

ORDINANCE NO. 2016-035

AN ORDINANCE OF THE CITY OF DENTON FINDING AND DECLARING A RESTRICTION CONTAINED IN THE 1933 DEED BETWEEN THE INDEPENDENT ORDER OF ODD FELLOWS (IOOF) AND THE CITY OF DENTON CONVEYING THE SAID CEMETERY TO THE CITY OF DENTON PROHIBITING THE USE OF THE SAID CEMETERY FOR THE BURIAL OF NON-WHITE PERSONS TO BE ILLEGAL, UNENFORCEABLE, UNCONSCIONABLE, CONTRARY AND REPUGNANT TO THE PHILOSOPHY, PRINCIPALS AND BELIEFS OF THE CITY OF DENTON AND THAT THE SAID RESTRICTIVE LANGUAGE SHALL NOT BE ENFORCED OR RECOGNIZED ON ANY CITY-OWNED OR MANAGED PROPERTY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 1933, a deed between the International Order of Odd Fellows (IOOF) and the City of Denton conveyed title to the IOOF Cemetery to the City of Denton; and,

WHEREAS, the said deed contained a restriction that the said cemetery shall be used for the burial of white persons only; and,

WHEREAS, in 1948, the United States Supreme Court, in *Shelley v. Kramer*, held that courts could not enforce racial covenants on real estate because such action would be contrary to the United States Constitution including the equal protection clause of the Fourteenth Amendment; and,

WHEREAS, the City of Denton has not enforced said deed restriction since at least 1948; however; some citizens remain concerned about the deed language; and,

WHEREAS, the City Council of the City of Denton finds and declares that the said restrictive language is illegal, unenforceable, unconscionable, contrary to the philosophy, principals and beliefs of the City of Denton, and will not be enforced or recognized on any city owned or managed property; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

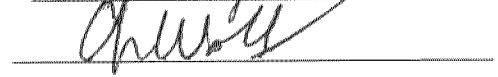
SECTION 1. The above recitals are hereby found and declared to be true and correct and are adopted herein for all purposes in their entirety.

SECTION 2. The language contained in the 1933 deed between the IOOF and the City of Denton that the said cemetery shall be used for the burial of white persons only is found and declared to be illegal, unenforceable, unconscionable, contrary and repugnant to the philosophy, principals and beliefs of the City of Denton.

SECTION 3. The said restrictive language shall not be enforced or recognized on any city owned or managed property.

SECTION 4. This ordinance shall be effective immediately upon its passage and approval.

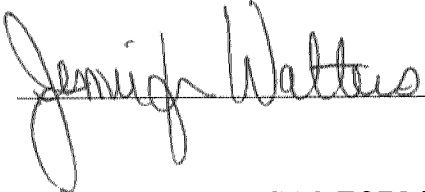
PASSED AND APPROVED this the 2 day of February, 2016.



CHRIS WATTS, MAYOR

ATTEST

JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:

ANITA BURGESS, CITY ATTORNEY

BY: 