



BERDO Compliance: A Guide for Condo Associations

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City of Boston staff



**Hannah
Payne**

*Director of
Carbon Neutrality*



**Dr. Claudia
Diezmartínez**

*Policy and Equity Advisor,
Carbon Neutrality*



**Dima
Moujahed**

*Project Manager,
Carbon Neutrality*

Marcus, Errico, Emmer & Brooks, P.C.



**Matthew W.
Gaines, Esq.**

Partner



**Dillon G.
Brown, Esq.**

Junior Partner

BERDO Compliance for Condo Associations Webinar

2 questions

1. Select the option that best describes your role (Single choice) *

- Condo Association Board Member / Trustee
- Condo Association Unit Owner
- Property Manager for a Condo Association
- Tenant of a condo unit
- Third-party consultant
- Other

2. Select the option that best describes the Condo Association you are associated with (Multiple choice)

- Residential Condo
- Commercial Condo
- Mixed-Use Condo

Agenda

- **Welcome and Introductions (5 min)**
- **BERDO Overview (10 min)**
- **BERDO Compliance for Condo Associations (45 min)**
 - *Who is responsible for compliance with BERDO?*
 - *Building Upgrades & Modifications*
 - *Unit v. Common Area*
 - *Maintenance and Repair Responsibilities*
 - *Repairs v. Improvements*
 - *Financing Repairs & Improvements*
 - *How to deal with non-complying Unit Owners*
 - *Best practices and key takeaways*
- **Resources and Reminders (5 min)**
- **Q&A Session (45 min)**

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BERDO Overview



Who is required to comply with BERDO?

The Building Emissions Reduction and Disclosure Ordinance (BERDO) covers the following buildings located in the City of Boston:

- Non-residential buildings that are 20,000 ft² or larger (excluding parking)
- Residential buildings that have 15 or more units
- Any parcel with multiple buildings that sum to at least 20,000 ft² (excluding parking) or 15 residential units

A mixed-use building or mixed-use parcel is considered residential if 50% or more of its Gross Floor Area (excluding parking) has a residential use.

Obligations under BERDO



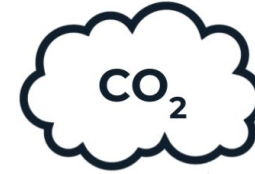
REPORTING

Report your building's annual energy and water use to the City of Boston by May 15 of every year



THIRD-PARTY VERIFICATION

Verify reported data with a third-party qualified energy professional every verification year



EMISSIONS REDUCTIONS

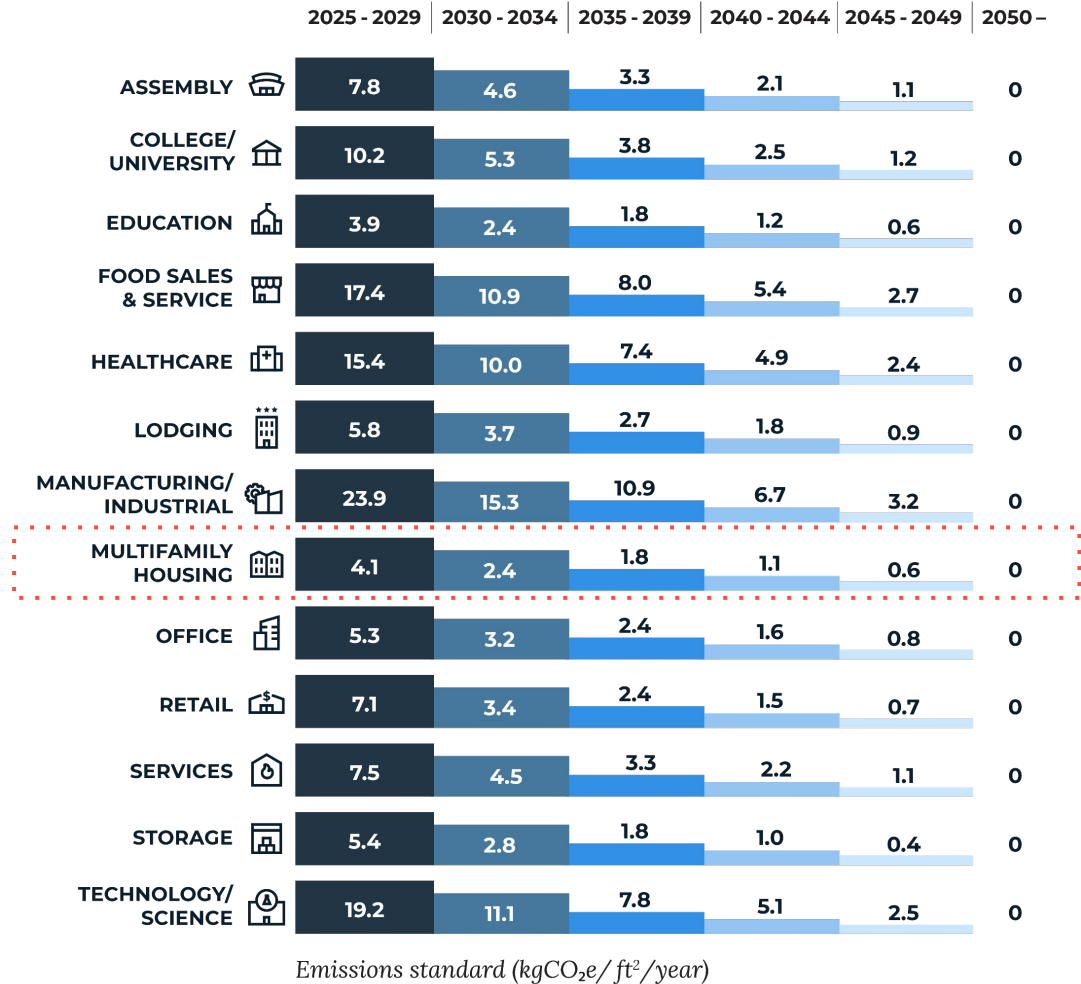
Reduce emissions produced by your building to comply with annual emissions standards (emissions limits)



Emissions standards

Emissions standards set annual emissions limits per square feet based on different types of building uses.

As a default, buildings must comply with the emissions standard corresponding to their largest building use.



Emissions standard (kgCO₂e/ft²/year)

When will buildings need to comply with emissions standards?

RESIDENTIAL

NON-RESIDENTIAL

35+ units

Starting emissions compliance in 2025



15 - 34 units

Starting emissions compliance in 2030



35,000 ft² +

Starting emissions compliance in 2025



20,000 - 34,999 ft²

Starting emissions compliance in 2030



How can building owners comply with emissions standards?



REDUCE ENERGY USE IN YOUR BUILDING

Implement **building retrofits or improvements**. Examples include upgrading to high efficiency electric appliances and lighting, upgrading systems for heating, cooling, water heating, and cooking, improving insulation, tightening window seals, etc.



OBTAIN RENEWABLE ENERGY

Use on-site or off-site **local renewable generation** (rooftop solar, community solar, etc.), enroll into **Boston Community Choice Electricity (BCCE)**, purchase and retire eligible **Renewable Energy Certificates (RECs)**, or enter into eligible **Power Purchase Agreements (PPAs)**.



INVEST IN YOUR COMMUNITY THROUGH ALTERNATIVE COMPLIANCE PAYMENTS

Mitigate emissions by making Alternative Compliance Payments (ACPs). ACPs are collected into the new **Equitable Emissions Investment Fund** to support building decarbonization projects that prioritize benefits to Environmental Justice communities in Boston.

BERDO enables owners to apply for flexibility measures



BLENDING EMISSIONS STANDARDS

Use a Blended Emissions Standard that takes into account the mix of primary uses present in your building(s). This allows you to have an **emissions standard that is based on the size of different primary uses** and may increase your emissions limit.



BUILDING PORTFOLIOS

Group your BERDO buildings into a Building Portfolio and comply with a **portfolio-level Blended Emissions Standard**. Reducing emissions as a portfolio rather than building-by-building allows you to align your capital planning with BERDO compliance and gives you more flexibility to achieve emissions reductions over time.



INDIVIDUAL COMPLIANCE SCHEDULES

Create a customized emissions reduction timeline **based on your own historical emissions**. This allows you to take advantage of emissions reductions that you have achieved prior to 2021 and adjust your emissions obligations based on your building operations.



HARDSHIP COMPLIANCE PLANS

Demonstrate eligible technical or financial hardships for you or your building(s) and request an **alternative emissions reduction timeline and/or more flexible emissions reduction targets**.

There are 3 types of penalties under BERDO

	Failure to Comply with Reporting Requirements (in whole or in part)	Failure to Comply with Emissions Standards	Failure to Accurately Report Information
Non-Residential Buildings \geq 35,000 gross square feet or 2 or more Buildings on the same parcel that \geq 100,000 gross square feet.	\$300 a Day	\$1,000 a Day	\$1,000-\$5,000, at the discretion of the BERDO Review Board
Residential Buildings \geq 35 units or 35,000 gross square feet.	\$300 a Day	\$1,000 a Day	
Non-Residential Buildings \geq 20,000 gross square ft. but $<$ 35,000 gross square feet.	\$150 a Day	\$300 a Day	
Residential Buildings \geq 15 units or 20,000 gross square feet. but $<$ 35 units or 35,000 gross square feet.	\$150 a Day	\$300 a Day	

The background of the slide is a dark blue wireframe illustration of a city skyline, viewed from an elevated perspective. The buildings are represented by white and light blue lines, creating a complex geometric pattern. A semi-transparent dark blue horizontal band runs across the middle of the image, serving as a backdrop for the main text.

BERDO compliance for Condo Associations



Who is Responsible for Compliance with BERDO?

- **Data reporting, third-party verification, and emissions reductions requirements are the responsibility of the “Building Owner”**
 - Condominium = Condominium Associations or Board of Trustees
 - Tiered Condominium Associations (i.e. Master and Sub-Condominiums) should contact the Environment Department to determine appropriate reporting party.
- **Unit Owners and Tenants are not individually responsible for compliance with BERDO**
 - Board reports aggregate building data to the City of Boston
 - Reduction is measured based on results generated from Building, not Units
 - Participation from all residents (i.e. Owners and Tenants) is crucial
- **Designate reporting obligations to Property Management**
 - While duties may be designated to the Property Manager, the Condominium Association remains subject to fines and liability for noncompliance

Building Upgrades & Modifications

- **Condominium Associations need to reduce the greenhouse gases emitted from both the individual units and common area**
 - *Just one (1) non-complying Owner can subject all Owners to fines and liability*
- **Success will likely require modifications and/or upgrades to the Condominium building's components and fixtures**
 - *Electrical*
 - *Heating and Air Conditioning*
 - *Appliances*
 - *Exterior Facade and Roof*
- **To proceed with Building upgrades and modifications, Boards need to ask:**
 - *Is the project in the unit or common area?*
 - *Does the project constitute a repair or improvement?*
 - *Who is responsible for undertaking the work?*

Unit v. Common Area

- **All components of the Condominium are either part of the Unit, the Common Area, or the Limited Common Area/Exclusive Use Areas**
 - *Responsibility for the building's upgrades and modifications depends upon where the work is taking place*
- **Review the governing Condominium Documents**
 - Master Deed
 - *Subjects the Condominium land and buildings to M.G.L. c. 183A*
 - *Defines the physical boundaries of the Unit and distinguishes the Owner's individual property (i.e. the Unit) from the shared common area*
 - Declaration of Trust or By-Laws
 - *Creates the Condominium Association and the Board of Trustees*
 - Rules and Regulations
 - *Places restrictions on and/or governs the use of common area*

Unit v. Common Area

Examples

- **Common Area = any components of the Condominium that are located outside the boundaries of the Unit, as defined in the Master Deed**
- **Typical Unit Examples:**
 - *Appliances contained within and serving a Unit exclusively*
 - Oven/Stove
 - Washer & Dryer
 - *Heating systems contained with and serving a Unit exclusively*
 - Furnaces
 - Boilers
- **Typical Common Area Examples:**
 - Windows
 - Building Exterior & Roof
 - Pipes, wires, and other equipment serving appliances and utility systems that are located outside the boundaries of the Unit or that serve multiple Units

Exclusive Use and Limited Common Area

- **Condominium Documents or the Board may also grant Unit Owners exclusive use of certain portions of the common area**
 - *Exclusive Use Areas (EUA's)*
 - *Limited Common Area (LCA's)*
- **EUA's and LCA's are considered part of the common area, but only specific Unit Owners are permitted to use and occupy the same**
- **Most Condominium Documents hold Unit Owners responsible for maintaining, repairing, and/or replacing their EUA's and LCA's**
- **Examples of EUA's and LCA's**
 - *Decks, patios, and balconies with direct access from a Unit*
 - *Air conditioning condensers and related equipment that exclusively serve a particular Unit*

Repairs v. Improvements

- **Repairs**
 - *Substitute damaged or worn-out parts with new material*
- **Improvements**
 - Add new elements, features, and/or facilities that did not previously exist
- **The Board can maintain, repair, and/or replace common area without Unit Owner's prior review and approval**
- **The Board cannot make improvements to the common area without Unit Owner vote and consent**
 - M.G.L. c. 183A § 18:
 - If 75% of the Unit Owners vote in favor of the improvement, the cost is assessed to all Unit Owners as a common expense
 - If 50% but less than 75% of the Unit Owners vote against the improvement, the cost is assessed to all Unit Owners so agreeing
 - If less than 50% of the Unit Owners vote against the improvement, the Board may not proceed with the work

Repairs v. Improvements

Examples

- **Repairs**

- Replacement of Common Area Windows
 - Replacing the Condominium's older windows with newer windows equipped with better thermal performance
 - Substituting older windows for a superior product is **not** an improvement
- Repair and Insulate Exterior Building Envelope
 - Repairing cracks in the building's exterior or filling gaps in the envelope will cause the Condominium's heating systems to operate more efficiently

- **Improvements**

- Swimming Pool
- Tennis Courts
- Solar Panels
- Electrical Vehicle Charging Stations
- Covert boiler heating system into electrical heating system

Financing Repairs & Improvements

- **Repairs, replacements, and/or improvements are paid for using Condominium Association funds collected from monthly common expenses**
 - *Operating Account*
 - *Reserve Account*
- **Condominium Financing Options:**
 - (1) *Special or Supplement Assessments*
 - *The Board may levy special or supplemental assessments to be in addition to monthly common expenses*
 - *Paid by Unit Owners via one lump sum payment or monthly installments*
 - (2) *Condominium Loans*
 - *The Board may secure financing on behalf of the Condominium Association*
 - *Unit Owners are assigned a portion of the loan to be paid via one lump sum payment or monthly installments*
- **Like monthly common expenses, both special/supplemental assessments and an Owner's portion of the loan constitute a lien on the Unit until paid in full**

How to deal with non-complying Unit Owners?

- **Options to enforce BERDO compliance through the governing Condominium Documents:**
 - “Catch All” Provision
 - Most Condominium Documents include a provision requiring Unit Owners to comply with all laws and ordinances within its jurisdiction
 - Amend Condominium Documents (supermajority Unit Owner consent required)
 - Board could propose an Amendment to the Master Deed or Declaration of Trust/By-Laws specifically requiring Unit Owners to:
 - Report emissions data to the Condominium Association annually; and/or
 - Perform necessary building upgrades and modifications to reduce greenhouse gases emitted from that particular Unit
- **If the condominium documents are amended, the condominium association has certain remedies at its disposal to compel the unit owners to provide their unit’s utility data and/or to perform the necessary modifications to the unit:**
 - Condominium Association seeks injunctive relief mandating compliance
 - M.G.L. c. 183A § 6(a)(ii): noncompliance costs incurred by Board assessed to Unit
 - M.G.L. c. 183A § 10(b)(55): levy daily fines for noncompliance

How to Amend Condominium Documents

Amending Condominium Documents to Mandate Compliance with BERDO

- 1. Review the Condominium Documents to confirm percentage of Unit Owners needed to consent to the Amendment and voting procedure**
- 2. Draft an Amendment require Unit Owners to:**
 - *Report emissions data to the Condominium Association annually; and/or*
 - *Perform necessary building upgrades and modifications to reduce greenhouse gases emitted from that particular Unit*
- 3. Send notice to all Unit Owners describing the proposed Amendment and ask them to vote on the same**
 - *Include draft Amendment language and consent forms*
- 4. Direct Unit Owners to complete the consent form and return their votes to either the Board or Property Management by a date certain**
 - *Votes may need to be taken at meeting (review Condominium Documents)*
- 5. If the Amendment passes, a majority of the Board signs the Amendment and records the same at the Registry of Deeds**

Key Takeaways

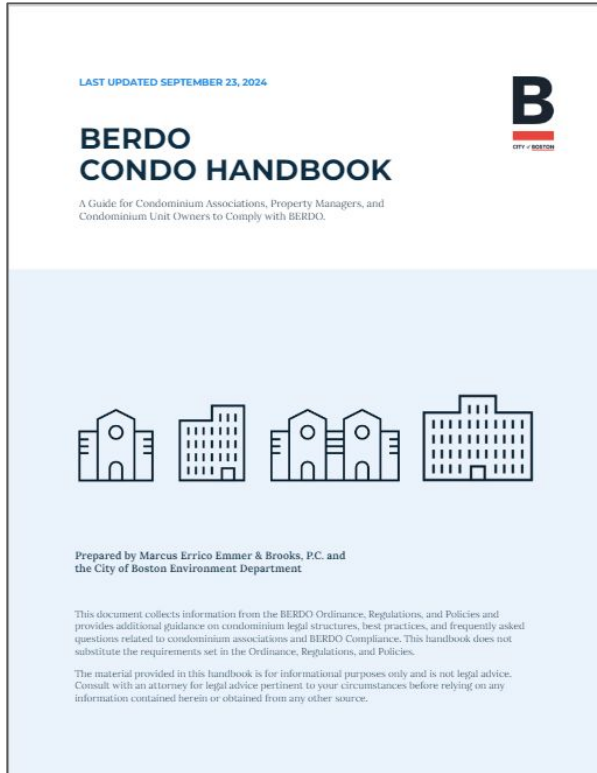
Step by Step Guide for Handling a Possible Building Upgrade or Modification

- 1. Review the governing Condominium Documents**
- 2. Determine whether component or system being upgraded/modified is part of the Unit or Common Area or Exclusive Use/Limited Common Area**
- 3. If it is part of the Unit or EUA/LCA:**
 - *The Board should request that the Unit Owner make the necessary upgrade or modification and cite the relevant provisions in the Condominium Documents*
- 4. If it is part of the Common Area, the Board needs to determine whether or not the upgrade/modification constitutes a repair or improvement**
- 5. If it is a repair, the Board may perform the work without a vote of the Owners**
 - *Secure multiple quotes*
 - *Determine payment plan or whether financing is necessary*
- 6. If it is an improvement, a vote of the Owners is required before the work may be performed on Condominium Property**



Reminders and Resources

BERDO Condo Handbook



New [BERDO Condo Handbook](#)
published on boston.gov/berdo

Reporting and Third-party Verification Resources

- [Apply to receive free assistance to complete BERDO reporting and third-party verification](#)

We are offering free data reporting and verification services to BERDO building owners who need extra assistance to complete their BERDO reporting.

Funding is limited and will only be provided to building owners who are **self-managed residential buildings**, small non-profit owners, or commercial buildings with small business tenants.

- [BERDO Reporting How-to Guide](#)
- [BERDO Covered Buildings List](#)

Emissions Compliance Resources

- [Check out the BERDO Emissions Calculator to view your building's emissions projections](#)
- [Schedule a one-on-one BERDO Building Consultation](#)
A member of the BERDO team will help you understand your current emissions and compliance options.
- [Register for weekly BERDO Emissions Planning Office Hours](#)
Office hours are held weekly on Thursday at 10:00 am on Zoom.
- [BERDO 101 Quick Guide](#)
- [Emissions Compliance Quick Guide](#)
- [Flexibility Measures Quick Guide](#)
- [Building Decarbonization Quick Guide](#)

Upcoming Events and Deadlines

- [Clean Energy Tax Incentives Webinar](#)
 - October 2, 2024 at 12:00 p.m.
 - Register to attend over Zoom

Application deadlines for flexibility measures to be in effect in 2025	
October 1	Short-term Hardship Compliance Plans
January 6	Building Portfolios
	Individual Compliance Schedules

Other Resources

- BERDO reporting help: email energyreporting@boston.gov or call 617-635-3850 x5
- BERDO website: boston.gov/berdo
 - [*Ordinance*](#)
 - [*Adopted Regulations*](#)
 - [*Adopted Policies*](#)
- Review Board website: boston.gov/berdo-review-board
- Retrofit Resource Hub website: boston.gov/retrofithub
- No-cost Mass Save energy audits, engineering studies, rebates and incentives:
 - Non-residential: MassSave.com/business
 - Residential: MassSave.com/Multi-Family
 - Rebates: MassSave.com/Rebates

Q&A