

**OFFALY COUNTY COUNCIL**  
*COMHAIRLE CHONTAE UIBH FHAILI*



**BURIAL GROUND**  
**BYE-LAWS 2015**

**Environment & Water Services Section,  
Aras an Chontae,  
Charleville Road,  
Tullamore  
Co. Offaly**

## BYE-LAWS

These Byelaws are made by the County Council of the County of Offaly pursuant to Part 19 of the Local Government Act, 2001 for the use, protection, regulation and management of Cemeteries provided by and under the control of Offaly County Council. These Byelaws were adopted by Offaly County Council at the Council meeting held on the 20<sup>th</sup> July 2015

These Byelaws shall come into force on the 20<sup>th</sup> August 2015.

### 1. DEFINITIONS AND INTERPRETION

In these Byelaw words importing the singular shall be construed as importing the plural and vice versa where the context so admits.

**Authorised person** means a person authorised in writing by the Council for the purposes of section 204 of the Local Government Act 2001 or a member of the Garda Síochána.

**Burial** means the interment of a deceased person or of their cremated remains in a Cemetery.

**Burial Rights Owner** means a person who has purchased from the Council the Exclusive Right of Burial in a Plot and includes his heirs, executors and assigns.

**Cemetery** means any land for the time being vested in the Council and under its control and management which has been dedicated and opened as a cemetery, graveyard or burial ground within the functional area of the Council.

**Council** means the County Council of the County of Offaly or a duly authorised officer of Council.

**Exclusive Right of Burial** means the right to be interred in a particular burial plot subject to the conditions prescribed by these Byelaws.

**Family Member** means spouse, civil partner, cohabitant, lineal ancestor or descendant, father, mother, son, step-son, daughter, step-daughter, brother, sister, step-sibling, son-in-law, daughter-in-law or by consanguinity or affinity, an aunt, uncle, nephew or niece of the person last interred in a specific burial plot or some person who was permanently residing with the person last interred therein, at the time of that person's death

**Indemnity** means an undertaking given by a person for payment of fees for the Exclusive Right of Burial and interment.

**Interment Fees** means all fees charged by the Council for interment.

**Lawn Cemetery** means a grass lawn cemetery in which kerbs and surrounds are not permitted and where burial plots are maintained as grassed areas. The New Cemetery at Clonoghill, Birr and the new cemetery at St. Michael's Cemetery at Portarlinton are Lawn Cemeteries. Further lawn cemeteries will be developed by the Council. A notice will be published in the local

media and on the Council website to advise the public of the commencement of new lawn cemeteries. Signs will be erected at the relevant cemetery to advise the public of the rules applicable. Registrars and Caretakers will advise persons purchasing plots in lawn cemeteries of the rules of such cemeteries.

**Plot** means a grave plot in a burial ground.

**Registrar or Caretaker** means person to whom the Council has assigned responsibility for the day to day management of a burial ground and the recording of information relating to burials that take place in the burial ground.

**Remains** mean a human body after death.

## **2. CESSER OF EXISTING BYELAWS**

On the coming into operation of these Bye-laws, all existing bye-laws, rules and regulations relating to Cemeteries under the ownership and control of the Council shall cease to have effect.

## **3. EXCLUSIVE RIGHT OF BURIAL**

- 3.1 Burials may be made in any Cemetery not closed, in a manner provided by law, subject to the conditions prescribed in these Byelaws.
- 3.2 Exclusive Rights of Burial may be sold in perpetuity upon such terms and conditions as may be decided by the Council.
- 3.3 Any person by making application to the Council and paying the prescribed fee may purchase the Exclusive Right of Burial in a Plot in a Cemetery. Provided however, that where the Exclusive Right of Burial relates to a Plot not occupied or to be occupied at the time of purchase and unless the Plot is in the meantime occupied, the person shall hold the Plot in perpetuity from the date of purchase.
- 3.4 Where a person is to be buried in a Plot in respect of which an Exclusive Right of Burial has not been purchased, the personal representative or, if there is no personal representative, the Family Member making the burial arrangements shall sign an indemnity accepting liability for payment of the Exclusive Right of Burial fee and Interment Fee and shall pay such fees in full within a period of 3 months of the date of burial.
- 3.5 Title to an Exclusive Right of Burial shall be conferred upon the issue of a receipt by the Council upon payment of the fee for an Exclusive Right of Burial.
- 3.6 Upon satisfactory proof being given to the Council of the original title being lost, and upon payment of an administrative fee, the Council may issue to the person entitled, a duplicate of the receipt certifying that the fee for Exclusive Right of Burial has been paid.



- 3.7 No burial shall take place in any Plot in respect of which the Exclusive Right of Burial is held by any other person unless such person has given written consent to such burial or the funeral director has satisfied himself or herself that such burial in such Plot is authorised by that person.
- 3.8 Any Exclusive Right of Burial no longer required by a Burial Right Owner may be surrendered to the Council and the current fee payable shall be refunded, less an administration fee.
- 3.9 An Exclusive Right of Burial may be transferred by a Burial Right Owner to a specified Family Member where such owner notifies the Council in writing of his or her wish to transfer such right to the specified Family Member and relinquishes his or her right. Save as aforesaid, no Burial Right Owner shall sell, assign or transfer an Exclusive Right of Burial to another person. In the case of the death of the Burial Right Owner the Exclusive Right of Burial shall pass to the deceased's next of kin, subject to any testamentary disposition.
- 3.10 The purchase of an Exclusive Right of Burial does not include the right to erect a headstone or memorial of any kind. A separate application for the erection of a headstone or memorial shall be made to the Council under the provisions of Byelaw 9.
- 3.11 The purchase and reservation of multiple Plots shall not be permitted save in such special circumstances (e.g. religious communities) as may be determined by the Council.

#### **4. SIZE OF PLOTS**

- 4.1 All Plots shall be 2.75m long by 1.22m wide (9ft x 4ft), excluding beam dimension. Plots for three interments shall be dug to a depth of 8ft where the nature of the subsoil will permit. In all cases a minimum of 250mm of earth shall be left between each coffin. All Plots must be numbered.
- 4.2 The Council Caretaker shall determine the capacity of each Plot

#### **5. MODE OF BURIAL**

- 5.1 No interment is permitted in any Cemetery, nor shall any deceased person be admitted into any Cemetery unless enclosed in a coffin or casket of wood or metal or other sufficiently strong material as shall be agreed in writing with the Council.
- 5.2 Cremated remains may be interred in coffins or caskets, otherwise cremated remains must be interred in a container of bio-degradable material. No person shall dispose of cremated remains on the surface of any Plot or scatter cremated remains on any part of a Cemetery.
- 5.3 Only human remains and cremated human remains are permitted to be interred in a Cemetery.

## **6. OPENING OF BURIAL PLOTS**

- 6.1 In all cases of intended burials, the person having management or control of the same shall give notification to the Registrar or Caretaker and shall produce to the Registrar or Caretaker such evidence of death as may be required. Notification of an intended burial shall be given to the Registrar or Caretaker at least 24 hours prior to the time fixed for the funeral, except in cases of emergency.
- 6.2 No person other than the Registrar or Caretaker or any other person being duly authorised by the Council, shall authorise the digging of any Plot or the re-opening of any Plot in any part of the Cemetery.
- 6.3 No unwalled Plot shall be re-opened within fourteen years after the burial of a person unless to bury another member of the same family, in which case a layer of earth not less than 250mm in depth shall be left undisturbed above the previously buried coffin or casket; but if upon re-opening any Plot the soil is found to be offensive, such soil shall not be disturbed.
- 6.4 No Plot, in which a body has been interred, shall be opened, save for the purpose of interment or exhumation or the erection of a tombstone or headstone, without the prior written permission of the Council or by order of a court of competent jurisdiction.

## **7. FIRST INTERMENT**

Each Plot, when opened for the first interment, shall be sunk to the perpendicular depth of 2.45m (8ft) at least, or in case the nature of the sub-soil will not permit the Plot being sunk to such depth, then to such lesser depth as the Council shall specify. In such case not more than one interment shall be permitted in such Plot without the prior written authorisation of the Council.

## **8. LAWN CEMETERIES**

- 8.1 The Council may designate any Cemetery or part of a Cemetery to be a Lawn Cemetery.
- 8.2 As soon as appropriate after a burial in a Lawn Cemetery, the Council's ground staff will level a burial mound and seed the area.
- 8.3 No tablets, vases, statues, toys, crosses, artificial wreaths, artificial flowers, fresh flowers sprays, flags, wind chimes or any decorative item of any kind is permitted to be placed on a grassed Plot in a Lawn Cemetery.
- 8.4 No person may plant any trees, shrubs, flowers or any living plant in a grass plot in a Lawn Cemetery.
- 8.5 No kerbs, coping, trellises, hedge, fence or enclosure of any kind is permitted to be placed in on or around a Plot in a Lawn Cemetery.
- 8.5 Funeral flowers are permitted to be placed on a Plot in a Lawn Cemetery for a period of 10 days



following interment. Once a headstone or memorial is erected, flower vases may be placed on a headstone beam.

- 8.6 The placing of any decorative item upon a Plot in a Lawn Cemetery is inconsistent with the proper keeping of the grounds of the Lawn Cemetery and is prohibited. Any such items will be removed.

## 9. HEADSTONES AND MONUMENTS

- 9.1 No person shall erect or place a tomb, monument, vault, tablet or structure of any description or material on any Plot in a Cemetery unless and until such structure has been approved and a certificate of permission has been obtained for such structure from the Council's Engineer, or such other Officer as the Council shall appoint for such purpose.

- 9.2 The erection or placement of any such structures or the making of additions or alterations to a structure shall be subject to the following conditions:

- (a) prior to the commencement of any work, an application for authorisation must be made to the Council for the works and a certificate of permission obtained.
- (b) An application for authorisation shall contain a descriptive statement of the works proposed, the materials to be used and shall be accompanied by a dimensioned drawing and specification to a scale of not less than 1 is to 20 for approval.
- (c) The height of any structure proposed shall not exceed 1.2 metres above beam level. Special permission may be given for Celtic cross headstones up to 2.1m high in traditional cemeteries where similar headstones have already been permitted.
- (d) All headstones shall be of approved design and materials and constructed to the satisfaction of the Registrar or Caretaker.
- (e) No works shall be carried out on any Plot until all fees due to the Council are paid.
- (f) All works shall be accurately constructed in accordance with the approved design and specifications within the dimensions of the Plot.
- (g) All structures shall have re-enforced concrete bases with dowels

- 9.3 Where a Cemetery is located within or in the vicinity of a National Monument or within or in the vicinity of a location which is noted in the Record of Monuments and Places or a structure which is entered in the Record of Protected Structures, any monument erected in such a Cemetery shall be designed having regard to the character of such National Monument, Protected Structure or such location.

- 9.4 Any person issued a certificate of permission shall be responsible for ensuring that all of the terms and conditions of the certificate are complied with.

- 9.5 In any Cemetery other than a Lawn Cemetery, where the layout is such that the Council may grant permission for kerbs to be erected around a Plot, the Council may specify that the top of the kerb shall be kept flush with the adjoining ground level.

- 9.6 In any Cemetery where headstone beams are provided, the headstone or any other type of

monument proposed shall be erected using the headstone beam as the foundation. Any material such as concrete, mortar or the like used in the erection of the monument shall not be allowed to extend outside the top of the beam, and all surplus material shall be removed from the Cemetery by the person in charge of the works.

- 9.7 In any Cemetery where headstone beams are not provided the foundation for the headstone shall be cast as a single unit. The foundation shall be constructed of good quality concrete with an 8-day crushing strength of not less than 30N/mm<sup>2</sup>. The minimum dimensions shall be 300mm deep by 225mm wide. It shall contain minimum reinforcement of 4 No. 12mm mild steel bars, 2 of which shall be located near the lower face of the foundation and 2 of which shall be located near the upper face of the foundation. The steel shall have minimum cover on all sides of 50mm. The foundation shall be entirely within the boundaries of the Plot which it is enclosing. Full details of construction of beam shall be agreed with the Council before commencement of works.
- 9.8 Any headstone, monument, tablet or other such structure which is in the opinion of the Council offensive either as to itself or as to any material which may be inscribed or otherwise placed thereon may be removed by the direction of Council.
- 9.6 No person shall use materials of a perishable nature such as timber, ironwork or the like as part of any monument or structure in a Cemetery except in cases of the erection of a temporary monument. Benches and chairs are not permitted in a Cemetery without the prior written permission of the Council.
- 9.7 The use of plastic or man-made (synthetic) materials may only be used with the prior written permission of the Council. No memorial or Plot boundary shall be constructed of plastic, wood, glass, ferrous metals or tiles.
- 9.8 A Certificate of Permission must be produced for inspection by a Burial Right Owner on the request of the Caretaker or Registrar or any Council Official.

## **10 WORKS AND MAINTENANCE**

- 10.1 A Burial Rights Owner shall employ his own workmen to erect any memorial or to remove and replace the same at the re-opening of a Plot. Such workman shall comply with such conditions as may be specified from time to time by the Council.
- 10.2 No person shall deposit or mix sand, gravel and cement for making concrete on paths or unprotected ground in a Cemetery. Any such work shall be carried out on portable platforms.
- 10.3 No person shall leave any surplus work materials in a Cemetery following the completion of works.
- 10.4 The memorial mason shall be responsible for the level, firmness and satisfactory workmanship of the memorial for a period of 12 months.
- 10.5 Walled Plots and vaults shall be kept in repair by the Burial Rights Owner.



- 10.6 A Burial Rights Owner shall remove any damaged headstones, monuments, kerbs and other Structures from his Plot.
- 10.7 Any damage to any Plot boundary, headstone or any other structure in a Cemetery or any other damage howsoever caused during the erection, removal replacement of any structure shall be repaired by, and at the expense of, either the person who caused the damage or by the Burial Rights Owner.
- 10.8 All persons carrying out work in a Cemetery shall comply with the provisions of the Health and Safety Acts.
- 10.9 The Council may take down and remove any monument, headstone, kerb, tablet or any other object which may have been erected or placed at any time in a Cemetery, either with or without authority, which may have fallen into decay, or which in the opinion of the Council is not being maintained or has become a nuisance or a danger to users of the Cemetery. The Council may recover the cost of any such removal from the Burial Rights Owner by a simple contract debt in a court of competent jurisdiction.
- 10.10 Byelaw 10.9 does not confer any right to move or otherwise interfere with ancient headstones, footstones or other such feature within the vicinity of a national monument or other place included in the register of monuments and places.

## **11. TREES**

No trees shall be planted on any burial plot in a Cemetery.

## **12. DECORATION**

- 12.1 In any Cemetery other than a Lawn Cemetery, the planting of shrubs and flowers on Plots is permitted only in Plots enclosed by kerbs.
- 12.2 All dead flowers, wreaths, weeds, rubbish or other unsightly items shall be removed by the Burial Rights Owner as soon as possible from Plots and disposed of in waste bins.
- 12.3 Where there is no kerbing around a Plot, flowers may only be placed on a headstone beam.
- 12.4 No person shall place a railing, trellis, link chain around a Plot or monument. No monument or fences constructed of plastic, wood, glass, ferrous metals or tiles shall be permitted and will be removed.

## **13. VISITORS**

- 13.1 Visitors to a Cemetery shall enter and leave the Cemetery only by means of the entrance gate. A visitor shall close and re-secure any gate upon leaving the Cemetery.
- 13.2 Visitors shall not walk on any of the shrubberies, Plots or enclosures but shall confine themselves to paths or avenues where same are provided.



13.3 Visitors shall not interfere with any of the tombs, monuments or headstones or with any flowers, shrubs or wreaths within a Cemetery.

13.4 No dogs or other animal other than guide dogs accompanying persons with visual impairment are permitted to enter a Cemetery.

#### **14. CONDUCT IN CEMETERY**

14.1 No person shall in or near any part of a Cemetery prevent, interrupt or delay the decent and solemn burial of any body, or remains of any body.

14.2 No person shall, in or near any part of a Cemetery, so conduct himself or herself as to be a nuisance or annoyance to persons lawfully within or approaching the Cemetery for a lawful purpose.

14.3 No person shall without written authority from the Council remove or take from a Cemetery any vase, wreath, plant, flower or any other thing. The Registrar or Caretaker may remove any receptacle or material from a Cemetery that is, in his or her opinion, neglected, unsafe or broken.

14.4 No person shall damage, destroy, deface or in any way interfere with any building, wall, fence, sign, notice board, monument, vault, plot, tombstone, headstone, tablet, or any other article in a Cemetery.

14.5 No person shall be under the influence of alcohol or other illicit substances in a Cemetery.

14.6 No person shall put up any bill, advertisement or notice on any wall or fence in a Cemetery.

14.7 No person shall solicit any order or custom from any other person, in a Cemetery, for any work whatsoever, or for the sale, preparation or supply of any article. No person shall in a Cemetery, accept or take any such order or custom. Any person found in a Cemetery soliciting orders for the erection or repair of memorials will be required to leave the Cemetery and will not be admitted again into the Cemetery without the permission of the Council.

14.8 No person shall shout or play any game or sport in a Cemetery or engage in any activity that causes noise levels so loud to be considered a nuisance or disturbance

14.9 No person shall commit an act of indecency in a Cemetery.

14.10 No person shall play loud music, sound horns or other similar devices within a Cemetery other than as part of a musical tribute provided during the interment ceremony by agreement with the next of kin of the deceased.

14.11 No person shall use a skateboard, roller skates, roller blades, or other coasting item in a Cemetery.

14.12 No person shall ride a bicycle or drive a motorcycle or motor scooter in a Cemetery.

- 14.13 No person in control of any vehicle unless authorised by the Council shall drive or conduct the same or permit the same to be on any part of any Cemetery except the roads open for vehicular traffic and in the direction indicated by traffic notices.
- 14.14 No person shall drive or conduct any vehicle of any kind in any Cemetery at a greater speed than 15km/h or than any speed indicated on any road within any Cemetery.
- 14.15 The driver of any vehicles in a Cemetery shall yield unconditional right of way to any funeral procession and shall stop or move such vehicle as directed by the Registrar or Caretaker or his or her assistant.
- 14.16 The driver of a vehicle shall yield right of way to pedestrians.
- 14.18 No person shall use or operate a camera, camera phone or video during an interment without the prior written consent of the Council and the Undertaker in charge of the funeral. Such consent shall not be granted without the consent of the next of kin of the person being interred.
- 14.21 An Authorised Person is authorised to demand the name and address of any person who in his opinion is contravening or has contravened a provision of these Byelaws contrary to section 205 of the Local Government Act 2001.

## **15. PARKING**

- 15.1 No person shall park outside a Cemetery where stopping on the roadway is prohibited.
- 15.2 No person shall park a vehicle outside or inside a Cemetery except in a designated area for parking for a period of time no longer than is reasonably necessary to attend a funeral or to visit a graveside.
- 15.3 No person shall use a parking space in a Cemetery except while attending a funeral or visiting the Cemetery.
- 15.4 No person shall park any vehicle outside or inside a Cemetery between the hours of [10.00 pm] and 7:00 a.m.

## **16. EXHUMATION**

No body, nor the remains of any body, shall be removed from a Cemetery to another Cemetery or exhumed save in accordance with an exhumation licence. Upon the grant of an exhumation licence, exhumation shall be conducted in accordance with such precautions as the Council may prescribe as the conditions of such licence and the provisions of the Local Government (Sanitary Services) Act 1948 and the Local Government Acts 1925 – 2001 and subject to payment of such fees as the Council by resolution prescribes.

## **17. NON-CEMETERY WORKERS**

Funeral directors, monument dealers, contractors, workmen shall operate as independent contractors and shall abide by all rules and regulations of the burial ground they are working in.

## **18. RULES**

- 18.1 The Council may in respect of any Cemetery issue, by order, rules in respect of that Cemetery.
- 18.2 Rules issued under this Bye-law may cover any matter of detail in relation to the operation of that Cemetery.
- 18.3 Persons visiting a Cemetery in respect of which Rules have been issued by the Council shall abide by those Rules.

## **19 WRITING ON MONUMENTS**

No person shall write any word or symbol upon any monument which would give rise to public offence.

## **20 CONTRAVENTION OF BYE-LAWS**

- 20.1 An Authorised Person may request any person who appears to be contravening or to have contravened a provision of the Byelaws to leave a Cemetery or to refrain from the activity constituting or contributing to such contravention and may remove any person from the Cemetery who fails to comply with such request.
- 20.2 An Authorised Person may demand the name and address of any person who in his opinion is contravening or has contravened a provision of these Byelaws contrary to section 205 of the Local Government Act 2001.
- 20.3. It is an offence contrary to section 204 of the Local Government Act 2001 for a person
  - (a) to obstructs or impede or refuses to comply with a request of an Authorised Person acting in the exercise of the functions conferred on him by Part 19 of the said Act
  - (b) to refuse to give his name or address following demand from an Authorised Officer
  - (c) to give an Authorised Officer a name or address which is false or misleading
- 20.4 It is an offence contrary to section 205(1) of the Local Government Act 2001 for a person to contravene a provision of these Byelaws.
- 20.5 A person who contravenes a provision of these Byelaws is liable on summary conviction in the District Court to a fine not exceeding €1,900.00.



20.6 It is an offence to continue the contravention of a provision of these Byelaws after a conviction contrary to section 205(2) of the Local Government Act 2001 on each day on which such contravention continues. The penalty for each such offence on summary conviction in the District Court is a fine not exceeding €50 per day.

**MADE and ADOPTED** under the Common Seal of

**THE COUNTY COUNCIL OF THE COUNTY**

**OF OFFALY**

This 7<sup>th</sup> day of August 2015

  
CATHAOIRLEACH

AUTHENTICATED BY:

  
SENIOR EXECUTIVE OFFICER