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FILING REQUESTED BY AND WHEN FILED RETURN TO:

Lead Agency: City of Cupertino

Contact Person: Chris Jensen, City Attorney, City of Cupertino

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NOTICE OF EXEMPTION

City of Cupertino

Environmental Coordination and Review

1. Project Name: Ordinance Adopting Green Building Amendments to City of Cupertino Municipal Code Chapter 16.54 (Energy Code)
2. Project Location: City of Cupertino
3. Project Description:

Pursuant to Public Resources Code (PRC) Section 25402.1(h)(2) and Section 10-106 of Title 24 of the California Code of Regulations, the Jurisdiction of the City of Cupertino has applied to the California Energy Commission for a determination that its locally adopted energy efficiency standard, enacted in Local Ordinance 24-2265 (the Ordinance), will require buildings to be designed to consume no more energy than permitted by the 2022 Building Energy Efficiency Standards (2022 Energy Standards) adopted by the Energy Commission. The Energy Commission's Building Standards are set forth in Title 24, Part 6 of the California Code of Regulations. This ordinance requires meeting a source energy margin target through the performance path. To do so, one must install decarbonization measures in mixed fuel buildings or build an all-electric building. . Consistent with PRC Section 25402.1(h)(2), the Energy Commission found that the Jurisdiction of City of Cupertino's Ordinance will require the diminution of energy consumption levels permitted by the 2022 Energy Standards.

4. Public Agency Approving Project: City of Cupertino City Council
5. Project Sponsor: City Attorney's Office
6. CEQA Exemption Status:

___ Ministerial (Sec. 21080(b)(1); 15268):

___ Declared Emergency (Sec. 21080(b)(3); 15269(a)):

Emergency Project (Sec. 21080(b)(4); 15269(b)(c)):

Categorical Exemption. State type and section number:

California Code of Regulations, Title 14, § 15061(b)(3).

California Code of Regulations, Title 14, § 15308.

Statutory Exemption. State code number:

7. Reasons for Exemption:

The finding by the Energy Commission required by PRC Section 25402.1(h)(2), that Jurisdiction of City of Cupertino ordinance will require the diminution of energy consumption levels permitted by the 2022 Energy Standards, involves the comparison of the energy savings of the ordinance pursuant to an objective fixed standard, and does not require the exercise of judgment or deliberation on the part of the Energy Commission. It is therefore a ministerial act consistent with Section 15369 of Title 14 of the California Code of Regulations and is exempt from CEQA pursuant to Public Resources Code section 21080(b)(1) and section 15268 of Title 14 of the California Code of Regulations.

The Energy Commission also determined that the activity is covered by the general rule that California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. (14 CCR § 15061(b)(3).) 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. The Energy Commission previously found that its adoption of the California Green Building Code was exempt from CEQA pursuant to Title 14, Section 15061(b)(3). Additionally, analysis indicates that the 2022 Title 24 Part 6 Energy code amendments are not expected to result in significant environmental impacts.

These standards are more protective of the environment than the state standards, and there are no reasonably foreseeable adverse impacts, and so there is no possibility that the activity in question may have a significant effect on the environment. As the lead agency, the Jurisdiction of City of Cupertino also stated in its application to the Energy Commission that this activity is exempt from CEQA under Section 15061(b)(3) and 15308 of Title 14 of the California Code of Regulations.



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