



**California Energy Commission  
April 12, 2023 Business Meeting  
Backup Materials for Agenda Item No 23-0412-03hii:**

**Local Ordinance for the city of Menlo Park. Proposed resolutions regarding applications submitted by local jurisdictions for findings pursuant to PRC section 25402.1(h)(2).**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Resolution, attached below.
2. Recommendation, attached below.

For the complete record, please visit:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-07>

To stay informed about this project and receive documents as they are filed, please subscribe to the proceeding Topic, which can be accessed here:

<https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>. The Topic sends out email notifications and direct links when documents are filed in the proceeding docket.

STATE OF CALIFORNIA  
STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION FINDING BUILDING ENERGY EFFICIENCY STANDARDS  
CONTAINED IN CITY OF MENLO PARK'S ORDINANCE NO. 1093 SATISFY  
STATUTORY REQUIREMENTS UNDER PUBLIC RESOURCES CODE SECTION  
25402.1(h)(2):

**WHEREAS**, The City of Menlo Park adopted Ordinance No. 1093, which establishes certain locally adopted building energy efficiency standards; and

**WHEREAS**, Public Resources Code section 25402(a) and (b) establishes 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 section 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 section 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 Menlo Park submitted an application to the CEC on January 5, 2023, that included (1) the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 1093 are cost-effective and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. 1093 will require the diminution of energy consumption levels compared to the 2022 Building Energy Efficiency Standards, as required by California Code of Regulations, Title 24, section 10-106; and

**WHEREAS**, The CEC has analyzed whether the locally adopted energy efficiency standards contained in Ordinance No. 1093 will require the diminution of energy consumption levels compared to the 2022 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) requires 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 Menlo Park, 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 the locally adopted energy efficiency and conservations standards application filed by the City of Menlo Park satisfy the requirements of Title 24, California Code of Regulations, section 10-106; and

**THEREFORE, BE IT FURTHER RESOLVED**, that, pursuant to Public Resources Code section 25402.1(h)(2), the CEC finds the following: (1) the City of Menlo Park has filed the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 1093 are cost-effective, and (2) Ordinance No. 1093 will require the diminution of energy consumption levels compared to the 2022 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 April 12, 2023.

AYE:  
NAY:  
ABSENT:  
ABSTAIN:

Dated:

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Liza Lopez  
Secretariat

# Memorandum

**To:** Drew Bohan  
Executive Director

**Date:** March 27, 2023

**Telephone:** (916) 698-6018

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

**Subject:** POSSIBLE FINDING THAT THE CITY OF MENLO PARK LOCAL BUILDING ENERGY CONSERVATION DESIGN STANDARDS CONTAINED IN: ORDINANCE NO. 1093 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 2022 Building Energy Efficiency Standards (Energy Code), 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 City of Menlo Park Ordinance No. 1093 specifies:

- New hotel/motel, high-rise multifamily, and low-rise nonresidential buildings of less than 10,000 ft<sup>2</sup> install a 3 kilowatt solar photovoltaic (PV) system, and buildings over 10,000 ft<sup>2</sup> install a 5 kilowatt PV system.

### **Staff Analysis**

On January 23, 2023, staff posted the complete application, including the local ordinance and adopted cost-effectiveness analysis, on the CEC's website under Docket 22-BSTD-07 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 2022 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<sup>1</sup>.

The requirements in Section 110.10 of the local ordinance diminish the consumption of depletable energy resources by enabling loads to be served by renewable resources as specified in the above section: **Summary of the Local Ordinance.**

Staff further confirmed that the City of Menlo Park 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 Menlo Park.

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<sup>1</sup> 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).

## **Project Manager**

Danuta Drozdowicz, Building Standards Branch

## **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 Menlo Park has been informed that, once the CEC makes the requisite findings, its energy efficiency or conservation design standards will be enforceable. 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 City of Menlo Park wishes to enforce either these or other local energy efficiency or conservation design standards revised in response to the updated statewide Energy Code, the City of Menlo Park must submit a new application.

## **Oral Presentation Outline**

Staff will be available at the April 12, 2023, business meeting to provide a brief summary of the ordinance and to answer questions.

## **Business Meeting Participants**

Danuta Drozdowicz, Building Standards Branch

## **Commission Action Requested**

Adoption of findings regarding the City of Menlo Park locally adopted energy standards.

Staff recommends that the CEC find that: (1) the City of Menlo Park locally adopted energy standards will require the diminution of energy consumption levels compared to the 2022 Energy Code, and (2) the City of Menlo Park has filed the basis of its cost-effectiveness determination with the CEC.