



Aberdeenshire Council (Burial Grounds and Cemeteries) Management Rules, (2008)

Aberdeenshire Council, in exercise of the powers conferred on them by Section 112 of the Civic Government (Scotland) Act, 1982 hereby make the following Management Rules that shall apply to Burial Grounds and Cemeteries under the control of the Council.

1. Interpretation

In these Rules -

“Authorised Officer” means an Officer authorised by the Council to make arrangements for Burials and for the erection of memorials.

“Burial Ground Clerks” means an Officer authorised by the Council to administer their Burial Grounds and Cemeteries.

“Casket” means any box or container enclosing cremated remains.

“Casket Lair” is an area designated by the Council for the reception of cremated remains.

“Coffin” means any box or container enclosing remains.

“Lair” means an area of ground situated within a Burial Ground or Cemetery and set aside for burials, or interments and of sufficient size to permit the burial of an adult body and which may be capable of being divided horizontally into individual graves so that separate burials may take place.

“Lawn Cemeteries” means those parts of the Council's cemeteries containing graves which the Council maintains as lawn and returns to lawn following burials, with no obstructions on the lairs outwith the “Memorial Border”

“Memorial Border” means the area of ground at the head of a lair provided to allow memorials to be sited. (In normal circumstances around 18” of ground at the topmost part of the lair, by the width of the lair which is normally around 48” wide) The remainder of the lair is referred to as the “Lair Space”

“Remains” means any body or human remains and the remains of any stillborn child and the wrappings or garments of such body or remains.

“The Certificate” means the Certificate of exclusive rights of burial or interment granted by the Council or its predecessors in title as proprietors of the Cemetery.

“The Council” means Aberdeenshire Council, as constituted by the Local Government etc. (Scotland) Act, 1994.

“The Lair Space” means the piece of ground, required for burial purposes and does not include the Memorial Border.

“The Owner” means the person to whom the Certificate is granted and his heirs.

2. **Regulation and Control**

The general management and control of all Burial Grounds and Cemeteries in Aberdeenshire is undertaken by Transportation and Infrastructure and these Rules apply to all such Burial Grounds and Cemeteries.

The Council does not accept any responsibility or liability for any damage to memorials, ornamentation or flowers in any of the cemeteries or graveyards.

All communications regarding the management and control of Burial Grounds and Cemeteries should be addressed to the Council at their local office.

3. **The Exclusive Right of Burial**

The exclusive right of burial in a Lair will be sold at the rates fixed by the Council from time to time. The Council can give no guarantee as to the number of burials that will be allowed in each Lair and details of the current scales of charges can be obtained at any Council office.

The exclusive right of burial in a Lair will, subject to these Rules, be secured to the purchaser and his or her successors. Once the purchaser has paid the appropriate fee, the Council shall furnish the purchaser with a Lair Certificate describing the Lair and conferring on the purchaser a right of burial in the ground in question. A Lair Holder, duly registered in the books of the Council, shall have exclusive right of permitting the Lair to be opened, and the production of the Certificate will be held as sufficient authority for that purpose. Joint ownership of the right of burial in a Lair is expressly prohibited. The Authorised Officer, on application and after due enquiry, may issue a duplicate Certificate in the name of the Registered Lair Holder as indicated in the Council’s books on all such terms and conditions as seem appropriate including, without prejudice to the foregoing generality, payment of the appropriate fee;

or

On the death of the Lair Holder (notwithstanding the place of his domicile at his death), the right of succession to the Lair will be governed by the Law of Scotland. The Lair is capable of bequest, subject to the proviso that, if more than one beneficiary is entitled to claim in terms of the Lair Holder’s Will, the executors appointed under the said Will, or in the absence of any such appointment, the beneficiaries there under, shall nominate one of their number as the Lair Holder

or

In the event that the Lair Holder dies intestate, the Lair shall form part of the Estate of the Lair Holder and shall fall to be distributed in accordance with the terms of the Succession (Scotland) Act, 1964, as amended, and of all relevant Regulations made there under. Any person claiming right to a Lair by succession shall, on production of evidence to establish his claim and on payment of the appropriate fee, be entitled to have his name entered in the Register of Lair Holders and to receive the requisite Certificate of Transfer.

The transfer of a Lair to a successor, transferee or assignee shall be made by an appropriate entry in the Council's books and this entry shall be conclusive as to the ownership of the Right of Burial.

The Council shall not be held responsible for any error or misunderstanding as to the person entitled to be entered in the Register of Lair Holders as successor, transferee or assignee or as to the person entitled to the right of burial in any Lair. Advice on any points covered in this Clause may be obtained from the Authorised Officer.

Registrars and Burial Clerks will check their records for any lairs purchased more than 40 years ago that remain unused. Notices will be posted in the burial ground, local offices and in a local newspaper listing all the lairs. A six-month period will elapse before any lairs are sold. During that time a lair holder may re-affirm an interest in the lair which will last for a further 10 years before the process is repeated.

4. **Transfer of exclusive rights of burial**

The Owner of an exclusive right of burial in a Lair shall not be entitled to sell the right granted by the Certificate, other than to the Council, and without the consent of the Council shall not, (a) transfer or assign the same and any transfer or assignation sanctioned by the Council shall be subject to such conditions as the Council may impose or (b) inter in the Lair any person who is not a member of his family.

No heir of the Owner or transferee shall have any right or interest in the Lair or liberty to use the same until evidence of title has been exhibited to the Council and all purchase and burial dues have been paid.

The person instructing the burial shall be personally liable for the burial dues and fees.

5. **Notice of Burial**

Arrangements for Burials can be made within the appropriate Office during normal office hours. No arrangements can be made directly with the Burial Ground or Cemetery staff.

All Burials must be authorised by the pertinent Authorised Officer before funeral arrangements are publicly announced.

If the Certificate cannot be produced, the pertinent Authorised Officer may, in his sole discretion, allow the Burial to take place under such terms and conditions as may seem to him appropriate, including the provision of indemnities by the person instructing the Burial and no liability whatsoever shall be incurred by the Council, their officers or employees or agents in the event of the Authorised Officer exercising the foregoing discretion.

6. **Burials**

No Lair Holder shall be entitled to have his Lair opened to a greater depth than seven feet and no Burials shall be made in the Lair without there being at least two feet, six inches of soil between the surface of the ground and the coffin.

No more than three adult burials will be permitted in each Lair, but the Council give no guarantee that all Lairs will be able to accommodate three Coffins. Cremation Caskets may also be interred in the Lair in addition to the three or such lesser number of Coffins.

No Coffin shall be removed from a Lair nor shall human remains be interfered with in any way in order to permit another interment.

The Council alone have power to declare a Lair to be full and no further Burials shall be permitted in any Lair so declared by the Council.

The digging of graves, the infilling of graves and the preparations for the laying of foundations for memorials shall be undertaken by the Council's authorised Contractors and by no other party except in exceptional circumstances with the consent of the Council.

The Council will remove all flowers, memorial wreaths and temporary graveside tributes from the graveside not earlier than twenty-one days after the date of interment of the commemorated deceased, if wreaths/graveside tributes are to be set aside for collection the Council must be contacted in writing within the aforementioned period of 21 days. The only exception to the foregoing generality shall apply in respect of funerals occurring between 20th December in any year and 2nd January in the following year, when the latest date of removal shall be the 31st day of January in the last mentioned year. Any holly wreaths placed on gravesides during the Christmas season in any year will also be removed by the Council from 31st January in the year immediately following. It shall be the sole responsibility of the Lair Holder to ensure that any flowers, wreaths or tributes placed by a graveside are securely fixed as any wreaths which blow away from a graveside will be removed by the Council.

No Burials will be permitted where the body of the deceased has not been placed in either a Coffin or an appropriate covering. Cremated remains shall not be scattered in any part of a Burial Ground or Cemetery except by prior arrangement with the Council and in accordance with their instructions.

The Funeral Director shall be responsible for the provision of sufficient bearers to convey the Coffin reverently from the hearse to the graveside and for lowering the Coffin into the grave. If Burial Ground or Cemetery staff or other persons acting on behalf of the Council are asked to assist with any of the foregoing activities prior notification should be made to the Authorised Officer, and a charge may be levied, neither they nor the Council will be held responsible for damage to either the hearse or the Coffin.

7. **Burials of Cremated remains**

Designated areas for the interment of cremated remains will be provided in some Burial Grounds and Cemeteries, as Casket Lairs.

The exclusive rights of burial will be sold subject to the Rules and Regulations and interpretation as outlined in Rule 3 above.

Applications for the interment of cremated remains will be made in the same manner and providing the same information as in Rule 14.

Cremated remains contained in an appropriate Casket may be interred, either in a family Lair or in a Casket Lair and the latter can be purchased in accordance with the procedure outlined in Rule 3 above (The Exclusive Right of Burial).

8. **Erection and Maintenance of Tombstones and Similar Memorials**

A Lair Holder shall be entitled to have a memorial erected, but such memorial shall not (a) protrude in any way over that part of the Lair to be opened for Burial and (b) encroach upon any other Lair. No erection of or inscription on any memorial shall be permitted until approved by the pertinent Authorised Officer, to whom a specific written statement of what is proposed and a drawing thereof shall be submitted.

The part of the lair which is required for Burial (Lair Space) shall be kept clear of all obstacles and ornamentation at all times.

Kerbs, copes, corner stones and railings that enclose a lair space. shall not be permitted. Details of the full Regulations governing the size and positioning of memorials can be obtained from the Council or the Authorised Officer.

Memorials may be erected only at such times as are permitted by the Council. The Council reserve the right to remove any memorials not erected in accordance with the provisions hereof and to recover the cost of so doing from the relevant Lair Holders. The Lair Holder is liable for the risks or any damage by or to any memorial on the Lair. The Council will not be responsible for such damage.

The maintenance and repair of memorials on the Lair shall be the responsibility of the Lair Holder and the Council will not accept capital payments in respect of such maintenance. The Lair Holder shall keep memorials in a neat, safe and proper condition to the satisfaction of the Council. In the event of a Lair Holder failing, within one month from the date

on which written notice requiring him to effect repairs to a memorial is sent by the Council to him at his last known address, the Council shall be entitled, at the Lair Holder's expense, either to repair the memorial or to cause it to be removed and, until the cost of such repairs or removal has been paid, the right to use the Lair shall be withheld. Where the Council, after due and diligent enquiry, have been unable to establish the address of the Lair Holder or of his representatives, it shall be competent for the Council, entirely without prejudice to their right to recover the cost of so doing from the Lair Holder to have the memorial adjusted, repaired or removed.

Only small low growing plants (12" or less in height and spread) will be permitted to be planted, and only in the memorial border on a Lair. The Cemetery Staff may remove any plant or bush planted, if the Council considers it unsuitable. The Council, unless they have planted the plants or shrubs concerned, will not be responsible for the maintenance of any plants or shrubs in Burial Grounds or Cemeteries or for any damage thereto by whomsoever caused.

Lair Holders will be permitted to place suitable ornamentation or containers for flowers in the memorial border only. **No moving, audible or lighting features will be permitted.**

The Council shall be entitled to remove any items which are deemed to be unsuitable or have been placed outwith the memorial border.

Low fences, flower cages and edgings are only allowed when placed to enclose the allocated memorial border area – no encroachment allowed onto other lair spaces or the burial area of the lair. (Lair Space)

9. **Construction of Memorials**

The Council will excavate the foundations of a memorial to the appropriate depth for the ground conditions and soil types prevailing within the Cemetery concerned.

Only authorised Contractors of the Council are permitted to carry out the excavation of foundations and a charge for the excavation work will be levied by the Council in accordance with the appropriate rate as fixed by them from time to time. Once the aforementioned excavation works have been carried out, the building of a foundation and the erection of a memorial shall be carried out by a suitably qualified person and shall be completed to the satisfaction of the Council. No hewing or dressing of stones shall be permitted within a Burial Ground without the prior written permission of the Council and, in the event of such permission being granted, all stones, rubbish or refuse shall be removed from the Burial Ground to the satisfaction of the Council.

When a memorial has been erected, no person shall be permitted to remove the same or to alter any inscription on it without the consent of the Council.

The Council shall not be liable for damage to any memorial occasioned by any cause, other than fault or negligence on the part of the Council or their employees or agents or servants.

10. **Maintenance of Lairs**

Lairs shall be laid out in turf and as previously stated railings, kerbstones and globes shall not be permitted thereon except as hereinafter provided - previously laid Lairs in mould or containing such ornaments shall continue to be permitted if they are maintained in good order and repair by the respective Lair Holders. In the event of any such Lair or of any such ornaments falling into an neglected state, the Council shall be entitled to request the Lair Holder concerned to remedy the same. If no improvements are effected within such time as to the Council shall seem reasonable, the Council may cause (a) the offending Lair to be covered in turf and (b) the offending ornament or ornaments to be removed. If, after due and diligent enquiry on the part of the Council, the address of a Lair Holder of a neglected Lair remains unknown to the Council, without prejudice to their right to recover the cost of so doing from the Lair Holder, at their discretion, may cause (a) such Lair to be covered in turf and/or (b) the offending ornament or ornaments to be removed.

11. **Maintenance of Lairs - Council's Obligation**

All Lairs which are laid out in turf shall be maintained by and at the expense of the Council, subject to the proviso that the maintenance of existing memorials, globes, vases and ornamentations as outlined in Rule 8 shall continue to be the responsibility of the Lair Holder.

12. **Maintenance of Sunken Lairs**

The Council shall have the right to alleviate the difficulties by the sinking of Lairs by lifting turf from any grave so affected and by thereafter infilling the depression with imported soil and relaying the turf.

13. **Notice of Interment**

Notice of a proposed interment and any special instructions as to the position of the Coffin or Casket must be given to the appropriate office at least 48 hours before the date and time fixed for interment. Save in exceptional circumstances, no interment shall be permitted in Burial Grounds and Cemeteries (a) after 11.30 am on Saturdays (b) on Sundays (c) on 25th December and (d) on 1st January.

Such Notice should state the name and address, age, date of death of the deceased, the relationship of the deceased to the Lair Holder, the residence at the time of death and the date and time of interment and any other such information deemed necessary by the Council from time to time. Upon verification of the information against the Lair Register the order for digging the grave will be issued.

14. **Removal of Memorials to permit Interment**

If, in consequence of a proposed interment, a memorial has to be moved by the Council, the Council in addition to charging the current interment fee, shall be entitled to charge the expense of said removal and of restoration of the

memorial to the Lair Holder, who shall have no recourse against the Council for any damage caused to the memorial during the removal or restoration thereof, other than damage occasioned by fault or negligence on the part of the Council or their employees or servants.

15. **Record of Interments**

The Burial Ground Clerk shall keep Registers and shall enter therein the name, address and age of the person interred, the date of Burial, if space is provided therefore in the Register concerned, the depth of the Lair in which the body is interred, the section of the Burial Ground or Cemetery in which the Lair is situated, the number of the said Lair in which the body is interred and all other necessary information. Such Registers are available for inspection by Council Tax Payers or Lair Holders free of charge.

16. **General**

Burial Grounds and Cemeteries shall be open to the public daily during such hours and subject to such restrictions as the Council may fix. Visitors must confine themselves to the walkways so far as possible and must not pull flowers or in any way damage shrubs or trees.

The person for the time being in charge of the Burial Ground or Cemetery shall be entitled (1) to remove or arrange for the removal of any person who is inebriated or who, in the opinion of the said person in charge, is conducting himself improperly, or who is causing or is considered likely to cause damage and (2) to prevent any person from entering a Burial Ground or Cemetery outwith permitted hours.

Children under 12 years of age shall not be admitted to a Burial Ground or Cemetery unless an adult accompanies them.

No person shall:

- (a) Wilfully or carelessly break; damage, deface, disfigure, tamper with or improperly soil any tree, shrub, wall, fence, railing, memorial, fountain, statue, building or other structure in the Burial Ground or Cemetery.
- (b) Wilfully or carelessly damage, destroy or improperly soil any article supplied by the Council for use in the Burial Ground or Cemetery.
- (c) After the purpose for which the same was issued has been served retain or remove any article supplied by the Council for use in the Burial Ground or Cemetery.

No dogs, other than guide dogs accompanying blind persons, shall be permitted to a Burial Ground or Cemetery.

Vehicular traffic shall be allowed to enter Burial Grounds and Cemeteries only where proper carriageways have been provided within the Burial Ground or Cemetery concerned. Access will only be allowed, to expedite maintenance duties, funerals and wheelchairs.

The Council shall be at liberty to alter or amend the Rules from time to time as they may see fit and to make and enforce such others as they may consider to be appropriate for the proper or better management of Burial Grounds and Cemeteries.

The Council shall be at liberty to alter the charges made for burials and allied services from time to time.

These Management Rules supercede any Rules and Regulations, however described, previously issued by the Council and their predecessors in title as proprietors of the Burial Grounds and Cemeteries now under the Council's control.

These Management Rules shall be cited as the Aberdeenshire Council (Burial Grounds and Cemeteries) Management Rules 1998. Amended November 2008.

These Management Rules shall come into force on the date of their execution.

17. **Meaning and Interpretation of Regulations**

References in these Rules to the masculine gender only shall include where the context so admits reference to the feminine and/or neuter genders. Reference to the singular only shall include where the context so admits reference to the plural.

Should any difference or dispute arise as to the real intent, meaning or interpretation of these Rules, price of Burials, places of interment, fees or otherwise, the same shall be taken up and disposed of by the Council whose decision shall be final and conclusive.

Amended rules December 2008