



KERRY COUNTY COUNCIL

BYE LAWS FOR CEMETERIES

Made by Kerry County Council under the Local Government Act 2001 for the Regulation of Cemeteries in the County of Kerry.

These Bye-Laws shall come into force on the first day of September,2010.

GENERAL REGULATIONS FOR CEMETERIES

INTERPRETATION OF TERMS

1. Throughout these byelaws the use of the following terms shall have the following meanings:

“The Council” shall mean the Council of the County of Kerry.

“Cemetery” shall mean any Cemetery or Burial Ground under the control or in the ownership of the Council.

“Lawn Cemetery” shall mean a Cemetery or part of a Cemetery wherein kerbs or other such items shall not be permitted to be placed and where all parts of the Cemetery comprising burial plots shall be maintained as grassed areas.

“Plot” shall mean an area of a graveyard consisting of one, two or three grave spaces otherwise described as a single plot, double plot or a family plot.

“Registrar” or “Caretaker” shall mean the Registrar or Caretaker at the time being of any Cemetery under the control or in the ownership of the Council.

“Member of the same Family” shall mean the Father, Mother, Husband, Wife, Son, Daughter, Sister or Brother of the person last interred in a specific grave, or some person who was permanently residing with the person last interred therein, at the time of that person’s death.

“Engineer” shall mean the official as may be nominated by Kerry County Council.

“Register” shall mean the record of burials in the said burial ground.

APPLICATON OF BYELAWS

2. These byelaws shall apply to all Cemeteries under the control or in the ownership of the Council.

CESSER OF EXISTING BYELAWS

3. On the coming into operation of these byelaws, all existing byelaws, relating to Cemeteries under the control or in the ownership of the Council shall cease to have effect.

GRAVE SPACES

4. The area to be used for graves shall be divided into grave spaces, to be designated by convenient marks, so that the position of each grave space may be readily ascertained. In all new Cemeteries a corresponding map or maps of the Cemetery shall be constantly kept by the Registrar and by the Council and shall be made available for inspection by all persons. On such map or maps every grave space shall be shown with its distinctive mark inscribed thereon, i.e. section and number.

SIZE OF GRAVE SPACES

5. The grave spaces for the burial of persons shall be 2.75m long by 1.25m wide excluding continuous concrete base dimension.

FIRST INTERMENT

6. Each grave, when opened for one and only one interment shall be dug to a depth of 1.65m. Any grave, where it is proposed to open for a second interment shall be dug to a depth of 2.45m.

MODE OF BURIAL

7.(i) No interment shall be permitted in any Cemetery, nor shall any deceased person be admitted into any place of reception of bodies previous to interment, unless the body be enclosed in a coffin of wood or other sufficiently strong material, in the latter case, subject to the written permission of the Council.

(ii) All spoil and excess material resulting from the excavation of grave shall be collected and removed from the Cemetery for proper disposal elsewhere by the undertaker or person carrying out the burial.

(iii) The interment of ashes following cremation will be facilitated following appropriate consultation with the Council.

OPENING OF GRAVES

8.(i) No unwalled grave 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 300mm in depth shall be left undisturbed above the previously buried coffin; but if on re-opening

any grave the soil be found to be offensive, such soil shall not be disturbed. In no case shall human remains be removed from the grave, save in accordance with law.

(ii) No grave in which any 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 written permission of the Council to be previously produced to and left with the Registrar.

(iii) Excavation of graves shall be carried out by hand or by mini-digger. Under no circumstances shall heavy machinery be used for opening graves. All necessary precautions to protect footpaths, kerbs, monuments and surrounding graves from damage shall be taken by the operative or undertaker carrying out the works. This includes the laying of protective covering on the footpaths.

DEPTH OF BURIAL

9. No coffin shall be buried in any unwallied grave unless the lid or upper surface thereof shall be sunk to a depth of at least 1.22m below the ordinary level of the ground.

INTERRUPTION OF INTERMENT

10. Any person unlawfully preventing or attempting to prevent the interment of any person in a Cemetery or unlawfully preventing or disturbing the celebration of funeral rites over any person shall be in breach of these byelaws.

EXHUMATION

11. (i) No body, nor the remains of any body, shall be removed from one place of burial to another, or exhumed without the prior written consent of the Council, and with such precautions as the Health Service Executive may prescribe as the condition of such Licence.

(ii) Any person who shall remove or assist in removing any such body or remains contrary to this Rule, or who shall neglect to observe the precautions prescribed as the condition of the Licence for removal, shall be in breach of these byelaws.

REGISTER OF BURIALS

12. (i) The proper Register (hereinafter referred to as the Register) shall be constantly kept at the place of residence of the Registrar and shall be open for inspection at all reasonable times.

(ii) No person except the Registrar shall be permitted to write in the Register save as hereinafter mentioned.

(iii) A printed copy of these Bye Laws shall be kept constantly affixed to the Register.

ENTRIES IN REGISTER

13. (i) Before the interment of any person in a Cemetery, the Registrar shall, after due enquiry as to the facts from some relative of the deceased, or from the person having the direction and management of the interment, cause an entry to be made in the Register, in plain and legible

characters, under its proper headings, and in numerical order, of the First Name and Surname, time of death, sex, age, religious persuasion, and occupation or rank in life of the deceased, together with his or her last place of residence, and condition, as whether “married”, “single”, “divorced”, “widower” or “widow”, or “the child of A.B.”, etc.

(ii) After the interment due entry shall be made under its proper heading of the distinctive mark of the grave; and the signature of the person having the management of the interment shall be affixed in the last column but one, in token of the accuracy of the foregoing statements; and such signature shall be attested by the signature of the Registrar, in the last column.

(iii) Any such person wilfully refusing to give to the Registrar information as to the matters aforesaid, or to affix his signature as aforesaid, shall be in breach of these byelaws.

PURCHASE OF RIGHT OF BURIAL

14. (i) The purchase of right of burial in a grave plot shall only be allowed at the time of burial. Pre-purchase of plots shall not be permitted.

(ii) Application to acquire a right of burial in a grave plot in any Cemetery shall be made to the Council. The application shall include the name and address in sufficient detail to ensure future identification against the Register, and also the specified fee.

(iii) Where sufficient plots are still remaining in any Cemetery, the purchase of right of burial in multiple plots of two or three graves will be considered.

(iv) The receipt issued in response to the application constitutes the applicants right of burial. As the details depend on the accuracy of the information supplied, the Council shall not be liable for any errors.

(v) The right to burial receipt does not allow the erection of a headstone without a separate application being made to the Council (see byelaw 20).

(vi) The selling of a grave plot to a third party is not permitted. However, the Council will facilitate those wishing to return ownership to the Council.

VISITORS

15. (i) Visitors to the Cemetery shall enter or leave the Cemetery only by means of the entrance.

(ii) Visitors to the Cemetery shall not walk on any of the shrubberies, graves or enclosures, but shall confine themselves to the paths or avenues therein.

(iii) Visitors to the Cemetery shall not interfere with any of the tombs or monuments or headstones or with any flowers, shrubs or wreaths within the Cemetery.

(iv) No dogs or other animals shall be allowed into the Cemetery and visitors shall close the gate after entering and leaving to prevent trespass by stray animals. Guide dogs shall be permitted.

MISCONDUCT

16. The Registrar or any agent of the Council or a member of the Garda Síochána shall at all times be entitled and at liberty to remove from the Cemetery any person who may be guilty of misconduct therein, and to prevent any person from entering the Cemetery at prohibited times.

DAMAGE TO HEADSTONES

17. No person shall wilfully deface, destroy or damage any building, wall, fence, monument, headstone, tablet, notice board or any other article within the cemetery, or pull up any tree, shrub or flower therein, or put up any bill or notice on any wall, or play any game or sport therein or unlawfully disturb any persons assembled in the Cemetery for a burial, nor shall commit any nuisance within the Cemetery.

TREES

18. No trees shall be planted on any grave space in the Cemetery.

SHRUBS AND FLOWERS

19. (i) The planting of shrubs and flowers in lawn Cemeteries is not permitted. In older Cemeteries the planting of shrubs and flowers on grave plots shall only take place where the plots are enclosed by kerbs.

(ii) Any flowers or wreaths placed on graves after burials have taken place shall be removed by the purchaser of the right of burial or their representatives within two months. These shall be taken away from the Cemetery for disposal elsewhere.

(iii) Memorial flowers shall be permitted only when placed on the headstone continuous concrete base.

ERECTION OF MONUMENTS

20. (i) No tomb, monument, vault, headstone, tablet or permanent structure of any description or material shall be erected or constructed on any place of burial in the Cemetery, unless and until the structure has been approved of, in writing, in the form of a Certificate of Permission by the Engineer, or such other Officer as the Council shall appoint for this purpose.

(ii) A descriptive statement of what is proposed, together with a dimensioned drawing to a scale of not less than 1 is to 25 shall accompany all such requests for approval.

(iii) The headstone or monument shall be of natural stone only viz., marble, limestone or granite and shall be erected on a suitable concrete foundation at a normal depth of 600mm. The monument or headstone shall be of traditional design and finish and shall be in keeping with the existing headstones in the area.

(iv) The headstone or monument, including base, other than the specific exception mentioned herein, shall not exceed 1.5 m in height and shall have a maximum length of 1.0m (1.5m in the case of multiple plots). All heights are measured from the continuous concrete base or from ordinary ground level of the footpath/roadway contiguous with the plot. Secondary monuments,

additional to the headstone, such as statues including those of animals etc. shall not be permitted. In the case of a lawn style burial ground, the height shall not exceed 1.2m.

(v) In the case of a Celtic or Latin cross of traditional design, the height shall not exceed 1.8 m and the width shall not be greater than 1.0 m

(vi) All works shall be kept within the confines of the burial plot. Work shall not encroach onto adjacent plots or onto footpaths.

(vii) Where any Cemetery has been provided and developed as a lawn type Cemetery, no kerb or coping of any description shall be permitted. In lawn type cemeteries no chippings shall be permitted to be laid over graves.

(viii) In older non lawn type Cemeteries kerb or coping shall not exceed 150mm in height, and shall be placed on a solid foundation sunk at least 150mm below ground level. Corner posts shall not exceed 250mm in height.

(ix) No monument or coping shall be placed on any grave space or plot unless notice has been first given to the Burial Ground Registrar of the date on which it is proposed to proceed with same.

(x) All spoil and excess material resulting from the preparation for, and erection of, a monument or coping to a grave shall be collected and removed by the person or contractor erecting the monument or coping.

(xi) The Council reserves the right to direct the removal of any monument, headstone or coping if in the opinion of the Council such monument, headstone, coping or erection is in its general appearance offensive or contradictory to good practice principles or where there has been failure to comply with Certificate of Permission issued by Kerry County Council.

(xii) The Certificate of Permission must be available on demand by any Council Official.

(xiii) The number of grave space shall be clearly identified on the headstone.

PERISHABLE AND UNSUITABLE MATERIALS

21. (i) The use of materials of a perishable nature such as timber, ironwork or the like as part of any monument or structure in any Cemetery will not be permitted, except in cases of the erection of a temporary monument.

(ii) Use of materials of a perishable nature (such as timber or non-galvanised iron work) as part of any monument or structure in the Cemetery shall not be permitted. Special permission must be obtained in writing in advance from the Engineer in regard to the use of plastic or man-made (synthetic) materials.

FOUNDATIONS USING CONTINUOUS CONCRETE BASES

22. (i) In any Cemetery where continuous concrete bases have been or will be provided, the headstone or any other type of monument being proposed shall be erected using the appropriate headstone continuous concrete base as the foundation.

(ii) 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 continuous concrete base, and all surplus material shall be removed from the Cemetery by the person in charge of the erection of the monument.

(iii) No kerbs will be permitted in this case and foundations are not required at either of the long sides of the grave space.

FOUNDATIONS WHERE CONTINUOUS CONCRETE BASES ARE NOT AVAILABLE

(This relates to older type Cemeteries)

23. Full details of construction of continuous concrete base should be agreed with the Council before commencement of work.

SUPERVISION OF WORKS

24. (i) All works in erecting monuments or the like carried out in the Cemetery is subject to supervision and control of the Engineer or his representative.

(ii) The dumping and mixing of sand gravel and cement for making concrete will not be permitted on paths or unprotected ground, and must be carried out on portable platforms.

(iii) All surplus materials left over when the work has been completed must be removed from within the confines of the Cemetery at the time of the completion of the works.

REMOVAL OF BROKEN OR OTHER MONUMENTS

25. (i) The removal of broken or other monuments is the responsibility of the purchaser of the right of burial. The Council shall give two weeks notice of its intention to take down and remove any monument, headstone, kerb, tablet or any other object which may have been placed at any time within the 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 ordinary users of the Cemetery.

(ii) In the event that the purchaser of the right of burial fails to respond to the notice given in 25(i) above, the Council may recover the cost of any such removal from the purchaser of the right of burial by a simple contract debt.

REMOVAL OF SURPLUS AND UNUSED MATERIAL FROM CEMETERY

26. (i) All surplus materials left over when the works on graves has been completed shall be removed from within the confines of the Cemetery by the contractor or the purchaser of the right of burial at the time of the completion of the works. This includes surplus excavated material, unused concrete, shuttering etc. and discarded floral monuments (natural or artificial).

(ii) The cemetery shall not be used as a temporary or long-term storage area for any material, shuttering or tools by operatives carrying out works in the cemetery.

PARKING

27. Parking outside the Cemetery shall be limited to the vehicles used by persons attending burials and visiting graves. No overnight or long term parking shall be permitted.

PENALTIES FOR OFFENCES

28. (i) An offence under these Bye-Laws may be prosecuted by the local authority which made the relevant bye-law, by any other local authority acting on its behalf or by a member of the Garda Síochána.

(ii) A person who contravenes a provision of any bye-law is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,500.

(iii) If the contravention of a provision of a bye-law is continued after conviction, the person causing the contravention is guilty of an offence on each day on which that contravention continues and is liable on summary conviction for each such offence to a fine not exceeding €100.

HEALTH AND SAFETY

29. (i) All graves shall be excavated in accordance with applicable Health & Safety Legislation, which is current at the time of excavation. An extract from current regulations covering excavations is contained in Appendix 1.

APPENDIX 1

**SAFETY, HEALTH AND WELFARE AT WORK (CONSTRUCTION)
REGULATIONS 2006 (S.I. No. 504 of 2006)**

**(EXTRACT)
PART 5**

EXCAVATIONS, SHAFTS, EARTHWORKS, UNDERGROUND WORKS AND TUNNELS

Safety precautions.

51. (1) A contractor responsible for a construction site shall ensure for that site that adequate precautions are taken in any excavation, shaft, earthwork, underground works or tunnel to -

(a) guard against danger to persons at work from a fall or dislodgement of earth, rock or other material by suitable shoring or otherwise,

(b) guard against dangers arising from the fall of materials or objects or the inrush of water into the excavation, shaft, earthworks, underground works or tunnel,

(c) secure adequate ventilation at all workstations so as to maintain an atmosphere fit for respiration and to limit any fumes, gases, vapours, dust or other impurities to levels which are not dangerous or injurious to health,

(d) guard against the occurrence of fire or flooding,

(e) enable persons at work to reach safety in the event of fire or an inrush of water or materials,

(f) avoid risk to persons at work arising from possible underground dangers such as underground cables or other distribution systems, the circulation of fluids or the presence of pockets of gas, by undertaking appropriate investigations to locate them before excavation begins, and

(g) provide a safe means of access to and egress from each place of work.

(2) Paragraph (1)(a) does not apply to any excavation, shaft or earthwork where, having regard to the nature and slope of the sides of the excavation, shaft or earthwork and other circumstances, a fall or dislodgement of earth or other material which would bury or trap a person from a height of more than 1.25 metres is not liable to occur.

(3) Where a person is engaged in shoring or other work carried out for the purpose of compliance with paragraph (1)(a), the relevant contractor shall take measures to ensure, so far as reasonably practicable, that appropriate precautions are taken to ensure the safety and health of the person so engaged.

Inspection and examination.

52. (1) Subject to paragraph (4), a contractor responsible for a construction site shall ensure for that site that -

(a) every part of any excavation, shaft, earthwork, underground works or tunnel where persons are at work is inspected by a competent person at least once in every day during which persons are at work therein, and

(b) the face of every tunnel, the working end of every trench more than 2 metres deep and the base and crown of every shaft are each inspected by a competent person at the commencement of every shift.

(2) Subject to paragraph (4), a contractor responsible for a construction site shall ensure for that site that no person is permitted to work in any excavation, shaft, earthwork, underground work or tunnel unless a thorough examination has been carried out by a competent person -

(a) of those parts of it and in particular any shoring or other support, in the region of a blast after explosives have been used in or near the excavation, shaft, earthwork, underground work or tunnel in a manner likely to have affected the strength or stability of that shoring or other support of any part of it,

(b) of those parts of it in the region of any shoring or other support of any part of it that has been substantially damaged and in the region of any unexpected fall of rock or earth or other material, and

(c) of every part of it within the immediately preceding 7 days.

(3) On the day of an examination required under paragraph (2), the person carrying out the examination shall make and sign a report of the results of the examination in an approved form.

(4) This Regulation does not apply on a construction site -

(a) to any excavation, shaft or earthwork where, having regard to the nature and slope of the sides of the excavation, shaft or earthwork and other circumstances, a fall or dislodgement of earth or other material which -

(i) would bury or trap a person, or

(ii) would strike a person from a height of more than 1.25 metres is not likely to occur, or

(b) in relation to persons carrying out inspections or examinations required by this Regulation or engaged in shoring or other work for the purpose of making a place safe, if appropriate precautions are taken, so far as is reasonably practicable, to ensure their safety and health.

Supervision and execution of shoring and other work.

53. A contractor responsible for a construction site shall ensure for that site that -

(a) shoring or other support for any part of an excavation, shaft, earthwork, underground work or tunnel is not erected, substantially added to, altered or dismantled, except -

(i) under the direction of a competent person, and

(ii) so far as is practicable, by persons possessing adequate experience of such work,

(b) all material for shoring or other support as described in paragraph (a) is inspected by a competent person on each occasion before being taken into use,

(c) material found defective in any respect is not used,

(d) shoring or other support for any part of an excavation, shaft, earthwork, underground work or tunnel is of good construction, sound

material, free from patent defect and of adequate strength for the purpose for which it is used and is properly maintained, and

(e) all struts and braces in any excavation, shaft, earthwork, underground work or tunnel are properly and adequately secured so as to prevent their accidental displacement or fall.

Excavations etc. likely to reduce security of a structure.

54. A contractor responsible for a construction site shall not -

- (a) commence or continue, or
- (b) allow to be commenced or continued

on that site, any excavation, shaft, earthwork, underground works or tunnel likely to endanger any employee or other person at work by reducing the security or stability of any part of any temporary or permanent structure, on or adjacent to the site, unless adequate steps are taken, both before and during the progress of the work, to prevent danger to the employee or other person from collapse of the structure or the fall of any part of it.

Fencing of excavations, etc.

55. (1) A contractor responsible for a construction site shall ensure for that site that every accessible part of an excavation, shaft, pit or opening in the ground near to which persons are working and into or down which a person is liable to fall a distance liable to cause personal injury -

- (a) has a suitable barrier placed as close as is practicable to the edge, or
- (b) is securely covered.

(2) Paragraph (1) does not apply to any part of an excavation, shaft, pit or opening while, and to the extent to which -

- (a) the absence of the barrier and covering is necessary for the access of persons or for the movement of plant or equipment or materials, or
- (b) it has not up to then been practicable to erect the barrier or covering since the formation of that part of the excavation, shaft, pit or opening.

(3) Where such barriers or coverings are not yet in place, the relevant contractor shall ensure that all appropriate measures are taken, so far as is reasonably practicable, to prevent persons from falling into the shaft, pit or opening.

Safeguarding edges of excavations, etc.

56. A contractor responsible for a construction site -

(a) shall ensure that material is not placed or stacked on the site near the edge of any excavation, shaft, pit or opening in the ground where it is likely to endanger persons at work below,

- (b) shall not on the site -
 - (i) place or move, or
 - (ii) allow to be placed or moved

any load, vehicle, plant or equipment near the edge of any excavation, shaft, pit or opening in the ground where it is likely to cause a collapse of the side of the excavation, shaft, pit or opening and thereby endanger any person at work, and

(c) if necessary, shall ensure that appropriate barriers are provided.