

Memorandum

To: Drew Bohan
Executive Director

Date: July 20, 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 COUNTY OF SANTA CLARA LOCAL BUILDING ENERGY CONSERVATION DESIGN STANDARDS CONTAINED IN: ORDINANCE NO. NS-1100.135 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;
- 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 County of Santa Clara Ordinance No. NS-1100.135 Section C3-63 Subchapter 5 Section 140.0 specifies:

- Photovoltaic systems for new Nonresidential, High-rise residential and Hotel/Motel buildings

Staff Analysis

On June 27, 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 law¹.

The requirements in Section C3-63 Subchapter 5 Section 140.0 of the ordinance diminish the consumption of depletable energy resources by enabling loads to be served by renewable resources.

Staff further confirmed that the County of Santa Clara 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 County of Santa Clara.

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 County of Santa Clara 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. If the statewide Energy Code is subsequently revised (as it is regularly on a three-year cycle), 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 County of Santa Clara wishes to enforce either these or other local energy efficiency or conservation design standards revised in response to the updated statewide Energy Code, the County of Santa Clara must submit a new application.

Oral Presentation Outline

Staff will be available at the August 10, 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 County of Santa Clara locally adopted energy standards.

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

RESOLUTION NO: 22-0810-8b

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

RESOLUTION FINDING BUILDING ENERGY EFFICIENCY STANDARDS CONTAINED IN
COUNTY OF SANTA CLARA'S ORDINANCE NO. NS-1100.135 SATISFY STATUTORY
REQUIREMENTS UNDER PUBLIC RESOURCES CODE SECTION 25402.1(h)(2)

WHEREAS, The County of Santa Clara adopted Ordinance No. NS-1100.135, 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 County of Santa Clara 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. NS-1100.135 are cost-effective and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. NS-1100.135 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 December 20, 2021; and

WHEREAS, The CEC has analyzed whether the locally adopted energy efficiency standards contained in Ordinance No. NS-1100.135 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, Public Resources Code Section 21000 et seq; and

WHEREAS, The County of Santa Clara, 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, CEC finds the following: (1) the County of Santa Clara has filed the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. NS-1100.135 are cost-effective, and (2) Ordinance No. NS-1100.135 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 County of Santa Clara's Ordinance No. NS-1100.135 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 August 10, 2022.

AYE:
NAY:
ABSENT:
ABSTAIN:

Secretariat