

Memorandum

To: Drew Bohan
Executive Director

Date: December 3, 2019

Telephone: (916) 654-4516

From: Michael J. Sokol, Deputy Director
Efficiency Division
California Energy Commission
1516 Ninth Street
Sacramento CA 95814-5512

Subject: POSSIBLE APPROVAL OF THE CITY OF SAN JOSE'S LOCAL BUILDING
ENERGY STANDARDS: ORDINANCE NO. 30311

Background

California Public Resources Code (PRC §25402.1(h)(2)) requires locally adopted building energy standards to result in the diminution of energy consumption levels compared to the requirements in the California Building Energy Efficiency Standards, or Energy Code (California Code of Regulations (CCR) Title 24, Part 6). The California Energy Commission (CEC) adopts and regularly updates regulations that define a process for local governments to apply for a determination that a locally adopted energy standard meets the requirements of state law (CCR, Title 24, Part 1, §10-106 and §10-110). This process requires a local government to submit an application to the CEC, which the CEC must approve before the local energy standards may be enforced. The application must contain all of the following:

- 1) The proposed energy standards.
- 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 energy standards will require buildings to be designed to consume no more energy than permitted by the Energy Code.
- 4) Any findings, determinations, declarations or reports, including any negative declaration or environmental impact report, required pursuant to the California Environmental Quality.

In reviewing this application, the CEC must find that the local standards will require the reduction of energy consumption levels permitted by the Energy Code, and that the local governmental agency's governing body, at a public meeting, adopted its determination that the standards are cost-effective.

Summary of the Local Ordinance

In summary, the City of San Jose's Ordinance No. 30311 specifies:

- For both new residential and nonresidential construction:
 - Requires more stringent energy efficiency measures for all buildings complying under the prescriptive path.
 - Defines "mixed-fuel buildings" as buildings that use gas for any appliance or buildings that contain gas plumbing.
 - Requires mixed-fuel buildings to meet more stringent performance path energy efficiency standards
 - Requires rewiring for possible future electric appliances in mixed-fuel buildings
- Extends the solar ready requirements in the energy code to:
 - Hotel/motel and high-rise multifamily buildings over ten stories
 - Nonresidential buildings over three stories
- Requires additional electric vehicle supply equipment (EVSE) infrastructure.

Staff Analysis

Staff posted the complete application, including the local ordinance and adopted cost effectiveness analysis, on the CEC's website under Docket 19-BSTD-06 for a mandatory 60-day public review on October 7, 2019.

Staff reviewed the application to determine whether the standards will require the reduction of energy consumption levels permitted by the 2019 Energy Code, per the requirements in PRC §25402.1(h)(2). Staff found that the standards will reduce the amount of energy consumed, and will not lead to increases in energy consumption inconsistent with state law. Staff further confirmed that the City of San Jose publically adopted a finding of cost effectiveness for the standard.

Project Manager

Gabriel D. Taylor, Building Standards Office

Staff Position

Staff has found that the application meets all requirements under PRC §25402.1(h)(2), and §10-106 of the Energy Code. Staff believes that the City of San Jose should be commended for seeking to achieve the energy savings that result from this local energy ordinance.

The City of San Jose has been informed that the approved ordinance will be enforceable during the time that the 2019 Energy Code is effective. If the statewide Energy Code is subsequently revised or amended (as it is regularly on a three-year cycle), the ordinances will 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 wishes to enforce either these local energy standards or other local energy standards revised in response to the updated statewide Energy Code, the city must submit a new application.

Oral Presentation Outline

Staff will be available at the December 11, 2019, business meeting to provide a brief summary if requested and to answer questions.

Business Meeting Participants

Gabriel D. Taylor, Building Standards Office
Danuta Drozdowicz, Building Standards Office

Commission Action Requested

Approval of the City of San Jose's locally adopted energy standards that result in a diminution of energy compared to the 2019 Energy Code, and the associated resolution.

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION APPROVING THE CITY OF SAN JOSÉ'S LOCALLY ADOPTED
BUILDING ENERGY EFFICIENCY STANDARDS, ORDINANCE NO. 30311**

RESOLUTION: California Energy Commission (CEC) approval of the City of San José's locally adopted building energy efficiency standards, Ordinance No. 30311, to require greater energy efficiency than the 2019 Building Energy Efficiency Standards (Energy Code), provided in California Code of Regulations, Title 24, Part 6, and associated administrative regulations in Part 1, Chapter 10.

WHEREAS, the City of San José adopted Ordinance No. 30311 to establish locally adopted building energy efficiency standards; and

WHEREAS, California Code of Regulations, Title 24, Part 1, Sections 10-106 and 10-110, establish a process for local governments to apply to the CEC for a determination that a locally adopted building energy efficiency standard meets the requirements of Public Resources Code Section 25402.1(h)(2); and

WHEREAS, the City of San José submitted an application to the CEC for Ordinance No. 30311 that met all of the documentation requirements pursuant to Public Resources Code Section 25402.1(h)(2), and California Code of Regulations, Title 24, Section 10-106(b), on October 4, 2019; and

WHEREAS, the City of San José, in its application to the CEC, indicated that it complied with the California Environmental Quality Act (CEQA), codified in California Public Resources Code Section 21000 et seq.; and

WHEREAS, CEC staff has analyzed whether the ordinance will require the diminution of energy consumption levels permitted by the 2019 Energy Code, as required by Public Resources Code Section 25402.1(h)(2), and determined that it will do so; and

WHEREAS, the CEC has considered the City of San José's application, the Executive Director's recommendation, and all comments submitted on the application.

THEREFORE BE IT RESOLVED, the CEC finds that the City of San José's ordinance will require the diminution of energy consumption levels permitted by the 2019 Energy Code; and

THEREFORE BE IT FURTHER RESOLVED, the CEC applauds the City of San José for seeking to achieve additional energy demand reductions, energy savings, and other benefits exceeding those of the 2019 Energy Code; and

THEREFORE BE IT FURTHER RESOLVED, that on December 11, 2019, the CEC approves the City of San José's application to enforce its locally adopted energy 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 Commission 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, 2019.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat