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P.O. BOX 706 • DEMING, NEW MEXICO 88031  
POPULATION 14,000

## **CDBG PUBLIC HEARING**

**December 10, 2012**

6:00 P.M.

### **AGENDA**

Call to Order / Pledge of Allegiance

1. Open Public Hearing for the 2013 Community Development Planning Applications
  - A. CDBG Progress Report
  - B. Input - Planning
  - C. Select Project
  - D. Close CDBG Hearing

## **CITY COUNCIL MEETING**

**December 10, 2012**

4:00 P.M. CITY COUNCIL WORKSHOP

6:00 P.M. CITY COUNCIL MEETING

### **AGENDA**

Call to Order

1. Consent Agenda
  - A. Minutes - City Council Workshop and Regular Meeting 11/13/12
  - B. Minutes - City Council Workshop 11/2/12
  - C. Minutes - City Council Special Meeting 11/20/12
  - D. Minutes - Planning and Zoning Commission Meeting 11/19/12
  - E. Minutes - Airport Commission Meeting (no meeting scheduled)
  - F. Minutes - Tourism Development Committee Meeting 11/15/12
    1. Recommended obtaining a cost estimate from Wilson-Binkley for development of a tourism website.
    2. Recommended having a copy of operational funding from lodgers' tax provided to the TDC Board via email.
  - G. Minutes – Marshall Memorial Library Board Meeting (no meeting)
  - H. Minutes - Parks Commission Meeting (no quorum)
  - I. Minutes - Historic Landmark Commission (no meeting scheduled)

2. Public Forum
3. Presentation of Public Service Excellence Award to Aaron Sera
4. Presentation of Certificate of Special Recognition to Sergeant Derrick Lovelace and Lieutenant Kathleen Schindler
5. Presentation of Certificates of Accreditation
6. Public Hearing to Consider an Ordinance Amending Title 8, Chapter 4 of the City of Deming Municipal Code Concerning Regulations of the Mountain View Cemetery.
7. Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for an Automotive Repair Business at 2875 Country Club Road
8. Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for a Towing Business at 4211 NM Highway 549
9. Quasi-Judicial Public Hearing to Consider Granting a Variance Request Allowing Big O Tires to have Stacked Storage Containers at 1715 E. Pine
10. Quasi-Judicial Public Hearing to Consider Granting an Alley Abandonment Request to McDonalds at 721 West Pine Street
11. Closed Session: To Discuss Leasing Proposal for Rural Property Pursuant to NMSA 1978, Sections 10-15-1 (H) (8), of the Open Meetings Act and Limited Personnel Matters Pursuant to NMSA 1978, Sections 10-15-1(H)(2)
12. Adjourn Meeting

*The next regular City Council Workshop and Meeting are scheduled for 4:00 & 6:00 p.m., January 14, 2013.*

**CITY COUNCIL  
WORKSHOP MINUTES  
December 10, 2012**

**Council Present:** Andres Z. Silva, Mayor    Linda Franklin, Mayor Pro Tem

**Council Absent:** William Shattuck, Councilor    Joe "Butter" Milo, Councilor  
David Sanchez, Councilor

**Staff Present:** Richard McInturff, Administrator    Gina Gentile, City Planner  
Aaron Sera, Asst. Administrator    Rick Kocab, Assistant Treasurer  
Michael Carrillo, Police Chief    Edgar Davalos, Fire Chief

**Recording Secretary:** Lila Jasso, Administrative Secretary

City Council and staff members of the City of Deming, New Mexico held a workshop on December 10, 2012 at 4:00 p.m. to discuss items of the City Council Agenda in preparation for the regularly scheduled meeting to be held at 6:00 p.m. the same day. The following items of the agenda were discussed as follows:

**Open Public Hearing for the 2013 Community Development and Planning Applications:** Mr. McInturff stated that a planning project would need to be selected for the fiscal year 2013 application cycle.

**Consent Agenda:** Mr. McInturff discussed the Tourism and Development Committee items listed at F. (1) & (2). Under item F. (1), obtaining a cost estimate from Wilson-Binkley for development of a tourism website; Mr. McInturff recommended the TDC address this during the budget process in March or April. The second item, F. (2), regarding the TDC Board's request to obtain a copy of operational funding form lodgers' tax via email. Mr. McInturff stated that Mr. Kocab addressed this at the last TDC meeting and told them that they were welcome to individually obtain that information by personally requesting a copy from the Clerk.

**Presentation of Certificate of Public Service Excellence Award to Aaron Sera:** Mayor Silva stated that he would present the Public Service Excellence Award to Mr. Sera.

**Presentation of Certificates of Special Recognition to Sergeant Derrick Lovelace and Lieutenant Kathleen Schindler:** Mayor Silva stated that Chief Carrillo and Chief Davalos would present Sergeant Lovelace and Lieutenant Schindler with the Special Recognition Certificates. Chief Davalos stated that he would present both with a Special Recognition Award on behalf of the Fire Department.

**Presentation of Certificates of Accreditation:** Mayor Silva stated that he will present Chief Carrillo and the Deming Police Department with the Certificate of Accreditation. Chief Carrillo stated that he will also present Lt. Glenn Chadborn and Asst. Chief Brandon Gigante with recognition awards for their role in the accreditation process.

**Public Hearing to Consider Ordinance Amending Title 8, Chapter 4, of the City of Deming Municipal Code Concerning Regulations of the Mountain View Cemetery:** Mr. Sera stated that he will present the changes to the ordinance and updated rates.

**Quasi-Judicial Public Hearing to Consider a Granting a Special Use Permit for an Automotive Repair Business at 2875 Country Club Road:** Ms. Gentile stated that she would be presenting the request from Eloy Nañez DBA Fab & Repair for a special use permit to repair school busses at the property located at 2875 Country Club Road.

**Quasi-Judicial Public Hearing to Consider Granting a Request for a Special Use Permit for a Towing Business at 4211 NM Highway 549:** Ms. Gentile stated that she would be presenting the special use permit request for an automobile towing service to be located at the Sisbarro property.

**Quasi-Judicial Public Hearing to Consider Granting a Variance Request Allowing Big O Tires to have Stacked Storage Containers at 1715 E. Pine Street:** Ms. Gentile stated she would be presenting the request for variance from by the applicant after to have stacked storage containers on the property located at 1715 E. Pine Street.

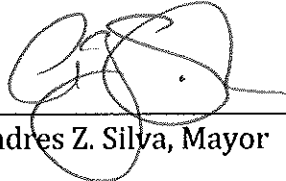
**Quasi-Judicial Public Hearing to Consider Granting an Alley Abandonment Request to McDonald's USA, at 721 W. Pine Street:** Ms. Gentile stated she would be presenting the Alley Abandonment Request for McDonald's, which should probably have been requested when they constructed the new building.


**Closed Session to Discuss Real Estate Pursuant to NMSA 1978, Sections 10-15-1(H)(8), and Limited Personnel Matters Pursuant to NMSA 1978, 10-15-1(H)(2) of the Open Meetings Act:** Mr. McInturff stated that he would present the items for closed session.

**Adjourn Meeting:** Mayor Silva adjourned the Workshop at 4:30 p.m.



CITY OF DEMING, NEW MEXICO

  
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Andres Z. Silva, Mayor

  
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Richard F. McInturff, Clerk

# CITY COUNCIL MEETING MINUTES

December 10, 2012

**Council Present:** Andres Z. Silva, Mayor  
David Sanchez, Councilor  
Linda Franklin, Mayor Pro Tem  
William Shattuck, Councilor

**Council Absent:** Joe "Butter" Milo, Councilor

**Staff Present:** Richard McInturff, Administrator  
Richard Kocab, Assistant Treasurer  
Aaron Sera, Assistant City Administrator  
Edgar Davalos, Fire Chief  
Ricardo Molina, Gas Dept. Supervisor  
Brandon Gigante, PD Assistant Chief  
Glen Chadborn, PD Lieutenant  
Jim Foy, Attorney  
Michael Carrillo, Police Chief  
Gina Gentile, City Planner  
Delbert Rivera, Fire Captain  
Derrick Lovelace, PD Sergeant  
Kathleen Schindler, PD Lieutenant

**Recording Secretary:** Lila Jasso, Administrative Secretary

Mayor Silva called the meeting to order and led the pledge of allegiance at 6:00 p.m.

## 1. Consent Agenda

- A. Minutes - City Council Workshop and Regular Meeting 11/13/12
- B. Minutes - City Council Workshop 11/2/12
- C. Minutes - City Council Special Meeting 11/20/12
- D. Minutes - Planning and Zoning Commission Meeting 11/19/12
- E. Minutes - Airport Commission Meeting (no meeting scheduled)
- F. Minutes - Tourism Development Committee Meeting 11/15/12
  - 1. Recommended obtaining a cost estimate from Wilson-Binkley for development of a tourism website.
  - 2. Recommended having a copy of operational funding from lodgers' tax provided to the TDC Board via email.
- G. Minutes – Marshall Memorial Library Board Meeting (no meeting)
- H. Minutes - Parks Commission Meeting (no quorum)
- I. Minutes - Historic Landmark Commission (no meeting scheduled)

Mayor Pro Tem Franklin requested that the minutes of the Tourism Development Committee meeting be pulled from the Consent Agenda and considered separately because the action items from the meeting needed to be addressed. Mayor Pro Tem Franklin motioned to approve the Consent Agenda with the exception of the TDC minutes. The motion was seconded by Councilor Shattuck and carried unanimously.

Mr. McInturff stated that in Item 1, the Tourism Development Committee Minutes made a recommendation to obtain a cost estimate from Wilson-Binkley for development of a tourism website. Mr. McInturff recommended that this action be deferred until later in the year when the budget is being discussed. In Item 2, the TDC recommended they be provided a copy of the operational fund of the lodgers' tax via email. Mr. McInturff stated that Mr. Kocab, advised the TDC Board that they were welcome to individually request that information from staff at any given time. Mr. McInturff recommended that Council deny the recommendation. Mayor Pro Tem Franklin motioned to approve the TDC minutes, with the exception of Items 1 and 2. On the first item, she recommended the request be deferred until budget discussions. On the second item, since the scope of TDC is promotional, not operational, Mayor Pro Tem Franklin recommended their request to have a copy of the operational budget from lodgers' tax be provided to the TDC Board be denied. She stated that the Board members can individually come in anytime and request the information from staff. The motion was seconded by Councilor Sanchez and carried unanimously.

2. **Public Forum:** A public comment period was entertained.
3. **Presentation of Public Service Excellence Award to Aaron Sera:** Mayor Silva read into record the letter from the United States Environmental Protection Agency which accompanied the award. Mayor Silva Presented Mr. Sera with the Public Service Excellence Award for his work and contribution to the revitalization of the Peru Mill Industrial Park.
4. **Presentation of Certificate of Special Recognition to Sergeant Derrick Lovelace and Lieutenant Kathleen Schindler:** Mayor Silva and Chief Carrillo presented Sergeant Lovelace and Lieutenant Schindler with certificates of recognition for assisting the Deming Fire Department in providing CPR to a SID officer. Chief Davalos, on behalf of the entire Deming Fire Department, presented the Police Department, Sergeant Lovelace, and Lieutenant Schindler with a recognition award for their outstanding performance and willingness to help others in their time of need.
5. **Presentation of Certificate of Accreditation:** Mayor Silva presented the Deming Police Department with the Certificate of Accreditation by the New Mexico Law Enforcement Professional Standards Council. Chief Carrillo presented Captain Glenn Chadborn and Assistant Chief Brandon Gigante with a certificate of recognition for their dedication in attainment of the accreditation status from the New Mexico Law Enforcement Professional Standards Council.
6. **Public Hearing to Consider Ordinance Amending Title 8, Chapter 4, of the City of Deming Municipal Code Concerning Regulations of the Mountain View Cemetery:** Mr. Sera presented the proposed ordinance to the Mayor and Council. Mr. Sera highlighted the major changes to this ordinance, and discussed changes to the fee schedule. Mayor Silva opened floor for public comments of which none were received. Mayor Pro Tem Franklin motioned to approve the ordinance amending Title 8, Chapter 4, the City of Deming Municipal Code concerning regulations of Mountain View Cemetery and the public brochure with fees. The motion was seconded by Councilor Shattuck and carried unanimously.

7. **Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for an Automotive Repair Business at 2875 Country Club Road SE:** Mayor Silva conducted a Quasi-Judicial Public Hearing to consider granting a special use permit for an automotive repair business at 2875 Country Club Road SE. Mayor Silva confirmed that Council had no conflicts of interest; that the public notices were legally posted; and swore in all parties who would be giving testimony. City Planner Gina Gentile reported that the applicant Eloy Nafiez is seeking a Special Use Permit for an automotive repair business to repair school buses. Ms. Gentile stated that the location is zoned industrial and that the application was submitted because the ordinance requires that any automotive repair business have a special use permit. The application has been recommended for approval by the Planning and Zoning Commission with a condition that the applicant provide proof of proper oil disposal and that a barrier fence be constructed surrounding the busses. Mayor Silva opened the floor for any members of staff or council wishing to speak. Mr. McInturff stated that the height of the fence was recommended by the Planning and Zoning Commission, to be 8 feet. Ms. Gentile confirmed that the requirement for the special use permit states that the fence must be 8 feet. Councilor Sanchez asked for clarification of the location at 2875 Country Club Road SE. This was pointed out on the map. Councilor Sanchez then asked the approximate distance of the property from Country Club Road. Staff stated that it was at least 200 feet back from the road. Mayor Silva asked if the Council was prepared to make a motion or if they wanted to go into Closed Session pursuant to NMSA 1978 10-15-01(H)(3). Councilor Shattuck motioned to grant a special use permit for an automotive repair business at 2875 Country Club Road SE, provided that an 8 foot high barrier fence is erected and all other appropriate permits are obtained. The motion was seconded by Councilor Sanchez and approved unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Shattuck	Aye
Mayor Pro Tem Franklin	Aye
Councilor Sanchez	Aye

Mayor Silva stated the decision announced by the authorities will be effective after the written order is executed and filed with both the Municipal and County Clerk. Any action of the City Council in approving conditionally approving or denying this application may be appealed to the District Court within 15 calendar days.

8. **Quasi-Judicial Public Hearing to Consider Granting a Special Use Permit for a Towing Business at 4211 NM Highway 549:** Mayor Silva conducted a Quasi-Judicial Public Hearing to consider a request for a Special Use Permit for a Towing Business at 4211 NM Highway 549. Mayor Silva confirmed that Council had no conflicts of interest; that the public notices were legally posted; and swore in all parties who would be giving testimony. Ms. Gentile reported that the applicant, Dealer's Towing LLC, is seeking a special use permit which is required by the City for all wrecker or towing service. Ms. Gentile stated that the business location will be on the rear portion of the Sisbarro property, will be fenced, and will have no more than 10 vehicles at this location at any time. The property is zoned commercial and the Planning and Zoning Commission has recommended approval of the

case with the condition that the applicant erect a barrier fence around the area where the towed vehicles will be stored. Mayor Silva opened the floor for any affected parties or any other persons wishing to speak. Mayor Silva asked if the business had all proper permits in order. Ms. Gentile stated that the business had their original business established in Las Cruces and is now planning to expand to Deming. Mr. Foy asked if the business had a Certificate of Convenience & Public Necessity from the Public Regulation Commission (PRC). Ms. Gentile state that she would verify if they had the proper permits prior to issuing the special use permit. Mayor Silva asked if the Council was prepared to make a motion or if they wanted to go into Closed Session pursuant to NMSA 1978 10-15-01(H)(3). Mayor Pro Tem Franklin motioned to go into closed session. The motion was seconded by Councilor Sanchez and approved unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Shattuck	Aye
Mayor Pro Tem Franklin	Aye

Mayor Pro Tem Franklin motioned to come back into Open Session. The motion was seconded by Councilor Sanchez and was approved unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Shattuck	Aye
Councilor Sanchez	Aye
Mayor Pro Tem Franklin	Aye

Councilor Shattuck motioned to table the current item in regards to a special use permit for the towing business at 4211 NM Highway 549 until the applicant can provide verified proper documentation from the Public Regulation Commission and the State to operate their business. The motion was seconded by Councilor Sanchez and approved unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Shattuck	Aye
Councilor Sanchez	Aye
Mayor Pro Tem Franklin	Aye

- 9. Quasi-Judicial Public Hearing to Consider Granting a Variance Request Allowing Big O Tires to have Stacked Storage Containers at 1715 E. Pine:** Mayor Silva conducted a Quasi-Judicial Public Hearing to consider granting a variance request allowing Bid O tires to have stacked storage containers at 1715 E. Pine Street. Mayor Silva confirmed that Council had no conflicts of interest; that the public notices were legally posted; and swore in all parties who would be giving testimony. Ms. Gentile stated that Megan Wenzel, of Big O Tires applied for a variance after a complaint was received by code enforcement regarding the storage containers being out of compliance. Ms. Gentile stated that, at the time the applicant purchased the property, the storage containers were already in place and the



applicant is seeking a variance to keep the storage units as they are. Ms. Gentile stated that the units are stacked and painted the same color, there is no fence around the unit, and if there were a fence, it would not obscure the storage units due to them being stacked one on the other. The city code requires that the storage units be hidden from center view of the frontage address, and that they be hidden by a slatted chain link material or an approved substitute. The applicant stated that they do not own the property behind their property and that they did not have room to relocate the storage units. The Planning and Zoning Commission recommended approval of the variance request. Ms. Gentile recommended the variance be granted for a period of 365 days in order for the applicant to come in compliance with the ordinance. Mayor Silva opened the floor for any members of staff or council members wishing to speak. Mr. McInturff stated that when the ordinance was originally adopted, property owners were given 365 day to come into compliance. He recommended that the applicant be granted the same time period of 365 days to come into compliance instead of granting a variance. Mayor Silva opened the floor to the applicant. Mr. John Wenzel, owner of Big O Tires, stated that the property was purchased two years ago, and nothing was mentioned at that time, or at the time of applying for a business license, pertaining to the storage units. Mr. Wenzel stated that after the code enforcer notified them of being noncompliant, they painted the containers. He stated that there is no room on the lot to place the storage units side-by-side, and at this time the business would be faced with a hardship in doing so. Mr. McInturff referenced the picture and asked Mr. Wenzel if it would be possible to put the storage units side-by-side. Mr. Wenzel stated that the storage units are welded together and there is not room on the property due to the current space being used for service trucks and customer's vehicles. Mayor Silva asked if the Council was prepared to make a motion or if they wanted to go into Closed Session pursuant to NMSA 1978 10-15-01(H)(3). Councilor Shattuck motioned to go into Closed Session. The motion was seconded by Mayor Pro Tem Franklin and carried unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Shattuck	Aye
Councilor Sanchez	Aye
Mayor Pro Tem Franklin	Aye

Councilor Sanchez motioned to come back into Open Session. The motion was seconded by Councilor Shattuck and was approved unanimously by a roll call vote.

ROLL CALL VOTE

Councilor Sanchez	Aye
Councilor Shattuck	Aye
Mayor Pro Tem Franklin	Aye

Councilor Shattuck motioned that the applicant be granted a deferment for 365 days, not to be construed as a variance, to come into compliance. The motion was seconded by Mayor Pro Tem Franklin and was approved unanimously by a roll call vote.

ROLL CALL VOTE

Mayor Pro Tem Franklin	Aye
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Councilor Sanchez	Aye
Councilor Shattuck	Aye

Mayor Silva stated the decision announced by the authorities will be effective after the written order is executed and filed with both the Municipal and County Clerk. Any action of the City Council in approving conditionally approving or denying this application may be appealed to the District Court within 15 calendar days.

- 10. Quasi-Judicial Public Hearing to consider Granting an Alley Abandonment Request to McDonald's at 721 West Pine Street:** Mayor Silva conducted a Quasi-Judicial Public Hearing to consider granting an Alley Abandonment Request to McDonald's at 721 West Pine Street. Mayor Silva confirmed that Council had no conflicts of interest; that the public notices were legally posted; and swore in all parties who would be giving testimony. Ms. Gentile stated that the applicant, McDonald's USA, is requesting to vacate an alleyway that divides their property. The applicants are planning to do some construction to their parking lot to change the drive-thru stacking lane, making traffic conditions better. Some of the changes will involve construction over the alleyway and the current project has brought to light that the current alleyway has not been officially vacated. The applicant has agreed to purchase the alleyway at current market value. Mayor Silva opened the floor for any members of staff or council wishing to speak. Councilor Shattuck asked what type of construction would be taking place in the alleyway and if the City would have access to the utilities. Ms. Gentile stated that it would be in the form of pavement and curbing and there would be no permanent structures erected over the property. Mayor Silva asked if the Council was prepared to make a motion or if they wanted to go into Closed Session pursuant to NMSA 1978 10-15-01(H)(3). Mayor Pro Tem Franklin motioned to grant the request for the alley abandonment to McDonald's at 721 West Pine Street and the City be compensated according to appraised value. Further, that a utility easement be placed on the subject property. Councilor Shattuck made a friendly amendment to the motion that there would be no permanent structures erected on the alley abandonment area. Mayor Pro Tem Franklin accepted the amendment. The motion was seconded by Councilor Sanchez and was approved unanimously by a roll call vote.

ROLL CALL VOTE	
Mayor Pro Tem Franklin	Aye
Councilor Shattuck	Aye
Councilor Sanchez	Aye

Mayor Silva stated the decision announced by the authorities will be effective after the written order is executed and filed with both the Municipal and County Clerk. Any action of the City Council in approving conditionally approving or denying this application may be appealed to the District Court within 15 calendar days.

- 11. Closed Session: To Discuss Leasing Proposal for Rural Property Pursuant to NMSA 1978, Sections 10-15-1 (H) (8), of the Open Meetings Act and Limited Personnel Matters Pursuant to NMSA 1978, Sections 10-15-1(H)(2):** Mayor Silva entertained a motion to go into Closed Session to discuss real estate pursuant to NMSA 1978, Sections 10-

15-1 (H)(8) and possible litigation pursuant to NMSA 1978, 10-15-1 (H)(2) of the Open Meetings Act. Councilor Sanchez motioned to go into Closed Session. The motion was seconded by Councilor Shattuck and carried unanimously by a roll call vote.

ROLL CALL VOTE

Mayor Pro Tem Franklin	Aye
Councilor Shattuck	Aye
Councilor Sanchez	Aye

Councilor Sanchez motioned to come back into Open Session. The motion was seconded by Councilor Shattuck and was approved unanimously by a roll call vote.

ROLL CALL VOTE

Mayor Pro Tem Franklin	Aye
Councilor Shattuck	Aye
Councilor Sanchez	Aye

Councilor Shattuck motioned to grant the City Administrator and Mayor the authority to negotiate and execute a letter of intent to lease land, known as 155 acres near Sunshine School, to Element Power. The motion was seconded by Mayor Pro Tem Franklin and carried unanimously.

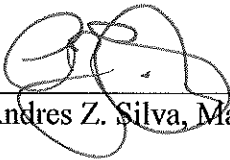
Mayor Pro Tem Franklin motioned to reclassify the Administrative Captains pay range at the Police Department to a range 32. The motion was seconded by Councilor Shattuck and carried unanimously.

**12. Adjourn Meeting:** Upon a motion by Councilor Shattuck and a second by Councilor Sanchez the meeting was adjourned at 8:05 p.m.

*The next regular City Council Workshop and Meeting are scheduled for 4:00 p.m. and 6:00 p.m. on January 14, 2013.*



CITY OF DEMING, NEW MEXICO

  
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Andres Z. Silva, Mayor

  
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Richard F. McInturff, Clerk

**ORDINANCE NO. 1233**

**AN ORDINANCE IN TITLE 8, CHAPTER 4, OF THE MUNICIPAL CODE  
OF THE CITY OF DEMING, NEW MEXICO**

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
DEMING, NEW MEXICO:

**Title 8, Chapter 4 is hereby amended with the following:**

**Chapter 4  
MOUNTAIN VIEW CEMETERY**

**Delete Section 8-4-3-A and B: CITY LIABILITY, and replace with the following:**

- A. City Right to Correct Errors:** The City reserves, and shall have, the right to correct any errors that may be made by either in making interments, disinterments or relocations. In the event such error shall involve the interment of the remains of any person in such lot, the City reserves and shall have the right to relocate and transfer such remains so interred to such other lot of equal value and similar location as may be substituted and conveyed in lieu thereof according to law in such case made and provided. It shall also have the right to correct any errors made by an improper inscription, description, incorrect name or date on the head marker.
- B.** The City of Deming will not be responsible for the theft or damage to anything placed on graves, inclusive of cremains enclosed within the monument or columbaria.

**Delete Section 8-4-4-D, G, and I: REGULATIONS FOR SERVICES, and replace with the following:**

- D. Opening And Closing Fees:** All Fees for the lot, setup and opening and closing of the grave must be paid in full when a request is made to open a grave space. Reservations for cemetery lot must be paid in full when reserving such space(s). The opening and closing charge can be paid at the time of need, and any other charges that may apply as listed in the schedule of fees. Prepayment of burial fees are not subject to increase for a period of 20 years. Interments will not be allowed in any lot where the lease remains unsettled.
- G. Number Of Interments Limited:** Not more than one interment and one cremation vessel in a 10x5 lot, or two (2) cremations in a 5x4 lot will be allowed except in case of mother and infant or two (2) infants to be interred at the same time, under the age of three (3) years.
- I. Relocation Permit:** Any person desiring to relocate a body from the grave space of another must present an executed legal document for such relocation, and also himself sign a request to have such relocation made. These shall remain on file in the City of Deming offices. Relocation of a dead body from a burial space within

the Cemetery will be permitted only upon application made and approval of the City of Deming in accordance with law in such case made and provided.

1. Only Lessee or authorizing agent designated by a will can make allowable changes. Any disputes that cannot be resolved by ordinance will be subject to the hearing fee listed in section 8-4-4-T of applicable ordinance or an administrative release may be granted by decision of a minimum of three (3) department heads.
2. Transfer of lot location can be made by paying the difference of the lot at the current rate. Transfer of lot lessee between individuals is not allowed. Transfer of lots back to the City will be refunded at the paid amount, less \$25 administration fee per lot.

**Delete Section 8-4-5- F, I, J, M, Q and U: LANDSCAPING AND GRAVE MAINTENANCE, and replace with the following:**

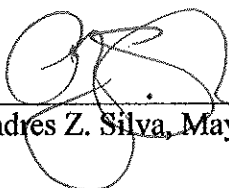
- F.** The City will have the authority to enter upon any lot and to remove any objectionable thing or any erection that may have been placed there contrary to the regulations. Any objects removed by City personnel shall be without liability for their safekeeping.
- I.** No visitor shall pluck or remove any plant, flower, either wild, cultivated, or artificial from any part of the Cemetery.
- J.** If any tree, shrub or plant standing upon any lot by means of its roots, branches, or otherwise, be or become detrimental to adjacent lots, avenues, irrigation or if for any other reason its removal is deemed necessary, the City shall have the right and it shall be its duty, to remove such tree, shrub or plant, or any part thereof, or otherwise correct the condition existing as in its judgment seems best.
- M.** No concrete, wooden, wrought iron or cast iron bench or chair, or any wooden, wrought iron or wire trellis, shall be permitted to be or be brought upon the grounds. Approved stone benches may be placed along edges of road by cemetery personnel.
- Q.** The right to enlarge, reduce, re-plat or change the boundaries or grading of the Cemetery or of a section or sections, from time to time, including the right to modify or change the location of, or any part thereof, or remove or re-grade roads, drives and walks, is hereby expressly reserved. The right to lay, maintain and operate, or alter or change pipelines or gutters for sprinkling systems, drainage, etc., is also expressly reserved, as well as is the right to use Cemetery property, not sold to individual Lessee, for Cemetery purposes, thereto, a perpetual right to ingress and egress over lots for the purpose of passage to and from other lots.
  1. All markers and monuments and objects of beautification shall be set by the Cemetery employees only, unless, because of the size of the memorial, it is in the best interest of both parties to allow the monument dealer to set such. In such case, the monument setting personnel may approach the gravesite with their equipment and area to use due care not to disturb or damage any adjacent gravesites or memorials. All markers and monuments shall be constructed of granite, bronze or marble. Glass and hollow concrete is strictly prohibited.
  2. Markers and monuments shall not be decorated, trimmed or adorned with any material except as permitted in these regulations.

3. Single markers or monuments shall not exceed forty eight inches (48") in width and sixteen inches (16") in depth and double markers or monuments shall not exceed one hundred two inches (102") in width and sixteen inches (16") in depth. There is a five foot (5') height limit on all markers and monuments. If an entire block is purchased as a family plot and the purchaser wishes to have a distinctive family monument, an exception to the height may be made by the City by prior approval.
  4. All markers and monuments are to be set in line by the red dots and within two inches (2") of the property line at head of space. Each marker or monument will have a four inch (4") footing with, at least, a three inch (3") border on all four (4) sides. If the marker or monument has accompanying vases, the end borders will vary according to size of vases used. Vases must be securely and permanently fastened to the end borders of the foundation. The aforesaid footings will be formed, troweled and edged.
  5. In all sections having four foot by ten foot (4' x 10') spaces, graves will be opened using a line four inches (4") from foot of space and continue toward head of space as to size of opening required. All foot markers should be installed level with the ground except where existing foot markers can be matched.
  6. In the Memorial Section of the Cemetery, a single granite marker is included in the purchase. The markers are all identical and include name and dates only. No verses or designs are included. The marker is ordered by the City after the interment has been made and signed request is received from the family (only City provided markers are allowed). Should the party leasing such Cemetery property make the purchase prior to need and wish the marker be placed prior to the interment, it is the responsibility of the lessee to pay for adding the final date.
  7. Columbaria Niches will only be opened during regular business hours should the need arise.
  8. Columbaria cover plates will be limited to name, full dates and dedication line (limited to 17 letters), which will be provided by the City.
- U. Rules and regulations are referenced in the cemetery brochure.

**PASSED, ADOPTED, AND APPROVED, this 10<sup>th</sup> Day of December, 2012.**

**CITY COUNCIL, CITY OF DEMING, NEW MEXICO**



  
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Andres Z. Silva, Mayor

  
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Richard F. McInturff, Clerk