

Preview to Chapter 50 Text Amendment

A statutory public hearing is scheduled for May 18, 2023 at 5:15 PM related to a proposed text amendment to Chapter 50, *Zoning*, involving the following:

- Crematories—consistency with State law
- Board of Zoning Appeals—number of members
- Demolitions—Planning & Development Dept. authority

1

Crematoriums - State Law

MICHIGAN CEMETERY REGULATION ACT (EXCERPT) **Act 251 of 1968**

456.522 Definitions

...

(a) "Cemetery" means 1 or a combination of more than 1 of the following:

- (i) A burial ground for earth interments.
- (ii) A mausoleum for crypt entombments.
- (iii) A crematory for the cremation for human remains.
- (iv) A columbarium for the interment of cremated remains

...

(i) "Crematory" means a building or structure, within which the remains of deceased person are or are intended to be cremated.

(j) "Cremation" means the incineration of the body of the deceased person.

2

Crematoriums - State Law

MICHIGAN OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

339.1812 **Owning or conducting cemetery or burial ground and owning or maintaining funeral establishment prohibited; exception; owning or conducting funeral establishment on property owned or leased by cemetery prohibited; owner of private burial ground owning or maintaining funeral establishment.**

...

(1) An individual, partnership, association, municipal corporation, body politic, or corporation which owns or conducts, either directly or indirectly, a cemetery or burial ground in this state shall not own, manage, supervise, operate, or maintain, either directly or indirectly, a funeral establishment, or permit an officer, agent, or employee to own or maintain a funeral establishment. This subsection shall not apply to an elected official of a city, village, township, or county who serves as an ex officio member of a local cemetery board as a result of holding that office.

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3

Crematories—Chapter 50, Zoning

- **Crematories are currently permitted as accessory uses to mortuary or funeral homes (Section 50-12-367), contradicting state law.**
- Chapter 50 of the Detroit City Code allows “*Mortuary or funeral home, including those containing a crematory,*” as a by-right use in the B4, B5, B6, M1, M2, M3, and M4 zoning districts, and as a conditional use in the B1 and B2 zoning districts. It is proposed that this use be changed to “*Mortuary or funeral home,*” in order to be in alignment with state law.
- It is proposed that a new industrial use be created, “*Crematory or pet crematory,*” and that this use be allowed by-right in the M1, M2, M3, M4, and M5 zoning districts.
 - This is consistent with the current allowances for pet crematories.
 - Additionally, the creation of a specific use standard for crematories is proposed through the addition of **Section 50-12-367. – Crematory.** Crematories, whether as a principal use, or accessory to a cemetery, shall be located not less than 150 feet from the nearest residential property line.

4

Crematory and Pet Crematory Definitions

- There is currently no definition for “crematory” or “pet crematory,” in Chapter 50 of the Detroit City Code.
- It is proposed that the following definitions added:
 - **Crematory:** A building or structure, within which the remains of deceased persons are or are intended to be cremated, whether as a stand-alone facility as a principal use, or within a cemetery as an accessory use.
 - **Pet crematory:** Any land, place, structure, or facility used or intended to be used for the cremation of pets.

5

Board of Zoning Appeals—State Law

MICHIGAN ZONING ENABLING ACT (EXCERPT)
Act 110 of 2006

125.3601 Zoning board of appeals; appointment; procedural rules; membership; composition; alternate member; per diem; expenses; removal; terms of office; vacancies; conduct of meetings; conflict of interest.

...

(3) A zoning board of appeals shall be composed of not fewer than 5 members if the local unit of government has a population of 5,000 or more or not fewer than 3 members if the local unit of government has a population of less than 5,000. The number of members of the zoning board of appeals shall be specified in the zoning ordinance.

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BZA—City Charter

- **ARTICLE 4. - THE LEGISLATIVE BRANCH**
- **CHAPTER 2. - BOARD OF ZONING APPEALS**
- **Sec. 4-201. - Establishment of Board of Zoning Appeals.**
- There shall be established, pursuant to the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*, a Board of Zoning Appeals. The Board of Zoning Appeals shall be composed of at least seven (7) members, one (1) each from the non at-large districts.

7

BZA—Chapter 50, *Zoning*

- **Sec. 50-2-63. Membership; terms of office; compensation; vacancies; removal.**
- (a) The Board of Zoning Appeals shall be composed of not fewer than five or more than nine members who, in accordance with Section 601(1) of the Michigan Zoning Enabling Act, being MCL 125.3601(1), are appointed by a majority vote of City Council members serving. The members shall be residents of the City of Detroit and, as provided for in Section 601(4) of the Michigan Zoning Enabling Act, being MCL 125.3601(4), not more than one member may also be a member of the City Planning Commission.
- (b) In accordance with Section 601(10) of the Michigan Zoning Enabling Act, being MCL 125.3601(10), the members shall have staggered terms of three years each. Pursuant to Section 4-201 of the Charter, the membership of the Board shall consist of at least one member from each non at-large district.

8

“Demolition-related” provisions

- Being removed from Chapter 50, *Zoning*, and being inserted into Chapter 8, *Building Construction and Property Maintenance*:
 - Subdivision B. Traditional Main Street Overlay Areas
- Sec. 50-11-385. Applicability of design standards; exceptions.
 - ...
- ~~(b) The Planning and Development Department's review of demolition permits is limited to five business days during which time alternatives to demolition might be explored with the applicant and/or owner. The Planning and Development Department may waive the five-day review period where no good purpose would be served by deferring demolition.~~
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“Demolition-related” provisions

- Sec. 50-12-138. School building adaptive reuse provision.
 - ...
- ~~3) The Buildings, Safety Engineering, and Environmental Department shall review requests for demolition. The review shall be combined with the special land use hearing for a conditional use. However, if the request for demolition is made subsequent to obtaining a permit for school building adaptive reuse, then a separate review is required.~~
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10