Management Rules

Cemeteries and Burial Grounds

**Management Rules - Cemeteries and Burial Grounds**

North Lanarkshire Council hereby makes the following rules for the management, regulation and control of cemeteries and burial grounds in North Lanarkshire in terms of Section 112 of the Civic Government (Scotland) Act 1982 and Section 17 of the Burial Grounds (Scotland) Act 1855 as amended.

# Interpretation and General

* 1. Throughout these Management Rules:
  2. **‘Council’** means North Lanarkshire Council and includes their statutory successors.
  3. **‘Cemetery/Burial Ground’** means any cemetery/burial ground or churchyard under the control of the Council.
  4. **‘Chief Officer’** means the Chief Officer for the time being appointed by the Council or any duly designated officer of the Council representing them or acting on their behalf at any time and at any Facility or such other person appointed by the Council to perform this or an equivalent function.
  5. **‘Lair’** means a burial plot within a Cemetery/Burial Ground, that being the volume of ground defined to contain buried human remains comprising a number of individual graves arranged vertically.
  6. **‘Cemeteries Register’** means the books or digital records of the registration of transactions, applicable lair numbers, and identities and contact information of lair holders.
  7. **‘Cremated Remains Lair’** means a burial plot within a Cemetery/Burial Ground, that being the volume of ground defined to contain buried human remains comprising a number of individual cremated remains.
  8. **‘Lair Holder’** means a purchaser of a Right of Burial in respect of a Lair as described in a Lair Certificate.
  9. **‘Lair Certificate’** means a document in such form as the Council may decide from time to time, entitling the Lair Holder to a Right of Burial in respect of the Lair described in that document. For the avoidance of doubt a Lair Certificate does not create ownership rights in the land in which the Lair is located.
  10. **‘Lair Transfer Certificate’** means a certificate issued by the Council transferring a Lair Holder’s Right of Burial to a nominated person, which shall be in such form as the Council may require from time to time.
  11. **‘Right of Burial’** means an exclusive right to be buried in a Lair as described in a Lair Certificate and a right to determine whose remains may be buried in that Lair. For the avoidance of doubt the Lair Holder is entitled to bury any person in the Lair providing the procedures for burial as set out in these management rules have been followed.
  12. **’Cohabitant’** means either member of a couple neither married nor in a civil partnership but who were living together as if they were married to each other and had been living so for a period of at least 2 years.
  13. **‘Facility and Facilities’** means and includes any land or premises which is owned, occupied, or managed by the Council, or is otherwise under their control and to which the public have access, whether payment or not.

1.2 Cemeteries/Burial Grounds may be visited 24 hours a day. Closure times for vehicular access will be displayed at or near the principal entrances. The Council shall retain the right to close to the public, at any time, all or any part of any Cemetery/Burial Ground if considered necessary and without giving notice of their intention to do so.

1.3 No person shall enter or leave any Cemetery/Burial Ground except by the entrances and exits provided for that purpose.

1.4 Leashed dogs are permitted, but fouling must be removed by the person in charge of the dog and disposed of properly. Failure to keep dogs leashed or to remove fouling will result in the person in charge of the dog being expelled from the Cemetery/Burial Ground and persistent offenders may be excluded from entering the Cemetery/Burial Ground in future.

1.5 Car parking facilities provided by the Council shall only be available to persons visiting the Cemetery/Burial Ground and only during such times as the facilities of the Cemetery/Burial Ground are being used by those persons. In all cases, the directions of the Chief Officer must be complied with and all vehicles in grounds or car parks in the Cemetery/Burial Ground must be driven at a reasonable speed and with due care and attention. The Council shall not be liable for any damage to vehicles or other property left in car parking facilities.

1.6 Vehicles conveying memorials or goods into the grounds of the Cemetery/Burial Ground will only be allowed entry with the consent of the Chief Officer. The person in charge of such vehicle must comply with the directions of the Chief Officer as to the route to be followed within the grounds.

1.7 A Lair Holder shall have no claim against the Council for any damage or loss sustained by past or future working of any mines, metals, minerals or stone or of the working mines, metals, minerals or stone in and under any ground adjoining the Lair.

1.8 The Chief Officer does not accept responsibility for any person who has been injured within a facility whilst engaged in unauthorised activities, or activities that contravene any of these Management Rules.

1.9 The Council may, at its absolute discretion, alter these Management Rules or any part of them from time to time, and make and enforce such other Management Rules.

1.10 These Management Rules supersede and revoke all previous North Lanarkshire Council Management Rules and Supplementary Management Rules and shall, unless earlier amended or revoked, continue in force for a period of ten years from the date they are approved by North Lanarkshire Council.

# Control of Burial Grounds

2.1 Control of all Cemeteries/Burial Grounds situated within North Lanarkshire shall be exercised by the Chief Officer.

# Right of Burial

* 1. In exchange for payment of the relevant fee to the Council (as set by the Council from time to time), a person may purchase a Right of Burial in a Lair and become a Lair Holder in perpetuity in respect of that Lair unless the Right of Burial is validly withdrawn by the Council or transferred by a Lair Transfer Certificate, as provided for in these rules.

# The Lair Certificate

* 1. The Chief Officer shall provide the Lair Holder with a Lair Certificate. Only a person registered as a Lair Holder in the Council’s records shall have the right to authorise the opening of the Lair, unless another person is allowed to authorise the opening of the Lair by operation of law. The production of the Lair Certificate together with a satisfactory endorsement by a Funeral director or Lair Holders successor.
  2. Unless the Chief Officer in their sole discretion allows otherwise, only one natural person shall be registered as a Lair Holder in respect of a Lair at any time.
  3. A Lair Holder shall only be entitled to transfer a Lair during their lifetime with the consent of the Council in accordance with the rules for Transfer of the Right of Burial (see rule 5.1).
  4. No new Lair shall be sold unless required for the burial of a person deceased at the time of the application to purchase a Right of Burial in the Lair.
  5. No person shall be entitled to demand a Lair at any particular location and the allocation of Lairs shall be at the sole discretion of the Chief Officer.
  6. The Council will only transfer a Lair Certificate from a deceased person to their beneficiary once the deceased person has been interred within the Lair described in that Lair Certificate.
  7. If a Lair Certificate is mislaid, lost or accidentally destroyed, an application for a duplicate Lair Certificate may be made to the Chief Officer accompanied by any applicable fee that may be set by the Council from time to time. Before a duplicate Lair Certificate is issued, the applicant must send to the Chief Officer any evidence or information as the Chief Officer may reasonably require concerning the circumstances of the loss or destruction of the original Lair Certificate. A duplicate Lair Certificate shall be in such form and subject to such conditions as the Chief Officer may decide.

# Transfer of the Right of Burial

* 1. A Lair Holder shall not be entitled to transfer or sell their Right of Burial in a Lair without the prior written consent of the Council. A Lair Holder may apply to the Council to transfer their Right of Burial to a nominated person provided both parties complete such forms as may be required by the Council from time to time for that purpose. A Lair Transfer Certificate shall be issued subject to such conditions as the Council may decide on submission of the relevant forms, together with payment of such fees as may be set by the Council from time to time in respect of the transfer of the Right of Burial, and providing the Council is prepared to consent to the transfer.
  2. On the death of a Lair Holder, their successor, as described in terms of rules 5.6, 5.7 and 5.8 below, shall be entitled, to be registered as Lair Holder in the Council’s records on producing sufficient evidence of their right to the satisfaction of the Chief Officer. In these circumstances a new Lair Certificate will be issued to the Lair Holder’s successor, provided the original Lair Certificate has been produced and surrendered to the Council or otherwise accounted for to the satisfaction of the Director.
  3. A Lair Holder shall be permitted to bequeath their Lair to any one person. If a Lair Holder tries to bequeath the Lair to more than one person, only one of those persons will be entitled to succeed to the Right of Burial. Rule 5.6 shall be used to decide which of those persons should inherit the Right of Burial. The Lair may only be inherited by more than one person at the sole discretion of the Chief Officer.
  4. The Council shall not be responsible for any misunderstanding or error in its acceptance in good faith of any person claiming to be the legal Lair Holder or to have a Right of Burial even should it be ascertained subsequently that such a claim was unfounded.
  5. If a Lair Holder dies and has made no valid bequest of the Lair, the Right of Burial in the Lair shall transfer to the Lair Holder’s successor using the order of ranking detailed in rule 5.6.
  6. The order of ranking is;
  7. the Lair Holder’s spouse or civil partner
  8. the Lair Holder’s cohabitant;
  9. the Lair Holder’s child;
  10. the Lair Holder’s parent;
  11. the Lair Holder’s sibling;
  12. the Lair Holder’s grandparent;
  13. the Lair Holder’s grandchild;
  14. the Lair Holder’s uncle or aunt;
  15. the Lair Holder’s cousin;
  16. the Lair Holder’s niece or nephew;
  17. In the event of there being more than one person in any class of relative, the party succeeding shall be the eldest in each case and the nearer of the classes shall take precedence over the remoter.
  18. Children shall include adopted children.
  19. In the event of there being no successor, the Lair shall revert to the Council.
  20. Prior to any funeral arrangements being publicly announced, the Council’s cemeteries administration office must be in receipt of a Form 14 and have authorised the funeral arrangements.
  21. An application for burial must be given to the cemeteries administration office as early as possible, and in any event (and unless agreed otherwise with the Chief Officer), not less than 48 hours prior to the proposed burial, (excluding Saturdays, Sundays, Christmas Day and New Years Day).
  22. The application for burial shall state the name, address, age, and date of death of the deceased, their place of residence at the time of death, the day and time of the burial and any other information as may be considered to be necessary by the Chief Officer. Following the receipt of a satisfactory application for burial within an acceptable period of notice, and examination of the Lair Register, a Preparation and Authorisation for burial will be issued.
  23. No Lair Holder shall be entitled to have the ground opened to a depth greater than 2.4 metres and no burial shall take place unless it will leave at least 0.6 metres of soil between the ordinary surface of the ground and the upper side of the coffin. Cremated remains may also be interred in a Lair. The Lair details and the available space in any one Lair shall be recorded on the Lair Certificate following each burial.
  24. The digging of graves and preparation of foundations for monuments shall be done only by persons duly authorised by the Chief Officer. The Council will be entitled to charge such fees as it sets from time to time for work that is necessary to give effect to a burial.
  25. The Council shall make and keep a record of every burial, specifying the Lair, the depth of the grave, the date of burial, the name and date of death of the person buried and any other particulars considered necessary for the proper management of the Burial Ground.
  26. Nobody shall hold any public meetings, processions, demonstrations, religious service (except in connection with a funeral) political rally, lecture or concert in any Cemetery/Burial Ground, without the prior written consent of the Chief Officer.
  27. The fees and charges to be paid in connection with burials, purchase of Lairs and other matters specified in these rules shall be set by the Council from time to time. A scale of burial fees and other charges shall be kept by the cemeteries administration office and can be accessed on the Council’s website. All fees and charges paid in connection with burials, Lair Certificates or other forms of cemeteries administration and other matters specified in these rules shall be paid by to the Council on demand and acknowledged by invoice. The Council has the right to withdraw cemetery services from a person or a business if that person or business owes an outstanding debt to the Council.
  28. The funeral director is responsible for the provision of sufficient bearers to convey the coffin from the hearse to the graveside and for lowering the coffin into the Lair. The Council is under no obligation to provide staff members to act as coffin bearers but if persons acting on behalf of the Council are asked to assist, neither they nor the Council will be held responsible for any damage to hearses or coffins.
  29. Up to a maximum of 8 people can act as cord bearers to lower a coffin into a Lair.
  30. Cremated Remains Lairs may be provided in some Cemeteries/Burial Grounds at the sole discretion of the Chief Officer. On payment of the appropriate fee the right to inter cremated remains will be granted by the Council with the right to erect a memorial suitable to the Cremated Remains Lair. The installation and, renovation of memorials for Cremated Remains Lairs and the addition of inscriptions shall be subject to rules 6.6, 6.8 and 6.9 below. A Right of Burial in relation to cremated remains and the use of Cremated Remains Lairs for that purpose shall be governed by these rules in a similar manner to the burial of coffins. Application for burial of cremated remains must be made in the same manner and providing the same information as that provided for in these rules for the burial of a coffin.

# Memorials

* 1. The erection of a headstone Memorial shall be permitted only on allocated Lairs and at no other place in the Cemetery/Burial Ground.
  2. A Lair Holder shall be entitled to have a Headstone Memorial erected but such headstone memorial shall not protrude in any way over the part of the Lair that requires to be opened for burials and shall be restricted to at least 75 mm less in width that the width of the Lair.
  3. Headstone memorials erected after 1st January 2024 are restricted to approx. 1524mm (5ft) in height. Lair gardens should be erected through a dry fixed method and should not extend beyond a maximum of 300 mm (approx. 12 inches) from the front edge of the memorial foundation. The Council will not be responsible for any theft, loss or third-party damage.
  4. All headstones must be constructed in accordance with British Standard BS8415-2018. Any construction must be safe in the opinion of the Chief Officer.
  5. Foundations for all memorials will be constructed in accordance with such recommendations as may be formulated from time to time by the National Association of Monumental Masons unless otherwise authorised by the Chief Officer.
  6. The Lair Holder shall keep memorials and lair gardens in a neat, proper and safe condition, of which the Chief Officer or any duly authorised members of staff shall be the judge. If, in the opinion of the Chief Officer, a Lair Holder has not complied with this rule, then the Chief Officer will give 21 days written notice to the Lair Holder, at his last known address, requiring them to carry out any work or removal the Chief Officer may specify as being necessary to rectify the situation. If, following the period specified in the written notice, the position has not been rectified to the Chief Officer’s satisfaction the Council shall be entitled either to repair the Memorials or lair gardens, make them safe or to have them removed at the Lair Holder’s expense. Until the cost of such repairs or removal is paid to the Council, the Lair Holder’s Right of Burial in the Lair shall be suspended.
  7. The Council shall be entitled to make safe, lay flat, band by using support struts or trench memorials by setting approximately a third of the memorial plate into the ground, according to the condition of the memorials. Should the condition of an inspected memorial require immediate action for reasons of public safety, the Council will take action to make safe and notify the lair holder in retrospect as described in rule 5.14.
  8. No shrubs or flowers shall be planted in any Lair except in designated woodland burial sites and without the prior consent of the Chief Officer.
  9. Memorial wreaths, spent flowers and inappropriate items will be removed at the discretion of the Chief Officer. Tributes including Christmas wreaths and armistice wreaths will also be removed after a period deemed appropriate by the cemetery staff, taking into account the condition of the tribute, the condition of the grass on the Lair and the prevailing weather conditions.
  10. The Lair Holder shall be responsible for any damage to any headstone memorial on the Lair other than damage caused by the Council, or its employees or agents. The Lair Holder shall relieve the Council of any liability arising in connection with damage caused by any Memorial on the Lair or as a result of the condition thereof.
  11. All works referred to in rules 6.4 and 6.14 shall be carried out only by Memorial Masons approved in accordance with any North Lanarkshire Council Registration for Memorial Masons then in force.
  12. A request for a permit for the installation, or renovation of, or works to add any additional inscription to a headstone memorial must be submitted to the Chief Officer on such forms and accompanied with payment of such fees as may be required from time to time and the principal Lair Certificate. Such works shall not commence until and unless the request has been granted by the Council and a memorial permit issued.
  13. Once a permit has been granted the Memorial Mason must book an allocated slot using the Council’s booking system to complete the required works. This slot must be booked at least 24 hours prior to attendance at the Cemetery/Burial Ground.
  14. On the specified time and date, the Memorial Mason must attend at the Cemetery/Burial Ground within one hour of the allotted time to complete the stated works. On attendance at the Cemetery/Burial Ground the Memorial Mason must provide copies of both their Fixers license and the permit authorising the works. Without these documents the Memorial Mason will not be granted entry to the Cemetery/Burial Grounds to complete the works.
  15. If the works are being completed on a Saturday or Sunday, Memorial Masons must provide copies of both their Fixers license and the permit authorising the work on the Friday prior to the works being completed.
  16. Installation of new memorial headstones is not permitted on a Saturday or a Sunday.
  17. No work or operation of any kind shall be permitted inside a Cemetery/Burial Ground without the permission of the Chief Officer. The Chief Officer will require to be satisfied that the authority of any relevant Lair Holder has been obtained before such work commences.
  18. The section and number of the Lair designating its location within the Cemetery/Burial Ground must be cut plainly on the side of the headstone memorial at the expense of the person who has instructed erection of the headstone memorial.
  19. No memorials or part thereof shall be removed from the Cemetery/Burial Ground without the prior consent of the Chief Officer.
  20. No memorial benches, trees or other forms of memorialisation shall be permitted to be situated in any Cemetery/Burial Ground/Baby Garden without the prior written consent of the Chief Officer. All applications for such permission shall be submitted on such forms as may be required from time to time by the Chief Officer and any such permission granted may be subject to such conditions as the Chief Officer deems appropriate.

# Conduct

7.1 No person shall, whilst in a Cemetery/Burial Ground:

* 1. use any profane or offensive language or behave in an offensive, disorderly or insulting manner.
  2. wilfully or carelessly obstruct, disturb or interrupt any officer, employee or agent of the Council in the exercise of his duties or in the execution of any work associated therewith.
  3. wilfully or carelessly interfere with any other person using the facilities provided by the Council or behave in such a manner as to endanger their own or any other person’s safety.
  4. disobey any proper instructions given by any member of the Cemetery/Burial Ground staff to ensure the safety and comfort of all persons using the Cemetery/Burial Ground.
  5. bring into or retain within a Cemetery/Burial Ground any object or objects which may be considered by any member of the Cemetery/Burial Ground staff to be dangerous.
  6. climb upon any tree, shrub, wall, fence, railing, monuments, fountain, statue, building or other structure.
  7. enter or use any toilet or facilities reserved or designated by the Council for use by persons of the opposite sex, provided that nothing in this regulation shall prevent a child under 8 years of age using a toilet or facilities provided for persons of the opposite sex whilst accompanied by an adult of the sex permitted to use the toilet or facility.
  8. wilfully or carelessly break, damage, deface, disfigure, tamper with or improperly soil any tree, shrub, wall, fence, railing monuments, fountain, statue, building or other structure in the Cemetery/Burial Ground.
  9. wilfully or carelessly damage, destroy or improperly soil any articles supplied by the Council for use in the Cemetery/Burial Ground.
  10. retain or remove any article supplied by the Council for use by that person after the purpose of which same was issued has been served.
  11. no ball games of any description are permitted within any Cemetery/Burial Ground controlled by the Council.
  12. install any closed-circuit television (CCTV) on any part of the Cemetery/Burial Ground, including but not limited to headstones, Lairs or memorials. If the Council becomes aware of any CCTV that has been installed within any part of the Cemetery/Burial Ground it will be removed.
  13. attach any fixings, including but not limited to plaques and fences, around or on non-memorial trees located within the Cemetery/Burial Ground. The Council may remove any such memorialisation without notice.
  14. no personal powered grass cutting, or ground maintenance machinery should be used.

# Offences and Exclusion Orders

* 1. If the Chief Officer has reasonable grounds for believing that any person has contravened, is contravening or is about to contravene any of the foregoing management rules, they may expel that person from the cemetery. Any person who fails to leave the cemetery on being so expelled shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.
  2. The Council may decide that a person who has persistently contravened or attempted to contravene these rules, in its opinion, likely to contravene the rules again. In that event, the Council may decide to make any such person subject to an exclusion order, and if the Council so decided, they shall give the person subject to the exclusion order notice of their decision.
  3. Any person who, being a person subject to an exclusion order, enters or attempts to enter a cemetery to which the exclusion order relates, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.
  4. Any dispute arising as the real intent, meaning or interpretation of these rules or any schedule of fees and charges shall be adjudicated upon by the Chief Officer whose decision shall be final.

The foregoing Management Rules are sealed with the Common Seal of North Lanarkshire Council and subscribed on their behalf by Archibald Aitken at Motherwell on the Tenth day of October Two thousand and Twenty three.