

Memorandum

To: Drew Bohan
Executive Director

Date: April 19, 2021

Telephone: (916) 654-4516

From: Michael J. Sokol, Deputy Director
Efficiency Division
California Energy Commission
1516 Ninth Street
Sacramento CA 95814-5512

Subject: POSSIBLE FINDING THAT THE CITY OF ALBANY LOCAL BUILDING ENERGY EFFICIENCY STANDARDS CONTAINED IN: RESOLUTION NO. 2020-127 SATISFY THE ELEMENTS of PRC SECTION 25402.1(h)(2)

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 efficiency standard meets the requirements of state law (California Code of Regulations, Title 24, Part 1, § 10-106 and § 10-110; Public Resources Code § 25402.1(h)(2)). This process requires a local government to submit an application to the CEC. Before the local energy efficiency standards may be enforced, the CEC must make two findings pursuant to PRC Section 25402.1(h)(2):

- 1) The proposed local energy standards will require the diminution of energy consumption levels compared to the 2019 standards, and
- 2) The local jurisdiction has filed the basis of its cost-effectiveness determination with the CEC.

Pursuant to California Code of Regulations, Title 24, Part 1, § 10-106 and § 10-110, 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; and
- 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

The City of Albany Ordinance No. 2020-127 specifies:

- Newly constructed buildings are required to meet or exceed Energy Design Rating (EDR) or Compliance Margins as follows:
 - Single family mixed fuel - 10 EDR
 - Single family all-electric - 4.7 EDR
 - Multifamily mixed fuel - 10.3 EDR
 - Multifamily all-electric - 0 EDR
 - Office building mixed fuel – 20% Margin
 - Office building all-electric – 10% Margin
 - Retail building mixed fuel – 16% Margin
 - Retail building all-electric – 16% Margin

- Accessory Dwelling Units (ADUs) are excluded from these requirements.

Staff Analysis

On March 5, 2021, 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 Albany publicly adopted and filed 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.

The City of Albany has been informed that, once the CEC makes the requisite findings, its ordinance 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 local 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 Albany 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 Albany must submit a new application.

Oral Presentation Outline

Staff will be available at the May 12, 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

Adoption of findings regarding the City of Albany locally adopted energy standards.

Staff recommends that the CEC find that (1) the City of Albany locally adopted energy standards will require the diminution of energy consumption levels compared to the 2019 standards, and (2) the City of Albany has filed the basis of its cost-effectiveness determination with the CEC.

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

RESOLUTION FINDING BUILDING ENERGY EFFICIENCY STANDARDS
CONTAINED IN CITY OF ALBANY'S ORDINANCE NO. 2020-127 SATISFY
STATUTORY REQUIREMENTS UNDER PUBLIC RESOURCES CODE SECTION
25402.1(h)(2)

WHEREAS, The City of Albany adopted Ordinance No. 2020-127, which establishes certain locally adopted building energy efficiency standards; and

WHEREAS, Public Resources Code Sections 25402(a) and (b) establish that the California Energy Commission (CEC) shall prescribe, by regulation, statewide building energy efficiency standards; and

WHEREAS, Public Resources Code Section 25402.1(h)(2) provides that nothing in Public Resources Code Sections 25402(a) or (b) shall prohibit the enforcement of city or county building energy efficiency standards if: (1) the city or county files the basis of its determination that the standards are cost effective with the CEC and (2) the CEC finds that the locally adopted standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to Public Resources Code Sections 25402(a) and (b); and

WHEREAS, California Code of Regulations, Title 24, Part 1, Sections 10-106 establishes a process for local governmental agencies to submit an application to the CEC for a determination that locally adopted building energy efficiency standards meet the requirements set forth in Public Resources Code Section 25402.1(h)(2); and

WHEREAS, The City of Albany submitted an application to the CEC that included (1) the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 2020-127 are cost effective and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. 2020-127 will require the diminution of energy consumption levels compared to the 2019 Building Energy Efficiency Standards, as required by California Code of Regulations, Title 24, Section 10-106, on March 2, 2021; and

WHEREAS, The CEC has analyzed whether the locally adopted energy efficiency standards contained in Ordinance No. 2020-127 will require the diminution of energy consumption levels compared to the 2019 Building Energy Efficiency Standards, and determined that it will do so; and

WHEREAS, California Code of Regulations, Title 24, Part 1, Sections 10-106(b) require that the local governmental agency's application include any findings, determinations, declarations or reports, including any negative declaration or

environmental impact report, required pursuant to the California Environmental Quality Act, Pub. Resources Code Section 21000 et seq; and

WHEREAS, The City of Albany, in its application to the CEC, submitted the CEQA documentation required by California Code of Regulations, Title 24, Part 1, Section 10-106(b)(4); and

THEREFORE BE IT RESOLVED, CEC finds the following: (1) the City of Albany has filed the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 2020-127 are cost effective, and (2) Ordinance No. 2020-127 will require the diminution of energy consumption levels compared to the 2019 Building Energy Efficiency Standards; and

THEREFORE BE IT FURTHER RESOLVED, that the locally adopted energy efficiency standards contained in City of Albany's Ordinance No. 2020-127 satisfy the requirements of Public Resources Code Section 25402.1(h)(2) and Title 24, California Code of Regulations, Sections 10-106; 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 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 May 12, 2021.

AYE:
NAY:
ABSENT:
ABSTAIN:

Secretariat