

ORDINANCE NO. 4215

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 210 OF THE HUNTINGTON BEACH ZONING AND
SUBDIVISION ORDINANCE TITLED R RESIDENTIAL DISTRICTS
(ZONING TEXT AMENDMENT NO. 19-005)

THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH MAKES THE
FOLLOWING FINDINGS WITH RESPECT TO THE ADOPTION OF THIS ORDINANCE:

WHEREAS, under the California Constitution, Article XI, Section 7, the City has been granted broad police powers to preserve the residential characteristics of its RL, RHM, RH and RMP residential zones; and the residential portion of its Specific Plans, which powers have been recognized by both the California Supreme Court and United States Supreme Court, the latter of which has stated that, "It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled"; and

The Federal Fair Housing Act ("FHA") and the California Fair Employment Housing Act ("FEHA") prohibit enforcement of business regulation facially or effectively discriminate against equal housing opportunities for the disabled; and

A core purpose of the FHA and FEHA is to provide a broader range of housing opportunities to the disabled; to free the disabled, to the extent possible, from institutional style living; and to ensure that disabled persons may live in a similar fashion as non-disabled persons live in residential neighborhoods; and

To fulfill this purpose, the FHA and FEHA also require that the City provide reasonable accommodations to its zoning ordinances if such accommodation is necessary to afford a disabled person an equal opportunity to use and enjoy a dwelling; and

Any facility which provides non-medical alcoholism or drug abuse recovery, treatment, or detoxification services must obtain a license from the California Department of Alcohol and Drug Programs ("ADP"). Health & Safety Code section 11834.30 provides that no person "shall operate, establish, manage, conduct, or maintain an alcoholism or drug abuse recovery or treatment facility to provide recovery, treatment, or detoxification services" with the State without first obtaining an ADP license; and

State law has preempted local regulation of ADP-licensed facilities, and requires that all California cities must permit in all residential zones pursuant to ADP-licensed facilities with six or fewer residents pursuant to Health and Safety Code Sections 11834.20 and 11834.23; and

A Group Home is residential facility that is being used as a supportive living environment for persons who are considered disabled under State or Federal law. Persons recovering from drug and/or alcohol addiction are considered disabled for the purposes of the FEHA and the Federal Americans with Disabilities Act ("ADA"); and

A Sober Living Home is a Group Home for persons who are recovering from a drug and/or alcohol addiction and who are considered handicapped under FEHA or ADA; and

The City of Huntington Beach has seen a sharp increase in the number of Sober Living Homes, which has generated secondary impacts including, but not limited to neighborhood parking shortfalls, overcrowding, inordinate amounts of second-hand smoke, and noise; and the clustering of Sober Living Homes in close proximity to each other creating near neighborhoods of Sober Living Homes; and

As of May 2020, the City has identified approximately 177 Sober Living Homes and residential care facilities in the multi-family and single-family residential zones; and

The number of Sober Living Homes in the City of Huntington Beach is rapidly increasing, leading to an overconcentration of Sober Living Homes in certain of the City's residential neighborhoods, which is both deleterious to the residential character of these neighborhoods and may also lead to the institutionalization of such neighborhoods; and

The purpose of Sober Living Homes is to provide a comfortable living environment for persons with drug or alcohol addictions in which they remain clean and sober and can participate in a recovery program in a residential, community environment, and so that they have the opportunity to reside in the residential neighborhood of their choice; and

In enacting this Ordinance, the City Council of the City of Huntington Beach is attempting to strike a balance between the City's and residents' interests of preserving the characteristics of residential neighborhoods and to provide opportunities for the disabled to reside in such neighborhoods that are enjoyed by the non-disabled; and

Because of their extremely transient populations, above-normal numbers of individuals/adults residing in a single dwelling and the lack of regulations, Sober Living Homes present problems not typically associated with more traditional residential uses, including but not limited to: the housing of large numbers of unrelated adults who may or may not be supervised; disproportionate numbers of cars associated with a single housing unit, which causes disproportionate traffic and utilization of on-street parking; excessive noise and outdoor smoking, which interferes with the use and enjoyment of neighbors' use of their property; neighbors who have little to no idea who does and does not reside in the home; little to no participation in community activities that form and strengthen neighborhood cohesion; disproportional impacts from the average dwelling unit to nearly all public services including sewer, water, parks, libraries, transportation infrastructure, fire and police; a history of congregating in the same general area; and the potential influx of individuals with a criminal record; and

Housing inordinately large numbers of unrelated adults in a single dwelling or congregating Sober Living Homes in close proximity to each other does not provide the disabled with an opportunity to "live in normal residential surroundings," but rather places them into living environments bearing more in common with the types of institutional dormitory living that the FEHA and FHA were designed to avoid for the disabled, and which no reasonable person could contend provides a normal residential surrounding; and

Notwithstanding the above, the City Council recognizes that while not in character with residential neighborhoods, responsibly operated Sober Living Homes, and Group Homes, including Sober Living Homes, benefit society by providing the disabled the opportunity to live in residential neighborhoods, recovery programs for individuals attempting to overcome their drug and alcohol addictions, and providing Sober Living Homes greater access to residential zones; and

Without regulation there is no means of ensuring that (i) the individuals entering into Sober Living Homes are disabled individuals and entitled to reasonable accommodation under local and state law; (ii) the Sober Living Home is operated professionally to minimize impacts to the surrounding neighborhood; and (iii) the secondary impacts from over concentration of Sober Living Homes and Group Homes in a neighborhood and large numbers of unrelated adults residing in a single facility are lessened; and

At least some operators of Sober Living Homes and Group Homes are driven more by profit rather than intent to provide recovering addicts a realistic potential of sobriety, or a living environment resembling the manner in which the non-disabled use and enjoy a dwelling; and

The residents of Sober Living Homes and Group Homes come to the City from all parts of the country and often lack established ties to the community and a local support system independent of the Sober Living Home or Group Home; and consequently the residents are especially vulnerable to becoming homeless upon eviction; and

Is the intent of this Ordinance to require that operators of Group and Sober Living Homes provide the residents information regarding the available local housing resources prior to eviction from a Sober Living Home or Group Home; and

Pursuant to the California State Planning and Zoning Law, the Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings to consider Zoning Text Amendment No. 19-005, which amends Chapter 210 of the Huntington Beach Zoning and Subdivision Ordinance relating to updated, clarified, and additional development standards utilized within Residential Districts of the ZSO.

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan;

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. That Chapter 210 of the Huntington Beach Zoning and Subdivision Ordinance titled R Residential Districts is hereby amended.

SECTION 2. All other provisions of Chapter 210 not modified herein shall remain in full force and effect.

SECTION 3. This ordinance shall become effective immediately 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the ____ day of _____, 2020.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney



REVIEWED AND APPROVED:

INITIATED AND APPROVED:

City Manager



Community Development Director

Chapter 210 RESIDENTIAL DISTRICTS

210.02 Residential Districts Established

The purpose of the residential districts is to implement the General Plan and Local Coastal Program Land Use Plan residential land use designations. Five residential zoning districts are established by this chapter as follows:

- A. The RL Low Density Residential District provides opportunities for single-family residential land use in neighborhoods, subject to appropriate standards. Cluster development is allowed. Maximum density is seven units per acre.
- B. The RM Medium Density Residential District provides opportunities for housing of a more intense nature than single-family detached dwelling units, including duplexes, triplexes, town houses, apartments, multi-dwelling structures, or cluster housing with landscaped open space for residents' use. Single-family homes, such as patio homes, may also be suitable. Maximum density is 15 units per acre.
- C. The RMH Medium High Density Residential District provides opportunities for a more intensive form of development than is permitted under the medium density designation while setting an upper limit on density that is lower than the most intense and concentrated development permitted in the City. One subdistrict has been identified with unique characteristics where separate development standards shall apply: RMH-A Small Lot. Maximum density is 25 units per acre.
- D. The RH High Density Residential District provides opportunities for the most intensive form of residential development allowed in the City, including apartments in garden type complexes and high rise where scenic and view potential exists, subject to appropriate standards and locational requirements. Maximum density is 35 units per acre.
- E. The RMP Residential Manufactured Home Park District provides sites for mobile home or manufactured home parks, including parks with rental spaces and parks where spaces are individually owned. Maximum density is nine spaces per acre. (3334-6/97)

210.04 RL, RM, RMH, RH, and RMP Districts—Land Use Controls

In the following schedules, letter designations are used as follows:

- “P” designates use classifications permitted in residential districts.
- “L” designates use classifications subject to certain limitations prescribed by the “Additional Provisions” that follow.
- “PC” designates use classifications permitted on approval of a conditional use permit by the Planning Commission.
- “ZA” designates use classifications permitted on approval of a conditional use permit by the Zoning Administrator.
- “TU” designates use classifications allowed upon approval of a temporary use permit by the Zoning Administrator.
- “P/U” designates that accessory uses are permitted, however, accessory uses are subject to approval of a conditional use permit if the primary use requires a conditional use permit.

Use classifications that are not listed are prohibited. Letters in parentheses in the “Additional Provisions” column refer to provisions following the schedule or located elsewhere in the zoning ordinance. Where letters in parentheses are opposite a use classification heading, referenced provisions shall apply to all use classifications under the heading.

RL, RM, RMH, RH, and RMP Districts: Land Use Controls

P = Permitted

L = Limited (see Additional Provisions)

PC = Conditional use permit approved by Planning Commission

ZA = Conditional use permit approved by Zoning Administrator

TU = Temporary use permit

P/U = Requires conditional use permit on site of conditional use

- = Not Permitted

	RL	RM	RMH, RH	RMP	Additional Provisions
Residential Uses					(A)(M)(Q)
Day Care, Ltd.	P	P	P	P	
<u>Group Homes</u>					
<u>Incl. Sober Living Homes</u>	<u>L-8</u>	<u>L-8</u>	<u>L-8</u>	<u>L-8</u>	
Group Residential	-	-	PC	-	
Multifamily Residential					(B)(C)(D)(R)
2 - 4 units	ZA	P	P	-	
5 - 9 units	ZA	ZA	ZA	-	
10 or more units	PC	PC	PC	-	
Manufactured Home Parks	ZA	ZA	-	ZA	(E)(F)
Residential, Alcohol Recovery, Ltd.	P	P	P	P	-
Residential Care, Limited	P	P	P	P	
<u>Referral Facility</u>	<u>-</u>	<u>L-9</u>	<u>L-9</u>	<u>L-9</u>	
<u>Residential Care Facility</u>	<u>P/PC</u>	<u>P/PC</u>	<u>P/PC</u>	<u>P/PC</u>	<u>(T)</u>
Single-Family Residential	P	P	P	P	(B)(D)(F)(P)(R)(S)
Supportive Housing	L-7	L-7	L-7	L-7	
Transitional Housing	L-7	L-7	L-7	L-7	
Public and Semipublic					(A)(O)
Clubs & Lodges	PC	PC	ZA	ZA	
Day Care, Large-family	L-6	L-6	L-6	L-6	

Day Care, General	L-1	ZA	ZA	ZA	
Park & Recreation Facilities	L-2	L-2	L-2	L-2	
Public Safety Facilities	PC	PC	PC	PC	
Religious Assembly	L-3	PC	PC	PC	
Residential Care, General	L-1	L-1 PC	PC	PC	
Schools, Public or Private	PC	PC	PC	PC	
Utilities, Major	PC	PC	PC	PC	
Utilities, Minor	P	P	P	P	
Commercial					
Communication Facilities	L-5	L-5	L-5	L-5	
Horticulture	ZA	ZA	ZA	ZA	
Nurseries	ZA	ZA	ZA	ZA	
Visitor Accommodations					
Bed and Breakfast Inns	-	-	L-4	-	
Accessory Uses	P/U	P/U	P/U	P/U	(A)(G)(H)(I)(L)(M)
Temporary Uses					(J)(M)
Commercial Filming, Limited	P	P	P	P	
Real Estate Sales	P	P	P	P	(N)
Personal Property Sales	P	P	P	P	
Street Fairs	TU	TU	TU	TU	
Nonconforming Uses					(K)(L)

RL, RM, RMH, RH, and RMP Districts: Additional Provisions

L-1 A conditional use permit from the Planning Commission is required and only allowed on lots 1.0 acre (gross acreage) or greater fronting an arterial in RL District.

L-2 Public facilities permitted, but a conditional use permit from the Zoning Administrator is required for private noncommercial facilities, including swim clubs and tennis clubs.

L-3 A conditional use permit from the Planning Commission is required, and only schools operating in conjunction with religious services are permitted as an accessory use. A general day care facility may be allowed as a secondary use, subject to a conditional use permit, if the Planning Commission finds that it would be compatible with adjacent areas and not cause significant traffic impacts.

L-4 A conditional use permit from the Zoning Administrator is required and only allowed on lots 10,000 square feet or greater in RMH-A subdistrict. See also Section 230.42, Bed and Breakfast Inns.

L-5 Only wireless communication facilities permitted subject to Section 230.96, wireless communication facilities.

L-6 Neighborhood notification is required pursuant to Section 241.24. No architectural plans shall be required.

L-7 Supportive housing and transitional housing shall be considered a residential use of property and shall be subject only to those restrictions and processing requirements that apply to other residential dwellings of the same type in the same zone.

L-8 Group Homes and Sober Living Homes

A. A Group Home or Sober Living Home with **six (6) or fewer residents** in the RL, RM, RMH, RH, RMP, a Specific Plan Residential, or a Specific Plan Mixed Use zone shall require a Special Use Permit from the Community Development Director, and:

1. As measured from the property line to property line, a Sober Living Home shall be at least one thousand (1000) feet from any other property that contains a Group Home, Sober Living Home, or State-Licensed Residential Care Facility. Refer to the procedures and location requirements of Chapter 230.28.

B. A Group Home or Sober Living Home with **seven (7) or more residents** is not permitted in the RL zone. In the RM, RMH, RH, RMP, Specific Plan Residential, or Specific Plan Mixed Use zone, a Group Home or Sober Living Home with **seven (7) or more residents** shall require a Conditional Use Permit from the Planning Commission, and:

1. As measured from the property line to property line, the Group Home or Sober Living Home shall be at least one thousand (1000) feet from any other property that contains a Group Home, Sober Living Home, or State-Licensed Residential Care Facility;
2. An application for an Operator's Permit that complies with Chapter 5.110 of the Huntington Beach Municipal Code (HBMC) shall be required for and may be granted to permit the operation of a Group Home or Sober Living Home.

C. An applicant may seek relief from the strict application of this section by submitting a Reasonable Accommodation application to the Community Development Director setting forth specific reasons as to why accommodation over and above this section is necessary under State and Federal laws, pursuant to Chapter 17.77 of the Huntington Beach Municipal Code.

L-9 A Referral Facility is any individual Residential Care Facility, Group Home, or Sober Living Home where one or more person's residency in the facility is pursuant to a court order or directive from an agency in the criminal justice system. The following standards are applicable to Referral Facilities:

- A. Referral Facilities are not permitted in the Residential Low Density (RL) zone, and no Referral Facility may be located within five hundred (500) feet of property that is zoned either Residential Low Density (RL) or Specific Plan Residential Low Density areas, or within five hundred (500) feet of a school, park, place of worship, or licensed day care facility.
 - B. A Referral Facility must have a manager on-site, twenty-four (24) hours every day to ensure the orderly operation of the facility and its compliance with all applicable laws, regulations, and conditions.
 - C. No Referral Facility shall admit a resident who has been convicted of any crime involving physical force against a person, illegal possession of a weapon, possession or use of a weapon in the commission of a crime, or a felony involving a controlled substance.
- (A) Any addition or modification subsequent to the original construction that would result in an increase in the amount of building area, or a structural or architectural alteration to the building exterior, shall require an amendment to the previously approved conditional use permit, if any, or approval of a new conditional use permit.
- (B) A conditional use permit from the Planning Commission is required for residential uses requesting reduction in standards for senior citizens (See Section 210.08), for affordable housing (See Sections 210.10 and 230.14), or for density bonus (See Section 230.14).
- (C) A conditional use permit from the Zoning Administrator is required for any multiple family residential development that:
- (1) Abuts an arterial highway;
 - (2) Includes a dwelling unit more than 150 feet from a public street; or
 - (3) Includes buildings exceeding 25 feet in height.
- (D) See Section 210.12, Planned Unit Development Supplemental Standards. In addition, a conditional use permit is required for condominium conversion pursuant to Chapter 235.
- (E) See Section 210.14, RMP District Supplemental Standards. In addition, Neighborhood Notification pursuant to Chapter 241 is required for the addition of manufactured home space(s) to an existing manufactured home park.
- (F) See Section 230.16, Manufactured Homes.
- (G) See Section 230.12, Home Occupation in R Districts.
- (H) See Section 230.08, Accessory Structures.
- (I) See Section 230.10, Accessory Dwelling Units.
- (J) See Section 241.20, Temporary Use Permits.
- (K) See Chapter 236, Nonconforming Uses and Structures.

- (L) See Chapter 233, Signs.
- (M) Tents, trailers, vehicles, or temporary structures shall not be used for dwelling purposes.
- (N) See Section 230.18, Subdivision Sales Offices and Model Homes.
- (O) Limited to facilities on sites of fewer than two acres.
- (P) See Section 230.22, Residential Infill Lot Developments.
- (Q) See Section 230.20, Payment of Parkland Dedication In-Lieu Fee.
- (R) Small Lot Development Standards for RM, RMH, and RH Districts. A conditional use permit from the Planning Commission is required for small lot residential subdivisions, including condominium maps for detached single-family dwellings. See also Section 230.24, Small Lot Development Standards.
- (S) See Coastal Element Land Use Plan, Table C-2, for permitted uses, development requirements and restrictions applicable to development within Subarea 4K as depicted in Figures C-6a and C-10 of the Coastal Element Land Use Plan. Subdivision design and development within Subarea 4K shall incorporate the information from the plans and studies required in Table C-2 for development of that subarea. If there is a conflict between the requirements and restrictions of Table C-2 and other provisions of the Zoning and Subdivision Ordinance, the requirements and restrictions included in Table C-2 shall prevail.
- (T) Unlicensed Residential Care Facilities are not permitted in any R district.
- State licensed Residential Care Facilities serving **six (6) or fewer** persons are permitted in the in the RL, RM, RMH, RH, RMP, a Specific Plan Residential, or a Specific Plan Mixed Use zones.
- State licensed Residential Care Facilities serving **seven (7) or more** persons in the RL (See Provision L-1), RM, RMH, RH, RMP, a Specific Plan Residential, or a Specific Plan Mixed Use zone are subject to a CUP by the Planning Commission pursuant to the requirements of Section 230.28.
- (3334-6/97, 3410-3/99, 3455-5/00, 3568-9/02, 3706-6/05, 3724-2/06, 3761-2/07, 3832-7/09, 3858-2/10)

NO FURTHER CHANGES TO HBZSO CHAPTER 210 PROPOSED

REMAINDER OMITTED FROM LEGISLATIVE DRAFT