

ORDER 09-58

AN ORDER ADOPTING A MORATORIUM ON CREMATORIA

BE IT ORDERED BY THE COUNCIL OF THE CITY OF GARDINER, MAINE:

WHEREAS, “crematory” is defined in the City’s Land Use Ordinance (the Ordinance”) as “a building or portion thereof designed for the cremation of a corpse and located in a cemetery having a minimum land area of 20 acres”; and

WHEREAS, a crematory is a use which is allowed in the City’s High Density Residential District with Planning Board approval pursuant to Section 5 of the Ordinance; and

WHEREAS, Council members are aware of a pending request for approval to locate a crematory in the High Density Residential District; and

WHEREAS, the location of a crematory in the High Density Residential District may result in a mixing of incompatible uses due to the close proximity of residences and residential neighborhoods; and

WHEREAS, a crematory presents the potential for impacts different from the impacts normally associated with the uses which currently exist in the High Density Residential District; and

WHEREAS, the location of a crematory in the High Density Residential District raises traffic concerns and concerns about the public’s health, safety and welfare which require study; and

WHEREAS, the City Council concludes that the application of existing Ordinance provisions relating to crematoria is inadequate to prevent serious public harm that might occur from the siting of a crematory in the High Density Residential District; and

WHEREAS, after public hearing and discussion, the City Council concludes that there is strong public support for this Moratorium; and

WHEREAS, the City Council is authorized to adopt land use moratoria by 30-A MRSA Section 4356, and to adopt emergency orders with immediate effect under Article II, Section 7 of the City Charter; and

WHEREAS, in the judgment of the City Council, these facts meet the requirement of necessity within the meaning of 30-A MRSA Section 4356(1)(B) and constitute an emergency within the meaning of Article II, Section 7 of the City Charter, thereby requiring the immediate adoption of this Moratorium for the preservation of the public health, safety and welfare; and

WHEREAS, the City needs a reasonable amount of time to study the land use implications of crematoria, and to develop appropriate regulations governing their location and operation; and

WHEREAS, such study, including the development of regulations, followed by the process of adopting amendments to the Ordinance, will take at least six months from the date of this Council Order; and

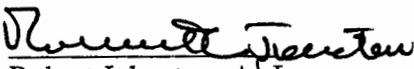
NOW, THEREFORE, it is hereby ordered by the City Council of the City of Gardiner, Maine, in City Council assembled, as follows:

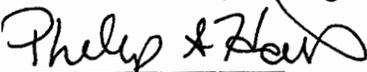
1. Acceptance, processing and acting upon applications prohibited. During the time this Order is in effect, no officer, official, employee, office, board or agency of the City of Gardiner shall accept, process, approve, deny, or in any other way act upon any application for a crematory facility in the High Density Residential District.
2. Location and operation prohibited. During the time this Order is in effect, no person shall locate or operate a crematory within the High Density Residential District in the City of Gardiner.
3. Applicability. Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this Order applies to any application for a crematory, whether or not such application had become a "pending proceeding" as defined in 1 M.R.S.A. § 302 prior to the enactment of this Order, and this Order is specifically made to have retroactive effect to August 10, 2009.
4. Effective date and duration. This Order takes effect immediately upon adoption by the City Council and shall remain in effect through April 25, 2010, unless extended, amended or repealed by the City Council.

October 27, 2009

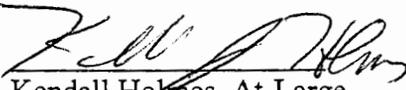

Andrew MacLean, Mayor

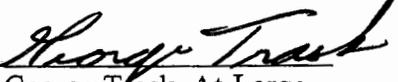

Michael Giberson, District 3


Robert Johnston, At-Large


Phil Hart, District 4


Richard Rambo, District 2


Kendall Holmes, At-Large


George Trask, At-Large


Richard Nickless, District 1