

## 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 COUNTY OF MARIN'S LOCAL BUILDING  
ENERGY STANDARDS: ORDINANCE NO. 3712

### **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 County of Marin's Ordinance No. 3712:

- Differentiates between 'limited mixed fuel', where natural gas or propane is used for cooking and/or fireplaces only, 'mixed fuel' where natural gas or propane is used for heating and/or hot water heating, and 'all-electric' where there are no natural gas or propane appliances, meters and infrastructure.
- Requires that all-electric one and two family residential, multifamily, and nonresidential new buildings meet the *2019 Building Energy Efficiency Standards* (Title 24, part 6).
- Requires that mixed fuel and limited mixed fuel new buildings be prewired for future induction cooking, and in addition:
  - Limited mixed fuel one and two family residential and multifamily new building projects up to three stories meet an Energy Design Rating (EDR) compliance margin of three on Title 24 energy reports.
  - Limited mixed fuel new nonresidential and multifamily building projects over four stories meet an efficiency EDR compliance margin of five percent on Title 24 energy reports.
  - Mixed fuel new one and two family residential projects meet both an efficiency EDR compliance margin of three and a total EDR compliance margin of 10 on Title 24 energy reports.
  - Mixed fuel new multifamily projects up to three stories meet an efficiency EDR compliance margin of 0.5 and a total EDR compliance margin of 10 on Title 24 energy reports.
  - Mixed fuel new nonresidential and multifamily projects over three stories meet a compliance margin of 10 percent on title 24 energy reports.
- Requires that all additions and alterations to residential, multifamily, and nonresidential buildings meet the standards outlined for the project in the *2019 Building Energy Efficiency Standards*.

The ordinance also specifies requirements for electric vehicle charging readiness and CalGreen compliance. These measures are not before the CEC for approval, however for completeness, they are:

- For each different type of project, comply with the relevant CalGreen requirements for electric vehicle charging.
- For each different type of project, comply with the relevant green building requirements in either CalGreen Tier 1 or CalGreen Mandatory.

## **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 9, 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 County of Marin 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 Public Resources Code §25402.1(h)(2), and §10-106 of the Energy Code. Staff believes that the County of Marin should be commended for seeking to achieve the energy savings that result from this local energy ordinance.

The County of Marin 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 county wishes to enforce either these local energy standards or other local energy standards revised in response to the updated statewide Energy Code, the county 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 County of Marin'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 COUNTY OF MARIN'S LOCALLY ADOPTED  
BUILDING ENERGY EFFICIENCY STANDARDS, ORDINANCE NO. 3712

**RESOLUTION:** California Energy Commission (CEC) approval of the County of Marin's locally adopted building energy efficiency standards, Ordinance No. 3712, 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 County of Marin adopted Ordinance No. 3712 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 County of Marin submitted an application to the CEC for Ordinance No. 3712 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 9, 2019; and

**WHEREAS**, the County of Marin, 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 County of Marin's application, the Executive Director's recommendation, and all comments submitted on the application.

**THEREFORE BE IT RESOLVED**, the CEC finds that the County of Marin'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 County of Marin 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 County of Marin'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:

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Cody Goldthrite  
Secretariat