

Council/Agency Meeting Held: _____ Deferred/Continued to: _____ <input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	_____ City Clerk's Signature
Council Meeting Date: February 7, 2011	Department ID Number: PL 11-002

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Fred A. Wilson, City Manager

PREPARED BY: Scott Hess, AICP, Director of Planning and Building

SUBJECT: Approve for introduction Ordinance No. 3909 approving Zoning Text Amendment No. 10-005; and, approve for introduction Ordinance No. 3910 approving Municipal Code amendments regarding Kennels and Residential Animal Permits (Fourth Dog Ordinance)

Statement of Issue:

Transmitted for your consideration is Zoning Text Amendment No. 10-005, amending Chapter 203.06 (Definitions) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and amendments to Huntington Beach Municipal Code (HBMC) Sections 7.12.150 (Kennels) and 7.12.160 (Residential Animal Permit) to allow property owners and tenants of detached single-family residences to have a maximum of four dogs provided that one of the dogs is a specially-trained service, signal or guide dog. The City Council approved an H-item directing staff to prepare the proposed amendments on July 19, 2010, (Attachment Nos. 6 & 7).

Financial Impact: Not Applicable

Planning Commission and Staff Recommended Action: Motion to:

- A. Approve Zoning Text Amendment No. 10-005 with findings for approval (ATTACHMENT NO. 1) and approve for introduction Ordinance No. 3909, "An Ordinance of the City of Huntington Beach Amending Chapter 203 of the Huntington Beach Zoning and Subdivision Ordinance Relating to Definitions" (ATTACHMENT NO. 2); and,
- B. Approve Amendments to Huntington Beach Municipal Code Sections 7.12.150 (Kennels) and 7.12.160 (Residential Animal Permit) and approve for introduction Ordinance No. 3910, "An Ordinance of the City of Huntington Beach amending Chapter 7.12 of the Huntington Beach Municipal Code Relating to Miscellaneous Animal Care Control" (ATTACHMENT NO. 4)."

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Planning Commission Action on January 11, 2011:

THE MOTION MADE BY LIVENGOOD, SECONDED BY RYAN, TO APPROVE ZONING TEXT AMENDMENT NO. 10-005, WITH FINDINGS FOR APPROVAL (ATTACHMENT NO. 1) CARRIED BY THE FOLLOWING VOTE:

AYES: BIXBY, DELGLEIZE, FARLEY, LIVENGOOD, MANTINI, RYAN, SHIER
BURNETT
NOES: NONE
ABSENT: NONE

MOTION PASSED

Alternative Action(s):

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

- A. "Deny Zoning Text Amendment No. 10-005 with findings and the amendments to Sections 7.12.150 and 7.12.160 of the Huntington Beach Municipal Code relating to Kennels and Residential Animal Permits."
- B. "Continue Zoning Text Amendment No. 10-005 and the amendments to Sections 7.12.150 and 7.12.160 of the Huntington Beach Municipal Code relating to Kennels and Residential Animal Permits and direct staff accordingly."

Analysis:

A. PROJECT PROPOSAL:

Applicant: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

Location: Citywide

Zoning Text Amendment (ZTA) No. 10-005 represents a City-initiated request to amend Section 203.06 *Definitions* of the HBZSO to amend the definition of a "kennel." The amended definition would exclude detached single-family residences with a maximum of four dogs from being classified as a kennel provided that one of the four dogs is a specially-trained service, signal or guide dog as defined in Section 365.5 of the California Penal Code. The legislative draft of the proposed amendment is provided in Attachment No. 3 to this staff report.

The project also includes proposed amendments to the Huntington Beach Municipal Code (HBMC) Sections 7.12.150 and 7.12.160 pertaining to kennels and residential animal permits, respectively. These amendments would amend the kennel definition consistent with ZTA No. 10-005 and would require residents requesting a fourth dog to obtain a Residential Animal Permit, notify surrounding residences, and provide proof that the dog is a specially-trained guide, signal, or service dog as defined by the Section 365.5 of the California Penal Code prior to issuance of the permit (Attachment No. 9).

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The proposed amendments were initiated by the City Council (Attachment Nos. 6 and 7) on July 19, 2010 in response to requests by City residents.

B. PLANNING COMMISSION MEETING AND RECOMMENDATION:

The Planning Commission held a public hearing on the proposed Zoning Text Amendment on January 11, 2011. Staff gave an overview presentation of the proposed amendment and staffs recommendation was to approve Zoning Text Amendment No. 10-005 with findings for approval (Attachment no. 1) and forward Draft Ordinance (Attachment No. 2) to the City Council for adoption. A motion was made by Commissioner Livengood and seconded by Commissioner Ryan, to approve Zoning Text Amendment No. 10-005, with findings for approval, motion carried 7-0. It should be noted that the Planning Commission was not required to act on the proposed amendments to the HBMC. However, since they are related in nature to the proposed Zoning Text Amendment, a copy of the proposed HBMC revisions was provided to the Planning Commission for information purposes only.

C. STAFF ANALYSIS AND RECOMMENDATION:

In preparing the amendments to the HBZSO and HBMC, the following four key aspects were considered for change and are discussed below:

- Revise the current definition of a kennel
- Create a definition for a trained guide, signal, and service dog
- Allow for a fourth dog on property with a detached single family residence only
- Require a Residential Animal Permit (approval by Director of Planning and Building following a public notification process)

Currently, Section 203.06 *Definitions* of the HBZSO defines a “kennel” as any premises where four or more dogs (over the age of four months) are kept for any purpose, with the exception of veterinary clinics and hospitals. Kennels are categorized in the HBZSO as animal boarding facilities and classified as a commercial land use permitted with a conditional use permit in the Commercial General (CG) and Industrial (IL and IG) zoning districts. Kennels are not permitted in any residential zoning district and, as such, no residence would be permitted to keep four dogs under the current zoning regulations. The maximum number of dogs that a residence is currently permitted to have is three. The proposed amendment would allow property owners and tenants of detached single-family residences to have a maximum of four dogs provided that one of the dogs is a specially-trained service, signal or guide dog. The amendment would exclude residences that meet these requirements from being classified as a kennel.

In order to define a specially- trained guide, signal, or service dog, staff is recommending that Section 365.5 of the California Penal Code (Attachment No. 9) be referenced in the HBMC.

The proposed amendment would only be applicable to detached single-family residences since issues related to noise, odor, and maintenance would be minimized in these areas due to the typical separation between buildings on these parcels. Also, since the provisions of Chapter 7 of the HBMC currently regulate these issues, compliance may be more challenging in areas developed with multi-family residential uses where there is no

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separation between residences and generally less private open space essential to maintain four dogs in a manner required by existing City regulations.

The last primary change is to require a Residential Animal Permit for a fourth dog. Section 7.12.160 of the HBMC currently requires a Residential Animal Permit for many animals including a goose, a miniature pot-bellied pig, or chickens to name a few. The review and approval process is administered by the Planning and Building Department. Following notice to all abutting property owners and tenants, the Director of Planning and Building may conditionally approve a Residential Animal Permit provided it complies with the provisions of the HBZSO and HBMC.

In conclusion, the proposed revisions to Chapter 7 of the HBMC would require residents requesting a fourth dog to obtain a Residential Animal Permit, notify surrounding residences, and provide proof that the dog is a specially-trained guide, signal, or service dog as defined by the Section 365.5 of the California Penal Code prior to issuance of the permit.

D. SUMMARY:

Staff and the Planning Commission recommend approval of Zoning Text Amendment No. 10-005 and the amendments to the Huntington Beach Municipal Code relating to kennels and residential animal permits because:

- The proposed amendments would allow residents of detached single-family dwellings with a legitimate need for a specially-trained service dog to enjoy the same benefits as other residents that can have up to three dogs as pets while accommodating for the specific needs of those individuals by allowing a fourth dog as a service dog.
- By requiring a residential animal permit and limiting the allowance for four dogs in residential areas on properties with detached single-family residences only, potential for noise, odor, and maintenance issues currently regulated by the Municipal Code to affect surrounding residences would be minimized.
- The proposed amendments require compliance with the California Penal Code to ensure that one of the four dogs meets the requirements of a service, signal or guide dog as defined by existing State law.

Environmental Status:

ZTA No. 10-005 is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act, because it is a minor zoning text amendment which does not change the development standards, intensity, or density of any zoning district.

Strategic Plan Goal: Maintain and Enhance Public Safety

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Attachment(s):

No.	Description
1.	Suggested Findings for Approval – Zoning Text Amendment No. 10-005
2.	Ordinance No. 3909, “An Ordinance of the City of Huntington Beach Amending Chapter 203 of the Huntington Beach Zoning and Subdivision Ordinance Relating to Definitions”
3.	Legislative Draft – Chapter 203 HBZSO
4.	Ordinance No. 3910, “An Ordinance of the City of Huntington Beach Amending Chapter 7.12 of the Huntington Beach Municipal Code Relating to Miscellaneous Animal Care and Control”
5.	Legislative Draft – Chapter 7.12.150 and 7.12.160 of the HBMC
6.	City Council H-item, dated July 12, 2010
7.	City Council minutes regarding H-item action, dated July 19, 2010
8.	Planning Commission Staff Report, dated January 11, 2011
9.	California Penal Code Section 365.5
10.	PowerPoint Presentation