

REVISED DRAFT PHASE 3 REGULATIONS LANGUAGE FOR PUBLIC COMMENT

WW. **Definitions**

Deed-Restricted Residential Building means any Residential Building that has and maintains a recorded deed restriction or covenant that restricts the occupancy of 50% or more of the units to households earning incomes below 80% of the Area Median Income, as defined by the U.S. Department of Housing and Urban Development. These recorded deed restrictions may be connected to funding provided by sources such as the U.S. Department of Housing and Urban Development, the Massachusetts Department of Housing and Community Development, or the City of Boston, including the federal Low Income Housing Tax Credit program.

Sponsor means a nonprofit organization that: (i) is exempt from income taxation pursuant to section 501(c)(3) of the Internal Revenue Code; (ii) has material control over the operations of a Building; and (iii) either: (1) is a certified Community Development Corporation as defined in G.L. chapter 40H; (2) is a certified Community Housing Development Organization pursuant to 24 CFR section 92.2; or (3) has been determined by the Massachusetts Department of Housing and Community Development to have a history of successful development of affordable housing projects in the commonwealth.

XX. **Building Portfolios**

a. **Eligibility for Building Portfolios.** To confirm eligibility for a Building Portfolio, Owners must attest to the following and provide supporting documentation upon request:

- (i) All Buildings in the proposed Building Portfolio have the same Owner as listed in the records of the Boston Assessing Department or at least one of the following is true:
 - (a) The same Sponsor of two or more Deed-Restricted Residential Buildings may be considered the Owner of record for purposes of creating a Building Portfolio, provided, however, that a Building may not be in more than one Building Portfolio.
 - (b) The same majority owner **or beneficial owner (provided that the beneficial owner is also the legal owner)** of two or more special

purpose entities or charitable organizations ~~each owning a single Building~~ may be considered the Owner of record for purposes of creating a Building Portfolio; provided, however, that a Building may not be in more than one Building Portfolio.

(c) An entity that, directly or indirectly through its subsidiaries, exercises control over, or acts as managing member or managing partner (provided that the entity (i) has ownership interest, (ii) is the entity legally responsible for BERDO compliance, and (iii) in the case of a limited partnership, is a general partner) of two or more special purpose entities or charitable corporations may be considered the Owner of record for purposes of creating a Building Portfolio; provided, however, that a Building may not be in more than one Building Portfolio.

(d) Charitable organizations under common ownership and control of an entity that is legally responsible for BERDO compliance may be considered the Owner of record for purposes of creating a Building Portfolio; provided, however, that a Building may not be in more than one Building Portfolio.

- (ii) For Building Portfolios based on Institutional Master Plans, all Buildings in the Building Portfolio are part of one approved Institutional Master Plan. Buildings from different Institutional Master Plans may not be combined into a single Building Portfolio unless all Buildings share the same Owner, as defined in Section XX.a.i.
- (iii) The Building Uses, Energy Use, Gross Floor Area, and Emissions data of all Buildings in the proposed Building Portfolio were third-party verified during the last applicable Verification Year.
- (iv) All Buildings in the proposed Building Portfolio are in compliance with the Ordinance and Regulations, including, as applicable, requirements for Individual Compliance Schedules or Hardship Compliance Plans, and (i) the payment of any applicable fines for any failure to comply with reporting requirements, accurately report information, or comply with an Emissions Standard, (ii) where feasible, the submission of any missing required reporting data, and (iii) the submission of compliance mechanisms in the amount required to correct any failure to meet an Emissions standard in any calendar year.

- (v) None of the Buildings in the proposed Building Portfolio are vacant, as defined in policies and procedures adopted by the Commission;
- (vi) For any Building Portfolio that combines Buildings with Emissions standard requirements starting in 2025 and 2030, the Owner shall meet the applicable 2025-2029 Emissions standards in Table 1 for the whole Building Portfolio until 2030; and
- (vii) Any Building in the proposed Building Portfolio that is required to meet a net-zero Emissions standard prior to 2050 must meet its Building-specific Emissions standard every **compliance** year.

b. **Requirements for Building Portfolios.** Owners must maintain compliance with (i) any conditions attached to approval of a Building Portfolio and (ii) the following requirements; failure to do so may result in revocation of the Building Portfolio.

- (i) Any Building Portfolio that contains Buildings with different Building Uses shall comply with a blended Emissions standard, provided, however, that a blended Emissions standard is not required for Building Portfolios that are subject to an Individual Compliance Schedule. Blended Emission standards shall be calculated in accordance with the methodology outlined in guidance adopted by the Commission.
- (ii) For any Building Portfolio that includes (a) on-site Campus District Energy Systems **that use non-renewable or CO₂e emitting fuels**, on-site Combined Heat and Power plants, industrial or manufacturing Buildings, or energy/power station Buildings located in Environmental Justice Populations, (b) a combination of Residential Buildings located in both Environmental Justice Populations and non Environmental Justice Populations, or (c) a combination of Deed-Restricted Residential Buildings and other Residential Buildings, Owners must:
 - (a) Submit an Emissions standard compliance plan within two (2) years of the Review Board's initial approval of the Building Portfolio. Such plan must comply with any guidance adopted by the Commission.
 - (b) Submit annual progress reports that identify any progress made on the Emissions standard compliance plan. Such reports must comply with any guidance adopted by the Commission.

- (c) Submit an updated Emissions standard compliance plan every Verification Year.

c. **Application Process for Building Portfolios.** Applications for Building Portfolios may be submitted on a rolling basis, provided, however, that, **beginning in 2024**, applications must be submitted by September 1 ~~for approval for the following compliance year to use the Building Portfolio in the next year.~~ Applications shall be made in accordance with any guidance or standard form issued by the Environment Department. Owners shall utilize one of the following three application pathways.

- (o) **Pathway Zero:** For Buildings that are subject to BERDO because a parcel with a single Owner contains multiple Buildings that cumulatively meet the coverage thresholds in the Ordinance's definition of Residential Building (ii) or Non-Residential Building (ii).
 - (a) Owners may elect to create a Pathway Zero Building Portfolio by submitting the following information:
 1. Confirmation of compliance with the eligibility criteria listed in Section XX.a.
 2. A list of all Buildings on the parcel that will be in the Building Portfolio.
 - (b) Pathway Zero Building Portfolios do not need to prepare or submit Emissions standard compliance plans.
 - (c) Within fourteen (14) Days of receiving an application to create or modify a Building Portfolio, the Environment Department shall inform the applicant whether the application is complete.
 - (d) At the next regularly scheduled meeting of the Review Board after the Environment Department's finding of completeness, the Review Board shall approve the application.
 - (e) A written copy of the Review Board's decision shall be provided to the applicant within seven (7) Days. Applicants must record decisions approving a Building Portfolio with the Registry of Deeds and send

proof of such recording to the Environment Department within thirty (30) Days of issuance of the decision.

- (i) **Pathway One:** For proposed Building Portfolios that do not include (a) any on-site Campus District Energy Systems that use non-renewable or CO₂e emitting fuels, on-site Combined Heat and Power plants, industrial or manufacturing Buildings, or energy/power station Buildings located in Environmental Justice Populations, (b) a combination of Residential Buildings located in both Environmental Justice Populations and non Environmental Justice Populations, or (c) a combination of Deed-Restricted Residential Buildings and other Residential Buildings.
- (a) Applications must include:
 - 1. Confirmation of compliance with the eligibility criteria listed in Section XX.a.
 - 2. A list of all Buildings included in the Building Portfolio.
 - (b) The Environment Department shall review each application for completeness and recommend approval or denial to the Review Board.
 - (c) Within fourteen (14) Days of receiving an application to create or modify a Building Portfolio, the Environment Department shall inform the applicant whether the application is complete.
 - (d) Within forty-five (45) Days of the Environment Department's finding of completeness, the Review Board shall vote to approve with standard conditions or deny an application. A decision shall be based on whether the applicant meets the eligibility criteria set forth in Section XX.a.
 - (e) A written copy of the Review Board's decision shall be provided to the applicant within seven (7) Days after the vote. Applicants must record decisions approving a Building Portfolio with the Registry of Deeds and send proof of such recording to the Environment Department within thirty (30) Days of issuance of the decision.

- (f) Within twenty-one (21) Days of issuance of the Review Board's written decision, an applicant may file a written appeal to the Commission. Appeals shall be made in accordance with any guidance or standard form provided by the Environment Department.
- (ii) **Pathway Two:** For proposed Building Portfolios that include (a) any on-site Campus District Energy Systems **that use non-renewable or CO₂e emitting fuels**, on-site Combined Heat and Power plants, industrial or manufacturing Buildings, or energy/power station Buildings located in Environmental Justice Populations, (b) a combination of Residential Buildings located in both Environmental Justice Populations and non Environmental Justice Populations, or (c) a combination of Deed-Restricted Affordable Housing Buildings and other Residential Buildings.
- (a) Applications must include:
1. Confirmation of compliance with the eligibility criteria listed in Section XX.a.
 2. A list of all Buildings included in the Building Portfolio.
 3. A map that identifies (i) each Building included in the Building Portfolio and (ii) any Environmental Justice Population criteria at the location of each Building based on data from the Massachusetts Executive Office of Energy and Environmental Affairs. Owners shall highlight (i) any on-site Campus District Energy Systems **that use non-renewable or CO₂e emitting fuels**, industrial or manufacturing Buildings, energy/power station Buildings located in Environmental justice Populations, (ii) any Deed-Restricted Residential Buildings, and (iii) Residential Buildings in Environmental Justice Populations. Owners shall provide maps that overlay asthma rates, the Air Toxics Respiratory Hazard Index, and heat resilience metrics; data sources for these maps will be provided in guidance, as may be amended from time to time, from the Commission or Environment Department.

4. A brief narrative description of any existing plans to achieve compliance across the proposed Building Portfolio. This may include, but need not be limited to, (i) any anticipated building audits, retrofits, capital improvements, or any other emissions reduction efforts that may be implemented in the Building Portfolio in the near term, (ii) any anticipated strategies for developing the Emissions standard compliance plan, and (iii) if applicable, any expected efforts to inform and engage tenants in the development of the Emissions standard compliance plan.
- (b) The Environment Department shall review each application for completeness, evaluate the applicant's narrative to assess potential impacts on and benefits to Environmental Justice Populations, and recommend approval or denial to the Review Board.
 - (c) Within thirty (30) days of receiving an application, the Environment Department shall inform the applicant whether the application is complete.
 - (d) The Review Board may hold a hearing to evaluate the application and request more information on how the applicant will address any impacts on or provide benefits to Environmental Justice Populations. **Regardless of whether the Review Board holds a hearing, there shall be an opportunity for the public to submit comments on an application prior to the Review Board's vote.**
 - (e) Within sixty (60) Days of the Environment Department's finding of completeness, the Review Board shall vote to approve with standard conditions, approve with special conditions, or deny an application. A decision shall be based on whether the applicant meets the eligibility criteria set forth in Section XX.a and on consideration of potential impacts on and benefits to Environmental Justice Populations based on information from the application and, if applicable, any public hearing.

- (f) A written copy of the Review Board's decision shall be provided to the applicant within seven (7) Days after the vote. Applicants must record decisions approving Building Portfolios with the Registry of Deeds and send proof of such recording to the Environment Department within thirty (30) Days of issuance of the decision. Recording deadlines shall be stayed pending any appeal.
 - (g) Within twenty-one (21) Days of issuance of the Review Board's written decision, an applicant may file a written appeal to the Commission. Appeals shall be made in accordance with any guidance or standard form provided by the Environment Department.
- (iii) **Pathway Three:** For proposed Building Portfolios that (a) do not meet the eligibility criteria in Section XX.a, (b) are unable to calculate blended emissions standards as required in Section XX.b.i., or (c) are concurrently applying for or already have an Individual Compliance Schedule.
- (a) Applications must include:
 1. A list of all Buildings included in the Building Portfolio.
 2. If applicable, an explanation of why the Owner is unable to meet the eligibility criteria in Section XX.a. or is unable to calculate a blended emissions standard.
 3. For Building Portfolios that are required to complete an Emissions standard compliance plan, the map and narrative required by Section XX.c.ii.
 4. If applying for an Individual Compliance Schedule, any data and documentation required by Section YY.
 - (b) The Environment Department shall review each application for completeness, evaluate the applicant's narrative to assess ~~for~~ potential impacts on and benefits to Environmental Justice Populations, and recommend approval or denial to the Review Board.

- (c) Within thirty (30) Days of receipt of an application, the Environment Department shall inform the applicant whether the application is complete.
- (d) The Review Board shall hold a hearing to evaluate the application. If applicable, the Review Board may request more information on how the applicant will address any impacts on or provide benefits to Environmental Justice Populations. **There shall be an opportunity for the public to submit comments on an application prior to the Review Board's vote.**
- (e) Within ninety (90) Days of the Environment Department's finding of completeness, the Review Board shall vote to approve with standard conditions, approve with special conditions, or deny an application. A decision shall be based on whether, if applicable, (i) the applicant provided a reasonable basis for not meeting one or more of the eligibility criteria set forth in Section XX.a, (ii) the applicant provided a reasonable basis for not using a blended Emissions standard, (iii) the applicant meets the eligibility criteria for Individual Compliance Schedules, and (iv) consideration of the potential impacts on and benefits to Environmental Justice Populations based on information from the application and any public hearing.
- (f) A written copy of the Review Board's decision shall be provided to the applicant within seven (7) Days after the vote. Applicants must record decisions approving a Building Portfolio with the Registry of Deeds and send proof of such recording to the Environment within thirty (30) Days of issuance of the decision. Recording deadlines shall be stayed pending any appeal.
- (g) Within twenty-one (21) Days of issuance of the Review Board's written decision, an applicant may file a written appeal to the Commission. Appeals shall be made in accordance with any guidance or standard form provided by the Environment Department.

d. Conditions of Approval for Building Portfolios.

- (i) The Review Board ~~may~~ shall include the following standard conditions on the approval of any Building Portfolio:
 - (a) Timely compliance with reporting and third-party verification requirements in the Ordinance.
 - (b) Timely compliance with the requirements in Section XX.b, including, when applicable, the submission of a satisfactory Emissions standard compliance plan.
 - (c) The Review Board or its designee may inspect any Building that is part of an approved Building Portfolio, at reasonable times and with reasonable notice, in order to assess compliance with the terms and conditions of said Building Portfolio.

- (i) For Building Portfolios that are required to complete an Emissions standard compliance plan, the Review Board may include special conditions relevant to the distribution of benefits to Environmental Justice Populations. Such conditions may be added to the approval of a Building Portfolio at the time of the initial approval or following an Owner's submission of their first Emissions standard compliance plan. Any proposal to add special conditions shall be discussed at a public meeting of the Review Board and Owners shall be provided notice of such meeting at least thirty (30) Days in advance, provided, however, that any Review Board vote to add special conditions must be made within ninety (90) Days of receipt of an initial or updated Emissions standard compliance plan. The Review Board may hold a public hearing at its discretion. If the Review Board approves addition of special conditions following submission of an initial or update Emissions standard compliance plan:
 - (a) A written copy of the Review Board's decision shall be issued to the applicant within seven (7) Days after the vote. Owners must record such decisions with the Registry of Deeds and send proof of such recording to the Environment Department within thirty (30) Days. Recording deadlines shall be stayed pending any appeal
 - (b) Within twenty-one (21) Days of issuance of the Review Board's written

decision, a Building Portfolio Owner may file a written appeal to the Commission. Appeals shall be made in accordance with any guidance or standard form provided by the Environment Department.

e. **Modifications of Approved Building Portfolios.** Beginning in 2024, nNotifications and requests to modify an approved Building Portfolio must be submitted by September 1 for the modification to be used in the next year ~~reflected for the following compliance year.~~ For Building Portfolios using a blended Emissions standard, the Owner must update the blended emissions standard to reflect any modification to the Building Portfolio according to the requirements in Section IX.b.

- (i) Notice to the Review Board is required to remove a Building from an approved Building Portfolio due to (a) change of Owner of an existing Building or (b) vacancy of an existing Building.
- (ii) Approval from the Review Board is required to remove any Building from an approved Building Portfolio for any reason other than in (e)(i) or to add any Building. Any Building added to an approved Building Portfolio must meet the eligibility criteria and requirements for Building Portfolios in Section XX.
- (iii) For Building Portfolios that are required to complete an Emissions standard compliance plan, Building Owners must submit a short update to their Emissions standard compliance plans to reflect any modification to the Building Portfolio **in accordance with any guidance adopted by the Commission.** The update shall be submitted at the time of notice or application to modify the Building Portfolio. Any modifications to the Building Portfolio must also be reflected in any subsequent progress reports and updates to the Emissions standard compliance plan.
 - (a) **If adding a Building to a Building Portfolio would trigger the need to complete an Emissions standard compliance plan, when one was not required before, Owners shall submit an initial Emissions standard compliance plan within two (2) years of the Review Board's approval of the modification.**
- (iv) The Review Board shall vote to approve or deny a requested modification at the next regularly scheduled public meeting. A decision shall be based on whether the Building Portfolio is, at the time of the request, in material compliance with the Ordinance and any requirements in Section XX, including any standard or special conditions set by the Review Board.

- (a) A written copy of the Review Board's decision shall be provided to the applicant within seven (7) Days after the vote. Applicants must record decisions with the Registry of Deeds and send proof of such recording to the Environment Department within thirty (30) Days of issuance of the decision. Recording deadlines shall be stayed pending any appeal.
- (b) Within twenty-one (21) Days of issuance of the Review Board's written decision, an applicant may file a written appeal to the Commission. Appeals shall be made in accordance with any guidance or standard form provided by the Environment Department.

f. Transfer of Building Portfolios: Approved Building Portfolios are transferable upon change of ownership. The original and new Owners are jointly and separately responsible for notifying the Environment Department within ~~thirty (30) fourteen (14)~~ **thirty (30)** Days of the change of ownership.

g. Termination of Building Portfolios.

- (i) ~~Beginning in 2024, a~~ **Beginning in 2024,** An Owner may terminate an approved Building Portfolio with notice to the Review Board by September 1 for the termination to be ~~effective in the next year~~ **reflected for the following compliance year.**
- (ii) The Review Board ~~(i)~~ **(i)** may initiate a proceeding to terminate a Building Portfolio at its own initiative or ~~(ii) shall initiate a proceeding to evaluate upon~~ **(ii) shall initiate a proceeding to evaluate upon** a petition from the greater of twenty (20) percent of tenants or five (5) tenants of a Building included in a Building Portfolio ~~to terminate the Building Portfolio~~ **to terminate the Building Portfolio**. The Review Board may revoke an approved Building Portfolio ~~or amend the special conditions of an approved Building Portfolio~~ if the Review Board determines that (a) an Owner does not materially comply with the requirements in Section XX or the conditions of a Building Portfolio, or (b) absent extenuating circumstances beyond an Owner's control, an Owner has not prioritized distribution of benefits to Environmental Justice Populations as proposed in the Building Portfolio's Emissions standard compliance plan.

- (a) ~~In the event of a proceeding initiated by a petition from tenants, the Review Board may, at its discretion, amend the~~

special conditions of an approved Building Portfolio rather than terminate the Building Portfolio.

- (iii) Any proposed revocation or amendment shall be discussed at a public hearing of the Review Board. Owners shall be provided notice of such hearing at least thirty (30) Days in advance.
- (iv) A written copy of the Review Board's decision shall be provided to an Owner within seven (7) Days after the vote. Owners must record decisions with the Registry of Deeds and send proof of such recording to the Environment Department within thirty (30) Days of issuance of the decision. Recording deadlines shall be stayed pending any appeal.
- (v) Within twenty-one (21) Days of issuance of the Review Board's written decision, Owners may file a written appeal to the Commission. Appeals shall be made in accordance with any guidance or standard form provided by the Environment Department

YY. **Individual Compliance Schedules**

a. **Eligibility for Individual Compliance Schedules:** To confirm eligibility for an Individual Compliance Schedule, an Owner of a Building or approved Building Portfolio must attest to the following and provide supporting documentation upon request:

- (i) For all Buildings, the Energy use, Gross Floor Area, Building Use(s), and Emissions Factors data for the year selected as the baseline have been third-party verified.
 - (a) Energy use data shall be based on utility data, utility bills, or other factors outlined in guidance, as may be updated from time to time, provided by the Commission.
 - (b) Emissions factors shall be based on factors outlined in guidance, as may be updated from time to time, provided by the Commission.
- (ii) For an individual Building, the total Gross Floor Area has not been reduced from the baseline year by more than ten (10) percent and the largest primary Building Use remains the same.

- (iii) For a Building Portfolio, the Building Portfolio's total Gross Floor Area has not been reduced from the baseline year by more than ten (10) percent and the three largest Primary Building Use(s) across the Building Portfolio remain the same.
- (iv) All Buildings are currently in compliance with the Ordinance and Regulations, including, as applicable, requirements for Building Portfolios and the payment of (i) fines for any failure to comply with reporting requirements, accurately report information, or comply with an Emissions Standard and (ii) the submission of relevant compliance mechanisms in the amount required to correct any failure to meet an Emissions Standard in any calendar year.

b. Applications for Individual Compliance Schedules for Individual Buildings:

Applications for Individual Compliance Schedules may be submitted on a rolling basis, provided, however, that, **beginning in 2024**, applications must be submitted by September 1 **to use the Individual Compliance Schedule in the next year for approval for the following compliance year**. Applications shall be made in accordance with any guidance or standard form issued by the Environment Department. An application for an Individual Compliance Schedule for a Building shall include the following information and any other material required by standards issued by the Review Board:

- (i) The baseline year for emissions.
- (ii) An alternative CO₂e Emissions standard reduction schedule that meets the requirements set in the Ordinance.
- (iii) A brief narrative description of (a) any significant emissions reduction efforts completed in the Building from the baseline year to date and (b) any cumulative increase of Gross Floor Area of ten (10) percent or more from the baseline year to date that did not significantly increase Energy use or Emissions.
- (iv) A brief narrative description of expected methods to meet the alternative CO₂e Emissions standard reduction schedule. This may include, but need not be limited to, any anticipated buildings audits, retrofits, capital improvements, or any other emissions reduction efforts that may be implemented in the Building in the near term.
- (v) If relevant, an explanation for any inability to meet the eligibility criteria in Section YY.a.

c. **Applications for Individual Compliance Schedules for Building Portfolios:**

Applications to approve an Individual Compliance Schedule for Building Portfolios may be submitted on a rolling basis, provided, however, that, **beginning in 2024**, applications must be submitted by September 1 **to use the Individual Compliance Schedule in the next year for approval for the following compliance year**. Applicants applying for a Building Portfolio and an Individual Compliance Schedule concurrently must follow the application requirements in Section XX. Applications shall be made in accordance with any guidance or standard form issued by the Environment Department. Applications pursuant to this section shall include the following information and any other material required by standards issued by the Review Board:

- (i) The baseline year for emissions. Buildings in a Building Portfolio may have different baseline years, **provided, however, that there will be one declining Emissions standard for the whole Building Portfolio**.
- (ii) An alternative CO₂e Emissions standard reduction schedule for the Building Portfolio that meets the requirements set in the Ordinance. For Building Portfolios with multiple baseline years, the alternative CO₂e Emissions standard reduction schedule proposed in an application for or modification to an Individual Compliance Schedule must be verified by a third party. Third party verification is not required for Building Portfolios with a single baseline year. **In the event an Owner had a Building Portfolio before applying for an Individual Compliance Schedule, t**he alternative CO₂e Emissions standard reduction schedule shall supersede the Building Portfolio's blended Emissions standard. The Individual Compliance Schedule must cover all Buildings in the Building Portfolio.
- (iii) A brief narrative description of (a) any significant emissions reduction efforts completed across the Building Portfolio from the baseline year to date, and (b) any cumulative increase of Gross Floor Area of ten percent (10%) or more from the baseline year to date that did not significantly increase Energy use or Emissions.
- (iv) For Building Portfolios that are required to complete an Emissions standard compliance plan, a copy of such plan, provided, however, that if the Emissions standard compliance plan is not completed at the time of application, submission upon completion shall be a required condition of the Individual Compliance Schedule.

- (iv) For Building Portfolios that are not required to complete an Emissions standard compliance plan, a brief narrative description of expected measures to meet the alternative CO₂e Emissions standard reduction schedule. This may include, but need not be limited to, any anticipated buildings audits, retrofits, capital improvements, or any other emissions reduction efforts that may be implemented in the Building Portfolio in the near term.

d. **Review of Applications for Individual Compliance Schedules.**

- (i) The Environment Department shall review each application for completeness and technical accuracy and recommend approval or denial to the Review Board.
- (ii) The Review Board shall hold a hearing to evaluate applications for Building Portfolios and may hold a hearing for applications for individual Buildings seeking an Individual Compliance Schedule. The Review Board shall consider whether an application demonstrates that (a) a Building or Building Portfolio should have an Emissions standard different than the one applicable under Table 1 in the Ordinance, (b) there have been significant Emission reductions at the Building or Building Portfolio since the baseline year, (c) there are extenuating circumstances that support the need for an Individual Compliance Schedule, and/or (d) if relevant, the reason for and impact of any inability to meet the eligibility criteria in YY.a.
- (iii) The Review Board may vote to deny or approve applications with standard conditions regarding (a) timely compliance with reporting and third-party verification requirements in the Ordinance, and (b) timely compliance with the requirements in Section YY. The Review Board may include special conditions for Individual Compliance Schedules that do not meet the eligibility criteria in Section YY.a.

e. **Application Timeline for Individual Compliance Schedules.**

- (i) Within thirty (30) Days of receiving an application to create or modify an Individual Compliance Schedule, the Environment Department shall inform the applicant whether the application is complete.
- (ii) Within ninety (90) Days of the Environment Department's finding of completeness, the Review Board shall vote on an application.

- (iii) A written copy of the Review Board's decision shall be provided to the applicant within seven (7) Days after the vote. Applicants must record decisions with the Registry of Deeds and send proof of such recording to the Environment Department within thirty (30) Days of issuance of the decision. Recording deadlines shall be stayed pending any appeal
- (iv) Within twenty-one (21) Days of issuance of the Review Board's written decision, an applicant may file a written appeal to the Commission. Appeals shall be made in accordance with any guidance or standard form provided by the Environment Department

f. **Modifications of Approved Individual Compliance Schedules:** Review Board approval is required to make any modifications to an Individual Compliance Schedule. **Beginning in 2024, r**Requests to modify an approved Individual Compliance Schedule must be submitted by September 1 for the modifications to be **effective in the next year**~~for the following compliance year~~. Situations for which modifications are required include:

- (i) Individual Compliance Schedules for individual Buildings if the Building's total Gross Floor Area is reduced by more than 10% or the largest primary Building Use changes.
- (ii) Individual Compliance Schedules for Building Portfolios if the Building Portfolio's total Gross Floor Area is reduced by more than 10% or the three largest primary Building Use(s) across the Building Portfolio change.
- (iii) Changes to an approved alternative CO₂e Emissions standard reduction schedule because of the addition of a Building to a Building Portfolio or Institutional Master Plan that has an Individual Compliance Schedule.

The Review Board shall approve requests for modifications that adjust approved alternative CO₂e Emissions standard reduction schedules using the standard methodology adopted in guidance provided by the Commission. The Review Board may hold a hearing for requests for applications that use a different methodology and may approve a proposed methodology and outcome that the Review Board determines is reasonable.

g. **Transfer of Individual Compliance Schedules:** Approved Individual Compliance Schedules for individual Buildings or whole Building Portfolios are transferable upon change of ownership. The original and new Owners are jointly and separately responsible for notifying the Environment Department within **thirty (30) fourteen (14)** Days of the change of ownership.

h. **Termination of Individual Compliance Schedules.** Upon termination of an Individual Compliance Schedule, the Building or Building Portfolios will be subject to the Emissions standards in Table 1 of the Ordinance.

- (i) ~~Beginning in 2024, a~~An Owner may terminate an approved Individual Compliance Schedule. Notice must be provided to the Review Board by September 1 for the termination to be ~~effective for the next year~~~~for the following compliance year~~.
- (ii) An Individual Compliance Schedule for a Building Portfolio shall be automatically terminated if the associated Building Portfolio is terminated in accordance with Section XX.
- (iii) The Review Board may initiate a proceeding to revoke ~~or amend~~ an approved Individual Compliance Schedule if the Review Board determines that an Owner does not materially comply with the requirements in Section YY or the conditions of an Individual Compliance Schedule. ~~Any amendment shall be at the Review Board's discretion and based on a finding that the material noncompliance was due to unique circumstances beyond the Owner's control.~~
 - (a) ~~If an Owner demonstrates that material noncompliance was due to unique circumstances beyond the Owner's control, the Review Board may, at its discretion, amend an approved Individual Compliance Schedule rather than terminate it.~~
- (iv) Any proposed revocation ~~or amendment~~ shall be discussed at a public hearing of the Review Board. Owners shall be provided notice of such meeting at least thirty (30) Days in advance.
- (v) A written copy of the Review Board's decision shall be provided to an Owner within seven (7) Days after the vote. Owners must record decisions with the Registry of Deeds and send proof of such recording to the Environment Department within thirty (30) Days of issuance of the decision. Recording deadlines shall be stayed pending any appeal.
- (vi) Within twenty-one (21) Days of issuance of the Review Board's written

decision, Owners may file a written appeal to the Commission. Appeals shall be made in accordance with any guidance or standard form provided by the Environment Department.

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