



**CALIFORNIA
ENERGY COMMISSION**



**California Energy Commission,
October 03, 2024 Business Meeting
Backup Materials for Agenda Item No: ____
Local Ordinances for the City of San Jose and Town of Corte Madera**

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

1. Proposed Resolution, attached below.
2. Executive Director Recommendation Memorandum, attached below.

For the complete record, please visit: [Local Ordinance Applications Exceeding the 2022 Energy Code Docket Number 22-BSTD-07](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-07) at
[<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 Building Energy Efficiency Standards proceeding Topic, which can be accessed here: [California Natural Resources Agency \(govdelivery.com\)](https://public.govdelivery.com/accounts/CNRA/signup/31895) at
[<https://public.govdelivery.com/accounts/CNRA/signup/31895>]. 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 THE CITY OF SAN JOSE ORDINANCE NO. 31081 SATISFY
STATUTORY REQUIREMENTS UNDER PUBLIC RESOURCES CODE SECTION
25402.1(h)(2)**

WHEREAS, the City of San Jose adopted Ordinance No. 31081, 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 and conservation 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 San Jose 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. 31081 are cost-effective and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. 31081 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, Part 1, section 10-106, on July 03, 2024; and

WHEREAS, the City of San Jose adopted a determination at a public meeting on June 18, 2024, that the locally adopted energy efficiency standards contained in Ordinance No. 31081 are cost-effective; and

WHEREAS, CEC staff has analyzed whether the locally adopted energy efficiency standards contained in Ordinance No. 31081 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)(4) 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 San Jose, 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

WHEREAS, The locally adopted energy efficiency and conservation standards application filed by the City of San Jose satisfies the requirements of Title 24, California Code of Regulations, Part 1, 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 San Jose has filed the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 31081 are cost-effective, and (2) Ordinance No. 31081 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 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 October 03, 2024.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kristine Banaag
Secretariat

Docket Memorandum

To: California Energy Commission

From: **Drew Bohan**
Executive Director
715 P Street
Sacramento, California 95814

Date: October 3, 2024

Subject: POSSIBLE FINDING THAT THE CITY OF SAN JOSE LOCAL BUILDING ENERGY CONSERVATION DESIGN STANDARDS CONTAINED IN ORDINANCE NO. 31081 SATISFY THE ELEMENTS OF PUBLIC RESOURCES CODE SECTION 25402.1(h)(2)

I. BACKGROUND

The California Energy Commission (CEC) adopts and regularly updates regulations that define a process for local governments to apply to the CEC to make certain findings regarding locally adopted energy efficiency or conservation design standard (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 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 adopted its determination that the standards are cost-effective at a public meeting.

A. Summary of the Local Ordinance

The City of San Jose Ordinance No. 31081 specifies:

- Additional electric readiness requirements, and increases the source energy compliance margin to 8 for newly constructed single-family residential buildings. This margin is reduced to 7 when using a Certified Energy Analyst. And buildings with a conditioned floor area of 1,200 square feet or less are required to achieve a minimum compliance margin of 2.5 relative to the standard design.

II. STAFF EVALUATION

On August 27, 2024 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 law¹.

The requirements in Section 24.12.600 of the ordinance diminish the consumption of energy resources by the efficiency measures required in the section above, "Summary of the Local Ordinance."

Staff further confirmed that the City of San Jose publicly adopted and filed with the CEC a finding of cost-effectiveness for the standards. 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 San Jose.

A. Staff Position

Staff has found that the application meets all requirements under PRC section 25402.1(h)(2), and section 10-106 of the 2022 Energy Code.

The City of San Jose 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 done on a three-year cycle), the standards may 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 San Jose 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 San Jose may be required to submit a new application.

B. Oral Presentation Outline

If needed, staff will be available at the October 03, 2024, business meeting to provide a brief summary of the ordinance and to answer questions.

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).

C. Business Meeting Participant(s)

Anushka Raut (Project Manager), Building Standards Branch

III. RECOMMENDATION OF THE EXECUTIVE DIRECTOR

Pursuant to PRC section 25402.1(h)(2) and based upon staff's review and validation of the application submitted by the City of San Jose, I recommend that the CEC confirm the following findings regarding the City of San Jose's locally adopted energy standards:

(1) The City of San Jose's locally adopted energy standards will result in the diminution of energy consumption levels compared to the 2022 Energy Code; and

(2) The City of San Jose has filed the basis of its cost-effectiveness determination with the CEC.



Drew Bohan
Executive Director
California Energy Commission

9/21/2024

Date

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

**RESOLUTION FINDING BUILDING ENERGY EFFICIENCY STANDARDS
CONTAINED IN THE TOWN OF CORTE MADERA ORDINANCE NO. 1040 SATISFY
STATUTORY REQUIREMENTS UNDER PUBLIC RESOURCES CODE SECTION
25402.1(h)(2)**

WHEREAS, the Town of Corte Madera adopted Ordinance No. 1040, 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 and conservation 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 Town of Corte Madera 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. 1040 are cost-effective and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. 1040 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, Part 1, section 10-106, on July 18, 2024; and

WHEREAS, the Town of Corte Madera adopted a determination at a public meeting on July 16, 2024, that the locally adopted energy efficiency standards contained in Ordinance No. 1040 are cost-effective; and

WHEREAS, CEC staff has analyzed whether the locally adopted energy efficiency standards contained in Ordinance No. 1040 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)(4) 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 Town of Corte Madera, 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

WHEREAS, The locally adopted energy efficiency and conservation standards application filed by the Town of Corte Madera satisfies the requirements of Title 24, California Code of Regulations, Part 1, 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 Town of Corte Madera has filed the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 1040 are cost-effective, and (2) Ordinance No. 1040 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 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 October 03, 2024.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kristine Banaag
Secretariat

Docket Memorandum

To: California Energy Commission

From: **Drew Bohan**
Executive Director
California Energy Commission
715 P Street
Sacramento, California 95814

Date: October 3, 2024

Subject: POSSIBLE FINDING THAT THE TOWN OF CORTE MADERA LOCAL BUILDING ENERGY CONSERVATION DESIGN STANDARDS CONTAINED IN ORDINANCE NO. 1040 SATISFY THE ELEMENTS OF PUBLIC RESOURCES CODE SECTION 25402.1(h)(2)

I. BACKGROUND

The California Energy Commission (CEC) adopts and regularly updates regulations that define a process for local governments to apply to the CEC to make certain findings regarding locally adopted energy efficiency or conservation design standard (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 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 adopted its determination that the standards are cost-effective at a public meeting.

A. Summary of the Local Ordinance

The Town of Corte Madera Ordinance No. 1040 specifies:

- Additional energy efficiency and electrification measures beyond the 2022 Energy Code for existing single-family additions and alterations greater than or equal to 750 square feet .
- Homeowners can select from a menu of energy efficiency and electrification measures. In addition to mandatory lighting measures and certain scopes of electric readiness service updates and end uses, homeowners can choose from options that include various heat pump systems, solar PV, insulation, duct sealing, and other measures, each with assigned point values, to achieve a target energy score of 6, 7, or 8, depending on the home's vintage.

II. STAFF EVALUATION

On September 03, 2024, 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 law².

The requirements in Section 15.08.020 of the ordinance diminish the consumption of energy resources by the efficiency measures required in the section above, "Summary of the Local Ordinance."

Staff further confirmed that the Town of Corte Madera publicly adopted and filed with the CEC a finding of cost-effectiveness for the standards. More information about the anticipated energy efficiency and conservation effects of the ordinance can be found in the cost-effectiveness analysis submitted by the Town of Corte Madera.

A. Staff Position

Staff has found that the application meets all requirements under PRC section 25402.1(h)(2), and section 10-106 of the 2022 Energy Code.

The Town of Corte Madera 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 done on a three-year cycle), the standards may no longer be enforceable if the revisions create "a substantial change in the factual circumstances affecting the determination." In such a case, if the Town of Corte Madera wishes to enforce either these or other local energy efficiency or conservation design standards revised in response to the updated statewide Energy Code, the Town of Corte Madera may be required to submit a new application.

² 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).

B. Oral Presentation Outline

If needed, staff will be available at the October 03, 2024, business meeting to provide a brief summary of the ordinance and to answer questions.

C. Business Meeting Participant(s)

Anushka Raut (Project Manager), Building Standards Branch

III. RECOMMENDATION OF THE EXECUTIVE DIRECTOR

Pursuant to PRC section 25402.1(h)(2) and based upon staff's review and validation of the application submitted by the Town of Corte Madera, I recommend that the CEC confirm the following findings regarding the Town of Corte Madera's locally adopted energy standards:

- (1) The Town of Corte Madera's locally adopted energy standards will result in the diminution of energy consumption levels compared to the 2022 Energy Code; and
- (2) The Town of Corte Madera has filed the basis of its cost-effectiveness determination with the CEC.



Drew Bohan
Executive Director
California Energy Commission

9/21/2024
Date