

# Zero-Carbon Building Opportunities for Local Governments

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# State Control over Energy & Environment

- The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.
  - U.S. Const., Amend. X
- Commerce Clause grants Congress power to regulate interstate commerce; limits States' power to regulate interstate commerce
  - However, in the absence of conflicting federal legislation, states retain broad police power to regulate matters of legitimate local concern, even where interstate commerce may be affected.

# California Leads on Environmental Protection & Renewable Energy

- California Clean Air Act waiver (1970)
  - Current waiver covers California's Advanced Clean Cars Program
- Renewable Portfolio Standards (2002)
  - 2018 update: requires 60% renewable by 2030 and 100% by 2045
- AB 32: Global Warming Solutions Act (2006)
  - Reduce GHGs 80% below 1990 levels by 2050
- Zero Net Energy:
  - All new residential construction ZNE by 2020
  - All new commercial construction ZNE by 2030

# California Leads on Energy Efficient & Green Building Codes

- California Energy Commission:
  - Building Energy Efficiency Standards (Title 24, Parts 1 & 6)
  - Nation's first energy efficiency standards for buildings and appliances (1974)
  - 2020 building standards will require solar PV systems in new construction
- California Building Standards Commission:
  - CALGreen Code: Title 24, Part 11
  - Nation's first mandatory green building standards code
  - Provides additional voluntary tiers of compliance measures and model language for cities and counties seeking to mandate

# Local Government Authority

- Cities and counties have the police power to protect the public health, safety and welfare of their residents
  - Cal. Const. Art. XI, sec. 7
  - This police power is broad, so long as city laws do not conflict with state general laws
- California cities and counties have exercised this power broadly
  - Zoning ordinances and land-use regulations
  - Ordinances prohibiting oil and gas exploration on tidelands
  - Building Code requirements to reflect local conditions

# Examples of Local Government Efforts

- Reach Codes: local ordinances that exceed the requirements of the state standards
  - CEC & California Codes & Standards Reach Codes program encourage local governments to adopt ordinances that exceed statewide standards
  - Can require greater energy efficiency or higher green building standards
- Local Government Incentive Programs:
  - Incentives to swap out natural gas appliances for all-electric appliances
  - Building incentives to install solar/electric
- Mandatory Solar Ordinances:
  - SF, Fremont, San Mateo

# Example: Marin County

- 2018 Ordinance No. 3685 requiring energy reach standards
  - Green Building Requirements: 3 compliance pathways
  - Energy Efficiency Requirements: 3 compliance pathways
    - E.g., proposed single family home must be:
      - 15% more efficient than State Energy Code if no PV system is installed;
      - 20% more efficient than State Energy Code if PV is installed; or
      - All electric
  - Electric Vehicle Requirements

## Example: Palo Alto

- 2016 Ordinance No. 5383 includes local energy efficiency reach code
  - Two compliance pathways for each category of building
    - E.g., the TDV energy of a new single-family residential must:
      - Be 10% less than the state standard if no PV system is installed; or
      - Be 20% less than the state's standard if PV is installed
  - Exception: all-electric buildings are exempt from the energy efficiency reach code

# CEQA Mitigation as a Tool

- CEQA requires mitigation or avoidance of environmental harm
- A project that results in an increase in GHG emissions, or that fails to comply with efforts to reduce GHGs, may be found to have a significant impact
- Potential mitigation measures to address GHG emissions could include electrification or other efforts to decarbonize future construction

# Office of Planning & Research GHG Guidelines

- OPR's CEQA and Climate Change Advisory Discussion Draft (2018) notes the potential to avoid a finding of significant GHG impacts in part by using no natural gas in land use development projects and individual buildings.
- Other recommended measures to avoid such a finding are to follow Title 24 codes and use Energy Star rated appliances where possible.



Questions or Comments?

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