

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-018-2017, A ZONING TEXT AMENDMENT TO PORTIONS OF CHAPTERS 9.04, 9.16, AND 9.18 OF TITLE 9 OF THE GARDEN GROVE MUNICIPAL CODE PERTAINING TO CREMATORIUMS, MORTUARIES, FUNERAL HOMES, AND CEMETERIES

City Attorney Summary

This Ordinance approves text amendments to portions of Chapters 9.04 (Definitions), 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards), and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code to update the definitions, operating conditions, and development standards in the City's Land Use Code, pertaining to crematoriums, mortuaries, funeral homes, and cemeteries.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, Amendment No. A-018-2017 was initiated by the City of Garden Grove and is a zoning text amendment to portions of Chapters 9.04 (Definitions), 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards), and 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code pertaining to crematoriums, mortuaries, funeral homes, and cemeteries;

WHEREAS, following a Public Hearing held on April 20, 2017, the Planning Commission adopted Resolution No. 5883-17 recommending approval of Amendment No. A-018-2017;

WHEREAS, pursuant to a legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on May 23, 2017, and all interested persons were given an opportunity to be heard;

WHEREAS, the City Council gave due and careful consideration to the matter; and

WHEREAS, the City Council hereby makes the following findings regarding Amendment No. A-018-2017:

A. Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500-foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned

property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses.

The General Plan has goals and policies that address neighborhood preservation and land use compatibility.

Goal LU-2.1 of the General Plan directs the City to protect residential areas from the effects of potentially incompatible uses and to maintain standards for buffer areas to ensure compatibility between the uses.

Goal LU-2.3 of the General Plan directs the City to prohibit uses that may adversely impact the safety of a residential neighborhood.

Goal LU-4.4 of the General Plan directs the City to avoid intrusion of non-residential uses that are incompatible with existing neighborhoods.

Goal LU-4.5 of the General Plan directs the City of Garden Grove to require that commercial and industrial developments adjoining residential uses be adequately buffered from residential areas.

Goal LU-4.8 of the General Plan directs the City to ensure that minimum allowable distances are maintained between land uses defined as sensitive to their presence, which may include residences, schools, and parks.

The proposed Amendment is internally consistent with the goals, policies, and elements of the General Plan, by ensuring compatibility with sensitive uses such as residences, schools, and parks by limiting facilities with crematoriums, funeral homes, and/or mortuaries to the proposed respective zones, requiring Conditional Use Permit approval when applicable, and imposing specified operational conditions and development standards, which include minimum distance requirements to sensitive uses.

B. Pursuant to the proposed Amendment, changes include, but are not limited to, the following: (i) establish a minimum 500 foot distance requirement from any new "Crematoriums" or "Crematoriums with Incidental Funeral Home/Mortuary" use to a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, or to a property boundary of any "R" (Residential) zoned

property or any PUD (Planned Unit Development) established exclusively for residential use; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 (Community Commercial) zone; (iii) add "Crematoriums" as a conditionally permitted use in the M-1 (Light Industrial) and M-P (Industrial Park) zones; (iv) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use in the C-3 (Heavy Commercial), M-1, and M-P zones; (v) add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use in the C-2, C-3, and A-R (Adaptive Reuse) zones with a minimum 250-foot distance requirement to a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use; (vi) prohibit crematorium or funeral home/mortuary services or activities for "Cemetery" uses; and (vii) establish minimum parking requirements for "Crematorium", "Crematorium with Incidental Funeral Home/Mortuary", and "Funeral Home/Mortuary with No Crematorium" uses. The zoning and development standards, proposed in this Amendment, promote the public interest, health, safety, and welfare and will ensure that crematorium, mortuary, funeral home, and cemetery related uses do not cause a nuisance to sensitive uses such as residences, schools, and parks.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1: The above recitals are true and correct.

SECTION 2: The City Council finds that the proposed Ordinance is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3: Amendment No. A-018-2017 is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5883-17, a copy of which is on file in the Office of the City Clerk, and which is incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 4: Subdivision C of Section 9.04.060 (Definitions) of Chapter 9.04 (General Provision) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to: (i) remove "Mortuaries" from the title of "Mortuaries/Crematoriums" and modify its definition; (ii) modify the definition of "Crematory"*; (iii) add the definition of "Crematoriums with Incidental Funeral Home/Mortuary"; (iv) add the definition of "Funeral Home/Mortuary with No Crematorium"; (v) modify the title of "Cemeteries" to "Cemetery" and modify its definition; and (vi) add the definition of "Columbarium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

~~"Mortuaries/Crematoriums"~~ means ***facilities where human or animal remains are reduced to ashes in a furnace and may include incidental uses such as a Funeral Home/Mortuary*** establishments primarily engaged

* "Crematory" is another term for "Crematorium"

~~in the provision of services involving the care, preparation or disposition of human dead other than in cemeteries.~~

~~"Crematory" see "Crematorium." means a facility where human remains are reduced to ashes in a furnace and are incidental to a church, cemetery, or mortuary.~~

"Crematoriums with Incidental Funeral Home/Mortuary" means establishments primarily engaged in the provision of services involving the viewing, care, preparation or management of human dead prior to burial or cremation. The Funeral Home/Mortuary is incidental to an on-site crematory facility and may include related and incidental business activities, which include a florist, gift shop, and casket sales. See "Crematorium" definition.

"Funeral Home/Mortuary with No Crematorium" means an establishment primarily engaged in the provision of services involving the viewing, care, preparation or management of human dead prior to burial or cremation. The Funeral Home/Mortuary may include related and incidental business activities, which include a florist, gift shop, and casket sales. No crematorium services or activities are permitted on-site.

~~"Cemeteries~~***Cemetery"*** means a land used or intended to be used for the burial of human and/or pet remains and dedicated for cemetery purposes. Cemeteries ***may*** include business and administrative offices, chapels, flower shops, mausoleums ***and columbaria*** as ~~an~~ incidental uses, and necessary maintenance facilities. ***No crematorium or funeral home/mortuary services or activities are permitted on-site.***

"Columbarium" means a sepulchral vault or other structure(s) with recesses in the interior walls to receive the ashes of the dead.

SECTION 5: Table 1, "City of Garden Grove Land Use Matrix" in Section 9.16.020.030 (Uses Permitted) of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to: (i) remove "Mortuaries" from the title of "Mortuaries/Crematoriums"; (ii) remove "Crematoriums" as a conditionally permitted use in the C-2 zone; (iii) change "Crematoriums" from an automatically permitted use in the C-3 zone, to a conditionally permitted use, subject to Special Operating Conditions and Development Standards, in the C-3 zone; (iv) add "Crematoriums" as a conditionally permitted use, subject to Special Operating Conditions and Development Standards, in the M-1 and M-P zones; (v) add "Crematoriums with Incidental Funeral Home/Mortuary" as a conditionally permitted use, subject to Special Operating Conditions and Development Standards, in the C-3, M-1, and M-P zones; add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use, subject to Special Operating Conditions and Development Standards, in the C-2 and C-3 zones; (vi) remove "Crematory/Mausoleum"; (vii)

modify the title of "Cemeteries" to "Cemetery"; and (viii) change "Cemetery" from a Conditional/Incidental (C/I) use to a conditionally permitted use (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

Table 1 **CITY OF GARDEN GROVE LAND USE MATRIX**

COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
Mortuaries/Crematoriums	-	-	€	P* C*	C*	C*	-
COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
<i>Crematoriums with Incidental Funeral Home/Mortuary</i>	-	-	-	C*	C*	C*	-
COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
<i>Funeral Home/Mortuary with No Crematorium</i>	-	-	P*	P*	-	-	-
COMMERCIAL							
Other Services	O-P	C-1	C-2	C-3	M-1	M-P	O-S
<i>Cemeteries Cemetery</i>	-	-	-	-	-	-	C/I

SECTION 6: Table 9.18-1, "Use Regulations for the Mixed Use Zones" in Section 9.18.020 (Uses Permitted) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to add "Funeral Home/Mortuary with No Crematorium" as an automatically permitted use, subject to Special Operating Conditions and Development Standards, in the A-R zone (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

Table 9.18-1 **Use Regulations for the Mixed Use Zones**

Other Services	GGM U-1,-2,-3	CC-1	CC-2	CC-3	CC-OS	NMU	AR
<i>Funeral Home/Mortuary with No Crematorium</i>	-	-	-	-	-	-	P*

SECTION 7: Subdivisions N, O, and AD of Section 9.16.020.050 (Special Operating Conditions and Development Standards) of Section 9.16.020 (Permitted Uses in Commercial, Office Professional, Industrial, and Open Space) of Chapter 9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Garden Grove Municipal Code are hereby amended as follows to: (i) establish Special Operating Conditions and Development Standards for "Crematoriums"; (ii) establish Special Operating Conditions and Development Standards for "Crematoriums with Incidental Funeral Home/Mortuary"; and (iii) establish Special Operating Conditions and Development Standards for a "Funeral Home/Mortuary with No Crematorium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

N. Crematoriums. Subject to the following conditions:

- 1. Properties with crematoriums shall not be permitted to be located within 500 feet of a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. This provision applies to human and animal crematoriums.**
- 2. Crematoriums are conditionally permitted uses (Conditional Use Permit required) in industrially designated areas within a PUD (Planned Unit Development) zone, where industrial and manufacturing uses are permitted to ensure compatibility between the proposed crematorium and other existing uses in the surrounding areas.**
- 3. Any necessary permits, licenses, or other approvals to operate a crematorium, as required by other regulatory agencies, shall be obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes verification of periodic inspection notices and approvals by the regulatory agencies.**
- 4. Any CUP (Conditional Use Permit) approved crematorium that is found to be in violation of or is noncompliant with its Conditions of Approval, or is found to be in violation with any regulations established by other regulatory agencies, or has its permit(s), license(s), or other approval(s) issued by other regulatory agencies, suspended or revoked, or for any other reason deemed reasonably necessary by the City, may have its CUP reviewed by the Planning Commission.**

O. Crematoriums with Incidental Funeral Home/Mortuary. Subject to the following conditions:

- 1. Properties with crematoriums shall not be permitted to be located within 500 feet of a property boundary of any "O-S" (Open Space) zoned property developed with a school or park, a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use. This provision applies to human and animal crematoriums.**
- 2. Crematoriums with Incidental Funeral Home/Mortuary are conditionally permitted uses (Conditional Use Permit required) in industrially designated areas within a PUD**

(Planned Unit Development) zone, where industrial and manufacturing uses are permitted to ensure compatibility between the proposed crematorium and other existing uses in the surrounding areas.

- 3. Any necessary permits, licenses, or other approvals to operate a crematorium, as required by other regulatory agencies, shall be properly obtained, abided by, and adhered to for the life of the project. Such required permits, licenses, and approvals shall be kept on the premises at all times. This also includes verification of periodic inspection notices and approvals by the regulatory agencies.***
- 4. Any CUP (Conditional Use Permit) approved crematorium that is found to be in violation of or is noncompliant with its Conditions of Approval, or is found to be in violation with any regulations established by other regulatory agencies, or has its permit(s), license(s), or other approval(s) issued by other regulatory agencies, suspended or revoked, or for any other reason deemed reasonably necessary by the City, may have its CUP reviewed by the Planning Commission.***

AD. Funeral Home/Mortuary with No Crematorium. Subject to the following conditions:

- 1. Properties with Funeral Homes/Mortuaries with No Crematorium shall not be permitted to be located within 250 feet of a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use.***

SECTION 8: Subdivision 9.18.030.195 is hereby added to Section 9.18.030 (Specific Uses - Special Operating Conditions and Development Standards) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to establish Special Operating Conditions and Development Standards for a "Funeral Home/Mortuary with No Crematorium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

9.18.030.195. Funeral Home/Mortuary with No Crematorium. Such uses shall be subject to the following conditions:

- A. Properties with Funeral Homes/Mortuaries with No Crematorium shall not be permitted to be located within 250 feet of a property boundary of any "R" (Residential) zoned property or any PUD established exclusively for residential use.***

SECTION 9: The Table in Section 9.16.040.150 (Parking Spaces Required) of Section 9.16.040 (Commercial/Office, Industrial Development Standards) of Chapter

9.16 (Commercial, Office Professional, Industrial, and Open Space Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to establish parking requirements for a "Crematorium", a "Crematorium with Incidental Funeral Home/Mortuary", and a "Funeral Home/Mortuary with No Crematorium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***):

USE	REQUIRED MINIMUM PARKING SPACES
B. Commercial Uses	
14. Funeral Home/Mortuary with No Crematorium	
Fixed seats in viewing room(s):	1 space per each 3 fixed seats in area(s) designated for assembly purposes
No fixed seats in viewing room(s):	1 space for each 21 sq. ft. of area designated for assembly purposes
	All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area
D. Industrial Uses	
3. Crematorium	
a. Buildings less than 20,000 sq. ft. of gross floor area	2.25 spaces per 1,000 sq. ft. of gross floor area
b. Buildings 20,001 to 100,000 sq. ft. of gross floor area	2 spaces per 1,000 sq. ft. of gross floor area
c. Buildings over 100,000 sq. ft. of gross floor area	1 space per 1,000 sq. ft. of gross floor area
d. Incidental office	
i. Under 30% of gross floor area	No additional requirements
i. 30 to 50% of gross floor area of a building	1 space per 250 sq. ft. of gross floor area
4. Crematorium with Incidental Funeral Home/Mortuary	
Fixed seats in viewing room(s):	1 space per each 3 fixed seats in area(s) designated for assembly purposes
No fixed seats in viewing room(s):	1 space for each 21 sq. ft. of area designated for assembly purposes
	All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area

SECTION 10: Table 9.18-11 entitled "Required Parking Spaces" of Section 9.18.140.030 (Parking Spaces Required) of Section 9.18.140 (Parking) of Chapter 9.18 (Mixed Use Regulations and Development Standards) of Title 9 of the Garden Grove Municipal Code is hereby amended as follows to establish parking requirements for a "Funeral Home/Mortuary with No Crematorium" (deletions shown in ~~strikethrough~~, additions shown in ***bold-italics***)

**Table 9.18-11
 Required Parking Spaces**

Use	Required Minimum Parking Spaces
Commercial Uses	
Funeral Home/Mortuary with No Crematorium	

<i>Fixed seats in viewing room(s):</i>	<i>1 space per each 3 fixed seats in area(s) designated for assembly purposes</i>
<i>No fixed seats in viewing room(s):</i>	<i>1 space for each 21 sq. ft. of area designated for assembly purposes</i>
	<i>All usable ancillary area(s) shall provide 1 space for each 250 sq. ft. of gross floor area</i>

SECTION 11: Any land use constituting a “Crematoriums”, “Crematoriums with Incidental Funeral Home/Mortuary”, or “Funeral Home/Mortuary with No Crematorium” use, as defined in Section 4 of this Ordinance, that was legally established and operating with a valid business license, and all other required City permits or approvals prior to the effective date of this Ordinance, and that is made nonconforming by this Ordinance because no approved Conditional Use Permit for the use exists, the use is not located in a zoning district in which such a use is permitted pursuant to the provisions adopted or amended by this Ordinance, and/or the use does not comply with locational restrictions or development standards adopted or amended pursuant to this Ordinance, shall be considered a nonconforming use subject to the provisions of Chapter 9.36 (Nonconformities) of Title 9 of the Garden Grove Municipal Code.

SECTION 12: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 13: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.