

2014 JUL 10 PM 12:39

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. 13256 C.M.S.**

**AN ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION,  
AND AS DIRECTED BY CITY COUNCIL UNDER EMERGENCY  
ORDINANCE NO. 13222 C.M.S., TO AMEND THE PLANNING CODE TO  
ESTABLISH PERMANENT REGULATIONS PERTAINING TO  
CREMATORIES WITHIN THE CITY OF OAKLAND**

**WHEREAS**, on May 15, 2012, the City Council adopted Emergency Ordinance Number 13115 C.M.S., to establish interim controls for crematoria, requiring a Major Conditional Use permit to establish a crematorium for a period of one year until May 10, 2013 or until permanent regulations are adopted regulating crematories; and

**WHEREAS**, on May 7, 2013, the City Council adopted Emergency Ordinance Number 13158 C.M.S., to extend interim controls for crematories ("Interim Controls"), requiring a Major Conditional Use permit to establish a crematorium for a period of 180 days until November 3, 2013 or until permanent regulations are adopted regulating crematories and directed staff to bring forth proposed permanent regulations pertaining to crematories; and

**WHEREAS**, on October 15, 2013, the City Council adopted Emergency Ordinance Number 13196 C.M.S., to extend interim controls for crematories, requiring a Major Conditional Use permit to establish a crematorium for a period of one year until April 13, 2014 or until permanent regulations are adopted regulating crematories and directed staff to bring forth proposed permanent regulations pertaining to crematories; and

**WHEREAS**, on April 1, 2014, the City Council adopted Emergency Ordinance Number 13222 C.M.S., to extend interim controls for crematories, requiring a Major Conditional Use permit to establish a crematorium for a period of 180 days year until September 24, 2014 or until permanent regulations are adopted regulating crematories and directed staff to bring forth proposed permanent regulations pertaining to crematories; and

**WHEREAS**, currently crematories are classified as General Manufacturing Industrial Activities pursuant to Section 17.10.570 of the Planning Code, and are outright permitted activities within the M-30 General Industrial Zone, M-40 Heavy Industrial Zones, and IG General Industrial Zones. Crematoria are outright permitted within the CIX-1 and CIX-2 Commercial Industrial Zones if outside of 300 feet from a residential zone. No discretionary planning permits or public notice are required prior to issuance of a building permit for a crematorium within these industrial zones. Only if located within 300 feet of a residential zone in the CIX-1 and CIX-2 zones is a conditional use permit required.; and

**WHEREAS**, the issue of whether it is appropriate to allow crematories as an outright permitted

use within industrial zones under the use classification of General Manufacturing activities has been raised in the context of public exposure to certain types of pollutants and emissions and the ability to review those impacts; and

**WHEREAS**, except as provided in the Interim Controls, the City permits outright, without any discretionary planning review, crematories under the classification of a General Manufacturing Industrial activity, within the M-30 General Industrial Zone, M-40 Heavy Industrial Zones, and IG General Industrial Zones. Crematoria are outright permitted within the CIX-1 and CIX-2 Commercial Industrial Zones if outside of 300 feet from a residential zone; and

**WHEREAS**, crematories emit particulate matter falling under the category of toxic pollutants; and

**WHEREAS**, on May 15, 2012, the City Council received, and on August 29, 2012 the Planning Commission and City staff received a letter from the Alameda County Public Health Department stating that cremators used within crematories emit a number of criteria air pollutants such as particulate matter, nitrogen compounds, sulfur compounds, carbon monoxide and precursor organic compounds and toxic emissions such as acetaldehyde, arsenic, beryllium, cadmium, hexavalent chromium, copper, formaldehyde, hydrogen chloride, hydrogen fluoride, lead, mercury, nickel, selenium, chlorinated dibenzodioxins and furans, and polycyclic aromatic hydrocarbons/ benzo (a) pyrene equivalents; and

**WHEREAS**, a cremation center can displace commercial activities and negatively affect the economic revitalization of any community in which a crematorium would locate; and

**WHEREAS**, a crematorium in any part of Oakland has the potential to impact the health of our neighborhoods, many of which already suffer from highly disproportionate rates of illness related to air pollution in comparison to the rest of Alameda County; and

**WHEREAS**, the provisions of the California Environmental Quality Act (CEQA) have been satisfied and the proposal relies on the following environmental documents to satisfy any requirements under the California Environmental Quality Act (CEQA): the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted in 1998 (General Plan EIR); and

**WHEREAS**, as a separate and independent basis, the proposal is also exempt from CEQA under several CEQA Guidelines: section 15061(b)(3), known as the "General Rule," that states a project is exempt from CEQA if there is no possibility that the activity in question will have a significant effect on the environment; and

**WHEREAS**, on June 18, 2014, at a duly noticed public hearing, the Planning Commission recommended approval of proposed Planning Code Amendments; and

**WHEREAS**, after a duly noticed public meeting on July 22, 2014 the Community and Economic Development Committee voted to recommend the proposal to the City Council; and

**WHEREAS**, the City Council held a duly noticed public hearing on July 29, 2014 to consider the proposal; now therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

## EXHIBIT A: PROPOSED CHANGES TO THE PLANNING CODE

Items that are underlined are insertions, while items that appear in ~~strikeout~~ are deletions. All changes are to the Planning Code.

### 17.10.240 Extensive impact civic activities.

Extensive Impact Civic Activities include the activities typically performed by, or the maintenance and operation of, the following institutions and installations:

- A. Airports, heliports, and helistops;
- B. Cemeteries, mausoleums, ~~and columbariums,~~ and crematories;
- C. Colleges, junior colleges, and universities, but excluding business schools operated as profit making enterprises;
- D. Detention and correction institutions;
- E. Docks and wharves operated by a public agency;
- F. Electric transmission lines;
- G. Garbage dumps;
- H. Golf courses and driving ranges;
- I. Major mail-processing centers;
- J. Military installations;
- K. Public and public utility corporation or truck yards;
- L. Radio and television transmission stations;
- M. Railroad and bus terminals;
- N. Railroad rights-of-way and yards and bus storage areas;
- O. Reservoirs and water tanks;
- P. Sewage disposal tanks;
- Q. Stadiums, sports arenas, auditoriums, and bandstands;
- R. Truck terminals operated by a public agency;
- S. Zoological gardens and wildlife preserves;
- T. Campgrounds;
- U. Stormwater detention ponds and facilities;
- V. Facilities supervised by or under contract with the State Department of Corrections, including alternative sentencing and community work release programs.

This classification also includes certain activities accessory to the above, as specified in Section 17.10.040.

**Article II Civic Activities**

17.103.020 Special Health Care Civic Activities.

17.103.025 Crematories

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Additional Use Permit Criteria. A conditional use permit for any conditionally permitted Crematorium und an Extensive Impact Civic Activity may only be granted upon determination that the proposal conforms to the general use permit criteria set forth in the conditional use permit procedure in Chapter 17.134, to any and all applicable use permit criteria set forth in the particular individual zone regulations, and to all of the following use permit criterion:

- A. Any proposed new or expanded crematorium must submit a Health Risk Assessment that shows that there is no significant health risk to the surrounding community.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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## NOTICE AND DIGEST

**PUBLIC HEARING FOR AN ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, AND AS DIRECTED BY CITY COUNCIL UNDER EMERGENCY ORDINANCE NO. 13222 C.M.S., TO AMEND THE PLANNING CODE TO ESTABLISH PERMANENT REGULATIONS PERTAINING TO CREMATORIES WITHIN THE CITY OF OAKLAND**

The proposed amendments to the Oakland Planning Code would establish new regulations for crematories within the City of Oakland. Under the proposed regulations no crematorium could be established or expanded without first obtaining a Major Conditional Use permit.