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HEALTH AND SAFETY CODE - HSC

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

PART 2.3. SPECIAL OCCUPANCY PARKS ACT [18860 - 18874] (*Part 2.3 added by Stats. 2001, Ch. 434, Sec. 39.*)

CHAPTER 4. Application and Scope [18865 - 18865.8] (*Chapter 4 added by Stats. 2001, Ch. 434, Sec. 39.*)

18865. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific this part and, when adopted, the regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of both this part and Part 2.1 (commencing with Section 18200) and the regulations adopted pursuant to this part following approval by the department for the assumption.

(c) The department shall adopt regulations that set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations shall relate solely to the ability of local agencies to enforce properly this part and the regulations adopted pursuant to this part. The regulations shall not set forth requirements for local agencies different than those that the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of special occupancy parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of this part or the regulations adopted pursuant to this part by a city, county, or city and county, the department shall enforce both this part and Part 2.1 (commencing with Section 18200) and the regulations adopted pursuant to this part and Part 2.1 in the city, county, or city and county, after the department has given written notice to the governing body of the city, county, or city and county, setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of the notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency may appeal the decision to the director of the department.

(e) (1) Any city, city and county, or county may cancel its assumption of responsibility for the enforcement of both this part and Part 2.1 (commencing with Section 18200) by providing written notice of cancellation to the department. The department shall assume responsibility within 90 days after receipt of the notice.

(2) A local enforcement agency that has been approved by the department to enforce the provisions of this chapter and cancels its assumption of responsibility and returns enforcement to the department under paragraph (1) shall remit to the department the fees collected under Section 18870.2 that have not been expended pursuant to this chapter and the regulations adopted thereunder, except that, for fees for a permit to operate, the local enforcement agency shall pay to the department a sum that is equal to the percentage of the year remaining before outstanding permits to operate expire. In addition, the local enforcement agency that relinquishes enforcement authority to the department shall remit to the department any fees collected pursuant to this part for permits to construct or for plan review, or both, for which a final approval of the construction has not yet been issued.

(f) Every city, county, or city and county shall, within its jurisdiction, enforce this part and the regulations adopted pursuant to this part, as they relate to recreational vehicles and to accessory buildings or structures located in both of the following areas: (1) inside of parks where the city, county, or city and county has assumed responsibility for enforcement of both this part and Part 2.1 (commencing with Section 18200), and (2) outside of parks.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) Establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for special occupancy parks within the city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for special occupancy parks.

(2) Regulating the construction and use of equipment and facilities located outside of a recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when the facilities are located outside a park for which a permit is required by this part or the regulations adopted pursuant thereto.

(3) Requiring a permit to use a recreational vehicle outside a park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of recreational vehicles, which permit may be refused or revoked if the use violates this part or Part 2 (commencing with Section 18000), any regulations adopted pursuant thereto, or any local ordinance applicable to that use or Part 2.1 (commencing with Section 18200).

(h) A city, including a charter city, county, or city and county, shall not require a new park to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or improvements may be required only to the extent that the facilities or improvements are required in other types of similar recreational facilities, if any, in the city, county, or city and county.

(Amended by Stats. 2008, Ch. 138, Sec. 4. Effective January 1, 2009.)

18865.05. (a) This part shall also apply to any portion of a mobilehome park that is also a special occupancy park, as defined in Section 18862.43.

(b) The department shall not charge an owner of a park that is both a special occupancy park and a mobilehome park more than one annual operating permit fee pursuant to Sections 18502 and 18870.2.

(Added by Stats. 2001, Ch. 434, Sec. 39. Effective January 1, 2002. Operative January 1, 2004, by Sec. 44 of Ch. 434, as amended by Stats. 2002, Ch. 1038.)

18865.1. Any person may file an application with the governing body of any city, city and county, or county for a conditional use permit for a special occupancy park. The governing body, or the planning commission if designated by the governing body, shall hold a public hearing on any such application. Notice of the time and place of the hearing, including a general explanation of the matter to be considered and including a general description of the area affected, shall be given at least two weeks before the hearing and shall be published at least once in a newspaper of general circulation, published and circulated in the city, city and county, or county, as the case may be. When any hearing is held on an application for a conditional use permit for a special occupancy park, a staff report with recommendations and the basis for such recommendations shall be included in the record of the hearing. The decision of the governing body shall be final and the reasons for the decision shall be included in the record.

(Added by Stats. 2001, Ch. 434, Sec. 39. Effective January 1, 2002. Operative January 1, 2004, by Sec. 44 of Ch. 434, as amended by Stats. 2002, Ch. 1038.)

18865.2. (a) In any city, county, or city and county that has imposed a time limitation for occupancy of spaces in special occupancy parks, any special occupancy park owner may apply for an exemption to that limitation. The exemption shall be granted unless the city, county, or city and county makes a substantial finding that based on, but not limited to, the lack of needed overnight or tourist spaces in those special occupancy parks in the city, county, or city and county, that the exemption of the applicant's special occupancy park from the time limitation would cause specific adverse impacts which cannot be mitigated or avoided by providing partial exemptions as set forth in subdivision (b) or by imposing conditions pursuant to subdivision (c).

(b) The requirements of subdivision (a) may be satisfied by partial exemption if either of the following applies:

(1) A number of spaces in a special occupancy park are set aside for short-term occupancy, and the remaining spaces are exempted by the city, county, or city and county from the occupancy limitation.

(2) A city, county, or city and county finds that by increasing the maximum length of stay to a specified additional period of time for the applicant, the problems raised by the applicant for an exemption are satisfied.

(c) As an alternative to granting a partial exemption pursuant to subdivision (a), in approving a request for an exemption from special occupancy park time limitations, a city, county, or city and county may:

(1) Impose conditions to assure there will be no adverse impact on local school districts due to the additional enrollment of residents of a special occupancy park.

(2) Assure that a special occupancy park is in compliance with all regulations adopted pursuant to this part.

(d) If an exemption to a time limitation for occupancy of spaces in a special occupancy park is applied for pursuant to subdivision (a) and the special occupancy park for which the exemption is requested is located within the coastal zone, as defined in Section 30103 of the Public Resources Code, the exemption shall be granted, only, if in addition to meeting the requirements set forth in subdivision (a), the city, county, or city and county finds that granting the exemption is consistent with its certified local coastal program. If granting the exemption would be inconsistent with an approved or certified local coastal program, the applicant for the exemption may petition the appropriate city, county, or city and county to seek an amendment to its certified local coastal program. If, after consultation with the California Coastal Commission, it is determined that an amendment to the certified local coastal program is required in order to grant the exemption, the city, county, or city and county may request an amendment to the certified local coastal program within 90 days of the applicant's filing of the petition. This request may be made without regard to the limitation on the number of the amendments that can be requested during any year, pursuant to Section 30514 of the Public Resources Code. The California Coastal Commission shall certify the amendment to the local coastal program unless it finds that the certification would not be consistent with Chapter 3 (commencing with Section 30200) of Division 20 of the Public Resources Code.

(Added by Stats. 2001, Ch. 434, Sec. 39. Effective January 1, 2002. Operative January 1, 2004, by Sec. 44 of Ch. 434, as amended by Stats. 2002, Ch. 1038.)

18865.3. The department shall adopt regulations for special occupancy parks which shall take into consideration any special conditions as location, physical environment, density of usage, type of operation, type of vehicles to be accommodated, and duration of occupancy. These regulations shall establish requirements that are determined by the department to be reasonable and necessary for the protection of life and property.

(Added by Stats. 2001, Ch. 434, Sec. 39. Effective January 1, 2002. Operative January 1, 2004, by Sec. 44 of Ch. 434, as amended by Stats. 2002, Ch. 1038.)

18865.4. This part does not apply to any park or camping area 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.
- (e) Any nonprofit entity under temporary, permanent, or emergency use, as determined by local government through an enabling ordinance.

(Amended by Stats. 2020, Ch. 15, Sec. 5. (AB 83) Effective June 29, 2020.)

18865.5. (a) This part does not apply to any apartment house, hotel, or dwelling that is subject to Part 1.5 (commencing with Section 17910).

(b) This part does not apply to electric, gas, or water facilities owned, operated, and maintained by a public utility.

(Added by Stats. 2001, Ch. 434, Sec. 39. Effective January 1, 2002. Operative January 1, 2004, by Sec. 44 of Ch. 434, as amended by Stats. 2002, Ch. 1038.)

18865.6. (a) This part is not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part and the rules and regulations adopted pursuant to this part, if the alternate use has been approved.

(b) The department may approve any alternate use if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement, method, or work offered is, for the purpose intended, at least the equivalent to that prescribed in this part and the rules and regulations adopted pursuant to this part in quality, strength, effectiveness, fire resistance, durability, safety, and for the protection of life and health.

(c) Whenever there is evidence that any material, appliance, installation, device, arrangement, or method of construction does not conform to the requirements of this part and the rules and regulations promulgated pursuant to this part, or in order to substantiate claims for alternates, the department may require proof of compliance to be made at the expense of the owner or his or her agent.

(d) The department shall notify the appropriate enforcement agency and plan checking agency of its findings.

(e) This section is not applicable to local regulations authorized by this part.

(Added by Stats. 2001, Ch. 434, Sec. 39. Effective January 1, 2002. Operative January 1, 2004, by Sec. 44 of Ch. 434, as amended by Stats. 2002, Ch. 1038.)

18865.7. (a) The department shall evaluate the enforcement of this part and regulations adopted pursuant to this part by each city, county, or city and county that has assumed responsibility for enforcement.

(b) In performing this evaluation, the department shall have the following authority:

(1) To examine the records of local enforcement agencies and to secure from them reports and copies of their records at any time. However, if the department requires duplication of these records, it shall pay for the costs of duplication.

(2) To carry out any investigations it deems necessary to ensure enforcement of this part and the regulations adopted pursuant thereto.

(Added by Stats. 2001, Ch. 434, Sec. 39. Effective January 1, 2002. Operative January 1, 2004, by Sec. 44 of Ch. 434, as amended by Stats. 2002, Ch. 1038.)

18865.8. (a) The department may delegate all or any portion of the authority to enforce this part and the regulations adopted pursuant to this part, or to enforce specific sections of this part or those regulations, to a local building department or health department of any city, county, or city and county where the department is the enforcement agency, if all of the following conditions exist:

(1) The delegation of authority is necessary to provide prompt and effective recovery assistance or services during or immediately following a disaster declared by the Governor.

(2) The local building department or health department requests the authority and that request is approved by the governing body having jurisdiction over the local building department or health department.

(3) The department has determined that the local building department or health department possesses the knowledge and expertise necessary to administer the delegated responsibilities.

(b) The delegation of authority shall be limited to the time established by the department as necessary to adequately respond to the disaster, or the time period determined by the department, but in no case shall the period exceed 60 days. The delegation of authority may be limited to specific geographic areas or specific mobilehome parks or recreational vehicle parks at the sole discretion of the department.

(c) Local building departments and health departments acting pursuant to subdivision (a) may charge fees for services rendered, not to exceed the department's approved schedule of fees associated with the services provided. The department may also reimburse these local departments if funds are received for the activities undertaken pursuant to subdivision (a), but no obligation for reimbursement by the department shall accrue unless funds are allocated to the department for this purpose.

(Added by Stats. 2001, Ch. 434, Sec. 39. Effective January 1, 2002. Operative January 1, 2004, by Sec. 44 of Ch. 434, as amended by Stats. 2002, Ch. 1038.)