

## Memorandum

**To:** Drew Bohan  
Executive Director

**Date:** December 23, 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 MILLBRAE LOCAL BUILDING  
ENERGY STANDARDS: ORDINANCE NO. 783

### **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 (California Code of Regulations, Title 24, Part 1, § 10-106 and § 10-110; Public Resources Code (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 Millbrae Ordinance No. 783 specifies:

- New single family, low-rise residential and accessory dwelling units are all-electric with natural gas permitted for cooking appliances and fireplaces.

- High-rise residential buildings are all-electric.
- Nonresidential buildings are all-electric with exceptions for applications such as commercial kitchens and laboratories.
- With some exceptions, photovoltaic systems on all new buildings.
- Prewiring for electric appliances where gas appliances are installed.

### **Staff Analysis**

On December 11, 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 Millbrae 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 Millbrae should be commended for seeking to achieve the energy savings that result from this local energy ordinance.

The City of Millbrae has been informed that its 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 Millbrae 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 Millbrae must submit a new application.

### **Oral Presentation Outline**

Staff will be available at the January 13, 2021 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 Millbrae locally adopted energy standards.

**STATE OF CALIFORNIA**

**STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION APPROVING THE CITY OF MILLBRAE'S LOCALLY ADOPTED  
BUILDING ENERGY EFFICIENCY STANDARDS, ORDINANCE NO. 783**

**RESOLUTION:** California Energy Commission (CEC) approval of the City of Millbrae's locally adopted building energy efficiency standards, Ordinance No. 783, 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 Millbrae adopted Ordinance No. 783 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 Millbrae submitted an application to the CEC for Ordinance No. 783 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 November 24, 2020; and

**WHEREAS**, the City of Millbrae, in its application to the CEC, indicated that it complied with the California Environmental Quality Act, 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 Millbrae'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 Millbrae'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 Millbrae 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 January 13, 2021, the CEC approves the City of Millbrae'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 January 25, 2021.

AYE:

NAY:

ABSENT:

ABSTAIN:

---

Cody Goldthrite  
Secretariat