



**CALIFORNIA
ENERGY COMMISSION**



**California Energy Commission,
December 11, 2024, Business Meeting
Backup Materials for Agenda Item No: 03a
Local Ordinances for the City of Brisbane**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Resolution, attached below.
2. Executive Director Recommendation Memorandum, attached below.

For the complete record, please visit: [Local Ordinance Applications Exceeding the 2022 Energy Code Docket Number 22-BSTD-07](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-07) at

[\[https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-07\]](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-07). To

stay informed about this project and receive documents as they are filed, please subscribe to the Building Energy Efficiency Standards proceeding Topic, which can be accessed here: [California Natural Resources Agency \(govdelivery.com\)](https://public.govdelivery.com/accounts/CNRA/signup/31895) at

[\[https://public.govdelivery.com/accounts/CNRA/signup/31895\]](https://public.govdelivery.com/accounts/CNRA/signup/31895). The Topic sends out email notifications and direct links when documents are filed in the proceeding docket.

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

**RESOLUTION FINDING BUILDING ENERGY EFFICIENCY STANDARDS
CONTAINED IN THE CITY OF BRISBANE ORDINANCE NO. 691 SATISFY
STATUTORY REQUIREMENTS UNDER PUBLIC RESOURCES CODE SECTION
25402.1(h)(2)**

WHEREAS, The City of Brisbane adopted Ordinance No. 691, which establishes certain locally adopted building energy efficiency standards; and

WHEREAS, Public Resources Code section 25402(a) and (b) establishes that the California Energy Commission (CEC) shall prescribe, by regulation, statewide building energy efficiency and conservation standards; and

WHEREAS, Public Resources Code section 25402.1(h)(2) provides that nothing in Public Resources Code section 25402(a) or (b) shall prohibit the enforcement of city or county building energy efficiency standards if: (1) the city or county files the basis of its determination that the standards are cost-effective with the CEC and (2) the CEC finds that the locally adopted standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to Public Resources Code section 25402(a) and (b); and

WHEREAS, California Code of Regulations, Title 24, Part 1, section 10-106 establishes a process for local governmental agencies to submit an application to the CEC for a determination that locally adopted building energy efficiency standards meet the requirements set forth in Public Resources Code section 25402.1(h)(2); and

WHEREAS, The City of Brisbane submitted an application to the CEC that included: (1) the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 691 are cost-effective and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. 691 will require the diminution of energy consumption levels compared to the 2022 Building Energy Efficiency Standards, as required by California Code of Regulations, Title 24, Part 1, section 10-106, on July 25, 2024; and

WHEREAS, The City of Brisbane adopted a determination at a public meeting on July 18, 2024, that the locally adopted energy efficiency standards contained in Ordinance No. 691 are cost-effective; and

WHEREAS, CEC staff has analyzed whether the locally adopted energy efficiency standards contained in Ordinance No. 691 will require the diminution of energy

consumption levels compared to the 2022 Building Energy Efficiency Standards, and determined that it will do so; and

WHEREAS, California Code of Regulations, Title 24, Part 1, section 10-106(b)(4) requires that the local governmental agency's application include any findings, determinations, declarations, or reports, including any negative declaration or environmental impact report, required pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq.; and

WHEREAS, The City of Brisbane, in its application to the CEC, submitted the California Environmental Quality Act documentation required by California Code of Regulations, Title 24, Part 1, section 10-106(b)(4); and

WHEREAS, The locally adopted energy efficiency and conservation standards application filed by the City of Brisbane satisfies the requirements of California Code of Regulations, Title 24, Part 1, section 10-106; and

THEREFORE, BE IT FURTHER RESOLVED, that, pursuant to Public Resources Code section 25402.1(h)(2), the CEC finds the following: (1) The City of Brisbane has filed the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 691 are cost-effective, and (2) Ordinance No. 691 will require the diminution of energy consumption levels compared to the 2022 Building Energy Efficiency Standards; and

THEREFORE BE IT FURTHER RESOLVED, that the CEC directs the Executive Director to take all actions necessary to implement this Resolution.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the CEC held on December 11, 2024.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kristine Banaag
Secretariat

Memorandum

To: California Energy Commission

From: **Drew Bohan**
Executive Office
California Energy Commission
715 P Street
Sacramento, California 95814

Date: December 11, 2024

Subject: POSSIBLE FINDING THAT THE CITY OF BRISBANE LOCAL BUILDING ENERGY CONSERVATION DESIGN STANDARDS CONTAINED IN ORDINANCE NO. 691 SATISFY THE ELEMENTS OF PUBLIC RESOURCES CODE SECTION 25402.1(h)(2)

I. BACKGROUND

The California Energy Commission (CEC) adopts and regularly updates regulations that define a process for local governments to apply to the CEC to make certain findings regarding locally adopted energy efficiency or conservation design standards (California Code of Regulations (CCR), Title 24, Part 1, section 10-106 and section 10-110; Public Resources Code (PRC) section 25402.1(h)(2)). This process requires a local government to submit an application to the CEC. Before the local standard may be enforced, the CEC must make two findings pursuant to PRC section 25402.1(h)(2):

- 1) The proposed local standard will require the diminution of energy consumption levels compared to the 2022 Energy Code, and
- 2) The local jurisdiction has filed the basis of its cost-effectiveness determination with the CEC.

Pursuant to CCR, Title 24, Part 1, section 10-106 and section 10-110, the application must contain all of the following:

- 1) The proposed energy efficiency or conservation design standard;
- 2) The local governmental agency's energy-savings and cost-effectiveness findings, and supporting analyses;
- 3) A statement or finding by the local governmental agency that the local standard will require buildings to be designed to consume no more energy than permitted by the Energy Code; and
- 4) Any findings, determinations, declarations, or reports, including any negative declaration or environmental impact report, required pursuant to the California

Environmental Quality Act.

In reviewing the application, the CEC must find that the local standard contains all of the above and that the local governmental agency's governing body adopted its determination that the standards are cost-effective at a public meeting.

A. Summary of the Local Ordinance

The City of Brisbane Ordinance No. 691 specifies:

- HVAC Hot Water Temperature. Zones that use hot water for space heating shall be designed for a hot water supply temperature of no greater than 130°F.
- Additional electric readiness requirements for single-family residential, multifamily residential, and nonresidential buildings.
- More stringent source energy compliance margins. For nonresidential buildings the source energy compliance margin is at least 7%; for single-family buildings the margin is at least 9% with some variation based on size; for high-rise multifamily buildings the margin is at least 4%, and for low-rise multifamily buildings the margin is at least 10%.

II. STAFF EVALUATION

On September 24, 2024, staff posted the complete application, including the local ordinance and adopted cost-effectiveness analysis, on the CEC's website under Docket 22-BSTD-07 for a mandatory public review period. On November 19, 2024, staff posted an updated version of Attachment 3, which contains Ordinance No. 691's amendments and editorial changes, on the CEC's website under Docket 22-BSTD-07 for a second mandatory public review period.

Staff reviewed the application to determine whether the ordinance contains energy efficiency or conservation design standards and whether said standards will diminish energy consumption levels permitted by the 2022 Energy Code, per the requirements in PRC section 25402.1(h)(2). Staff found that the ordinance does contain one or more energy efficiency or conservation design standards, which are discussed below, that will reduce the amount of energy consumed and will not lead to increases in energy consumption inconsistent with state law¹.

The requirements in Section 15.83.030, Section 15.83.040, Section 15.83.060, Section 15.83.080, Section 15.83.090, Section 15.83.100, Section 15.83.120, Section 15.83.130 of the ordinance diminish the consumption of energy resources by the efficiency measures required in the section above, "Summary of the Local Ordinance."

Staff further confirmed that the City of Brisbane publicly adopted and filed with the CEC a finding of cost-effectiveness for the standards. More information about the anticipated energy efficiency and conservation effects of the ordinance can be found in the cost-effectiveness analysis submitted by the City of Brisbane.

¹ Staff notes that its analysis is limited to the ordinance's requirements that staff determined to be conservation design standards subject to the requirements in PRC section 25402.1(h)(2).

A. Staff Position

Staff has found that the application meets all requirements under PRC section 25402.1(h)(2), and section 10-106 of the 2022 Energy Code.

The City of Brisbane has been informed that once the CEC makes the requisite findings, its energy efficiency or conservation design standards will be enforceable. If the statewide Energy Code is subsequently revised (as it is regularly done on a three-year cycle), the standards may no longer be enforceable if the revisions create "a substantial change in the factual circumstances affecting the determination." In such a case, if the City of Brisbane wishes to enforce either these or other local energy efficiency or conservation design standards revised in response to the updated statewide Energy Code, the City of Brisbane may be required to submit a new application.

B. Oral Presentation Outline

If needed, staff will be available at the December 11, 2024, business meeting to provide a brief summary of the ordinance and to answer questions.

C. Business Meeting Participant(s)

Anushka Raut (Project Manager), Building Standards Branch

III. RECOMMENDATION OF THE EXECUTIVE DIRECTOR

Pursuant to PRC section 25402.1(h)(2) and based upon staff's review and validation of the application submitted by the City of Brisbane, I recommend that the CEC confirm the following findings regarding the City of Brisbane's locally adopted energy standards:

- (1) The City of Brisbane's locally adopted energy standards will result in the diminution of energy consumption levels compared to the 2022 Energy Code; and
- (2) The City of Brisbane has filed the basis of its cost-effectiveness determination with the CEC.



Drew Bohan
Executive Director
California Energy Commission

11/25/2024
Date