

# DRAFT TCC Burial Ground Bye-Laws 2021

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Comhairle Contae Thiobraid Árann  
Tipperary County Council



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# 1 GENERAL

## 1.1 INTERPRETATION OF TERMS

"**Authorised Person**" means a person authorised in writing by the Council to issue a Fixed Payment Notice according to these Bye-Laws.

"**Beam**" shall mean, where it is already provided in a Cemetery, the reinforced concrete foundation designed as a continuously supported groundbeam to support Headstones or Memorials.

"**Burial**" includes the interment of human remains or the burial of cremated human remains;

"**Burial Ground**" is as defined in Section 44 of the Local Government (Sanitary Services), Act 1944. For these regulations, the term 'Burial Ground' shall be used synonymously with terms 'Cemetery' or 'Graveyard', and shall refer to any Cemetery or Burial Ground in the control or ownership of the Council.

"**Burial Register**" otherwise known as the "Registry Book"; refer to the 1888 Burial Ground Rules & Regulations.

"**Burial Registrar**" synonymous with the use of the term "Caretaker" shall mean the Registrar/ Caretaker appointed to any Cemetery under the control or in the ownership of the Council.

"**Cemetery**" for these regulations shall have the same meaning as the term "Burial Ground" and shall mean any Cemetery, Burial Ground or Graveyard under the control or in the ownership of the Council.

"**Coffin**" shall also mean 'casket', typically made of wood, and other types of receptacles for enclosing a corpse before burial.

"**Council**" shall mean Tipperary County Council.

"**Cremation Space**" shall mean a niche in a Columbarium Wall, where cremated ashes of the deceased are enclosed within the niche.

**"Cremation Urn Plot"** shall mean a designated area, generally much smaller than full-sized Grave Spaces/plots located in a Cemetery or located within designated Standard Grave Spaces/Plots of a Cemetery, where ashes of cremated remains are placed in Urn Plots and buried underground.

**"Exhumation License"** shall mean a license issued by the Council to any person wishing to remove the remains of the body of a deceased person from any Cemetery in its administrative area, under certain conditions as shall be stipulated by the Council and/or Health Service Executive.

**"Grave"** means a burial place formed in the ground by excavation without any internal wall, brickwork or stonework or any other artificial lining.

**"Grave space/plot"** means a designated area of ground within a Cemetery for the interment of human remains or burial of cremated human remains, consisting of one single (Standard) grave space.

**"Graveyard"** for these regulations shall have the same meaning as the term "Burial Ground" and shall mean any Cemetery, Burial Ground or Graveyard under the control or in the ownership of the Council.

**"Headstone"** synonymous with the use of the term "Memorial", shall mean any tomb, monument, vault, headstone, tablet or permanent structure of any description or material.

**"Headstone Permit"** shall mean a document that confers the right of the registered owner to erect a tomb, monument, vault, tablet or other permanent structure in a Council Cemetery under these bye-laws.

**"Inurnment"** The placing of cremated remains in an Urn followed by placement in a niche or some other resting location.

**"Larger Sized Burial Plot Areas"** shall mean designated areas within selected Cemeteries to meet community demands for the availability of larger style grave spaces/plots.

**"Lawn Cemetery"** shall mean a specific type of Cemetery or part of a Cemetery wherein raised kerbs or other such items shall not be permitted to be placed and where all parts or, designated parts of the Lawn Cemetery comprising grave spaces/plots shall be maintained as grassed areas. 'Lawn Cemeteries' will have a headstone beam provided by the Council in either a single beam or back-to-back arrangement.

**"Member of the same Family"** shall mean the Father, Mother, Husband, Wife, Partner (Civil Partnership), 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.

**"New Cemeteries"** shall mean those Cemeteries/ Burial Grounds or new extensions to old Cemeteries under the control or in the ownership of the Council, beginning from the commencement date of these Bye-Laws.

**"Niche"** An above-ground burial space, in which an urn, containing cremated remains, is placed.

**"Purchase of a Grave Space/Plot"** for these regulations shall mean the purchase of a Right of Burial concerning interment/burial in an approved grave space/plot.

**"Right-of Burial Deed"** in response to the applicant's formal application to the Council shall constitute the owner's Right-of-Burial as shall apply to:

- a) The interment of human remains in a grave space/plot or,
- b) The burial of cremated human remains in either a grave space/plot or Cremation Urn Plot or,
- c) The Inurnment of cremated human remains in a Columbarium Niche.

## **1.2 APPLICATION OF BYE-LAWS**

- a) The powers and duties of the Council concerning Cemeteries are derived, from the Local Government (Sanitary Services) Acts, 1878 to 2001, the Local Government Act, 2001 (Bye-Laws) Regulations 2006 and the Safety, Health & Welfare at Work Act 2005; The Council pursuant to Part 19 of the Local Government Act 2001 hereby makes the following Bye-Laws.
- b) These Bye-Laws have been made in the interest of the common good for the regulation and control of activities in Council Cemeteries.
- c) The Council will, with respect to any Council Cemetery, issue by order Regulations in respect of Council Cemeteries and/or, specific Council Cemeteries.
- d) Regulations issued under these Bye-laws may cover any matter of detail concerning how interments/ burials are conducted in Council Cemeteries.
- e) Persons visiting or, otherwise using the Cemeteries in respect of which Regulations have been issued by the Council, shall abide by such Regulations.
- f) These bye-laws shall apply to all Cemeteries under the control or in the ownership of the Council.

## **1.3 CESSER OF EXISTING BYE-LAWS**

- a) On the coming into operation of these bye-laws, all existing bye-laws, rules and regulations relating to Council Cemeteries under the control or in the ownership of the Council shall cease to have effect. These bye-laws shall apply to all Cemeteries under the control or in the ownership of the Council as set out in Appendix 1 attached.

## **1.4 COMMENCEMENT DATE**

These Bye-Laws shall come into operation on the xx 20xx,.

## **2 GRAVE SPACES & PLOTS**

### **2.1 HUMAN REMAINS**

Only human remains and cremated human remains shall be buried in a Cemetery.

### **2.2 CAPACITY**

- a) The Council reserves the right to determine the capacity of each grave space/plot and cannot be held responsible for the capacity of any grave space/plot.
- b) The number of burials that can be accommodated in a grave space/plot is dependent on several factors including ground conditions. The Council will only guarantee one interment in any one grave space/plot. No refund will be made to any purchaser, whose grave space/plot has limited capacity owing to the existence of rock, or other obstructions found; however, in extenuating circumstances, the Council may facilitate the purchase of a substitute grave space/plot.

### **2.3 GRAVE SPACES/PLOTS**

- a) In all new Cemeteries, the area to be used shall be divided into grave spaces/plots, to be designated by convenient marks, so that the position of each grave space/plot may be readily ascertained.
- b) A Grave Space/Plot for the burial of human remains in new Cemeteries, new Lawn Cemeteries or, in new extensions to existing Cemeteries, shall measure a minimum of 3.0m (9'- 10") long (including 0.4m wide beam/foundation) by 1.25m (4'-1") wide.
- c) A Grave Space/Plot for the burial of human remains in existing Cemeteries shall measure a minimum of 2.74m (9'- 0") long by 1.22m (4' – 0") wide which area includes a headstone minimum foundation width of 0.225m (0' – 9").
- d) In normal circumstances, the excavated grave opening for the burial, shall not be excavated closer than 0.3m (1' 0") to the near edge of the headstone



foundation/ beam unless considered unavoidable due to the need to accommodate an oversized coffin/casket.

## **2.4 CREMATION URN PLOTS, CREMATION SPACES**

- a) Cremation Urn Plots designated within a Cemetery for the burial of cremated remains may be of differing sizes and therefore, the number of urn vaults permitted within each plot will be determined by the overall size of each Cremation Urn Plot. In any event, an area measuring 0.6m (2' 0") by 0.6m (2' 0") shall be the designated space allotted for the burial of any one Urn.
  
- b) For this bye-law, 'Cemeteries' shall mean those Cemeteries under the control or in the ownership of the Council.

## **2.5 ALLOCATION OF GRAVE SPACES/PLOTS**

- a) To ensure that the development of Cemeteries is carried out in accordance with Occupational Health & Safety legislative requirements and in the interests of orderly development, grave spaces/plots within a Cemetery shall be sold in strict sequential order, subject to such grave spaces/plots being suitable for interments with regard to maintaining adequate separation distance from adjacent, freshly-dug, non-family member grave spaces/plots.
  
- b) A map showing the allocated grave spaces/plots for each burial ground shall be retained by the Registrar/Caretaker and shall be made available for inspection by all persons upon request, at all reasonable times. On each map every grave space/plot and Cremation Urn Plot, as applicable shall be shown with its distinctive mark inscribed thereon, e.g., section, row and number.

## **3 PLOT PURCHASE**

### **3.1 PURCHASE OF RIGHT OF BURIAL IN A CEMETERY**

- a) A person seeking to purchase a Right-of-Burial in any cemetery in relation to, as applicable, Grave Space/Plot, Cremation Urn Plot space or a Niche in a Columbarium Wall, must firstly notify the Registrar of the Cemetery or an authorised officer of the Council and subsequently complete a Right-of-Burial Application Form and submit it to the Council.
- b) The Right-of-Burial Application Form must be completed in full including the name, address and date of birth of the Deceased and include the Nominated Owner of the Deed of Burial.
- c) The fee for a Right of Burial [Deed] to a grave space/plot shall be as determined by the Council at the time of application. The cost of providing a grave space/plot shall reflect the true cost of providing the grave space/plot. Such cost shall be incorporated into and form part of the Right of Burial fee.
- d) The Council will issue an Invoice to the Plot Purchaser. On payment of the Invoice by whomsoever, a Right-of-Burial [Deed] will be issued to the Nominated Owner and a Receipt of Payment to the Plot Purchaser and the Nominated Owner.
- e) The Council shall not accept liability for any errors in the Right-of-Burial Deed, resulting from inaccurate information supplied at the time of application.
- f) The Right-of-Burial Deed shall be registered to one person only and is granted in perpetuity and entitles the Right-of-Burial [Deed] holder and his/her successors to:
  - i. Determine who is buried in the grave space/plot subject to the consent of the Council and,
  - ii. Decide whether or not, a headstone should be erected on the grave.

- g) The selling-on of a Right-of-Burial Deed to a third party is not permitted, however, the Council may facilitate those wishing to return the burial rights of any grave spaces/plots to the Council.
- h) A Right-of-Burial Deed may be transferred to a specified family member where the owner of the Right-of-Burial Deed:
  - i. Notifies the Council in writing that they wish to transfer such a right to a family member and thereby relinquishes any such existing right and;
  - ii. In the case where the owner is since deceased and there is more than one relative next of kin (beneficiaries) to whom the right of burial deed could be transferred. Hence the Council will require a letter of consent to be signed by all parties stating they do not object to the transfer of the Right-of-Burial Deed to the agreed family member. The Council will not become involved in any disputes regarding allocation of burial rights; such must be resolved between the parties.
- i) The granting by the Council of a Right-of-Burial [Deed] to an applicant does not allow the erection of a headstone/ memorial without a separate application firstly being made to the Council seeking approval for such works and thereafter, subject to the granting and issue of a Headstone Permit by the Council to the applicant.
- j) The Council reserves the right at any time in the future to review and stipulate the maximum number of grave spaces/plots, Cremation Urn Plots or Cremation Spaces, as applicable, that may be purchased at any one time.
- k) Grave Spaces/Plots will be sold in the event of bereavement only. Advance purchase of Grave Spaces/Plots, will not be permitted. However, in extenuating circumstances .e.g. terminal illness or where there is no next of kin, then consideration may be given to the sale of a Grave Space/Plot subject to availability, in advance of bereavement. Consideration will also be given to requests for the purchase of one additional adjoining grave space / plot if available (up to a maximum of two Grave Space/Plots).

Advance purchase applications should be submitted to the Council in writing for a decision.

## **4 INTERMENT**

### **4.1 INTERMENT OF HUMAN REMAINS**

- a) The Registrar, or in the absence of such person, the relevant Council Offices in which district the Cemetery is located, must always be notified before the opening of a grave space/plot.
- b) No grave space/plot, in which any deceased person has been interred, shall be opened, save for interment, exhumation or erection of a headstone, without the written permission of the Council which must be produced in advance to the Registrar.
- c) No un-walled grave space/plot shall be re-opened within fourteen years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless to bury another member of the same family, in which case a layer of not less than 305mm (1'-0") in depth shall be left undisturbed above the previously buried coffin, casket or upper wrappings of a body; but, if on re-opening of any grave space/plot the soil is found to be offensive, such soil shall not be disturbed. In no case shall human remains be removed from the grave space/plot.
- d) Infant remains shall be enclosed in a coffin/ casket of wood or metal. Such remains shall be interred in a grave space/plot of minimum dimensions 1.25 metres wide and up to 3.0m in length (inclusive of beam/ foundation). The ground opening for the burial of infant remains shall be confined to an area of minimum dimensions: 1.0m wide by 1.25m in length, set back a minimum of 0.3m (1' 0") from the near edge of the beam/ foundation.
- e) No coffin/ casket/ un-coffined body shall be buried in any un-walled grave space/plot unless the lid or upper surface thereof shall be sunk to a depth of at least 1.22m (4' 0") below the ordinary level of the ground.

### **4.2 OPENING & CLOSING OF GRAVE SPACES/PLOTS**

- a) In Cemeteries in the ownership of the Council where Council employees are not employed to open/close grave spaces/plots the digging of graves will not be the direct responsibility of the Council and shall only be undertaken

by person(s) appointed by and under the supervision of Funeral Directors/Undertakers as listed on the Councils **Register of Approved Funeral Director/Undertakers**.

- b) An exception to rule (a) above maybe permitted whereby, in any given Cemetery where the existing practice of volunteer grave digging has been firmly established. Any or all Voluntary Grave Diggers must take cognisance of Warning Signage at Burial Grounds indicating that Grave Digging is potentially a dangerous activity and that the Council accepts no liability for any injuries caused by those engaged in this voluntary activity.

#### **4.3 MODE OF BURIAL**

- a) The designation of areas within a Cemetery as being grave spaces/plots suitable for any particular mode of burial is at the absolute discretion of the Council and shall be as so indicated on the associated Cemetery Map.
- b) Subject to (i) and (ii) below, no interment shall be permitted in any Cemetery, unless the body is enclosed in a coffin of wood, wickerwork or other sufficiently strong material, with the exception of cardboard, as shall be agreed with the Council in writing.
  - i. Un-coffined burials may be permitted, unless a direction has been issued not to do so by the Health Service Executive, in an area of a Cemetery designated exclusively by the Council for that purpose. Where an un-coffined burial is permitted, any reference in these provisions to a coffin includes a reference to the wrappings of an un-coffined body.
  - ii. In all cases, the body of the deceased person including that of infant remains, shall only be transported to the graveside of the allocated grave space/plot in the Cemetery for subsequent interment, unless the body is enclosed in a closed, leakproof, wooden/metal coffin/casket. This rule shall also apply to the body of a deceased person where it is intended that the body is to be buried enclosed in a shroud or a wickerwork type coffin.

## 4.4 CREMATED HUMAN REMAINS

- a) Full details about the deceased person's cremated remains must be recorded in the Cemetery Register.
- b) Where considered feasible, specific areas in Cemeteries under the control/ownership of the Council may be designated to accommodate the burial of cremated remains. Such areas will include the containment of ashes within Urn Plots in (a): designated Cremation Urn Plots and/or buried within Cremation Urn Plots located in conventional grave spaces/plots, and/or (b): placed in an Urn of approved design and enclosed in niches forming part of a Columbarium Wall.
- c) Where a Columbarium Wall is provided in a Council Cemetery, standard niches will be of such dimensions as is sufficient to house two standard Urns of approved design.
- d) The placement of cremated remains in a Columbarium Wall shall comply with the following protocol:
  - i. Ashes shall be contained in standard Urn receptacles as shall firstly be approved by the Council.
  - i. Only Council personnel shall be authorised and permitted to open/close a niche in the Columbarium.
  - ii. No stone plaque/tablet shall be affixed to niche openings or, inscription engraved thereon until the text of the inscription, including inscription engraving standard [to Council Engraving Standards as supplied], have first been approved by the Council.
  - iii. Niches in a Columbarium shall only be opened upon the written authorisation of the Council and shall be subject to any conditions, charges and restrictions that may be imposed by the Council.
- e) Cremated remains to be buried in a designated Cremation Urn Plot or conventional grave spaces/plots, shall be contained in an Urn of a pre-approved design. Concerning grave spaces/plots that are, or will be enclosed with raised kerbstones, the Urn shall be buried in a Cremation Urn Plot located within the grave space/plot where the Urn itself shall be buried

with a cover depth of soil not less than 0.150m (0' 6") below the ordinary level of the grave space/plot.

- f) Grave spaces/plots that are not enclosed with raised kerb stones e.g. a Lawn Cemetery type grave space/plot, the vault shall be buried in a Cremation Urn Plot located within the grave space/plot, where the vault itself shall be buried with a cover depth of soil not less than 0.5m (1' 8") below the ordinary level of the grave space/plot.
- g) No cremated remains/ashes shall be scattered in or on any grave space/plot or Cremation Urn Plot or, within any area of a Cemetery that is under the control/ownership of the Council.

#### **4.5 EXHUMATION**

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 which shall be in the form of a Licence ("Exhumation Licence") and with such precautions as the Council may prescribe as the condition of such Licence; and 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 bye-laws.



## **5 RECORDING OF BURIALS**

### **5.1 REGISTER OF BURIALS**

- a) The Burial Ground Register Book (hereinafter referred to as the 'Burial Register') shall be maintained by the Council in relation to recording of all burials in Lawn Cemeteries and Burial Grounds.
- b) The Register shall be assigned to the possession of the appointed Registrar/Caretaker of the Cemetery and shall be made available for inspection to persons upon request within reasonable hours.
- c) A printed copy of these Bye Law Regulations shall be kept constantly affixed to the Register.

### **5.2 ENTRIES IN THE REGISTER**

- a) Before the interment of any person or burial/ enclosure of cremated human remains in a Cemetery or, before admission into such place of reception as aforesaid, 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 as soon as is reasonably practical after any burial, in durable ink and with 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", "separated", "widower"/"widow", "partner" or "the child of -" (where the deceased is a minor), or such other information as would adequately identify the remains.
- b) After the interment, due entry shall be made in the Burial Ground Register in the format stipulated in the 1888 Rules & Regulations for the Regulation of Burial Grounds (as amended).
- c) 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 Bye-Laws.

## **6 HEADSTONES, MEMORIALS AND KERBINGS**

### **6.1 APPLICATION FOR HEADSTONE PERMIT**

- a) The fee for the Right-of-Burial [Deed] must be paid for in advance of approval being given for the erection of any headstone or monument structure of any kind.
- b) In order to obtain a Headstone Permit, a Headstone Application Form to erect a new headstone or replace, remove, renovate an existing headstone monument or other permanent structure, the following must first be submitted with Headstone Application Form to the Council for agreement and written approval:
  - i. A descriptive statement of that which is being proposed, together with a dimensioned drawing or sketch illustrating the proposal, shall accompany all such requests for approval.
  - ii. Permission must be obtained from the Owner of the Right-of-Burial Deed. This rule shall also apply in relation to any renovation works.
- c) Headstone Permits will only be issued to Monumental Sculptors named on the Council's list of Approved Monumental Sculptors.

## **6.2 ERECTION OF HEADSTONES**

- a) No headstone, monument or permanent replacement thereof, of any description or material shall be erected or constructed in any location of the Cemetery, unless and until the structure has been approved of in writing, in the form of a Headstone Permit, issued by the Council upon submission of a formal Headstone Application Form by the applicant.
- b) Headstones may only be erected by Monumental Sculptors named on the Council's list of Approved Monumental Sculptors.
- c) A Headstone Permit in relation to any Headstone or other permanent structure must be made available for inspection on demand by any authorised Council official.
- d) The Council may at its absolute discretion, remove a headstone or any permanent structure which:
  - i. Has not been erected in accordance with the terms and conditions of its Headstone Permit or;
  - ii. Where a Headstone Permit has not been granted by the Council.
- e) The erection of a Headstone or monument shall only be permitted by the Council under the express condition that it is maintained by the owner at all times, in a good and safe state of repair.

## **6.3 ERECTION OF HEADSTONES MATERIALS AND SIZES**

- a) No Headstone shall exceed 1.5m (4' 11") in height above ground level immediately adjacent to the beam/foundation.
- b) No Celtic Cross shall exceed 2.13m (7' 0") in height above ground level immediately adjacent to the beam/foundation. Drawings shall be submitted as part of the Headstone Permit application to include a scaled and dimensioned Plan, Section & Elevation Drawings including Specification of Materials, wherein all aspects of the proposal shall be clearly described. All Celtic Crosses shall have an appropriately reinforced concrete foundation with the base of the Cross affixed to the beam/foundation with approved type, stainless steel dowels.

- c) During interments, all contractors and monumental sculptors shall cease all activity until such service is ended and all bereaved and other mourners have left the Cemetery.
- d) The number/code of the grave space/plot shall be clearly engraved on the right-hand-side of the headstone base or, on the topside of the Cremation Urn Plot or on the stone tablet/plaque affixed to niche openings; as may be applicable.
- e) A temporary fixture may only be erected for a period not exceeding 12 months duration.
- f) The use of materials of a perishable nature such as timber, ironworks or similar as part of any headstone structure will not be permitted, except in cases of the erection of a temporary fixture which may include that of a hardwood cross not exceeding a vertical height of 0.760m (2' 6") above the ground level of the grave space/plot.
- g) The use of plastic or manmade (synthetic) materials may only be used following special permission issued by the Council.
- h) Porcelain embossed photographs of the deceased may be permitted to be affixed to the front of the Headstone, provided the dimensions do not exceed 100mm x 75mm.
- i) The use of natural Irish materials of Headstone quality in the manufacture of headstones/ memorials is the preferred option of the Council e.g. quarried: Limestone, Granite, Marble, Slate; otherwise, the use of natural materials from other jurisdictions is acceptable.
- j) Any material such as concrete, mortar or the like used in the erection of the headstone shall not be allowed to extend outside the top of the Beam, and all surplus material shall be removed from the Cemetery by the person in charge of the erection of the headstone

#### **6.4 ERECTION OF HEADSTONES IN LAWN CEMETERIES WHERE BEAMS ARE PROVIDED**

- a) On Single Beams, the use of the full width of the foundation beam provided for each headstone base is permissible.
- b) On Double or back-to-back Beams the use of half the full width of foundation beam provided for the back-to-back headstone bases, is permissible for each headstone.
- c) The Headstone proposed for installation shall be suitable for the Headstone Beam as provided.
- d) It shall be the joint responsibility of the person or persons carrying out the monumental works and the Right-of-Burial Deed Owner to ensure that this bye-law is complied with.

#### **6.5 ERECTION OF HEADSTONES WHERE BEAMS ARE NOT PROVIDED**

- a) Where the beam is not provided by the Council, the foundation for a standard type, 1.5m high by 1.2m wide headstone or a Celtic Cross as may be applicable, shall be cast as a single unit on virgin subsoil located entirely within the confines of the allocated grave space/plot boundaries.
- b) The Foundation shall be an in-situ reinforced concrete foundation and shall be founded on an undisturbed stratum of adequate ground bearing capacity and constructed of good quality concrete, class C25/30 with a 28 day minimum characteristic cube strength of not less than 30N/mm<sup>2</sup>.
- c) The minimum dimensions shall be 300mm deep by 350mm wide with A393 steel mesh reinforcing top and bottom with 50mm cover (2") provided, on a 50mm (2") bed of lean mix concrete blinding. Full details of the construction of the foundation shall be agreed with the Council before installation works commence.
- d) It shall be the responsibility of the person or persons carrying out the works and the Right-of-Burial Deed owner to ensure that this bye-law is complied with.

## **6.6 KERBS AND FOOTSTONES**

- a) Where any Cemetery or part of a Cemetery has either been designated or provided and developed as a lawn Cemetery, no raised kerbstones/footstones of any description will be permitted.
- b) In any Cemetery, where the layout is such that the Council may grant permission for kerbs to be erected, the Council may specify that the top of the kerb shall be kept flush with the adjoining ground level.
- c) Where in contravention of these Bye-Laws a kerbstone set/footstone is erected in a designated Lawn Cemetery, the Right-of-Burial Deed owner will be advised of the breach of these Bye-Laws and instructed in writing to remove the kerbstone set/footstone within a specified period, not being less than 21 days from the date of instruction. Where the Right-of-Burial Deed owner has not complied with such a notification the Council may without any further notice, remove the offending articles and seek to recover the cost of any removal from the plot Right-of-Burial Deed owner as a simple contract debt in a court of competent jurisdiction.

## **6.7 REMOVAL OF BROKEN, DAMAGED OR DANGEROUS MONUMENTS**

- a) The removal of broken or damaged monuments is the responsibility of the Right-of-Burial Deed owner.
- b)
  - i. The Council may at its absolute discretion remove or direct the removal of any monument, headstone kerb, tablet or any other permanent structure which may have been placed at any time within a Cemetery and which has not been erected in accordance with the terms of its Headstone Permit or, with respect to which a Headstone Permit has not been obtained or, the headstone has fallen into disrepair/ decay or, is not being adequately maintained or, has become a nuisance or a danger to cemetery operatives or members of the public attending the Cemetery. In such cases, the Council may

- recover the cost of any such removal from the Right-of-Burial Deed owner as a simple contract debt in a Court of competent jurisdiction.
- ii. Owners of monuments are bound to indemnify the Council against any claim by any person arising out of the condition or state of repair thereof, where ownership can be established.
  - iii. Under no circumstances can the council guarantee the preservation of any monument nor accept any responsibility for any damage or accident thereto.
- c) All ancient graveyards with their associated churches and enclosures are designated archaeological sites which are recorded on the **Record of Monuments and Places (RMP)** or are registered on the **Register of Historic Monuments (RHM)** where such monuments are subject to statutory protection established under section 12 of the National Monuments (Amendment) Act 1994.
- d) Notwithstanding that which is stated in Section 7 Bye Laws of this document, such rules shall not confer any right on the Council and/or the Right-of-Burial Deed owner to move or otherwise interfere with ancient headstones, footstones or any archaeological features (above or below the ground) within the Recorded Monument with the exception of authorised burials and activities carried out by the Council and/or the Department of Tourism, Culture, Arts, Gaeltacht, Sport & Media. Any proposal to undertake works within or, in the vicinity of a Recorded Monument shall be carried out in accordance with the National Monument's Acts (1930-2004) and must first be approved by the Council and works carried out strictly in accordance with any conditions attached to such approval.

## **7 NATIONAL MONUMENTS & PROTECTED STRUCTURES**

Where a Cemetery is located within, beside or adjacent to:

- i. a national monument within the meaning of the National Monuments Acts 1930 to 2004, of which the Minister for Tourism, Culture, Arts, Gaeltacht, Sport & Media (or any Minister succeeding the said Minister in regard to responsibility for functions under the National Monuments Acts 1930 to 2004) 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 1930 to 2004; or
- iii. a historic monument or archaeological area which is 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 Acts 1930 to 2004 (As amendment in 1994); or
- v. a protected structure within the meaning of the Planning and Development Act, 2000 as amended,

the following shall apply:

- a) Any monument erected in such a Cemetery shall be in-keeping with the character of the relevant national monument, historic monument, area, monument, place or structure.
- b) No work shall be carried out to any upstanding masonry ruins or masonry walls of the Cemetery 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 inappropriate materials or forms of styles of construction.

## **8 MAINTENANCE OF BURIAL GROUNDS**

### **8.1 UNAUTHORISED FURNITURE**

- a) The placing on grave spaces/plots of any type of headstone, memorabilia, enclosures, kerbs, railings, etc manufactured in any type of material is strictly prohibited unless and until any such proposed works have been submitted to the Council for written approval and are subsequently sanctioned by the Council by way of the grant of a Headstone Permit to the applicant.
- b) No furniture, such as seats or benches, whether of a permanent or a movable nature shall be allowed to be placed on or near paths and avenues so as to cause an obstruction to prevent free and unfettered access to all areas of the Cemetery, including access to individual grave spaces/plots. The Council may, on occasion, grant permission for placement of furniture in appropriate and designated areas, provided such furniture:
  - i. will not constitute a hazard to users of the Cemetery; and,
  - ii. will not act as an obstacle to the carrying out of authorised burial practices or the carrying out of Council maintenance operations within the Cemetery or, as an obstacle to preventing access to grave spaces/plots and
  - iii. will also serve as a facility which has been considered as providing additional benefit to public users of the Cemetery.

## **8.2 TREES, SHRUBS, FLOWERS & KERBS**

- a) In older Cemeteries the planting of shrubs and flowers on grave spaces/plots shall only take place where grave spaces/plots have been enclosed by kerbs.
  
- b) Cut flowers, floral tributes, wreaths and other ornamentation may be placed on a grave space/plot on the day of the burial and remain for three calendar month after interment, after which the Right-of-Burial Deed owner shall remove such items from the grave. Where such items have not been removed within the specified time period, the Council may, in its absolute discretion and without notice, remove and dispose of such items.
  
- c) No trees shall be planted on any grave space/plot. The Council reserves the right to cut back or remove any tree or shrub, plant or flower which is considered in their absolute discretion to be unsightly, overgrown, or considered to be a nuisance from an operational maintenance perspective or as a result of a complaint received.

## **9 HEALTH AND SAFETY**

### **9.1 SUPERVISION OF WORKS**

- a) All works in erecting headstones or landscape works carried out in the Cemetery either by the owners of the grave Right-of-Burial [Deed] , their agents or representatives including Monumental Sculptors, are subject to supervision and control by the Council.
- b) The dumping and mixing of sand, gravel and cement for making concrete by either the owner of the Right-of-Burial Deed, their agents or representatives including Monumental Sculptors, will not be permitted to take place on paths or unprotected ground and must be carried out on portable protective platforms.
- c) All surplus materials left over when the work has been completed by the owner of the Right-of-Burial Deed, their agents or representatives, including Monumental Sculptors must be removed from within the confines of the Cemetery at the time of completion of the works.
- d) Any damage caused to lawns, grave spaces/plots, walls, drives, trees, shrubs, or other property within a Cemetery by persons carrying out work must be repaired and made good by those persons causing such damage.

## **9.2 SAFETY, HEALTH & WELFARE**

- a) It shall be the responsibility of the Funeral Director/Undertaker/Agents to ensure that all interments for which they are contracted, are conducted in full compliance with all relevant Safety, Health and Welfare Regulations.
- b) All works and activities shall be carried out in accordance with the Safety, Health & Welfare Act 2005 as amended.

## **9.3 INSURANCE**

All Undertakers, Monumental Sculptors and Contractors who carry out work in the Cemetery shall have in place Public Liability Insurance cover to a minimum value of €6.5 million and Employers Liability Insurance to a minimum value of €13 million and shall present proof of same to the Council upon request.

Adjustments in the value of necessary insurance cover shall be determined by the Council from time to time.

Public Liability Insurance and Employer's Liability Insurance policy documents shall include the following clause "the Council shall be indemnified against all third party claims which may arise as a result of works performed by the Insured"

## **10 VISITORS AND CONDUCT RULES**

### **10.1 VISITORS**

- a) The Registrar, or an Authorised Officer of the Council, or any agent of the Council or member of An 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 a Cemetery at prohibited times.
- b) Visitors to the Cemetery shall close the visitor's gate after entering and leaving so as to prevent trespass by stray animals.
- c) All persons shall conduct themselves in a respectful manner while in a Cemetery and no person shall:
  - i. Wilfully create any disturbance.
  - ii. Commit any nuisance including noise pollution.
  - iii. Wilfully interfere with any burial taking place.
  - iv. Wilfully interfere with any grave space/plot or vault, any tombstone or any other memorial or any plants on any such grave space/plot.
  - v. Play at any game or sport.
  - vi. Ride a bicycle, skateboard or other similar machine.
  - vii. Knowingly permit trespass by animals with the exception of a guide dog accompanied by its visually impaired owner.
  - viii. Play music other than when permitted at funerals.
  - ix. Make noise levels so loud as to be considered a nuisance.
  - x. Engage in any anti-social behaviour or consume alcohol.
  - xi. Deposit any litter (as defined in the Litter Pollution Act 1997 as amended) or dumping of any materials except in litter bins as may be provided by the Council.

- xii. Erect any bill or notice on any wall or structure within the confines of the Cemetery.

## **10.2 PARKING**

Where a Car Park is provided by the Council within or adjoining a Council Cemetery parking shall be limited to the vehicles used by persons attending burials and visiting graves.

Trade vehicles utilised by monumental masons/ sculptors may also be permitted to use the car park subject to obtaining prior permission from the Council to be in the cemetery. No overnight or long-term parking shall be permitted.

# **11 ENFORCEMENT & PENALTIES**

## **11.1 ENFORCEMENT**

- a) A person who obstructs impedes or refuses to comply with a request of a member of An Garda Síochána, the Registrar of the Cemetery, or other Authorised Officer of the Council acting in the exercise of the function conferred on an Authorised Person of these Bye-Laws, shall be guilty of an offence.
- b) A person who obstructs or impedes or refuses to comply with a request of an authorised person acting in the exercise of the functions conferred on an authorised person by Part 19 of the Local Government Act, 2001 as may be amended, shall be guilty of an offence under section 204(3)(a) of the said Act.
- c) Where an authorised person or a member of the Garda Síochána is of the opinion that a person is committing or has committed an offence to which these Bye-Laws relate, the authorized person or the Garda, may demand the name and address of such person and if this demand is refused or the person gives a name or address which is false or misleading, the person shall be guilty of an offence.
- d) Where a member of the Garda Síochána is of the opinion that a person is committing or has committed an offence to which these Bye-Laws relate, that member may arrest the person without warrant. An offence under these Bye-Laws may be prosecuted by the Council or by a member of the Garda Síochána.
- e) The Bye Laws shall be binding on all parties having places of burial in the Cemetery and on all other persons connected with the Cemetery and on visitors to the Cemetery until they are altered or amended by the Council and shall be then binding as so altered and amended.

f) Notwithstanding the penalties which may be imposed under any other Bye-Law made by the Council which may apply to the Cemetery Grounds and with the exception of specific penalties stated within these Bye-Laws, a person who contravenes a provision of these Bye-Laws shall be guilty of an offence under section 205 of the Local Government Act 2001(as may be amended) or, in accordance with any future revision or amendment relating to section 205, and shall be liable on summary conviction in the District Court to a fine not exceeding €1,904.00 or such other fine as may be stipulated arising from a future revision or amendment of Section 205 of the Act, as may be applicable.

After a person is convicted of such an offence the continued breach of these Bye-Laws shall constitute an offence for each day on which it occurs and a daily fine of up to €126.00 or such other fine as may be stipulated arising from a future revision or amendment of Section 205 of the Act, as may be applicable.

## **11.2 FIXED PAYMENT NOTICE**

- a) An Authorised Officer may request any person who appears to be contravening or to have contravened a provision of these Bye-Laws to refrain from such contravention.
- b) If an Authorised Person / a member of An Garda Síochána has reasonable grounds for believing that a person is committing a contravention or has committed a contravention of a provision of these Bye-Laws, the Authorised Person / a member of An Garda Síochána may, pursuant to Section 206(1) of the Local Government Act, 2001, serve on such person a Fixed Payment Notice (see Appendix 2), specifying a fixed payment, as an alternative to a prosecution for such contravention. The amount of the fixed payment is €75 or such other payment as may be applicable 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.

- c) A fixed payment shall be served in one of the following ways:
- i. by delivering it to the person,
  - ii. by leaving it at the address at which the person ordinarily resides,
  - iii. by sending it by post in a prepaid registered letter addressed to the person at the address at which the person ordinarily resides,
  - iv. if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to the person at that address.
  - v. Where a fixed notice is served under these Bye-Laws a person to whom the notice applies may, during the period specified in the notice, make to the Council the payment specified in the notice, accompanied by the notice.
  - vi. Any person served with a fixed payment notice is entitled to disregard such notice and defend a prosecution of the alleged contravention in Court.

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

This day of

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## Appendix 1

|                                  |                              |                            |
|----------------------------------|------------------------------|----------------------------|
| Aglish                           | Clonmel St Patrick's         | Kilmore                    |
| Aglish - Graigueachesia          | Clonoulty New                | Kilnaneave                 |
| Annacarthy                       | Cloughjordan                 | Kilnarath                  |
| Annameadle                       | Cloughprior                  | Kilpatrick                 |
| Ardcrouney-New                   | Cooleeney                    | Kilruane                   |
| Ardcrouney-Old                   | Couraguneen                  | Kilsheelan Old             |
| Ardfinnan                        | Cragg                        | Kiltinan                   |
| Athassel                         | Crosscannon (Killenaule)     | Kilvemnon                  |
| Ballinacourty                    | Cullen                       | Knigh                      |
| Ballinahinch                     | Curreeney                    | Knockavilla (St. Sennan's) |
| Ballinaraha                      | Derrygrath                   | Kyleanna                   |
| Ballingarry Old                  | Donoughmore                  | Lady's Abbey               |
| Ballinree                        | Dorrha(Pallas)               | Lagganstown (Ballyslateen) |
| Ballintemple                     | Drangan                      | Latteragh                  |
| Ballinure                        | Dromineer                    | Lattin Old & New           |
| Ballybacon                       | Drom-New                     | Lisboney-Old               |
| Ballycahill                      | Drom-Old                     | Lisboney-New               |
| Ballyclerihan Old                | Emly Old & New               | Lisboney Columbarium       |
| Ballyclerihan New                | Fennor                       | Littleton                  |
| Ballygibbon                      | Finnoe                       | Lorrha                     |
| Ballymackey                      | Galboola                     | Loughkeen                  |
| Ballymoreen                      | Garrykennedy                 | Loughkent Lower            |
| Barnane                          | Glenkeen                     | Loughloher                 |
| Birdhill                         | Good Shepherd Gortnahoe      | Loughmore                  |
| Bonoham                          | Grange                       | Magoury (Drangan)          |
| Borrisokane-Church of<br>Ireland | Grawn                        | Mayfield (Brickendown)     |
| Borrisokane-Nenagh Rd            | Hollyford                    | Modeshill                  |
| Borrisokane-New                  | Holycross                    | Mollough Abbey             |
| Borrisokane-Old                  | Isterkiernan (Ballinacloghy) | Monsea                     |
| Borrisoleigh                     | Kilbarron-New                | Mount Bruis                |
| Bouladuff                        | Kilbarron-Old                | Moycarkey-New              |
| Boulick                          | Kilbeg (Toem)                | Moycarkey-Old              |
| Burgess                          | Kilcommon-New                | Moycarkey-'Church'         |
| Cahir Abbey                      | Kilcommon-Old                | Moyne-New                  |
| Cahir New                        | Kilkeary                     | Moyne-Old                  |
| Cappawhite Old & New             | Killadriffe                  | Newcastle New              |
| Cashel (St Cormac's)             | Killaghy (St. Michael's)     | Newcastle Old              |
| Carrig                           | Killavinogue                 | Newport Church of Ireland  |
| Carrick on Suir (St Mary's)      | Killea                       | Newport(Rockvale)          |
| Castlegrace                      | Killinan                     | Nine Mile House New & Old  |
| Castletown                       | Killodiernan                 | Pallas                     |
| Clogher                          | Killoscully                  | Rahealty                   |
| Cloneen Old & New                | Kilmastulla                  | Rathnaveogue               |

Rathronan  
Rearcross  
Rochestown  
Roscrea  
Rosegreen  
Shanrahan Old & Lawn  
Shronell  
Solohead  
Templebeg  
Templederry  
Templekelly

Templemore St Joseph's  
Templemichael  
Templeree  
Templeshyane  
Templetuohy  
Terryglass  
Thomastown  
Thurles (St Patrick's)  
Timoney  
Tipperary (St. Michael's)  
Toomevara

Tullaghmeelan  
Two-Mile-Borris  
Upperchurch-Old  
Upperchurch-New  
Uskane  
Whitechurch  
Youghalarra

**APPENDIX 2**

Cemetery Bye-Laws 202X – County Tipperary

FIXED PAYMENT NOTICE FOR THE PURPOSES OF SECTION 206 OF THE LOCAL GOVERNMENT ACT 2001

To:-

Name:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NAME OF LOCAL AUTHORITY: \_\_\_\_\_

It is alleged that you have contravened the provisions of Bye-Laws made under Part 19 of the Local Government Act 2001 entitled: Cemetery Bye-Laws 2020 – County Tipperary

By:.....

(In general terms 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 or such other sum as may be applicable accompanied by this notice, at the offices of the local authority named in this notice located at:

.....

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

Signed ..... Date .....

(Authorised Person)

offices of Tipperary County Council,

| <b>Environment &amp; Climate Action Section</b>  |   |
|--|---|
| Tipperary County Council,<br>Civic Offices,<br>Emmet Street,<br>Clonmel,<br>Co. Tipperary, | Tipperary County Council,<br>Civic Offices,<br>Limerick Road,<br>Nenagh,<br>Co. Tipperary |
| Opening Hrs: Monday – Friday, 9.30am to 4.30pm.  |   |

**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 "Tipperary County Council". A receipt will be issued.

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