

## Cemeteries, Crematoria, Plaques and Memorials Bylaw



For Consultation - As at 22-02-2023

### 1 Title

(1) This Bylaw is the Cemeteries and Crematoria Bylaw 2022

### 2 Commencement

(1) This Bylaw comes into force on ##-###-2023.

### 3 Application

(1) This Bylaw applies to the Whanganui District.

## Part 1 - Preliminary provisions

### 4 Purpose

(1) 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; and
- d. To ensure consistency between memorial plaques throughout the district.

## 5 Interpretation

(1) In this Bylaw, unless the context otherwise requires words shall have the same meaning as section 17 - Interpretation of the Cemeteries, Crematoria, Plaques and Memorials Policy.

(2) Any undefined words, phrases or expressions used in this Bylaw have the same meaning as in the Act unless the context plainly requires a different meaning.

(3) Explanatory notes and additional information attached at the end of this Bylaw are for information purposes only, do not form part of this Bylaw, and may be made, amended, revoked or replaced by the Council at any time.

**This Bylaw is secondary legislation for the purposes of the Legislation Act 2019.**

## Part 2 - General Provisions

### 6 Burials

(1) Except with the Approval of Council, no person shall conduct an Interment or Burial.

(2) No person may, unless authorised by Council, dig or backfill a Plot.

(3) An interment within a Plot is subject to the following conditions:

- a. Standard Plot:
  - i. minimum depth of spoil over any casket shall be one (1) metre; and
  - ii. maximum of two (2) persons within any one plot.
- b. Cremation Plot:
  - i. may only be used for the interment of ashes;
  - ii. minimum depth of spoil over any casket shall be one (1) metre; and
  - iii. maximum of two (2) persons within any one plot.

(4) Notification of an intended Burial must be given to the Sexton no later than the following:

- a. Aramoho Cemetery:
  - i. Burial of a Body - Two (2) working days
  - ii. Burial of Ashes - Eight (8) working hours
- b. Any other cemetery:
  - i. Burial of a Body - Two (2) working days

- ii. Burial of Ashes - Eight (8) working hours

## **7 Exclusive Right of Burial**

- (1) Upon application to Council on the prescribed form, paying the prescribed fee and complying with the terms and conditions imposed by Council a person may acquire the exclusive right of burial in a Plot in a Council cemetery.
- (2) Council, may determine the terms and conditions of the sale of the exclusive right of burial, including price and size of a Plot.
- (3) Subject to the approval of Council and transfer fee, a holder of an exclusive right of burial may transfer that right to any other person or to Council.
- (4) Council may obtain, from the holder, 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.
- (5) Except with the approval of Council, no person may hold or have rights to obtain an exclusive right of burial to more than two (2) plots in a cemetery.

## **8 Monuments and Memorabilia**

- (1) Except with the Approval of Council, no person shall erect, place, modify or remove any monument within a cemetery.
- (2) All Monuments, Memorabilia and or Floral Tributes shall be in keeping with the Guidelines – Cemetery Monuments and Memorabilia.
- (3) Council may from time to time laydown, remove or otherwise make safe a dangerous, broken, tattered, neglected or obstructive Monument or Memorabilia.
- (4) For the avoidance of doubt, maintenance of an approved Monument is not considered to be modification of the Monument.

## **9 Plaques and Memorials**

- (1) Except with the approval of Council, no person shall erect, modify or remove a Plaque, Memorial or Interpretive Panel within a Public Place.
- (2) All Plaques, Memorials shall be in accordance with the Guidelines - Plaques and Memorials

## **10 Natural Burials**

- (1) Except with the Approval of Council, no person shall conduct an Interment or Burial within the Natural Burial Area.
- (2) Only Natural burials may be permitted in the Natural Burial Area.
- (3) Natural burials must be consistent with Guidelines – Natural Burials.

## 11 Cremation

(1) Except with the Approval of Council, no person shall be cremated.

(2) Where a person has, or is suspected to have, had 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, a certificate from a medical practitioner licensed under the Radiation Protection Act 1965 who prescribed the treatment before the cremation is permitted to proceed shall be provided confirming the safety of the cremation.

(3) The casket containing the deceased person intended for cremation shall:

- a. be made of a combustible material approved by the Council;
- b. be of a size that will be accepted by the incineration process;
- c. be sturdy in nature;
- d. have a smooth flat exterior base; and
- e. not contain any lead, iron or zinc.

(4) Bookings for cremations must be received by the Sexton, with required documentation completed, no later than eight (8) working hours before the committal time booked.

## 12 Vehicles and General Use of a Cemetery

(1) Except the approval of Council, no person shall:

- a. 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;
- b. take any vehicle into any cemetery during the hours of darkness;
- c. permit any vehicle under his or her control to remain in any cemetery during the hours of darkness;
- d. drive any vehicle on any part of the cemetery except on the roads provided for vehicular traffic;
- e. drive any vehicle in any cemetery except in the direction indicated by traffic notices;
- f. 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.

(2) Except the approval of Council, no person shall:

- a. remain in the cemetery during the hours of darkness;
- b. breach the conditions of use of a cemetery or crematoria;
- c. behave in a manner, which is likely to create a nuisance or an offense to any other person;
- d. take any photograph or recording at any funeral for the purposes of sale or publication, without the written permission of the funeral party concerned;
- e. 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;

- f. take part in any gathering other than for the purpose of a religious or other ceremony of a burial or memorial unveiling;
- g. deface, damage or interfere with any grave;
- h. unlawfully or improperly interfere with or interrupt any burial, cremation, funeral service, memorial service or unveiling service.

## **Part 3 - Administration and Enforcement**

### **13 Resolutions**

(1) A resolution made under this Bylaw may -

- a. regulate, control or prohibit any matter or thing generally, or for any specific classes of case, or in a particular case; or
- b. apply to any specified time or period of time; or
- c. amend an Associated Guideline.

(2) A resolution under clause 13(1) shall be publicly notified.

(3) Clause 13(2) does not apply to any proposal which will consolidate resolutions previously made under this part or has the same effect as a resolution made under a bylaw revoked by this part.

### **14 Approvals**

(1) The Council may grant, (with or without conditions) or refuse any application for Approval, at its discretion.

(2) In deciding to grant or decline an application, Council will consider the following matters:

- a. any Associated Guidelines;
- b. conditions that may be imposed on an Approval if granted;
- c. duration of any Approval if granted;
- d. inspection to ensure compliance with any Approval and any conditions;
- e. any outstanding fees associated with an application, burial or cremation;
- f. whether the activity is consistent with Council policies and plans; and
- g. any other matters Council considers necessary.

(3) In deciding to grant or decline an application for Burial, Council will consider the following additional matters:

- a. the doctor's certificate for the deceased person
- b. evidence of exclusive right of burial within the identified burial plot; and
- c. payment of any prescribed fees.

(4) In deciding to grant or decline an application for Cremation Council will consider the following additional matters:

- a. compliance with Cremation Regulations, including any relevant certificates;

- b. compliance with any relevant conditions of consents or approvals for which Council has for the operation of the crematoria; and
- c. payment of any prescribed fees.

(5) In deciding to grant or decline an application for Burial within the Natural Burial Area Council will consider the following additional matters:

- a. compliance with the Guidelines - Natural Burials;
- b. completion of the Application for Burial Form;
- c. the doctor's certificate for the deceased person
- d. evidence of exclusive right of burial within the identified burial plot; and
- e. payment of any prescribed fees.

In deciding to grant or decline an application for erection or modifications to a Memorial Council will consider the following additional matters:

- 1. compliance with the Guidelines - Cemetery Monuments;
- 2. drawing and specification of any proposed monument;
- 3. content and subject matter of text and images;
- 4. use of enduring materials;
- 5. whether or not works are to be carried out by a suitably qualified monumental mason;
- 6. evidence of exclusive right of burial within the identified burial plot; and
- 7. payment of any prescribed fees.

(6) Unless otherwise stated in the conditions of the Approval granted under clause 14(1), the Approval will remain valid as long as the circumstances described on the Approval remain unchanged.

## **15 Review of an approval**

(1) The Council may cancel, amend or initiate a review of an Approval issued under this Bylaw if:

- a. change of circumstances relating to the use of a site;
- b. if urgent action is required to protect the public from unsafe or hazardous conditions; or
- c. a Person has failed to meet the conditions of their Approval or any other requirements of any relevant criteria, policy or guidelines approved by the Council; or
- d. a Person that holds an Approval fails to meet any written instructions within the specified time frames.

(2) A review of an approval, may result in:

- a. Amendment of the approval; or
- b. Suspension of the approval; or
- c. Withdrawal of the approval; or
- d. No further action.

## **16 Fees and Charges**

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

(2) For the avoidance of doubt, the person signing the application form for an Approval is responsible for paying the prescribed fees or charges.

## **17 Non-compliance with this Bylaw**

(1) The Council may use its powers under the Act and the Local Government Act 2002 to enforce this Bylaw.

(2) A Person who fails to comply with any control, restriction, limitation or prohibition contained within or made pursuant to this Bylaw commits an offence under the Act and the Local Government Act 2002 and is liable to the penalties under the Act or Local Government Act 2002.

## **18 Removal of works**

(1) The Council may:

- a. remove or alter any work or thing that is, or has been, constructed in breach of this Bylaw; and
- b. recover on demand the full costs of removal or alteration from the person who committed the breach.

## **19 Recovery in the event of damage or other loss**

(1) Where any breach of this Bylaw destroys, damages, stops, obstructs, or otherwise interferes with any works or property owned, constructed, acquired, or used by Council, the Council may recover the cost of repairing the damage and/or the full extent of its loss from the person responsible for the breach.

## **20 Savings**

(1) Any approval or control in force at the commencement of this Bylaw remains in force until revoked or replaced by an equivalent resolution, approval or decision made by the Council under this Bylaw.