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Real Estate Alert

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Boston OK's net zero carbon zoning proposal for new construction

By Adam N. Weisenberg, Real Estate Development Counsel

The Boston Zoning Commission approved the BPDA's proposal for Net Zero Carbon zoning by a vote of 8-3 after a public hearing on January 29.



What's the impact?

- This makes construction MORE expensive, and likely requires power purchase agreements and/or additional renewable energy tax credits.
- For affordable housing, the costs might be offset.

The City of Boston is making Net Zero building a required part of the Zoning Code for new construction. We've reviewed the details and have listened in on the hearings—here's what you need to know:

- / Requirement starts July 1, 2025, for PNF (80B) filings.
- / Applies to new buildings with 15 or more units or a minimum of 20,000 square feet.
- / Applies to additions of 50,000 square feet or more to existing buildings.

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- / Renovations and changes of use are exempt.
- / Requires net zero emissions every year per applicable Building Emissions Reduction and Disclosure Ordinance (BERDO) standards (i.e., BERDO 2050 CO2e emissions standards) beginning 2025, except that additional time is given for new lab, hospital, and general manufacturing buildings. New lab buildings will be required to meet the BERDO 2040-2044 CO2e emissions standard for Technology/Science building uses in 2025 and reach net zero by 2035. New hospitals and general manufacturing will be required to meet the BERDO 2030-2034 CO2e emissions standard for their respective building uses in 2025 and reach net zero by 2045.
- / BERDO reporting is used as the enforcement mechanism.
- / Building proposals that meet these standards will be reviewed in the “streamlined” Article 80 process (the current schedule for that proposal is summer 2025), including an energy model report.
- / LEED certifiability will remain in place for large projects (LEED v.5 comes in 2025).
- / Embodied carbon reporting will be required for large and small projects, and buildings over 50,000 square feet will be required to conduct a building life cycle analysis.

Please note that the city prepared a useful [summary of the zoning proposal](#).

One related consideration, although not written into the law, is that the chief of the Mayor’s Office of Housing (MOH) testified at yesterday’s hearing before the Zoning Commission and addressed affordable housing developers’ concerns over the cost implications of the new law, stating that MOH is prepared to underwrite and provide additional funding as needed to meet increased costs (which they do not expect to be major).

Questions for developers to consider

HOW DOES THIS AFFECT THE DEVELOPMENT COMMUNITY, GIVEN THE STRETCH CODE AND BERDO?

In essence, the zoning requires new construction to meet net-zero goals faster than the stretch code and BERDO already dictate. Projects will have to incur more up-front consultant costs as they go through the permitting process, which may make BERDO compliance easier down the road. The stretch code and the opt-in already get us to a 45-55% reduction, and this will take it to 100%. How? Essentially by requiring new buildings to buy renewable energy credits, since one otherwise can’t get to zero. Urban sites where on-site solar or wind aren’t feasible will have to make a lot of alternative compliance payments (ACPs).

HOW CAN OWNERS ADDRESS COSTS?

Costs get reduced if you are able to provide some on-site renewables, such as solar or wind. Bigger owners can further reduce costs by entering into power purchase agreements for renewables.

WHAT COST TREND IS EXPECTED? WHAT IS THE IMPACT OF THE NEW ADMINISTRATION IN WASHINGTON?

The city expects BERDO compliance costs to decrease over time as the portion of renewables in the power grid increases. However, we note that this does not appear to take into account increased demand. While “no one has a crystal ball,” the city believes there are enough Massachusetts projects already in the pipeline that the federal government’s new direction is not expected to have an impact over the next few years (although there was a call for increased state efforts in response).

HOW DO THESE REQUIREMENTS COMPARE TO THOSE FOR EXISTING BUILDINGS?

Under BERDO, existing building are already being asked to reduce their emissions. In 2025, approximately 15% of buildings will need to purchase renewable energy to meet the city’s compliance standard (or pursue other compliance options available under BERDO). The city estimates the following renewable energy purchase costs in 2030:

- / Multifamily housing: \$10,000
- / Office: \$37,000
- / College/University: \$100,000

These estimated averages are based on reported data and the assumption of \$40 Renewable Energy Certificates.

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