



Kildare County Council
Comhairle Contae Chill Dara

Kildare County Council (Cemeteries) Byelaws 2018

December 2018

Kildare County Council (Cemeteries) Byelaws 2018

BYELAWS

Made by Kildare County Council, under Section 199 of the Local Government Act 2001(as amended) for the Regulation of Cemeteries in the control or in the ownership of Kildare County Council.

SHORT TITLE

1. These Bye-Laws may be cited as the Kildare County Council (Cemeteries) Bye- Laws, 2018.

COMMENCEMENT DATE

2. These Bye-Laws shall come into force on the 1st day of March, 2019.

INTERPRETATION OF TERMS

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

“Authorised person” means a person authorised in writing by the Council to issue a Fixed Payment Notice pursuant to Byelaw 35.

“Beam” means the Headstone Beam where already provided in the cemetery.

“Burial Plot Owner” means the person who purchased a burial plot in accordance with Byelaw 19, or if that person is deceased, the person or persons who arranges for the erection of the headstone or any other structure over the burial plot identified in the burial plot receipt.

“Cemetery” means any cemetery or burial ground under the control or in the ownership of the Council.

“Certificate of Permission” means a certificate issued by the Council for the erection of a structure on a burial plot.

“Council” means Kildare County Council.

“Foundation” means the support for a headstone.

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

“Member of the same Family” means the Father, Mother, Husband, Wife, Civil Partner, 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.

“Place of Reception” shall mean a place designated by the Council to receive human remains prior to burial in a cemetery.

Kildare County Council (Cemeteries) Byelaws 2018

“Recorded monument” All ancient graveyards and associated churches/ site of church as are designated archaeological sites and registered in the Recorded Monuments Places, established under Section 12 of the National Monuments (Amendment) Act 1994. (Website: www.archaeology.ie).

“Registrar” or *“Caretaker”* means the Registrar or Caretaker, appointed by the Council in respect of any cemetery under the control or in the ownership of the Council.

“Right of burial” means the right to be interred or to have cremated remains interred in a particular grave space, whether under these byelaws or otherwise.

APPLICATION OF BYELAWS

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

CESSER OF EXISTING BYELAWS

- 5.1 On the coming into force of these byelaws, all existing byelaws, rules and regulations relating to cemeteries under the control or in the ownership of the Council shall cease to have effect.

GRAVE SPACES

- 6.1 In all new Cemeteries, the area to be used for graves shall be divided into grave spaces, so that the position of each grave space may be readily ascertained.
- 6.2 In all new cemeteries a corresponding map or maps of the cemetery, either in written or electronic format shall be maintained, and where in written form kept at some convenient place. On such map or maps every grave space shall be shown with its distinctive mark inscribed thereon, i.e. section, row and number.
- 6.3 The designation of areas within a cemetery as being grave spaces suitable for any particular mode of burial is at the discretion of the Council.

SIZE OF GRAVE SPACES

- 7.1 The grave spaces for the burial of non cremated human remains shall be 2.5m (metre) long by 1.22m wide excluding beam dimension.
- 7.2 The grave spaces for the burial of cremated remains may be of differing sizes and the number of interments will be determined by the size of each individual space.

HUMAN REMAINS

- 8.1 Only human remains and cremated human remains shall be interred in a Cemetery.

FIRST INTERMENT – Burial of non cremated human remains (Remains)

- 9.1 Each grave, when opened for the first interment therein, shall be sunk to the perpendicular depth of 2.45m at least, or in case the nature of the sub-soil will not permit of the grave being sunk to such depth, then to such lesser depth as the Council shall specify.
- 9.2 Up to a maximum of 3 (three) coffin burials will be permitted in a single grave and 6 (six) in a double grave, subject to such conditions as may be specified by the Council from time to time.

MODE OF BURIAL

- 10.1 Subject to 10.2, no interment shall be permitted in any cemetery, nor shall any non cremated human remains be admitted into any place of reception of bodies previous to interment, unless the body is enclosed in a coffin of wood or other sufficiently strong material.
- 10.2 Un-coffined burials may be permitted, unless a direction has been issued not to do so by the relevant Sanitary Authority or the Health Service Executive, in an area of a burial ground designated exclusively for that purpose. Where an un-coffined burial is permitted, any reference in these byelaws to a coffin includes a reference to the wrappings of the un-coffined body.
- 10.3 Where possible, in new and existing cemeteries, areas will be designated to accommodate the interment of cremated remains.

OPENING OF BURIAL PLOT

- 11.1 The Caretaker or Registrar must always be notified prior to the opening of a grave.
- 11.2 No grave, in which any remains 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 which must be produced in advance to the Caretaker or the Registrar. Breach of this requirement shall constitute an offence.
- 11.3 No un-walled grave shall be re-opened within fourteen years of the burial of a person above twelve years of age, or within eight years of the burial of a child under twelve years of age, unless to bury a member of the same family), in which case a layer of earth not less than 300mm shall be left undisturbed above the previous coffin, and if on re-opening any grave, the soil is offensive, such soil shall not be disturbed and in no case shall human remains be disturbed.

Kildare County Council (Cemeteries) Byelaws 2018

- 11.4 In no case shall human remains be removed from a burial plot without having obtained an Exhumation Licence having been obtained. Breach of this requirement shall constitute an offence.
- 11.5 A burial plot owner shall be responsible for the opening and closing of a burial plot, subject to such conditions as may be specified from time to time by the Council. Any person contravening this bye-law shall immediately leave the cemetery on being so requested by the Council's Caretaker or Registrar.
- 11.6 Breach of any of the requirements contained in Byelaw 11 shall constitute an offence.

DEPTH OF BURIAL

- 12.1 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.

CREMATED HUMAN REMAINS (Cremated Remains)

- 13.1 Cremated human remains may be interred in an urn or small casket or other approved containers in conventional grave spaces, grave spaces designated solely for cremated remains or placed in a Columbarium Wall, or other facilities, where provided.
- 13.2 The following provisions shall apply in relation to burial in a conventional grave space where it is proposed to inter both remains and cremated remains.
- (I) Where at the time of the making of these Bye Laws cremated remains have already been interred any subsequent internments shall, subject to Sub Paragraph (III) hereof, be undertaken in accordance with Bye Laws 9 to 12. That is the interment of cremated remains is treated as if it was a burial of remains.
- (II) Where no interment has taken place, the first cremated remains interred in a conventional grave space must be interred immediately adjacent to the headstone, or as close thereto as is practicable.
- (III) The maximum number of interments of cremated remains that will be allowed in a conventional grave space shall be determined by the following requirements:
- Where a conventional grave space is being used for conventional and cremated remains internments a layer of earth not less than 300mm in depth shall be left undisturbed above the previously buried coffin and the base of an urn or casket.

Kildare County Council (Cemeteries) Byelaws 2018

- Interments must be to a depth to allow for a minimum of 300mm between the top of the urn or casket and the top of the beam or foundation.
- A space of 300mm must be maintained between urns or caskets.

13.3 Cremated remains interred in a grave space designated specifically for cremated remains must be buried to a depth that allows for 300 mm between the top of the urn or casket and the level of the headstone beam or foundation. A clear space of a minimum of 300 mm on all sides must be maintained between urns/caskets.

13.4 Breach of any of the requirements contained in Byelaw 13 shall constitute an offence.

COLUMBARIUM WALL

14.1 Each standard niche in the Columbarium shall be sufficient for two standard receptacles.

14.2 Ashes must be contained in standard receptacles as specified by the Council.

14.3 Only Council personnel will be authorised to open a niche in the Columbarium.

14.4 Inscriptions on niches must comply with Council engraving standards as set from time to time. Engravings that do not comply with the Standards shall not be placed on the Columbarium. Inscriptions on any other facilities, which may be allowed by the Council, will be required to meet with Council engraving standards.

14.5 Breach of any of the requirements contained in Byelaw 14 shall constitute an offence.

INTERRUPTION OF INTERMENT

15.1. A person shall not prevent or attempt to prevent or disturb the celebration of funeral rites in respect of any deceased person.

15.2 Breach of the requirement in Byelaw 15 shall constitute an offence.

EXHUMATION

16.1 No body, nor the remains of any body, shall be removed from one place of burial to another, or exhumed (except under the conditions set forth in Byelaw 11) without the prior written consent of the Council which shall be in the form of a Licence ("the Licence") and with such precautions as the Council may prescribe as the condition of such Licence.

Kildare County Council (Cemeteries) Byelaws 2018

- 16.2 It shall be an offence to remove or assist in removing any such body or remains contrary to this Byelaw, or to neglect to observe the conditions prescribed in the Licence for the removal.

REGISTER OF BURIALS

- 17.1 A Register (in paper or electronic format) shall be kept in some convenient place, and when in paper format shall be open for inspection at all reasonable times; but no person, except the person having the care and management of the cemetery, and in these Byelaws called the Registrar, shall be permitted to write in the Register save as hereinafter mentioned.
- 17.2 A printed copy of these Byelaws shall be affixed to the Register.

ENTRIES IN REGISTER

- 18.1 The Register shall record the existence of any recorded monument(s) in a cemetery.
- 18.2 Before the interment of any person or their cremated remains in a cemetery, or before admission into a Place of Reception, the Caretaker/ 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, date of death, sex, age, together with his or her last place of residence, or such other information as would adequately identify the remains.
- 18.3 After the interment due entry shall be made by the Caretaker/ Registrar under its proper heading of the distinctive mark of the burial plot.

PURCHASE OF CERTIFICATE OF RIGHT OF BURIAL

- 19.1 An application to acquire a right of burial in a grave plot in any cemetery shall be made to the Council. No application for a burial plot will be accepted in advance of an actual or imminent death.
- 19.2 Any such application shall only be accepted in respect of the proposed burial of a person being a resident or having established links to the local area in which the cemetery is located.
- 19.3 The application shall include the name and address in sufficient detail to ensure future identification against the Register, and also the specified fee.
- 19.4 Notwithstanding the above no new burial plot shall be permitted within a historic graveyard as identified in the Record of Monuments and Places, established under the National Monuments (Amendment) Act 1994.

Kildare County Council (Cemeteries) Byelaws 2018

- 19.5 The receipt issued in response to the application shall constitute evidence of the owner's right of burial. As the details depend on the accuracy of the information supplied, the Council shall not be liable for any errors in the receipt as issued.
- 19.6 The receipt is issued at time of allocation. A burial plot receipt does not allow the erection of a headstone without a separate application being made to the Council in accordance with Byelaw 28.
- 19.7 The selling or transfer of a grave plot to a third party is not permitted. However, the Council will facilitate those wishing to return the plot to the Council. A right of burial may be transferred to a member of the same family.

VISITORS

- 20.1 Visitors to the cemetery shall enter or leave the cemetery only by means of the entrance(s) provided for that purpose. A visitor shall close and re-secure any gate he/she opens at a cemetery.
- 20.2 Visitors shall confine themselves to the paths or avenues within the cemetery.
- 20.3 Visitors shall not interfere with any of the tombs or monuments or headstones or with the Columbarium or with any flowers, shrubs or wreaths within the cemetery.
- 20.4 No person shall allow or cause a dog to enter a cemetery, save and except an assistance dog accompanying a person therein.
- 20.5 Breach of any of the requirements contained in Byelaw 20 shall constitute an offence.

SELLING ARTICLES

- 21.1 No person shall sell or offer or expose for sale any articles, service(s) commodity or thing of any kind whatsoever or solicit for orders for same within the cemetery.
- 21.2 Any person so selling or soliciting orders within a cemetery, as aforesaid, may be directed by the Caretaker/ Registrar to leave the cemetery and will not be admitted again without the permission of the Council.
- 21.3 Breach of any of the requirements contained in Byelaw 21 shall constitute an offence.

MISCONDUCT

- 22.1 The Caretaker/ Registrar shall be at all times at liberty to direct the removal of any person from the cemetery who may be guilty of misconduct therein.

For the purposes of this byelaw, "misconduct" includes:

Any contravention of these byelaws, any behaviour of a criminal, immoral, lewd or offensive nature; or creating a nuisance; and the consumption of alcoholic drinks or controlled drugs as defined by the Misuse of Drugs Act 1977 (as amended).

22.2 Breach of any of the requirements contained in Byelaw 22 shall constitute an offence.

DAMAGE TO HEADSTONES etc

23.1 No person shall wilfully deface, destroy or damage any building, wall, fence, columbarium, monument, headstone, tablet, notice board or any other article, whether belonging to the Council or burial plot owner, 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.

23.2 Breach of any of the requirements contained in Byelaw 23 shall constitute an offence.

MONUMENTS UNDER THE NATIONAL MONUMENTS ACTS & PROTECTED STRUCTURES

24.1 Particular provisions apply under separate legislation where a burial ground is located within, beside or adjacent to

- (I) A national monument within the meaning of the National Monuments Act 1930 (as amended) of which the Minister for Culture, Heritage and the Gaeltacht (or any Minister succeeding the said Minister in regard to responsibility for functions under the National Monuments Acts) or a local authority is owner or guardian, or
- (II) A national monument subject to a preservation order or temporary preservation order under the National Monuments Acts, or
- (IV) A historic monument or archaeological area which stands registered in the Register of Historic Monuments under Section 5 of the National Monuments (Amendment) Act 1987, or
- (IV) A monument or place recorded under Section 12(1) of the National Monuments (Amendment) Act 1994, or
- (V) A protected structure within the meaning of the Planning and Development Act, 2000 as amended

24.2 For burial grounds to which legislative requirements described in Byelaw 24.1, the following shall apply:

- (I) Any monument erected in such a burial ground shall be in-keeping with the character of the relevant national monument, historic monument, area, monument, place or structure.

Kildare County Council (Cemeteries) Byelaws 2018

- (II) No work shall be carried out to any upstanding masonry ruins or masonry walls of the burial ground or other structures other than with the prior authorisation of the Council and in compliance with all applicable statutory procedures and requirements. The Council may provide guidance on appropriate materials and appropriate styles of construction and may prohibit other materials or forms of styles of construction.
- (III) No new burials shall take place in burial grounds deemed "full" by the Council. Persons with existing burial rights may continue to exercise those rights providing there is sufficient space within an existing burial plot and providing the burial will not adversely impact on any adjoining structures.

24.3 Breach of any of the requirements contained in Byelaw 24 shall constitute an offence.

TREES

25.1 No trees shall be planted on any grave space in the cemetery and shall be removed at the direction of the Caretaker/ Registrar.

25.2 Breach of the requirement of Byelaw 25 shall constitute an offence.

PROVISION OF SEATING

26.1 Only seating provided by the Council will be permitted in any cemetery and any other seat(s) shall be removed at the direction of the Caretaker/ Registrar.

26.2 Breach of the requirement of Byelaw 26 shall constitute an offence.

SHRUBS AND FLOWERS

27.1 Any fresh flowers or wreaths placed on graves after burials have taken place shall be removed by the burial plot owners or their representatives within two months, or when weathered. Failure to do so may result in them being removed by the Caretaker/ Registrar.

27.2 The planting of shrubs and flowers in lawn cemeteries is not permitted.

27.3 Memorial flowers in lawn cemeteries will be permitted only when placed on the headstone beam.

ERECTION OF MONUMENTS

28.1 No tomb, monument, vault, headstone, tablet, kerbstone or permanent structure of any description or material shall be erected or constructed on any place of burial in a cemetery, unless and until a Certificate of Permission for the structure has been obtained on foot of an application in the prescribed form and the works are carried out in accordance with the terms of any such certificate.

28.2 The number of the grave space shall be clearly identified on the headstone.

Kildare County Council (Cemeteries) Byelaws 2018

- 28.3 At any time during the course of the construction or erection of a tomb, monument, vault, headstone, tablet, kerbstone or permanent structure of any description within a cemetery, the Caretaker/ Registrar may require the person or persons carrying out the works to produce the Certificate of Permission for inspection relating to those works and may direct the cessation of works pending its production.
- 28.4 The Caretaker/ Registrar may direct the alteration or removal of any monument erected contrary to the terms and conditions upon which permission to erect same was granted, or in the event of it being erected without an official Certificate of Permission from the Council, or in the event of it exceeding the height permitted by these Byelaws, or in the event of it being constructed of materials other than those permitted by these byelaws. The Council may recover the cost of any removal from the burial plot owner as a simple contract debt in a court of competent jurisdiction.
- 28.5 Breach of any of the requirements set out in Byelaw 28 shall constitute an offence.

PERISHABLE AND UNSUITABLE MATERIALS

- 29.1 The use of materials of a perishable nature as part of any monument or structure in any cemetery will not be permitted, except in cases of the erection of a temporary monument.
- 29.2 The burial plot owner shall ensure that a temporary monument erected on the grave plot is removed from the cemetery within 18 months of the date on which it was erected.
- 29.3 Temporary monuments shall not exceed a height of 0.6 metres above ground level and shall be permitted subject to the removal of the structure within 18 months from the date of burial, or such extended period as shall be permitted by the Council.
- 29.4 An application for the use of plastic or synthetic materials as part of a headstone shall be made to the Council in writing and the Council may in its absolute discretion permit the use of such materials. Any such application shall be made before said materials are used as part of the headstone.

KERBS, FOOTSTONES, ETC- LAWN CEMETERIES

- 30.1 Where any cemetery or part of a cemetery, has been provided and developed as a lawn type cemetery, no kerbstones/footstones of any description will be permitted under any circumstances.

HEALTH AND SAFETY & INSURANCE

- 31.1 All persons carrying out work within a Cemetery shall have due regard to their own safety and the safety of others in the cemetery.
- 31.2 All persons carrying out work within a cemetery shall comply with the Council's requirements as specified in letter of permission issued for any works.
- 31.3 All persons carrying out work within a cemetery shall be required to confirm to the Council they have adequate Public Liability and Employers Liability insurance (if applicable), to a level as determined by the Council from time to time and shall produce if so demanded a copy of the relevant insurance policies.

WORKS IN CEMETERIES

- 32.1 No contractor shall engage in works in any cemetery, including sculptors, landscape and landscape workers, without receiving permission from the Caretaker/ Registrar prior to carrying out the works.
- 32.2 Persons carrying out works in a cemetery shall ensure that the deposit of, and mixing of sand, gravel and cement for making concrete will not take place on paths or unprotected ground, and shall ensure that it is carried out on portable platforms.
- 32.3 All surplus materials left over when the work has been completed must be removed from within the confines of the cemetery by the persons carrying out the works or the burial plot owner at the time of the completion of the works.
- 32.4 Any damage caused to lawns, grave spaces, walls, drives, trees, shrubs, or other property within a cemetery by persons carrying out work must be repaired by those persons causing such damage.
- 32.5 Sandblasting or polishing of old headstones may weaken the headstone. No sandblasting or polishing works are permitted to headstones erected prior to 1900 A.D.
- 32.6 Breach of any of the requirements set out in Byelaw 32 shall constitute an offence.

REMOVAL OF BROKEN OR OTHER MONUMENTS

- 33.1 The removal of broken or other monuments is the responsibility of the burial plot owner. The Council may 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, a danger to users of the cemetery, or detracts from the appearance of the cemetery. In such cases, the Council may recover the cost of any such removal from the burial plot owner as a simple contract debt in a Court of competent jurisdiction.
- 33.2 Nothing in these byelaws shall confer any right on the Council and/or the burial rights owner(s) to move or otherwise interfere with ancient headstones, footstones or any archaeological features (above or below the ground) within the Recorded Monument, outside of authorised burials and activities by the Local Authority and/or the Department of Culture, Heritage & the Gaeltacht. Any proposal to undertake works within or in the vicinity of the Recorded Monument must be in accordance with National Monuments Acts (1930-2004) and be approved by the County Council's Heritage Officer, and approval is so granted, the works shall be carried out in accordance with any conditions attached to such approval.
- 33.3 Breach of any of the requirements set out in Byelaw 33 shall constitute an offence.

CEMETERY MANAGEMENT

- 34.1 The Caretaker/ Registrar may request any person who appears to be contravening or to have contravened a provision of these Bye-Laws to refrain from such contravention

CONTRAVENTION OF BYE-LAWS

- 35.1 If any person contravenes any specified provision of these Bye-Laws, the Council may, pursuant to Section 206(1) of the Local Government Act, 2001 (as amended), serve on such person a Fixed Payment Notice (see Schedule 1), specifying a fixed payment, as an alternative to a prosecution for such contravention. The amount of the fixed payment is €75 and the said fixed payment amount must be paid within twenty-one (21) days of the date of service of such Fixed Payment Notice if such person is to avoid a prosecution.
- 35.2 Any person served with a Fixed Payment Notice is entitled to disregard such notice and defend a prosecution of the alleged contravention in court.
- 35.3 A person who contravenes any specific provision of these Bye-Laws identified as an offence shall be guilty of an offence under Section 205 of the Local Government Act, 2001 and shall be liable on summary conviction to a fine not exceeding €2,500.

Kildare County Council (Cemeteries) Byelaws 2018

MADE and ADOPTED under the Common Seal of **KILDARE COUNTY COUNCIL**

This 17th day of December, 2018



Nominated Member



**Chief Executive
Kildare County Council**

Kildare County Council (Cemeteries) Byelaws 2018

Schedule 1

**Kildare County Council (Cemeteries) Bye- Laws, 2018
FIXED PAYMENT NOTICE FOR THE PURPOSES OF SECTION 206 OF
THE LOCAL GOVERNMENT ACT 2001**

To: Name: _____
Address: _____

NAME OF LOCAL AUTHORITY: Kildare County Council

It is alleged that you have contravened the provisions of Bye-Laws made under Part 19 of the Local Government Act 2001 entitled: Kildare County Council (Cemeteries) Bye- Laws, 2018:

(Specify nature of contravention):

.....
.....
.....
.....

At

On

During the period of 21 days beginning on the date of this notice you may pay the sum of €75 accompanied by this notice, at the offices of the Kildare County Council located at Aras Chill Dara, Devoy Park, Naas, County Kildare.

A prosecution in respect of the alleged contravention will not be instituted during the said period and if the sum of €75 is paid during that period, no prosecution will be instituted at any time.

Signed: (Authorised Person)

Date:

IMPORTANT: Payment will be accepted at the offices of the local authority specified above and must be accompanied by this notice. Payment may be made by post. Cheques, etc. should be made payable to "Kildare County Council". A receipt will be issued.

You are entitled to disregard this notice and defend the prosecution of the alleged contravention