

# 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 MILPITAS LOCAL BUILDING ENERGY STANDARDS: ORDINANCE NO. 65-148.

## 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 Milpitas Ordinance No. 65-148 specifies:

- For all types of buildings, distinguishes between "all-electric"; 'electrically heated' with gas used only for cooking and clothes drying; and 'mixed fuel' with gas used for heating and water heating.

- New single family and duplex buildings are required to have a 2-point Energy Design Rating (EDR) reduction if ‘electrically heated’ and a 10-point EDR reduction if ‘mixed-fuel’.
- Low-rise multi-family buildings are required to have a 1-point EDR reduction if ‘electrically heated’ and an 11-point EDR reduction if ‘mixed-fuel’.
- Office and mercantile ‘mixed-fuel’ buildings are required to be 14% more efficient than Energy Code, all other nonresidential buildings 6%.
- Pre-wiring for electric appliances is required where gas appliances are installed.
- Non-residential buildings under 10,000 SF of gross floor area are required to install a 3 kW PV system; for buildings over 10,000 SF, a 5 kW PV system is required. Solar hot water systems may be substituted for PV.
- Energy related provision of the code not subject to Commission approval is the requirement for electric vehicle supply equipment (EVSE).

### **Staff Analysis**

On January 31, 2020, 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 Milpitas 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 Milpitas should be commended for seeking to achieve the energy savings that result from this local energy ordinance.

The City of Milpitas 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 Milpitas 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 Milpitas 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 Milpitas locally adopted energy standards.

STATE OF CALIFORNIA  
STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION APPROVING THE CITY OF MILPITAS'S LOCALLY ADOPTED  
BUILDING ENERGY EFFICIENCY STANDARDS, ORDINANCE NO. 65-148

**RESOLUTION:** California Energy Commission (CEC) approval of the City of Milpitas's locally adopted building energy efficiency standards, Ordinance No. 65-148 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 Milpitas adopted Ordinance No. 65-148 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 Milpitas submitted an application to the CEC for Ordinance No. 65-148 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 11, 2019; and

**WHEREAS,** The City of Milpitas 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 Milpitas's application, the Executive Director's recommendation, and all comments submitted on the application.

**THEREFORE BE IT RESOLVED,** CEC finds that the City of Milpitas'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 Milpitas 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 Milpitas'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:

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Cody Goldthrite  
Secretariat