

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AMENDING THE DENTON DEVELOPMENT CODE, SPECIFICALLY AMENDMENTS 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: DEFINITIONS RELATED TO PRIVATELY-OWNED CEMETERIES; PROVIDING FOR APPLICATION REQUIREMENTS AND PROCESS; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING SAVINGS AND SEVERABILITY CLAUSES, AND AN EFFECTIVE DATE. (DCA23-0011)

WHEREAS, pursuant to Ordinance No. DCA18-0009q, the City Council of the City of Denton adopted the newly revised 2019 Denton Development Code, the (“DDC”); and

WHEREAS, privately-owned cemeteries were not an allowed use in the DDC; and

WHEREAS, as part of the State of Texas 88<sup>th</sup> Legislative Session, House Bill 783 (“Bill”) was adopted and became effective September 1, 2023, amending Section 711.008 of Title 8 of the Texas Health and Safety Code providing for the establishment and use of cemeteries within the City limits by individuals and legal entities described in the Bill (“Privately-Owned Cemetery(ies)”) who file a written application with the City; and

WHEREAS, in response to the changes to Title 8 of the Texas Health and Safety Code, the City desires to update the regulations in Subchapter 5, Subchapter 7 and Subchapter 9 of the DDC to allow for private cemetery establishment and use, as it relates to the allowable zoning districts, use-specific standards, minimum required off-street parking and definitions for consistency with state law; and

WHEREAS, the City Council may authorize by ordinance the establishment or use of a cemetery in cases where such establishment or use does not adversely affect public health, safety, and welfare; and

WHEREAS, the amendments proposed include the following:

1. Table 5.2-A: Table of Allowed Uses – Update regulations for Community and Cultural Facilities Uses
2. Section 5.3.4: Public, Institutional, Religious, and Civic Use-Specific Standards – related to a Cemetery, Privately-Owned
3. Table 7.9-I: Minimum Required Off-Street Parking – Update regulations for Community and Cultural Facilities Uses
4. Section 9.2: Definitions – Add definition for Cemetery, Privately-Owned; and

WHEREAS, on November 15, 2023, the Planning and Zoning Commission, in compliance with the laws of the State of Texas, gave the requisite notices by publication, held due hearings, and recommended \_\_\_\_\_ [#-#] of the amendment to the Denton Development Code; and

WHEREAS, on December 5, 2023 the City Council likewise conducted a public hearing in accordance with local and state law and the City Council hereby finds that the Code amendments are consistent with the City's comprehensive plan, and federal, state, and local law are in best interests of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. 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 of the DDC are amended as set forth in **"Exhibit A"** which is attached and fully incorporated herein by reference.

SECTION 3. The Specific Use Permit (SUP) requirements provided for in the City's Denton Development Code Section 2.5.2, as amended, and the published checklist applicable at the time the application is submitted shall be the information required for an application for a private cemetery.

SECTION 4. By the adoption of the provisions herein, Privately-Owned Cemeteries located in the Denton City Limits and identified on **"Exhibit B"** which is attached and fully incorporated herein by reference, are hereby deemed allowed, conforming uses as they exist on the date of approval of this Ordinance. Existing Privately-Owned Cemeteries shall comply with Section 5.3.4 of the Denton Development Code, as amended.

SECTION 5. Any expansion of an existing Privately-Owned Cemetery shall require a Specific Use Permit. The expansion of an existing Privately-Owned Cemetery shall comply with Section 5.3.4 of the Denton Development Code, as amended.

SECTION 6. Any person, firm, partnership or corporation violating any provision of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by fine in sum not exceeding \$2,000.00 for each offense. Each day that a provision of this ordinance is violated, shall constitute a separate and distinct offense.

SECTION 7. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall not affect the validity of the provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 8. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Denton Development Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 9. Save and except as amended hereby, the provisions, sections, subsections, paragraphs, sentences, clauses, and phrases of the Denton Development Code shall remain in full force and effect.

**SECTION 10.** In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

The motion to approve this ordinance was made by \_\_\_\_\_ and seconded by \_\_\_\_\_, the ordinance was passed and approved by the following vote [\_\_\_\_ - \_\_\_\_]:

	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
GERARD HUDSPETH, MAYOR

ATTEST:  
JESUS SALAZAR, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

BY: \_\_\_\_\_

## Exhibit A

### Amend 5.2-A Table of Allowed Uses as follows:

Table 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	
Cemetery, Privately-owned	S+		S+							S+	S+	S+	S+	S+		S+	5.3.4I
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

### Amend Section 5.3.4: Public, Institutional, Religious, and Civic Use-Specific Standards to add a section entitled Cemetery, Privately Owned, as follows:

“

#### **I. Cemetery, Privately-Owned**

1. A privately-owned cemetery shall comply with 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.”

**Amend Section 9.2: Definitions, to add a definition as follows:**

\* \* \*

**“Cemetery, Privately-Owned:** A place, established by an individual, corporation, partnership, firm, trust, or association, that is used or intended to be used for internment, and includes a graveyard, burial park, mausoleum, or any other area containing one or more graves.”

\* \* \*