



CITY OF BALTIMORE
MAYOR BRANDON M. SCOTT

TO	The Honorable President and Members of the Baltimore City Council
FROM	Caron Watkins Interim Director, Office of Equity & Civil Rights Interim Chief Equity Officer
ANALYST	Zachary Wellman Equity Policy Analyst, Office of Equity & Civil Rights
DATE	November 19, 2024
SUBJECT	OECR Report on Baltimore City Council Bill 24-0599 Zoning - Conditional Use - Crematorium

OECR POSITION: No Recommendation

SUMMARY OF LEGISLATION

The Office of Equity & Civil Rights (OECR) has reviewed and is herein reporting on City Council Bill 24-0599 – Zoning - Conditional Use - Crematorium. This is a zoning ordinance. The bill seeks to accomplish the following:

- Define definitions related to crematoria.
- Create a stand-alone use for crematoria in the Zoning Code.
- Alter the Zoning Code to remove crematoria as an inclusion under funeral homes and cemeteries in the C-2 zoning district.
- Establishes crematoria as a stand-alone use permitted in the C-3 & C-4 districts.
- Provide for an effective date of the day the day the ordinance is enacted.

The bill accomplishes this by repealing and re-ordaining, with amendments, Article 32 – Zoning, Sections 1-303(u) and 1-306(u) and Tables 7-702 and 10-301 to the Baltimore City Code. It also adds Article 32 – Zoning, New Section 1-304(u) to the Baltimore City Code.

EQUITY ANALYSIS

City Council Bill 24-0599 would change the zoning code to disallow crematoria as an included use under funeral homes and cemeteries in the C-2 zoning district. Alternatively, crematoria will be permitted as a stand-alone use in the C-3 and C-4 zoning districts. The clear and apparent intent behind the legislation is to prioritize the health of Baltimore residents living in/around C-2 zoning by mitigating and controlling any potential exposure to air pollution from crematoria. This is evident by the suggested zoning changes in which C-2 explicitly is zoned with pedestrians in mind:

C-2: Small to medium-scale commercial use, typically located along urban corridors. Designed to accommodate pedestrians and, in some instances, the automobile. Mixed-use development is appropriate within this district.

While C-3 and, most notably, C-4 are explicitly intended to mitigate pedestrian exposure:

C-3: Intensive commercial use including key commercial nodes that require additional controls regarding site development, particularly for shopping centers and larger retail establishments.

C-4: Heavy Commercial intended for areas of more intense commercial, including uses related to motor vehicles and those that may require outdoor storage. Setbacks, buffering and site development controls mitigate negative impacts on neighboring uses.

The proposed zoning change is in response to Vaughn C. Greene Funeral Services' plan to establish a crematorium at its 4903-4905 York Road location (located in the C-2 zoning district). The establishment has received conditional use approval from the Baltimore City Board of Municipal and Zoning Appeals (BMZA), which found that the proposed crematorium did not constitute a threat to the health and safety of those living in the Govans neighborhood of Baltimore City. This decision was affirmed by the Circuit Court for Baltimore City on May 16, 2023 (CC 00298) and the Appellate Court of Maryland on July 18, 2024.

On its face, changing the zoning code to move crematoria out of C-2 zoning district may benefit the equity of residents as Baltimore City as, according to the Maryland Department of Health, as of 2019, 13.7% of Baltimore City adults currently have asthma, compared to 9.0% statewide¹ and 9.0% nationally.² Among high school students, 33.3% have been diagnosed with asthma, compared to 25.9% statewide.³ This translates to Baltimore having one of the highest rates of asthma in the country.

Additionally, according to the Maryland Department of Health and Mental Hygiene, the asthma emergency department visit rate was approximately 6.5 times higher among Black residents compared to White residents of Baltimore.⁴ Therefore, this measure may help, in part, to alleviate this health disparity.

However, potential equity implications of enacting this zoning change extend beyond the immediate purpose of the bill.

All existing Baltimore City-based crematoriums are located in the C-2 zoning district as conditional use under funeral homes and cemeteries. In practice, moving crematoria to a stand-alone use in the C-3 and C-4 zoning district will effectively eliminate all existing cremation services in Baltimore City, which would disproportionately burden low-income residents as cremation is used as a far more affordable form of funeral care for those that cannot afford traditional burials and the costs therein. According to the National Funeral Directors Association (NFDA), the national median cost of a burial with funeral and viewing is \$9,420, whereas the national median cost of cremation with funeral and viewing is \$5,365.⁶

Furthermore, crematory permits are issued by the Maryland Department of Health (MDH) (per

COMAR 10.29.17) and are not otherwise subject to City control. The operator is required to obtain certification by an appropriate entity, such as The Cremation Association of North America (CANA); The International Cemetery, Cremation and Funeral Association (ICCF); or another equivalent body recognized jointly by the Board [of Morticians and Funeral Directors] and the Office).

Additionally, the Maryland Department of Environment (MDE) determined the proposed crematorium at 4903-4905 York Road would not endanger the local community, in compliance with the air quality standards established by Maryland law and the U.S. Environmental Protection Agency (EPA), including the National Ambient Air Quality Standards (NAAQS), and the Maryland Environmental Justice Act. Therefore, the proposed zoning changes, with the goal of mitigating the detrimental health impacts of crematoria on residents, may be unnecessary as the MDH and MDE already makes the assessment on the safety of establishing crematoria on a case-by-case basis.

Despite this, concerns still persist among the residents of Govans that a crematorium will introduce dangerous environmental pollutants to their neighborhood, prompting the introduction of City Council Bill 24-0599.

According to Earth Funeral, an organization dedicated to sustainable funeral care:

“As a fossil fuel-driven process, cremation produces significant amounts of carbon dioxide. One cremation is estimated to produce 535 lbs of CO₂. This is the equivalent of a 609-mile car journey in an average-sized car... The combustion of fossil fuels also causes the emission of carbon monoxide, nitrogen oxides and sulfur dioxide. Other noxious substances emitted include fine soot and mercury”⁵

However, the zoning changes proposed in Council Bill 24-0599 will likely impact crematoriums citywide and revoke access to cremation services for all Baltimore residents, not just the crematorium at Vaughn C. Greene Funeral Services’ York Road location and local residents. Currently, there are 18 funeral homes in the C-2 district which would be impacted according to the Planning Commission’s Staff Report. This means a zoning change to prohibit the crematorium in the at 4903-4905 York Road, such as the one proposed in Council Bill 24-0599, will inadvertently prohibit residents throughout the city from accessing cremation services from crematoria in all Baltimore communities where they are needed.

As such, an equitable decision on which zoning districts should allow crematoria should be made in consideration of the health, interests, and needs Baltimore residents as a whole.

CONCLUSION

The Office of Equity & Civil Rights discerns no inequity in the intent of the Bill to protect Baltimore residents from harmful pollutants associated with cremation. However, while the OECR tends to heir on the side of supporting the desires expressed by the residents directly affected by the proposed zoning change, it is important to note that this zoning change will not only impact residents of the Govan’s community, for which the legislation hopes to address the concerns of.

The OECR has also identified potential negative equity impacts associated with putting the zoning changes in practice. This includes making cremation—an affordable funeral care alternative—inaccessible to all Baltimore resident across the city until stand-alone crematoriums are established.

In light of these conflicting equity considerations, the Office of Equity & Civil Rights respectfully makes **no recommendation** to City Council Bill 24-0599, believing it is best that the aforementioned equity implications be weighed by the members of the Baltimore City Council when making a decision on the legislation.

Respectfully Submitted,



Caron Watkins
Interim Director, Office of Equity & Civil Rights

APPENDIX

1. 2019 Maryland Behavioral Risk Factor Surveillance System (BRFSS)
<https://ibis.health.maryland.gov>
2. Table C1, Adult Self-Reported Current Asthma Prevalence, and Number by State or Territory: BRFSS 2019
<https://www.cdc.gov/asthma/brfss/2019/tableC1.html>
3. Maryland Youth Risk Behavior Survey, 2018-2019, High School Data, Detailed Tables
<https://health.maryland.gov/phpa/ccdpc/Reports/Pages/YRBS2018.aspx>
4. Maryland Department of Health and Hygiene. (2011, August). *Asthma in Baltimore City*. Maryland Asthma Control Program.
https://health.maryland.gov/phpa/mch/documents/asthma_control/Profile_BaltimoreCity.pdf
5. Harries, T. (2022, May 19). Is cremation bad for the environment?
<https://earthfuneral.com/resources/is-cremation-bad-for-environment/>
6. National Funeral Directors Association. (2019, December 19). 2019 NFDA general price list study shows funeral costs not rising as fast as rate of inflation.
<https://nfda.org/news/media-center/nfda-news-releases/id/4797/2019-nfda-general-price-list-study-shows-funeral-costs-not-rising-as-fast-as-rate-of-inflation>