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HEALTH AND SAFETY CODE - HSC

DIVISION 13. HOUSING [17000 - 19997] (*Division 13 enacted by Stats. 1939, Ch. 60.*)

PART 1. EMPLOYEE HOUSING ACT [17000 - 17062.5] (*Part 1 added by Stats. 1979, Ch. 62.*)

CHAPTER 2. Application and Scope [17020 - 17024] (*Chapter 2 added by Stats. 1979, Ch. 62.*)

17020. (a) Except as otherwise provided in this part, the provisions of this part, building standards published in the State Building Standards Code relating to employee housing, and the other rules and regulations promulgated pursuant to the provisions of this part which relate to labor camps apply in all parts of the state and supersede any ordinance or regulations enacted by any city, county, or city and county applicable to labor camps. Rules and regulations adopted or continued in effect prior to January 1, 1980, by former Chapter 4 (commencing with Section 2610) of Part 9 of Division 2 of the Labor Code are hereby continued in effect as rules and regulations under this part until amended or repealed by the Department of Housing and Community Development.

(b) Building standards, as defined by Section 18909, shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code relating to employee housing pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, whichever occurs sooner.

(Amended by Stats. 1992, Ch. 1298, Sec. 12. Effective January 1, 1993.)

17021. (a) Except as provided in Sections 17021.5, 17021.6, and 17021.8, local use zone requirements, local fire zones, property line, source of water supply, and method of sewage disposal requirements are hereby specifically and entirely reserved to the local jurisdictions.

(b) Notwithstanding any other law, with respect to a building permit, grading permit, or other approval from a city or county building department for the rehabilitation of real property improvements that are or will be employee housing for agricultural employees, or from a city or county health department for the operation, construction, or repair of a water system or waste disposal system servicing employee housing for agricultural employees, all of the following processing requirements shall apply:

(1) The local building or health department shall have up to 60 calendar days to approve or deny a complete application or permit request accompanied by applicable fees, or a shorter time period if required by the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code). The local building or health department may deny an application or permit request on procedural grounds only if the denial occurs within 30 calendar days and the denial includes an itemization of the procedural defects. The local building or health department may deny an application or permit request on substantive grounds if the denial includes an itemization of all substantive defects.

(2) If the local building or health department does not approve or deny the application or permit request within the period prescribed by paragraph (1), then the Department of Housing and Community Development may approve the application or permit request if it determines that the plans are consistent with all applicable building codes and health and safety requirements. At that time, the applicant may initiate any work consistent with the application or permit approved pursuant to this subdivision. Upon completion of the work, any other state or local agency shall accept the improvements as if the local building or health department had approved them. However, if that other local agency identifies any defects that would have resulted in that agency's disapproval of the improvements or plans for improvement, the agency may identify those defects and the applicant shall correct them. The local building or health department shall inspect the plans and improvements prior to and during rehabilitation and issue a certificate of completion if the work is consistent with the plans and all applicable building codes and health and safety requirements.

(c) Nothing in this section shall be construed to exempt an application or permit request from complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) For purposes of this section, "agricultural employee" has the same meaning specified in subdivision (b) of Section 1140.4 of the Labor Code.

(e) The Department of Housing and Community Development may recover from a local building or health department costs incurred to review an application or permit request in compliance with paragraph (2) of subdivision (b). The amount recoverable may not exceed the applicable plan check fee published by the International Conference of Building Officials.

(Amended by Stats. 2020, Ch. 264, Sec. 10. (AB 107) Effective September 29, 2020.)

17021.5. (a) Any employee housing which has qualified, or is intended to qualify, for a permit to operate pursuant to this part may invoke the provisions of this section.

(b) Any employee housing providing accommodations for six or fewer employees shall be deemed a single-family structure with a residential land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be included within the definition of a boarding house, rooming house, hotel, dormitory, or other similar term that implies that the employee housing is a business run for profit or differs in any other way from a family dwelling. No conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that serves six or fewer employees that is not required of a family dwelling of the same type in the same zone. Use of a family dwelling for purposes of employee housing serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) or local building codes.

(c) Except as otherwise provided in this part, employee housing that serves six or fewer employees shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this subdivision shall be construed to forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator or any resident for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to employee housing which serves six or fewer persons.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing which serves six or fewer employees shall be considered a residential use of property and a use of property by a single household, notwithstanding any disclaimers to the contrary. For purposes of this section, "employee housing" includes employee housing defined in subdivision (b) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local needs. This section shall apply equally to any charter city, general law city, county, city and county, district and any other local public entity.

(Amended by Stats. 1993, Ch. 952, Sec. 1. Effective January 1, 1994.)

17021.6. (a) The owner of any employee housing who has qualified or intends to qualify for a permit to operate pursuant to this part may invoke this section.

(b) Any employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household, or that is approved pursuant to Section 17021.8, shall be deemed an agricultural land use for the purposes of this section. Except as provided in Section 17021.8, for the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other discretionary zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located.

(c) Except as otherwise provided in this part, employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other agricultural activities in the same zone are not likewise subject. This subdivision does not forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other agricultural activities in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator, or any resident for enforcing fire inspection regulation pursuant to state law or regulations or local ordinance, with respect to employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household, or that is approved pursuant to Section 17021.8, shall be considered an agricultural use of property, notwithstanding any disclaimers to the contrary. For purposes of this section, "employee housing" includes employee housing defined in subdivisions (b) and (c) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local need. This section shall apply equally to any charter city, general law city, county, city and county, district, and any other local public entity.

(f) If any owner who invokes the provisions of this section or Section 17021.8 fails to maintain a permit to operate pursuant to this part throughout the first 10 consecutive years following the issuance of the original certificate of occupancy, both of the following shall occur:

(1) The enforcement agency shall notify the appropriate local government entity.

(2) The public agency that has waived any taxes, fees, assessments, or charges for employee housing pursuant to this section may recover the amount of those taxes, fees, assessments, or charges from the landowner, less 10 percent of that amount for each year that a valid permit has been maintained.

(g) Subdivision (f) shall not apply to an owner of any prospective, planned, or unfinished employee housing facility who has applied to the appropriate state and local public entities for a permit to construct or operate pursuant to this part prior to January 1, 1996.

(Amended by Stats. 2019, Ch. 866, Sec. 10. (AB 1783) Effective January 1, 2020.)

17021.7. Notwithstanding subdivision (b) of Section 18214, subdivision (b) of Section 18862.39, and subdivision (b) of Section 18862.47, mobilehomes and recreational vehicles used to house agricultural employees shall be maintained in conformity with the applicable requirements of the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)).

(Amended by Stats. 2003, Ch. 814, Sec. 1. Effective January 1, 2004.)

17021.8. (a) A development proponent may submit an application for a development that is subject to a streamlined, ministerial approval process, provided in subdivision (b), and is not subject to a conditional use permit if all of the following requirements are met:

(1) The development is located on land that meets one of the following:

(A) Is designated as agricultural in the applicable city or county general plan.

(B) Is located in the County of Santa Clara or the County of Santa Cruz, is within 15 miles of an area designated as farmland or grazing by the Department of Conservation, and is not a site or adjoined to a site where more than one-third of the square footage on the site is dedicated to industrial use. For the purposes of this subparagraph, parcels separated by a street shall be considered adjoined.

(2) The development is not located on a site that is any of the following:

(A) Within the coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(D) A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Article 5 (commencing with Section 78760) of Chapter 4 of Part 2 of Division 45, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(E) 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)), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

(F) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit 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.

(G) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency.

(H) 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), 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.

(I) Lands under conservation easement. For purposes of this section, "conservation easement" shall not include a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code).

(J) Lands with groundwater levels within five feet of the soil surface and for which the development would be served by an onsite wastewater disposal system serving more than six family housing units.

(3) The development is an eligible agricultural employee housing development that satisfies the requirements specified in subdivision (i).

(b) (1) If a local government determines that a development submitted pursuant to this section does not meet the requirements specified in subdivision (a), the local government shall provide the development proponent written documentation of which requirement or requirements the development does not satisfy and an explanation for the reason or reasons the development does not satisfy the requirement or requirements, as follows:

(A) Within 30 days of submission of the development to the local government pursuant to this section if the development contains 50 or fewer housing units.

(B) Within 60 days of submission of the development to the local government pursuant to this section if the development contains more than 50 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the requirements specified in paragraph (2) of subdivision (a).

(c) The local government's planning commission or an equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate, may conduct a development review or public oversight of the development. The development review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective development standards described in this section. For purposes of this subdivision, "objective development standards" mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submission. The development review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submission of the development to the local government pursuant to this section if the development contains 50 or fewer housing units.

(2) Within 180 days of submission of the development to the local government pursuant to this section if the development contains more than 50 housing units.

(d) An agricultural employee housing development that is approved pursuant to this section shall not be subject to the density limits specified in Section 17021.6 in order to constitute an agricultural land use for purposes of that section.

(e) Notwithstanding Section 17021.6, a local government may subject an agricultural employee housing development that is approved pursuant to this section to the following written, objective development standards:

(1) (A) A requirement that the development have adequate water and wastewater facilities and dry utilities to serve the project.

(B) A requirement that the development be connected to an existing public water system that has not been identified as failing or being at risk of failing to provide an adequate supply of safe drinking water.

(C) If the development proposes to include 10 or more units, a requirement that the development connect to an existing municipal sewer system that has adequate capacity to serve the project. If the local agency has adopted an approved local agency management program for onsite wastewater treatment systems, those requirements shall apply to the development.

(2) A requirement that the property on which the development is located be either:

(A) Within one-half mile of a duly designated collector road with an Average Daily Trips (ADT) of 6,000 or greater.

(B) Adjacent to a duly designated collector road with an ADT of 2,000 or greater.

(3) A requirement that the development include off-street parking based upon demonstrated need, provided that the standards do not require more parking for eligible agricultural employee housing developments than for other residential uses of similar size within the jurisdiction.

(4) Notwithstanding Section 17020 or any other law, health, safety, and welfare standards for agricultural employee housing, including, but not limited to, density, minimum living space per occupant, minimum sanitation facilities, minimum sanitation requirements, and similar standards.

(5) Standards requiring that if a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(f) Neither the approval of a development pursuant to this section, including the permit processing, nor the application of development standards pursuant to this section shall be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(g) Notwithstanding Section 17021.6, a local agency may impose fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the eligible agricultural employee housing development.

(h) This section shall not be construed to:

(1) Prohibit a local agency from requiring an eligible agricultural employee housing development to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with subdivision (e) and appropriate to, and consistent with, meeting the jurisdiction's need for farmworker housing, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583 of the Government Code.

(2) Prohibit a local agency from disapproving an eligible agricultural employee housing development if the eligible agricultural employee housing development as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to lower income households, as defined in Section 50079.5, or rendering the development financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(3) Prohibit a local agency from disapproving an eligible agricultural employee housing development if that project would be in violation of any applicable state or federal law.

(4) Change any obligations to comply with any other existing laws, including, but not limited to, Section 116527, Section 106.4 of the Water Code, Division 7 (commencing with Section 13000) of the Water Code, and Part 12 (commencing with Section 116270) of Division 104.

(i) For purposes of this section, "eligible agricultural employee housing development" means an agricultural employee housing development that satisfies all of the following:

(1) The agricultural employee housing does not contain dormitory-style housing.

(2) The development consists of no more than either of the following:

(A) Thirty six units or spaces designed for use by a single family or household.

(B) One hundred fifty units or spaces designed for use by a single family or household if the development is located in the County of Santa Clara or the County of Santa Cruz.

(3) (A) Except as otherwise provided in subparagraph (B), the agricultural employee housing will be maintained and operated by a qualified affordable housing organization that has been certified pursuant to Section 17030.10. The development proponent shall submit proof of issuance of the qualified affordable housing organization's certification by the enforcement agency. The qualified affordable housing organization shall provide for onsite management of the development.

(B) In the case of agricultural employee housing that is maintained and operated by a local public housing agency or a multicounty, state, or multistate agency that has been certified as a qualified affordable housing organization as required by this paragraph, that agency either directly maintains and operates the agricultural employee housing or contracts with another qualified affordable housing organization that has been certified pursuant to Section 17030.10.

(C) The local government ensures an affordability covenant is recorded on the property to ensure the affordability of the proposed agricultural employee housing for agricultural employees for not less than 55 years. For purposes of this paragraph,

"affordability" means the agricultural housing is made available at an affordable rent, as defined in Section 50053, to lower income households, as defined in Section 50079.5.

(4) The agricultural employee housing is not ineligible for state funding pursuant to paragraph (1) of subdivision (b) of Section 50205 or paragraph (1) of subdivision (b) of Section 50517.10. All subdivisions of agricultural employee housing in the development and the entire scope of the development are not ineligible for funding pursuant to paragraph (1) of subdivision (b) of Section 50205 or paragraph (1) of subdivision (b) of Section 50517.10. The use of the term "unit or space" shall not be construed to limit those provisions' prohibition on the use of state funding to support H-2A employer obligations. Consistent with paragraph (2) of subdivision (b) of Section 50205 and paragraph (1) of subdivision (b) of Section 50517.10, any employer or other recipient of state funding who utilizes state funding for a purpose prohibited under those provisions shall reimburse the state or the state agency that provided the funding in an amount equal to the amount of that state funding expended for those prohibited purposes.

(j) For purposes of this section, "agricultural employee housing" means employee housing for agricultural employees as both terms are defined in Sections 17008 and 17021, respectively.

(k) For the purposes of this section:

(1) "Dedicated to industrial use" means any of the following:

(A) The square footage is currently being used as an industrial use.

(B) The most recently permitted use of the square footage is an industrial use, and the site has been occupied within the past three years.

(C) The site was designated for industrial use in the latest version of a local government's general plan adopted before January 1, 2022, and residential uses are not the principally permitted use.

(2) (A) Except as otherwise provided in subparagraph (B), "industrial use" means utilities, manufacturing, transportation storage and maintenance facilities, warehousing uses, and any other use that is a source that is subject to permitting by a district, as defined in Section 39025, pursuant to Division 26 (commencing with Section 39000), or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(B) "Industrial use" does not include any of the following:

(i) Power substations or utility conveyances, including, but not limited to, power lines, broadband wires, or pipe.

(ii) A use where the only source permitted by a district is an emergency backup generator.

(iii) Self-storage for the residents of a building.

(l) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of agricultural employee housing as are commensurate with local need. The Legislature further finds and declares that this section addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

(Amended by Stats. 2024, Ch. 524, Sec. 1. (AB 3035) Effective January 1, 2025.)

17022. Enforcement of occupational safety and health standards established pursuant to Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code is hereby specifically and entirely reserved to the Division of Industrial Safety.

(Added by Stats. 1979, Ch. 62.)

17022.5. The department shall adopt, and make available to the public, model or prototype plans for several types of employee housing, including, but not limited to, barracks, seasonal housing, family housing, and recreational vehicle parks. Any person intending to construct employee housing may adopt one or more of these models as the plans for the proposed housing.

(Added by Stats. 1986, Ch. 1495, Sec. 2.)

17023. (a) Rules and regulations adopted or continued in effect pursuant to the provisions of this part relating to the erection or construction of buildings or structures within employee housing shall not apply to existing buildings or structures or to buildings and structures as to which construction is commenced or approved prior to the effective date of the rules and regulations, except by act of the Legislature, but regulations relating to use, maintenance, and occupancy shall apply to all employee housing approved for construction and operation before or after the effective date of these rules and regulations.

(b) Building standards, as defined in Section 18909, shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code pursuant to Chapter 4 (commencing with Section 18935)

of Part 2.5, whichever occurs sooner.

(Amended by Stats. 1992, Ch. 1298, Sec. 16. Effective January 1, 1993.)

17024. This part does not apply to resident-employment housing provided for faculty or employees of any public or privately operated school, college, or university. This part does not apply to any employee housing owned, operated, and maintained by any of the following:

- (a) The federal government.
- (b) The state.
- (c) Any agency or political subdivision of the state.
- (d) Any city, county, or city and county.

(Amended by Stats. 1992, Ch. 1298, Sec. 17. Effective January 1, 1993.)