

DUNDEE CITY COUNCIL

REPORT TO: Leisure and Arts Services Committee – 16 June 2003

REPORT ON: Management Rules for the Regulation of Cemeteries

REPORT BY: Director of Leisure and Arts

REPORT NO 431-2003

1.0 PURPOSE OF REPORT

1.1 To recommend adoption of the Management Rules for the Regulation and use of Cemeteries under the control of Dundee City Council.

2.0 RECOMMENDATION

2.1 It is recommended that the Management Rules for the Regulation of Cemeteries as attached, are adopted.

3.0 FINANCIAL IMPLICATIONS

3.1 None

4.0 LOCAL AGENDA 21 IMPLICATIONS

4.1 The implications of the rules governing the woodland burial ground at Birkhill Cemetery will encourage the planting of wildflowers whilst still allowing memorial plaques to be erected to provide greater choice.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 None

6.0 BACKGROUND

6.1 The proposed Management Rules will supersede the 2000 Management Rules for the Regulation of Cemeteries under the management and/or control of Dundee City Council.

6.2 The Management Rules are required for the regulation of cemeteries and conduct of persons while in cemeteries which are under the management and/or control of Dundee City Council.

7.0 CONSULTATION

7.1 Consultation has taken place with the Director of Support Services, the Director of Finance and the Dundee Association of Funeral Directors.

8.0 BACKGROUND PAPERS

8.1 None

STEVE GRIMMOND
DIRECTOR OF LEISURE and ARTS
30 MAY 2003

DUNDEE CITY COUNCIL

MANAGEMENT RULES

FOR THE REGULATION OF THE CEMETERIES

Dundee City Council (hereinafter referred to as 'the Council') by virtue of powers conferred on them by Section 112 of the Civic Government (Scotland) Act 1982 (hereinafter referred to as 'the 1982 Act') hereby make the following Management Rules for the regulation and the use of cemeteries and conduct of persons while in the cemeteries under the control of Dundee City Council.

PART I

In these Management Rules unless the context requires otherwise, the following words or expressions shall have the meanings hereby assigned to them, videlicet:-

'Council' means the Local Authority for the Dundee City Council in terms of the Local Government (Scotland) Act 1973, the Local Authorities (Property etc) (Scotland) Order 1975, Section 15 of the Local Government etc (Scotland) Act 1994, and Article 3 of the Local Authorities (Property Transfer) (Scotland) Order 1995

'Director of Leisure and Arts' means the Director for the time being of the Leisure and Arts Department of the Council or other duly authorised person.

'Lair' means a piece of ground 2.74 metres in length and 0.92 metres in width and no greater in depth than 2.14 metres and no less in depth than 1.53 metres.

'Register' means the Register Book of Sales of Ground, held by the Director of Leisure and Arts.

'Guide Dog' means a guide dog as defined in Section 37 of the Disability Discrimination Act 1995.

'Hearing Dog' means a hearing dog as defined in Section 37 of the Disability Discrimination Act 1995.

'Assistance Dog' means an assistance dog as defined in the Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003.

The provisions of the Interpretation Act 1978 shall apply to the interpretation of these Management Rules as they apply to an Act of Parliament.

PART II

1. Each purchaser of a lair in a cemetery will, on payment of the price, be furnished with a Registry Certificate describing the lair so purchased. The Registry Certificate must be recorded in the Register and the name of the person so recorded shall be held to be the proprietor of the lair so purchased.
2.
 - (i) Only one person shall be recorded as the proprietor of a lair and joint proprietorship is specifically prohibited. For the avoidance of doubt the order of succession to a lair will be decided in terms of the Succession (Scotland) Act, 1964 as amended. Notwithstanding the foregoing, the proprietor shall have it in his power to bequeath the lair to any member of his family or to any unrelated person.
 - (ii) No person who claims right to succeed to a deceased proprietor shall be recognised or have his name inserted in the Register as proprietor, without adducing evidence that he is entitled to succeed all to the satisfaction of the Council. When application is made by a party who claims to succeed, the Council may order such public or other notice of the application to be made as they judge proper, and the expense in that event shall be paid by the applicant.
 - (iii) No transfer by an inter vivos deed shall have any strength or effect unless sanctioned by the Council, who shall have the right of pre-emption and shall have the power to accept the lair in the case where a transfer by way of sale is intended.

- (iv) No party claiming a lair either by succession or transfer shall be recognised or have their name inserted in the Register without production of the certificate or document granted to the original proprietor, or such other evidence as may satisfy the Council.
 - (v) Assignations or bequests by a now deceased proprietor of any lair, must be recorded in the Register within twelve months of the death of the said deceased proprietor, otherwise the deed, in so far as regards such lair, shall be ineffectual. However the Council reserves the right to give effect to any assignation or bequest if it sees fit.
3. No interment can take place without production to the Director of Leisure and Arts of the Registry Certificate or by the completion and submission of a Form of Indemnity.
 4. Notice of interment must be given to the Director of Leisure and Arts by the parties, or by the undertaker of the funeral as early as possible and no less than 24 hours notice preceding the time fixed for the interment and in the case of Monday funerals no later than 3pm on the Friday preceding. Interments may take place from Monday to Friday inclusive and between 9am and 11am on Saturdays. Outwith these times, funerals are not permitted except in necessitous cases, on a Doctor's Certificate and with the authority of the Director of Leisure and Arts. Notice of interment shall be made by completion and subscription of the prescribed form (obtainable at the office of the Director of Leisure and Arts). Form 14 or Form 15 or a Certificate of Cremation, or a Coroner's Report must be submitted with the aforementioned interment form. When the bottom of the ground is known to be formed of rock, earlier notice must be given, so as to ensure that the work is properly and timeously completed. Undertakers are not to give directions to, or in any way interfere with, the employees of the Council after the coffin is laid in the grave.
 5. Where all coffins are of a maximum depth of 0.38 metres and where the lair is 2.36 metres in depth, three full size coffins may be interred, where the lair is 1.98 metres in depth, two full sized coffins may be interred and where the lair is 1.53 metres in depth, only one full sized coffin may be interred. If any coffin is of a greater depth than 0.38 metres then the amount of interments allowed will be reduced. No lair in which a coffin has been laid so near as 1.22 metres from the surface shall be allowed to be opened. Provided always that in addition to each full sized coffin the coffin of a child under two years of age may also be interred in the lair provided that the child's coffin is interred prior to each full size coffin.
 6. No plants, shrubs or trees of any description are permitted other than in the headstone border and only with the prior approval of the Director of Leisure and Arts. No planting, monument, headstone, inscription, or erection of any kind whatsoever shall be permitted to be placed on the lair outwith the headstone border. Monuments, headstones etc within the headstone border must be founded at such a depth and in such manner as are approved by the Director of Leisure and Arts. No monument or other erection shall be built or fitted in the wall, nor if erected near the wall shall such erection exceed the height of the wall unless approved by the Director of Leisure and Arts. The erection of tombs, kerbing, lair rails, fences and walls is not permitted except within the headstone border and subject to the prior approval of the Director of Leisure and Arts. The Director of Leisure and Arts shall be entitled to require the removal of any such tombs, kerbing, lair rails, fences or walls erected without his consent and in the event of the proprietor failing to remove such items, the Director of Leisure and Arts shall be entitled to remove the items at the proprietor's expense and recover the cost of so doing.

Notwithstanding the foregoing, the proprietor may make minor improvements within the headstone border by placing small personal tributes or momentos thereon provided that the Director of Leisure and Arts shall be entitled to require the removal of any such items as he considers inappropriate and in the event of the proprietor failing to remove the item(s) as required, the Director of Leisure and Arts shall be entitled to remove the item(s) at the proprietor's expense and recover the cost of so doing.

7. (i) The proprietor must keep the tomb or monument or other erection in good order and repair; and should he fail to do so the Director of Leisure and Arts may either instruct the repair or may cause the tomb or monument or other erection to be removed at the proprietor's expense and may then recover the cost of so doing. No interment shall be permitted until the said expense is first paid.
- (ii) The Director of Leisure and Arts has the power to remove damaged and/or dilapidated monuments, headstones etc, if after complying with all the current legislation on removal of such monuments, headstones etc the last known owner cannot be traced. Thereafter, if the said damaged and/or dilapidated monuments, headstones etc are not claimed within one year from the date of removal the Director of Leisure and Arts will have power to dispose of the same as he sees fit.
- (iii) The Director of Leisure and Arts reserves the right to prune all planting and even remove such, if it shall be in his opinion that by the spreading of the roots, branches or otherwise, injury may be

caused to the adjoining grounds. Proprietors are prohibited from removing or disposing of any plants or shrubs without the consent of the Director of Leisure and Arts.

8. The hewing or dressing of stones, or operations of any other description, except in the dressing of lairs, will on no account be permitted within the cemeteries, or in the approaches thereto. All rubbish or refuse remaining after the erection of monuments or headstones or other duly sanctioned operations must immediately be removed from the site under the direction of the Director of Leisure and Arts and at the expense of the owner of the lair, or of the person executing the work. The dressing and decorating of burial places shall be carried out only by the employees of the Council and at the expense of the proprietors of the lairs.
9.
 - (i) Visitors to the cemeteries shall walk on the paths (where possible) and shall on no account pull the flowers, or in any way injure the shrubs or trees. No person shall enter or depart from the cemeteries by any other way than the designated entrances. Children under 14 years of age must be accompanied by a parent or guardian.
 - (ii) No dogs will be admitted to any cemetery except guide dogs, hearing dogs and assistance dogs when under the control of their handlers.
 - (iii) Cars, excepting those attending funerals, will not be admitted to any cemetery unless an occupant of the car is in possession of and displaying a current permit issued by the Director of Leisure and Arts and only for the purpose of people with disabilities visiting graves. Such permits shall require to be renewed annually and shall be in possession of the person with the disability for the visit and shown to any employee of the Council on request.
 - (iv) No person shall deposit or leave or cause to suffer or fall or to be deposited
 - (a) any substance or article likely to cause injury or damage to any person or property: or
 - (b) any substance or article which might occasion risk of any kind to any child or other person finding or handling same: and
 - (c) any paper, glass, earthenware, rubbish, soot, filth, refuse or other deleterious matter; or
 - (d) any other material
 - (v) No person may play any game or practice any sport in any cemetery.
10. No person shall in any cemetery:
 - (i) commit a nuisance or any act of indecent behaviour; or
 - (ii) use any profane, obscene, abusive, indecent or insulting language.
11. The cemeteries shall be open to the public every day during such hours as the Director of Leisure and Arts may fix and determine. The Director of Leisure and Arts shall be entitled to remove any person or persons who may conduct themselves improperly and may also prevent persons entering at prohibited times.
12. No employee of the Council shall be entitled to accept any gratuity whatsoever, on pain of dismissal.
13. Semi Private Ground

The Council has allocated sections in certain cemeteries to be used as semiprivate ground, the same to be regarded as free ground pure and simple. No right of property can be acquired thereto and when a funeral takes place it shall be attended to in all respects as a private funeral. No erection of monuments or headstones, no planting of shrubs, flowers, or decorating of the ground shall be allowed (except as provided for in Clause 22). Notice of interments therein must be given in the same way as for private funerals.
14. Perpetuity fees must be paid on purchase of ground or at a reopen if not previously paid.
15. A scale of current interment dues and other burial charges may be obtained from the Director of Leisure and Arts, floor 13, Tayside House, Crichton Street, Dundee.

- 16 The Director of Leisure and Arts may, if he has reasonable grounds for believing that a person has contravened, is contravening or is about to contravene any of the foregoing Management Rules, expel that person from the cemetery.
17. Any person who:
- (a) on being required to leave the cemetery by the Director of Leisure and Arts who has reasonable grounds for believing that the person has contravened, is contravening or is about to contravene any of the foregoing Management Rules fails to leave;
 - (b) on being informed by the Director of Leisure and Arts who has reasonable grounds for believing that a person is about to contravene any of the foregoing Management Rules that he is excluded from the cemetery enters or attempts to enter the cemetery;
 - (c) being a person subject to an exclusion order under Section 117 of the 1982 Act enters or attempts to enter the 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 in terms of Section 118 of the 1982 Act.
18. (i) All vehicles allowed in the cemetery must keep to the approved roads and must keep off the grass at all times. Car parking will only be allowed in the designated car parking area/s.
- (ii) On arrival, funeral parties will be met by the Duty Officer or his representative at the appropriate entrance specified by the Director of Leisure and Arts before commencing the burial service.
19. This clause, in addition to the above clauses, will apply only to Birkhill Cemetery:-
- (i) Access for funeral parties will be at the southern gate and exit will be by the northern gate to allow for a circular route.
 - (ii) Only the erection of headstones and planting will be allowed in the headstone border. The grass areas must be kept free of all obstructions. Memorials of no more than 1.53 metres high, 0.92 metres width and 0.46 metres depth will be permitted and must be within the boundaries of the headstone border.
 - (iii) The memorial may take the form of a tablet or plaque at ground level, headstone, tablet or plaque above ground level.
 - (iv) Each memorial erected must be doveled into a concrete foundation provided in each headstone border.

Woodland Burial Ground

20. This clause in addition to the clauses numbered 1 to 18 above will only apply to the new Woodland Burial Ground at Birkhill Cemetery.
- (i) Memorial planting - all trees to be provided and planted by the Director of Leisure and Arts. Wildflowers may be planted on lairs subject to the approval of the Director of Leisure and Arts.
 - (ii) Memorial plaque - for the purpose of allowing the public to place memorial plaques, a series of memorial walls will be created, allowing the bereaved to place upon the wall a memorial plaque, with an inscription commemorating the deceased. Plaques will be from a selected range approved by the Director of Leisure and Arts and be uniform in size, colour and material. No conventional memorials can be placed on graves.
 - (iii) Placing of flowers - The bereaved upon initial burial will be allowed to lay flowers upon the grave. Thereafter, all flowers will be laid at the base of the memorial wall.
 - (iv) Lairs - each lair will be 1.53 metres depth and immediately adjacent to each other without footpath and allows for only one interment per lair.

Lairs can be purchased but positions not reserved. Lairs shall be allocated by the Director of Leisure and Arts at the time the funeral arrangements are made.

A registry certificate shall be issued but not against a specific lair. The name of the person so recorded shall be held to be the proprietor of the lair so purchased.

- (v) Coffins - all coffins shall be of a type approved by the Director of Leisure and Arts taken from the following approved list. Coffins should not be deeper than the standard 0.38 metres without the approval of the Director of Leisure and Arts.
 - (a) Standard coffin constructed from chipboard, plywood or wood with a minimum plastic content.
 - (b) Card coffins which are biodegradable made to an approved standard.
 - (c) Shrouds and body bags are acceptable but must be made of biodegradable material.

Maintenance

An area immediately adjacent to roads and paths shall be of a standard amenity maintenance. The woodland areas shall be cut twice per year.

21. Cremated Remains

This clause, in addition to the clauses numbered 1 to 18 above, will only apply to the Cremated Remains Garden at Birkhill Cemetery.

- (i) The area(s) of ground designated by the Council will be known as the Cremated Remains Garden(s). These Garden(s) shall be for the sole purpose of the interment of cremated remains.
- (ii) For the purpose of interring cremated remains the Council shall offer the public a section of ground.
- (iii) The lair shall measure no more than 1.5m x 1m to a depth of 600 mm.
- (iv) A maximum of four interments of caskets or urns will be allowed in each lair, one in each corner.
- (v) Headstones will be permitted to a maximum size of 900 mm x 1m x 0.46m within the headstone borders.

22. Baby Memorial Garden

This clause, in addition to the clauses numbered 1 to 18 above, will only apply to the new Birkhill Baby Memorial Garden at Birkhill Cemetery.

- (i) The area of ground designated by the Council will be known as Birkhill Baby Memorial Garden. The Birkhill Baby Memorial Garden shall be designated for stillborn and for babies up to, and including, two years old.
- (ii) For the purpose of interring a baby or stillborn baby, the Council will offer the parent(s) a section of ground.
- (iii) The ground will measure no more than 1.5m x .91m at a depth of approximately 1200mm.
- (iv) Interment will take place in the next available space as determined by the Director of Leisure and Arts with one interment per space.
- (v) Small memorials set on a plinth with optional flower holders - maximum height 350mm x 450mm long and 300mm wide will be permitted in headstone borders. The choice of materials will be in stone, the type and finish to be a matter of individual choice. The construction of the plaque and plinth shall be to the Councils specifications.
- (vi) Plaques, in addition to memorials in headstone borders will be permitted. A wall has been provided by the Council for the purpose of allowing parents to erect a plaque in memory of the deceased baby.
- (vii) Plaques will be standard, made from stainless steel approximately 3mm gauge and 175mm x 100mm fitted with stainless steel screws. A maximum of two colours of type may be used.

- (viii) Floral tributes will only be allowed on the grave at the time of burial and remain for approximately two weeks. Thereafter any tributes will be placed around the memorial wall. Alternatively, flowers will be placed within the flower holder attached to the memorial stone.
- (ix) Any parent(s) having a stillbirth or baby interment at another location, on production of relevant documentation, may be permitted to erect a memorial plaque.

23. The foregoing Rules shall come into force on the date of their execution.

Dated at Dundee this day of , Two Thousand and .