



WHANGANUI
DISTRICT COUNCIL
Te Kaunihera a Rohe o Whanganui

WHANGANUI DISTRICT COUNCIL

Cemeteries and Crematoria Bylaw 2016

Commencement Date: August 2016



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Whanganui Aramoho Cemetery

Photo Collection: Whanganui District
Council

CEMETERIES AND CREMATORIA BYLAW 2016

Pursuant to section 16 of the Burial and Cremation Act 1964, and section 146 of the Local Government Act 2002, the Whanganui District Council makes this Bylaw.

PART 1

TITLE

The title of this Bylaw is:

“The Whanganui District Council Cemeteries and Crematorium Bylaw 2016”.

PURPOSE

The purpose of this Bylaw is:

- a) To enable Council to control and set standards for the operation of cemeteries and crematoria under its control and management;
- b) To ensure that the interment of human remains is carried out in an appropriate manner;
- c) To protect the land and structures associated with Council owned cemeteries.

This Bylaw does not alter the provisions of the:

- a) Burial and Cremations Act 1964
- b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967
- c) Cremation Regulations 1973
- d) Health (Burial) Regulations 1946

COMMENCEMENT

This Bylaw was confirmed at an Ordinary Meeting of the Council held on the 23 day of August 2016, when it was ordered to come into force on the 30th day of August 2016.

BOUNDARY

The Whanganui District Council, under section 16 of the Burial and Cremations Act 1964 makes this Bylaw for the Council owned cemeteries and crematorium in the Whanganui District boundary.

REPEAL

The Wanganui District Council Cemeteries and Crematoria Bylaw 2008 is repealed with effect from 30 August 2016.

PART 11

DEFINITIONS

Unless the context supports an alternative meaning as specified in the Burial and Cremation Act 1964, then:

Act means the Burial and Cremations Act 1964

Approved means by Council or by an Authorised Officer

Authorised Officer means a Council Officer delegated by the Chief Executive to undertake a prescribed function

Body means a dead human body and includes the body of a stillborn child

Boundary means the Territorial Authority boundary

Berm or garden cemetery means a cemetery or part thereof where no fence, kerbings or monuments other than headstones shall be erected

Bylaw means the Whanganui District Council Cemeteries and Crematoria Bylaw 2016

Burial warrant means the warrant issued for burial by an Authorised Officer

Cemetery means any public cemetery vested in or under the control of the Whanganui District Council

Cemetery register means the register to be kept by the Council pursuant to section 50 of the Burial and Cremations Act 1964

Council means the Whanganui District Council or an Authorised Officer to act on Council's behalf and with its authority

Council Cemetery Database means all records entered into the Whanganui District Council cemetery database as set out in the meaning of the Public Records Act 2005

Crematorium means Aramoho crematorium

Cremation Plot means a plot laid off in any cemetery

District means the area within the territorial boundary of the Whanganui District Council

Funeral Director means a person whose business is or includes disposing of bodies

Interment means the burial of a dead human body in a burial plot or the burial of cremated human remains in a cremation plot

Koiwi Burials means the interment of human remains (particularly bones)

Lawn Cemetery means such part or parts of any Cemetery as the local authority shall from time to time resolve to be lawn cemetery

Local Government Act means section 146 of the Local Government Act 2002 (LGA)

Monuments means all monuments must be consistent with the Whanganui District Council Headstone and Monument Policy 2015 which stipulates the standards and specifications of monuments in Council owned cemeteries

Natural Burials Area means a cemetery, or part of a cemetery, specifically set aside for natural burials

Notifiable Disease means any notifiable infectious disease, and any disease for the time being specified in Schedule 2 of the Health Act 1956

Owner means the person recorded as being entitled to the exclusive right of burial in a burial plot or cremation plot

Plot means a lot in a cemetery, laid out and shown on a plan of the cemetery prepared by Council, to be used as a grave

Policy means the Whanganui District Council Monument Policy 2016 and the Natural Burials Policy 2015

Prescribed Fee means the fee or fees as may be set by Council from time to time

Public Holiday means Christmas Day, Boxing Day, New Year's Day, the second day of January (or some other day in its place), Good Friday, Easter Monday, Anzac Day, Labour Day, the birthday of the reigning Sovereign, Waitangi Day and Wellington Anniversary Day

Record means recorded in the Cemetery Register

Sexton means any person appointed by the Council to manage the day to day activities of any cemetery and crematorium under its jurisdiction. Such activities to include arranging for the provision of the plots for burials

Singular words may be read as plural where necessary.

PART III

Scope

Section 4 of the Act states that *it shall be the duty of every local authority, where sufficient provision if not otherwise made for the burial of the bodies of persons dying while within its District, to establish and maintain a suitable cemetery.*

The Bylaw provides the regulatory context for enforcing appropriate behaviour of the public in cemeteries, to make activities and places safer for residents, workers and visitors.

Section 16 of the Act permits the Council to make bylaws for all or any of the following purposes:

- a) Maintaining, preserving, and embellishing the cemetery or closed cemetery;
- b) Directing the positions of all graves and vaults in the cemetery, the depths of the graves, and the construction of coffins to be admitted into vaults, and the covering of vaults so as to prevent the escape of any noxious exhalation in the cemetery;
- c) Protecting buildings, monuments, lawns, shrubberies, plantations and enclosure in the cemetery or closed cemetery from destruction or damage;
- d) Prohibiting the burial in any grave of more than one body or prescribing conditions subject to which more than one body may be buried in any grave;
- e) Controlling or restricting the times at which or between which burials may be carried out;
- f) Regulating the burial in the cemetery of the ashes of the dead;
- g) Subject to section 51, regulating and restricting the disinterment and removal of bodies;
- h) Fixing a scale of fees payable in respect of any grave or vault dug or made, and any monument or tablet erected or placed, in the cemetery and in respect of any agreements to maintaining graves;
- i) Any of the matters referred to in section 9 or in paragraphs (a), (b), (c), or (e) of section 59.

PART IV

CEMETERIES

Exclusive Right of Burial¹

1. Any person may acquire the exclusive right of burial in a burial plot in a Council cemetery, by applying to Council on the prescribed form, paying the prescribed fee and complying with the terms and conditions imposed by Council.
2. Council, by resolution, may determine the terms and conditions of the sale of the exclusive right of burial, including price and size of a burial plot.
3. Evidence of a purchase of the exclusive right of burial shall be recorded on a certificate of purchase, which shall include the size of the burial plot.

¹ Refer to Section 10 Burial and Cremations Act 1964

4. A duplicate certificate of purchase may be issued on payment of the prescribed fee as fixed by Council.
5. Each exclusive right of burial shall be valid in perpetuity from the date of sale or such other time as determined by Council resolution.
6. An owner of the exclusive right of burial, in which no burial has taken place may, transfer that right to any other person or to Council, subject to the written consent of an Authorised Officer and on payment of a transfer fee fixed by Council.
7. Council may obtain, from the owner, the transfer of the exclusive right of burial at the cost of purchase minus an administrative fee or at such other cost as determined by resolution of Council.
8. No person shall be entitled to obtain an exclusive right of burial to more than two plots in a cemetery except with the prior written permission of an Authorised Officer.

BURIAL APPLICATION

1. No burial shall be made in any Cemetery without an Application for Burial first being obtained from the Sexton.
2. An Application for Burial shall be applied for by:
 - a. the Funeral Director or, where the services of a Funeral Director are not being used
 - b. the Executor of the Estate/appointed family member.
3. An Application for Burial shall be accompanied by:
 - a. the doctor's certificate for the deceased person; and
 - b. payment of the prescribed fee.
4. For avoidance of doubt the person signing the Application for Burial is responsible for paying the prescribed fee.
5. Payment of the prescribed fee may, subject to written agreement by an Authorised Officer be paid by instalments.
6. An Application for Burial may be issued for the burial of any urn, containing the ashes of any deceased person, in any burial plot provided the exclusive right of burial in that burial plot has been purchased and the burial plot has already been used or is intended to be used for the burial of a body.
7. Notification of an intended burial must be given to the Sexton at least eight (8) working hours prior to the time fixed for the funeral, or at least twenty four (24) working hours prior to the time fixed for a funeral in a rural cemetery, or at least four (4) working hours

for an ashes burial or at least eight (8) working hours prior to the time fixed for a ashes burial in a rural cemetery.

8. If the required notification is not given to the Sexton an additional fee may be payable to the Council.
9. No interment will be permitted until the Application for Burial is delivered to the Sexton.
10. An Application for Burial will be sufficient authority for the Sexton to carry out a burial and after the burial the Sexton will sign the Application for Burial.

PROCEDURE FOR BURIAL

1. Subject to section 86 of the Health Act 1956 (the burial of people who have died from an infectious and/or notifiable disease) no burial service shall take place on:
 - 1.1 Christmas Day, Good Friday or Sundays; or
 - 1.2 outside the hours of 8.00am and 4.00pm on any weekday; or
 - 1.3 outside the hours of 8.00am and 1.00pm on Saturdays and Public Holidays; without the prior written consent of the Sexton.
2. No burial service shall commence after 11.30am on Saturdays, or after 3pm on any other weekday without the prior written consent of the Sexton.
3. Burial services may take place outside the times specified in clause 1.2 and 1.3 but only by arrangement with an Authorised Officer and on payment of any prescribed additional fee.
4. No person other than a person authorised by the Sexton shall dig a burial plot.
5. The minimum depth of spoil cover over any casket shall be one (1) metre.
6. No burial shall take place in any plot without the prior written consent of the owner or their authorised representative, of the exclusive right of burial to that plot.
7. Where the prior written consent of the holder of the exclusive right of burial or their authorised representative cannot be obtained the Funeral Director responsible for the burial may proceed with the burial if the Funeral Director is satisfied that the burial is authorised and has provided written consent to the Sexton.
8. An Authorised Officer may from time to time prescribe the requirements for and the form of the consent required pursuant to clause 7 above.
9. No burial plot may be reopened for a further burial except with the prior written consent of an Authorised Officer and Sexton.

10. Not more than three persons shall be buried in any one plot without the prior written consent of an Authorised Officer and Sexton provided that there is at least 1.0 metres of spoil cover.

MONUMENTS

1. No person shall erect or place any monument on any part of the cemetery without first obtaining a Permit to erect a monument and all fees associated with the burial or cremation on the site for which the monument is being requested have been paid in full.
2. All monuments must be consistent with the Whanganui District Council Monument Policy 2016.

MAINTENANCE OF PLOTS

1. The Council will maintain any plot in any cemetery for such period as the Council may determine to be the useful life of the cemetery for cemetery purposes.
2. The fee for the purchase of a plot in any cemetery shall include an amount as prescribed by the Council for the maintenance of such plot for the period as determined by the Council.
3. For the avoidance of doubt, maintenance of a plot does not include the maintenance of any memorial.

KOIWI BURIALS

1. In keeping with the Te Whakarauhitanga o Te Tangata Relationship document between the Whanganui District Council and Te Runanga o Tupoho, the Council will work in partnership that supports respectful engagement by all parties on the burial of Koiwi bones.
2. All Koiwi burials will be permitted in the area set aside in the Council owned cemetery at Aramoho and shall be referred to as the Koiwi Burial Area – Papaiti Lawn Extension.
3. All Koiwi Burials must be consistent with the Whanganui District Council and Whanganui Iwi Cultural Management Guidelines for Burial of Koiwi.

Explanatory Note: *Koiwi Burials – it is the interment of human remains (particularly bones).*

NATURAL BURIALS

1. Only Natural burials may be permitted in the natural burial section.

2. All natural burials must be consistent with the Whanganui District Council Natural Burial Policy 2016.
3. Consent for a natural burial must be sought using Council's Application for Burial Form and a Doctor's Certificate

DISINTERMENT

1. The Council will process all requests for disinterment pursuant to s51 and s55 of the Act provided that request is received in writing with the prescribed fee.

CREMATION

1. All cremations must comply with the Cremation Regulations 1973 or amending or substituting regulations.
2. Only three (3) internment of ashes per cremation plot are permitted.
3. An application for cremation, must be made to the Council in accordance with the Cremation Regulation 1973 by completing the appropriate form, and paying the requisite fee prior to cremation.
4. Bookings for cremations must be received by the Sexton with all required documentation completed, eight (8) working hours before the committal time booked.
5. Before a body will be accepted for cremation, a certificate must be produced confirming that enquiries have been made by the Funeral Director or, where the services of a Funeral Director are not being used, the Executor of the Estate/appointed family member, of the family or medical practitioner whether the deceased has been subject to any treatment (such as strontium-89 for bone metastases, or iodine-125 for prostate cancer) which may cause an unnecessary risk to the health or equipment of the Cremator or Crematoria staff and the immediate surrounds.
6. If the enquiries produce an answer in the affirmative, the safety of cremation must be confirmed by the medical practitioner licensed under the Radiation Protection Act 1965 who prescribed the treatment before the cremation is permitted to proceed.
7. The casket containing the deceased person intended for cremation shall be made of a combustible material approved by the Council, shall be sturdy in nature, and shall be of a size that will be accepted by the incineration process.
8. The casket shall have a smooth flat exterior base and all lead, iron or zinc linings must be removed prior to presentation for cremation.

9. No casket shall be opened after admission to the crematorium without the consent of the Sexton.
10. No person shall be entitled to observe the actual process of cremation.
11. All cremations shall be held between the hours of 8.00am and 5.00pm Monday to Friday, or 8.00am to 1.00pm on Saturday or such other time as the Authorised Officer and/or Sexton may permit.
12. No ashes of a deceased person shall be interred in any cemetery without a completed application being made to and accepted by the Sexton.
13. An application for interment of the ashes of any deceased person shall be accompanied by the prescribed fee or satisfactory arrangements have been made in writing for the payment of the prescribed fee to an Authorised Officer.
14. The Council shall act in accordance with the instructions on the 'Register of Cremations' form authorised by the applicant for the disposal of ashes provided that ashes shall be held in the crematorium for only fifteen (15) working days after the cremation and then returned to the Funeral Director handling the cremation.

FLORAL TRIBUTES

1. All floral tributes must be consistent with the Whanganui District Council Monument Policy 2016.

CEMETERY REGISTER

1. Every plot in each cemetery shall be identified by a number, which shall be recorded by Council.
2. A permanent cemetery register shall be kept of all plots for which exclusive rights of burial or ashes interment have been purchased, together with names and dates of interment of any persons buried in such plots. Duplicates of the plans shall be kept by the Sexton.
3. The cemetery plan and cemetery register shall be open for inspection during ordinary working hours, upon payment of any prescribed fee for inspection or the production of a certified extract from the cemetery register.
4. The Council will endeavour to give the correct boundaries of any plot or plots when selling an exclusive right of burial, but shall not be liable to the purchaser for any error subsequently found, whether as to survey or otherwise; and the Council shall not be

bound to point out the limits of any plot for which the exclusive right of burial has been so purchased.

5. Burial and cremation records administered by Council are available on the Whanganui District Council website.

NOTICES

1. The Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the provisions of this Bylaw and every such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.

REMOVAL OF WORKS

1. Where the notice served under **Notices Clause 1** has not been complied with, an Authorised Officer, may pull down, remove or alter any work, material or thing erected or being in contravention of this Bylaw.
2. The Council may recover from any person responsible for the breach of any part of this Bylaw, all expenses incurred by it in connection with such pulling down, removal or alteration. This includes the cost of debt collecting and legal fees.
2. The exercise of this authority does not relieve any such person from liability for any penalty for erecting or permitting the continued existence of any such work, material or thing.
3. If the breach is such that public health, or safety considerations or risk of consequential damage to Council assets is such that delay would create unacceptable results, the Council may take immediate action to rectify the defect and recover all reasonable costs.
4. On payment of all Council's costs, including storage where applicable, the lawful owner may claim any object, material or thing removed under.
5. If not claimed within a reasonable time the Council may dispose of any object, material or thing as it sees fit and apply the proceeds to meet any outstanding costs. The lawful owner shall be entitled to claim any residual sum.

VEHICLES

1. No person shall bring any vehicle into any cemetery other than for the purpose of attendance at a funeral, visiting a burial place or in respect of any Authorised Officer and/or Sexton undertaking their normal duties, or at the express permission of Council.
2. No person shall, without the prior written permission of an Authorised Officer and/or Sexton
 - 2.1 take any vehicle into any cemetery during the hours of darkness. The hours of darkness means those hours commencing half an hour after sunset and finishing half an hour before sunrise the next day;
 - 2.2 permit any vehicle under his or her control to remain in any cemetery during the hours of darkness;
 - 2.3 drive any vehicle on any part of the cemetery except on the roads provided for vehicular traffic;
 - 2.4 drive any vehicle in any cemetery except in the direction indicated by traffic notices;
 - 2.5 park any vehicle in any cemetery except in conformity with the directions of an Authorised Officer and/or Sexton in accordance with the terms of any displayed traffic sign or notice.
3. All vehicles shall yield unconditional right of way to any funeral procession in any cemetery.

GENERAL CLAUSES

1. The Council may by resolution, determine conditions of the use of any cemetery and its crematorium.
2. No person shall, without the prior written consent of an Authorised Officer and/or the Sexton:
 - 2.1 remain in the cemetery during the hours of darkness.
3. No person shall;
 - 3.1 breach the conditions of use of a cemetery or crematoria;
 - 3.2 behave in a manner, which is likely to create a nuisance or an offense to any other person;
 - 3.3 allow any animal, other than any Guide Dog, to accompany him or her into any cemetery;

- 3.4 take any photograph or video recording at any funeral for the purposes of sale or publication, without the written permission of the funeral party concerned;
- 3.5 advertise or solicit any order or custom from any other person for any work whatsoever to be done in or in connection with any cemetery, or for the sale, preparation, or supply of any article, to be set up, affixed, placed, or used in any cemetery;
- 3.6 allow any alcohol to be brought into, placed in or consumed in any cemetery;
- 3.7 take part in any gathering other than for the purpose of a religious or other ceremony of a burial or memorial unveiling without permission of an Authorised Officer;
- 3.8 deface, damage or interfere with any grave;
- 3.9 unlawfully or improperly interfere with or interrupt any burial, cremation, funeral service, memorial service or unveiling service.

POWERS

Dispensing Powers

1. An Authorised Officer may, on the application of any person, dispense with the full compliance with any of the provisions of this Bylaw where full compliance would cause undue hardship to a member of the deceased's family without any corresponding benefit to the community; provided that the Authorised Officer may impose any other appropriate term or condition that shall be complied with by that family member.

FEES

1. The Council may from time to time by resolution fix fees and charges for all services provided for in this Bylaw for the maintenance and operation of any of its cemeteries or crematoria.

Explanatory note: *The following note is explanatory and is not part of this Bylaw.*

Fees relevant to cemeteries are set out in the Council's Fees and Charges Schedule, which is available on the Council's website: <http://www.whanganui.govt.nz/>.

OFFENCES

1. Every person commits a breach of this Bylaw who:
 - 1.2 commits, or causes to be committed, any act contrary to this Bylaw, or
 - 1.3 omits, or knowingly permits to remain undone, any act required by this Bylaw, or

- 1.4 refuses or neglects to comply with any notice, or any condition in any such notice, whether public or private, given pursuant to this Bylaw, or
- 1.5 obstructs or hinders any Council officer in the performance of any power, or duty conferred upon him or her by this Bylaw.
2. Every person who commits a breach of any of the provisions of this Bylaw shall be liable to a fine and where the offence is a continuing one then to a further fine for every day or part day during which the offence has continued.
3. Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an Authorised Officer, provide their full name and address.

PENALTIES FOR BREACH OF BYLAW

Pursuant to section 16(1)(i) of the Act, any person breaching this Bylaw will be liable for a fine of \$100 in any case, and, where the breach is a continuing one, \$10 a day for every day or part of a day during which the breach has continued.

The maximum penalty on summary conviction is \$20,000.00.²


REVIEW

1. The Bylaw must be reviewed before 30 July 2026.

The Common Seal of the Whanganui District Council was hereunto affixed this

30th day of August 2016.


.....
Mayor of Whanganui


.....
Chief Executive



² Local Government Act 2002 s242(4); and Burial and Cremations Act 1964
Whanganui District Council Cemeteries and Crematoria Bylaw 2016