



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Department of Development Services

ACM: Cassey Ogden

DATE: November 15, 2023

SUBJECT

Hold a public hearing and consider making a recommendation to City Council regarding a proposed revision to the Denton Development Code; amendments include but are not limited to Table 5.2-A: Table of Allowed Uses, Section 5.3.4: Public, Institutional, Religious, and Civic Use-Specific Standards, Table 7.9-I: Minimum Required Off-Street Parking, and Section 9.2: Definition related to privately-owned cemeteries. (DCA23-0011a, Private Cemetery Use, Cameron Robertson)

BACKGROUND

With the passage of House Bill (HB) 783 as part of the State's 88th Regular Legislative Session, changes related to cemeteries in certain municipalities and counties were adopted in the Texas Health and Safety Code allowing for the establishment of private cemeteries within the City due to the population of Denton County. Prior to the passage of HB 783 privately owned cemeteries were not permitted in or within four miles of the boundaries of the City of Denton due to the City's population size.

HB 783 states that an individual, corporation, partnership, firm, trust, or association is permitted to establish or use a cemetery in a municipality that is located in:

1. A county with a population of more than 750,000; or
2. A county adjacent to a county with a population of more than 750,000.

Beyond the items specified above, HB 783 states that an individual, corporation, partnership, firm, trust, or association may file a written application with the governing body of a municipality to establish or use a cemetery located inside the limits of the municipality. The governing body by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of the cemetery if the governing body determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

Given that the City does not presently recognize the land use or regulate private cemeteries, Staff is initiating an amendment to the Denton Development Code (DDC) to comply with the recently adopted state statute. Staff has identified areas within the DDC in which private cemeteries need to be regulated and need to be defined to comply with HB 783. In addition, those cemeteries that presently exist within City limits, that are not owned and operated by the City or State, were analyzed as part of the amendment to ensure that existing privately-owned cemeteries within the City limits would become legally conforming with the implementation of these changes, meaning that the owners of the cemeteries would be able to make improvements to the properties in the future.

The existing privately-owned cemeteries within the City limits are (see Exhibit 5):

- Blue Mound Cemetery
- Old Alton Cemetery
- Pagetown Cemetery
- Roselawn Memorial Cemetery
- Shiloh Cemetery
- Trinity Cemetery

These existing privately-owned cemeteries are located on properties zoned Rural Residential (RR), Residential 2 (R2), and Mixed-Use Regional (MR). So, in addition to proposing to add the privately-owned cemetery use to most of the zoning districts where Funeral and Internment Facilities are already permitted, Staff is proposing to add the use to the RR and R2 Districts. Note that the use is proposed to require approval of a Specific Use Permit in all districts where it would be permitted.

Therefore, several amendments are being proposed to DDC Table 5.2-A: Table of Allowed Uses, Section 5.3.4: Public, Institutional, Religious, and Civic Use-Specific Standards, Table 7.9-I: Minimum Required Off-Street Parking, and Section 9.2: Definitions related to the establishment of a private cemetery use.

The proposed text amendments to Table 5.2-A: Table of Allowed Uses of the DDC are as follows: (proposed additions are shown in underline text)

5.2-A: Table of Allowed Uses

P = permitted S = specific use permit required Blank cell = use prohibited + = use-specific standards apply																	
	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Community and Cultural Facilities																	
Airport, City-owned																P	
Cemetery, City-owned																P	
<u>Cemetery, Privately-owned</u>	<u>S+</u>		<u>S+</u>							<u>S+</u>	<u>S+</u>	<u>S+</u>	<u>S+</u>	<u>S+</u>		<u>S+</u>	<u>5.3.4I</u>
Club or Lodge	P	S	S	S	S	S	S+	P+	P	P+	P	P	P	P+	P+		5.3.4A
Community Service	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Day Care, Adult or Child	P	S	S	S	S	S	P	P	P	P	P	P	P	P+			5.3.4B

Funeral and Internment Facility									S	S	P	P	P	P			
Homeless Shelter	S+						S+	S+	S+	S+						P+	5.3.4C
Landfill, City-owned																P	
Park, Playground, Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Religious Assembly	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.3.4D
Educational Facilities																	
Business or Trade School								P+	P+	P+	P+	P	P	P	P		5.3.4E
College or University									P	P			P				
School, Private	P	S	S	S	S	S	S	P	P	P	P	P	P			P	
School, Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Healthcare Facilities																	
Hospital Services										P+	P+	P	P				5.3.4F
Medical Clinic								S+	S+	P+	P+	P	P	P			5.3.4G
Medical Office							P+	P+	P+	P	P+	P	P	P			5.3.4H

The proposed text amendment to Subsection 5.3.4. Public, Institutional, Religious, and Civic Use-Specific Standards is as shown below.

5.3.4I: Cemetery, Privately-Owned

1. A privately-owned cemetery shall comply with the Texas Health and Safety Code Title 8, Subtitle C, Chapter 711, as amended.

2. A privately owned cemetery shall comply with rules adopted pursuant to Texas Health and Safety Code Title 8, Subtitle C Section 711.012, as amended.
3. A privately-owned cemetery may not be maintained in a manner that adversely affects public health, safety, or welfare.

The proposed text amendments to Table 7.9-I: Table of Allowed Uses of the DDC are as follows:

7.9-I: Minimum Required Off-Street Parking

Community and Cultural Facilities	
Airport, City-owned	Director determination, see 7.9.4E
Cemetery, City-owned	None
<u>Cemetery, Privately-owned</u>	<u>None</u>
Club or Lodge	1 space per 300 sq ft GFA
Community Service	Director determination, see 7.9.4E.1
Day Care, Adult or Child	1 space per 10 adults or children, plus 1 space per employee on the largest shift
Funeral and Internment Facility	1 space per 250 sq ft GFA
Homeless Shelter	Director determination, see 7.9.4E.1
Landfill, City-owned	Director determination, see 7.9.4E.1
Park, Playground, Open Space	Director determination, see 7.9.4E.1
Religious Assembly	1 space per 4 design occupancy-load of assembly area per the Building Code

The proposed text amendment to Subsection 9.2: Definitions is as follows

9.2 Definitions: Cemetery, Privately-Owned

A place, established by an individual, corporation, partnership, firm, trust, or association, that is used or intended to be used for interment, and includes a graveyard, burial park, mausoleum, or any other area containing one or more graves.

With the above changes, the City will have the ability to allow the establishment or use of private cemeteries within City-limits, which were not previously regulated nor permitted by code.

See Exhibit 2 for Staff Analysis.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Date	Council, Board, Commission	Request	Action
April 23, 2019	City Council	Consider 2019 DDC Update	Approved with an effective date of October 1, 2019

OPTIONS

1. Recommend Approval
2. Recommend Approval with conditions
3. Recommend Denial
4. Postpone Item

RECOMMENDATION

Staff recommends **approval** of the amendments related to privately-owned cemeteries as the proposed amendments meet the established criteria for approval for Code Text Amendments as outlined in Section 2.7.4D of the DDC.

EXHIBITS

1. Agenda Information Sheet
2. Staff Analysis
3. Draft Ordinance
4. HB 783
5. Existing Privately-Owned Cemeteries in Denton

Respectfully submitted:
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