



**Comhairle Chontae Laoise
Laois County Council**

**Draft Bye-Laws in relation to
Cemeteries**

Public Consultation January 2022

BYE-LAWS

Made by Laois County Council under the Local Government Act, 2001 (as amended) for the regulation of Cemeteries in the County of Laois, in the operational control or in the ownership of Laois County Council.

GENERAL REGULATIONS FOR CEMETERIES

SHORT TITLE

1. These Bye-Laws may be cited as the Laois County Council (Cemeteries) Bye-Laws, 2022.

INTERPRETATION OF TERMS/DEFINITIONS

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

“The Council” means Laois County Council.

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

Grave space means an area designated for the burial of persons, and where the context so requires shall include a columbarium or part thereof.

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

“Member of the same family” means the father, mother, husband, wife, son, daughter, sister or brother of the person last interred in a specific burial plot, or some person who was permanently residing with the person last interred therein, at the time of that person’s death.

“Right of burial” means the right to be interred in a burial plot under these bye-laws or otherwise.

“Burial rights owner” means a person who has acquired a right of burial in a burial plot whether under these bye-laws or otherwise.

“Plot” means an area of a cemetery consisting of one or two grave spaces otherwise described as a single plot or a family plot.

“Registrar” includes any of the following:

- A person appointed by the Council to have the care and management of a cemetery, or
- an employee of the Council with responsibility for cemeteries, or
- a person otherwise appointed by the Council to execute the functions of Registrar.

“Monument” includes any tomb, monument, vault, headstone, tablet, kerbstone or permanent structure of any description or material erected or constructed (or intended to be erected or constructed, or with the potential to be erected or constructed) on or at any grave space or place of burial in a Cemetery

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“Beam/foundation” means support for headstone or monument where already provided in the cemetery.

“Independent Cemetery Contractor” means a person who executes work or seek to execute work within a Cemetery and includes any gravedigger and any erector of monuments or other contractor or person not employed directly by the Council to execute work in a Cemetery.

“Authorised person” means a person appointed by the Council to be an authorised person for the purposes of these bye-laws or a member of An Garda Síochána

APPLICATON OF BYE-LAWS

3. These bye-laws shall apply to all Cemeteries under the control or in the ownership of the Council.

CESSER OF EXISTING BYE-LAWS

4. On the coming into operation of these bye-laws, all existing bye-laws, rules and regulations relating to cemeteries under the control of, or in the ownership of, the Council shall cease to have effect.

HUMAN REMAINS

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

MODE OF BURIAL

6.1 No interment shall be permitted in any Cemetery, nor shall any body of a deceased person 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. Cremated remains must be contained in an urn or small casket.

6.2 Uncoffined burials shall be permitted in a cemetery, or an area of a cemetery, designated for that purpose unless a direction has been issued not to do so by the relevant Sanitary Authority or the Health Service Executive. Uncoffined bodies shall be wrapped in sufficiently robust material. Where an uncoffined burial is permitted, any reference in these provisions to a coffin shall be read as including a reference to wrappings of the uncoffined body.

DEPTH OF BURIAL

7. No coffin or casket shall be buried in any unwalled burial plot unless the lid or upper surface thereof shall be sunk to a depth of at least 1.2 metres below the ordinary level of the ground.

FIRST INTERMENT

8. 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.

OPENING OF BURIAL PLOTS

9.1 No unwalled burial plot shall be re-opened within fourteen years after the burial of a person unless to bury another member of the same family, in which case a layer of earth not less than 250mm in depth shall be left undisturbed above the previously buried coffin or casket; but if on re-opening any burial plot the soil be found to be offensive, such soil shall not be disturbed. In no case shall human remains be removed from the burial plot.

9.2 No burial plot, in which any body 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 to be previously produced to and left with the Registrar.

INTERRUPTION OF INTERMENT

10. Any person unlawfully preventing or attempting to prevent the interment of any person in a Cemetery, or unlawfully preventing or disturbing the celebration of funeral rites over any person, shall be in breach of these bye-laws.

EXHUMATION

11. 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 9.1 of these bye-laws) 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; 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.

VISITORS

12.1 Visitors to a Cemetery shall enter and leave the Cemetery only by means of the entrance. A visitor shall close and re-secure any gate they open at a Cemetery.

12.2 Visitors shall not walk on any of the shrubberies in a Cemetery. Where paths or avenues are provided no person shall walk on burial plots or enclosures but shall confine themselves to the paths or avenues therein.

12.3 Visitors shall not interfere with any of the tombs or monuments or headstones or any columbarium or with any flowers, shrubs or wreaths within the Cemetery.

12.4 Save as set out at 12.5 below no person shall allow or cause a dog or other animal to enter a Cemetery.

12.5 Guide dogs accompanying persons with visual impairment are permitted to enter a Cemetery.

MISCONDUCT

13. All persons shall conduct themselves in a quiet and orderly manner while in a Cemetery and no person shall: -

- Play any sound reproducing equipment without the consent of the Council or
- Wilfully create any disturbance in a Cemetery or
- Commit any nuisance in a Cemetery or
- Wilfully interfere with any burial taking place in a Cemetery or
- Wilfully interfere with any burial plot or vault, any tombstone or any other memorial or any plants on any such burial plot or
- Play at any game or sport in a Cemetery or
- Ride a bicycle, skateboard or other similar machine in a Cemetery or
- Knowingly permit trespass by animals.

FENCING AND DRAINAGE

14. Every Cemetery shall be kept sufficiently secured; and, if necessary, may be under drained to such a depth as will prevent water remaining in any grave or vault.

BURIAL PLOT SPACES

15.1 In all new Cemeteries, the area to be used for graves shall be divided into grave spaces, to be designated by convenient marks, so that the position of each grave space may be readily ascertained.

15.2 In all new Cemeteries a corresponding map or maps of the Cemetery shall be kept in some convenient place, at or near the Cemetery, and shall be made available for inspection by all persons. On such map or maps every grave space shall be shown with its distinctive mark inscribed thereon. Such maps may be in paper or electronic format.

REGISTER OF BURIALS

16.1 A proper Register (hereinafter referred to as the Register) shall be constantly kept in some convenient place at or near the cemetery, or at the place of residence of the Registrar, or at the principal offices of the Council and shall be open for inspection at all reasonable times; but no person except a Registrar shall be permitted to write in the Register save as hereinafter mentioned.

16.2 The Council may cause any Register to be kept in electronic or machine-readable format as an alternative to paper format

16.3 A printed copy of these Bye-laws shall be kept affixed to any Register kept in a paper format.

ENTRIES IN REGISTER

17.1 Before the interment of any person 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, in plain and legible characters, under its proper headings, and in 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 marital status.

17.2 After the interment, due entry shall be made under its proper heading of the distinctive mark of the grave; and the signature of the person having the management of the interment shall be affixed in the last column but one, in token of the accuracy of the foregoing statements; and such signature shall be attested by the signature of the Registrar, in the last column. Any such person wilfully refusing to give to the Registrar information as to the matters aforesaid, shall be in breach of these bye-laws. Any such person wilfully refusing to confirm information as to the matters aforesaid by means of signature, or to affix his signature as aforesaid, or by means of other mechanism implemented under 17.3 below, shall be in breach of these bye-laws.

17.3 Where a Register is kept in electronic or machine-readable format, the Council may make provision for the omission for any requirement for a signature in 17.2 above and may make alternative arrangements for the confirmation of the accuracy of any information submitted.

17.4 Cremated remains interred or inurned in a Cemetery shall be recorded in the Register in a similar manner to bodies interred in the Cemetery.

PURCHASE OF CERTIFICATE OF RIGHT OF BURIAL

18.1 Application to acquire a right of burial in a Cemetery shall be made to the Council. The application shall include the name and address in sufficient detail to ensure future identification against the Register of Burials. The applicant shall pay, when requested, to the Council any fees applicable at the time in respect of the acquisition of a right of burial.

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18.2 The acquisition of a right of burial in a Cemetery does not allow the erection of a headstone without a Certificate for Permission of a Monument under Byelaw 22.1.

18.3 The selling of a right of burial in a Cemetery to a third party is not permitted. However, the Council will facilitate those wishing to return ownership of a right of burial to the Council. A right of burial may be transferred to an immediate family member.

MISCONDUCT

19. The Registrar or Caretaker or any agent of the Council shall at all times be entitled and at liberty to remove from the Cemetery any person who appears to them to be engaged in misconduct therein, and to prevent any person from entering the Cemetery at prohibited times.

TREES

20. No tree shall be planted by any person on any burial plot or other location in the Cemetery.

SHRUBS, HEDGING AND FLOWERS

21.1 The planting of shrubs and flowers in Lawn Cemeteries is not permitted. In older Cemeteries the planting of shrubs and flowers on burial plots shall only take place where the plots are enclosed by kerbs.

21.2 Any flowers or wreaths placed on burial plots after burials have taken place shall be removed by the burial rights owners or their representatives within two months and shall be taken away from the Cemetery for disposal elsewhere.

21.3 In Lawn cemeteries, Memorial flowers will be permitted only when placed on the headstone beam.

ERECTION OF MONUMENTS

22.1 No monument of any description or material shall be erected or constructed on any place of burial, or any burial plot, in the Cemetery, unless and until the structure has been approved of, in writing, in the form of a Certificate of Permission for a Monument by the Council.

22.2 The Council may require information to be included in any application for a Certificate of Permission for a Monument including details of proposed monument, proposed materials, structural details and design details.

22.3 The heights of any structure proposed shall not exceed 1.2 metres above beam level, unless specifically authorised by rules for the Cemetery issued under byelaw 41.1. All structures shall have re-enforced concrete basis with dowels.

22.4 A Certificate of Permission for a Monument must be available for inspection by any Council Official on demand.

22.5 The number of burials shall be clearly identified on any headstone provided.

22.6 The Council may take down any monument which shall have been 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 person or persons responsible for the erection of the monument as a simple contract debt in a court of competent jurisdiction.

22.7 Temporary monuments shall not exceed a height of 0.6 metres above ground level.

22.8 Burials shall be carried out in accordance with Health and Safety practice. Support apparatus shall be used in the excavation of graves wherever necessary and in all cases where the burial chamber exceeds 1.2 metres below ground level.

22.9 The erection of Monuments and associated works to be undertaken during working hours only. For the purposes of this bye-law the working hours for a Cemetery shall be 8am to 5pm Monday to Friday and 8 am to 1pm Saturday unless otherwise set under the rules for that Cemetery

22.10 The company name of the supplier/installer of any monument shall be clearly and permanently displayed on the monument.

PERISHABLE AND UNSUITABLE MATERIALS

23. The use of materials of a perishable nature such as timber, ironwork, ferrous metals or the like as part of any monument or structure in any Cemetery will not be permitted, except in cases of the erection of a temporary monument. Railings, chains and wind chimes are not permissible on burial plots or Monuments. Monument constructed of wood, glass, or tiles are not permitted in a Cemetery. The use of plastic or synthetic materials may only be used following special permission issued by the Council.

KERBS

24.1 Where any Cemetery, or any part of a Cemetery, has been provided and developed as a Lawn Cemetery, no kerbs of any description will be permitted under any circumstances.

24.2 Any person who lays, or seeks to lay, a kerb at or around a burial plot in any Cemetery, or any part of a cemetery, which has been designated as a Lawn Cemetery, shall be in breach of these byelaws.

24.3 In any Cemetery, other than a Lawn Cemetery, where the layout is such that the Council may grant permission for kerbs to be erected, the Council may specify the maximum height of the top of the kerb or whether such kerb shall be kept flush with the adjoining ground level.

FOUNDATIONS USING BEAMS

25. In any Cemetery where headstone beams have been provided at any time, the headstone or any other type of monument being proposed shall be erected using the appropriate headstone beam as the foundation. Any material such as concrete, mortar or the like used in the erection of the monument 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 monument.

FOUNDATIONS WHERE BEAMS WILL NOT BE AVAILABLE

26. Where the beam is not provided, the foundation for the headstone shall be cast as a single unit. The foundation shall be constructed of good quality concrete with an 8-day crushing strength of not less than 30N/mm². The minimum dimensions shall be 300mm deep by 225mm wide. It shall contain minimum reinforcement of 4 No. 12mm mild steel bars, 2 of which shall be located near the lower face of the foundation and 2 of which shall be located near the upper face of the foundation. The steel will have minimum cover on all sides of 50mm. The foundation shall be entirely within the boundaries of the burial plot, which it is enclosing. Full details of construction of beam should be agreed with the Council before commencement of work.

WORKS

27.1 The dumping and mixing of sand, gravel and cement or other materials for making concrete or erecting monuments is not permitted on paths or unprotected ground and must be carried out on portable platforms.

27.2 All surplus materials left over when the work has been completed shall be removed from within the confines of the Cemetery by the contractor or the burial rights owner at the time of the completion of the works.

27.3 All works in erecting monuments or the like carried out in the cemetery either by the owners of the burial plots, their agents or representative, including monumental contractors, may be subject to supervision and control of the Council Engineer or their representative.

REMOVAL OF BROKEN OR OTHER MONUMENTS

28.1 The removal and repair of broken monuments is the responsibility of the burial rights owner. The Council may take down and remove any monument 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 or a potential danger to ordinary users of the Cemetery. In such cases, the Council may recover the cost of any such removal from the burial rights owner or owners, by a simple contract debt.

28.2 Notwithstanding what is stated at bye-law 28.1 above, the same shall not confer any right to move or otherwise interfere with ancient headstones, footstones or other such feature within the vicinity of a national monument or other place included in the register of monuments and places.

SELLING ARTICLES

29. No person shall sell or offer or expose for sale any articles, commodity or thing of any kind whatsoever or solicit for orders from the same within the Cemetery. Any person soliciting orders within the Cemeteries for the erection or repair of memorials will be required to leave the Cemeteries and will not be admitted again without the permission of the Council.

THE USE OF MOTOR VEHICLES

30. Any person using a motor vehicle in a Cemetery shall only do so on a carriageway suited to the purpose and with the consent of the Council and shall abide by any speed limit enforced at the time. Permits allowing vehicles to be driven into a Cemetery for any purpose other than attending a funeral must be obtained from the Council on application.

MUSIC, TELEVISION AND CAMERAS

31. The use of a still camera, a cine camera, a video camera, a television camera or similar equipment or recording device is prohibited in a Cemetery during an interment at the Cemetery, or immediately before such interment, or in the hour after such interment. Such recording equipment shall not be used to photograph or otherwise record mourners or any part of a funeral cortege within the Cemetery, without the prior consent of the Council. In considering any such request for permission, the Council may consider any wishes expressed by the next of kin of the person being interred.

CREMETATED REMAINS - INTERMENT OF ASHES

32.1 Cremated remains shall not be scattered in a Cemetery.

32.2 Cremated remains may be interred in coffins or caskets or other approved containers in conventional burial plots or in burial plots for cremated remains. Cremated remains must be interred in a container of bio-degradable material. Cremated remains, which are interred in

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the ground, may be interred in an urn or small casket or other approved containers in conventional grave spaces or grave spaces for cremated remains.

32.3 The Council may provide columbarium walls or other facilities for inurning cremated remains.

WALLED BURIAL PLOTS

33. All walled plots and vaults must be kept in repair by the burial rights owner.

ERECTION OF MEMORIALS

34. A burial rights owner shall employ their own Independent Cemetery Contractor to erect any memorial or to remove and replace the same at the re-opening of a burial plot. Such Independent Cemetery Contractor shall comply with 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 request and shall not enter without the permission of the Council.

WASTE

35. Any person creating waste in a Cemetery shall arrange for its prompt removal from the Cemetery.

HEALTH AND SAFETY LEGISLATION

36. All persons carrying out work within a Cemetery shall have due regard to and shall comply with any instruction issued by the council concerning safe working practices within a Cemetery.

NON-CEMETERY WORKERS

37. Funeral directors and Independent Cemetery Contractor shall all operate as independent contractors and shall abide by all rules and regulations of the Cemetery they are working in.

DAMAGE

38. Any damage done to lawns, burial plots, walls, drives, trees, shrubs or other property by non-cemetery workers must be repaired by those persons causing such damage.

INDEPENDENT CEMETERY CONTRACTORS

39.1 No Independent Cemetery Contractor shall erect any monument in a Council Cemetery or carry out other construction or maintenance work on a monument in a Council Cemetery after a period of three months from the adoption of these bye-laws unless he is entered on a Register of Independent Cemetery Contractors maintained by the Council. An entry in the Register of Independent Cemetery Contractors may be in respect of all Council Cemeteries or in respect of one or more Council Cemeteries.

39.2 The Council may from time to time set conditions for admission to its Register of Independent Cemetery Contractors and conditions for maintaining an entry in the Register of Independent Cemetery Contractors.

39.3 The Council may set conditions in respect of:

- insurances to be held by Independent Cemetery Contractors,
- competence and work record of Independent Cemetery Contractors,
- construction standards or other standards to be observed by Independent Cemetery Contractors within a Cemetery
- other matters relevant to the proper execution of work at a Cemetery

39.4 All Independent Cemetery Contractors shall comply with such rules and regulations as may be introduced by the Council concerning the provisions referred to in bye-law 41.1.

39.5 The Council may remove an Independent Cemetery Contractor from the Register of Independent Cemetery Contractors if:

- The Independent Cemetery Contractor erects, or assists in the erection of, a monument in a Council Cemetery where the erection of such monument has not been authorised in writing by the Council, or
- The Independent Cemetery Contractors fails in the opinion of the Council to carry out their work in a safe manner, or
- The Independent Cemetery Contractors fails in the opinion of the Council to work in a tidy manner within the Council Cemetery, or
- Otherwise does not abide by these bye-laws

39.6 Before the Council removes any Independent Cemetery Contractors from the Register of Independent Cemetery Contractors, it shall in accordance with the principles of natural justice offer them the opportunity to make any representations they consider necessary.

NATIONAL MONUMENTS

40.1 Where a Cemetery is located within or in the vicinity of a National Monument or within or in the vicinity of a location which is noted in the Record of Monuments and Places or a structure which is entered in the Record of Protected Structures, any monument erected in such a Cemetery shall be in keeping with the character of such National Monument, Protected Structure or location.

40.2 Without prejudice to the generality of the foregoing, the Council may in any rules it issues under bye-law 41.1, relevant to any Cemetery referred to in the preceding subparagraph, provide guidance on appropriate material and appropriate styles of construction and may prohibit other materials or forms or styles of construction.

RULES

41.1 The Council may, by order, in respect of any Cemetery, issue Rules in respect of that Cemetery.

41.2 Rules issued under bye-law 41.1 may cover any matter of detail in relation to the operation of that Cemetery, including opening hours, designation as a lawn cemetery, style of monuments, size of grave spaces, and times for burials.

41.3 Persons using the Cemetery in respect of which rules have been issued by the Council shall abide by those rules.

WRITING ON MONUMENTS

42. No person shall write any word or symbol upon any monument which would give rise to public offence.

CONTRAVENTION OF BYE-LAWS

43. A person who contravenes a provision of these bye-laws shall be guilty of an offence and shall be liable on summary conviction in the District Court to a fine not exceeding €1,900.00

FIXED PAYMENT NOTICE

44.1 If an authorised person, 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 may give to the person a fixed payment notice as prescribed by the Local Government Act, 2001 (as amended) Section 206, stating:

- a) That the person is alleged to have committed the contravention.

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- b) That the person may during the period of 21 days beginning on the date of the notice, make to Laois County Council a payment of €75.00 accompanied by the notice, and
- c) That a prosecution in respect of the alleged contravention will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged contravention will be instituted.

44.2 Where a notice is given under 44.1 above

- a) A person to whom the notice applies may, during the period specified in the notice, make to Laois County Council the payment specified in the notice, accompanied by the notice,
- b) Laois County Council shall receive the payment and issue a receipt for it and may retain the money paid and no payment received shall in any circumstance be recoverable by the person who made it, and
- c) A prosecution in respect of the alleged contravention shall not be instituted in that period specified in that notice and, if the payment specified in the notice is made during that period no prosecution in respect of the alleged contravention shall be instituted.

44.3 In a prosecution for a contravention referred to in 44.1 above, the onus of showing that a payment pursuant to a notice under this section has been made shall lie on the accused.

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MADE and ADOPTED under the Common Seal of

LAOIS COUNTY COUNCIL on the

_____ 2022

CATHAOIRLEACH/NOMINATED MEMBER

DIRECTOR OF SERVICE

Draft

Laois County Council (Cemetery) Byelaws 2022
FIXED PAYMENT NOTICE FOR THE PURPOSES OF
SECTION 206 OF THE LOCAL GOVERNMENT ACT, 2001(as amended)
And associated Local Government (Bye-Laws) Regulations

NAME OF LOCAL AUTHORITY: Laois County Council

To: Name: _____

Address: _____

It is alleged that you have contravened the provisions of byelaws made under Part 19 of the Local Government Act, 2001(as amended) entitled **Laois County Council (Cemetery) Bye-laws 2022**

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, accompanied by this notice, at the offices of the local authority named in this notice located at Aras an Chontae, James Fintan Lalor Avenue, Portlaoise, Co. Laois.

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 Date.....

.....
(Authorised Person)

Important: Payments can be made by credit/debit card or cheque and 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 Laois County Council. A receipt will be given.
You are entitled to disregard this notice and defend the prosecution of the alleged contravention in court.