

FIFE COUNCIL

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LOCAL GOVERNMENT ETC. (SCOTLAND) ACT 1994

CIVIC GOVERNMENT (SCOTLAND) ACT 1982
SECTIONS 112-118

MANAGEMENT RULES FOR REGULATION OF
BURIAL GROUNDS AND CREMATORIA

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The Bereavement Services Manager may be contacted at:

Burial & Cremation Office
Kirkcaldy Crematorium Lodge
Rosemount Avenue
KIRKCALDY
Fife KY1 3PL
Tel: (01592) 260277
Fax: (01592) 203438

The Fife Council, constituted under and in terms of the Local Government etc. (Scotland) Act 1994 and having its principal office at Fife House, Glenrothes, in virtue of the powers contained in Section 112 of the Civic Government (Scotland) Act 1982 DO HEREBY MAKE AND ENACT the following Management Rules for the good management and regulation of Burial Grounds and Crematoria.

RULE 1 : ALTERATION AND INTERPRETATION OF MANAGEMENT RULES

- 1.1 The Council reserve the right to alter, add to or revoke all or any of the foregoing Management Rules and enact others in their place. Should any difference or dispute arise as the real intent, meaning or interpretation of the Rules, or Schedule of Charges, or in any way, the same shall be taken up by the Council's Head of Law and Administration and disposed of by the Council, whose decision shall be final and conclusive, and not subject to the review of any Court.
- 1.2 The Interpretation Act 1979 shall apply to the interpretation of these Management Rules in like manner as it applies to the interpretation of an Act of Parliament.

RULE 2 : SALE OF THE RIGHT OF BURIAL

- 2.1 Any person resident within or outwith Fife may on payment of the appropriate price purchase the right of burial in a lair.
- 2.2 The right of burial in lairs shall be sold at the price determined from time to time by the Council.
- 2.3 No more than three lairs may be purchased by any one lairholder, without the consent of the Council.

RULE 3 : REGISTRATION OF THE RIGHT OF BURIAL

- 3.1 The Burials Officer shall, in respect of each Cemetery, keep a Register (hereinafter in these Management Rules called the 'Register of Lairs') in which there shall be recorded the names and addresses of lairholders along with particulars of the lairs in which the lairholders have acquired rights of burial.
- 3.2 The name of one person only shall be entered on the Register of Lairs as the owner of the right of burial in a lair, joint ownership of a lair being expressly prohibited.
- 3.3 The Register of Lairs shall be prima facie evidence of any matter entered therein and of the title of the persons whose names are entered therein as lairholders.

RULE 4 : CERTIFICATES OF RIGHT OF BURIAL

- 4.1 The Council shall give a lairholder a certificate of right of burial specifying the lair in which he/she is entitled to exercise that right.
- 4.2 The certificate of right of burial shall be prima facie evidence of the title of the person therein named to the right of burial in the lair specified in the certificate.

- 4.3 The Council may, on such conditions and payment of fee as they think fit, issue a certificate in substitution for a certificate which has been damaged, lost or destroyed.
- 4.4 The issue of a certificate or a substitute certificate, as the case may be, shall be recorded in the appropriate Register of Lairs.
- 4.5 A fee shall be payable for making an entry in the Register of Lairs and for the issue and endorsement of certificates of right of burial.

RULE 5 : TRANSFER OF RIGHT OF BURIAL

- 5.1 A lairholder shall not be entitled to sell, dispose of, or transfer his/her right of burial except with the written consent of the Council. Transfers may be permitted by a deed of family arrangement.
- 5.2 Subject to the provisions of these Management Rules a lairholder may dispose of his/her right of burial by testamentary writing and the lairholder with rights of burial in two or more lairs may by testamentary writing dispose of the right of burial in each lair separately, so however that only one individual derives right to any one lair.
- 5.3 If a lairholder bequeaths his/her right of burial otherwise than herein provided, or if he/she dies intestate, the right of burial shall pass to the spouse, whom failing, to the eldest child, whom failing, to the second child and so on through the issue. In the event of there being no spouse or issue, the right of burial shall pass to his/her eldest surviving brother or sister, whom failing the right of burial shall be extinguished.

RULE 6 : EVIDENCE OF TRANSFER OF RIGHT OF BURIAL

- 6.1 A person claiming to be entitled to a right of burial shall not be entitled to exercise that right until he/she has:-
 - (a) exhibited evidence of his/her title to the satisfaction of the Council, and the Council may, if they think fit, order that notice of the claim be given in the public press and personally to such persons as they think necessary, and any expenses incurred by the Council shall be refunded by that person;
 - (b) deposited with the Council the lair certificate of the right of burial to which he/she claims to have succeeded (if available) for the purpose of endorsement thereon of a memorandum of such transfer or, in the case of the issue of a new certificate, for the purpose of the cancellation of the certificate so deposited.
- 6.2 Particulars of every such transfer of a right of burial shall be recorded in the appropriate Register of Lairs.

- 6.3 The Council will accept no responsibility for any errors which arise in determining and recording the transfer of rights of burial, or for the acts of omissions of the former local authorities.

RULE 7 : RENEWAL AND EXTINCTION OF RIGHT OF BURIAL

- 7.1 A right of burial shall subsist for a period of 50 years from the date of purchase. In the event of the right of burial not having been exercised within that period. If deemed necessary by the Council following such consultation with the lairholder or his/her successor as the Council consider appropriate the right of burial shall be extinguished unless the right is renewed by payment of the appropriate fee from time to time.
- 7.2 On the extinction of the right of burial, the Council shall be entitled to deal with the lair as if the right of burial had never been granted.

RULE 8 : INTERMENTS

- 8.1 Except as hereinafter provided, no interment shall take place other than on a working day, and generally, shall not take place after 12 noon on a Saturday. No interment shall take place on Christmas Day and New Year's Day. Generally no interment shall take place on a Sunday except in exceptional circumstances and with the prior written approval of the Council. In the case of a Sunday interment an additional fee shall be payable.
- 8.2 Except as hereinafter provided, no interment shall take place unless (a) evidence of the right of burial has been produced to the satisfaction of the Burials Officer and (b) notice of the intended interment has been given no later than 12 noon on Mondays to Thursdays inclusive and 10 a.m. on Fridays, prior to the day on which the interment is intended to take place. For the benefit of doubt the separate instructions issued to Funeral Directors set out the requirements of the Council for detailed arrangements for funerals and are referred to for their terms and available on request.
- 8.3 Interment otherwise than herein provided shall be permitted only on (a) production of a medical certificate of urgency and (b) payment of an additional charge. Details of any additional charge is available from the Burials Officer.
- 8.4 The Council accept no liability for delay in preparing a grave for interment from whatever cause.
- 8.5 The provisions of rules 19(5) and (6) of these Rules shall apply to interments, subject to any necessary modifications.
- 8.6 The Council expressly reserve the right to specify times for interments.
- 8.7 A fee shall be payable in respect of an interment as may be fixed from time to time by the Council.

RULE 9 : DIGGING OF GRAVES

- 9.1 Authorised employees of the Council only shall be allowed to dig and infill graves.
- 9.2 In any lair where the right of burial has previously been exercised and, in the event that the lairholder or another member of the lairholder's family wishes to exercise that right of new in respect of the same lair, the Council may make such arrangements, in consultation with the lairholder or family representative, as are necessary to permit a subsequent interment (which may involve the temporary displacement of existing remains on the day of or prior to the subsequent burial).

RULE 10 : DEPTH OF GRAVES

- 10.1 No body shall be buried in a grave in such a manner that any part of the coffin is less than three feet below the level of any ground adjoining the lair, and no grave in which a coffin has been laid as near as three feet from the surface shall be allowed to be opened without specific written consent of the Council.
- 10.2 When ground is opened for the first time the grave shall be seven feet (2.133m) deep. No more than three full-sized coffins shall be interred in any one lair, and only two when a depth of seven feet (2.133m) cannot be attained.

RULE 11 : MAINTENANCE OF LAIRS

- 11.1 The dressing and decorating of lairs shall be done only by authorised servants of the Council and at the expense of the lairholder.
- 11.2 A fee shall be payable for the provision and maintenance of flower beds and borders. Except with the permission of the Burials Officer, the turf on a lair in any Cemetery shall not be cut for the purpose of forming a flower bed or border or for any other purpose, nor shall anything whatsoever be placed in or upon such turf except wreaths of natural flowers, but space shall be left at the head of each lair for the erection thereon of monuments. Where permission to plant is given there shall be no encroachment onto the actual grave or neighbouring lairs.

RULE 12 : ERECTION OF MONUMENTS

- 12.1 The Council may, on the application of a lairholder, allow him/her to erect a monument, gravestone or tablet on the lair in which he/she has a right of burial, or to make a monumental inscription. The lairholder shall be permitted to lay a maximum of two moveable vases.

12.2 The erection of railings, kerbs etc. enclosing lairs and the placing of artificial wreaths or other structures shall be permitted only after written application and within the following specified guidelines:-

- (i) Only railings or stone kerbing conducive to the surroundings shall be permitted. Any structures erected without permission or found not to be in keeping with the surroundings shall be removed following one month's written notice given by the Council.
- (ii) Any structure erected should remain within the headstone border, the structure's boundary being no further than 8 inches in front of the headstone and no wider than 3 feet (the width allowed may differ in certain Cemeteries: details are available from the Burials Officer)
- (iii) If any structure is found to be encroaching onto neighbouring lairs this may result in the lair-holder being requested to either re-erect within the parameters allowed or remove altogether.

12.3 Every application as required by paragraph 12.2 above must be made to the Burials Officer and must be accompanied by a plan and detailed particulars of the proposed erection or work.

12.4 All excavation for the foundations of monuments, gravestones or tablets and other earthwork connected with the putting up, maintenance or taking down of such, shall be done only by persons authorised by the Council and at the expense of the person ordering the work.

12.5 Any person erecting a monument, gravestone or tablet, must remove all rubbish resulting therefrom and must make good any damage done to turf or walks, all at his own expense and to the satisfaction of the Council.

12.6 A fee shall be payable in respect of (a) applications under paragraph 1 of this Rule and (b) excavation work under paragraph 4 of this Rule.

RULE 13 : MAINTENANCE OF MONUMENTS, ETC.

13.1 A lairholder must maintain to the satisfaction of the Council any monument, gravestone or tablet erected by him/her on the lair in which the right of burial exists.

13.2 If any such monument etc. is allowed to fall into disrepair, the Council after giving one month's notice to the lairholder, may, themselves have it repaired at the expense of the lairholder or, at their own hand, remove it from the lair and dispose of the materials.

RULE 14 : SUPERVISION OF CEMETERIES

14.1 The Head of Service shall be responsible for the control of the cemeteries and the servants of the Council employed therein.

14.2 The Head of Service shall regulate the hours during which monumental sculptors will be admitted to a cemetery, the routes by which they may bring materials into and out of a cemetery, and the manner in which such materials may be conveyed.

RULE 15 : ADMISSION OF THE PUBLIC TO THE CEMETERIES

15.1 The cemeteries shall be open to the public from dawn until dusk only or such hours as may from time to time be intimated by notice displayed at or near the entrance to the cemeteries.

15.2 The Council may close any cemetery or any portions thereof to the public for such time, as they consider necessary or expedient.

15.3 A person shall not enter, or leave or progress in any cemetery except by the gateways and pathways provided for the purpose, and shall not enter or remain in any cemetery at any time when the cemetery is closed to the public.

15.4 Gateways and pathways will be kept clear of vehicles and other obstructions at all times except with the express permission of the Head of Service.

15.5 The Head of Service or any other duly authorised person is authorised to remove from the cemetery any person or vehicle contravening the provisions of the Management Rules.

RULE 16 : DOGS TO BE UNDER CONTROL

16.1 A person shall not cause or permit any dog belonging to him or in his/her charge to enter or remain in any cemetery unless such dog be and continue to be led by a leash and kept under proper and effective control.

16.2 The Head of Service or any other duly authorised person is authorised to remove from the cemetery any person who contravenes the provisions of this Rule.

RULE 17 : SCHEDULE OF CHARGES

17.1 There shall be a Schedule of Charges detailing the fees and charges payable under these Rules and the Council may from time to time alter said fees and charges without notice. Details of these charges are available from the Burials Officer.

17.2 Fees and charges payable under these Rules may be payable in advance (other than interment fees and charges), and in the case of annual fees may be payable on 1st April every year. If an annual fee is not paid within one month of the due date, whether or not this is 1st April, the service for which the fee is payable may not be rendered by the Council.

RULE 18 : CASKET LAIRS AND HEADSTONES

18.1 Lair Size

The dimension of a casket lair may be 914mm (3 feet) by 914mm (3 feet) in Central and East Areas, and in West Area, shall measure 457mm (18 inches) by 457mm (18 inches).

18.2 Headstone

Central and East Areas

The dimension of a memorial tablet on the casket lair may not exceed 610mm (2 feet) in height, 457mm (18 inches) in breadth, and 76mm (3 inches) in thickness, set upon a base not to exceed 610mm (2 feet) in length, 304mm (1 foot) in breadth and 102mm (4 inches) in height.

There shall not be more than three inscriptions on the headstone.

West Area

The headstone shall consist of a black granite memorial plaque laid flat on the surface of the lair measuring 457mm (18 inches) by 450mm (17 inches) and no thicker than 102mm (4 inches).

18.3 Caskets

The interment of caskets shall be restricted to three (3) per casket lair.

18.4 Depth

Caskets should be buried to a depth of 914mm (3 feet) from the soil surface.

(The foregoing Management rule is illustrated in the Diagram annexed and which is hereby declared to form part of this Management Rule).

RULE 19 : CREMATORIA (KIRKCALDY AND DUNFERMLINE)

19.1 The Funeral Director is responsible for all arrangements connected with the removal of the body until it is placed on the catafalque. For the benefit of doubt the separate instructions issued to Funeral Directors set out the requirements of the Council for detailed arrangements for funerals and are available on request.

19.2 Clothing and preparation of the body are as for earth burial, but all jewellery rings etc. must be removed.

19.3 The Crematorium Manger or depute must be given advance notice where the overall exterior dimensions of the coffin exceed the following measurements:-

Length 206cm (81 inches): Width 71cm (28 inches): Depth 56cm (22 inches)

19.4 Subject to paragraph 5 below, coffins must not be painted, not have any crosspieces under the sole or in the bottom. If required, strips running the whole length of the coffin must be used.

19.5 Where the deceased is know to have died from communicable disease including without prejudice to the foregoing generality, AIDS or Hepatitis B, the Funeral Director shall ensure that:-

- (a) the crematorium manager or depute is notified of the fact that the deceased has so died: and
- (b) the body is sealed as soon as possible after death in a bag made of stout polythene or similar impermeable material and immediately thereafter placed in a coffin the internal surfaces of which have been treated with a polyurethane paint or similar substance, the coffin then being sealed with an appropriate sealing medium and not opened thereafter: and the Funeral Director shall certify in writing to the Crematorium Manager or depute on delivery of the coffin to the Crematorium that the foregoing requirements of this sub-paragraph have been fulfilled;

19.6 Declaring that the Head of Service's decision as to what constitutes a "communicable disease" shall be final and the Head of Service shall have the power to demand sight of the certificate of death of the deceased if he reasonably suspects the deceased to have died of such a disease.

19.7 If any of the foregoing requirements are not complied with, the Crematorium Manager or depute may delay cremation until matters are remedied to his satisfaction and the Head of Service shall be the final arbiter in this matter.

19.8 The coffin may be brought to the Crematorium at any time prior to the service.

19.9 All persons admitted to the Chapel must comply with the instructions and requirements of the Crematorium Manager or depute who shall have full power to exclude persons who are considered in any way undesirable. All persons attending a service are expected to leave the building and adjacent car park immediately after the conclusion thereof.

19.10 The Council is not to be held liable for any damage arising through accident, fire, explosion, earthquake, lightning, storm, aircraft, civil tumult, Act of God, or from any other cause whatsoever, nor for loss or expense caused by delay in carrying out a cremation.

RULE 20 : TERMS USED IN THESE RULES

20. In the construction of these Management Rules the following expressions shall have the meanings respectively assigned to them (that is to say):-

'Area' shall mean the administrative Area of the Fife Council from time to time.

'East Area' shall mean the area covered by the former North-East Fife District Council.

'Central Area' shall mean the area covered by the former Kirkcaldy District Council.

'West Area' shall mean the area covered by the former Dunfermline District Council.

'Burials Officer' means the official nominated by the relevant Head of Service of the Council or such other officer or associate appointed by him/her for the purpose.

'casket lair' means a lair for the interment of a casket containing the ashes of a deceased person following cremation;

'Council' means The Fife Council, constituted under and in terms of the Local Government etc. (Scotland) Act 1994 and having its principle office at Fife House, Glenrothes;

'Head of Service' means the Grounds Maintenance Manager appointed by the Council from time to time;

'cemetery' means any cemetery which has been provided by the Council under the Burial Grounds (Scotland) Act 1855, and also any churchyard vested in the Council in terms of the Church of Scotland (Property and Endowments) Act 1925;

'crematorium' means any building designed for that purpose;

'Crematorium Manager' or depute means any person appointed for that purpose by the Council and shall include any member of the crematorium staff;

'fee' 'fees' and 'charges' shall be such charge as may from time to time be determined by the Council and published by them: a note of these fees and charges is available on request;

'grave' shall mean any grave dug in any lair by an authorised employee of the Council

'inter vivos' deed means a deed of family arrangement or other testamentary writing whether or not of a formal nature.

'lair' means a lair in a cemetery and may include provision for one or more persons up to a maximum of 3 coffins and 3 cremation caskets:

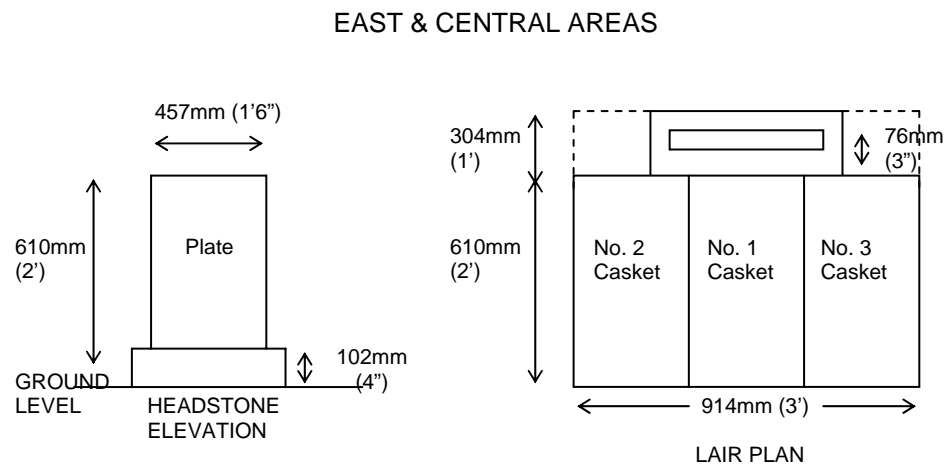
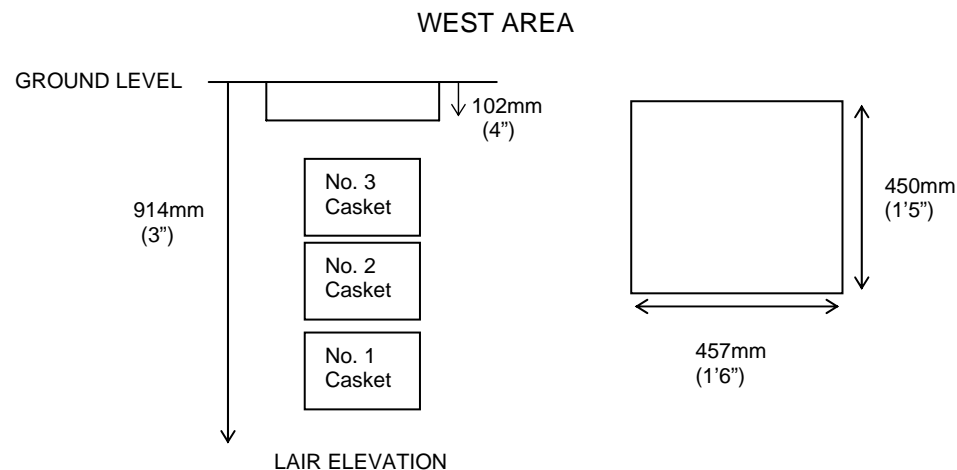
'lair certificate' and 'certificate of right of burial' shall have the meaning ascribed to them in Rule 4;

'lair holder' means the owner of the right of burial in a lair;

'Register of Lairs' means the list or lists of names of lairholders maintained by the Council from time to time stating the details of the lairs;

'working day' means any day between Monday and Friday excepting public and local holidays inclusive.

This is the Diagram referred to in Rule 18 of the Management Rules.



Made and enacted by The Fife Council this Twenty-seventh day of November Two Thousand.