

# Cemeteries Bylaw 2016

This Bylaw of the Waikato District Council is made pursuant to the Local Government Act 2002 and the Burial and Cremation Act 1964 and their respective amendments and all other relevant powers, hereby makes the following bylaw.

## Introduction

### 1.0 Short title, commencement and application

- 1.1 The bylaw shall be known as the 'Waikato District Council Cemeteries Bylaw 2016'.
- 1.2 The bylaw shall apply to the Waikato District.
- 1.3 The Bylaw shall come into force on the date of adoption.

### 2.0 Revocation

The following bylaws are hereby revoked from the day this new bylaw comes into force: 'Waikato District Council Cemeteries and Crematoria Bylaw 2008' and 'Franklin District Council Cemeteries Bylaw 2008'.

### 3.0 Purpose

To enable the Council to regulate activities and set standards for the operation of cemeteries under the control of the Council.

### 4.0 Definitions

For the purposes of this Bylaw, the following definitions shall apply, unless inconsistent with the context:

<b>Authorised Officer</b>	means any person appointed by the Council to act on its behalf and with its authority
<b>Beam</b>	means a concrete strip that marks plot row and number and in which a headstone or plaque is placed.
<b>Burial</b>	means interment of a body, remains or ashes
<b>Cemetery</b>	means any cemetery vested in or under the control of Council and dedicated as a cemetery.
<b>Council</b>	means the governing body of the Waikato District Council or any person delegated to act on its behalf.
<b>Disinterment</b>	means the removal of a body (or remains of a body) buried in any cemetery.
<b>Exclusive right of burial</b>	means a right that may be purchased from the Council which grants the purchaser and his or her successor, the exclusive right of burial in a designated burial plot for a specified number of years; and <ul style="list-style-type: none"> <li>1. does not create an ownership interest in the designated plot; and</li> </ul>

2. lapses in accordance with section 10 of the Burial and Cremation Act 1964.

<b>Grave</b>	means the area where the body of a deceased person is, or their ashes, are buried.
<b>Headstone</b>	means a memorial that projects above the ground.
<b>Interment</b>	means the burial of a body or ashes in a plot.
<b>Lawn cemetery</b>	means a grass lawn cemetery where no headstones project above the ground.
<b>Non-operational cemetery</b>	means a cemetery that has been closed by a closing order, but may accept future ash interments.
<b>NZS 4242: 1995</b>	means the New Zealand Standard for Headstones and Cemetery Monuments.
<b>Operational cemetery</b>	means a cemetery that is accepting of new interments.
<b>Plot</b>	means a specified area set aside for the burial of a casket or ashes.
<b>Sexton</b>	means any person appointed by the Council to manage the day to day activities of any cemetery under its jurisdiction.

## **5.0 Burials**

5.1 Before a burial may take place, an application for interment must be lodged with the Council.

5.2 The application must be accompanied by:

- a) a medical certificate or coroner's authorisation, as applicable;
- b) written permission from the owner of the exclusive right of burial in respect of a plot, where applicable;
- c) payment of the burial fees set by the Council.

5.3 Burials must take place:

- a) in a specific plot in respect of which an exclusive right of burial has been purchased; or
- b) in a plot chosen by the Council if no exclusive right of burial has been purchased.

## **6.0 Exclusive right of burial**

6.1 An exclusive right of burial may be sold by the Council and may be held for sixty years. The Council will not re-purchase any presold plots.

6.2 Any person is entitled to purchase an exclusive right of burial for no more than two plots.

6.3 Where doubt of ownership of an exclusive right of burial exists, the Council may satisfy itself, that the use of the respective plot is authorised.

6.4 The Council will not sell the exclusive right of burial in respect of any plots located in cemetery areas reserved exclusively for the burial of deceased persons who have served in Her Majesty's Forces.

## **7.0 Notification of burial**

- 7.1 Interments may take place between the hours of 10.00am and 3.30pm on Mondays to Fridays inclusive, and between 10.30am and 2.30pm on Saturdays. On Sundays and public holidays, cemeteries are closed for all interments.
- 7.2 Burials may take place outside these times by prior arrangement with Council.
- 7.3 Notification of an intended burial must be given to the Council not less than eight working hours prior to the time of burial. If less notice is given, an extra charge may be imposed by the Council.

## **8.0 Plots and graves**

- 8.1 Only the Sexton is authorised to dig a grave.
- 8.2 The Council requires prior notification if a person, or persons, wish to fill any grave.
- 8.3 The minimum depth of cover for any casket must be not less than 800mm.
- 8.4 A maximum of two deceased persons may be buried in any one plot.
- 8.5 A grave may be reopened for subsequent burial(s) where consent is given by the Council and:
- a) by the owner of the exclusive right of burial, or their representative; and
  - b) the relevant prescribed form is provided to the Council.

## **9.0 Ashes**

- 9.1 A maximum of eight urns containing ashes that may be buried in any burial plot, or a maximum of two urns may be buried in an ashes plot.
- 9.2 Ashes may not be scattered in any cemetery.

## **10.0 Disinterments**

- 10.1 The disinterment of a body, or remains of a body, must be conducted in accordance with sections 51 and 55 of the Burial and Cremation Act 1964.
- 10.2 If a grave has become empty due to disinterment, and there is no exclusive right of burial, that plot will revert back to the Council and the Council will not make any refund of the cost of that burial plot.

## **11.0 Memorials and adornments**

- 11.1 Prior to the installation of any memorial, an application for a memorial must be submitted to the Council, together with:
- a) proof of an exclusive right of burial for the respective plot; and
  - b) payment of the relevant fee set by the Council.
- 11.2 Memorials must:
- a) cover no more than two plots, provided the respective exclusive burial rights are owned by the same owner;

- b) limit inscriptions to the front of the memorials for double beam areas;
  - c) be set in a way approved by Council.
- 11.3 Memorials and the associated plots must be kept in good order and repair by the holder of the exclusive right of burial, or their successor.
- 11.4 Only a Monumental Mason who complies with the Council's Health and Safety requirements, and preferably a member of the New Zealand Master Monumental Masons Association may undertake work associated with any monument.
- 11.5 Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, the Council may remove any installation of any kind that falls into a state of decay or disrepair.
- 11.6 No above-ground memorials, including railing or fencing, must be placed in grounds designated as lawn cemeteries.
- 11.7 Removal of any memorial must be approved by the Council using the relevant prescribed forms and accompanied by proof of exclusive right of burial for that plot.
- 11.8 The Council may remove any unauthorised memorials from the Cemetery.
- 11.9 Adornments, including wreaths and floral tributes, may be placed on a plot for up to twenty-eight days following an interment. After this time, all adornments will be relocated to the concrete beam. Any adornments added after this time must be duly placed in approved receptacles, or on the concrete beam.
- 11.10 Adornments must not inhibit the proper maintenance of the Cemetery or other graves.
- 11.11 Breakable jars, vases or receptacles must not be used as flower containers.
- 11.12 The Council may remove unapproved receptacles, ornaments or memorabilia from graves at any time to facilitate the maintenance of those graves.
- 11.13 In areas set aside as a lawn cemetery, a plaque must be placed centrally on the beam opposite the associated plot.
- 11.14 All foundations for kerbs, tombstones, headstones, monuments, vaults and any other above-ground structure, must be constructed to the satisfaction of the Council and in compliance with the New Zealand Headstones and Cemetery Monuments NZS 4242:1995 or its subsequent amendments or replacement, subject to the following restrictions:
- a) No memorial stone, fence or enclosure must exceed 1200mm in height.
  - b) In any areas that are designated as Services Cemeteries – all monuments and headstones must be constructed in accordance with the requirements of Veterans' Affairs New Zealand.
- 11.15 Any headstone or other monument, which in the opinion of the Council is offensive, may be removed at the direction of the Council.
- 11.16 No Monumental Mason or other person must remove any kerb, headstone, monument or tablet from any Cemetery without permission from the Council.
- 11.17 Any authorised person erecting or repairing any headstone or monument must remove all excess materials, tools and equipment from the cemetery on completion of the works and leave the site in a tidy state.

## **12.0 Ground maintenance**

12.1 The holder of an exclusive right of burial or must ensure that:

- a) memorial placed on the respective are maintained and secure;
- b) memorials do not inhibit regular maintenance of the Cemetery.
- c) kerbs and enclosures are kept in good order.

12.2 No person must plant any tree, shrub, plant or other vegetation in the Cemetery.

12.3 The Council may cut or remove any vegetation planted in the Cemetery at its discretion.

12.4 Any person installing or attending any work in a cemetery must withdraw for the duration of a nearby funeral service, or at the direction of the Council.

12.5 Any person using a footpath or roadway in the Cemetery for the purpose of mixing cement or mortar must do so on a proper mixing board or in a manner approved by the Council.

## **13.0 Records**

13.1 The Council will keep plans showing areas available for burial and burial plots available for purchase. These plans may be inspected at the Council's offices during office hours or on the Council's website.

## **14.0 Poor persons**

14.1 Where application is made to the Council for the interment or of any deceased poor person, the applicant shall, on making such application, provide to the Council a duly signed certificate certifying that such deceased person has not left sufficient means to pay the ordinary charge of interment or cremation fixed by this part of the bylaw, that the cost of burial is not covered by any Accident Compensation entitlement and that his/her relatives and friends are unable to pay the same.

## **15.0 Vehicles in Cemeteries**

15.1 Vehicles must use designated roadways and car parks within a Cemetery.

15.2 Vehicles may only access cemeteries from:

- a) 7.00 am to 8.30pm during the months of October to the end of March;
- b) 8.00am to 5.00pm during the months of April to the end of September;

15.3 The speed limit in all cemeteries is 20km/hr unless notified otherwise.

## **16.0 Dogs and Horses**

16.1 No person must take horses or dogs into a Cemetery.

## **17.0 Nuisance**

17.1 No person shall, in or near any part of a Cemetery, prevent, interrupt or delay a burial.

17.2 No person shall, in or near any part of a Cemetery, cause a nuisance or annoyance to persons

who are lawfully in Cemetery, or who are approaching a Cemetery for a lawful purpose.

## **18.0 Advertising**

- 18.1 No person shall within any Cemetery advertise or solicit any order or custom from any person for any work in connection with a Cemetery or for the sale preparation, or supply of any article, material, or thing to be set up, affixed, placed or used in a Cemetery.
- 18.2 No person shall without the consent of a funeral director, or a special permit in writing for the occasion from the Council, take any photographs or moving images at a funeral.

## **19.0 Safety**

- 19.1 All persons, whether Council employees or staff of funeral directors, shall take all necessary steps to ensure that any Cemetery is a safe site at all times, and particularly during any funeral or burial.
- 19.2 All necessary warning signs, protective barriers and other protective means shall be put in place prior to the commencement of any funeral or burial.
- 19.3 No person, other than the Council or Sexton, or their duly authorised representatives, shall fill in any grave.

## **20.0 Fees and Charges**

- 20.1 The Council may prescribe fees and charges for burials and disinterments, the purchase of exclusive rights of burial, headstone erections and other services. These fees will be included in the Council's Fees and Charges Schedule. A copy of fees and charges will be available from the Council's website, office or any customer service centre.
- 20.2 No burial warrant will be issued until all fees have been paid or satisfactory arrangements have been made for the payment of fees.

## **21.0 Offences**

- 21.1 Any person commits an offence against this bylaw who does or omits or causes to be done or omitted any act contrary to the provisions of this bylaw

## **22.0 Penalties**

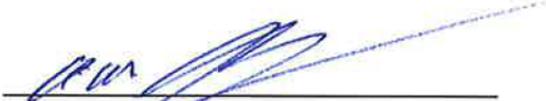
- 22.1 Any person who commits an offence against this bylaw is liable to a fine not exceeding \$20,000.00

## **23.0 General**

- 23.1 Any resolution of the Council may be amended, rescinded or reinstated by a further resolution of the Council.

This bylaw was made pursuant to a resolution passed by the Waikato District Council on 7 October 2019.

**THE COMMON SEAL of WAIKATO DISTRICT COUNCIL** was hereto affixed in the presence of:

  
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Mayor

  
\_\_\_\_\_  
Chief Executive

