

Memorandum

To: Drew Bohan
Executive Director

Date: February 12, 2020

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 BERKELEY LOCAL BUILDING
ENERGY STANDARDS: ORDINANCE NO. 7,678-N.S.

Background

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; PRC § 25402.1(h)(2)). 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 Act

In reviewing the application, the CEC must find that the local standards contain all of the above 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 Berkeley Ordinance No. 7,678-N.S. specifies:

- New mixed-fuel low-rise residential buildings shall exceed the total Energy Design Rating (EDR) by 10 points and be pre-wired for electric appliances

- New mixed-fuel high-rise residential, hotel/motel and nonresidential buildings shall exceed the calculated energy budget by 10%, be pre-wired for electric appliances, and install rooftop solar PV
- Energy related provisions of the ordinance not subject to Commission approval are compliance with the Berkeley Green Code requirements for electric vehicle supply equipment (EVSE) and low carbon concrete

Staff Analysis

On December 19, 2019 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 public review period.

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 Berkeley publicly adopted a finding of cost-effectiveness for the standard.

Project Manager

Danuta Drozdowicz, 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 Berkeley should be commended for seeking to achieve the energy savings that result from this local energy ordinance.

The City of Berkeley has been informed that their ordinance, once approved by the CEC, will be enforceable during the time that the 2019 Energy Code is effective. If the statewide Energy Code is subsequently revised (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 of Berkeley wishes to enforce either these local energy standards or other local energy standards revised in response to the updated statewide Energy Code, the City of Berkeley must submit a new application.

Oral Presentation Outline

Staff will be available at the February 20, 2020, Business Meeting to provide a brief summary of the ordinance and to answer questions.

Business Meeting Participants

Peter Strait, Building Standards Office
Danuta Drozdowicz, Building Standards Office

Commission Action Requested

Approval of the City of Berkeley locally adopted energy standards.

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION APPROVING THE CITY OF BERKELEY'S LOCALLY ADOPTED
BUILDING ENERGY EFFICIENCY STANDARDS, ORDINANCE NO. 7,678-N.S.**

RESOLUTION: California Energy Commission (CEC) approval of the City of Berkeley's locally adopted building energy efficiency standards, Ordinance No. 7,678-N.S. 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 Berkeley adopted Ordinance No. 7,678-N.S. 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 Berkeley submitted an application to the CEC for Ordinance No. 7,678-N.S. 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 December 6, 2019; and

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

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

THEREFORE BE IT FURTHER RESOLVED, CEC applauds the City of Berkeley 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 February 20, 2020, CEC approves the City of Berkeley's application to enforce its locally adopted energy standards; and

THEREFORE BE IT FURTHER RESOLVED, that 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 February 20, 2020.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat