

Memorandum

To: Drew Bohan
Executive Director

Date: March 16, 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 CUPERTINO LOCAL BUILDING ENERGY STANDARDS: ORDINANCE NO. 19-2193

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 Cupertino Ordinance No.19-2193 specifies:

- With the exception of additions, tenant improvements, and nonresidential factory, hazardous material, and laboratory occupancies, all new buildings are required to be all-electric.

- Essential facilities, commercial kitchens, and projects that can demonstrate that there is no possible electric compliance pathway may apply for an exemption.
- Pre-wiring for electric equipment and appliances is required where gas equipment and appliances are installed.

Staff Analysis

On February 21, 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 Cupertino 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 Cupertino should be commended for seeking to achieve the energy savings that result from this local energy ordinance.

The City of Cupertino 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 Cupertino 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 Cupertino must submit a new application.

Oral Presentation Outline

Staff will be available at the April 8, 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 Cupertino locally adopted energy standards.

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION APPROVING THE CITY OF CUPERTINO'S LOCALLY ADOPTED
BUILDING ENERGY EFFICIENCY STANDARDS, ORDINANCE NO. 19-2193

RESOLUTION: California Energy Commission (CEC) approval of the City of Cupertino's locally adopted building energy efficiency standards, Ordinance No. 19-2193, 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 Cupertino adopted Ordinance No. 19-2193 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 Cupertino submitted an application to the CEC for Ordinance No. 19-2193 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 February 13, 2020; and

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

THEREFORE BE IT RESOLVED, CEC finds that the City of Cupertino'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 Cupertino 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 April 8, 2020, CEC approves the City of Cupertino'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 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 April 8, 2019.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat