



MALDON DISTRICT
COUNCIL

MALDON DISTRICT COUNCIL

CEMETERY REGULATIONS

APRIL 2010

REGULATIONS FOR USE OF THE COUNCIL'S CEMETERIES

In these Regulations, reference to 'the Order' shall mean the Local Authorities Cemeteries Order 1977 (as amended).

Introduction

These regulations are made on 1 April 2010, and shall come into force on the 1st day of April 2010. The Maldon District Council Regulations 2003 are hereby revoked.

These regulations shall be known as "Maldon District Council's Cemetery Regulations 2010" and are made pursuant to the Local Authorities' Cemeteries Order 1977 and the Local Government Act 1972.

Although these regulations are a necessary requirement for the management of Maldon District Council's Cemeteries, every effort has been made to avoid restricting the rights and choices of the individual. Therefore, these regulations have been prepared with a balance between individual rights and the need to regulate for safe and tidy grounds. They are not based upon aesthetic considerations.

Furthermore, Maldon District Council adopts, The Charter for the Bereaved which is a national protocol aimed at promoting the rights of bereaved families when organising funerals. It sets the standard against which funeral services may be measured, by identifying rights to which you are entitled when arranging a funeral. The rights cover such subjects as the dignity of the funeral procedure; graves in the Cemetery; your right to information on topics such as embalming or burials on private land; grievance procedures; environmental issues, etc. A copy of the Charter may be obtained from the Council Office's on request.

With regard to regulation the Charter gives you the following rights:

- a) You have a right to be given a copy of Maldon District Council's regulations
- b) You have a right to be given a written explanation why a particular regulation has been used to restrict or otherwise influence your rights. Where you remain dissatisfied, you can utilise Maldon District Council's complaints procedure and the grievance procedure available under the Charter for the Bereaved. Further information on these procedures is available upon application.

Interpretation

1. Wherever these regulations require an opinion or approval to be given it shall be that of the Officer appointed by the Council with overall responsibility to manage the Cemeteries. Any person aggrieved by such a determination may challenge it through the Council's complaints procedure but shall comply with the decision in the interim. Copies of the Council's complaints procedure are available at the Council offices.
2. Wherever these regulations prohibit or limit actions which may be taken by the public the Council reserves the right to take any action necessary to ensure compliance and to recharge the cost of that action to the person causing the contravention of the regulations.
3. In these regulations certain terms may have particular meanings that are explained in the *Definitions* section at the end of these regulations to give clarity.
4. The fees and charges prescribed for the use of the cemeteries shall be those specified within the leaflet "Fees and Charges", as amended from 1st April each year.
5. All fees and charges are payable in advance to the Council. The Council may make prior written arrangements with business users for payment on monthly account.
6. The Council reserves the right to make different charges for residents and non-residents of the District. In exceptional circumstances, where the applicant can demonstrate that a deceased person has strong residential links with the District, the Council may apply the normal resident's charges. Requests for charges to be at the normal resident's rate shall be in writing and shall specify the grounds on which the application is based.

Opening Hours

7. Cemeteries are open for interments on Mondays to Fridays between 9.00am and 3.30pm from 1 October to 28 February (29 February during Leap years) and between 9.00am and 4.30pm from 1 March to 30 September (excluding Public Holidays). Interments on Saturdays between 10.00am and 12 noon are permitted at a supplementary charge.
8. Visiting times extend outside these hours but reference to the Council is advised should access be needed at very much earlier or later time.

General Behaviour in the Cemetery

9. No vehicle is to be left in a position so as to cause obstruction to other traffic.
10. A speed limit of 10 miles per hour is not to be exceeded.
11. Driving and parking on grassed areas is strictly prohibited. Many burial plots do not have memorials and are not easily identifiable.
12. Cycles may not be ridden in the Cemetery other than on the roadways.
13. Children under the age of sixteen years must be kept under the direct supervision of a responsible adult at all times.

14. Dogs must remain on leads at all times. Owners must clear up after their dogs if they foul in the Cemetery. It is an offence not to clean up after your dog. There is a fixed penalty charge of £80 for this offence.
15. A person shall not enter or leave or seek to enter or leave the Cemetery otherwise than through one of the gates or entrances constructed and provided for that purpose.
16. No goods of any kind may be offered for sale in the Cemetery.
17. No person shall solicit any orders or distribute any circular, bill or article, of the like nature within the Cemetery.
18. The written consent of the Council must be obtained before photographing or filming in the Cemetery. In the case of a grave or memorial, consent will only be given on production of the written authority of the registered grave owner.
19. No band or music will be allowed within the cemetery except by written consent of the Council.
20. Smoking is prohibited in all Council buildings.
21. No person shall drop, throw or otherwise deposit and leave in the Cemetery any waste paper, cigarette ends or refuse of any kind except in the receptacles provided for that purpose.
22. Offences in the Cemetery
 - (1) No person shall -
 - (a) wilfully create any disturbance in a cemetery;
 - (b) commit any nuisance in a cemetery
 - (c) wilfully interfere with any burial taking place in a cemetery;
 - (d) wilfully interfere with any grave or vault, any tombstone or other memorial, or any flowers or plants on any such matter; or
 - (e) play at any game or sport in a cemetery.
 - (2) No person not being an officer or servant of the burial authority or another person so authorised by or on behalf of the burial authority shall enter or remain in a cemetery at any hour when it is closed to the public.

Interment Notice

23. No interment must take place (including ashes and the scattering of them) in the Cemetery without prior arrangement with and the consent of the Council.
24. Applications for interment must be made to the Cemeteries Officer between the hours of 8.30am and 5.00pm, Monday to Thursday and 8.30am and 4.30pm Fridays.
25. Such arrangements, which must include the submission of a written Notice of Interment containing all relevant information, must be made at least two working days prior to the intended date of interment.
26. Lesser periods of notice may be accepted at the absolute discretion of the Council and an extra charge may be made.

27. In all cases, no interment will be permitted to take place unless the relevant Certificate, signed by a Registrar, is handed to the Council in advance of the interment and, where appropriate, the Exclusive Right of Burial. If a previously issued Exclusive Right of Burial cannot be produced, a Statutory Declaration (witnessed by a Magistrate or Commission for Oaths) will be accepted.

Exclusive Right of Burial

28. An Exclusive Right of Burial for a pre-selected burial plot may be purchased at any time at fees determined annually by the Council. The right granted includes a right to place a memorial on the burial plot in accordance with these regulations.
29. An Exclusive Right of Burial is granted for a period of 30 or 99 years and may be renewed on application for further periods of 10 years at the renewal fee that may at that time apply and shall be subject to any restrictions or conditions that may then be in force.
30. Ownership of the rights conferred by an Exclusive Right of Burial includes total responsibility for the upkeep and safety of any memorial placed on it. The Council will test any memorial six weeks after installation and every five years thereafter, using both push and topple test methods. The Council will not be responsible for any damages to a memorial during the testing process. If the memorial fails, the Council will notify the owner in due course. The owner is required to notify the Council in writing of any change of address of the person owning the rights.
31. Any change of ownership of an Exclusive Right of Burial by transfer or by gift, must be duly notified to the Council by completing the reverse section of the Rights Certificate or by such other form as the Council may require.
32. The Council may re-purchase any Exclusive Right of Burial if no longer required upon the written consent of the owner of the right or his or her successor in title at the original fee granting such right. Except in the case of extenuating circumstances, no refund shall be payable by the Council where an Exclusive Right of Burial has lapsed through the passage of time.

Interments

33. All funerals shall be under the control of the Cemeteries Officer once the cortege enters the Cemetery.
34. Each body brought into a Cemetery for interment shall be contained in a suitable coffin or shroud and must bear adequate particulars of the identity of the deceased person. Coffins and any attachments thereto intended for burial in the Woodland Glades area must be biodegradable.
35. Interments of ashes may be made loose, in containers, caskets or scattered loose on the surface of the ground at locations directed by the Council. Any container or casket intended for burial in the Woodland Glades area must be biodegradable.
36. The scattering or burial of cremated remains is not permitted in any part of the cemetery other than within a grave purchased for that purpose and with the written authority of the person holding the Exclusive Right. Cremated remains may be scattered in certain areas of the cemeteries with the permission of the Council.

37. No consent is required in the case of the interment of the grave owner in possession of the Exclusive Right of Burial for the burial plot to be used.
38. In the case of the re-opening of a private (or purchased) burial plot, the written consent of the owner of the Exclusive Right of Burial is required or, where the owner of those rights has previously deceased, the Council will require to be indemnified against any action arising as a result of permitting the interment.
39. The payment of the Interment Fee at the time of an interment does not transfer any rights regarding the burial plot to the person making that payment. The Interment Fee must not be confused with the separate fee that is paid for an Exclusive Right of Burial which is signified by the issue by the Council of a formal Certificate.
40. The Council reserves the right to refuse to allow any particular Grave Digger to operate in its Cemeteries if it is not satisfied that Health and Safety requirements are being met. A current Risk Assessment and Method Statement must be provided for all Grave Diggers working in the Council's Cemeteries.
41. After an interment has taken place, neither bodies nor cremated remains may be disturbed or removed from a burial place without first obtaining permission from the Bishop of Chelmsford and/or the Home Office. The Council may place such conditions on the arrangements for the disinterment of any remains from a burial place in a Cemetery in the interests of Health and Safety.

Public (or Common Graves)

42. Where no Exclusive Right of Burial is purchased or requested for an interment, a burial plot may be used, at the Council's discretion, for the interment of other unrelated persons who also do not wish to possess this right. These graves are known as Public or Common Graves and the Rights of Burial rest with the Council.
43. As such, the depth of any interment and the re-use of the plot are at the Council's discretion. The placing of memorials or commemorative objects or plants is not normally permitted on such burial plots.
44. A Public or Common Grave shall be used where the Council is required to carry out its duty under Section 46(1) of the Public Health (Control of Disease) Act, 1984. This requires the Council to cause to be buried or cremated the body of a person who has died or been found dead in its area, and in any case where it appears that no suitable arrangements for the disposal of a body are being made.
45. In the case of (44) above, the Council will make all reasonable enquiries to ascertain the whereabouts of the executors, on whom the primary legal responsibility for disposal falls. In the absence of any known instructions to the contrary, the Council will arrange the burial or cremation at the least cost to the Council Taxpayer, with all usual and acceptable dignity and respect for the deceased.

Burial Plots

46. Burial plots are excavated to the minimum depth specified in the Order and may accommodate two coffin interments, one above each other. The exception to this is in the Woodland Glades area where only single depth interments are permitted. No interment shall take place in any grave in such a manner that any part of the coffin containing the body shall be at a depth of less than 3 feet below the level of the surface of the ground adjoining the grave.

47. The maximum size grave shall not normally exceed 7 feet x 3 feet. In the case of an oversize coffin, the Council reserves the right to allocate an alternative plot to one that might be ordinarily used (for example, on the end of a particular row).
48. A layer of earth at least 6 inches (15 cm) in thickness shall be left between each coffin in the same earthen grave.
49. Burial plots for cremated remains are 24 inches by 28 inches (60 cm x 70 cm) and can accommodate two casket interments either one above the other or one in front of the other on the same level (this may mean the front casket may be located under the grassed area). No interment of ashes shall take place in such a manner that any part of the casket or container shall be at a depth of less than 10 inches (25 cm) below the level of the surface of the ground adjoining the grave.
50. Ashes may also be interred in a normal burial plot, even if the plot has previously been used for a coffin interment.

Memorials – Relating to Memorial Masons

51. All masonry work must be carried out to National Association of Memorial Masons (NAMM) standards by NAMM registered Monumental Masons. This helps to ensure good workmanship and longevity of the memorial as well as enabling Maldon District Council to continue with high quality health and safety standards.
52. Evidence of Public Liability Insurance to the value £5 million must be provided.
53. A memorial may only be placed on a burial plot where an Exclusive Right of Burial has been purchased and an application to place a memorial may only be made by the owner of that right or his legal representative.
54. An application to place a memorial on a burial plot must be made in writing in a form agreed by the Council by providing such information (including the wording for any proposed inscription) as the Council may specify and by paying the appropriate fee determined annually by the Council. The Council takes an open view on the terms and expressions which may be used on inscriptions but reserves the right to refuse such terms and expressions where, in its opinion, they may be inappropriate or may offend people visiting the Cemeteries.
55. Applications for the placing, alteration of or addition to memorials, constructions, kerbing, inscriptions (including additional inscriptions) or any commemorative object on a plot must be submitted to the Council for approval and will be subject to payment of the relevant fee.
56. No memorial will be erected for a period of at least six months after the last interment relating to the said plot to allow time for the ground to settle. Subsidence is still likely to occur after this time.
57. Only contractors approved by the Council may be permitted to erect, remove or undertake any work to memorials in Cemeteries. The Council reserves the right to refuse any application should the nominated contractor not be able to comply with the current standards or requirements for work in Cemeteries.

58. An appointment must be made with the Council, giving at least two full working days notice as to when the Memorial Mason will want to erect the monument. The Cemetery Officer will meet the Memorial Mason on site and confirm plot details.
59. The surface of a grave may be enclosed by an approved kerb made of natural stone such as granite or marble subject to written permission by the Council. This area shall not exceed one metre wide by two metres long. The kerbing must be fixed securely using an approved material. Any stones or chippings which are placed in this area must also be of a natural colour and material.

Tributes – relating to friends and relatives of the deceased

60. Wire mesh, wooden fences, borders made of man-made materials and similar are not permitted around the grave. They cannot be classed as permanent fixtures and will degrade causing a potential Health and Safety hazard to visitors, staff and wildlife. The Council reserves the right to take action including, if necessary, removal and the consequent passing on of any costs incurred to the owner of the rights. Any removal of borders will only be undertaken in accordance with the requirements of the Order.
61. The area enclosed by approved kerbing may be planted or covered with flagstones, paving and/or chippings. Loose flagstones, paving and chippings that are not enclosed in kerbing are prohibited and shall be removed as they are a Health and Safety hazard, particularly to staff when strimming and cutting the grass. The Council reserves the right to take action including, if necessary, removal and the consequent passing on of any costs incurred to the owner of the rights. Any removal of loose stones, chippings or similar will only be undertaken in accordance with the requirements of the Order.
62. Small annual bedding plants or bulbs may be planted on a grave, as directed by the Council, but the planting of perennials, shrubs and trees is not permitted as they can cause damage to memorials and Health and Safety hazards to visitors, staff and wildlife. The Council reserves the right to take action including, if necessary, removal and the consequent passing on of any costs incurred to the owner of the rights. Any removal of perennials, shrubs and trees will only be undertaken in accordance with the requirements of the Order.
63. Tributes made of materials that will shatter, or are likely to be easily broken including all items made from glass, china, porcelain or plastic may not be placed on graves, as they cause a Health and Safety hazard to visitors, staff and wildlife. The Council reserves the right to take action including, if necessary, removal and the consequent passing on of any costs incurred to the owner of the rights. Any removal of tributes will only be undertaken in accordance with the requirements of the Order.
64. No tributes, including wind chimes shall be placed anywhere other than within the grave space. Wind chimes placed in trees within the Cemeteries will be removed as they cause a hazard to staff when maintaining the Cemetery, Pall Bearers when carrying coffins and wildlife resting in trees. Any tribute including and other than wind chimes that can cause obstruction to the cortège gaining access to a graveside will be removed. The Council reserves the right to take action including, if necessary, removal and the consequent passing on of any costs incurred to the owner of the rights. Any removal of tributes including wind chimes will only be undertaken in accordance with the requirements of the Order.

65. All plastic wrapping must be removed from flowers as it causes Health and Safety issues for wildlife.
66. Wooden crosses are temporary markers and cannot be placed on a grave for more than 6 months as they degrade and become a Health and Safety hazard to staff and visitors.
67. Plaques purchased from the Council on hardwood plinths are guaranteed for 3 years after which time the plaque will be placed on the Memorial wall.
68. Should a burial plot or memorial become untidy, unsafe, or contain any unauthorised construction or objects that may cause offence, annoyance or a hazard to users of Cemeteries, the Council reserves the right to take action including, if necessary, removal and the consequent passing on of any costs incurred to the owner of the rights. Any removal of memorials will only be undertaken in accordance with the requirements of the Order.
69. The Council will maintain the lawn, trees, shrubs and flower beds within the Cemetery at no expense to the grave owner. The Council will remove any articles left on these surfaces without prior notice as they can interfere with staff working.
70. Any memorial, construction or commemorative object erected or placed without the written permission of the Council or without compliance with existing standards of workmanship including any separate regulations made will be removed or dismantled and any costs incurred in doing so will be passed on by the Council to the owner of the plot.
71. No memorials or tributes are permitted on Woodland Glade graves. Tributes can be left at the base of the Memorial wall.

General

72. Cemetery Chapels are available to hire in the Cemeteries at Heybridge and Maldon. Enquiries regarding the use of these Chapels should be made to the Council.
73. The Council recognises the right of users of its Cemeteries to define the type of religious or secular (non-religious) format for services.
74. Fees and charges for Cemetery Services are determined by the Council annually to take effect from 1 April each year. Details of concessions can be obtained from the Council.
75. The Council reserves the right to amend, delete or add to these Regulations at any time as it sees fit and to waive any specific Regulation or Regulations in exceptional circumstances and to impose temporary restrictions on any matter not specifically covered by these Regulations.
76. Any person who contravenes these regulations may be in breach of the Local authorities Cemetery Order 1977 and any amendments thereto and liable to a fine not exceeding Level 3, currently £1000 on the standard scale and in the case of continuing offence liable to a fine not exceeding £10 for each day during which the offence continues after conviction.

Definitions

In these Regulations

“The Council” means Maldon District Council. Where these regulations require an opinion or approval to be given by the Council it shall be that of the officer appointed by the Council with overall responsibility to manage the Cemetery, to whom all powers and duties contained in these regulations are delegated. This is currently the Director of Community Services.

“The Director of Community Services” means the person appointed by the Council for the time being to hold that office and includes his or her appointed representatives and successors.

“The Cemetery” means any place provided for interment of human remains and currently maintained by the Council. Any reference to “the cemetery” shall refer to any or all of the cemeteries to which these regulations apply.

“Grave” means a burial place formed in the ground by excavation and without any internal brickwork, stone or any lining.

“Grave space” means the area allowed for the establishment of a grave and in such position determined by the council.

“Working days” means days on which the Council offices are open.

“Resident” means any person who normally resides within the District of Maldon. It includes any person who, in the opinion of the council, it would be reasonable to treat as a resident, such as a person who has recently moved away or who has moved away on grounds of ill health. A child or stillborn child is deemed to be a resident if delivery occurred within the District or either parent is resident. Body parts will be deemed to be those belonging to a resident if that person prior to their death normally resided within the District of Maldon or their surgery occurred in the District.

“Grave owner” means the person who is registered with the council as the owner of an exclusive right of burial, such exclusive right will be for a limited time period determined by the council.

“Purchased grave” means a grave in respect of which the council has granted an exclusive right of burial.

“Unpurchased grave” means a grave that has no exclusive right of burial.

“Body” means the body of a deceased person or their cremated remains brought to the cemetery for burial.

“Tribute” means any personal items not provided by the council or Stone Mason.

“Memorial” means any headstone, tablet, cross or kerb erected on a grave space.