



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

CITY HALL
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City of Cupertino

Urban Infill Housing CEQA Exemption Project Eligibility Checklist Public Resources Code (PRC) Section 21080.66

AB 130 (2025), codified in Public Resources Code (PRC) Section 21080.66, created a statutory exemption from the California Environmental Quality Act (CEQA) for a qualifying “housing development project.”

For project applicants that believe their project is eligible for the exemption, fill out the checklist completely and provide supporting evidence to demonstrate eligibility. Applications that are not eligible for the urban infill housing exemption or that do not provide sufficient information to determine eligibility will not be processed in accordance with this exemption.

The following information is required to establish eligibility for the urban infill housing exemption pursuant to PRC Section 21080.66. All documents, reports, or plans must be provided to the Planning Division with the formal project application.

Project Information

Development proponent / applicant name: _____

Site address(es): _____

Parcel size: _____

Number of units: _____

Assessor's Parcel Number(s) (APN): _____

Urban Infill Housing CEQA Exemption Eligibility Checklist

Eligibility Requirement	Evidence of Eligibility	Describe how the project complies with the requirement.
SITE SIZE (Sec. 21080.66(a)(1)) ☐ The project site is not more than 20 acres. ☐ If a builder's remedy project, the project site or parcel size is not more than four acres.	☐ Submit a civil site plan as required in the General Planning Application Checklist.	
LOCATION WITHIN CITY OR CENSUS-DESIGNATED URBAN AREA (Sec. 21080.66(a)(2)) One of the following applies to the site: ☐ The project site is located within the boundaries of an incorporated municipality. ☐ The project site is located within an urban area as defined by the U.S. Census Bureau.	☐ Submit site location map or an alternative means of confirmation that the project is within the City of Cupertino.	

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WITHIN AREA DEVELOPED WITH URBAN USES¹ (Sec. 21080.66(a)(3)) One or more of the following applies to the site: ☐ The project site has been previously developed with an urban use. ☐ At least 75% of the perimeter of the site adjoins parcels that are developed with urban uses. “Adjoins” includes parcels that are only separated from the site by a street, pedestrian path, or bicycle path. ☐ At least 75% of the area within a one-quarter mile radius of the site is developed with urban uses.	☐ Submit evidence of existing uses or past uses. OR ☐ Submit site location map and calculation showing uses of adjoining parcels or use of all parcels within a one-quarter mile radius of the site.	

¹ “Urban use” means any current or previous residential or commercial development, public institution, public park that is surrounded by other urban uses, parking lot or structure, transit or transportation passenger facility, retail use, or any combination of these uses.

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☐ For sites with four sides, at least three out of four sides are developed with urban uses and at least two-thirds of the perimeter of the site adjoins parcels that are developed with urban uses.		
CONSISTENCY WITH GENERAL PLAN, ZONING, AND LOCAL COASTAL PROGRAM (Sec. 21080.66(a)(4)(A)) ☐ The project is consistent with the applicable general plan and zoning ordinance as well as any applicable local coastal program. ²	☐ Submit list of zoning and general plan evidence of consistency. ☐ Confirm the project complies with the applicable density range per the General Plan and/or zoning designation. Note: The City of Cupertino is not located within the Coastal Zone and are no areas subject to a certified local coastal program.	

² The approval of a density bonus, incentives or concessions, waivers or reductions of development standards, and reduced parking ratios under Density Bonus Law is not grounds for determining that the project is inconsistent. If the zoning and general plan are not consistent, the project is deemed consistent with both if consistent with one.

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MINIMUM DENSITY (Sec. 21080.66(a)(5)) ☐ The project will be at least one-half the “default density” specified in Government Code Section 65583.2(c)(3)(B). In Cupertino, the “default density” is 30 dwelling units per acre.	☐ Submit calculation showing that the project exceeds a density of at least 15 dwelling units per acre.	
PORTIONS OF COASTAL ZONE (Sec. 21080.66(a)(6)) All of the following applies to the development: ☐ The development is not located in an area of the coastal zone subject to PRC Section 30603(a)(1) or (2) (appeal jurisdiction for a residential development project). ☐ The development is located in an area of the coastal zone that is subject to a	The City of Cupertino is not located within the Coastal Zone and are no areas subject to a certified local coastal program.	Not applicable.

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certified local coastal program (LCP) or certified land use plan. ☐ The development is not located in an area of the coastal zone that is vulnerable to five feet of sea level rise per National Oceanic and Atmospheric Administration, the Ocean Protection Council, the United States Geological Survey, the University of California, or local coastal hazards vulnerability assessment. ☐ The development is located on a parcel within the coastal zone that is zoned for multifamily housing. ☐ The development is not located on a parcel in the coastal zone that is on or within 100-foot radius of a wetland, as defined in PRC Section 30121. ☐ The development is not located on a parcel in the coastal zone that is located		

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on prime agricultural land, as defined in PRC Sections 30113 & 30241.		
AGRICULTURAL LAND (Sec. 21080.66(a)(6)) All of the following applies to the development: ☐The development not located on either prime farmland or farmland of statewide importance, as defined pursuant to the United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation. ☐The development is not located on land zoned or designated for agricultural protection or preservation by a local	☐ Submit maps from the Department of Conservation's Farmland Mapping & Monitoring Program's webpage. Note: No local ballot measures have zoned or designated land for agricultural protection or preservation.	

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ballot measure that was approved by City of Cupertino voters.		
WETLANDS (Sec. 21080.66(a)(6)) ☐ The development not located on or in wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).	☐ Submit wetlands delineation or topographic map clearly showing lack of wetlands; potential sources include the National Wetlands Inventory and The EcoAtlas.	
VERY HIGH FIRE HAZARD AREA (Sec. 21080.66(a)(6)) One or more of the following applies to the development: ☐ The development is not located within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within the state responsibility area, as defined in Public Resources Code Section 4102.	☐ Submit maps demonstrating that development is not in a very high fire hazard severity zone or a state responsibility area as shown in CalFire's Fire Hazard Severity Zone maps. OR ☐ Demonstrate that adopted fire hazard mitigation measures are incorporated into project. Describe in next column and submit evidence, <u>verified by the Santa Clara County Fire Department</u>, as an exhibit.	

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☐ The development site has adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development, including, but not limited to, standards established under all of the following or their successor provisions: (1) Section 4291 of the Public Resources Code or Section 51182, as applicable; (2) Section 4290 of the Public Resources Code; (3) Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations).		
HAZARDOUS WASTE SITE (Sec. 21080.66(a)(6)) One or more of the following applies to the development: ☐ The development is not located within a hazardous waste site that is listed pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic	☐ Provide applicable Phase I or Phase II Environmental Site Assessment as required by Title 17 of the Municipal Code. AND ☐ Site is not a hazardous waste site after review of <u>ALL</u> sources listed in CalEPA's Cortese List Data Resources .	

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Substances Control pursuant to Health & Safety Code Section 25356. ☐ The site is an underground storage tank site that received a uniform closure letter issued pursuant to Health & Safety Code Section 25296.10(g) based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. ☐ The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency has otherwise determined that the site is suitable for residential use or residential mixed uses pursuant to Health & Safety Code Section 25296.10(c).	OR ☐ Submit closure letter from relevant agency. OR ☐ Submit determination from relevant agency.	
EARTHQUAKE FAULT ZONE (Sec. 21080.66(a)(6))	☐ Submit map showing the site is not within fault zone per the Department of Conservation's Earthquake Zones of Required Investigation map.	

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One or more of the following applies to the development: ☐ The development is not located within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist. ☐ The development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission and by any local building department.	OR ☐ Evidence of compliance with relevant standards. Describe in next column or submit evidence as an exhibit.	
FLOOD HAZARD AREA (Sec. 21080.66(a)(6)) One or more of the following applies to the development: ☐ The development is not located within a special flood hazard area subject to inundation by the 1% annual chance	☐ Submit map demonstrating that development site is not located in a flood zone per official FEMA flood maps. OR ☐ Letter of Map Revision	

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flood (100-year flood) as determined by the Federal Emergency Management Agency (FEMA) in any official maps published by FEMA. ☐ The site has been subject to a Letter of Map Revision prepared by FEMA and issued to the local jurisdiction. ☐ The site meets FEMA requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.	OR ☐ Provide a hydrologic and hydraulic analysis (subject to peer review) to demonstrate compliance with relevant standards. Describe in next column or submit evidence as an exhibit.	
REGULATORY FLOODWAY (Sec. 21080.66(a)(6)) One or more of the following applies to the development:	☐ Submit map demonstrating that development site is not located in a regulatory floodway per official FEMA flood maps.	

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☐ The development is not located within a regulatory floodway as determined by FEMA in any official maps published by FEMA. ☐ The development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.	OR ☐ Evidence of no-rise certification, prepared by a registered professional engineer. Describe in next column or submit evidence as an exhibit.	
CONSERVATION LANDS (Sec. 21080.66(a)(6)) One or more of the following applies to the development: ☐ The project is not located on a site on which there are lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code),	☐ Submit maps demonstrating that project is not shown in relevant plans. OR ☐ Submit biological survey, prepared by a California Certified professional biologist OR ☐ Justification for why a biological survey should not be required; AND	

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habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan. ☐ The project is not located on a site on which there is habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).	☐ Submit title report showing no conservation easement.	

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☐ The project is not located on a site on which there are lands under conservation easement.		
DEMOLITION OF HISTORIC STRUCTURE (Sec. 21080.66(a)(7)) ☐ The project does not require the demolition of a historic structure that was placed on a national, state, or local historic register before the date a preliminary application was submitted for the project pursuant to Government Code Section 65941.1.	☐ If structures are proposed for demolition, submit review of national, state , and local registers. Describe in next column or submit evidence as an exhibit. OR ☐ If a historic structure is located on the site, submit evidence that the historic structure will not be demolished. Describe in next column or submit evidence as an exhibit.	
TRANSIENT LODGING (Sec. 21080.66(a)(8)) ☐ For a project for which a complete preliminary application was filed on or after January 1, 2025, no portion of the project is designated for use as a hotel,	☐ Confirm planned site uses. Describe in next column or submit evidence as an exhibit.	

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motel, bed and breakfast inn, or other transient lodging, except for: • Residential hotels (as defined by Health & Safety Code Section 50519); or • Resident's use or marketing of a unit as a short-term lodging after issuance of a certificate of occupancy (as defined in Section 17568.8 of the Business and Professions Code).		
FREEWAY PROXIMITY (Sec. 21080.66(c)(2)) ☐ If the project is located within 500 feet of a freeway, comply with the standards outlined in PRC Section 21080.66(c)(2).	☐ Demonstrate that the project is not within 500 feet of a freeway; OR ☐ Describe compliance with PRC Section 21080.66(c)(2) in next column or submit evidence as an exhibit.	

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LABOR CODE PROVISIONS (Sec. 21080.66(d)) The project will comply with the following requirements, to the extent applicable: ☐ For a project where 100 percent of the units are dedicated to lower income households, as defined by Health & Safety Code Section 50079.5, all construction workers will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to the Labor Code Sections 1773 and 1773.9, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate, regardless of whether the housing development project is a public work.	☐ Calculation of building height above grade showing that the requirements are not applicable to the project AND/OR ☐ Submit applicant's agreement to comply with applicable labor provisions OR ☐ Provide justification for why the labor code provisions do not apply in next column.	

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☐ For a project that includes buildings over 85 feet in height above grade, the labor standards of Government Code Section 65913.4(a)(8) will be met.		