

SCOTTISH BORDERS COUNCIL

MANAGEMENT RULES FOR CEMETERIES & CHURCHYARDS

Scottish Borders Council (hereinafter referred to as “the Council”) has made the following Rules and Regulations for the Management of Cemeteries and Churchyards within Scottish Borders Council in terms of Section 112 of the Civic Government (Scotland) Act 1982 which shall apply to all cemeteries and churchyards under the control of the Council.

1 In these rules, “*the Certificate*” means the Certificate of the Right of Burial granted by Scottish Borders Council, the “*lairholder*” means the person to whom the Certificate is granted and his or her executors or next of kin, “*the lair*” means the piece of ground to which the exclusive right of burial is granted by the Certificate, “*the Council*” includes the appropriate Director, Head of Service, Bereavement Services Officer and any Council employee authorised by him or her and “*Cemeteries*” includes a cemetery or churchyard operated by the Council.

2 THE EXCLUSIVE RIGHT OF BURIAL

- a) The exclusive right of burial in a lair will subject to Rules and Regulations be secured to the purchaser and his or her successors in perpetuity. The appropriate officer shall furnish the purchaser with a lair certificate describing the lair.

A lairholder duly registered in the records 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.

One person only or joint ownership shall be registered as the holder of a lair or lairs, including trustees. The owner of the lairs will not be permitted to sell same except to the Council. No lairholder shall be entitled to transfer any or all of his lairs during his lifetime without the sanction of the Council.

- b) Purchased lairs will be allocated in rotation at the discretion of the appropriate officer or Bereavement Services Officer of the Council. Only such lairs as numbered on cemetery plans shall be allocated.
- c) On death of the lairholder, their representative shall have the right to be registered as the lairholder in the Council’s records. In such cases, a Transfer of Burial rights form must be completed and a new certificate issued, but no new certificate shall be issued until the original is produced and surrendered to the Council or accounted for satisfactorily.
- d) If a lairholder dies leaving a lawful spouse and children and shall have made no valid request of the lair, such spouse and such children, shall have the right to interment in the lair for themselves only, and the right of burial in the said lair shall descend to the lairholder’s eldest child, whom failing to the lairholder’s next eldest child and so on. In the absence of any of the lairholder’s immediate issue surviving the lairholder, the right of interment shall devolve to the eldest child of the lairholder’s eldest child, and so on until the failure of the lairholder’s descendants.
- e) The lairholder shall, notwithstanding paragraph (a) above, be permitted to bequeath

the lair to any one member of his or her family or to a stranger but declaring that if he shall bequeath the lair to a plurality of individuals, the assignation in that case shall be disregarded and the foregoing rules as to the succession shall be applied and take effect. The Council shall not be responsible for any misunderstanding or error in the acceptance in good faith of any person claiming to be the legal lairholder, or to have a right of burial even though it should be ascertained subsequently that such a claim was unfounded.

f) The right of burial means the right to having the lair opened to accept an interment and not the ownership of the actual ground which belongs to the Council.

g) The lairholder should contact the council if for any reason they change address so that the burial records can be kept up to date.

3. NOTICE OF BURIAL

a) All burials must be authorised by the Council prior to funeral arrangements being publicly announced.

b) Notice of interment must be given to the appropriate Cemeteries Office as early as possible, and in any event not less than 48 hours, excluding Saturdays, Sundays and Public Holidays must be given for any proposed interment.

Such notice should state the name and address, age and date of death of the deceased, the relationship of the deceased to the lairholder, residence at the time of death and the day and time of the interment, all relative lair details and any other such information deemed necessary by the Council from time to time.

Upon checking the lair registers, the instruction for digging the grave will then be issued.

c) No lairholder shall be entitled to have the ground opened to a greater depth than six feet, save that in exceptional circumstances the Bereavement Services Officer may decide that conditions warrant otherwise.

No interment shall be made without there being at least three feet of soil between the ordinary surface of the ground and the coffin.

It is intended that lairs will accommodate two adult interments, however this is dependent on the ground conditions discovered following the initial opening of the lair.

The lair details and available space in any one lair shall be recorded on the lair certificate immediately following each interment.

The digging of graves and installation of memorial foundations shall be done only by persons authorised by the Council.

d) No coffin shall be removed for any lairs with a view to making room for further interments.

The Council alone have powers to close a lair. No more burials will be allowed in a closed lair, except the interment of cremated remains.

e) The Council shall keep registers in which shall be entered every interment, specifying the lairs, the depth of the grave, the date of the interment, the name and age of the person interred and all other requisite particulars.

f) A table of interment fees and other charges shall be kept at the Cemetery Offices.

All fees and charges in connection with the interments, lair certificates etc shall be acknowledged on official printed receipt forms.

g) Arrangements for burials can be made between the hours of:

Monday to Thursday 9.00 am to 5.00 pm Friday 9.00 am to 3.45 pm Saturday, Sunday and Public Holidays 9.00 am to 10.00 am only

h) The Certificate of the Right of Burial must accompany the Notice of Burial form for inspection, except in the case of a new purchase.

i) If a Certificate of Right of Burial cannot be produced, an Indemnity Form must be completed by a member of the family or executor arranging the burial.

j) The Funeral Director is responsible for the provision of sufficient bearers to convey the coffin from the hearse to the graveside. If persons acting on behalf of the Council are required to assist, neither they nor the Council will be held accountable for damage to hearse or coffin.

k) From time to time there may be a need to place excavated spoil from an adjacent grave on top of your own family lair this is standard cemetery practice.

4. MEMORIALS

a) The erection of memorials will be permitted only on purchased lairs. Memorials must consist of natural stone or terrazzo and contain no wood or glass. Materials of a plastic nature will not be allowed. No memorial may be erected without the express written permission of the Council.

b) A lairholder will be entitled to have a monument erected but such monument shall not protrude in any way over that part of the lair to be opened for burial or the lairs on either side.

Wooden crosses plus kerbs, copes, railings, fences, gravel, corner stores etc delineating the grave shall not be permitted.

The lairholder is liable for the risks of any damage by or to any monument or memorial on the lair.

c) Application for the erection of memorial headstones must:

- i) Be made in writing on the appropriate form provided, at least fourteen days before it is proposed to erect the memorial
- ii) State the full name and address of the person or firm by whom the work is to be carried out

- iii) Give a full description of the memorial including a detailed drawing and measurements.

The acceptable **maximum** dimensions are as follows:

Height: 4 ft 6 ins (1350 mm) Width: 3 ft (900 mm)

Thickness of base: 1 ft (300 mm)

- iv) The section and lair number must be cut plainly upon the side of the memorial at the expense of the person erecting the memorial.
- d) Memorials must be supported by a concrete foundation. Excavation and construction for such foundations will be executed by the Council's employees for which the appropriate fees will be charged. Exceptions will only be made by monumental masons making special requests and gaining the approval of the Bereavement Services Officer before work commences.
- e) Memorials must be properly doweled to the base which must be at least three inches less in width than the width of the lair on which it is erected.
- f) No memorial or part thereof, shall be removed from the cemetery without notification to the Council.
- g) The lairholder shall keep monuments in a neat and proper condition. If the lairholder does not do so within fourteen days of written notice being given, the Council shall be entitled, at the lairholders expense, either to repair the monument or to remove it and the right to use the lair shall be withheld until the cost of such repairs or removal is paid.
- h) When in consequence of a proposed interment, a monument headstone requires to be removed and re-erected, the Council will not be responsible for any damage caused in respect of removal or re-erection of the memorial.

The Council also reserves the right to remove to a suitable location, those headstones which have fallen and which, in the opinion of the Bereavement Services Officer, are incapable of re-erection.

The Council will not be held responsible for VANDALISM to any headstone and strongly advise that insurance is taken out at time of purchase from Monumental Mason.

Memorials are erected at lairholders risk. The Council will not be responsible for loss or damage.

5. GENERAL

- a) The hours when any cemetery or churchyard shall be opened and closed shall be such hours as may from time to time be intimated by notices displayed at or near the principle entrances.

The Council may by notice posted at or near the place to which it refers, close any part or portion to the public for such time as it may consider necessary.

- b) No person shall enter or leave the cemetery except by the entrances and exits provided for that purpose.
- c) No person shall wilfully remain within the cemetery except during the hours in which the same is open to the public as agreed from time to time by the Council. Visitors must not pull flowers or damage shrubs or trees or cause damage to headstones or any cemetery building or wall. The Council shall be entitled to remove any person behaving improperly and to prevent any person entering cemeteries and churchyards out with the permitted hours.
- d) Memorial wreaths will be cleared away when, in the opinion of the Council, they have become unsightly, usually no later than six to seven weeks depending on the season.
- e) Only one vase will be allowed on each lair, and will be placed at the lair holders risk. The Council will not be responsible for any loss or damage to such vase. No planting of trees, shrubs or flowers will be permitted and no provision of fences, paved areas or other items which could hinder maintenance, without prior sanction of the Council, which reserves the right to prune or remove all such items, should such action be deemed desirable.

Cemeteries are laid out so as to permit a good standard of maintenance.

- f) Cremated remains may not be scattered in any part of the cemetery or churchyard, save by previous written permission of the Bereavement Services Officer.
- g) Dogs are not permitted in any cemetery or churchyard with the exception of guide dogs.
- h) Children under the age of 12 years must be accompanied by a parent or guardian.
- i) Cycles must not be ridden within the cemetery grounds.
- j) The supervision of each cemetery operated by Scottish Borders Council shall be exercised by the Bereavement Services Officer or such other person nominated by him by whom all orders and instructions shall be conveyed to the Council staff employed therein.

6. VEHICLES

- a) Vehicles conveying memorials or goods into the cemetery grounds will be allowed only with the consent of the Bereavement Services Officer or appropriate officer.

The person or persons in charge of such a vehicle must comply with the directions of the Bereavement Services Officer or appropriate officer as to the route to be followed within the grounds.

b) Unless a car park is situated within a cemetery, a car or other vehicle will only be permitted if in a funeral procession, except by permission of the Bereavement Services Officer. In all cases, the directions of the said officer must be complied with and vehicles must be driven at a reasonable speed and with due care and attention.

The Council shall not be held responsible for any damage to vehicles, or other property left in the car parking facilities; however such damage may be caused.

7. PREVENTION OF NUISANCE

No person shall

a) Use any profuse or offensive language or behave in an offensive, disorderly or insulting manner whilst in the cemetery.

b) Wilfully or improperly interfere with any other person using the facilities provided by the Council in any cemetery, or behave in such a manner to endanger their own or other persons safety.

c) Disobey any proper instructions given by any member of the Cemetery staff to ensure the safety and comfort of all persons using the cemetery.

d) Bring into the cemetery any object or objects that may be considered by any member of the cemetery staff to be dangerous.

e) In any cemetery, climb upon any tree, shrub, wall, fence or railing, or upon any monument, statue, building or other structure.

f) Wilfully or carelessly damage, destroy or improperly soil any article supplied for use by the Council.

8. OFFENCES

The Council are empowered in terms of Section 117 of the Civic Government (Scotland) act 1982 to make an exclusion order for a maximum period of one year if they deem that a person has persistently contravened or attempted to contravene these Management Rules and is, in their opinion, likely to contravene them again.

Any person who:-

a) On being required to leave a cemetery by an authorised officer of the Council who has reasonable grounds for believing that the person has contravened, is contravening or is about to contravene any of these Management Rules, fails to leave;

b) On being informed by an authorised officer who has reasonable grounds for believing that the person is about to contravene any of these Management Rules that he/she is excluded from any cemetery, enters or attempts to enter the cemetery; or

c) Being a person subject to an exclusion order under Section 117 of the Act, enters or attempts to enter any Cemetery to which the exclusion order relates.

Shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding Level 1 on the standard scale.

The Council shall be at liberty to revise, alter or dispense with any or all of the aforesaid Rules and Regulations at their discretion.

The Rules and Regulations presently in force relating to all Council cemeteries and churchyards are hereby revoked.