

## BEUDO REGULATIONS – **DRAFT REDLINED VERSION**

Regulatory language pertaining to the Ordinance entitled “Building Energy Use,” Chapter 8.67 of the Municipal Code of the City of Cambridge (“Ordinance”).

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### **BEUDO Regulations – Phases I, II, and III**

#### **I. Definitions**

- A. BEUDO Procedures - The published document containing information related to any Emission Factors for each compliance period, as well as other relevant information. Said document can be downloaded from the City’s BEUDO webpage, or requested from [BEUDO@cambridgema.gov](mailto:BEUDO@cambridgema.gov).
- B. **Compliance Year – A single year in a Compliance Period.**
- C. **Commercial Operation Date – the date upon which a Renewable Electricity facility has been complete and is commercially operational.**
- D. Generation Facility - one or more central plants producing hot water, steam, electricity, and/or chilled water for use in powering, heating or cooling more than one building in Cambridge
- E. Massachusetts Class I Renewable Portfolio Standard (RPS) - The program administrated by the Commonwealth of Massachusetts referenced in 225 CMR 14.07.
- F. Multi-Use Covered Property - If a Covered Property contains one or more non-residential buildings with more than one residential unit, but less than or equal to 75% of the Covered Square Feet being used for residential or dwelling purposes, that Covered Property may apply to the city to be considered as a Multi-Use Covered

Property. Approved Multi-Use Covered Properties will benchmark and reduce emissions as Non-Residential Properties, with the option to exclude the energy used to power Residential areas from benchmarking, baseline calculations, and emission reduction calculations. Notwithstanding the above, Covered Properties containing 50 or more Dwelling Units shall be required to benchmark the residential energy usage. Covered Properties which are unable to separate the energy use from Residential and Non-Residential areas may not comply as a Multi-Use Covered Property and must comply as a Non-Residential Covered Property. The City may request proof or attestation as to the building usage as needed.

- G. Substantial Rehabilitation – Without regard to other laws, statutes or regulations as to the use of the term “substantial rehabilitation,” for purposes of Chapter 8.67.010(22) only, a building existing on a BEUDO Covered Property which undergoes renovations, additions or alterations that result in a Change of Occupancy Classification Group under Massachusetts Building Code 302 shall be considered a “Substantial Rehabilitation.”
- H. All definitions contained in Chapter 8.67 of the Cambridge Municipal Code are applicable to these regulations.

**II. Reporting Process [this section intentionally left blank]**

**III. Third Party Verification**

**A. Requirements for Third-Party Data Verification**

- i. Owners shall submit proof of Third-Party Data Verification of reported data per the schedule in § 8.67.110. This submittal process is described in BEUDO Procedures.
- ii. The individual submitting Third-Party Data Verification for a Covered Property’s submitted data may not be employed by the Owner or the designated property management company for the property.
- iii. The individual submitting Third-Party Data Verification for a Covered Property may not be the same individual submitting Benchmarking Information for that Covered Property.

**B. Approved Verification Bodies**

- i. Data must be verified by an individual certified by an Approved Verification Body. Organizations qualified as Approved Verification Bodies, and acceptable

certifications, are listed in BEUDO Procedures.

- ii. Owners shall submit the credential, verifier name, and organization name of the Approved Verification Body when submitting Third-Party Data Verification.

#### **IV. Property Ownership and Configuration**

##### **A. Defining an Owner**

- i. The default Owner for any given Covered Property (and all buildings contained on that property) will be the person or entity listed in Massachusetts Registry of Deeds.
- ii. The Owner of a Covered Property receives annual notifications of obligation to comply, and warning or violation notices. The Owner of a Covered Property (or of a Campus comprised of multiple Covered Properties) is legally responsible for ensuring compliance with all aspects of BEUDO.
- iii. Covered Properties may apply to designate an approved alternate Owner (per 8.67.010 (23)) for certain purposes, including communications and submission of data and compliance information. Covered Properties that elect to designate an alternate Owner must annually attest the approved alternate. Nothing herein will prevent any enforcement against the default Owner. The process and deadlines to submit a change of Owner are found in BEUDO Procedures.

##### **B. Defining a Property**

- i. All buildings on a parcel of land classified as a Covered Property per 8.67.010 (11) are subject to and must comply with the BEUDO Ordinance.
- ii. Default Configuration
  - 1. By default, the Covered Property definition (8.67.010 (11)) applies at the parcel (also referred to as tax lot or map lot) level. Owners are required to benchmark, assign baselines, and reduce emissions collectively for all buildings on a parcel as one compliant entity, unless the Owner requests an Alternative Configuration.

iii. Alternative Configuration

1. Owners may request to report and reduce emissions by individual buildings, or subsets of buildings, on a parcel. If approved, this configuration election will be referred to as the Covered Property and must comply with all BEUDO requirements. The following conditions must be met for this configuration to be granted:
  - a. Requests to report at the building level must be submitted by December 31 of the first year of the first Compliance Period for the parcel. Information regarding deadlines and processes to request can be found in BEUDO Procedures.
  - b. The building(s) which request to report as a subset of the default Covered Property must be defined structures per the Cambridge GIS Building ID database, available at the City of Cambridge's GIS Department website.
  - c. Each non-Municipal Covered Property, regardless of configuration, must meet the minimum requirement of 25,000 total Covered Square Feet. Municipal Covered Properties must meet the minimum requirement of 10,000 total Covered Square Feet.
  - d. The Energy used and reported for each building or group of buildings under an Alternative Configuration must be fully contained within Portfolio Manager report(s) specific to those buildings.
  - e. The Owner must be able to provide complete and accurate data for the baseline years of all buildings under the Alternative Configuration.
2. A Covered Property which has been approved to report and reduce in an Alternative Configuration may then submit applications for the resulting Covered Properties to comply as a Multi-Use Covered Property if they meet the requirements in Section I.D. The process and timelines for these applications are found in BEUDO Procedures.
  - a. The timeline for reducing emissions will be based on the Non-Residential Covered Square Feet of the Covered Property.

- b. In the case that the Non-Residential Covered Square Feet of the Covered Property is less than 25,000, and the number of Dwelling Units is less than 50, such property shall not be a Covered Property for BEUDO compliance.

#### **iv. New Buildings**

1. As defined in the Ordinance, a New Covered Property has either, in 2018 or later, received a Certificate of Occupancy, or has undergone a Substantial Rehabilitation as defined herein. New Covered Properties have distinct requirements for compliance in 8.67.100(3).
2. In the event that a singular building is newly constructed or Significantly Rehabilitated on a parcel with existing buildings,
  - a. The buildings may comply together under the Default Configuration (see Section IV.B.ii), with all buildings using the same baseline years as the newly constructed or Significantly Rehabilitated building.
  - b. The buildings may comply under an Alternative Configuration as long as requirements in Section IV.B.iii are met. The New building will use baseline years comprising the first two complete years in operation after Certificate of Occupancy or completion of the Significant Rehabilitation, and existing buildings will continue to use previously selected baselines.
3. New Covered Properties will reduce their emissions based on the guidance tables in BEUDO Procedures.

#### **v. Sale or Transfer of a Property**

1. If a Covered Property is sold, the previous Owner is obligated per 8.67.110 (7) to provide the new Owner all energy and water information necessary to report complete Benchmarking Information for the entire year. The previous Owner is required to share building energy and water use data needed for benchmarking within 30 days of documented request by the new Owner.
2. The Owner purchasing the building or Covered Property is required to meet the annual emission reduction requirements of the Covered Property for the Compliance Year in which the sale occurred, and going

forward.

3. A Covered Property which is sold to a new Owner may, ~~within 60 days of the transaction~~ by April 1 of the year following the Compliance Year in which the sale occurred, request for changes in the following, so long as all other requirements are met in accordance with these regulations and the Ordinance:
  - a. Covered Property Configuration - See Section IV.B  
The property configuration will go into effect ~~the compliance year after the year of the sale~~ for the year in which the sale occurred, unless otherwise approved pursuant to the BEUDO Procedures.
  - b. Baseline selection – See Section V.  
The new Baseline selection will go into effect ~~the compliance year after the year of the sale~~ for the year in which the sale occurred, unless otherwise approved pursuant to the BEUDO Procedures.
  - c. Other compliance option ~~as approved by the City of Cambridge~~ if approved pursuant to the BEUDO Procedures.

#### vi. Demolition of a Property

1. A Covered Property which is fully demolished, in that every building on the Parcel is no longer standing or using energy, will be exempted from all BEUDO requirements in the year in which the demolition occurs. Submission of this exemption is due to the City by May 1 of the year following the demolition year.

### V. Baselines

#### A. Alternative Baselines

- i. A Covered Property may choose to use the average emissions of two consecutive years dating back to 2010 as the Alternative Baseline emissions for that property, so long as the following conditions are met:
  1. Requests to reduce a Covered Property's emissions using an Alternative Baseline must be submitted to the City prior to the Covered Property's first compliance period, and any request for an Alternative Configuration of the default Covered Property (see Section IV.B.iii) must be approved by the City prior to approval of an Alternative Baseline

request.

2. If an Alternative Baseline is approved, 8.67.100(4) requires that such Covered Property's emission reduction requirements include an additional 2.5% reduction for every year between the start of its Baseline and 2018. A table detailing this may be found in BEUDO Procedures.

## **B. Obtaining Baseline Year Data**

- i. If verifiable data is not obtainable for Alternative Baseline years, the Owner must use default Baseline years for the Covered Property.
- ii. If verifiable data is not available for the default Baseline years, due to one of the below circumstances, the Owner must ~~inform the City and the two most recent years of data for the Covered Property will be used~~ use the two earliest consecutive years after 2018 for which verifiable data is available as the Baseline.
  1. ~~Changes in ownership of Owner~~
  2. Inability to obtain data from energy provider
  3. Other circumstances approved by the City, Pursuant to BEUDO Procedures

## **VI. Campus Compliance**

### **A. Ownership**

- i. Covered Properties wishing to comply as a Campus must either
  1. Contain 5 or more Covered Properties having the same Owner, as defined in 8.67.010 (23) or,
  2. Contain any number of Covered Properties having the same Owner as defined in 8.67.010 and all of which consist of Affordable Housing.
- ii. Covered Properties that are controlled through a legally authorized affiliate or subsidiary of an Owner may be asked to submit proof of this relationship to the City of Cambridge when applying for a campus designation, and such Covered Properties may comply as a Campus upon approval pursuant to the BEUDO Procedures.
- iii. An Owner, along with all subsidiaries or affiliates, may only create a single Campus for the purposes of compliance with BEUDO.

#### B. Creating a Campus

- i. Covered Properties that meet the criteria in VI.A and intend to comply as a Campus must submit this designation to the City by April 1 of the year following the first Compliance Year in which the Campus is to be applied.
- ii. All Covered Properties submitting to comply as a Campus must have completed Property Configuration Forms and Alternative Baseline Selection Forms, if applicable.

#### C. Baselines

- i. Each Covered Property included in a Campus for BEUDO compliance will select its own Baseline.
- ii. A Covered Property that submits for inclusion as a Campus without completing the Alternative Baseline Form will be required to use the Default Baseline.

#### D. Changes to a Campus

- i. Adding a New Covered Property to an existing campus
  - 1. In the event that an Owner wishes to add a New Covered Property (per 8.67.010 (22)) to an existing Campus, the Owner must submit this designation to the City per the steps in BEUDO Procedures.
  - 2. The request to add the New Covered Property must be submitted during the first two Baseline years applicable to the New Covered Property, and
  - 3. The addition of the New Covered Property to the Campus will go into effect beginning the calendar year following the Baseline years
- ii. Adding an existing Covered Property to a Campus
  - 1. Existing BEUDO Covered Properties may be added to a previously designated Campus in the following circumstances:
    - a. Change of Ownership (e.g., purchase of a Covered Property)
    - b. Change of use (Residential to Non-Residential)
  - 2. Property Configuration and Baseline are eligible to be updated within 60 days following the purchase of a Covered Property per section IV.B.v). Any such updates to Property Configuration and Baseline must be submitted prior to adding a Covered Property to a Campus.
  - 3. The request to add a Covered Property to a Campus must be submitted by April 1 of the year following the purchase of or change of use of the Covered Property, and will be effective for the year in which the purchase occurred.
- iii. Adding a building which is not a BEUDO Covered Property



1. Per 8.67.100 (10), an Owner may elect to voluntarily include in a Campus one or more properties under 25,000 Covered Square Feet or any residential building; such properties shall be subject to the requirements for Non-Residential Covered Properties of 25,000 to 99,999 Covered Square Feet.
2. The Owner must complete a Property Configuration Form to submit a building or parcel which is not a BEUDO Covered Property for consideration.
3. The removal of such a voluntarily included property from the Campus is subject to the requirements of VI.D.iv.

iv. Removal of a Covered Property from a Campus

1. A Covered Property may be removed from an existing Campus in the following circumstance
  - a. Change of Ownership
  - b. Change of use (Non-Residential to Residential)
2. If removal of a Covered Property results in a Campus with less than 5 Covered Properties;
  - a. The Owner may add one or more Covered Properties that were not previously included in the Campus in order to meet the minimum requirement
  - b. The Owner may continue to report as a Campus with the remaining Covered Properties for the remainder of the Compliance Period in which the Covered Property was removed
  - c. If in the subsequent Compliance Period, the Owner has not replaced the Covered Property in the Campus to bring the total to a minimum of five, the remaining Covered Properties will revert to meeting BEUDO requirements individually.

E. Campus Renewable Energy Purchases

- i. An Owner of a Campus may apply qualifying Renewable Electricity per 8.67.010(25) to any Covered Property within the Campus, or to the Campus in aggregate.
  1. Submission of the quantity of RECs applied to the Campus or individual Covered Properties must follow the requirements of section VIII.
- ii. An Owner of a Campus may apply Verified Carbon Credits per 8.67.010(31) to any Covered Property within the Campus, or to the Campus in the aggregate.
  1. The use of Verified Carbon Credits is limited to the total Verified Carbon Credits allowed for the individual Covered Properties, as determined by 8.67.100(5).

## F. Reporting as a Campus

- i. Covered Properties which make up an approved Campus structure may be required to alter the account configuration in Energy Star Portfolio Manager (ESPM). These requirements will be outlined in Procedures and any informational guidance provided to Owners.

## VII. Emission Factors

- A. Pursuant to § 8.67.010 (15), by January 1 of each year prior to each standard Compliance Period, Emission Factors to be used by all Covered Property Owners in the determination of Greenhouse Gas emissions of their Covered Properties will be published. Emission Factors to be used for each period, along with any alterations to methodology used in determining them, will be public by:  
January 1, 2025 (for Compliance Period 1: 2026 to 2029)  
January 1, 2029 (for Compliance Period 2: 2030 to 2034)  
January 1, 2034 (for Compliance Period 3: 2035 to 2039)  
January 1, 2039 (for Compliance Period 4: 2040 to 2044)  
January 1, 2044 (for Compliance Period 5: 2045 to 2049)

Emission Factors for years 2010-2025 will be published by January 1, 2025 in the BEUDO Procedures for use in calculating Baseline emissions.

- B. All Emission Factors for Energy use, along with additional information on the methodology used in determining them, will be published for each Compliance Period in the BEUDO Procedures by their required deadlines.
- C. Emission Factors for natural gas, propane, fuel oil, diesel oil, and kerosene will be based on the standard scientific values utilized by the Environmental Protection Agency's Energy Star Portfolio Manager.
- D. Emission Factors for electricity purchased from the grid will be calculated using a residual factor methodology, taking into account the Massachusetts Class I Renewable Portfolio Standard (RPS).

- i. The emissions of a Covered Property's electricity use shall be calculated using the following equation:

$$\text{Electric Emissions [kg CO2e]} = \left[ \left( \text{Electricity consumed from the grid [MWh]} \times \left[ \frac{100\% - \text{Annual RPS Minimum Requirement}}{100\%} \right] \right) - \text{voluntary RE purchases [MWh]} \right] \times \text{Electric Grid Residual Factor [kg CO2e/MWh]}$$

- ii. A Time of Use methodology will be available for Covered Property Owners who are able to provide hourly profiles for the use of grid electricity. The emission factor for each hour shall be determined using a time-of-use residual factor methodology as outlined in the BEUDO Procedures. Building data and the calculation of emissions must be provided in hourly intervals.
  - 1. A Covered Property that uses a Time of Use methodology shall also use such methodology for its Baseline years.
- iii. Annually, the City may choose to publish an Emission Factor for grid electricity which is calculated with the above equation, using up to date data from Massachusetts portfolio standards. If published, this Emission Factor will be available by April 1. In the event that the annually published factor is lower than the projected factor for that **Compliance Year**, the City will apply the lower of the two calculated factors unless the Covered Property Owner elects to use the higher number. The process for submitting a request to use the higher emission factor is found in BEUDO Procedures.

#### E. Generation Facilities

- i. Emission Factors for steam, hot water, chilled water, and electricity produced by a Generation Facility will be calculated using the efficiency methodology of the World Resources Institute Greenhouse Gas Protocol.
  - 1. All Generation Facility owners are required to submit complete verified data needed to calculate the Emission Factor of every energy output of their facility for the previous calendar year, as well as the final calculated Emission Factors, by April 1 of each year beginning in 2025.
    - a. Data and the resulting emission factors submitted in 2025 and 2026 (for energy produced in years 2024 and 2025, respectively) are not required to be verified.
    - b. Verification by an Approved Verification Body (§ 8.67.010 (3)) is required for annual submission of data and factor calculations beginning in 2027 (for energy outputs produced in 2026 and onwards). See Section III for more information regarding verification requirements.
    - c. In the event that a Generation Facility, which is owned by a Covered Property Owner and connected to the Owner's

Covered Property/Properties, does not provide complete and verified data to the city by the required date of a given **Compliance Year**, Emission Factors published in the BEUDO Procedures will be applied to the energy inputs for the Generation Facility, and the resulting emissions will be apportioned across the connected buildings by the Gross Floor Area of the building.

- d. For a Generating Facility which is not owned by a Covered Property Owner and connected to the Owner's Covered Property/Properties, failure to provide complete and accurate data by the above date will result in application of standard scientific values utilized by Energy Star Portfolio Manager, or other similar values published by state or federal agencies, for generated products (electricity, steam, chilled or hot water, or otherwise) utilized by the Owner's Covered Property/Properties.
2. Data submitted from Generation Facility owners will be used to calculate Emission Factors for each output of the facility, using the formula below:

**Allocate the total emissions to each output stream**

Use the following formula:

$$E_i = \frac{\frac{Q_i}{e_i}}{\sum_{i=1}^n \frac{Q_i}{e_i}} \times E_T$$

where:

$E_i$	=	emissions allocated to output stream $i$
$Q_i$	=	energy content of output stream $i$
$e_i$	=	efficiency of the production of output stream $i$
$E_T$	=	total emissions of the district energy system
$n$	=	number of output streams

Further information to calculate Emission Factors of outputs will be included in the BEUDO Procedures as needed.

3. Generation Facility owners requiring an alternate methodology to be used in calculating the output Emission Factors of their plants may request the Energy Content method, endorsed by the World Resources Institute for use in Cogeneration/CHP plants, provided that:
  - a. The Generation Facility owner agrees to use the alternate methodology for the remainder of the Compliance Periods in which connected Covered Property/Properties receive the outputs of said Generation Facility.

- b. The request is submitted one year prior to the first Compliance Period.
  - c. Emission Factors for the Generation Facility's outputs for the Baseline years of connected Covered Property/Properties must be calculated using the same methodology.
- 4. Any thermal output of a Generation Facility that is produced using Renewable Electricity shall have an Emission Factor of zero (0) kgCO<sub>2</sub>e/MMBTU, provided that:
  - a. The Renewable Electricity is procured, and resulting Renewable Energy Certificates are retired, in accordance with 8.67.010 (25) and the requirements in Section IX, except:
    - i. The requirements for the Covered Property Owner in Section IX are fulfilled by the Generation Facility owner
    - ii. Renewable Energy Certificates from a qualifying Renewable Electricity procurement shall be transferred to the Generation Facility owner for retirement.
- 5. Owners of Generation Facilities may only subtract Renewable Electricity from electricity consumption, as referenced in 8.67.101(19), created by the cogeneration facility if the facility can demonstrate that the Emission Factor of producing electricity locally was equal to or less than the Emission Factor of purchasing Grid Electricity at that point in time.
  - a. Generation Facilities must calculate hourly Emission Factors using the methodology described in Section VII.E.i. for the production of electricity.
  - b. The hourly grid Emission Factor for comparison will use a marginal emissions rate scaled to account for the Massachusetts Renewable Portfolio Standard Class I Requirements, using equations and information found in BEUDO Procedures.

#### **VIII. Renewable Electricity Procurement**

- A. The use of electricity from onsite renewable electricity generation, such as solar panels, shall be reported in the Covered Property's Energy Star Portfolio Manager account.
  - i. To qualify as Renewable Electricity, this electricity must be generated onsite by photovoltaic systems, solar thermal power plants, wind turbines, geothermal

power plants, or other renewable energy generating sources that may be submitted to and certified by the Department.

- ii. To qualify as on-site energy (8.67.010 (25)), the electricity generation source must be located either on the same Covered Property which will use the resulting RECs or on another property in Cambridge which is owned by the same Owner that will use the resulting RECs for compliance.
  - iii. Pursuant to 8.67.010 (25), this electricity shall qualify as Renewable Electricity and be subtracted from a building's electric BEUDO emissions if either:
    - 1. The Renewable Energy Certificates (RECs) resulting from the onsite renewable electricity generation are assigned to the Covered Property and retired, OR
    - 2. If the Covered Property Owner has surrendered the RECs resulting from the system to a clean energy incentive program, such as the Massachusetts SMART program, the Covered Property Owner may purchase an equivalent quantity of MA Class 1 Renewable Energy Certificates to be used in BEUDO compliance. **These RECs do not need to meet the requirement of new as defined in Section VIII.B.ii.**
- B. Off-site purchases of Renewable Electricity, as defined in 8.67.010 (25), must meet specific criteria in order to be subtracted from the electric emissions of a Covered Property in calculating Greenhouse Gas Emissions pursuant to 8.67.010 (19).
- i. A Covered Property Owner must submit information regarding their Renewable Electricity purchases (proposed or completed) to the City for review and approval. Renewable Electricity resulting from purchases that have not been approved by the City may not be subtracted from the electric emissions of a Covered Property.
  - ii. All procurement contracts must be for Renewable Electricity from a newly built generating source. The following types of contracts shall qualify as newly built:
    - 1. Contracts which are signed by the Covered Property Owner, **or a Tenant occupying a Covered Property**, prior to a generating facility's Commercial Operation Date.
      - a. **Contracts which are signed by a Tenant of a Covered Property before the facility's Commercial Operation Date may be considered newly built, and such Renewable Electricity resulting from this contract may only be applied to the Covered Property which the Tenant occupies.**

2. Contracts which support an expansion of capacity at an existing renewable energy generating source, of which the expanded capacity was not operational at the time of contract execution.
  3. Facilities that were in existence or operation prior to the contract execution, but that are undergoing a repowering as defined by the United States Internal Revenue Service (Notice 2016-31) and will be considered to be again fully operational after the date which the Covered Property Owner **or Tenant** signs the contract to repower.
  4. Renewable Electricity resulting from the extension of an existing contract which was initially approved by the City per Section IX.B.1. The signing organization of the original contract must match the organization, or its successor, signing the extension contract.
- iii. The following types of Renewable Electricity purchases are acceptable, provided that they meet eligibility criteria for new projects utilizing acceptable technologies as outlined in 8.67.100 (25) and all other criteria established in these BEUDO Regulations Section VIII:
1. Power Purchase Agreements, including virtual Power Purchase Agreements, for electricity and bundled RECs, from renewable electricity generators connected to an electric grid in the jurisdiction of the North American Electric Reliability Corporation.
  2. RECs not resulting from a Power Purchase Agreement or Virtual Power Purchase Agreement, provided that they meet the qualifications of RPS Class I eligibility, outlined in 225 CMR 14.05, as those criteria may be amended from time to time, and that they are from a new project.
  3. Other types of procurements and contracts which may be submitted by a Covered Property Owner for review by the City and, upon approval, may be listed as an approved project type in the BEUDO Procedures.
- iv. In the event that a Covered Property Owner is unable to complete their Renewable Electricity purchase due to breach of contract or a Force Majeure event without cause or fault of the Covered Property Owner, the owner may apply for a deferral compliance plan. Applications for a deferral must follow guidelines and deadlines as per Section XI.
- C. Renewable Energy Certificates (RECs) and other environmental attributes produced by on or off-site renewable energy which are intended for use in compliance with BEUDO



shall be assigned to a Covered Property or Campus in Cambridge and retired.

- i. RECs to be used for BEUDO compliance shall be assigned to a Covered Property Owner, and the quantity of RECs assigned by the Owner to reach compliance of each Covered Property or Campus must be submitted to the City by the annual deadline of May 1.
- ii. Assignment and tracking will be carried out pursuant to a tracking system recognized by the United States Environmental Protection Agency. Documentation attesting to REC assignment and retirement, as described in the BEUDO Procedures, of RECs used in Covered Properties must be annually reported the May 1 reporting deadline. Further proof of retirement must be made available for inspection to the City of Cambridge upon request.
- iii. In calculating Greenhouse Gas Emissions, a REC may only be subtracted from a Covered Property's electricity use a given **Compliance Year** if the REC was generated either within (1) the twelve (12) months before the **Compliance Year** or (2) within the **Compliance Year** in which they are applied. Pursuant to 8.67.100(7), the REC must be obtained in the year in which it is applied.

**IX. Verified Carbon Credits [this section intentionally left blank]**

**X. Hardship and Deferral Compliance Plans**

**A. Types of Hardship and Deferral Compliance Plans**

Owners may seek temporary relief from compliance with Emission Reduction Requirements in section 8.67.100 through either a short-term or long-term Hardship Compliance Plan, or a Deferral Plan through application to the Review Board:

- i. **Short-term Hardship Compliance Plans** grant temporary relief from compliance with Emission Reduction Requirements for up to two (2) years.
- ii. **Long-term Hardship Compliance Plans** grant relief from compliance with Emission Reduction Requirements for between three (3) and five (5) years.
- iii. **Deferral Compliance Plans** allow a Covered Property Owner to defer compliance with any Greenhouse Gas Emissions requirements for up to five years, provided that the cumulative Greenhouse Gas Emissions of the Covered Property from the start of the deferred compliance through 2050 do not exceed what they would be without such deferral.

**B. Criteria Required for Hardship Applications**



An Owner seeking consideration for a Hardship Compliance Plan must demonstrate that one or more of the following criteria are met:

i. Financial Distress:

1. Owner has declared bankruptcy for all or part of a Compliance Year.
2. The minimum cost of achieving compliance exceeds the funds the Owner can access or raise.
3. The owner is experiencing denial or delays in approvals, through utility or other decarbonization incentive programs, for significant compliance-related work.

ii. Ownership Structure Consisting of Individual Non-Residential Condominiums:

1. The Covered Property consists of two or more Non-Residential Condominiums, with two or more separate Owners owning parts of the Covered Property in such a way that it creates constraints in allocating energy use, scheduling, and/or completing significant compliance-related work.

iii. Regulatory or Contractual Designation:

1. The owner has a long-term non-electricity energy contract without reopeners for a significant portion of a Covered Property's energy demand.
2. The owner has a long-term lease without reopeners signed prior to June 26, 2023 that explicitly prohibits any significant compliance-related work at a property, and the tenant is not required or willing to work with the owner to allow work necessary for compliance to be performed.
3. The owner is experiencing delays in delivery of renewable energy credits pursuant to an executed Power Purchase Agreement caused by delays in initial commercial operation of the generating facility for reasons beyond the Owner's control.
4. The owner is experiencing delays in electric system interconnection or adequate delivery of electricity for reasons outside the Owner's control, provided that requests for interconnections and notification of anticipated electricity demands were made in a timely manner in light of planned work and Emissions Reduction Requirements compliance deadlines.
5. The owner is experiencing denial or delays in government permits or approvals, for significant compliance-related work, and the inability to receive such permits or approvals prevents the Owner from being able to afford the work, provided that applications for such permits or approvals were made in a timely manner in light of planned work and Emissions Reduction Requirements compliance deadlines.

6. The owner is required to meet government regulations or accreditation and certification standards affecting energy use, provided that any hardship arises from reducing Emissions of such Energy use.

iv. Technical or Operational

1. Building and/or parcel space constraints exist which prevent the Owner from completing significant compliance-related work necessary to meet Emissions Reduction Requirements.
2. The Covered Property has high manufacturing process loads, provided that any hardship arises from reducing Emissions from such Energy use.
3. The Covered Property is designated as a Historical Property, as defined in defined in Chapter 2 of the IECC 2021, preventing completion of specific compliance-related work.

v. Other unusual circumstances or characteristics, including:

1. Delays in significant compliance-related work due to a natural disaster or declared state of emergency.
2. Other documented circumstances and characteristics, including financial, regulatory, contractual, technical or operational circumstances and characteristics, that, in its discretion, the Review Board deems relevant on a case-by-case basis.

C. Types of Relief for Hardship and Deferral Compliance Plans.

At its discretion, the Review Board may grant an Owner one or more of the following types of relief for a defined period of time. Relief may apply to some or all of an Owner's compliance obligations.

Hardship Plans

- i. An alternative schedule for complying with the Emissions Reduction Requirements in the Ordinance.
- ii. Exemption of specified Energy use(s) from specific processes or equipment, in whole or in part, from a Covered Property Owner's compliance obligations.
- iii. Allowance of an Alternative Baseline of two consecutive years after 2018 that is otherwise not permitted by 8.67.100.
- iv. Additional compliance mechanisms that the Review Board determines are consistent with achieving Emission Reductions.

Deferral Plans

- i. An alternative schedule for complying with the Emissions Reduction Requirements in the Ordinance.

#### D. Applications for Hardship and Deferral Compliance Plans.

Unless otherwise noted in this section, all applications must include the following information and supporting documentation and comply with any further guidance and application instructions issued through Procedures.

##### Hardship Compliance Plans

Applications must include:

- i. A brief narrative description of how the Owner has used, plans to use, and/or considered the use of compliance mechanisms and flexibility measures authorized by the Ordinance other than direct Emission Reductions, including: Renewable Electricity, Campus reporting, Verified Carbon Credits (where allowed), and Alternative Compliance Credits. This description should also demonstrate the maximum amount of emissions reductions that the Owner is able to make utilizing these mechanisms to meet Emission Reduction Requirements for the period of the proposed Hardship Compliance Plan.
- ii. A description, accompanied by supporting documentation, of the existence and scope of the criteria in Section X.B that apply to the Owner or Covered Property.
- iii. An evaluation, based on an energy audit or similar assessment, of opportunities, feasibility, costs, and available financial resources for direct compliance-related work at the Covered Property, including, where applicable, opportunities for conducting compliance-related work in phases to reduce or avoid hardships.
- iv. The proposed Hardship Compliance Plan, which shall establish:
  1. The requested type, scope, and length of relief the Owner is requesting for a Covered Property, and
  2. The amount of emission reductions that the Owner expects to achieve in each year of the Hardship Compliance Plan term and how the Owner expects to do so.

##### Deferral Plans

Applications must include:

- i. A brief narrative description of the reasons that a deferral is being sought including but not limited to a description of other planned work at the Covered Property that is proposed to be undertaken in conjunction with planned emissions reduction activities. The narrative should demonstrate in detail why it is advantageous to defer emissions reduction activities based on a cost analysis and/or description of how the emission reduction activities are going to be combined with other work at the property. The narrative should also describe a proposed schedule for completing the emission reduction activities by the end of the deferral period.
- ii. The proposed Deferral Plan which shall establish:

1. The requested scope and length of deferral the Owner is requesting for a Covered Property,
2. The amount of emissions reductions that the Owner expects to achieve in each year of the Deferral Compliance Plan term, and
3. A yearly goal for the total emissions of the Covered Property, accompanied by a total amount of expected emissions that will be produced over the period comprising the Deferral plan in compliance with the cumulative emission reduction requirements of 8.67.100 (8).

E. Timelines for Hardship and Deferral Compliance Plans Applications.

Applications may be submitted on a rolling basis in accordance with the following schedule:

- i. Applications for Short-Term Hardship Compliance Plans (1-2 years) must be submitted by October 1 for the Hardship Compliance Plan to be used that same year with the exception that:
  1. Owners may apply for an Emergency Short-Term Hardship Compliance Plan, after the applicable deadline for short term plan in a given year, if the Owner has experienced unforeseeable events or conditions outside the Owner's control that occurred or were identified after such deadline; provided that:
    - a. The application must be submitted before December 31 of such year; and
    - b. The application must include any information necessary for the Review Board to determine whether accepting such untimely application is appropriate, including but not limited to, the underlying event or condition and how it causes the Owner's need for a short-term Hardship Compliance Plan. The Review Board shall have sole discretion to reject any such application for untimeliness if it determines that the Owner has not met the foregoing requirements of this paragraph.
- ii. Applications for Long-Term Hardship Compliance Plans (3-5 years) must be submitted by July 1 for the Hardship Compliance Plan to be used that same year.
- iii. The Review Board shall make its determinations at a public meeting held within sixty-five (65) days after the filing of a complete application for hardship or deferral, or such further time as the applicant may allow.
- iv. A written copy of the Review Board's decision to approve with standard conditions, approve with special conditions, or deny an application for or modification to an approved Hardship Compliance Plan shall be provided in writing to an Owner within twenty-one (21) Days after the vote.
- v. A pending application for a new or modified Hardship Compliance Plan shall not stay an Owner's compliance obligations under the BEUDO Ordinance or Regulations.

## **XI. Review Board**

### **A. Members of the Review Board**

- i. All individuals seeking to become a member of the Review Board must submit a formal application for consideration through a process prescribed by the City of Cambridge.
- ii. To serve on the Review Board, a person must meet the description of one or more of the following:
  1. Representatives of the Real Estate or Business sectors (2 members);
  2. Members of a Climate Advocacy Organization (2 members);
  3. Technical experts who understand the urgency of climate change (5 members).
- iii. Members of the Review Board need not reside within the City of Cambridge, but must be able to attend in person meetings in the City of Cambridge, if deemed necessary.
- iv. Review Board members may not be elected officials in the City of Cambridge or paid employees of the City
- v. Members shall not receive any monetary compensation for their service on the Review Board.

### **B. Terms and Administration**

- i. Members of the Review Board shall serve terms of up to three (3) years.
- ii. Every three years, beginning in 2026, members will elect a Chair of the Review Board who must be an appointed member of the Board.
- iii. Five members shall constitute a quorum of the Board.
- iv. In the event that a member of the Review Board is no longer able to serve prior to the end of their appointed term, the board may continue to operate and approve applications until a new member can be appointed.

### **C. Records and Meetings**

- i. The Review Board is expected to meet at least monthly, depending on case load.
- ii. All records of the Review Board shall be public unless an exemption applies under the Massachusetts public records law, G. L. c. 66, § 10.

## **XII. Enforcement [this section intentionally left blank]**

Adopted:

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Melissa Peters

Assistant City Manager for Community Development

DRAFT (redlined)