

Memorandum

To: Drew Bohan
Executive Director

Date: June 24, 2022

Telephone: (916) 698-6018

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

Subject: POSSIBLE FINDING THAT THE CITY OF EMERYVILLE LOCAL BUILDING ENERGY CONSERVATION DESIGN STANDARDS CONTAINED IN: ORDINANCE NO. 21-006 SATISFY THE ELEMENTS of PUBLIC RESOURCES CODE 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 or conservation design standard meets the requirements of state law (California Code of Regulations (CCR), Title 24, Part 1, section 10-106 and section 10-110; Public Resources Code (PRC) section 25402.1(h)(2)). This process requires a local government to submit an application to the CEC. Before the local standard may be enforced, the CEC must make two findings pursuant to PRC section 25402.1(h)(2):

- 1) The proposed local standard 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 CCR, Title 24, Part 1, section 10-106 and section 10-110, the application must contain all of the following:

- 1) The proposed energy efficiency or conservation design standard(s);
- 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 standard 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 standard contains 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 Emeryville Ordinance No. 21-006 specifies:

At section 100.0(i)(2), that newly constructed hotel/motel occupancies and high-rise multifamily buildings install photovoltaic systems.

Staff Analysis

On June 1, 2022, 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 ordinance contains energy efficiency or conservation design standards and whether said standards will diminish energy consumption levels permitted by the 2019 Energy Code, per the requirements in PRC section 25402.1(h)(2). Staff found that the ordinance does contain one or more energy efficiency or conservation design standards, which are discussed below, that will reduce the amount of energy consumed and will not lead to increases in energy consumption inconsistent with state law.¹

The requirements in section 100.0(i)2 of the ordinance, which requires that newly constructed hotel/motel occupancies and high-rise multifamily buildings install photovoltaic systems, would diminish the consumption of depletable energy resources by enabling loads to be served by renewable resources.

Staff further confirmed that the City of Emeryville publicly adopted and filed a finding of cost-effectiveness for the standard. More information about the anticipated energy efficiency and conservation effects of the ordinance can be found in the cost-effectiveness analysis submitted by the City of Emeryville.

Project Manager

Danuta Drozdowicz, Building Standards Office

¹ Staff notes that its analysis is limited to the ordinance's requirements that staff determined to be conservation design standards subject to the requirements in PRC section 25402.1(h)(2).

Staff Position

Staff has found that the application meets all requirements under PRC section 25402.1(h)(2), and section 10-106 of the Energy Code.

The City of Emeryville has been informed that, once the CEC makes the requisite findings, its energy efficiency or conservation design standards will be enforceable during the time that the 2019 Energy Code is effective. The 2022 Energy Code has been adopted and will be effective on January 1, 2023, at which time the standards 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 Emeryville wishes to enforce either these or other local energy efficiency or conservation design standards revised in response to the 2022 Energy Code, the City of Emeryville must submit a new application.

Oral Presentation Outline

Staff will be available at the July 13, 2022, business meeting to provide a brief summary of the ordinance and to answer questions.

Business Meeting Participants

Danuta Drozdowicz, Building Standards Office

Commission Action Requested

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

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

RESOLUTION NO: 22-0713-15c

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

RESOLUTION FINDING BUILDING ENERGY EFFICIENCY STANDARDS CONTAINED IN CITY OF EMERYVILLE'S ORDINANCE NO. 21-006 SATISFY STATUTORY REQUIREMENTS UNDER PUBLIC RESOURCES CODE SECTION 25402.1(h)(2)

WHEREAS, the City of Emeryville adopted Ordinance No. 21-006, 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, section 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 Emeryville 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. 21-006 are cost-effective, and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. 21-006 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 November 16, 2021; and

WHEREAS, the CEC has analyzed whether the locally adopted energy efficiency standards contained in Ordinance No. 21-006 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, section 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, Public Resources Code section 21000 et seq; and

WHEREAS, the City of Emeryville, in its application to the CEC, submitted the California Environmental Quality Act documentation required by California Code of Regulations, Title 24, Part 1, section 10-106(b)(4); and

THEREFORE, BE IT RESOLVED, that the CEC finds that the locally adopted energy efficiency or conservation standards application filed by the City of Emeryville satisfies the requirements of Title 24, California Code of Regulations, section 10-106; and

THEREFORE, BE IT FURTHER RESOLVED, CEC finds the following: (1) the City of Emeryville has filed the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 21-006 are cost-effective, and (2) Ordinance No. 21-006 will require the diminution of energy consumption levels compared to the 2019 Building Energy Efficiency Standards; and

THEREFORE, BE IT FURTHER RESOLVED, that the CEC directs the executive director or their designee 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 July 13, 2022.

AYE:
NAY:
ABSENT:
ABSTAIN:

Secretariat