



## AB 130 Housing Exemption Checklist

Once the application has been deemed complete and consistent (including a Phase 1 Environmental Site Assessment), a housing development project can be assessed for eligibility with the infill housing exemption established by AB130 using the following checklist. Documentation must be provided as evidence to support the determination:

<i>Table 1: Eligibility</i>	
Criteria met (Yes/No)	Criteria for Eligibility
	Project site is 20 acres or less OR Project is a Builders' Remedy Project and is less than 5 acres
	The site has been previously developed, is surrounded by urban uses adjacent to at least 75% of the perimeter, or at least 75% of uses within ¼ mile are urban uses, or three of four sides are developed with urban uses and 2/3rds of the perimeter of the site adjoins parcels with urban uses
	Project is consistent with the applicable general plan and zoning ordinance
	Is at least half the density specified in GOV Section 65941.1
	Project is not transient lodging (but a residential hotel with 6+ rooms where the hotel is intended to be the primary residence of guests is allowable)
	If the project is within 500 feet of US 101, does it have all of the following: (A) The building shall have a centralized heating, ventilation, and air-conditioning system. (B) The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway. (C) The building shall provide air filtration media for outside and return air that provides a minimum efficiency reporting value of 16. (D) The air filtration media shall be replaced at the manufacturer's designated interval. (E) The building shall not have any balconies facing the freeway.
	If the project is 100% affordable or 85 feet above grade or taller the project, workers shall be paid at least the general prevailing rate of per diem wages

	Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.
	Doesn't demolish a historic site that is already listed on a federal, state, or local register at the time of application.

The following checklist includes site conditions that would render a project site ineligible for the exemption.

<b>Table 2: Sites Not Eligible</b>	
Is the project on any of the following: Yes/No	The project may not be located on a site that is any of the following:
	<p><b>FARMLAND</b>                      a site that is either prime farmland or farmland of statewide importance, as defined pursuant to 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, or land zoned or designated for agricultural protection or preservation by a local ballot measure.</p>
	<p><b>WETLANDS</b>                      a site that is wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).</p>
	<p><b>VERY HIGH FIRE HAZARD SEVERITY ZONE</b>                      Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within the state responsibility area, as defined in Section 4102 of the Public Resources Code. This subparagraph does not apply to sites that have 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:                      (i) Section 4291 of the Public Resources Code or Section 51182, as applicable.                      (ii) Section 4290 of the Public Resources Code.</p>

	<p>(iii) Chapter 7A of the California Building Code (Title 24 of the California Code of Regulations).</p>
	<p><i>HAZARDOUS WASTE SITE</i></p> <p>A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:</p> <p>(i) The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5.</p> <p>(ii) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.</p>
	<p><i>EARTHQUAKE FAULT ZONE</i></p> <p>Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.</p>
	<p><i>FLOOD HAZARD AREA</i></p> <p>Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to</p>

	<p>provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:</p> <p>(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.</p> <p>(ii) The site meets Federal Emergency Management Agency 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.</p>
	<p><i>REGULATORY FLOODWAY</i></p> <p>Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless 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. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.</p>
	<p><i>NATURAL COMMUNITY CONSERVATION PLAN</i></p> <p>A site that is identified as lands 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), 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.</p>

	<p><i>HABITAT FOR PROTECTED SPECIES</i></p> <p>A site that 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).</p>
	<p><i>LANDS UNDER CONSERVATION EASEMENT</i></p> <p>A site that is under conservation easement.</p>

If the project is not located in any of the above areas, it is eligible for the in-fill housing exemption. Attach documentation to support all above findings. If documentation is provided as part of a plan set, indicate the page in the plan set that provides the relevant information.

**AB 130 Tribal Consultation**

If the project site is eligible for the exemption, the AB130 tribal **MUST** be sent **within 14 days** of deeming the application complete. The tribe has 60 days to respond, and if they request consultation, the consultation must be concluded in 45 days with a one-time extension of no more than 15 days.

Unless the Tribe indicates otherwise, the following tribal mitigation must be included as binding permit conditions unless otherwise agreed upon by the consulting tribe:

1. Upon request by a California Native American tribe, the project shall include tribal monitoring during all ground-disturbing activities, as follows:
  - a. The California Native American tribe shall designate the monitor.
  - b. The tribal monitor shall comply with applicant’s site access and workplace safety requirements.
  - c. The applicant shall compensate the tribal monitor at a reasonable rate, determined in good faith, that aligns with customary compensation for cultural resource monitoring, taking into account factors such as the scope and duration of the project.

2. Tribal cultural resources shall be avoided where feasible, in accordance with subdivision (a) of Section 21084.3. In furtherance of this requirement, where feasible, the project applicant shall provide deference to tribal preferences regarding access to spiritual, ceremonial, and burial sites, and incorporate tribal traditional knowledge in the protection and sustainable use of tribal cultural resources and landscapes.
3. All treatment and documentation of tribal cultural resources shall be conducted in a culturally appropriate manner, consistent with Section 21083.9.
4. A California Historical Resources Information System archaeological records search and a tribal cultural records search shall be completed for the project site.
5. A Sacred Lands Inventory request shall be submitted to the Native American Heritage Commission.
6. The project shall comply with Section 7050.5 of the Health and Safety Code and Section 5097.98, including immediate work stoppage upon discovery of human remains or burial grounds, and treatment in accordance with applicable law and in consultation with the affected California Native American tribe.
7. An application of tribal ecological knowledge into habitat restoration efforts undertaken by the project as applicable to the specific environmental context and conditions of the project