

## **RESOLUTION 2014-41**

### **A RESOLUTION CREATING THE BOULDER COUNTY ENERGY IMPACT OFFSET FUND**

**WHEREAS**, the Board of County Commissioners (the “Board”) passed Resolution 2013-102 on October 29, 2013, adopting the Boulder County Marijuana Licensing Regulations (the “Regulations”) which authorize licensing in unincorporated Boulder County as permitted by state law; establish specific standards and procedures for local licensing of marijuana-related businesses as provided by state law; and protect the health, safety, and welfare of the residents and patients of Boulder County by prescribing the manner in which marijuana businesses can be conducted in the county; and

**WHEREAS**, under Article 8.5(g) of the Regulations, marijuana growers are required to meet certain energy offset requirements to mitigate the energy impacts of marijuana cultivation; and

**WHEREAS**, achieving the level of energy offsets required in Article 8.5(g) presents challenges to business owners and operators because of the difficulties associated with constructing improvements on leased premises, the amount of energy consumption used by the business in relation to its size, limits on the availability of energy from solar gardens, and various other factors unique to the operation of such businesses; and

**WHEREAS**, local business owners and operators have requested that the County explore additional options for creating energy offsets that may be more compatible with the business model for marijuana growers while still achieving the purpose of the energy offset requirements of Article 8.5(g) as originally adopted; and

**WHEREAS**, County staff have explored such options and concluded that the most viable option for alternative compliance involves amending the licensing regulations to allow growers to pay fees into a county program in lieu of adding renewable energy facilities on site or buying renewable energy off site as part of a solar garden; and

**WHEREAS**, under the authority of the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S.; the Medical Marijuana Rules, 1 CCR 212-1, Series 100 through 1400; the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. ; and 1 CCR 212-2, Series 100 through 1400, the Retail Marijuana Rules, counties and municipalities may determine whether to permit, as a matter of state law, marijuana establishments within their jurisdictions; and

**WHEREAS**, counties that choose to permit marijuana establishments may place restrictions on the operations of such establishments for the purpose of protecting the health, safety, and welfare of its citizens; and

**WHEREAS**, the Board finds that the Boulder County Energy Impact Offset Fund (the “Fund”) as established by this Resolution is reasonable and necessary for the implementation of the Regulations and is therefore an authorized exercise of County authority; and

**WHEREAS**, the fees as established by the Fund are reasonable and approximately equivalent to the energy offsets that would be achieved through the original requirements of Article 8.5(g) of the Regulations; and

**WHEREAS**, the reporting and other requirements for participants in the Fund are reasonable and necessary for the proper administration of the Fund;

**NOW, THEREFORE, BE IT RESOLVED:**

**1. Establishment**

The Boulder County Energy Impact Offset Fund (the “Fund”) is hereby created.

**2. Payment of Fees**

Marijuana businesses that elect to participate in the Fund (the “participant”) must enter into an agreement with the County to provide reports and pay fees as further provided for in this Resolution. Upon entering such an agreement, businesses must pay fees into the Fund as follows:

- A. The participant must submit to the Chief Building Official the sustainability report required by Article 8.5(g) of the Boulder County Marijuana Licensing Regulations (the “Regulations”), or participate in the Boulder County Energy Monitoring Program (the “Energy Monitoring Program”)
- B. Upon receipt of the sustainability report or the data from the Energy Monitoring Program, the Chief Building Official or his designee will calculate the required fee utilizing a cost of 2.16¢ per kilowatt hour, and after subtracting a baseline consumption factor. The price per kilowatt hour may be reviewed by the Board and if necessary adjusted prior to the beginning of 2016.
- C. The Chief Building Official will provide an invoice to the participant. The participant must pay the full amount of the invoice within 30 days of the date of the invoice. Failure to make this payment shall be reported to the Boulder County Marijuana Licensing Authority, and shall be considered a violation pursuant to the Regulations.

**3. Fund Management**

**A. Limitations**

Ninety-five percent of the monies in the Fund must be used to promote or facilitate reductions in fossil fuel energy consumption, or otherwise shall directly offset the effects of fossil fuel consumption. Possible uses of the monies may include, but are not limited to:

1. Purchase and installation of monitoring equipment necessary for a business to participate in the Energy Monitoring Program.
2. Low-interest loans or grants to income qualified property owners in unincorporated Boulder County for rooftop solar or other measures that have demonstrable carbon reduction benefits.
3. Programs that accelerate the adoption of new technologies and operational methods that will result in less energy intensive cannabis grow operations
4. Programs that improve the industry's integration with local agricultural practices and organic farming methods for the purposes of growing soil and reducing our dependence on fertilizers derived from fossil fuels.

The remaining five percent may be used pay for costs related to the administration of the Fund by the County.

#### B. Steering Committee

The Board will appoint a steering committee of three to seven members to make recommendations to the Board related to management and disbursement of the Fund. Members may include owners or managers of a licensed marijuana establishment in Boulder County and representatives of nonprofit environmental organizations. The Marijuana Licensing Authority or the Authority's designee shall be an ad hoc member of the committee. Each member shall be appointed to a two-year term, though initial terms shall be staggered. One member shall be elected as chair on an annual basis, and shall be responsible to call meetings. The committee shall meet on an as-needed basis. The committee shall report to the Board on an annual basis as to the status of the Fund including the funds received and disbursed, estimates regarding carbon offset accomplished, status of ongoing projects funded, and any anticipated future projects.

#### C. Accounting

For accounting purposes the revenue and expense activity of the Fund will be segregated within the County's General Fund.

ADOPTED on this 5<sup>th</sup> day of August, 2014.



BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY:

Cindy Domenico  
Cindy Domenico, Chair

Deb Gardner  
Deb Gardner, Vice Chair

Elise Jones  
Elise Jones, Commissioner

ATTEST:  
Mike Ryder  
Clerk to the Board