(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

(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 other method as approved by the Regulations, the following information for the previous calendar year:

- (a) Energy use of each Building and other Building characteristics necessary to evaluate CO₂e Emissions on a kilogram (kg) CO₂e per square foot (SF) per year basis.

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(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 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.
2. For every 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.

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

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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 deposit into the Fund all Alternative Compliance Payments, penalties and fees paid pursuant to this Ordinance.

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

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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.

(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) Building Emissions Reduction and Disclosure Regulations

The BERDO Administrator shall, with the approval of the mayor, promulgate Regulations to effectuate the purposes of this article.

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(i) BERDO Advisory Commission

- (1) There is hereby established a BERDO Advisory Commission to advise and make recommendations to the BERDO Administrator with regards to the establishment of the Regulations.
- (2) The BERDO Advisory Commission shall consist of not more than seven (7) members, appointed by the mayor with approval of the city council, and shall serve without compensation.
- (3) The members of the BERDO Advisory Commission shall have expertise in environmental justice, affordable housing, labor and worker's rights, workforce development, building engineering and energy, real estate development and management, public health and hospitals, architecture and historic preservation, or any combination thereof.
- (4) Upon the establishment of the Regulations, the BERDO Advisory Commission shall dissolve.

(h)(j) Emissions Requirements

Each Building subject to the reporting requirements of this Ordinance shall comply with the CO₂e 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(m) or an approved Hardship Compliance Plan pursuant to SECTION 1(n); or is explicitly exempt as set forth in 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 CO₂e Emissions per square foot. Buildings will be subject to the emissions standards in Table 1

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based on the schedule for each Tier and Building Category in
Tables 2 through 5.

DRAFT

**City of Newton Proposed Building Emissions
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Table 1: CO₂e Emissions Standards by Building Use

Building Use	Emission standards (kgCO ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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:
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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 4. Compliance Periods by Building Use—Tier 3 Buildings:
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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 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 _{2e} /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
Residential	4.6	2.8	1.7	0.8	0.0
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

(k) Blended Emissions Standard

Buildings or Building Portfolios with more than one primary use may comply with a blended CO_{2e} 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

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or Building Portfolio's Gross Floor Area. Building Owners using a blended CO₂e 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 CO₂e Emissions standard is used and in any subsequent year for which the blended Emissions standard or primary use(s) changes.

⊕(1) Energy Use Exempt from Emissions Requirements

- i. Electricity which is used by a covered Building or Building Portfolio is exempt from the CO₂e 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 CO₂e Emissions standard of this Ordinance. Such deduction shall only be permitted if the emergency Backup Generation/Backup Power provides Energy only to the Building or Building Portfolio; and the Building Owner annually reports: (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). In the event that

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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.

- ii.iii. ii. Buildings for which the primary use is a hospital or healthcare institution, which contain patient service and/or medical support areas subject to federal or state regulations or Facility Guidelines Institute (“FGI”) guidelines, or continuity of operations standards, requiring back up generation for which the Owner elects to use a health care microgrid system (HCMS), or other system as set forth in the Regulations, to serve Essential Electrical Systems as defined under NFPA and CMS (Centers for Medicare and Medicaid Services) regulations are eligible for exemption from the CO2e Emissions Standard of this ordinance. The Owner shall request such exemption by submitting to the BERDO Administrator substantiating documentation and a certification letter of compliance with the applicable standards or regulations signed by the design engineer, who shall be a duly certified professional engineer, and the BERDO Administrator shall confirm in writing the applicability of this statutory exemption. The Owner of such Buildings shall report to the BERDO Administrator at any time, but in no event less frequently than every 5 years, which of its Buildings meet the criteria for this exemption.

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(k)(m) Individual Compliance Schedules

Owners of Buildings or Building Portfolios may apply for an Individual Compliance Schedule as an alternative to the CO₂e Emissions standard reduction schedule in Tables 2 through 5. Individual Compliance Schedules must establish declining CO₂e 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; 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 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

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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.

(n) 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, use of the Building for hospital or healthcare institutions, 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.

(o) Alternative Compliance Payments

Owners of Buildings or Building Portfolios may mitigate CO₂e Emissions from Energy use by making Alternative Compliance Payments. The price of an Alternative Compliance Payment shall

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be based on the average cost per metric ton of CO₂e to decarbonize Buildings subject to this Ordinance. The initial cost of an Alternative Compliance Payment shall be \$234 per metric ton of CO₂e. 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)(p) 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 upon request.

(o)(q) Obligation to Request and Report Information

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.

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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.

(p)(r) 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, CO₂e Emissions per square foot, and Emissions compliance status.

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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)(s) 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 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)(t) Notice

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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.

ATTACHMENT B

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

WHEREAS: Buildings with over 20,000 Gross Floor Area contribute 28 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 unanimously passed a resolution 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 CO₂e 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.

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

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Carbon Dioxide Equivalent (CO₂e) means greenhouse gas Emissions, including carbon dioxide, methane, and nitrous oxide. CO₂e 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 CO₂e associated with the Energy used by a Building, excluding electricity.

Emissions Factor means CO₂e 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 in the Regulations.

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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 set forth in this Ordinance.

Non-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 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 one or more centralized heating systems to heat occupant spaces.

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.

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(d) Energy and Emissions Reporting Required

(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 other method as approved by the Regulations, the following information for the previous calendar year:

- (a) Energy use of each Building and other Building characteristics necessary to evaluate CO₂e Emissions on a kilogram (kg) CO₂e 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:

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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.
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.
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,

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and deposit into the Fund all Alternative Compliance Payments, penalties and fees paid pursuant to this Ordinance.

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

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- f. Technical assistance to property owners subject to BERDO related to implementation of the requirements of this ordinance.

(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) Building Emissions Reduction and Disclosure Regulations

The BERDO Administrator shall, with the approval of the mayor, promulgate Regulations to effectuate the purposes of this article.

(i) BERDO Advisory Commission

- (1) There is hereby established a BERDO Advisory Commission to advise and make recommendations to the BERDO

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- Administrator with regards to the establishment of the Regulations.
- (2) The BERDO Advisory Commission shall consist of not more than seven (7) members, appointed by the mayor with approval of the city council, and shall serve without compensation.
 - (3) The members of the BERDO Advisory Commission shall have expertise in environmental justice, affordable housing, labor and worker’s rights, workforce development, building engineering and energy, real estate development and management, public health and hospitals, architecture and historic preservation, or any combination thereof.
 - (4) Upon the establishment of the Regulations, the BERDO Advisory Commission shall dissolve.

(h)(j) Emissions Requirements

Each Building subject to the reporting requirements of this Ordinance shall comply with the CO₂e 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(m) or an approved Hardship Compliance Plan pursuant to SECTION 1(n); or is explicitly exempt as set forth in 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 CO₂e 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.

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Table 1: CO₂e Emissions Standards by Building Use

Building Use	Emission standards (kgCO ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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:
Non-Residential Buildings equal to or greater than 100,000 square
feet Gross Floor Area.

Building Use	Emission standards (kgCO ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 4. Compliance Periods by Building Use—Tier 3 Buildings:
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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 5. Compliance Periods by Building Use—Tier 4 Buildings:
Non-Residential 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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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

(k) Blended Emissions Standard

Buildings or Building Portfolios with more than one primary use may comply with a blended CO₂e Emissions standard as defined

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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 CO₂e 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 CO₂e Emissions standard is used and in any subsequent year for which the blended Emissions standard or primary use(s) changes.

⊕(1) Energy Use Exempt from Emissions Requirements

- i. Electricity which is used by a covered Building or Building Portfolio is exempt from the CO₂e 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 CO₂e Emissions standard of this Ordinance. Such deduction shall only be permitted if the emergency Backup Generation/Backup Power provides Energy only to the Building or Building Portfolio; and the Building Owner annually reports: (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

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other information required by the Regulations. Such reporting shall be subject to the self-certification and third-party verification procedures in SECTION 1(g). 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.

ii. Buildings for which the primary use is a hospital or healthcare institution, which contain patient service and/or medical support areas subject to federal or state regulations or Facility Guidelines Institute (“FGI”) guidelines, or continuity of operations standards, requiring back up generation for which the Owner elects to use a health care microgrid system (HCMS), or other system as set forth in the Regulations, to serve Essential Electrical Systems as defined under NFPA and CMS (Centers for Medicare and Medicaid Services) regulations are eligible for exemption from the CO₂e Emissions Standard of this ordinance. The Owner shall request such exemption by submitting to the BERDO Administrator substantiating documentation and a certification letter of compliance with the applicable standards or regulations signed by the design engineer, who shall be a duly certified professional engineer, and the BERDO Administrator shall confirm in writing the applicability of this statutory exemption. The Owner of such Buildings shall report to the BERDO Administrator at any

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time, but in no event less frequently than every 5 years, which of its Buildings meet the criteria for this exemption.

(k)(m) Individual Compliance Schedules

Owners of Buildings or Building Portfolios may apply for an Individual Compliance Schedule as an alternative to the CO₂e Emissions standard reduction schedule in Tables 2 through 5. Individual Compliance Schedules must establish declining CO₂e 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; 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.

(n) 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, use of the Building for hospital or healthcare institutions, 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

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approval of Hardship Compliance Plans consistent with the Regulations.

(m)(o) Alternative Compliance Payments

Owners of Buildings or Building Portfolios may mitigate CO₂e 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 CO₂e to decarbonize Buildings subject to this Ordinance. The initial cost of an Alternative Compliance Payment shall be \$234 per metric ton of CO₂e. 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)(p) 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 upon request.

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(g)(q) Obligation to Request and Report Information

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.

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(p)(r) 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, CO₂e 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)(s) 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

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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)(t) 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.

ATTACHMENT C

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

WHEREAS: Buildings with over 20,000 Gross Floor Area contribute 28 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 unanimously passed a resolution 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 covered Buildings and compliance with emissions reduction requirements in accordance with this Ordinance.

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(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 CO₂e 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.

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

Carbon Dioxide Equivalent (CO₂e) means greenhouse gas Emissions, including carbon dioxide, methane, and nitrous oxide.

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CO₂e 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 CO₂e associated with the Energy used by a Building, excluding electricity.

Emissions Factor means CO₂e 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 in the Regulations.

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

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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.

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

Non-Residential Building means a Building in which 50 percent or more of the Gross Floor Area, including hallways and other

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common spaces, are 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.

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 one or more centralized heating systems to heat occupant spaces.

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

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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

(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 other method as approved by the Regulations, the following information for the previous calendar year:

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- (a) Energy use of each Building and other Building characteristics necessary to evaluate CO₂e Emissions on a kilogram (kg) CO₂e 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.
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.
3. For every Residential Building, the first report shall be submitted no later than September 15, 2026.

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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 deposit into the Fund all Alternative Compliance Payments, penalties and fees paid pursuant to this Ordinance.

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

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- 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.

(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,

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as defined by the Regulations, and submitted no later than the reporting deadline of the relevant year.

(h) Building Emissions Reduction and Disclosure Regulations

The BERDO Administrator shall, with the approval of the mayor, promulgate Regulations to effectuate the purposes of this article.

(i) BERDO Advisory Commission

- (1) There is hereby established a BERDO Advisory Commission to advise and make recommendations to the BERDO Administrator with regards to the establishment of the Regulations.
- (2) The BERDO Advisory Commission shall consist of not more than seven (7) members, appointed by the mayor with approval of the city council, and shall serve without compensation.
- (3) The members of the BERDO Advisory Commission shall have expertise in environmental justice, affordable housing, labor and worker's rights, workforce development, building engineering and energy, real estate development and management, public health and hospitals, architecture and historic preservation, or any combination thereof.
- (4) Upon the establishment of the Regulations, the BERDO Advisory Commission shall dissolve.

(h)(i) Emissions Requirements

Each Building subject to the reporting requirements of this Ordinance shall comply with the CO₂e Emissions standards set

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forth in Table 1 below; unless the Building Owner has received an approved Individual Compliance Schedule pursuant to the requirements in SECTION 1(m) or an approved Hardship Compliance Plan pursuant to SECTION 1(n); or is explicitly exempt as set forth in 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 CO₂e 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.

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Table 1: CO₂e Emissions Standards by Building Use

Building Use	Emission standards (kgCO ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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:
Non-Residential Buildings equal to or greater than 100,000 square
feet Gross Floor Area.

Building Use	Emission standards (kgCO ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 5. Compliance Periods by Building Use—Tier 4 Buildings:
Non-Residential 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 ₂ 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
Residential	4.6	2.8	1.7	0.8	0.0
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 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.

Building use	Emission standards (kgCO _{2e} /SF/yr)				
	2031-2034	2035-2039	2040-2044	2045-2049	2050-
Residential	4.6	2.8	1.7	0.8	0.0

⊕(k) Blended Emissions Standard

Buildings or Building Portfolios with more than one primary use may comply with a blended CO_{2e} 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_{2e} 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_{2e} Emissions standard is used and in any subsequent year for which the blended Emissions standard or primary use(s) changes.

⊕(l) Energy Use Exempt from Emissions Requirements

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- i. Electricity which is used by a covered Building or Building Portfolio is exempt from the CO₂e 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 CO₂e Emissions standard of this Ordinance. Such deduction shall only be permitted if the emergency Backup Generation/Backup Power provides Energy only to the Building or Building Portfolio; and the Building Owner annually reports: (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). 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.

- ii.iii. ii. Buildings for which the primary use is a hospital or healthcare institution, which contain patient service and/or medical support areas subject to federal or state regulations or Facility Guidelines Institute ("FGI") guidelines, or continuity of operations standards, requiring back up generation for which the Owner elects to use a health care microgrid system

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(HCMS), or other system as set forth in the Regulations, to serve Essential Electrical Systems as defined under NFPA and CMS (Centers for Medicare and Medicaid Services) regulations are eligible for exemption from the CO₂e Emissions Standard of this ordinance. The Owner shall request such exemption by submitting to the BERDO Administrator substantiating documentation and a certification letter of compliance with the applicable standards or regulations signed by the design engineer, who shall be a duly certified professional engineer, and the BERDO Administrator shall confirm in writing the applicability of this statutory exemption. The Owner of such Buildings shall report to the BERDO Administrator at any time, but in no event less frequently than every 5 years, which of its Buildings meet the criteria for this exemption.

(k)(m) Individual Compliance Schedules

Owners of Buildings or Building Portfolios may apply for an Individual Compliance Schedule as an alternative to the CO₂e Emissions standard reduction schedule in Tables 2 through 5. Individual Compliance Schedules must establish declining CO₂e 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; and

Use a baseline from any year between 2013 and the first required reporting year, provided, however, that the Building or Building

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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 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.

(n) 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, use of the Building for hospital or healthcare institutions, pre-existing

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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.

(m)(o) Alternative Compliance Payments

Owners of Buildings or Building Portfolios may mitigate CO₂e 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 CO₂e to decarbonize Buildings subject to this Ordinance. The initial cost of an Alternative Compliance Payment shall be \$234 per metric ton of CO₂e. 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)(p) 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

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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 upon request.

(g) Obligation to Request and Report Information

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.

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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.

(p)(r) 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, CO₂e 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.

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(e)(s) 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 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)(t) 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

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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.

DRAFT



Memorandum

TO: WILLIAM FERGUSON | CITY OF NEWTON, MA
FROM: PHILIP EASH-GATES AND LUCY METZ | SYNAPSE ENERGY ECONOMICS
DATE: NOVEMBER 22, 2024
RE: NEWTON BERDO BUILDINGS LIST DEVELOPMENT

Summary

Synapse is working for the Newton Climate and Sustainability Team to support the implementation of BERDO. Part of our work is developing a replicable, well-documented method for determining which buildings should be regulated by BERDO. Here, we summarize which buildings the ordinance covers, describe the steps we used to create the list of covered buildings, and present preliminary analysis of the building list.

Using 2024 data, there are 385 buildings in Newton that BERDO will regulate, including 282 commercial buildings and 103 residential buildings. The covered buildings have a combined floor area of 25.3 million square feet, which is 20 percent of the total building floor area in Newton, and belong to 241 distinct owners. The three entities with the most covered buildings are Boston College (41 buildings), the City of Newton (34 buildings), and Lasell University (20 buildings).

Residential buildings are not currently included in Newton's proposed BERDO but are included on the covered building list in anticipation that this sector will be added to BERDO at a later date. The list of covered residential buildings is still being finalized. Synapse is preparing to work with building owners to determine if any of the residential buildings currently included on the covered building list do not have centralized heating, in which case they will be exempt from BERDO. In addition, there are 29 residential condominium complexes with a combined area of 2.7 million square feet that are included on the covered building list and in the totals above based on the total floor area of the complex rather than the area of individual buildings, which is not currently known. Synapse is working with the Newton Assessors' Office to determine which of these complexes contain individual buildings that are large enough to be covered by BERDO and will adjust the covered buildings list accordingly.



Criteria for Covered Buildings

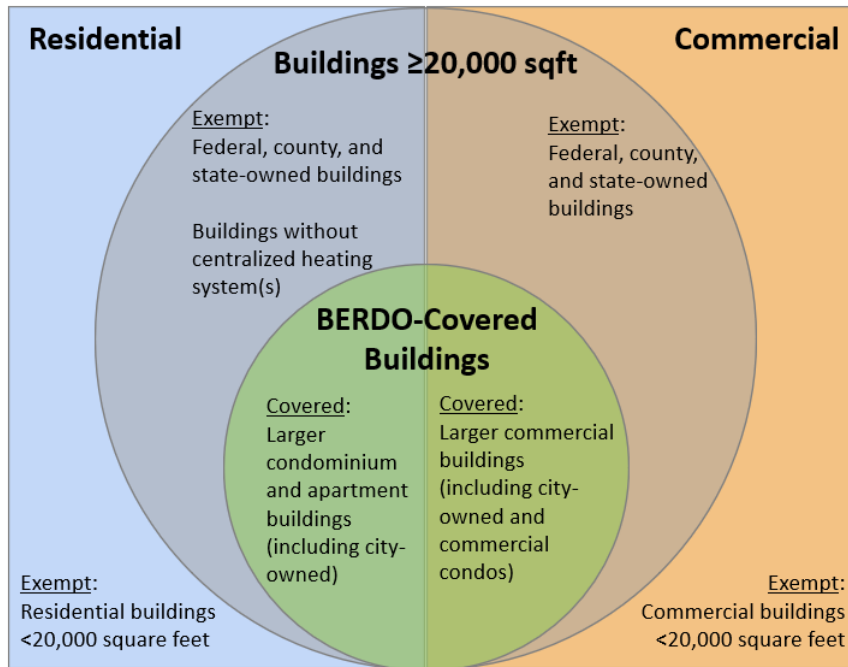
Whether BERDO will regulate emissions from a building will depend on its gross floor area (GFA). With a few exceptions, discussed below, BERDO will cover all individual buildings with GFA greater than or equal to 20,000 square feet. Details by building type are listed below and summarized in Figure 1.

- **Non-residential buildings:** The ordinance will cover all non-residential buildings with GFA that equals or exceeds 20,000 square feet.
- **Residential buildings:** The ordinance will cover all residential buildings with GFA that equals or exceeds 20,000 square feet and that have centralized heating systems. This includes apartment and condominium buildings.
- **Government buildings:** The ordinance will cover city buildings. Other government buildings (county, state, and federal) will be exempt.
- **Building portfolios:** Owners of more than one covered building may apply for a blended emissions standard for all buildings in the portfolio.
- **Mixed-use buildings:** Owners of covered buildings that contain more than one use type in the same building may apply for a blended emissions standard for each mixed-use building.
- **Campuses:** Campus buildings will be considered individually, and the ordinance will cover only those buildings with footprints of at least 20,000 square feet. For any district energy systems or campus central plants that serve both covered and non-covered buildings,¹ Synapse recommends that Newton calculate the emissions intensity of steam generated at the central plant. Covered buildings would need to be metered individually to assess the emissions attributable to each one. Alternatively, owners of campuses may apply to include all campus buildings (including those less than 20,000 square feet) within a building portfolio; if all buildings on a central plant are included in a single, approved building portfolio, individual buildings do not need to be metered separately for central plant energy use.
- **Condominiums:** Residential and non-residential condominiums will be included based on total building square footage, rather than the area of individual units.
- **Exempt properties:** There are three types of properties that Boston's ordinance covers but that Newton plans to exempt. These include (1) residential buildings with 15 or more units but GFA less than 20,000 square feet, (2) multiple buildings located on the same parcel whose individual areas are each less than 20,000 square feet but whose collective area is greater than 20,000 square feet, and (3) portfolios of buildings—buildings with the same owner that are located on different parcels—whose individual areas are each less than 20,000 square feet but whose collective area is at least 20,000 square feet.

¹ The Boston College central steam plant is located in Newton, but serves buildings in both Newton and Boston. According to the [International District Energy Association](#), the former Andover Newton Theological School campus also has a district heating system, which we recommend investigating further.

Implementation of Newton BERDO will take place in stages. Buildings will be divided into four implementation tiers based on their size, and each tier will have a different start date for compliance. See Table 3 for a description of the buildings included in each tier.

Figure 1: Summary of BERDO coverage by building type



Definition of Gross Floor Area

To determine which Newton buildings will be covered by BERDO, we first established a detailed definition of the GFA that the ordinance applies to. We aligned our definition to Energy Star Portfolio Manager, a benchmarking tool for building emissions and water and energy use developed by the U.S. EPA. In general, ESPM defines GFA as all area within the “outside surface of the exterior walls of the building.”² Table 1 shows an abbreviated list of area types that the ESPM definition includes and excludes, and supplementary Table 4 contains additional details.

² Energy Star Portfolio Manager Glossary. Available at: <https://portfoliomanager.energystar.gov/pm/glossary>.

Table 1: Summary of the floor area types used to determine BERDO coverage

Included in GFA	Excluded from GFA
<ul style="list-style-type: none"> Interior living spaces Storage areas Basements (unfinished or finished) Finished attics Stairwells and elevator shafts Storage rooms Mechanical equipment rooms 	<ul style="list-style-type: none"> Unfinished attics Parking (driveways, garages) Patios, decks, and porches Exterior loading docks Cabanas, sheds, and other detached structures Crawl spaces and the interstitial plenum space between floors

Source: Portfolio Manager [Glossary](#), [FAQ](#), and Synapse communication with U.S. EPA's technical consultant

Process for Building List Development

Data from the Assessor's Office

We started with two datasets from the Newton Assessors' Office: a parcel dataset and an area code³ dataset. Both datasets are current as of July 1, 2024. The building list will need to be updated every year to account for additions, demolition, and new construction. Data for 2025 will be available July 1, 2025.

The parcel dataset contains information about each parcel of land in Newton. Key variables include:

- **ID number:** The dataset lists both the parcel ID (PID) and section-block-lot number (SBL), which city offices use to uniquely identify each parcel.
- **Street address**
- **Owner:** Contact information for the current owner.
- **Use code:** The use code indicates the parcel's property tax classification. Residential parcels have use codes that start with 1, commercial with 3, industrial with 4, golf courses with 8, tax exempt with 9, and multiple use with 0. The use code "995" estimates the total area in condominium complexes and is the only use code that gives a subtotal, meaning that the floor areas of condominium units are counted both under individual use codes and under a 995 total.
- **Sequence number:** Each condominium complex has a unique sequence number. For non-condo parcels, this value is blank.
- **Number of buildings located on parcel**
- **Other information:** The parcel dataset contains a variety of other information, including sale price, heating fuel type, number of apartments, etc. Note that the gross area reported in the parcel database is *not* equivalent to the BERDO GFA.

³ Area code refers to three-digit codes that correspond to different area types within or connected to a building. Examples of area types include: attic, basement, porch, garage, greenhouse, and deck.



The area code dataset lists the floor area in each building broken down by 104 area codes. To distinguish between multiple buildings located on the same parcel, it labels each entry with both a PID/SBL and a building ID number (BID). The area codes provide detailed information about the types of floor area in each building. We categorized each area code as included or excluded in the GFA, verifying our decisions with ESPM’s technical consultant (Table 4).

Using the parcel dataset and area code dataset to develop the covered building list involves three broad steps: (1) assigning each building a unique ID, (2) calculating the covered GFA associated with that ID, and (3) assigning each covered building to an implementation tier. Condominiums and non-condo buildings must be processed separately.

Process for Non-Condo Data Analysis

The steps to determine which non-condo buildings BERDO covers are as follows:

1. Using the area code dataset, assign each entry an identifier of “PID”-“BID”. The composite identifier ensures that each building has a unique ID, even when there are multiple buildings on the same parcel.
2. Create a list of unique PID-BID identifiers and compare it to the parcel dataset. Remove any entry whose PID is associated with a sequence number, since these entries are condominiums and need to be analyzed separately. Also remove entries with use code 3421; these are also condos (primarily located on the Newton-Wellesley Hospital campus). Finally, remove any entry with a negative BID or a PID that does not appear in the parcel dataset; these buildings were deleted from the assessor’s database at some point in the past. The remaining list of PID-BID identifiers contains a unique entry for every non-condo building in Newton.⁴
3. Using the lookup table of area codes (Table 4) and the area code dataset, sum the covered area associated with each building.
4. Filter for buildings with GFA greater than or equal to 20,000 square feet.
5. Adjust the GFA of any buildings that overlap the Newton city boundary. BERDO will only cover the percentage of building floor area located within Newton. As of 2024, this only substantively affects one covered building, BERDO ID 303-303, for which 74 percent of the floor area is located in Newton and covered by BERDO; the remainder is located in Watertown.
6. Review the list and remove any exempt government buildings. As of 2024, this includes one Middlesex County building, one Massachusetts Bay Transit Authority (MBTA)

⁴ Buildings under construction are listed in the tax assessor’s database without sequence numbers, even if they may later become condominiums. For the purposes of developing the covered building list, we abided by the status of the building in the current tax assessor’s database. BERDO coverage of these buildings is subject to change in future years’ lists based on review of final construction documentation by the tax assessor’s office.

buildings, and nine University of Massachusetts buildings.⁵ There are not currently any federal buildings of at least 20,000 square feet, but federal buildings constructed in the future would be exempt. The remaining entries in the list are the non-condo covered buildings.

7. Classify each building as residential or non-residential. To determine if a building is residential, look at the use code of the associated parcel. All parcels whose use codes start with 1 are residential. Parcels with use codes 9700, 970R, and 970C are also residential; these are properties owned by Newton Housing Authority. PIDs 17344, 5290, 5930, and 13555 are apartment buildings owned by the City of Newton and should also be classified as residential. All other parcels are non-residential or mixed use.

Buildings with use codes starting with 013- or 031- are mixed use. In addition, buildings with area coded as “APT” for apartment need to be checked. Mixed use buildings should be assigned as residential or non-residential based on the type of floor area that accounts for the largest share of building GFA. As of 2024, six mixed use buildings are predominantly residential: 102924-72547, 16800-16800, 17-17, 17-73092, 12041-12041, 8846-8846. The remaining three mixed-use buildings (12040-12040, 16792-16792, and 26334-26334) are primarily non-residential.

8. Assign each covered building to one of the implementation tiers shown in Table 3, based on building square footage and type (residential or non-residential).

Process for Condo Data Analysis

Condos require a different data analysis process because each unit is entered in the assessor’s database with a separate PID, regardless of whether multiple units are located on the same parcel. In addition, the area in each condo complex is listed twice in the assessor’s database; there are entries for the area of each individual unit and also an entry (with use code 995) that sums the total area in each complex. For example, a condo complex with two units would have three entries, one for each individual unit and one for the total area.

Units that belong to the same complex have the same sequence number.⁶ The division of units between buildings within a complex cannot be calculated from either the parcel or area code dataset and must be determined manually by the assessor’s office. The steps to determine which condo complexes may contain covered buildings are as follows:

1. Create a list of all unique sequence numbers in the parcel dataset.

⁵ The assessors’ database shows that an apartment complex on Washington St. (PID 100849) has three owners, including MBTA. Discussion with the Assessors’ Office indicated that the property is owned by National Development, which has a 99-year lease with the MBTA.

⁶ There is one non-residential condo complex (BERDO ID 3421-01) that does not have a sequence number. The complex contains 18 units and must be added to the covered building list manually. The units can be identified by filtering the parcel dataset for units located at 2000 Washington St.

2. Sum the BERDO-covered GFA (from the area code dataset) for all PIDs associated with a given sequence number, excluding entries with use code 995 and entries with negative BIDs. Create separate totals for residential and non-residential area in each complex. To determine if a unit is residential or non-residential, look at the associated use code. Condo use codes follow the same pattern as non-condo parcels: Residential use codes start with 1 or are 9700, 970R, and 970C. Units with use code 947C may either be residential or non-residential and must be categorized manually. They will generally be consistent with other units in the same complex. As of 2024, there are only five units with use code 947C. The units belong to the Newton Communications Access Center and Temple Reyim, and all five are non-residential.
3. Compare the summed area from step two to the 995 area associated with each sequence number, and record the larger of the two values as the complex area. The 995 area represents total complex area, including common areas, whereas the summed area excludes common areas. As a result, the 995 area is usually more accurate, but taking the larger of the 995 and summed area provides a safeguard against irregularities in the 995 data.
4. For condo complexes with at least 19,000 square feet of covered area (which leaves a margin of error for possible omission of common spaces), the assessor's office will need to determine whether there are any buildings with 20,000 square feet or more of non-residential area.

Note that as of November 2024, the list of covered condos is finalized for non-residential condos only. For residential condos, Synapse narrowed the list of complexes that may contain covered buildings based on satellite imagery, but the assessor's office has not definitively determined which complexes contain covered buildings. Some residential condo complexes currently included on the list may not ultimately be covered or may not be covered in their entirety, depending on whether they contain any individual buildings that are large enough to be covered by BERDO and have centralized heating.

5. For these buildings, manually assign a unique ID of "sequence number"- "building number" (where building number is 01, 02, etc., based on how many covered buildings are located in the complex).⁷
6. Assign each building to one of the implementation tiers shown in Table 3, based on building square footage and building type (residential or non-residential).

While there are over a thousand condominium complexes in Newton, there are currently only five non-residential complexes with at least 19,000 square feet of covered floor area, leading to six covered buildings. Table 2 provides more detail about these complexes. An additional 29 residential complexes have at least 19,000 square feet of covered area and may include buildings that are covered by BERDO.

⁷ The Golda Meir House (sequence number 1437) is an exception; its unique identifier is a combination of its PID and BID, as for a non-condo building.

Table 2: Information about covered condominium buildings

Sequence Number	Description
780	The two commercial units in this complex are located in the same building and have combined area greater than 20,000 square feet, so the building is covered.
817	Unit 33-3 is a small standalone building and is not covered. The remaining six units are part of one large building that is covered.
1384	There are two four-story buildings in this complex. The bottom floors are commercial while the upper three floors are residential. All three floors of apartments in both buildings are listed as one condo unit for administrative purposes. We assign these buildings to a residential implementation tier because the majority of the GFA is residential apartments.
1438	This complex consists of one non-residential building that is divided into three condominium units. In the 2024 tax assessor's database, Temple Reyim is listed as the owner of all three units, but eventually ownership will be transferred to multiple entities. The units will likely share certain spaces in the building throughout the year.
None (BERDO ID 3421-01)	This is the White building on the Newton-Wellesley Hospital campus. It consists of one non-residential building that is divided into 18 condominium units. Over time, Newton-Wellesley Hospital has been buying the units in this building.

Results

There are currently 385 BERDO-covered buildings, including 282 non-residential buildings and 103 residential buildings. The covered buildings have a combined GFA of 25.3 million square feet, which is 20 percent of the total building GFA in Newton. The list of covered residential buildings is still being finalized. Synapse is preparing to work with building owners to determine if any of the residential buildings currently included on the covered building list do not have centralized heating, in which case they will be exempt from BERDO. In addition, there are 29 residential condominium complexes with a combined area of 2.7 million square feet that are included in the totals above based on the total floor area of the complex rather than the area of individual buildings, which is not currently known. Synapse is working with the Newton Assessors' Office to determine which of these complexes contain individual buildings that are large enough to be covered by BERDO and will adjust the covered buildings list accordingly.

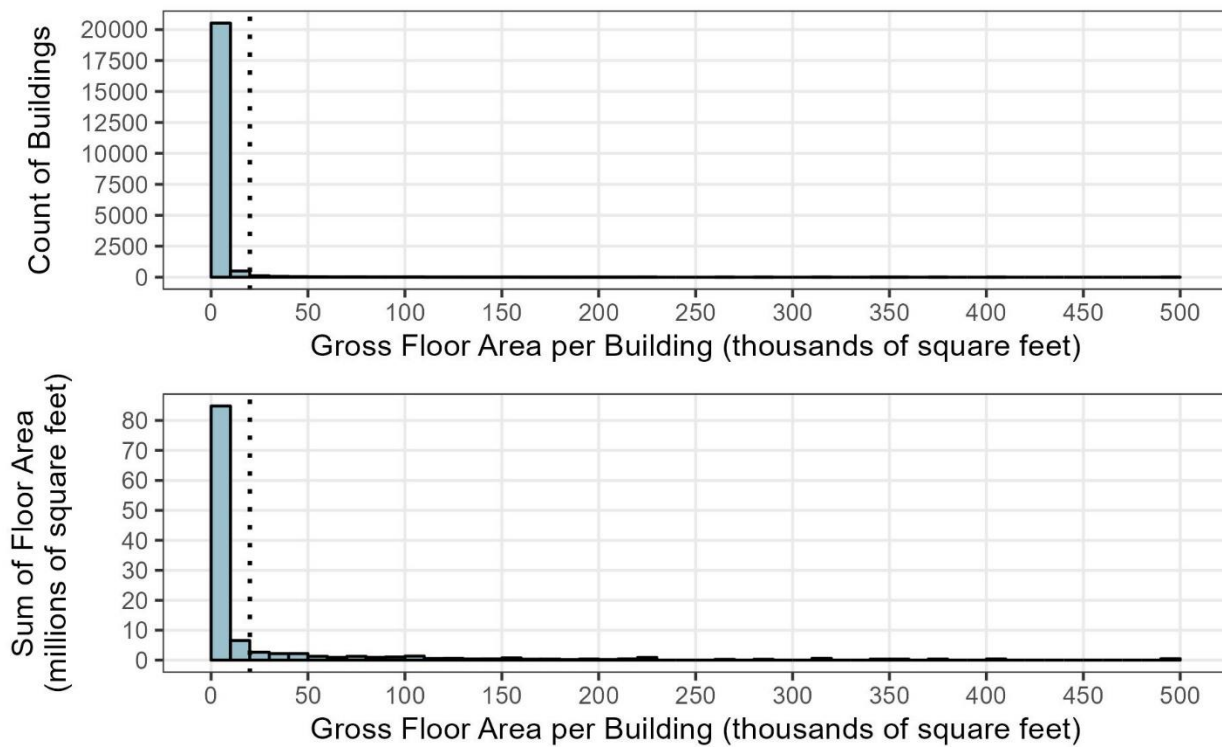
Table 3 shows the breakdown of buildings by implementation tier. Figure 2 and Figure 3 show the distribution of buildings in Newton by size category. While the vast majority of buildings in Newton are less than 20,000 square feet, the BERDO-covered buildings account for an outsized proportion of GFA, since they are the largest buildings. Figure 2 shows data for all non-condo buildings while Figure 3 shows covered buildings only.

Table 3: Summary of covered buildings in each implementation tier

Tier	Description	Number of Buildings	Total GFA (sq ft)
1	Non-residential, ≥100,000 sq ft	47	8,415,242
2	Non-residential, 50,000–99,999 sq ft	68	4,789,198
3	Non-residential, 35,000–49,999 sq ft	64	2,711,552
	Residential, ≥50,000 sq ft	33	4,628,675
4	Non-residential, 20,000–34,999 sq ft	103	2,749,095
5	Residential, 20,000–49,999 sq ft	70	2,024,251
Total	All covered buildings	385	25,318,013

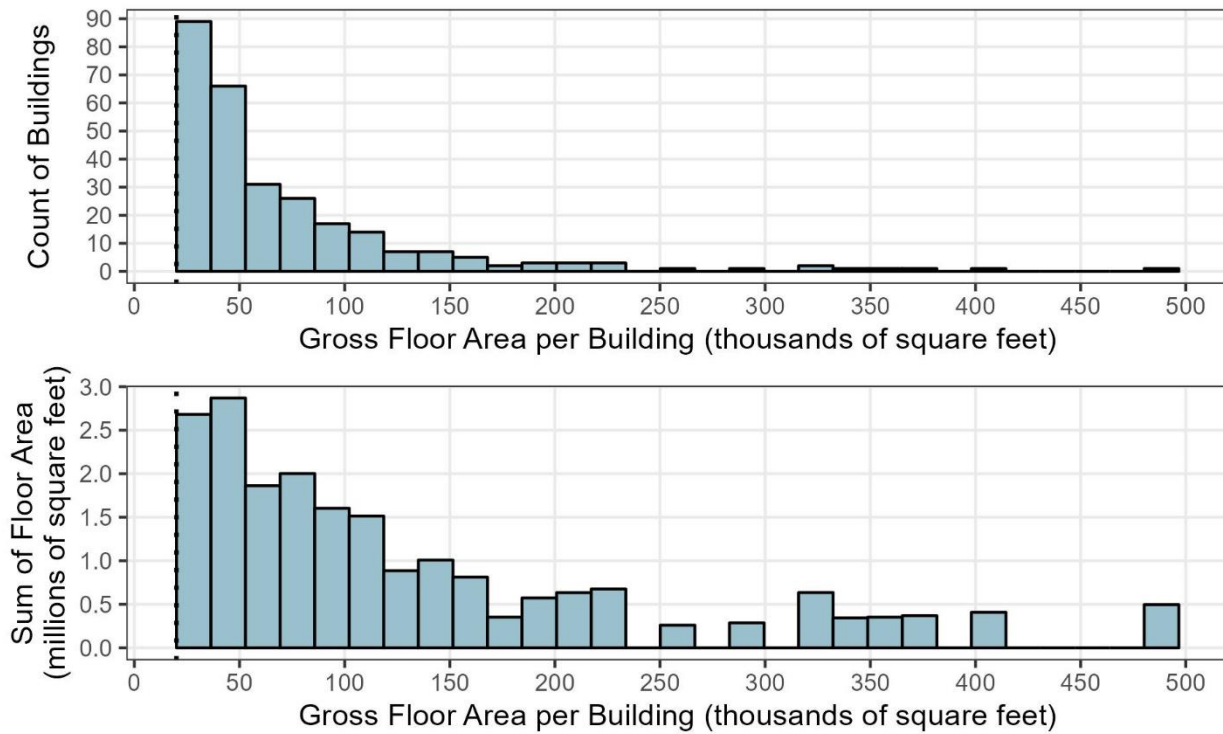
Note: Table includes preliminary values for residential buildings. Residential buildings without centralized heating will be removed from the list. In addition, Synapse will work with the assessors’ office to finalize the list of covered residential condo buildings.

Figure 2: Number of buildings (upper panel) and total gross floor area (lower panel) in each building size category, all buildings in Newton



The dotted line marks the area cutoff for BERDO. Figure omits condominiums, which account for about 9 percent of total building gross floor area in Newton.

Figure 3: Number of buildings (upper panel) and total gross floor area (lower panel) in each building size category, covered buildings only



The dotted line marks the area cutoff for BERDO. Figure omits residential condominiums, which will contribute up to 2.7 million additional square feet of covered floor area.

The covered buildings (not including residential condominiums) belong to 212 owners, 79 percent of whom own one covered building, 12 percent of whom own two to four buildings, and 3 percent of whom own five or more covered buildings. The remaining 6 percent own partial buildings (i.e., a condo unit within a covered building that does not include the entire building). In total, only 14 out of the 212 obligated parties own non-residential condominiums; the remaining 198 own non-condo buildings. There may be up to an additional 29 obligated parties who own residential condominiums, bringing the total number of obligated parties up to 241. Synapse is working with the assessors’ office to finalize the list of obligated residential condo owners. Newton-Wellesley Hospital is the only obligated party that owns both covered condo units and non-condo buildings.

The owners of five or more buildings are Boston College (41 buildings), the City of Newton (34 buildings), Lasell University (20 buildings), the Roman Catholic Archdiocese of Boston (seven buildings), the Chestnut Hill Shopping Center (six buildings), Newton Housing Authority (five buildings), and the Donato D. Capasso Trust (five buildings).

Supplementary Tables

Table 4: BERDO coverage of the 104 area codes in the assessor's database

Code	Description	Covered?
10S	10 Stories	Yes
AOF	Office, (Average)	Yes
APT	Apartment	Yes
AUG	Gas Station	No
AUR	Auto Repair	Yes
AUS	Auto Sales	Yes
BAS	First Floor	Yes
BAY	Bay	Yes
BL1	Basement Living 33%	Yes
BL2	Basement Living 25%	Yes
BL3	Basement Living 50%	Yes
BL4	Basement Living 75%	Yes
BL5	Basement Living 100%	Yes
BMC	Basement Commercial	Yes
BMR	Basement Retail	Yes
BMS	Commercial Bsmt Storage	Yes
BR1	Basement Recreation 33%	Yes
BR2	Basement Recreation 25%	Yes
BR3	Basement Recreation 50%	Yes
BR4	Basement Recreation 75%	Yes
BR5	Basement Recreation 100%	Yes
CA1	Commercial Finish Attic 10%	Yes
CA2	Commercial Finish Attic 25%	Yes
CA3	Commercial Finish Attic 50%	Yes
CA4	Commercial Finish Attic 66%	Yes
CA5	Commercial Finish Attic 75%	Yes
CA6	Commercial Finish Attic 90%	Yes
CAN	Canopy	No
CB1	Comm Finished Bsmt 25%	Yes
CB2	Comm Finished Bsmt 33%	Yes
CB3	Comm Finished Bsmt 50%	Yes
CB4	Comm Finished Bsmt 75%	Yes
CB5	Comm Finished Bsmt 100%	Yes
CDN	Canopy, detached	No
CLP	Loading Platform, Finished	No
COM	Commercial	Yes

CTH	Cathedral Ceiling	Yes
DCK	Deck	No
DRM	DORM	Yes
EAF	Attic, Finished 50%	Yes
EAU	Attic, Expansion, Unfinished	No
EEE	Enclosed Entry, Egress	Yes
FA1	Finished Attic 10%	Yes
FA2	Finished Attic 25%	Yes
FA3	Finished Attic 50%	Yes
FA4	Finished Attic 75%	Yes
FA5	Finished Attic 100%	Yes
FAT	Attic, Finished	Yes
FBM	Basement, Finished	Yes
FCB	Cabana, Enclosed, Finished	No
FCP	Carport	No
FDG	Garage, framed, detached	No
FDU	Utility, finished, detached	No
FEP	Porch, Enclosed, Framed	No
FGR	Garage, Frame	No
FHS	Half Story, Finished	Yes
FOP	Framed Open Porch	No
FSP	Porch, Screen, Framed	No
FST	Utility, Finished	Yes
FUS	Upper Story, Finished	Yes
GRN	Green House	No
H&A	Heating & A/C	Yes
IND	Industrial	Yes
ODK	Open deck	No
OQS	One Qrt Story	Yes
OVR	Overhang	No
PKG	Parking Garage	No
POL	Pool	No
PTO	Patio	No
RAN	Retail Anchor	Yes
REC	Rec Room	Yes
RFT	Refreshment Stand	Yes
RML	Retail Mall	Yes



RSF	Restaurant, Fast Food	Yes
RST	Restaurant	Yes
RTL	Retail, Large	Yes
RTS	Retail, Small	Yes
SDA	Store Display Area	Yes
SPA	Service Production Area	Yes
STP	Stoop	No
TQS	Three Quarter Story	Yes
UA1	Unfinished Attic 25% Area	No
UA2	Unfinished Attic 50% Area	No
UA3	Unfinished Attic 75% Area	No
UA4	Unfinished Attic 100% Area	No
UAT	Attic, Unfinished	No
UBM	Basement, Unfinished	Yes
UDG	Garage, unfinished, detached	No
UDS	Porch, screen, unfinished, detach	No
UDU	Utility, unfinished, detached	No
UEP	Porch, Enclosed, Unfinished	No
UFN	Unfinished Area	No
UGR	Garage, Under	No
UHS	Half Story, Unfinished	Yes
ULP	Loading Platform, Unfinished	No
UNK	Other	No
UOP	Porch, Open, Unfinished	No
USP	Porch, Screen, Unfinished	No
UST	Utility, Storage, Unfinished	Yes
UUS	Upper Story, Unfinished	Yes
WDK	Deck, Wood	No
WSD	Warehouse Distribution	Yes
WSI	Warehouse Industrial Support	Yes
WSS	Warehouse Storage	Yes

List of Buildings Covered by Newton BERDO

Publication date: November 2024

Prepared by Synapse Energy Economics for the City of Newton.

Purpose of the Buildings List

This list identifies the buildings that will be covered by Newton's Building Emissions Reduction and Disclosure Ordinance (BERDO). It draws on data from the tax assessor's database, which is updated annually in July. The list currently uses 2024 data.

Residential buildings are not currently included in Newton's proposed BERDO but are included on this list in anticipation that the sector will be added to BERDO at a later date by action of the Newton City Council. As of November 2024, the list of covered residential condos is still being finalized. Some complexes may be removed from the list if they do not contain any individual buildings of at least 20,000 square feet or do not use one or more centralized heating systems. Similarly, any residential buildings on the main covered buildings list that do not have centralized heating will be removed from the list.

Criteria for BERDO Coverage

With a few exceptions, BERDO will cover all individual buildings with gross floor area (GFA) greater than or equal to 20,000 square feet. Details by building type are listed below.

- Non-residential buildings:** The ordinance will cover all non-residential buildings with GFA that equals or exceeds 20,000 square feet.
- Residential buildings:** The ordinance will cover all residential buildings with GFA that equals or exceeds 20,000 square feet and that have centralized heating systems.
- Government buildings:** The ordinance will cover city buildings. Other government buildings (county, state, and federal) will be exempt.
- Campuses:** Campus buildings will be considered individually, and the ordinance will cover only those buildings with footprints of at least 20,000 square feet.
- Condominiums:** Both residential and non-residential condominiums will be included based on total building square footage, rather than the area of individual units.
- Exempt properties:** There are three types of properties that Boston's ordinance covers but that Newton plans to exempt. These include (1) residential buildings with 15 or more units but GFA less than 20,000 square feet, (2) multiple buildings located on the same parcel whose individual areas are each less than 20,000 square feet but whose collective area is greater than 20,000 square feet, and (3) portfolios of buildings—buildings with the same owner that are located on different parcels—whose individual areas are each less than 20,000 square feet but whose collective area is at least 20,000 square feet.

Implementation of Newton BERDO will take place in stages. Buildings will be divided into implementation tiers based on their size and type (residential or non-residential), and each tier will have a different deadline for compliance. Additional details on the implementation tiers will be published at a later date.

Commercial Buildings Covered by BERDO (November 22, 2024)

Blue text indicates non-residential condo. See "Commercial condo owners" tab for information on ownership of covered non-residential condos.

Table with columns: Building Identification (Newton, BERDO ID, PID, SBL), Type of Building (Use Code, Use Code Meaning), Building Size (Gross Floor Area), Building Street Address (No1, No2, Street, Unit), and Owner Contact Information (Current Owner1, Current Owner2, Current Owner Care of, Current Mailing Address, Current City, Current State, Current Zip).

Table with multiple columns containing property identification numbers, addresses, descriptions, and other details. The table is organized into several vertical sections, likely representing different geographic areas or administrative divisions. Each row contains a unique identifier, a street address, a brief description of the property or business, and various codes or numbers.

17176-17176	17176 62009 0004	960C	TAX EXEMPT	35,200	1317 1317	CENTRE ST	ROMAN CATH ARCHD OF BOSTON CORP		C/O SACRED HEART	66 BROOKS DR	BRAINTREE	MA	02184-0100
26304-26304	26304 83030 0012	3220	DEPARTMENT-DISCOUNT ST	35,099	260 260	NEEDHAM ST	NORTHLAND 260 NEEDHAM LLC		P O BOX 7699	NXS NEWTAX R 1400	MERRIFIELD	VA	221 16-7699
4406-4406	4406 23023 0013	960C	TAX EXEMPT	34,912	218 218	WALNUT ST	BOSTON CHINESE EVANGELICAL CHURCH			218 WALNUT ST	NEEDHAM	MA	02460
26252-26252	26252 83028 0078	3250	SMALL RETAIL STORE	34,460	230 230	NEEDHAM ST	FOX AND HOUNDS RLY TRUST LLC			86 WASHINGTON ST STE 1	HOLLISTON	MA	01746
20948-20948	20948 72005 0001	960C	TAX EXEMPT	34,155	76 76	ELDERIDGE ST	ELDERIDGE ST			76 ELDERIDGE ST	NEWTOWN	MA	02458
12272-72755	12272 51026 0012	3250	SMALL RETAIL STORE	33,829	131 131-181	NEEDHAM ST	KWELDEORD CORP		C/O CROSSPOINT ASSOCIATES INC	188 NEEDHAM ST STE 255	NEWTOWN	MA	02464
20942-20942	20942 72003 0005	960C	TAX EXEMPT	33,761	20 20	ELDERIDGE ST	NEWTOWN PRESBYTERIAN CHURCH		C/O TREASURER	75 VERNON ST	NEWTOWN	MA	02458
10534-72789	10534 43038 0001	942R	TAX EXEMPT	33,640	70 70	STUDIO RD	LASELL UNIVERSITY			1844 COMMONWEALTH AVE	ALBURNDALE	MA	02466
27348-27348	27348 84034A0001	3400	GENERAL OFFICE BUILDING	33,196	60 60	WELLS AVE	WELLS 60 REALTY LLC	C/O INTRUM CORP	C/O INTRUM CORP	180 WELLS AVE STE 100	NEWTOWN	MA	02459
20322-20322	20322 71002 0002	3250	SMALL RETAIL STORE	32,564	261 261-275	CENTRE ST	KNAPP FOODS INC			P O BOX 396	NATICK	MA	01750
63-63	63 11005 0008A	9540	TAX EXEMPT	32,309	295 295	CALIFORNIA ST	NONANUM POST #140 INC		C/O AMERICAN LEAGION OF MA	295 CALIFORNIA ST	NEWTOWN	MA	02458
24027-24027	24027 82002 0027	3400	GENERAL OFFICE BUILDING	32,268	188 188	FLORENCE ST	188 FIRENZE INIZIATE LLC			11 JOHN ST	NEWTOWN	MA	02459
9420-9420	9420 42003 0001	3400	GENERAL OFFICE BUILDING	32,169	2150 2150	WASHINGTON ST	NORTHLAND 2150 WASH ST LL		P O BOX 7699	NXS NEWTAX C2100	MERRIFIELD	VA	221 16-7699
18898-18898	18898 64028 0001	3400	GENERAL OFFICE BUILDING	32,166	1261 1261-1269	CENTRE ST	CENTRE ST		C/O INVESTMENT PROPERTIES LTD	825 BEACON ST SUITE 1	NEWTOWN	MA	02459
18973-50335	18973 64031 0001	961R	TAX EXEMPT	32,108	1115 1115	CENTRE ST	GREEK EVANGELICAL CHURCH OF BOSTON			1115 CENTRE ST	NEWTOWN	MA	02459
9395-71364	9395 41035 0014	3400	GENERAL OFFICE BUILDING	32,060	130 130	RUMFORD AVE	PACKARD COVE ASSOCIATES LLP		C/O CAPASSO REALTY CORP	49 LEXINGTON ST	NEWTOWN	MA	02465
9865-9865	9865 42031 0008	3250	SMALL RETAIL STORE	31,923	2282 2282	WASHINGTON ST	ATG REALTY LLC			2284 WASHINGTON ST	NEWTOWN	MA	02462
17999-50312	17999 63015 0001	942C	TAX EXEMPT	31,813	147 147-201	HAMMOND ST	TRUSTEES OF BOSTON COLLEGE	C/O JOS M HERLIHY GENERAL COUNSEL	DONALDSON HOUSE	90 COLLEGE RD	CHESTNUT HILL	MA	02467
4396-4396	4396 23022 0003	3250	SMALL RETAIL STORE	31,601	793 793-821	WASHINGTON ST	793 WASHINGTON DENV LLC		C/O MARK DEVELOPMENT	275 GROVE ST SUITE 2-150	NEWTOWN	MA	02466
1752-1752	1752 13031 0018	962C	TAX EXEMPT	31,580	561 561	WARD ST	CONGREGATION BETH EL OF NEWTON			561 WARD ST	NEWTOWN CENTRE	MA	02459
10535-71538	10535 43038 0002	942C	TAX EXEMPT	31,395	10 10-12	STUDIO RD	LASELL UNIVERSITY			1844 COMMONWEALTH AVE	ALBURNDALE	MA	02466
9348-9348	9348 41032 0005	4000	MANUFACTURING OPERATIO	31,240	225 225	RIVERVIEW AVE	PACKARD COVE ASSOCIATES LLP			49 LEXINGTON ST	NEWTOWN	MA	02465
25930-25930	25930 83011 0022	3220	DEPARTMENT-DISCOUNT ST	31,160	82 82-84	NEEDHAM ST	CREATIVE BOOKFAIR LLC		C/O CREATIVE DEV MNGMT LLC	2 CENTRAL ST STE 100	FRAMINGHAM	MA	01701
17179-50282	17179 62009 0006	9400	TAX EXEMPT	31,062	64 64-90	CRESSENT AVE	ROMAN CATH ARCHD OF BOSTON CORP	RE SACRED HEART NEWTON-MONTESSORI		66 BROOKS DR	BRAINTREE	MA	02184-0100
2027-2027	2027 14008 0039	4000	MANUFACTURING OPERATIO	30,720	87 87-89	ADAMS ST	PAOLINI ANGELO D & SUSAN SGARZ	PENTA MICHAEL TRS	SMC TRUST	483 PLEASANT ST	WATERTOWN	MA	02472
18153-18153	18153 63026 0009	960C	TAX EXEMPT	30,674	365 365	HAMMOND ST	PARISH CHURCH OF THE REDEEMER	AT CHESTNUT HILL		365 HAMMOND ST	CHESTNUT HILL	MA	02467
26254-26254	26254 83028 0080	4000	MANUFACTURING OPERATIO	30,603	45 45	INDUSTRIAL PL	MATERION NEWTON INC		C/O MATERION CORP TAX DEPT	6070 PARKLAND BLVD	MAYFIELD HEIGHTS	OH	44124
6955-6955	6955 33008 0001	960C	TAX EXEMPT	30,241	1326 1326	WASHINGTON ST	FIRST UNITARIAN SOCIETY OF NEWTON			1326 WASHINGTON ST	NEWTOWN	MA	02465
27200-27200	27200 84034 0002T	3400	GENERAL OFFICE BUILDING	30,109	189 189	WELLS AVE	LEGACY FIRST WELLS LLC		C/O EASTPORT RE SERVICES	107 AUDOBON RD STE 2-301	WAKEFIELD	MA	01880
16784-16784	16784 61033 0005	3400	GENERAL OFFICE BUILDING	30,102	1188 1188	CENTRE ST	CRESLY LLC		C/O NCP MGMT CO	P O BOX 590179	NEWTOWN	MA	02459
25-25	25 11004 0008	9400	MANUFACTURING OPERATIO	30,044	217 217	CALIFORNIA ST	CHARLSEANIKOS WILLIAM TR	NUTHEG REALTY TRUST		181 DODD RD	NEWTOWN	MA	02466
1815-1815	1815 14001 0014	4020	MANUFACTURE OFFICE	30,011	49 49-55	CHAPEL ST	CHARLEBRIDGE PARK ASSOCIATES		C/O WILLIAM POORJU	55 CHAPEL ST	NEWTOWN	MA	02458
869-869	869 12012 0012	3250	SMALL RETAIL STORE	29,732	427 427-443	CENTRE ST	TRS OF NEWTON LODGE #1327	BENVOLENT & PROTECTIVE ORDER ELKS		429 CENTRE ST	NEWTOWN	MA	02458
16792-16792	16792 61033 0014	3250	SMALL RETAIL STORE	29,336	30 30-34	LANGLEY RD	KRASNER/METRO BOSTON ASSOC LTD PTRN	HKS PROPERTIES LLC TIC	C/O WALCOTT CORP	1050 COMMONWEALTH AVE STE 206	BOSTON	MA	02215
10285-10285	10285 43017 0010	960C	TAX EXEMPT	29,150	64 64	HANCOCK ST	UNITED PARISH OF ALBURNDALE		C/O TREASURER	64 HANCOCK ST	ALBURNDALE	MA	02466
17192-17192	17192 62009 0015	960C	TAX EXEMPT	28,980	1299 1299	CENTRE ST	FIRST BAPTIST CHURCH IN NEWTON			848 BEACON ST	ALBURNDALE	MA	02459
6960-6960	6960 33010 0002A	3620	MOVIE THEATRES	28,966	1296 1296	WASHINGTON ST	HADISON QUEENS-GUY BREWER LLC		C/O MARK DEVELOPMENT	275 GROVE ST SUITE 2-150	ALBURNDALE	MA	02466
27358-27358	27358 84034A0008	3400	GENERAL OFFICE BUILDING	28,727	70 70	WELLS AVE	LEGACY SECOND WELLS LLC			89 WEST CONCORD ST	BOSTON	MA	02118
16808-16808	16808 61036 0006	3400	GENERAL OFFICE BUILDING	28,485	47 47-61	LANGLEY RD	PICCLANG LLC		C/O BOSTON DEV GROUP	93 UNION ST STE 315	NEWTOWN	MA	02459
18000-50316	18000 63015 0002	942R	TAX EXEMPT	28,224	377 377	BEACON ST	TRUSTEES OF BOSTON COLLEGE	C/O JOS M HERLIHY GENERAL COUNSEL	DONALDSON HOUSE	90 COLLEGE RD	CHESTNUT HILL	MA	02467
17918-17918	17918 63009 0009	960C	TAX EXEMPT	27,934	8 8	COMMONWEALTH AVE	ROMAN CATH ARCHD OF BOSTON CORP		C/O ST IGNATIUS	66 BROOKS DR	BRAINTREE	MA	02184-0100
2429-2429	2429 14023 0006	9410	TAX EXEMPT	27,915	583 583	WASHINGTON ST	ROMAN CATH ARCHD OF BOSTON CORP		C/O OUR LADY HELP CHRISTIANS	573 WASHINGTON ST	NEWTOWN	MA	02458
11370-11370	11370 44025 0011	3400	GENERAL OFFICE BUILDING	27,742	3000 3000	COMMONWEALTH AVE	2000 COMMONWEALTH REALTY INC			2000 COMMONWEALTH AVE	ALBURNDALE	MA	02466
27196-27196	27196 84024 0002N	4010	GENERAL OFFICE BUILDING	27,724	177 177	WELLS AVE	DEVANEY ENERGY INC		P O BOX 9120	177 WELLS AVE	NEWTOWN	MA	02459-9120
1-1	1 11001 0001	4010	MANUFACTURE WAREHOUSE	27,620	137 137-139	CALIFORNIA ST	PA HAND LLC			137-139 CALIFORNIA ST	NEWTOWN	MA	02458
17999-50315	17999 63015 0001	942C	TAX EXEMPT	27,554	147 147-201	HAMMOND ST	TRUSTEES OF BOSTON COLLEGE	C/O JOS M HERLIHY GENERAL COUNSEL	DONALDSON HOUSE	90 COLLEGE RD	CHESTNUT HILL	MA	02467
17077-17077	17077 62004 0012	3240	SUPERMARKET	27,327	916 916	WALNUT ST	ACCONCIA HENRY A	ACCONCIA WILLIAM G TRS	C/O WHOLE FOODS/LEASE ADMIN	550 BOWIE ST	AUSTIN	TX	78703
17276-17276	17276 62013 0009	3420	MEDICAL OFFICE BUILDING	27,319	77 77	PAUL ST	DONATO MARK F TR		C/O CENTRE ST REALTY TRUST	1231 WASHINGTON ST STE 2	WEST NEWTON	MA	02465-2122
5253-5253	5253 31006 0014	3300	CAR SALES & SERVICE	27,278	1203 1203	WASHINGTON ST	DONATO MARK F & STEVEN J TRS	WASHINGTON ST 1203 REALTY TRUST		1231 WASHINGTON ST STE 2	WEST NEWTON	MA	02465-2122
13008-13008	13008 52008 0016	3250	SMALL RETAIL STORE	27,254	3 3-21	LINCOLN ST	NEWTON LINCOLN LLC			1163 WALNUT ST UNIT #12	NEWTOWN	MA	02461
19146-19146	19146 65002 0001	3400	GENERAL OFFICE BUILDING	27,084	40 40	GLEN AVE	GLEN AVENUE ASSOCIATES LLC		C/O SUSAN BUTTERWORTH	46 GLEN AVE	ALBURNDALE	MA	02459
8850-8850	8850 41015 0001	3400	GENERAL OFFICE BUILDING	27,079	327 327-349	AUBURN ST	339 AUBURN STREET LLC			14 REGINA TER	ALBURNDALE	MA	02466
18924-18924	18924 64029 0001	3250	SMALL RETAIL STORE	26,697	1199 1199-1217	CENTRE ST	KAPLAN DONALD	PATTERSON JANET TRS		739 CREEKS EDGE	CHARLESTON	SC	29412
20944-20944	20944 72004 0002	960C	TAX EXEMPT	26,462	474 474	CENTRE ST	EIJOT CHURCH OF NEWTON			474 CENTRE ST	NEWTOWN	MA	02458
101275-71536	101275 52091 0003	960C	TAX EXEMPT	26,205	54 54	LINCOLN ST	NEWTON HIGHLANDS CONGREGATIONAL CHU			54 LINCOLN ST	NEWTOWN	MA	02461
9381-9381	9381 41033 0001	4000	MANUFACTURING OPERATIO	26,163	87 87	RUMFORD AVE	HARDY FRANKLIN TR	THE TYCA REALTY TR		470 MAIN ST	CLINTON	MA	01510
101213-71531	101213 65019 0045AA	940C	TAX EXEMPT	25,994	101 101-239	HERICK RD	WINTHROP PARK SCHOOL INC			1188 CENTRE ST	NEWTOWN	MA	02459
10134-72008	10134 43010 0009	942C	TAX EXEMPT	25,760	204 204-220	WOODLAND RD	LASELL UNIVERSITY			1844 COMMONWEALTH AVE	ALBURNDALE	MA	02466
6972-6972	6972 33011 0001	935C	TAX EXEMPT	25,532	1321 1321	WASHINGTON ST	CITY OF NEWTON	POLICE DEPT		1000 COMM AVE	NEWTOWN	MA	02459
6990-6990	6990 33012 0002	3760	GYMS & ATHLETIC CLUBS	25,454	1357 1357-1369	WASHINGTON ST	KENMORE REALTY CORPORATION			1355 WASHINGTON ST	WEST NEWTON	MA	02465
2850-2850	2850 21022 0027	951C	TAX EXEMPT	25,066	675 675	WATERTOWN ST	NEWTON BOYS & GIRLS CLUB CORP	THE JOHN M BARRY	C/O DAVID SELLERS EXEC DIR	675 WATERTOWN STREET	NEWTOWN	MA	02460
4351-4351	4351 12307 0003	3220	DEPARTMENT-DISCOUNT ST	24,915	675 675	WASHINGTON ST	SIEGAL MARTIN SEAN I & LEWIS D TRS	661 669 WASHINGTON ST REALTY TRUST		675 WASHINGTON ST	NEWTOWN	MA	02460
5865-71495	5865 31028 0079	940C	TAX EXEMPT	24,840	250 250	WALTHAM ST	FESSENDEN SCHOOL			215 ALBEMARLE RD	WEST NEWTON	MA	02465
883-883	883 12013 0014	940C	TAX EXEMPT	24,724	187 187	CHURCH ST	ARABIC BAPTIST CHURCH		C/O CAPASSO REALTY CORP	165 FRIEND ST	BOSTON	MA	02114
15009-15009	15009 54022 0052	3400	GENERAL OFFICE BUILDING	24,675	1172 1172	BEACON ST	CAPASSO DONATO D TR			49 LEXINGTON ST	NEWTOWN	MA	02465
6299-6299	6299 32024 0009	960C	TAX EXEMPT	24,610	175 175	TEMPLE ST	TEMPLE SHALOM OF NEWTON			175 TEMPLE ST	WEST NEWTON	MA	02465
1727-1727	1727 13030 0011A	962C	TAX EXEMPT	24,550	35 35	MORSELAND AVE	CONGREGATION SHAARE TEBILLAH INC			35 MORSELAND AVE	NEWTOWN	MA	02459
26252-26257	26257 83028 0083	3250	SMALL RETAIL STORE	24,535	210 210	NEEDHAM ST	NEEDHAM ST LTD PTRNSHIP		C/O CROSSPOINT ASSOCIATES	215 FRANKLIN ST STE 255	NEWTOWN	MA	02464
7063-7063	7063 33015 0015	4000	MANUFACTURING OPERATIO	24,258	93 93	BORDER ST	HBM LLC			215 FRANKLIN ST	NEWTOWN	MA	02458
25944-25944	25944 83013 0005	3250	SMALL RETAIL STORE	24,214	160 160-166	NEEDHAM ST	RECCO JOHN JR TR			P O BOX 96	NEWTOWN	MA	02464
9875-9875	9875 43032 0011	3400	GENERAL OFFICE BUILDING	23,798	2227 2227	WASHINGTON ST	NEWTON EXECUTIVE PARK L P	C/O J F WHITE PROPERTIES		11 GATEWAY CTR SUITE 500	NEWTOWN	MA	02458
687-54111	687 12003 0004	940C	TAX EXEMPT	23,630	55 55	WALNUT PK	CONGREGATION SISTERS OF ST JOSEPH			637 CAMBRIDGE ST	BRIGHTON	MA	02135
10535-10535	10535 43038 0002	942C	TAX EXEMPT	23,528	10 10-12	STUDIO RD	LASELL UNIVERSITY			1844 COMMONWEALTH AVE	ALBURNDALE	MA	02466
25549-25549	25549 82041 0007	940C	TAX EXEMPT	23,465	45 45	PUDDING STONE LN	TEMPLE BETH AVODAH		C/O MATERION CORP TAX DEPT	45 PUDDING STONE LA	NEWTOWN	MA	02459
26253-26253	26253 83028 0079	4040	R & D FACILITIES	23,450	33 33	INDUSTRIAL PL	MATERION NEWTON INC		C/O MATERION CORP TAX DEPT	6070 PARKLAND BLVD	MAYFIELD HEIGHTS	OH	44124
11340-11340	11340 44023 0016	3160	STORAGE-WAREHOUSE-DIST	23,384	45 45	CRESCENT ST	66 ROWE STREET LLC		C/O CALARE PROPERTIES INC	30 SPEN ST	FRAMINGHAM	MA	01701
18342-50327	18342 63037 0026	3220	SHOPPING CENTER-MALL	23,037	33 33-55	BOYLSTON ST	CHESTNUT HILL SHOPPING CENTER LLC			33 BOYLSTON ST STE 3000	CHESTNUT HILL	MA	02467
23856-23856	23856 82002 0008	3400	GENERAL OFFICE BUILDING	22,785	250 250	BOYLSTON ST	250 BOYLSTON STREET LLC		C/O N E DEVELOPMENT	75 PARK PLAZA	BOSTON	MA	02116
25549-50387	25549 82041 0007	940C	TAX EXEMPT	22,660	45 45	PUDDING STONE LN	TEMPLE BETH AVODAH			45 PUDDING STONE LA			

101475-71625	101475 22005 0032Z	954C	TAX EXEMPT	21,014	456 456-460	NEWTONVILLE AVE	NEWTON MASONIC ASSOCIATES INC			P O BOX 216	NEWTONVILLE	MA	02460
1801-1801	1801 14001 0001	3250	SMALL RETAIL STORE	20,995	337 337-349	WATERTOWN ST	MAY NINETEEN FAMILY LP			P O BOX 95026	NEWTON	MA	02495
2183-2183	2183 14014 0036	3250	SMALL RETAIL STORE	20,991	132 132-136	ADAMS ST	SEWALL RICHARD D	MAZZOLA ANTHONY L TRS	C/O LSTG MANAGEMENT	P O BOX 95044	NEWTON	MA	02495
1574-54114	1574 13021 0003	942R	TAX EXEMPT	20,678	885 885	CENTRE ST	TRUSTEES OF BOSTON COLLEGE	C/O JOS M HERLIHY GENERAL COUNSEL	DONALDSON HOUSE	90 COLLEGE RD	CHESTNUT HILL	MA	02467
7284-7284	7284 33025 0001	3690	OTHER CULTURAL PROPERTY	20,621	35 35	WEBSTER ST	NEWTON CULTURAL ALLIANCE INC		C/O ADRIENNE HARTZELL KNUDSEN	P O BOX 610225	NEWTON	MA	02459
7123-7123	7123 33017 0034	3210	HARDWARE/HEAT-PLUMBING	20,570	10 10	WESTWOOD ST	BARJAN REALTY CO		C/O THE PORTLAND GROUP	P O BOX 583	FRAMMINGHAM	MA	01704
27257-27257	27257 84034A0007	3400	GENERAL OFFICE BUILDING	20,535	100 100	WELLS AVE	WRP REALTY INC TR	WELLS RIVERPARK REALTY TRUST	C/O BLUESTONE REALTY LLC	100 WELLS AVE STE 100	NEWTON	MA	02459
12268-12268	12268 51028 00088	3220	DEPARTMENT-DISCOUNT ST	20,400	201 201	NEEDHAM ST	201 NEEDHAM STREET OWNER LLC		C/O ALTUS GROUP US INC	PO BOX 1550	COCKEYSVILLE	MD	21030
4282-4282	4282 23015 0027	939C	TAX EXEMPT	20,218	90 90	CRAFTS ST	CITY OF NEWTON	STREET DEPT		1000 COMM AVE	NEWTON	MA	02459
3380-3380	3380 22005 0033	3250	SMALL RETAIL STORE	20,172	304 304-306	WALNUT ST	JH REAL ESTATE LLC			45 CHESTER ST	NEWTON	MA	02461
9343-9343	9343 41032 0001	3400	GENERAL OFFICE BUILDING	20,000	241 241-247	RIVERVIEW AVE	PACKARD COVE ASSOCIATES LLP			49 LEXINGTON ST	NEWTON	MA	02465
12272-12272	12272 51028 0008F	3160	STORAGE-WAREHOUSE-DIST	20,000	50 50	TOWER RD	NORTHLAND 50 TOWER ROAD LLC			2150 WASHINGTON ST	NEWTON	MA	02462
10691-10691	10691 43045 0034	1131	APARTMENT (100+ UNITS)	112,881	160 160	STANTON AVE	JCHE GOLDA LP		C/O JEWISH COMM HOUSING	30 WALLINGFORD RD	BRIGHTON	MA	02135
780-01	Multiple Multiple	N/A	Commercial condos	33,779	109	109 OAK ST	Multiple	Multiple					
817-01	Multiple Multiple	N/A	Commercial condos	63,156	19 19-31	NEEDHAM ST	Multiple	Multiple					
1438-01	Multiple Multiple	N/A	Commercial condos	51,512	1858	1858 WASHINGTON ST	Multiple	Multiple					
5421-01	Multiple Multiple	N/A	Commercial condos	25,148	2000 2000	WASHINGTON ST	Multiple	Multiple					

Residential Buildings Covered by BERDO (November 22, 2024)

Blue text indicates mixed-use condo that is predominantly residential. See "Commercial condo owners" tab for information on ownership of these condos. See "Residential condos" tab for information on covered condos that are solely residential.

Table with columns: Building Identification (Newtown, BERDO ID, PID, SBL), Type of Building (Use Code, Use Code Meaning), Building Size (Gross Floor Area, No1, No2, Street, Unit), Building Street Address, and Owner Contact Information (Current Owner1, Current Owner2, Current Owner Care of, Current Mailing Address, Current City, Current State, Current Zip). The table lists numerous residential buildings with their respective details.

Owner Contact Information for Covered Commercial Condos (November 22, 2024)

Newton	Building Identification				Building Street Address				Owner Contact Information						Notes	
	BERDO ID	Sequence	No.	PID	SBL	No1	No2	Street	Unit	Current Owner1	Current Owner2	Current Owner Care of	Current Mailing Address	Current City		Current State
1384-01	1384	111742	21029 0010A	839	839-853	WASHINGTON ST	2	WASHINGTON PL OWNER LLC			C/O MARK DEVELOPMENT	275 GROVE ST SUITE 2-150	AUBURNDALE	MA	02466	This unit is split between buildings 1384-01 and 1384-02.
	1384	111743	21029 0010B	839	839-853	WASHINGTON ST	3	WASHINGTON PL OWNER LLC			C/O MARK DEVELOPMENT	275 GROVE ST SUITE 2-150	AUBURNDALE	MA	02466	
1384-02	1384	3056	21029 0010	839	839-853	WASHINGTON ST	1	WASHINGTON PL OWNER LLC			CVS HEALTH #107 02	1 CVS DRIVE MC 2300	WOONSOCKET	RI	02895	This unit is split between buildings 1384-01 and 1384-02.
	1384	111743	21029 0010B	839	839-853	WASHINGTON ST	3	WASHINGTON PL OWNER LLC			C/O MARK DEVELOPMENT	275 GROVE ST SUITE 2-150	AUBURNDALE	MA	02466	
780-01	780	12677	51046 0001	109	109	OAK ST	1	CEC OAK RLTY LLC				109 OAK ST AND 5 SWEET ST	NEWTON	MA	02464	
	780	100586	51046 0001A	109	109	OAK ST	2	109 OAK STREET PROPERTIES LLC			C/O ALEXANDRA PROPERTII	1234 CHESTNUT ST	NEWTON UPR FLS	MA	02464	
817-01	817	100769	51028 0025A	19	19-31	NEEDHAM ST	21-2	75-85 MAIN ST REALTY LLC				281 ELIOT ST	CHESTNUT HILL	MA	02467	
	817	12288	51028 0025	19	19-31	NEEDHAM ST	21-1	75-85 MAIN STREET RLTY LLC				281 ELIOT ST	CHESTNUT HILL	MA	02467	
	817	100766	51028 0025D	19	19-31	NEEDHAM ST	5	UBC S EQUITY PARTNERS LLC				150 EAST 58TH ST STE 2000	NEW YORK	NY	10155	
	817	100767	51028 0025C	19	19-31	NEEDHAM ST	4	KSKIM UBC EQUITY PARTNERS LLC			C/O KS PARTNERS	150 EAST 58TH ST 21ST FLR	NEW YORK	NY	10155	
	817	102735	51028 0025E	19	19-31	NEEDHAM ST	5A	NEWTON COMMUNICATIONS ACCESS CTR IN				19-31 NEEDHAM ST 5A	NEWTON	MA	02461	
	817	102736	51028 0025F	19	19-31	NEEDHAM ST	5B	NEWTON COMMUNICATIONS ACCESS CTR IN				19-31 NEEDHAM ST 5B	NEWTON	MA	02461	
1438-01	1438	10642	43044 0007	1858	1858	WASHINGTON ST	1	TEMPLE REYIM				1858 WASHINGTON ST	AUBURNDALE	MA	02466	
	1438	117935	43044 0007B	1858	1858	WASHINGTON ST	2	TEMPLE REYIM				1858 WASHINGTON ST	AUBURNDALE	MA	02466	
	1438	117936	43044 0007C	1858	1858	WASHINGTON ST	3	TEMPLE REYIM				1858 WASHINGTON ST	AUBURNDALE	MA	02466	
3421-01	N/A	15465	55001 0015BA	2000	2000	WASHINGTON ST	1A	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15466	55001 0015BB	2000	2000	WASHINGTON ST	1B	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15467	55001 0015BC	2000	2000	WASHINGTON ST	1C	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15468	55001 0015BD	2000	2000	WASHINGTON ST	1D	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15469	55001 0015BE	2000	2000	WASHINGTON ST	1E	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15470	55001 0015BF	2000	2000	WASHINGTON ST	2A	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15471	55001 0015BG	2000	2000	WASHINGTON ST	2B	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15472	55001 0015BH	2000	2000	WASHINGTON ST	2C	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15473	55001 0015BI	2000	2000	WASHINGTON ST	2D	DRISCOLL DANIEL MD TR	KAMADA REALTY TRUST			2000 WASHINGTON ST UN 2D	NEWTON	MA	02462	
	N/A	15474	55001 0015BJ	2000	2000	WASHINGTON ST	2E	LEVIN MICHAEL				2000 WASHINGTON ST UN 2E	NEWTON LWR FLS	MA	02462	
	N/A	15475	55001 0015BK	2000	2000	WASHINGTON ST	3A1	AUDIBO LLC				4 CHARLES RIVER CT	WELLESLEY	MA	02482	
	N/A	15476	55001 0015BL	2000	2000	WASHINGTON ST	3A2	KLINGENSTEIN R JAMES				32 WAUWINET RD	NEWTON	MA	02465	
	N/A	15477	55001 0015BM	2000	2000	WASHINGTON ST	3A3	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15478	55001 0015BN	2000	2000	WASHINGTON ST	3B	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15479	55001 0015BO	2000	2000	WASHINGTON ST	3C	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15480	55001 0015BP	2000	2000	WASHINGTON ST	3D	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15481	55001 0015BQ	2000	2000	WASHINGTON ST	3E	NEWTON-WELLESLEY HOSPITAL			C/O MASS GENERAL BRIGHA	399 REVOLUTION DR STE 1345	SOMERVILLE	MA	02145	
	N/A	15482	55001 0015BR	2000	2000	WASHINGTON ST	3F	LEIBOLE MARC A MD	ECLS REAL ESTATE LLC			40 WALNUT ST STE 101	WELLESLEY	MA	02481	



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November 22, 2024

Newton Zoning and Planning Committee
Newton City Council
1000 Commonwealth Avenue
Newton, MA 02459

Subject: Response to 11-18-24 letter to ZAP from Newton-Wellesley Hospital

Dear Committee Members:

The City of Newton and the Newton-Wellesley Hospital have been meeting since May 2022 to discuss the Newton BERDO ordinance and its application to the hospital. We have been meeting more frequently over the past two months to try to reach agreement on specific ordinance language. Our goal from the outset was to design a BERDO that addresses the hospital's unique concerns. The City has attempted to reach a compromise, but the hospital has been unwilling to back off from its insistence on a total exemption from BERDO for its hospital buildings. Let me be clear that the Newton BERDO does not, and will not, interfere with Newton Wellesley-Hospital's (NWH) compliance with federal regulations or their ability to use natural gas needed for compliance. These are the main concerns expressed by NWH in their letter to the Committee. Our letter responds to those concerns.

The City has applied three primary principles to its BERDO ordinance language relative to NWH.

1. Compliance with the federal hospital regulations and patient care are the priorities over compliance with Newton's BERDO. But, having a BERDO in place provides the impetus to make sure that emissions reduction is part of their calculus.
2. Compliance flexibility. Partial compliance with BERDO is better than no compliance.
3. The ordinance is not the last word on BERDO compliance. The regulations will provide additional flexibility to NWH.

Flexibility is provided in Newton's BERDO for hospitals and healthcare. Under Section 1 (j) ii:

1. backup generation is exempt from BERDO which is an important provision due to the federal requirement for a secondary power source and could be used wholly or in part to comply with the federal regulations,
2. microgrids (including cogeneration) are eligible for exemption from BERDO with documentation provided by a licensed professional engineer,
3. other systems as set forth in regulations which are needed to meet federal requirements are eligible for exemption from BERDO with documentation from a PE and,
4. Under Section 1 (l) hospitals and healthcare institutions are eligible for Hardship Compliance Plans which may include alternative emissions standards and timelines for compliance. The document that MGB is

developing as described by Mr. Philbin and Messervy in their Nov 18th letter to ZAP (page 1, paragraph 4, last sentence) could be the basis for that plan.

NWH is in compliance with Newton BERDO until 2039 which provides a significant amount of time for the hospital to develop its plan for compliance with federal requirements, develop the plan they mention in their November 18th letter to ZAP for “eliminating their contribution to climate change” and for the City to develop BERDO regulations that are compatible with those plans. Because they have already reduced emissions considerably, if they prepare an individual compliance schedule as I recommended, they may be in compliance until as far as 2045.

It has been difficult trying to reach agreement on ordinance language with NWH. They appear to be supportive of BERDO and emissions reduction but ultimately, the only position they are willing to accept is a complete exemption of their hospital buildings. They have expressed support for BERDO and emissions reduction in their last two letters to ZAP, only to continue to lobby for an exemption.

Letter from NWH to ZAP of 10-28-24

“We have never objected to Newton adopting a BERDO Ordinance that includes the Hospital; and in fact, we support the City adopting a BERDO Ordinance.”

Letter from NWH to ZAP of 11-18-24

“Some of our system’s collective actions to take leadership on decarbonization include launching the Climate and Sustainability Leadership Council at Mass General Brigham. This group is responsible for organizing a strategy for achieving our goals in three principal areas: eliminating our contribution to climate change and pollution The Council has embarked on an ambitious effort to quantify all direct and indirect contributions of climate-harming emissions, with an eye toward establishing a timeline and process for reducing and ultimately eliminating our contribution to climate change.”

In the interest of brevity, I have tried to provide brief responses to some of the comments made by NWH in the 10 questions which they prepared for City Councilors. I would be glad to respond in more detail or to any further questions.

1. Question: What efforts has Newton-Wellesley Hospital made to share its concerns with the City?

We have had multiple meetings beginning in May 2022. The only option that the hospital has offered in multiple drafts, is an outright exemption for all hospital buildings.

2. Question: What is the primary reason for the hospital to request an exemption from the BERDO ordinance?

The City has provided flexibility options described previously that would enable the hospital to meet federal requirements and patient care priorities and use natural gas if necessary, without incurring compliance penalties.

3. Question: What is unique about the hospital that distinguishes it from all other building types?

The City has addressed these requirements by providing flexibility options specifically for hospitals and healthcare institutions that would enable them to use natural gas. It is also possible to heat and cool areas of the hospital using heat pumps thus, gradually reducing reliance on natural gas.

4. Please share information about the hospital's ongoing commitments to energy efficiency and carbon emissions reductions.

The hospital has made significant improvements to its facilities and GHG emissions. In a memo to them on August 30, 2024, I suggested that we would be willing to help them develop an individual compliance schedule based on these accomplishments, that we think could keep them in compliance with BERDO beyond 2039 and possibly up to 2045. An individual compliance schedule is a flexibility option in BERDO that is available to all building owners.

5. Question: Why is the comparison to Boston BERDO unacceptable to the Hospital?

The City has been interested in how the MGB's experience in Boston could be helpful in the design of the Newton BERDO. As a result of this, we have provided an exemption, that is not available in Boston, for microgrids (including cogeneration) and other systems.

The requirement for a secondary energy infrastructure, which is already available for Boston hospitals, has nothing to do with BERDO. This is a federal requirement. Newton's BERDO provides NWH with the flexibility to meet this requirement without interference or fines.

6. Question: What limitations are placed on the hospital by the City's proposed hospital BERDO provisions?

BERDO places no limitations on the hospital until 2039 because they are in compliance until then, or possibly as far as 2045 if they complete an individual compliance schedule as I have suggested.

The City has also specifically provided for microgrids and other systems in Section 1 (j) as mentioned previously. Also, back up generation is exempt from BERDO. The hardship compliance plan can provide a process for NWH to achieve its goal of developing a "timeline and process for reducing and ultimately eliminating our contribution to climate change" which is the expressed goal of MGB in their November 18th letter.

7. Question: Does the City's position raise legal issues for you?

Hardship compliance plan regulations will be prepared with input from an advisory commission, not solely by the BERDO Administrator, and will be approved by the Mayor. The BERDO Administrator is supervised by the Co-Director of Energy and Climate. Regulations will include input by stakeholders and an advisory commission and will be updated periodically. Since the hospital is in compliance with BERDO until 2039, there will be ample time for development of BERDO regulations pertaining to the hospital as it develops its plan for compliance with the federal regulations.

Hardship compliance plans may include alternative emissions standards and timelines for compliance. These words are included in the ordinance for a reason.

The hospital's concern about providing "a second source of energy above and beyond the electric grid", is provided for in BERDO by exempting backup generation and providing for microgrids and other systems.

8. Question: What is the city's language trying to accomplish specifically with respect to the hospital buildings?

No one from the City has ever said, either publicly or privately, that our intention is to hold the hospitals feet to the fire in terms of eliminating the use of natural gas as a second source of heat

and power. We have always worked to understand the hospital's unique needs and come up with a compromise that could include the use of natural gas if necessary. The hospital's insistence on a complete exemption is not a compromise. The City is not trying to eliminate the hospital from relying on natural gas for heat and power if it is the only reasonable option. We have provided options for continued use of natural gas, but not a complete exemption. The hospital has indicated in their November 18th letter to ZAP that it can reduce emissions and wants to eliminate their contribution to climate change. We also think that they can reduce their use of gas and still meet federal standards and patient care priorities.

9. Question: Why is the hardship compliance plan not an acceptable outcome for the hospital?

There will be little or no fines if the hospital uses the flexibility options provided in BERDO. They have plenty of time to plan and implement emissions reduction measures and work with the City to develop a hardship compliance plan. We have cooperated by providing flexibility options in BERDO for the hospital. Not agreeing with the hospital's request for a complete exemption, is not being uncooperative. The hardship compliance plan option will give the hospital the option of implementing the plan that MGB's Climate and Sustainability Leadership Council is developing.

10. Question: Why should the City Council reject the recommendation of the City's sustainability team and instead adopt the exemption provision being recommended by the hospital?

The City is not choosing technologies for the hospital. We are establishing standards. By definition, an emission standard is technology neutral and only regulates emissions. The only technology specifically mentioned is microgrids, which was suggested by the hospital in a September 28th email to me along with providing us the federal CMS regulations that allow for use of microgrids to meet hospital requirements for a secondary source of electricity.

NWH is an important part of the Newton community. We look forward to working with them and to help them continue to thrive in Newton as part of our community sustainability efforts, rather than on their own through a complete exemption.

Sincerely,

Bill Ferguson

William H. Ferguson
Co-Director of Energy and Climate



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November 22, 2024

Newton Zoning and Planning Committee
Newton City Council
1000 Commonwealth Avenue
Newton, MA 02459

Subject: Adding Large Residential Buildings to BERDO

Dear Committee Members:

I am writing to remind the Committee of the City's position relative to including large residential buildings in BERDO, which has not changed since we submitted the ordinance in May 2024. The ordinance which we submitted in May addresses only non-residential buildings. Our presentation to the Committee noted that the City proposes to add large residential buildings next year.

Our concern, then and now, is that there are issues surrounding the residential buildings sector that may complicate passage of a Newton BERDO by the Council as it did in Cambridge recently. Large residential buildings include three subsectors: low-income affordable housing, market priced housing and condominiums. A fourth category is naturally occurring affordable housing. It has been the City's plan to spend more time trying to better understand issues affecting each of these categories and determine ways to address them before adding residential buildings to the scope of the BERDO ordinance.

Large non-residential buildings covered by BERDO represent 23% of the total emissions of the City of Newton. Large residential buildings represent 5% of the total emissions. 5% is not insignificant but, may not be worth risking or delaying getting to work on the 23%.

Although we have been helpful in drafting the Danburg amendment, which includes large residential buildings, and also by doing some research for the NCCE, our position has not changed, and we are not planning to advocate for including residential buildings in BERDO at this time.

However, if the City Council decides to pass a BERDO that includes residential, we will work to make it successful.

Sincerely,

Bill Ferguson

William H. Ferguson
Co-Director of Energy and Climate

Newton BERDO

Timeline for Tier 1-Non-residential Buildings >= 100,000 SF (47 buildings)

Milestone	2024	2025	2026	2027	2028	2029
BERDO Passes City Council	Dec					
Training on Energy Reporting provided.		Mar-Sept	Feb-Sept	Feb-Sept	Feb-Sept	Feb-Sept
Energy Report due for prior year energy use.		Sept (for 2024 use)	Sept (for 2025 use)	Sept (for 2026 use)	Sept (for 2027 use)	Sept (for 2028 use)
BERDO Compliance workshops			Oct-Dec	Oct-Dec	Oct-Dec	Oct-Dec
Emissions standard in effect for Tier 1 Buildings.				Jan-Dec	Jan-Dec	Jan-Dec
Fines in effect for Tier 1 Buildings.						Jan-Dec

Training on Energy Reporting provided.
 This training will be provided jointly by the City's consultant and the utilities. It will address use of Energy Star Portfolio Manager and how to obtain utility data.

BERDO Compliance workshops.
 The workshops will address how to participate in various flexibility options provided under BERDO. This includes individual compliance schedules, portfolios, hardship compliance plans, and calculation of alternative compliance payments.

The workshops will also address strategies for compliance with emissions standards including presentations by the utilities on programs and resources that are available, and from vendors and equipment manufacturers offering services and equipment for building decarbonization and electrification.

Newton BERDO

Timeline for Tier 3- Buildings: Non-residential Bldgs 35,000 to 49,999 SF and Residential Buildings >= 50,000 SF

Milestone	2024	2025	2026	2027	2028	2029	2030	2031
BERDO Passes City Council	Dec							
Training on Energy Reporting provided.		Mar-Sept	Feb-Sept	Feb-Sept	Feb-Sept	Feb-Sept	Feb-Sept	Feb-Sept
Energy Report due for prior year energy use.			Sept (for 2025 use)	Sept (for 2026 use)	Sept (for 2027 use)	Sept (for 2028 use)	Sept (for 2028 use)	Sept (for 2028 use)
BERDO Compliance workshops			Oct-Dec	Oct-Dec	Oct-Dec	Oct-Dec	Oct-Dec	Oct-Dec
Emissions standard in effect for Tier 3 Buildings.						Jan-Dec	Jan-Dec	Jan-Dec
Fines in effect for Tier 3 Buildings.								Jan-Dec

Training on Energy Reporting provided.
 This training will be provided jointly by the City's consultant and the utilities.
 It will address use of Energy Star Portfolio Manager and how to obtain utility data.

BERDO Compliance workshops.
 The workshops will address how to participate in various flexibility options provided under BERDO.
 This includes individual compliance schedules, portfolios, hardship compliance plans, and calculation of alternative compliance payments.

The workshops will also address strategies for compliance with emissions standards including presentations by the utilities on programs and resources that are available, and from vendors and equipment manufacturers offering services and equipment for building decarbonization and electrification.



Ruthanne Fuller
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Barney Heath
Director

MEMORANDUM

DATE: November 22, 2024

TO: R. Lisle Baker, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director, Department of Planning and Development
Zachery LeMel, Chief of Long Range Planning
Nora Masler, Planning Associate

RE: **#267-24 Request for discussion and possible amendments to require disclosure of any anticipated change in grade as part of a land use special permit application**
COUNCILORS BAKER, OLIVER, LEARY, KELLEY, GREENBERG, LAREDO, AND LUCAS
requesting appropriate amendments to City ordinances, or the Rules of the Council, or both, to require disclosure of any change in grade anticipated from the original grade as part of a land use special permit application in addition to disclosure of such a grade change in any engineering drawings submitted with the special permit application.

MEETING: November 25, 2024

CC: City Council
Planning Board
Anthony Ciccariello, Commissioner of Inspectional Services
Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani, City Solicitor

Overview

Docket item #267-24 is requesting the disclosure of grade changes in special permit applications. While information regarding existing and proposed grading has always been provided, Planning staff have been working with the City Council to highlight proposed changes in grade in new development while also amending the zoning to disincentivize these grade changes. Increasing the grade above what is existing is typical in new construction for a variety of reasons including, creating a basement that is exempt from floor area ratio calculations, accommodating stormwater runoff, the presence of high groundwater, and/or providing an underground stormwater detention system.

Below is a brief summary of the ways grade changes are illustrated and regulated:

- Civil site plans: Section 7.4.4.D of the zoning ordinance requires all special permit applications to submit plans with existing and proposed topography of the subject lot at 2-foot intervals (most smaller projects provide 1-foot intervals). Site plans also are required to include the calculation of the average grade and building height calculations for the proposed development. Site plans also typically include the grade of the first floor of the proposed building.
- Training: Planning staff recently conducted a training for City Councilors on reading plans, primarily focusing on site plans and understanding the grade changes and retaining walls. The training was recorded and can be seen [here](#) (passcode: \$#jX4r&L).
- Recent zoning amendments: The City Council recently passed amendments intended to further regulate the use of retaining walls and grade changes. Instead of only regulating retaining walls within the setback, all retaining walls over 4-feet in height anywhere on the site now require a special permit. Additionally, the zoning ordinance has historically measured height based upon proposed grade. Starting January 1, 2025, height will be measured based upon the existing pre-development grade, limiting the ability to raise the grade of the site and then still build to the maximum height.
- NewGov application changes: In response to concerns about grading changes, Planning staff have updated the special permit application in NewGov to ask if the existing grade will be changed by one foot or more. If the answer is yes, the applicant is required to submit site sections through the site that show the existing and proposed grades along with the existing and proposed buildings. Several of these have been submitted so far and Planning staff will continue to work with the Council and applicants to understand if these visuals are helpful and/or how they could better illustrate the grade changes on site.
- Planning memos: Planning staff have also been expanding upon the analysis of grade changes and retaining walls in the memos to the land use committee for special permits.

Recommendation

Planning staff do not believe additional ordinance changes are necessary at this point. Once the retaining wall and height measurement changes have been in effect longer, applied to both by right and special permit projects, and more site sections have been submitted for special permits it would be helpful to revisit and see if additional modifications or materials are needed.