

**BOROUGH OF DENVER**  
**LANCASTER COUNTY, PENNSYLVANIA**  
**ORDINANCE NO. 667**

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF DENVER, LANCASTER COUNTY, PENNSYLVANIA AMENDING THE CODE OF THE BOROUGH OF DENVER, LANCASTER COUNTY, PENNSYLVANIA , TO ADD A CHAPTER 48, CEMETERY ASSOCIATION, PROVIDING FOR THE ESTABLISHMENT OF A CEMETERY ASSOCIATION, PROVIDING FOR THE APPOINTMENT OF A FIDUCIARY, PROVIDING THAT NO PUBLIC FUNDS SHALL BE USED TO ACQUIRE OR MAINTAIN THE CEMETERY, PROVIDING FOR APPOINTMENTS IN TERMS OF OFFICE, PROVIDING FOR ORGANIZATION, AN ANNUAL BUDGET, FOR THE SCOPE OF AUTHORITY OF THE CEMETERY ASSOCIATION; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IN ACCORDANCE WITH PENNSYLVANIA LAW.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Denver, Lancaster County, Pennsylvania, a new Chapter 48 to Part I as follows:

**SECTION 1.** "48-1. Borough ownership.

A. The Borough of Denver shall acquire and maintain ownership of the tracts of land comprising the Fairview Cemetery, being the original cemetery tract at 101 North 4<sup>th</sup> Street and the annex at 1180 Steinmetz Road, collectively known as "The Fairview Cemetery" and shall operate a cemetery company in accordance with Pennsylvania law respecting the regulation of cemetery companies.

B. The lands comprising the Fairview Cemetery shall not be used for any purpose that would conflict with the primary intended use for human burials.

C. No lands shall be purchased by the Borough for cemetery purposes.

D. The Borough shall expend no funds of its own to acquire and maintain the Fairview Cemetery.

E. Upon accepting transfer of the real estate and the other assets of the Fairview Cemetery Association, the Borough shall establish a separate account to be used for the sole purpose of paying the ongoing expenses of the cemetery company and for the receipt of funds derived from the operation of the cemetery, as well as the receipt of gifts made to further the purposes of the cemetery

company. Any withdrawals from said account shall require at least two signatures and this account shall be audited from time to time by the as part of the audit of all other Borough accounts.

F. Council shall designate by resolution the persons authorized to deal with funds in the operating expense account.

G. Borough Council shall appoint by resolution a fiduciary to receive the remaining funds of the Fairview Cemetery Association after the expenses of transfer to the Borough have been paid, to hold them in a permanent lot care fund, to manage the investment funds of the cemetery and to make periodic reports to the Borough respecting the amounts held by the fiduciary and the status of all fiduciary accounts.

H. The cemetery company shall be operated so that there are no financial costs to the Borough of Denver. No tax money of the Borough shall be used to support the cemetery company and no tax shall be raised for that purpose.”

#### SECTION 2. “48-2. Establishment of Cemetery Association

A. There is hereby created a Cemetery Association in and for the Borough of Denver in accordance with Section 2801 of the Borough Code. The Cemetery Association shall consist of three voting members to be appointed by Borough Council.”

#### SECTION 3. “48-3. Appointments and terms of Office.

A. The members of the Cemetery Association shall be appointed by Borough Council for terms of three years or until their successors are appointed. The members of the Cemetery Association first appointed shall be appointed for such terms that the term of three members shall expire annually thereafter.

B. All persons appointed to the Cemetery Association shall serve their full terms unless the members shall voluntarily resign or shall be removed by Borough Council for dereliction or neglect of duty. Vacancies occurring on the Cemetery Association occurring otherwise than by the expiration of a term of a member shall be filled for the unexpired term only.”

#### SECTION 4. “48-4. Service without pay.

The members of the Cemetery Association shall serve without pay.”

#### SECTION 5. “48-5. Organization of Cemetery Association.

The members of the Cemetery Association shall elect their own Chairperson and Secretary and shall select all other necessary officers to serve for a period of one year. The Cemetery Association shall have the power to adopt rules and regulations for the conduct of all business within its jurisdiction.”

SECTION 6. "48-6. Annual budget

The Cemetery Association, at such times as directed by Borough Council, shall annually submit for approval by Borough Council a proposed budget for the ensuing year, setting forth all proposed expenditures and programs. It shall be the duty of the Cemetery Association to submit with the proposed budget an annual report to Borough Council, including an analysis of lot sales, the remaining capacity of the Cemetery, and any recommendations for improvement in operations or maintenance. The Cemetery Association shall not in any manner obligate the Borough for the payment of any Borough funds, and no such appropriations shall be made by the Borough."

SECTION 7. "48-7 Authority of Cemetery Association.

A. The Cemetery Association shall serve as an advisory body to Borough Council. The Cemetery Association shall perform such studies as shall be requested by Borough Council and may provide recommendations upon its own motion relating to issues concerning the operation of the Cemetery. The Cemetery Association may advise the Borough on capital improvements for cemetery purposes and for funding for such improvements from the permanent lot care fund.

B. The Cemetery Association shall review from time to time the operating expense account to determine whether it recommends any transfer of funds from that account to the perpetual care fund, or from the perpetual care fund to the operating expense account.

C. Borough Council reserves the right to amend this chapter to revise the powers and duties of the Cemetery Association."

SECTION 8. All ordinances or resolutions or partial ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

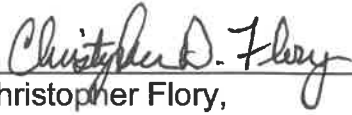
SECTION 9. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Borough of Denver that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 10. This Ordinance shall become effective as provided by the laws of the Commonwealth of Pennsylvania.

DULY ORDAINED AND ENACTED this 27<sup>th</sup> day of July, 2020, by the Borough Council of the Borough of Denver, Lancaster County, Pennsylvania, in lawful session duly assembled.

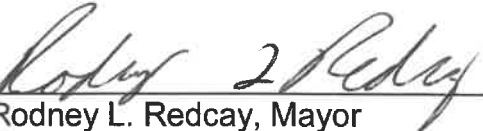
BOROUGH OF DENVER,  
Lancaster County, Pennsylvania

Attest:   
Secretary

By:   
Christopher Flory,  
Vice President, Borough Council

[BOROUGH SEAL]

Examined and approved as an Ordinance this 27<sup>th</sup> day of July, 2020.

By:   
Rodney L. Redcay, Mayor

**CERTIFICATE**

I, the undersigned, (~~Assistant~~) Secretary of the Borough of Denver, Lancaster County, Pennsylvania ("Borough") certify that: The foregoing is a true and correct copy of an Ordinance of Borough Council of the Borough which duly was enacted by affirmative vote of a majority of the members of Borough Council of the Borough of Denver at a meeting duly held on the 27<sup>th</sup> day of July, 2020; and was examined and approved by the Mayor; such Ordinance has been duly published and recorded in the Ordinance Book of the Borough; such Ordinance has been duly published as required by law; and such Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that Borough Council of the Borough of Denver met the advance notice and public comment requirements of the Sunshine Act, 65 Pa. C.S. §701 et seq., as amended, by advertising the date of said meeting, by posting prominently a notice of said meeting at the principal office of the Borough of Denver or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting prior to enacting such Ordinance.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough of Denver, this 27<sup>th</sup> day of July, 2020.



Secretary

[BOROUGH SEAL]