

Subject: Public Hearing comments for ordinance no. 2024-11 *Establishing a Moratorium on Crematoria*

To the City of Bainbridge Island,

Bainbridge Conservation Coalition wishes to make the following comments for the May 28, 2024 public hearing on ordinance no. 2024-11 *Establishing a Moratorium on Crematoria*.

Recommended additional Findings of Fact

Current findings

The current 6-month moratorium on crematoria is a response to Cook Funeral Home's proposal for a crematorium to be located at the Hillcrest Cemetery on Old Mill Rd. Cook's proposal has elicited concerns currently cited in the ordinance;

1. Crematoria are not a listed use, with the Code relying solely on the Planning Director to determine whether an unlisted use will be permitted.
2. That the City Council has significant concerns about the potential impacts of crematoria on neighborhood character, air quality, and public health, about whether crematoria should be a permitted or conditional use, and about the process and criteria by which crematoria should be evaluated if such use is allowed; and
3. That the City Council requires additional time to review the City's regulations to ensure that crematoria are addressed in an appropriate manner and are appropriately located in the City, and that an appropriate process is in place to evaluate permit applications to ensure that any use-specific impacts are addressed and mitigated; and
4. The purpose of the moratorium on crematoria is intended to promote the public good and is necessary for the protection of the public health, property, safety, and welfare.

Bainbridge Conservation Coalition's recommendations for additional findings related to crematoria

1. An explicit finding that regulations specific to crematorium are needed to protect the public health and welfare and promote consistency with the City's adopted plans, including the comprehensive plan and the climate action plan.
2. That the process for addressing unlisted uses also needs to be improved to ensure the public health and welfare and to promote consistency with the City's adopted plans, including the comprehensive plan and the climate action plan.

BCC's broader recommendations for findings of fact related to the full range of end-of-life services

1. A finding that crematoria are just one end-of-life service among several, most of

which are not specifically included in the code's use table and for which there are no specific regulations in the code;

2. That just as there's a need for specific regulations related to crematoria, there also need to be regulations related to other forms of burial, including but not limited to: Cemeteries and direct interment in the ground, including green burial and conservation burial; mushroom burial and human composting; and alkaline hydrolysis.

Comments related to the moratorium's work plan

BCC's recommended regulations for crematoria on Bainbridge Island

The European Union has recognized the need for unified regulation of crematoria. BCC recommends that Bainbridge Island model its regulations after those currently in place in the EU.

- 1. A minimum 500 ft setback**

The setback from a crematorium to any residential property should be at least 200 feet and preferably more. Many jurisdictions require 500 feet or more.

- 2. Crematoria should be categorized as an industrial use.**

- 3. Do not allow crematoria in residential zones**

A survey of current regulations across Washington State shows that most jurisdictions are not permitting new crematoria to be located in residential zones.

- 4. Require advanced incinerator technology**

Technology is currently available that reduces the release of mercury and other pollutants during cremation. These technologies are required in the EU. The most advanced available technology should also be required for crematoria on Bainbridge Island.

- 5. Require regular independent monitoring related to emissions and safety**

Crematoria should be required to provide at their own expense independent regular inspections and monitoring of air quality to ensure its systems are being properly maintained and operating, and are otherwise performing as expected.

- 6. Ensure fire related safety**

Crematoria are more prone to fires than other industrial uses. This must be taken into account when deciding where they can be safely located. The potential for starting wildfires needs to be considered.

BCC's recommended regulations and actions related to cemeteries on Bainbridge Island

- 1. Consider impacts to groundwater quality**

Cemeteries are known to pose a hazard to groundwater quality. The City should include consideration of this as part of the work to create a BI groundwater management plan. The City should also consider regulations related to preventing,

reducing, mitigating, and monitoring adverse impacts to groundwater resulting from cemeteries.

2. Require setbacks for graves

There are currently no BIMC setback requirements for graves from neighboring properties. BCC is aware of what appears to be an Island cemetery that has placed a grave on a property line, partially into the adjacent property.

3. Require cemetery records to be readily available to the public

The State Cemetery Board requires cemeteries to keep records of those interred on their property. Theoretically those records are available, if they exist. BCC is aware of an Island cemetery with unmarked graves, which has so far not provided records as to who is buried on their property and where they are located.

BCC's recommends regulations for other forms of burial

Both cremation and traditional burial in cemeteries create impacts that pose hazards to public safety and welfare. Cemeteries use limited land and pose a hazard to groundwater quality. Cremation impacts include airborne pollutants and heightened greenhouse gas emissions. BCC recommends that the moratorium work plan include research into alternative forms of burial to cremation and direct burial, and that the CITY develop regulations related to those alternatives. They include but may not be limited to:

1. Conservation burial
2. Mushroom burial
3. Human composting, and
4. Alkaline hydrolysis.

BCC's recommended changes to how unlisted uses are addressed

As we've seen with crematoria, our code has not anticipated all the uses that could and should require special regulations for protecting the community from incompatible uses that pose a threat to health and welfare. The current process for addressing unlisted uses relies on the City's Planning Director, with minimal guidance to judge whether a proposed use is similar to existing listed uses. Inherent in this process for addressing unlisted uses is that the Planning Director has the option of determining it may proceed through a conditional use application, with the assumption that the CUP process is an acceptable stand-in for regulations specific to the proposed use. In the case of crematoria, the CUP process is clearly no substitute for specific regulations.

Review of the use table

COBI's use table should be reviewed and compared to other cities to determine if there are additional uses that need to be added and whether any of those uses require specific regulations, including allowed zones and dimensional standards.

Improve the process for addressing unlisted uses

BCC recommends that the City revise the process for determining the status of unlisted uses that doesn't rely solely on the judgment of one person at the City, with the only recourse for a remedy being to appeal their administrative decision to the Hearing Examiner. There needs to be a more transparent and accountable process for determining the status of unlisted uses that ensures decision makers are considering input from the public and conducting due diligence on potential impacts. This need was made clear by the Planning Director's determination that Cook Funeral Home could apply to site a crematorium at the Hillcrest Cemetery through a conditional use permit application.

Thank you for your consideration,

Bainbridge Conservation Coalition,

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