

Sec. 711.008. LOCATION OF CEMETERY. (a) Except as

provided by Subsections (b), (f), (g), (g-1), (g-2), (h), and (k), an individual, corporation, partnership, firm, trust, or association may not establish or operate a cemetery, or use any land for the interment of remains, located:

(1) in or within one mile of the boundaries of a municipality with a population of 5,000 to 25,000;

(2) in or within two miles of the boundaries of a municipality with a population of 25,000 to 50,000;

(3) in or within three miles of the boundaries of a municipality with a population of 50,000 to 100,000;

(4) in or within four miles of the boundaries of a municipality with a population of 100,000 to 200,000; or

(5) in or within five miles of the boundaries of a municipality with a population of at least 200,000.

(b) Subsection (a) does not apply to:

(1) a cemetery heretofore established and operating;

(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(A) is owned by the society or sect; and

(B) is part of the campus on which an existing principal church building is located;

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section [61.003](#), Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section

501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus;

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect;

(6) the establishment and operation, if authorized in accordance with Subsection (h), of a perpetual care cemetery by an organized religious society or sect that:

(A) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code;

(B) has been in existence for at least five years;

(C) has at least \$500,000 in assets; and

(D) establishes and operates the cemetery on land that:

(i) is owned by the society or sect;

(ii) together with any other land owned by the society or sect and adjacent to the land on which the cemetery is located, is not less than 10 acres; and

(iii) is in a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles;

(7) the establishment and use of a private family cemetery by an organization that is exempt from income taxation

under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that is:

(A) owned by the organization; and

(B) located in a county:

(i) with a population of more than 125,000;

and

(ii) that is adjacent to a county that has a population of more than 1.5 million and in which more than 75 percent of the population lives in a single municipality; or

(8) the establishment and use of a private family cemetery located at the site of a presidential library and museum.

(c) Subsection (a) does not apply to a private family cemetery that:

(1) was established and operating on or before September 1, 2009; or

(2) is established and operating on land outside the boundaries of a municipality that has been owned or occupied by members of the same family for at least three generations and that is within 10 miles of the largest prison cemetery in this state.

(d) Subsection (a) does not apply to a cemetery established and operating before September 1, 1995, in a county with a population of more than 285,000 and less than 300,000 that borders the Gulf of Mexico.

(e) For the purpose of determining where a cemetery may be located under Subsection (a), the boundary of an area annexed by a municipality is not considered to be a boundary of the municipality if:

(1) no more than 10 percent of the boundary of the annexed area is composed of a part of the boundary of the annexing municipality as it existed immediately before the annexation; or

(2) the annexed area cannot be developed as residential or commercial property and is primarily used for flood control.

(f) This subsection applies only to a municipality with a population of at least 60,000 that is located in a county with a population of no more than 155,000. Not later than December 1, 2001, a charitable nonprofit corporation may file a written application with the governing body of a municipality to establish or use a cemetery located inside the boundaries of the municipality. The municipality by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

(g) Not later than December 1, 2003, a corporation may file a written application with the governing body of a municipality that has a population of at least 27,000 and not more than 30,000 and that is located in a county with a population of at least 245,000 and not more than 250,000 to establish or use a cemetery located outside the municipality but within two miles of the municipal boundaries. The municipality 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 municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

(g-1) Not later than September 1, 2020, a nonprofit organization may file a written application with the governing body of a municipality to establish or use a cemetery located inside the boundaries of the municipality. The municipality by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare. This

subsection applies only to a municipality that is wholly or partly located in a county with a population of more than 3.3 million.

(g-2) Not later than December 1, 2022, 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 legal boundaries of the municipality. The municipality 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 municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare. This subsection applies only to a municipality that has a population of:

(1) at least 55,000 and not more than 60,000 and that is located in two counties, each of which has a population of less than 132,000; or

(2) at least 24,000 and not more than 26,000 and that is the county seat of a county that has a population of at least 130,000 and not more than 135,000.

(h) The governing body of a municipality described by Subsection (b) (6) (D) (iii) may authorize the establishment and use in accordance with Subsection (b) (6) of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

(i) A person may file a written application with the governing body of a municipality to establish or use a cemetery located inside the boundaries of the municipality. The municipality by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or

use of the cemetery does not adversely affect public health, safety, and welfare. This subsection applies only to a municipality that:

- (1) is located in three or more counties;
- (2) has a population of 18,000 or more; and
- (3) does not have a cemetery within its boundaries, other than a family cemetery.

(j) Deleted by Acts 1993, 73rd Leg., ch. 634, Sec. 7, eff. Sept. 1, 1993.

(k) This subsection applies only to a municipality with a population of 115,000 or more that is located in a county with a population of less than 132,000. Not later than September 1, 1994, a person may file a written application with the governing body of the municipality to establish or use a cemetery located inside the boundaries of the municipality. The municipality by ordinance shall prescribe the information to be included in the application. The governing body by ordinance may authorize the establishment or use of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

(l) Subsection (a) does not apply to a cemetery established and operating before September 1, 2023, in a municipality:

- (1) with a population of not less than 75,000 and not more than 95,000; and
- (2) in which a state veterans cemetery is located.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 215, 216, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 77, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 634, Sec. 7, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 736, Sec. 1, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 200, Sec. 1, eff. May 21, 2001; Acts 2001, 77th Leg., ch. 631, Sec. 1, eff. June 13,

2001; Acts 2001, 77th Leg., ch. 669, Sec. 39, eff. Sept. 1,
2001; Acts 2003, 78th Leg., ch. 98, Sec. 1, eff. May 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 106 (S.B. [350](#)), Sec. 2, eff.
September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1026 (H.B. [1614](#)), Sec. 1,
eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 263 (H.B. [1468](#)), Sec. 3,
eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 373 (H.B. [1404](#)), Sec. 1,
eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 487 (S.B. [662](#)), Sec. 1,
eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 914 (H.B. [2927](#)), Sec. 4,
eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 367 (S.B. [131](#)), Sec. 1,
eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 721 (H.B. [788](#)), Sec. 1,
eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1017 (H.B. [2643](#)), Sec. 1,
eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 49,
eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec.
10.007, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 287 (H.B. [1415](#)), Sec. 1,
eff. June 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 470 (H.B. [2214](#)), Sec. 1,
eff. June 9, 2017.

Acts 2019, 86th Leg., R.S., Ch. 292 (H.B. [2634](#)), Sec. 1,
eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1275 (H.B. [515](#)), Sec. 1,
eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 26 (H.B. [2005](#)), Sec. 1,
eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 464 (H.B. [1526](#)), Sec. 1,
eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 465 (H.B. [1571](#)), Sec. 1,
eff. September 1, 2021.