

**REGULATIONS
FOR THE
MANAGEMENT OF
BURIAL GROUNDS IN
EAST LoTHIAN**



East Lothian
Council

November 2017

EAST LoTHIAN COUNCIL

REGULATIONS FOR THE MANAGEMENT OF BURIAL GROUNDS IN EAST LoTHIAN

INDEX

1. General Conditions
2. Management Arrangements
3. Size of Lair
4. Plans & Registers
5. Lair Sales & Certificates
6. Right to Lair / Interment
7. Buying Back of Lairs
8. Depth of Burial
9. Floral Tributes and Decoration
10. Planting, Headstones and Inscriptions
11. Maintenance of Monuments and Plants
12. Hewing or Dressing of Monuments
13. Hours of Opening
14. Visitors
15. Vehicle Access
16. Dogs
17. Disputes
18. Fees & Charges
19. Revision of Regulations
20. Revocation

INTRODUCTION

These regulations have been produced following an extensive review of and consultation on burial services and the subsequent production of a Strategy for the Provision and Management of Burial Grounds in East Lothian.

These regulations and procedures were adopted by the Council in March 2015.

A copy of these Regulations, as approved by the Council, shall be sufficient evidence of their force and validity and copies shall at all times be open for inspection in the offices of the Council and a copy thereof shall be delivered to every purchaser of a lair, along with the Lair Certificate of Ownership and by acceptance thereof, such purchaser shall be held to acknowledge full knowledge of and acquiescence with all the obligations laid upon purchaser of lairs or otherwise.

The specific attention of Lair Holders is drawn to Clause 9 **Floral Tributes** and Clause 10 **Monuments**

1. **GENERAL CONDITIONS**

These regulations apply to the general management, regulation and control of all burial grounds managed by East Lothian Council in terms of the Burial Grounds (Scotland) Act 1855 and the Local Government (Scotland) Act 1973 (which Council and any Committee appointed therefrom for the purpose and their successors whomsoever, are hereinafter referred to as the 'Council'), subject to the provisions of the said Acts and these Regulations made thereunder. All as amended by the Local Government Etc (Scotland) Act 1994.

2. **MANAGEMENT ARRANGEMENTS**

The Council shall appoint the appropriate Executive Director or Head of Service to manage all burial grounds and (together with any employee acting on their instructions and their behalf) to be responsible for carrying out such orders and instructions and keep such books and records as may from time to time be required by the Council.

3. **SIZE OF LAIR**

The quantity of ground to constitute a Lair in all new burial grounds or extensions thereof will be 2700mm long (9 Feet) by 1200mm wide (4 Feet), which shall include the ground required for a headstone. In existing burial grounds where the lair pattern is already established, the lairs shall be 2700mm by 900mm (3 Feet), or 2700mm long by 1200mm wide, in accordance with the local practice as at the date of these Regulations.

The available depth in any lair is not warranted or guaranteed in any way by the Council.

4. **PLANS & REGISTER**

For the purpose of distinguishing the lairs and facilitating sales to intending purchasers, a plan of every burial ground showing each lair separately numbered and the named right of interment thereof, will be prepared and retained by the Council, together with a Register in which details of all issue of rights shall be entered.

The Council reserves the right to terminate the advance sale of lairs in any or all burial grounds where the available remaining ground is unlikely to sustain the needs of the community for the foreseeable future.

5. **LAIR SALES & CERTIFICATES**

Sales of Right of Burial for coffin or cremated remains will only be sold in advance of immediate need on sites where there is adequate supply of new ground to sustain the likely needs for a minimum of 10 years and where a plan is in place to provide extension beyond that date. The conditions relating to advance sale of ground will be as published at the time by the Council. In cases where ground is sold for immediate need only this will again, be according to the conditions applying at the time. The purchasers of right of burial shall be furnished with a numbered certificate clearly describing their burial place and showing the number of the lair which has been allocated and such certificate shall be held to entitle the purchaser and the successors to the perpetual right of burial in the ground described with the right of erecting a

monument, grave-stone, tablet or monumental inscription therein subject to these Regulations and to such other conditions as may be fixed from time to time by the Council.

Any person, on purchasing a Right of Burial will be required, at the time of purchase, to indicate the intended number of coffin interments to take place in the lair and also to provide a) the name of an intended successor should the purchaser decease and b) a list of names of those intended to be interred in the Lair.

The proprietor of an unused lair, sold prior to 2011, upon deciding they do not wish to exercise their right of burial shall only be permitted to transfer the rights back to the Council. The Proprietor will not be entitled to bury any person in the lair for pecuniary consideration.

6. **RIGHT TO LAIR/INTERMENT**

Right of Interment will be sold, either to persons with an immediate need or in advance of such need, according to the conditions applied by the Council at that time. Such right will extend to the purchase of lair space for the interment of 1, 2 or 3 coffin remains and/or up to 6 cremated remains caskets.

The proprietor of a lair shall not be entitled to assign or convey the same in such a way that two or more persons shall be joint holder of such a right, but the proprietor of two or more lairs shall be entitled to assign each of them separately to members of his own family.

Subject always to the approval of the proprietor of the lair, a member of the family of the proprietor of the lair or his next of kin or other person on the approval or nomination of the proprietor of the lair may be interred in the lair, provided there is space in the lair in terms of these Regulations. On the decease of an intestate person holding a right to a lair, the same right shall devolve upon their successors.

A person with a valid claim to either a lair or a right of interment, whether by succession or by transfer, shall be entitled to such lair or right of interment on production to the Council of the Certificate granted to the original proprietor. Notwithstanding the foregoing, however, in the event that the claimant is able to provide other evidence sufficient in the opinion of the Council to substantiate his/her claim and after such enquiry as the Council may deem necessary, the Council may allow such a claim.

The Council shall be entitled to require any person claiming a lair or right of interment to indemnify the Council against any liability, loss or expense which may arise, either directly or indirectly, as a result of the person's claim. In all cases, the person requesting a burial take place shall be required to complete a Form of Indemnity (ELC/BA/04).

Mere interment in the burial ground without a written grant of property therein from the Council shall give no right of any kind in the burial ground to the relatives of the person so interred.

7. **BUYING BACK LAIRS**

Where a proprietor of a lair decides they no longer wish to use the right of burial and where the lair has not been used for a previous coffin or cremated remains interment and where no headstone or permanent marker is placed on the lair, the Council may consider buying back the lair from the proprietor.

If the lair is deemed as suitable for future use in so much as it is within a cemetery where there exists a demand for burial space and where the location and condition of the ground would facilitate a coffin interment, the Council will pay the current published Interment Lair charge less a 10% administration fee.

If the lair is deemed only suitable for interment of cremated remains then the buyback price will be the current published rate for a Cremated Remains Lair less a 10% administration fee.

The Council is not, under any circumstances, obliged to buy back any lair.

8. **DEPTH OF BURIAL**

Under no circumstances will a burial be permitted which will result in a coffin lid being less than 900mm below the ground. The standard lair will be dug to accommodate 2 interments with the first interment at 1800mm depth. Where there is to be a single interment in the lair, that interment will be at 1350mm depth.

Where ground conditions allow and where particularly requested at the time of the first interment, 3 interments will be permitted. In this case the first interment will be at 2250mm depth. All the foregoing is based on a standard coffin size of 450mm in depth. Where known in advance that the first coffin to be interred in a lair is outwith standard size, the depth of excavation will be increased to allow the desired number of interments. However, where a subsequent interment involves the use of a coffin greater than the standard depth, no guarantee can be given, or liability accepted by the Council, that the interment can be accommodated in the lair.

No coffin or remains shall be permitted to be removed from any grave with a view to making room for a subsequent interment.

The burial of urns or caskets of ashes shall be permitted at 900mm depth without prejudice to further interment in the lair. The scattering of ashes on the surface of a lair shall not be permitted but arrangements may be made for the lifting and re-laying of the turf on a lair to allow the scattering of ashes under the turf. As provided in Regulation 3 above, the available depth in any lair is not warranted or guaranteed in any way by the Council.

9. **FLORAL TRIBUTES & DECORATION**

All floral tributes, wreaths or other temporary tributes placed on a lair following an interment shall be disposed of by cemetery staff after a period of 14 days from interment. Any subsequent tributes placed on a lair (e.g. Christmas 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 or prevailing weather conditions.

Should the family wish to retain any such tributes it shall be incumbent on them to contact the cemetery staff directly to arrange collection.

Visitors wishing to dispose of spent plant material and related packaging are required to make use of any on-site recycling facility and ensure waste is separated accordingly

10. **PLANTING, HEADSTONES, MONUMENTS AND INSCRIPTIONS**

No headstone, monument, inscription or marker of any kind shall be erected on a lair unless approved by the Council, to whom a written application on Form ELC/BA/06, along with the appropriate fee, shall be submitted. Any person wishing to erect a new headstone or replace an existing monument, will be required to produce a Lair Certificate or testament of valid claim as successor to the title and complete a Form of Indemnity (ELC/BA/07) relieving the Council of all liability for wrongful erection of a memorial.

No monument erected on a single grave shall exceed 825mm in width, 1200mm in height, 500mm in depth and allow a minimum of 100mm of clear space between the front edge of the monument and the grass edge, ensuring that the existing straight grass edge line is maintained.

Headstones erected to cover adjacent lairs may be centred between the two lairs and be of a maximum width of 1650mm

Any headstone erected on an Ashes Only Lair shall be subject to maximum sizes appropriate to the actual dimensions of that lair, maintaining the 100mm of clear space from the grass edge and adjacent lairs.

Secondary monuments, flower vases and other markers will only be permitted if they can be contained within the 600mm area at the head of the lair and retain a 100mm clear space from the grass edge and adjacent lairs. Secondary monuments will also be subject to written application and payment of the appropriate fee.

Headstones, monuments, etc. must be constructed and erected to a standard as currently adopted by the Council that ensures their stability in perpetuity.

The Council aims to develop separate areas within burial grounds for the sole purpose of interring still born babies or infants. Separate regulations governing the use of such areas will be published according to each location and proprietors of such lairs will be required to adhere to those regulations.

Generally, proprietors of a lair need not wait for any specified period after an interment in order to erect a monument. However, permission to erect a monument will not be granted on any unused lair and local conditions may require the Council to determine a settlement period after an interment, prior to granting permission to erect a monument.

All planting shall be limited to the area within two feet (600mm) of the head of the lair, including the space taken up by any monument and be of appropriate size and species for the location.

In order to facilitate the safe completion of an interment, the Council may remove, without advance notice to the proprietor, plant material from the lair to be used for the interment or any adjacent lair. On completion of the interment, the Council will take all reasonable care to reinstate the removed plant material but will not be held liable for replacing such plants that die as a result of requiring removal.

No kerbstones, edging, fencing or similar arrangements to define the lair or any part of the lair shall be permitted. Any such features that are found to exist may be liable for removal without notice, to facilitate the safe completion of an interment in either the lair on which they feature or an adjacent lair. Materials removed under such circumstances will not be reinstated by the Council.

The Council will not be held liable for damage of such materials regardless of how that damage occurred.

Cornerstones to demark the boundaries of a lair will no longer be permitted and any established cornerstones must be kept below the level of the turf.

11. MAINTENANCE OF MONUMENTS AND PLANTS

Proprietors of lairs and their successors shall require to keep the headstones and monuments in good order and repair and should they fail to do so, the Council may either have the repair done or cause the headstone or other monument to be removed.

For headstones erected prior to 2015 the Council will recover the cost of doing so from the proprietors or their successors. For headstones erected from April 2015 and where a perpetuity maintenance fee has been paid, the Council, at its sole discretion, may stabilise and repair a headstone if economically viable to do so. If deemed uneconomic to repair, or the component parts of the monument are deemed unsound, the headstone may be removed completely and the lair holder contacted at their last known address and advised of this action. Any headstone or other monument so removed by the Council may be disposed of by the Council as they see fit if not claimed within one year.

All plants must be kept carefully pruned to ensure they do not encroach onto neighbouring lairs, monuments and adjacent grass areas.

The Council reserves the right to request removal of any plant material that is deemed to be encroaching or otherwise causing detriment to an adjacent lair. In cases where a lair holder fails to comply with any request to remove plant material or, where the lair holder cannot be contacted at their last given address, the Council will remove such plants as deemed appropriate.

Proprietors of lairs or their successors are prohibited from pruning or removing plants from neighbouring lairs.

Lair holders are forbidden from placing any item on a lair that could be deemed racist, sectarian or discriminatory or likely to incite such a response. Any such items will be removed immediately by the Council. Lair holders are also forbidden from placing any alcoholic beverages, battery or solar powered items that generate music or noise of any sort and are requested to, in the best interests of neighbouring lair holders, not to place any light emitting item on lairs. Also, in the interests of maintaining a quiet environment, lair holders are requested not to place items such as wind chimes on their lairs.

12. **HEWING OR DRESSING OF STONES**

No hewing or dressing of stones or operations of any other description (except subsequent additional inscriptions), shall be permitted within any burial ground or in the approaches thereto unless with the prior consent of the Council. All rubbish or refuse remaining after the erection of monuments or other operations duly sanctioned must be immediately removed at the expense of the proprietor of the lair, or of the person executing the work, to the satisfaction of the Council.

13. **HOURS OF OPENING**

Any burial ground shall be open to the public daily during such hours as the Council may fix from time to time and the Council shall be entitled to remove any

person or persons therein and may prevent persons entering at prohibited times.

14. **VISITORS**

Visitors to any burial ground shall on no account pull flowers or in any way damage flowers, shrubs, trees, headstones, monuments or any other part of the burial ground and no person shall enter or depart from any burial ground by any other way than by the entrance gate or gates.

At all times visitors to burial grounds will avoid undue noise or disturbance to other visitors and mourners.

15. **VEHICLE ACCESS**

Access to burial grounds by private vehicles is limited to those who are attending a funeral. However, people who as a result of age or infirmity experience difficulty in walking may have limited vehicle access. At all times access by vehicles will be limited to designated roads. Driving or parking on any area of grass areas is strictly forbidden.

16. **DOGS**

Dogs, except those specifically designated as Assistance Dogs, should not be taken into any burial ground.

17. **DISPUTES**

In the event of any disputes or differences arising between parties, such disputes or differences shall be submitted in writing to the Council, who may, if they so resolve, hear the parties or take evidence and the decision of the Council shall be final and binding.

18. **FEES & CHARGES**

The Council shall have power to sell Rights of Burial and charge fees for interments, monument erection and other matters. The fees to be charged shall be as approved from time to time and separately published. All persons purchasing right of burial, arranging interments or other matters under these Regulations, shall be obliged to pay to the Council the appropriate charges and fees applicable from time to time.

19. **REVISION OF REGULATIONS**

The Council may revise from time to time, alter or dispense with, any or all of these Regulations when they see cause.

20. **REVOCATION**

Any Rules or Regulations pertaining to the management of any burial ground in East Lothian passed or published prior to the date of these Regulations by any authority to whom the Council has now succeeded, are hereby declared to be revoked and shall have no effect.