



**CALIFORNIA
ENERGY COMMISSION**



**California Energy Commission,
November 12, 2025, Business Meeting
Backup Materials for Agenda Item No: __
Local Ordinances for the City of Sunnyvale**

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.
3. California Environmental Quality Act (CEQA) analysis, 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 SUNNYVALE ORDINANCE NO. 3244-25 SATISFY
STATUTORY REQUIREMENTS UNDER PUBLIC RESOURCES CODE SECTION
25402.1(h)(2)

WHEREAS, The City of Sunnyvale adopted Ordinance No. 3244-25, 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 Sunnyvale 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. 3244-25 are cost-effective and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. 3244-25 will require the diminution of energy consumption levels compared to the 2022 Building Energy Efficiency Standards (Energy Code), as required by California Code of Regulations, Title 24, Part 1, section 10-106, on September 04, 2025; and

WHEREAS, The City of Sunnyvale adopted a determination at a public meeting on August 26, 2025, that the locally adopted energy efficiency standards contained in Ordinance No. 3244-25 are cost-effective; and

WHEREAS, CEC staff has analyzed whether the locally adopted energy efficiency standards contained in Ordinance No. 3244-25 will require the diminution of energy

consumption levels compared to the 2022 Energy Code, 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 Sunnyvale, 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, CEC staff has considered the application of the California Environmental Quality Act (CEQA) to approval of the City of Sunnyvale's application to enforce its local energy efficiency ordinance and finds that the approval is ministerial and does not meet the definition of a "project" under Cal. Code Regs., Title 14, section 15378(a), because the approval has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and even if the approval was to be considered a project, then the project would fall under the "common sense exemption" in California Code of Regulations, title 14, section 15061(b)(3) because it can be seen with certainty that there is no possibility the approval of Sunnyvale's application would have a significant effect on the environment; and

WHEREAS, The locally adopted energy efficiency and conservation standards application filed by the City of Sunnyvale satisfies the requirements of California Code of Regulations, Title 24, Part 1, section 10-106; and

THEREFORE, RESOLVED, that, pursuant to Public Resources Code section 25402.1(h)(2), the CEC finds the following: (1) The City of Sunnyvale has filed the basis of its determination that the locally adopted energy efficiency standards contained in Ordinance No. 3244-25 are cost-effective, and (2) Ordinance No. 3244-25 will require the diminution of energy consumption levels compared to the 2022 Energy Code; and

THEREFORE, BE IT FURTHER RESOLVED, that on the basis of the entire record before it, the CEC hereby adopts staff's finding that the approval of the City of Sunnyvale's application to enforce its local energy efficiency ordinance is not subject to CEQA because the approval is ministerial and does not meet the definition of a "project" as it is not an activity that has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and even if it was a project, it is exempt from CEQA pursuant to the Common-Sense Exemption (Cal. Code Regs., tit 14, 15061(b)(3)) because it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment; 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 November 12, 2025.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kim Todd
Secretariat

Memorandum

To: California Energy Commission

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

Date: November 12, 2025

Subject: EXECUTIVE DIRECTOR RECOMMENDATION THAT THE CITY OF SUNNYVALE LOCAL BUILDING ENERGY CONSERVATION DESIGN STANDARDS CONTAINED IN ORDINANCE NO. 3244-25 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, 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 2022 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 Sunnyvale Ordinance No. 3244-25 specifies:

- Mechanical cooling system requirement for altered space conditioning systems in existing single-family homes that goes beyond the 2022 Energy Code. This requirement encourages the installation of an air source heat pump, while still allowing an air conditioner to be installed with additional energy efficiency measures.
- Additional electric readiness for single-family residential new construction.
- Early adopts 2025 Energy Code requirements for single-family residential HVAC systems that pertain to system sizing and selection, defrost, and supplementary heating.

II. STAFF EVALUATION

On October 13, 2025, staff posted the complete application, including the local ordinance and adopted cost-effectiveness analyses, 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 City of Sunnyvale's requirements proposed pursuant to the CEC's authority under PRC sections 25402 and 25402.1(h)(2) contained within ~~the~~ ~~the~~ Section 16.42.040, Section 16.42.050, Section 16.42.060, and Section 16.43.070 of the ordinance which diminish the consumption of energy resources by the efficiency conservation or energy insulation requirements in the section above, "Summary of the Local Ordinance."

Staff further confirmed that the City of Sunnyvale 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 analyses submitted by the City of Sunnyvale.

A. Staff Position

Staff has found that the application meets all requirements under PRC section 25402.1(h)(2),

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).

and section 10-106 of the 2022 Energy Code.

The City of Sunnyvale 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 Sunnyvale 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 Sunnyvale may be required to submit a new application.

B. Oral Presentation Outline

If needed, staff will be available at the November 12, 2025, Business Meeting to provide a brief summary of the ordinance and to answer questions.

C. Business Meeting Participant(s)

Anushka Raut (Project Lead), 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 Sunnyvale, I recommend that the CEC confirm the following findings regarding the City of Sunnyvale’s locally adopted energy standards:

- (1) The City of Sunnyvale’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 Sunnyvale has filed the basis of its cost-effectiveness determination with the CEC.



MEMORANDUM

TO: Docket 22-BSTD-07

FROM: Will Vicent, Deputy Director

SUBJECT: Basis for finding that the action of approving the application findings submitted by City of Sunnyvale pursuant to section 10-106 of the Energy Code; PRC section 25402.1(h)(2) is not a discretionary action, nor a project, and is otherwise exempt from the California Environmental Quality Act under the Common-Sense Exemption.

DATE: October 31, 2025

I. CEQA

The California Environmental Quality Act (CEQA) (Public Resources Code (PRC) sections 21000 *et seq.*, see also CEQA Guidelines, California Code of Regulations (CCR), Title 14, sections 15000 *et seq.*) requires that state agencies consider the environmental impact of certain discretionary decisions. CEQA allows certain projects to be exempted from its requirements. Of relevance here, and discussed further below, is the common-sense exemption (CCR, Title 14, section 15061(b)(3)).

II. Local Reach Code Application Findings [Public Resources Code, section 25402.1(h)(2)]

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 conservation or energy insulation standards (CCR, Title 24, Part 1, section 10-106 and section 10-110; Public Resources Code section 25402.1(h)(2)). The local government's proposed standards are often referred to as the Local Reach Codes and require local governments submit an application to the CEC. Before the local standards may be enforced, the CEC must make two non-discretionary findings pursuant to PRC section 25402.1(h)(2):

- 1) The proposed local standards will require the diminution of energy consumption levels compared to the 2022 Energy Code, and
- 2) The local government has filed the basis of its cost-effectiveness determination with the CEC.

Pursuant to CCR, Title 24, Part 1, section 10-106, the application must contain all of the following:

- 1) The proposed energy efficiency or conservation design 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 standards will require buildings to be designed to consume no more energy than permitted by the 2022 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 adopted its determination that the standards are cost-effective at a public meeting.

III. The Proposed Action

On September 04, the City of Sunnyvale (the City) 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. 3244-25 are cost-effective; and (2) documentation that the locally adopted energy efficiency standards contained in Ordinance No. 3244-25 will require the diminution of energy consumption levels compared to the 2022 Building Energy Efficiency Standards (Energy Code), as required by PRC section 25402.1(h)(2) and by CCR, Title 24, Part 1, section 10-106 (section 10-106).

On October 13, 2025, the CEC staff (staff) posted the complete application, including the City's local ordinance and adopted cost-effectiveness analyses, on the CEC's website under Docket 22-BSTD-07 for a mandatory public review period. Staff have since reviewed, considered all public comments (if applicable), and submitted their findings to the Executive Director, validating that the City's application meets the required statutory and regulatory obligations. Based on the information submitted, staff analysis, and the executive director's recommendation, the CEC is considering making findings of the City's section 10-106 application at the CEC's November 12, 2025 Business Meeting.

IV. CEC findings regarding City of Sunnyvale's 10-106 Local Reach Code Application are not a CEQA project

A "project" under CEQA is defined as the "whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (CCR, Title 14, section 15378(a)). The CEC's findings regarding the City's section 10-106 application does not constitute a "project" under CEQA since it is not an activity that may cause a direct or reasonably foreseeable indirect physical change to the environment.

In its findings regarding the section 10-106 applications, the CEC does not directly undertake implementing the proposed standards by the local governments, nor does the CEC provide any form of assistance to local governments implementing the proposed standards, or issue any sort of lease, permit, or other form of entitlement for the proposed standards to be conducted. The CEC's actions are limited to the ministerial acts, as detailed below, and on its own does not amount to action that may cause a direct or reasonably foreseeable indirect physical change to the environment as provided by the CEQA definition for a "project" (CCR, Title 14, section 15378(a)). Accordingly, the CEC's actions are not a "project" for purposes of CEQA.

V. CEC findings regarding City of Sunnyvale's 10-106 Local Reach Code Application are not a discretionary project

CEQA applies to discretionary projects proposed to be carried out or approved by a public agency and exempts ministerial projects (Pub. Resources Code, § 21080; CCR, Title 14, section 15268). A discretionary project is defined under CEQA as, "a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity..." which is, "distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, regulations, or other fixed standards..." (CCR, Title 14, section 15357).

As detailed above, the CEC approves applications submitted pursuant to section 10-106 upon determination that the applications submitted demonstrate conformity with the necessary components required by PRC section 25402.1(h)(2) and CCR, Title 24, Part 1, sections 10-106 and 10-110. Either an application does provide the local government's basis and formal determination that the proposed standards before the CEC are cost effective or it does not. Similarly, either the application does provide the required documentation under section 10-106 demonstrating to the CEC that the proposed local standards will require a diminution of energy consumption levels compared to the 2022 Energy Code or they do not. In the former, the applications submitted by local governments are found to be compliant and in the latter they would be found to be noncompliant. The CEC does not exercise a subjective judgment or deliberation in this approval process beyond ensuring the applicants have provided the proper documentation. For these reasons, even if the CEC's action of making findings of compliance for local reach code applications under section 10-106 is considered a project, the findings do not constitute a discretionary project and should accordingly be exempted as a ministerial project.

VI. If CEC section 10-106 findings were discretionary and were considered project, it is exempt from CEQA under the Common-Sense Exemption

Even if considered a “project” under CEQA, the CEC’s approved findings in accordance with section 10-106 are exempt from CEQA under the Common-Sense Exemption. The Common-Sense Exemption states that, “Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” (CCR, Title 14, section 15061(b)(3)). A “significant effect on the environment” is defined as a “substantial, or a potentially substantial, adverse change” in the environment, and does not include an economic change by itself (Pub. Resources Code, section 21068; CCR, Title 14, section 15382).

Even if this action is considered to be discretionary and a “project” under CEQA, the Common-Sense Exemption would apply as it can be seen with certainty that there is no possibility that the CEC’s findings regarding the City’s section 10-106 application will not have a significant effect on the environment (CCR, Title 14, sections 15061(b)(3) and 15061(a)). As discussed above, the findings regarding this application are comprised of two non-discretionary findings that allow local governments to tailor their local standards as they find appropriate while ensuring alignment with the Energy Code. The CEC’s findings regarding this application does not result in any new changes to Energy Code requirements. For these reasons, the CEC’s approval of the City’s section 10-106 application would not be subject to CEQA under the Common-Sense Exemption, section 15061(b)(3).

VII. Conclusion

As provided above, the approval of the City’s application to enforce its local energy efficiency ordinance is not subject to CEQA because the CEC’s findings are ministerial and do not meet the definition of a “project” as it is not an activity that has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and even if it was a project, it is exempt from CEQA pursuant to the Common-Sense Exemption (Cal. Code Regs., tit 14, 15061(b)(3)) because it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment.