

STANDARD (NON-EMERGENCY) REGULATION/RULE

Rule 6-14-16.A.20

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Rule Regarding Marijuana Licensees' Energy Reporting, Renewable  
Energy Requirements, and Energy Impact Offset Fees

BRC Section that is the subject of this Rule: Sections 6-14-8(i), 6-14-9(g), 6-16-8(i), and 6-16-9(g), B.R.C. 1981.

1. This Rule incorporates the guidance, requirements, rules and regulations shown in **Attachment A**.
2. The attached Rules apply to Title 6, Chapter 14, "Medical Marijuana," and Chapter 16, "Recreational Marijuana," B.R.C. 1981.
3. To the extent only of any conflict, this Rule supersedes any conflicting Rules or parts of Rules.

## ATTACHMENT A

### **Rule Regarding Marijuana Licensees' Energy Reporting, Renewable Energy Requirements and Energy Impact Offset Fund**

#### **I. Definitions**

The terms used in these rules have the following meanings unless the context clearly indicates otherwise:

“Community Solar Garden” means a form of distributed generation that involves solar array with multiple subscribers who may purchase a portion of the power produced and receive a credit on their electric bill.

“Electricity” means a form of energy resulting from the existence of charged particles (such as electrons or protons), either statically as an accumulation of charge or dynamically as a current, measured in kilowatt hours (kWhs) provided by the local utility.

“Electricity offset” means a unit of energy from a renewable source that counteracts a unit of site used fossil fuel-based electricity.

“Energy” means electricity, natural gas, steam, hot or chilled water, heating oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

“Energy Impact Offset Fee(s)” (“EIOFs”) means the fee for medical and recreational marijuana cultivation businesses approved by the City Council and included in Chapter 4-20, B.R.C. 1981. EIOFs are paid into the Energy Impact Offset Fund, which has been approved by City Council as a renewable energy offset option pursuant to Sections 6-14-8(i) and 6-16-8(i), B.R.C. 1981. The city will use the EIOFs in the Energy Impact Offset Fund to offset the marijuana industry’s greenhouse gas emissions impact.

“ENERGY STAR Portfolio Manager” means the Internet-based free tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.

“Program website” means the website <https://bouldercolorado.gov/planning/boulder-marijuana-facility-energy-requirements> maintained by the city for the implementation of these requirements.

“Renewable energy” means energy that is produced from renewable resources that are naturally replenished on a human timescale such as, sunlight, wind, rain, tides, waves, and geothermal heat.

#### **II. Renewable Energy Requirements (Sections 6-14-8 (i) and 6-16-8 (i), B.R.C. 1981)**

A. *Compliance.* To comply with renewable energy requirements, medical and recreational marijuana cultivation licensees must complete the *City of Boulder Marijuana Facility 100% Electricity Offset Selection Form* on the program’s website under the “*Offset your facility’s electricity use*” tab. Compliance with renewable energy requirements may be achieved through one or a combination of the offset options, including a verified subscription to a Community Solar Garden, renewable energy generated onsite, or an

equivalent subject to approval by the city, including the Energy Impact Offset Fund and approved energy efficiency measures. All electricity use is tracked by using the energy reporting tool per the reporting requirements. See Section III, below. For required offset option documentation, see the program's website. Option selection is subject to quality control audits.

B. *EIOFs*. The following information applies to the city's EIOFs, invoicing, and payment processes.

1. EIOFs. The city manages and sets the EIOFs.
  - a. Licensees will be notified of any EIOF change no less than 30 days in advance of the start of the billing period.
  - b. The EIOF amount will be collected based on total electricity (kWhs) consumed at the licensed facility, less the kWhs from any on-site renewable energy or Community Solar Garden subscription.
2. EIOF Invoice Process. The city will bill for electricity offsets for a six-month period in arrears, twice a year. See the program's website for submission dates to ensure compliance.
3. EIOF Payment Process. Licensees are responsible to remit EIOF payments as instructed on the invoice and program's website.
4. EIOF Payment Obligation: A business entity holding multiple marijuana licenses is responsible for all EIOF invoice payments associated with each of the business entity's valid licenses.

C. *EIOF Invoice Corrections*. Any requests for invoice corrections to prior payments and/or credit through a city program must be submitted through a written request. See the instructions on the program's website. Formal approval or rejection of the request will be provided in writing by the city. If an EIOF invoice was issued and paid, then errors were identified, it is the licensee's obligation to submit documentation as proof to the city that the invoice amount should be corrected. The city will evaluate and correct the EIOF amount and fee discrepancies will be credited to the next EIOF invoice.

D. *EIOF Fee Balances in the Case of License Transfer or Surrender*

1. Licenses with EIOFs Due. Licensees shall pay all EIOFs prior to the transfer or surrender of the license. The city will pro-rate the EIOF that has not yet been billed and provide the licensee with a final invoice.
2. Transfers: If a license with an approved EIOF credit or partial credit is being transferred, the EIOF credit will stay with the license and transfer to the new owner.
3. Surrenders. If the license is being surrendered, any EIOF credit will be applied to the last invoice that will be issued before the surrender of the license is approved. Any remaining balance of a credit is surrendered with the license.

**III. Reporting of Energy Use and Compliance with Renewable Energy Requirements (B.R.C. 6-14-9 (g) and B.R.C. 6-16-9 (g))**

A. *Information Submittal.* To comply with reporting requirements, medical and recreational marijuana cultivation licensees must register their facility with the free, on-line energy reporting tool, ENERGY STAR Portfolio Manager (“ESPM”). The city uses the ESPM reporting tool to track each licensed facility’s electricity use. Each facility’s ESPM account will track its monthly electricity use in kWhs. All other descriptive information required by ESPM account registration shall be included. Submittals are subject to quality control reviews. Licensees are responsibly for accurate and timely reporting. All electricity use shall be entered in ESPM by the deadline posted on the program website.

ESPM account required information is as follows:

1. Property address, including suite or unit;
2. Primary use type;
3. Floor area;
4. All utility meters that supply electricity to the cultivation facility;
5. Monthly electricity consumption in kilowatt hours (kWh);
6. Solar energy generation onsite (if applicable).

B. *Information Shared with the City.* Licensees shall share their facility’s registered ESPM account with the city. Instructions on registering and “sharing” the ESPM’s functions are on program’s website’s *How to Guide*.

C. *Information Maintained for Compliance.* Licensees shall maintain documentation that is proof of monthly electricity use data from the facility. The documentation includes, but not limited to, monthly utility bills, on-site solar project installation plans and permits and solar electricity generation information listed on utility bills and all Community Solar Garden contracts and verification of annual generation. This information shall be maintained as proof of electricity use for accuracy and audit purposes for a period of three years.

D. *Information Transfer of ESPM Accounts:* If a license is being transferred, it is the existing licensee’s responsibility to transfer the ESMP registered account to the new owner. The new owner shall have access to the historical electricity use from the facility’s ESMP account. Instructions on ESPM account transfers are on the program’s website.