

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
**DIVISION OF CODES AND STANDARDS**

9342 Tech Center Drive, Suite 500, Sacramento, CA 95826

P.O. Box 277820, Sacramento, CA 95827-7820

1-800-952-8356 / TTY 1-800-735-2929 / FAX 916-263-3383

HCD Website: [www.hcd.ca.gov](http://www.hcd.ca.gov)



September 26, 2019

**INFORMATION BULLETIN 2019-04 (MP, SOP)**

**TO:** Local Government Planning Agencies  
Local Building Officials  
Mobilehome Park Operators and Residents  
Mobilehome Park Interested Parties  
Division Staff

**FROM:** Richard Weinert, Deputy Director  
Division of Codes and Standards

**SUBJECT:** **Validity of Local Ordinances Relating to Construction and/or Operation of Solar Facilities within Mobilehome Parks [Supplement to Information Bulletin 2008-10 (MP) dated April 21, 2008]**

As new laws are enacted or existing laws are amended, new questions have been posed to the California Department of Housing and Community Development (Department) regarding the preemptive authority of the Mobilehome Parks Act (MPA) found in Health and Safety Code (HSC) section 18200, et seq., and the Special Occupancy Parks Act (SOPA), found in HSC section 18665, et seq. Throughout this bulletin, there are references to “manufactured homes,” “mobilehome parks,” and “the Mobilehome Parks Act;” however, unless otherwise noted, the same issues and rules apply to the Special Occupancy Parks Act. The purpose of this bulletin is to supplement the information provided previously in [Information Bulletin 2008-10 \(MP\)](#), which can be found on the Department’s [Information Bulletin](#) web page.

Without repeating all the analysis in [Information Bulletin 2008-10](#), the basis of MPA preemption was addressed as follows:

California courts have established guidelines for when local ordinances are preempted by state law. The general rule is that, if an otherwise valid local ordinance conflicts with preemptive state law, it is invalid. A “conflict” exists if an ordinance “duplicates, contradicts, or enters an area fully occupied by state law, either expressly or by

implication.” In addition, preemption is implied if the area is so fully covered by state law as to indicate it is exclusively a matter of state concern; it is partially covered by state law but the state coverage indicates that a paramount state concern will not allow additional local action; or there is partial state coverage but the adverse effect of a local ordinance on state residents outweighs the possible benefit to the locality.

The MPA contains an express preemption, with minimal express authority for local ordinances. In addition, the Legislature’s findings support its intent to allow only very restrictive authority for local government action within the boundaries of a mobilehome park. In the MPA, subdivision (a) of HSC section 18300 provides that the MPA and Department regulations apply “to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered,” affecting parks. Subdivisions (g) and (h) of HSC section 18300 provide the limited specific exceptions to the general state preemption: stating that the MPA does not preclude local governments, within the reasonable exercise of their police powers, as specified.

Questions have arisen with respect to efforts by local governments to enforce certain state laws, such as those requiring local building permits for construction of most equipment and facilities including solar power installations. Local governments are often called upon to enforce state laws ranging from health issues, environmental or coastal issues, and solar power installation issues when construction permits are required. In each case, the intent of the Legislature to grant authority to (or only to) local governments must be ascertained by review of the state laws involved, as well as the MPA preemptive authority.

### **Preemptive Construction Permit Authority**

The MPA clearly regulates building permits for construction within a park. HSC section 18500(a) and (b) state, in relevant part:

“It is unlawful for any person to do any of the following unless he or she has a valid permit issued by the enforcement agency:

- (a) Construct a park.
- (b) Construct additional buildings or lots, alter buildings, lots, or other installations, in an existing park.”

The requirements for MPA construction permits are provided in significant detail in HSC sections 18500.6 through 18502.

While the MPA expressly states that it generally preempts local government ordinances [HSC section 18300(a)], local government authority to issue permits is granted expressly in very narrow circumstances. Subdivision (f) of HSC section 18300 allows local governments to enforce the MPA either (1) inside parks if the local government is the local enforcement agency authorized by the Department or (2) outside of parks.

This local government permit authority is complemented by HSC section 18300(g) which states, in relevant part:

“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:

...*(2) From regulating the construction and use of equipment and facilities* [emphasis added] located outside of a manufactured home or mobilehome used to supply gas, water, or electricity thereto [exception] or to dispose of sewage or other waste therefrom *when the facilities are located outside a park* [emphasis added] for which a permit is required by this part or the regulations adopted pursuant thereto.”

Based on the clear preemptive authority of the MPA and the extensive permitting requirements in the MPA for work done within a mobilehome park, it is the Department’s long-term practice and firm legal position that unless there is clear and express authority in another statute, the exception for local government permit requirements is limited only to “construction and use of equipment and facilities...when the facilities are located outside of a park.”

### **Preemption of Local Government Solar Panel Permits**

There is no indication, express or implied, that the Legislature intended that local governments have permit authority superseding that of the Department for the construction of solar panels within a mobilehome park. The Solar Rights Act and related laws (Civil Code sections 714, 714.1, 801, and 801.5; and Government Code sections 65850.5, 66473.1, and 66475.3) provide no such authority. In fact, the opposite is true: subdivision (f)(1) of Government Code section 65850.5 recognizes the Department’s authority and states, in relevant part, “A solar energy system shall meet applicable health and safety standards and requirements imposed by *state and local permitting authorities* [emphasis added].”. Since there are no additional construction requirements that may be imposed by a local government, only the MPA permitting authority is required to issue the construction permits.

Additional legal authority interpreting these statutes has been considered by the Department and all of it supports the Department’s position in this matter. The Legislature intended that the MPA provide a statewide standard for the construction of mobilehome parks and the connections for mobilehomes and manufactured homes throughout the state. This not only protects the interests of mobilehome owners and residents generally, but also protects their health and safety inside mobilehome parks from the whims or lack of expertise of local governments that could create a conflicting checkerboard of construction, design, maintenance, occupancy, and use standards for mobilehome parks throughout California. Therefore, only the Department has the authority to issue construction permits for solar panel facilities inside of mobilehome parks. If you have any questions regarding this Information Bulletin, please contact the Division of Codes and Standards at the address listed on page one or (800) 952-8356.