

## ORDINANCE NO. O-6-21

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE, ENTITLED, "ZONING," SO AS TO AMEND SECTION 24-1, ENTITLED, "DEFINITIONS," TO ADD A DEFINITION OF "CREMATION SERVICES," SPECIFY SUCH SERVICES ARE PROHIBITED WITHIN 500 FEET OF ANY PROPERTY THAT CONTAINS A RESIDENTIAL USE, AMEND THE DEFINITION OF "FUNERAL HOME," AMEND SECTION 24-86, ENTITLED "USES PERMITTED BY RIGHT" IN THE R-O ZONE, AMEND SECTION 24-102, ENTITLED, "USES," IN THE C-P ZONE, AMEND SECTION 24-117, ENTITLED "USES PERMITTED BY RIGHT" IN THE C-2 ZONE, ADD SECTION 24-118A, ENTITLED "CONDITIONAL USES" IN THE C-2 ZONE, AMEND SECTION 24-136, ENTITLED "USES PERMITTED BY RIGHT" IN THE I-1 ZONE, ADD SECTION 24-136B, ENTITLED "CONDITIONAL USES" IN THE I-1 ZONE, AMEND SECTION 24-143, ENTITLED "USES PERMITTED BY RIGHT" IN THE I-3 ZONE, ADD SECTION 24-144A, ENTITLED "CONDITIONAL USES" IN THE I-3 ZONE, AMEND SECTION 24-160D.3, ENTITLED "USES PERMITTED" IN THE MXD ZONE, AMEND SECTION 160F.2, ENTITLED "USES ALLOWED" IN THE CBD ZONE, AND AMEND SECTION 160G.2, ENTITLED "USES ALLOWED" IN THE CD ZONE, SO AS TO CLARIFY THE EXTENT OF CREMATION SERVICES PERMITTED AS PART OF A FUNERAL HOME, REMOVE FUNERAL HOMES PROVIDING CREMATION SERVICES AS A USE BY RIGHT IN THE C-P ZONE BUT ALLOW SUCH USES AS A CONDITIONAL USE WHERE THE PROPERTY IS NOT WITHIN 500 FEET OF ANY PROPERTY THAT CONTAINS A RESIDENTIAL USE, ADD FUNERAL HOMES WITHOUT CREMATION SERVICES AS A USE BY RIGHT IN THE I-1 ZONE, ADD CREMATION SERVICES AS A CONDITIONAL USE IN THE I-1 ZONE WHERE THE PROPERTY IS NOT WITHIN 500 FEET OF ANY PROPERTY THAT CONTAINS A RESIDENTIAL USE, ADD FUNERAL HOMES WITHOUT CREMATION SERVICES AS A USE BY RIGHT IN THE I-3 ZONE, ADD CREMATION SERVICES AS A CONDITIONAL USE IN THE I-3 ZONE WHERE THE PROPERTY IS NOT WITHIN 500 FEET OF ANY PROPERTY THAT CONTAINS A RESIDENTIAL USE, REMOVE FUNERAL HOMES AS A SPECIAL EXCEPTION USE AND ADD AS A CONDITIONAL USE IN THE MXD ZONE, ADD CREMATION SERVICES AS A CONDITIONAL USE IN THE MXD ZONE WHERE THE PROPERTY IS NOT WITHIN 500 FEET OF ANY PROPERTY THAT CONTAINS A RESIDENTIAL USE, ALLOW FUNERAL HOMES PROVIDING CREMATION SERVICES AS A CONDITIONAL USE IN THE CBD AND CD ZONES WHERE THE PROPERTY IS NOT WITHIN 500 FEET OF ANY PROPERTY THAT CONTAINS A RESIDENTIAL USE, AND CLARIFY THAT CONDITIONAL USES ALLOWED IN THE CD ZONE DO NOT INCLUDE USES LISTED AS PERMITTED IN OTHER ZONES.

## **Text Amendment CTAM-8860-2021**

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code entitled "Zoning," is hereby amended to read as follows:

### **Chapter 24**

### **ZONING**

### **ARTICLE I. IN GENERAL**

#### **Sec. 24-1. Definitions.**

\* \* \*

*Cremation Services.* Services provided as a method of final disposition of a human or domestic animal dead body through combustion or dissolution, in which a dead body is reduced to ashes by fire or chemicals. Such services shall be prohibited on property within 500 feet of any residential use.

\* \* \*

~~*Funeral home.* Any building in which one or more parlors or rooms are maintained for the temporary resting place of dead human bodies pending final disposition thereof. Such building may also include the following: Space and facilities for the preparation of such bodies for burial or other final disposition; a chapel for the purpose of conducting religious or memorial services or ceremonies (and in which no emergency ambulance service is provided); rooms or space for administrative offices for conducting the business of the home; rooms or space for the housing of equipment, including motor vehicles; living quarters for not more than one family unit who are employees or owners of such funeral home or children of such employees or owners. Emergency ambulance service shall not be provided from the building.~~

*Funeral home or funeral parlor.* Any building in which one or more parlors or rooms are maintained for funeral services and the temporary resting place of dead human bodies pending final disposition thereof. Emergency ambulance service must not be provided to or from the building. Such building may also include space and facilities for the following:

- (1) Embalming and other services used in the preparation of such bodies for burial or other final disposition;

- (2) The display of the deceased;
- (3) Conducting religious or memorial services or ceremonies (and in which no emergency ambulance service is provided);
- (4) The sale and storage of caskets, funeral urns and related funeral supplies;
- (5) Administrative offices for conducting the business of the home;
- (6) The housing of equipment, including motor vehicles;
- (7) The performance of autopsies and similar surgical procedures;
- (8) Providing cremation services as part of a funeral rite, subject to a conditional use permit where otherwise not prohibited by code; and
- (9) Living quarters for not more than one family unit who are employees or owners of such funeral home or dependents of such employees or owners.

\* \* \*

### ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

\* \* \*

#### DIVISION 8. – R-O ZONE, PLANNED RESIDENTIAL

\* \* \*

##### **Sec. 24-86. – Uses permitted by right.**

The following uses are permitted by right in the R-O zone:

\* \* \*

- (7) Funeral homes, subject to a prohibition on providing cremation services on site.

\* \* \*

#### DIVISION 10. C-P ZONE, COMMERCIAL OFFICE PARK

\* \* \*

**Sec. 24-102. Uses.**

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained in the C-P Zone, except for one or more of the following uses:

*A. Uses permitted by right.*

\* \* \*

- (6) Funeral homes that do not provide cremation services on site.

\* \* \*

C. Conditional uses. The following uses are subject to the conditional use provisions in section 24-10 of this Code.

- (1) Cremation services as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within 500 feet of any property that contains a residential use.

\* \* \*

**DIVISION 12. – C-2 ZONE, GENERAL COMMERCIAL**

\* \* \*

**Sec. 24-117. – Uses permitted by right.**

The following uses are permitted by right in the C-2 zone:

\* \* \*

- (11) Funeral homes that do not provide cremation services on site.

\* \* \*

**Sec. 24-118A. – Conditional Uses.**

The following uses in the C-2 zone are subject to the conditional use provisions in section 24-10 of this Code.

- (1) Cremation services as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within 500 feet of any property that contains a residential use.

\* \* \*

DIVISION 14. – I-1 ZONE, LIGHT INDUSTRIAL

\* \* \*

**Sec. 24-136. – Uses permitted by right.**

The following uses are permitted by right in the I-1 zone:

\* \* \*

E. SERVICES:

\* \* \*

(13) Funeral homes that do not provide cremation services on site.

\* \* \*

**Sec. 24-136B. – Conditional Uses.**

The following uses in the I-1 zone are subject to the conditional use provisions in section 24-10 of this Code.

(1) Cremation services as a stand-alone use or as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within 500 feet of any property that contains a residential use.

\* \* \*

DIVISION 15. – I-3 ZONE, INDUSTRIAL AND OFFICE PARK

\* \* \*

**Sec. 24-143. – Uses permitted by right.**

The following uses are permitted by right in the I-3 zone:

\* \* \*

(14) Funeral homes that do not provide cremation services.

\* \* \*

**Sec. 24-144A. – Conditional Uses.**

The following uses in the I-3 zone are subject to the conditional use provisions in section 24-10 of this Code.

- (1) Cremation services as a stand-alone use or as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within 500 feet of any property that contains a residential use.

\* \* \*

### DIVISION 19. MXD ZONE, MIXED USE DEVELOPMENT

\* \* \*

**Sec. 24-160D.3 - Uses permitted.**

\* \* \*

- (d) *Special exception uses.* The following uses shall be special exception uses in the MXD zone subject to approval by the city board of appeals notwithstanding the fact that such use may be allowed as a permitted use in any other zones referred to in subsections (a) and (b):

\* \* \*

~~Funeral parlors and undertaking establishments.~~

\* \* \*

- (e) Conditional uses. The following uses are subject to the conditional use provisions in section 24-10 of this Code notwithstanding the fact that such use may be allowed as a permitted use in any other zones referred to in the above subsections (a) and (b).

- (1) Funeral homes and funeral parlors;
- (2) Cremation services as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within 500 feet of any property that contains a residential use.

\* \* \*

DIVISION 21. – CBD ZONE, CENTRAL BUSINESS DISTRICT

\* \* \*

**Sec. 24-160F.2. - Uses allowed.**

(a) *Permitted uses.* All uses listed as permitted and not solely as special exceptions or conditional uses in all zoning districts, unless otherwise designated in the below subsections (b), ~~and~~ (c), and (d) as a prohibited, special exception, or conditional use.

\* \* \*

(d) *Conditional uses.* The following uses are subject to the conditional use provisions in section 24-10 of this Code notwithstanding the fact that such use may be allowed as a permitted use in any other zones referred to in the above subsection (a):

- (1) Cremation services, as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within 500 feet of any property that contains a residential use.

\* \* \*

DIVISION 22. – CD ZONE, CORRIDOR DEVELOPMENT

\* \* \*

**Sec. 24-160G.2. - Uses allowed.**

\* \* \*

(d) *Conditional uses.* The following uses are subject to the conditional use provisions in section 24-10 of this Code notwithstanding the fact that such specified use may be allowed as a permitted use in any other zones referred to in the above subsection (a):

- (1) Any use listed or permitted as a conditional use in any zoning district. All uses listed as solely a conditional use and not listed as a permitted or by-right use in any zoning district unless otherwise prohibited under subsection (b).

(2) Cremation services, as part of a planned or existing funeral home or funeral parlor, subject to the requirement that the property is not within 500 feet of any property that contains a residential use.

\* \* \*

ADOPTED by the City Council this 19th day of July, 2021.

DocuSigned by:  
  
52E570A5749C472...  
JUD ASHMAN, MAYOR and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg this 19<sup>th</sup> day of July, 2021.  
APPROVED by the Mayor of the City of Gaithersburg this 19<sup>th</sup> day of July, 2021.

DocuSigned by:  
  
52E570A5749C472...  
JUD ASHMAN, MAYOR

THIS IS TO CERTIFY, that the foregoing Ordinance was adopted by the City Council of the City of Gaithersburg, in public meeting assembled on the 19th day of July, 2021; and that the same was APPROVED by the Mayor of the City of Gaithersburg on the 19th day of July, 2021. This Ordinance will become effective on the 8th day of August, 2021.

DocuSigned by:  
  
96695A65FBE94E0...  
Tanisha Briley, City Manager

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<del>Single strikethrough</del>	<i>Deleted from existing law by original bill.</i>
<u><del>Double underlining</del></u>	<i>Added by Amendment.</i>
<del><u>Double strikethrough</u></del>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>



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Gaithersburg, MD 20877

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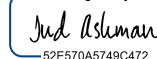
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jud.ashman@gaithersburgmd.gov

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Tanisha Briley

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City Manager

City of Gaithersburg

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