



Legislation Details (With Text)

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On agenda:	7/6/2020	Final action:	7/6/2020
Title:	Approve for Introduction Ordinance Nos. 4214, 4212, 4215, 4216, and 4213, approving Zoning Text Amendment (ZTA) No. 19-005 and Municipal Code Amendment adding Chapter 5.110 (Group Homes)		
Attachments:	1. Att#1 Suggested Findings of Approval, 2. Att#2 Ord No. 4214 and Legis Drft - Chapter 203, 3. Att#3 Ord No. 4212 and Legis Drft - Chapter 204, 4. Att#4 Ord No. 4215 and Legis Drft - Chapter 210, 5. Att#5 Ord No. 4216 and Legis Drft - Chapter 230, 6. Att#6 Ord No. 4213 and Legis. Drft - Title 5, 7. Att#7 PC Staff Rpt dtd 6/9/2020, 8. Sup Com 7-6-2020 Luna-Reynosa PPT, 9. Sup Com 7-6-2020 #norecoveryonashworth		

Date	Ver.	Action By	Action	Result
7/6/2020	2	City Council/Public Financing Authority	approved	Pass

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Oliver Chi, City Manager

PREPARED BY: Ursula Luna-Reynosa, Director of Community Development

Subject:

Approve for Introduction Ordinance Nos. 4214, 4212, 4215, 4216, and 4213, approving Zoning Text Amendment (ZTA) No. 19-005 and Municipal Code Amendment adding Chapter 5.110 (Group Homes)

Statement of Issue:

Zoning Text Amendment No. 19-005 would modify four chapters of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), and create a new chapter of the Huntington Beach Municipal Code (HBMC) that, in combination, would establish a set of regulations for Group Homes, Sober Living Homes, and Residential Care Facilities affecting Residential Districts Citywide. The four chapters of the HBZSO to be amended are Chapter 203 (Definitions), Chapter 204 (Use Classifications), Chapter 210 (Residential Districts), and Chapter 230 (Site Standards) - Section 230.28 Group Homes. The chapter of the HBMC to be added is Chapter 5.110 Group Homes. The Planning Commission and staff recommend approval of the request.

Financial Impact:

Should the City Council vote to adopt ZTA No. 19-005 and amendment to the Huntington Beach Municipal Code adding Chapter 5.110 (Group Homes), the proposed regulations will require the development of application forms and review and approval processes to accommodate the dispensation of Special Use Permits by the Community Development Department and Operator's

Permits by the Finance Department.

Recommended Action:

A) Find that the project will not have any significant effect on the environment and is categorically exempt from the California Environmental Quality Act pursuant to Section 15061 (b)(3) (General Rule) of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility that the amendment to the HBZSO will have a significant effect on the environment (Attachment No. 1); and,

B) Approve Zoning Text Amendment No. 19-005 with findings (Attachment No. 1), approve amendment to Huntington Beach Municipal Code adding Chapter 5.110 (Group Homes), and approve for introduction:

Ordinance No. 4214, "An Ordinance of the City Council of the City of Huntington Beach Amending Chapter 203 of the Huntington Beach Zoning and Subdivision Ordinance Titled Definitions (Zoning Text Amendment No. 19-005);" and,

Ordinance No. 4212, "An Ordinance of the City Council of the City of Huntington Beach Amending Chapter 204 of the Huntington Beach Zoning and Subdivision Ordinance Titled Use Classifications (Zoning Text Amendment No. 19-005);" and,

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);" and,

Ordinance No. 4216, "An Ordinance of the City Council of the City of Huntington Beach Amending Chapter 230 of the Huntington Beach Zoning and Subdivision Ordinance Titled Site Standards (Zoning Text Amendment No. 19-005);" and,

Ordinance No. 4213, "An Ordinance of the City Council of the City of Huntington Beach Amending Title 5 of the Huntington Beach Municipal Code Titled Business Licenses and Regulations;" (Attachment Nos. 2 - 6).

Alternative Action(s):

The City Council may make the following alternative motion(s):

A) Deny Zoning Text Amendment No. 19-005 and Municipal Code Amendment (Chapter 5.110 - Group Homes); or

B) Continue Zoning Text Amendment No. 19-005 and Municipal Code Amendment (Chapter 5.110 - Group Homes), and direct staff accordingly.

Analysis:

A. PROJECT PROPOSAL

Applicant: City of Huntington Beach

Property Owner: Multiple Various Residential Property Owners

Location: Residential Zoning Districts Citywide

The Zoning Text Amendment (ZTA) proposes to amend four chapters of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), and create a new chapter of the Huntington Beach Municipal Code (HBMC) that, in combination, establish a set of regulations for Group Homes, Sober Living Homes, and Residential Care Facilities affecting Residential Districts Citywide. The four chapters of the HBZSO to be amended are Chapter 203 (Definitions), Chapter 204 (Use Classifications), Chapter 210 (Residential Districts), and Chapter 230 (Site Standards) - Section 230.28 Group Homes. The chapter of the HBMC to be added is Chapter 5.110 Group Homes.

Background:

At the September 16, 2019, City Council meeting by a vote of 7-0, the City Council directed the City Attorney to return to Council with one or more Ordinance(s) that regulate “Group Homes and Sober Living Homes,” with an appropriate balance between the interests of the City and its residents to preserve residential neighborhood character and the need to provide reasonable accommodation for the disabled, including those recovering from chemical addiction, to reside in normalized residential environments.

Like many California cities, the City of Huntington Beach has experienced a rise in the number of Group Homes within single-family residential neighborhoods. A type of Group Home, commonly referred to as Sober Living Homes, are single-family homes where many occupants reside while recovering from alcohol and drug addiction. These Sober Living Homes provide a place to live in “a residential setting” between detox and the resident’s future housing. These homes are not required to be licensed by the State, and are not allowed to provide services that State licensed alcoholism or drug abuse recovery or treatment facilities provide.

The proliferation of Sober Living Homes in Huntington Beach has resulted in a substantial increase in complaints generated by neighbors and community members regarding the operation of these uses. Reported impacts of sober living homes include excessive amounts of noise, loitering, second-hand smoke, trash and debris, and increased parking demands within residential neighborhoods. Of particular concern are complaints regarding the over-concentration of sober living homes, and when in close proximity to one another, these uses may change the character of a residential neighborhood to a more institutional environment.

The proposed amendments are intended to preserve the residential character of single-family residential neighborhoods and to further the purposes of State law, by, among other things: (1) ensuring that Group Homes are actually entitled to the special accommodation and/or additional accommodation provided under the Huntington Beach Municipal Code and not simply skirting the City’s land use regulations; (2) limiting the secondary impacts of Group Homes by reducing noise and traffic, preserving safety and providing adequate on-street parking; (3) providing an accommodation for the disabled that is reasonable and actually bears some resemblance to the opportunities afforded non-disabled individuals to use and enjoy a dwelling unit in a single-family neighborhood; and (4) to provide comfortable living environments that will enhance the opportunity for the disabled and for recovering addicts to be successful in their programs. The proposed regulations will require Group Homes, including Sober Living Homes, to obtain a ministerial permit to operate in a manner consistent

with the nature of the single-family residential neighborhoods in which they are located.

The Federal Fair Housing Act (FHA) and California Fair Employment Housing Act (FEHA), prohibits cities from enforcing zoning laws that have the effect of discriminating against the disabled with regard to housing opportunities. A disabled person is defined by The Americans with Disabilities Act (ADA) as one that has: 1) A physical or mental impairment that affects one or more major life activities; 2) A history of recovery from alcoholism or illegal use of drugs; or 3) Has been regarded as having such impairment. The ADA protects persons in recovery from chemical addiction, even if they are no longer engaged in the illegal use of drugs and otherwise meet the definitions in the statute.

Additionally, pursuant to the California Government and Welfare and Institutions Codes, and the Lanterman Developmental Disabilities and Services Act (Lanterman Act), people with developmental disabilities have the right to obtain the services and support they need to live like people without disabilities. A core purpose of this State law is to provide a broader range of housing options to the disabled, and to free the disabled to the extent possible from institutional style living. As such, a disabled person is afforded an equal opportunity to use and enjoy a residential dwelling. Likewise, pursuant to the California FEHA, individuals with physical and mental disabilities have the right under State law to rent, lease, or buy housing accommodations free from discrimination due to a disability.

State law requires cities to treat certain state-licensed residential care facilities that provide care, services, and/or treatment serving six or fewer disabled tenants as a single-family residential use. (As such, and consistent with State law, the existing HBZSO provides that both “Residential Alcohol Recovery, Limited” and “Residential Care, Limited” uses that house six (6) or fewer individuals are permitted by right in the City’s Residential districts.)

The Health and Safety Code does not regulate supportive living facilities that provide no treatment, and the HBZSO does not currently classify such a use specifically, which has encumbered the City’s ability to effectively mitigate impacts from such uses.

Finally, the California Constitution and Huntington Beach Charter grants broad police powers to Huntington Beach to preserve the residential characteristics or its various types of residential zones.

It is the intent of the City Council to develop an Ordinance that strikes an appropriate balance between the interests of the City and its residents to preserve residential neighborhood character, and the need to provide housing accommodations to disabled persons, including those in recovery from chemical addiction to reside in normalized residential environments that promote effective recovery. State and Federal laws require the City to make reasonable accommodations in its zoning laws when such accommodation is reasonably necessary to afford the disabled the opportunity to use and enjoy a dwelling. The proposed Ordinance will apply to all districts Citywide, but affect only residential districts.

B. PLANNING COMMISSION MEETING

The Planning Commission held a public hearing on ZTA No. 19-005 on June 9, 2020. There were five public comments received regarding the proposed ZSO and HBMC amendments. The Planning Commission asked some questions for clarification regarding the definitions of Boarding House and Single Housekeeping Unit, current group home enforcement, permit transferability, and the proposed buffer requirements. Staff also provided an update regarding the status of the City of Costa Mesa’s Group Homes Ordinance.

Planning Commission Action on June 9, 2020:

The motion was made by Kalmick, seconded by Scandura, to find and determine that the project is exempt from the California Environmental Quality Act, recommend approval of ZTA No. 19-005, and forward to the City Council for consideration carried by the following vote:

AYES: Ray, Garcia, Kalmick, Mandic, Perkins, Scandura

NOES: None

ABSENT: Grant

ABSTAIN: None

C. STAFF ANALYSIS AND RECOMMENDATION

Zoning Compliance:

The following provides a review of the proposed amendments organized by each Chapter.

1. CHAPTER 203 DEFINITIONS

To provide context to the scope of changes in this ZTA, several new definitions must be established in Chapter 203 Definitions, identified below.

- Modify existing definition of Boarding House
- Add Disabled
- Add Fair Housing Laws
- Add Household
- Add Integral Facilities
- Add Integral Uses
- Add Operator
- Add Single Housekeeping Unit

These definitions work in concert with the other elements of the proposed ZTA to more clearly define specific uses as they pertain to the regulation of Group Homes in Huntington Beach.

2. CHAPTER 204 USE CLASSIFICATIONS

To provide for the regulation of Group Homes, including Sober Living Homes, this ZTA will establish four new use classifications in Chapter 204 Use Classifications. Staff is summarizing them below in order to introduce and differentiate each classification.

Group Home

A residential unit utilized as a supportive living environment for people meeting the legal definition of disabled.

- Provides housing only for a classified group of people. No medical care, services, or treatment can take place in a Group Home
 - Only State licensed facilities can provide care, services, or treatment under State law (see Residential Care Facilities)

Sober Living Home

Sober Living Homes are also Group Homes, but specifically for people recovering from a chemical addiction that meet the legal definition of disabled.

- Provides housing only that is primarily meant for people who have just come out of rehab and need a place to live that is structured and supportive for those in recovery.
- For the purposes of the Ordinance, a Sober Living Home is not state licensed.
- No medical care, services, or treatment can occur in a Sober Living Home
 - Only State licensed facilities can provide care, services, or treatment under State law (see Residential Care Facilities)

Residential Care Facilities (RCF)

A State Licensed residential facility where care, services, or treatment are provided to persons living in a community residential setting.

- Provide housing and care/treatment for the elderly, developmentally disabled, chronically ill, and chemical addiction treatment facilities, among others.
- RCFs that specifically provide drug and or alcohol abuse treatment are licensed by the Department of Health Care Services (DHCS) and are known as alcoholism or drug abuse recovery or treatment facilities.
 - Homes are required to be licensed by the DHCS when at least one of the following services is provided: detoxification, group counseling sessions, individual counseling sessions, educational sessions, or alcoholism or drug abuse recovery or treatment planning.

Referral Facility

Either a Residential Care Facility, Group Home, or Sober Living Home where one or more person's residency is per a court order or similar directive. Referral facilities must follow the permit procedure according to the base use classification, and are not permitted in the RL zone.

3. CHAPTER 210 RESIDENTIAL DISTRICTS

In addition to establishing the new Definitions and Use Classifications identified above, this ZTA will also amend Chapter 210 Residential Districts to provide reference to land use controls and new requirements for Group Homes in Residential Districts (Legislative Drafts attached for reference). These changes are summarized below.

- a. Add "Group Homes Including Sober Living Homes" to Land Use Controls matrix and create Additional Provision L-8:
 - A Group Home (GH) or Sober Living Home (SLH) with six (6) or fewer residents
 - In all Residential districts, requires a ministerial Special Use Permit (SUP) from the Community Development Director; and
 - Any SLH shall be one thousand (1000) feet from any other property that contains a GH, SLH, or RCF pursuant to Chapter 230.28
 - A GH or SLH with seven (7) or more residents
 - Not permitted in the RL zone
 - In all other Residential Districts, requires a CUP from the Planning Commission; and
 - An Operator's Permit that complies with Huntington Beach Municipal Code (HBMC) Section 5.110; and
 - The GH or SLH (with 7 or more residents) shall be one thousand (1000) feet

from any other property that contains a GH or SLH.

- An applicant for a GH or SLH may seek relief from strict application of the requirements of Additional Provision L-8 by applying for reasonable accommodation pursuant to HBMC 17.77.
- b. Add “Referral Facility” to the Land Use Controls matrix and create Additional Provision L-9:
 - Referral Facilities are not permitted in the RL zone; and
 - No Referral Facility may be located:
 - Within five hundred (500) feet of property that is zoned either RL or Specific Plan Residential Low Density, or
 - Within five hundred (500) feet of a school, park, place of worship, or licensed day care facility.
 - Referral Facilities must have an on-site manager 24/7
 - Referral Facilities may not admit a resident convicted of specific crimes
- c. Add “Residential Care Facility” to the Land Use Controls Matrix and create Additional Provision (T).
 - Certain Residential Care Facilities are Permitted (P), and certain Residential Care Facilities require a CUP from the Planning Commission. The “P/PC” listing refers to this differentiation.
 - Additional Provision (T)
 - Identify that unlicensed Residential Care Facilities are not permitted in any R district
 - State licensed Residential Care Facilities serving six (6) or fewer residents are permitted in all R districts
 - State licensed Residential Care Facilities serving seven (7) or more residents in all R districts require a CUP from the Planning Commission

4. CHAPTER 230.28 GROUP HOMES

This ZTA will also add a new section to Chapter 230 Site Standards, Article I. Residential Districts. Titled Chapter 230.28 Group Homes, the appropriate placement for new regulations that will be applicable to Group Homes in Residential Districts.

Special Use Permit (SUP)

Chapter 230.28 will identify that a Group Home that may otherwise be considered an unpermitted use may locate in a Residential District subject to the approval of a Special Use Permit (SUP) by the Community Development Director, provided that the Group Home is in compliance with applicable regulations. Should the Ordinance be adopted, all existing Group Homes as well as any new proposed Group Home will be required to obtain a SUP. The SUP is ministerial and may be granted when a complete application is submitted to the Community Development Director that provides the following:

- a. The name, address, phone number, and driver’s license number of the owner, operator, and house manager;
- b. A copy of the Group Home rules and regulations;
- c. Written intake procedures;
- d. The relapse policy (if applicable, depending on the type of Group Home);

- e. An affirmation by the owner/operator that only residents (other than the house manager) who are disabled as defined by State and Federal law shall reside at the Group Home;
- f. Blank copies of all forms that residents and potential residents are required to complete; and
- g. A fee for the cost of processing the application as set by resolution by the City Council.

Only basic information will be required to submit an application for a SUP, and the internal procedures and forms will be provided to applicants. Compliance with the application requirements should not present any significant hardship, since the requirements are in line with the routine capabilities expected from a professionally operated Group Home.

In general, the operational requirements to maintain a SUP include the following: no more than seven (7) tenants may reside in a Group Home, one of which must be a house manager. If the dwelling unit has a secondary accessory unit, occupants of both units will be combined to determine whether or not the limit of six (6) occupants has been exceeded. A Group Home shall not be located in an accessory secondary unit unless the primary dwelling unit is used for the same purpose. The SUP also requires garage and driveway spaces to be available and used for parking of vehicles and limits each tenant to one vehicle, which must be operable and used as a primary form of transportation.

In addition to the requirements for Group Homes outlined above, Chapter 230.28 will also identify that the following shall specifically apply to Sober Living Homes:

- a. Sober Living Homes are prohibited from locating within one thousand (1000) feet of each other.
- b. All occupants, other than the house manager, must be actively participating in legitimate recovery programs with supporting documentation required.
- c. The Sober Living Home's rules and regulations must prohibit the use of any alcohol or non-prescribed drugs at the Sober Living Home or by any recovering addict either on or off site. Violation of the no drug policies are grounds for eviction for 90 days for the first offense. Any second violation of this rule shall result in permanent eviction.
- d. The number of sex offenders in any group home shall be no more than one, pursuant to the applicable provisions of the Penal Code.
- e. Each Sober Living Home shall have a written visitation policy that precludes any visitors who are under the influence of any drug or alcohol.
- f. The Sober Living Home shall have a good neighbor policy that shall direct the occupants to be considerate of neighbors, including refraining from engaging in excessively loud, profane, or obnoxious behavior that would unduly interfere with a neighbor's use and enjoyment of their dwelling unit. The good neighbor policy shall establish a written protocol for the house manager/operator to follow when a neighbor complaint is received.
- g. The Sober Living Home shall not provide any of the following services as they are defined by the California Code of Regulations: detoxification; educational counseling; individual or group counseling sessions; and treatment or recovery planning.

Chapter 230.28 will also provide provisions for requests for reasonable accommodation, cause for denial or revocation of a Special Use Permit, and compliance with the proposed regulations. If the Zoning Text Amendment is adopted by Ordinance, existing Group Homes, including Sober Living Homes, will have 90 days to apply for a Special Use Permit. Group Homes will have one year from the effective date of the Ordinance to comply with its provisions, provided that any existing group home, which is serving more than six (6) residents, must first comply with the six (6) resident maximum.

Conditional Use Permit

Finally, Chapter 230.28 will require a Conditional Use Permit to permit the operation of a Group Home, including Sober Living Homes, or Residential Care Facility with seven (7) or more occupants in the RM, RMH, RH, RMP, Specific Plan Residential and Specific Plan Mixed Use zones. This CUP requirement will be processed to the Planning Commission. A Group Home or Residential Care Facility will be prohibited in the RL zone and these stipulations are reflected in the Land Use Controls matrix of Chapter 210.

In addition to the Conditional Use Permit requirement, Group Homes or Residential Care Facilities with seven (7) or more occupants are subject to the following requirements:

- a. 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; and
- b. An application for an Operator's Permit that complies with Chapter 5.110 of the Huntington Beach Municipal Code (HBMC).

OPERATOR'S PERMIT

This ZTA will amend the Huntington Beach Municipal Code Chapter 5.110 Group Homes to add a requirement that a Group Home obtain an Operator's Permit. Since Group Homes with more than seven (7) residents will be expressly prohibited in the RL zone, the Operator's Permit requirement applies to Group Homes with seven (7) or more residents in the RM, RMH, RH, RMP, Specific Plan Residential or Specific Plan Mixed Use zones.

The Operator's Permit requirement does not apply to:

- a. A Group Home that has six (6) or fewer occupants, not counting a house manager, that is in compliance with Chapter 230.28 of the HBZSO;
- b. A state-licensed alcoholism or drug abuse recovery or treatment facility; or
- c. A state-licensed residential care facility.

An application for an Operator's Permit will be submitted to the Chief Financial Officer and must include similar information to that of a Special Use Permit. A Group Home subject to the provisions of Chapter 5.110 that is in existence as of the effective date of the Ordinance will have 120 days to comply with the provisions.

D. SUMMARY

Staff recommends that the City Council approve Zoning Text Amendment No. 19-005 with findings and Municipal Code Amendment adding Chapter 5.110 (Group Homes) based on the following:

- Codifies new use classifications that modernize the HBZSO
- Provides appropriate regulations and permit processes to reduce operational impacts of existing and future group homes, sober living homes, and residential care facilities
- Provides housing accommodations to disabled persons to reside in normalized residential environments
- Promotes effective recovery for persons suffering from the effects of alcoholism or illegal use of drugs
- Preserves residential neighborhood character
- Consistent with General Plan goals and policies

Environmental Status:

ZTA No. 19-005 is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) (General Rule) of the CEQA Guidelines, in that it can be seen with certainty that there is no possibility that the amendments to the HBZSO and HBMC will have a significant effect on the environment.

Strategic Plan Goal:

Enhance and maintain high quality City services

Attachment(s):

1. Suggested Findings of Approval - Zoning Text Amendment No. 19-005
2. Draft Ordinance 4214 and Legislative Draft - Chapter 203
3. Draft Ordinance 4212 and Legislative Draft - Chapter 204
4. Draft Ordinance 4215 and Legislative Draft - Chapter 210
5. Draft Ordinance 4216 and Legislative Draft - Chapter 230
6. Draft Ordinance 4213 and Legislative Draft - HBMC Chapter 5.110
7. Planning Commission Staff Report dated June 9, 2020