



CEMETERIES BYLAW 2013

S e p t e m b e r 2 0 1 3

(a m e n d e d S e p t e m b e r 2 0 1 8)

This bylaw is made by the Waipa District Council under the powers given to it by the Local Government Act 2002 and the Burial and Cremation Act 1964 and their respective amendments.

Table of Contents

| | |
|--|----|
| 1. SHORT TITLE..... | 3 |
| 2. REVOCATION OF EXISTING BYLAWS | 3 |
| 3. SCOPE..... | 3 |
| 4. PURPOSE | 3 |
| 5. COMPLIANCE WITH OTHER ACTS AND CODES..... | 3 |
| 6. INTERPRETATION | 4 |
| 7. DEFINITIONS..... | 4 |
| 8. EXCLUSIVE RIGHTS TO BURIAL..... | 5 |
| 9. HOURS OF OPERATION..... | 6 |
| 10. ERECTION AND MAINTENANCE OF MONUMENTS, HEADSTONES, AND OTHER STRUCTURES IN MEMORIAL PARK SETTING..... | 6 |
| 11. ECO-BURIALS..... | 7 |
| 12. VEGETATION | 8 |
| 13. MOTOR VEHICLES..... | 8 |
| 14. SOLICITING OF ORDERS | 9 |
| 15. DISINTERMENT | 9 |
| 16. FEES..... | 9 |
| 17. PENALTIES | 9 |
| First Schedule..... | 11 |

1. SHORT TITLE

- 1.1. This Bylaw is made by Waipa District Council under the Local Government Act 2002 (LGA 2002) and the Burial and Cremation Act 1964 and their respective amendments, and may be referred to as the Waipa District Council Cemeteries Bylaw 2013.

2. REVOCATION OF EXISTING BYLAWS

- 2.1. The Waipa District Council Cemeteries Bylaw 2007 is hereby revoked.

3. SCOPE

- 3.1. This bylaw shall apply to cemeteries that are controlled and managed by the Waipa District Council within the boundaries of the Waipa District pursuant to the LGA 2002.

4. PURPOSE

- 4.1. The purpose of this Bylaw is to provide for the efficient management and maintenance of cemeteries under the Council's control in a manner that:
- (a) protects the public from nuisance; and
 - (b) maintains public health and safety; and
 - (c) minimises the potential for offensive behaviour.

5. COMPLIANCE WITH OTHER ACTS AND CODES

- 5.1. This Bylaw is made under the authority of the Local Government Act 2002 for the management of cemeteries by the Waipa District Council. The management of cemeteries by the Council is also subject to:

Statutory Acts and Regulation

- (a) Local Government Act 2002
- (b) Reserves Act 1977
- (c) Resource Management Act 1991
- (d) Burial and Cremation Act 1964
- (e) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967
- (f) Health (Burial) Regulations 1946
- (g) Health and Safety in Employment Act 1992
- (h) New Zealand Standards 9201:Part 14:1999 (except as applies to eco-burials)
- (i) New Zealand Standards 4242:1995

6. INTERPRETATION

- 6.1. When interpreting this Bylaw the definitions set out in section 7 apply unless the context requires otherwise. Where reference is made to a repealed enactment, this should be read as a reference to the replacement enactment.

7. DEFINITIONS

- 7.1. For the purposes of this Bylaw the following definitions shall apply:

| Definition | Description |
|------------------------------|--|
| Authorised Officer | any officer of the Council or any other person authorised under the Local Government Act 2002 and authorised by the Council to administer and enforce its Bylaws |
| Burial Warrant | a certificate issued by the Council, after approval of an application on the prescribed form and receipt of the correct fees and charges by those responsible for the burial, which gives authority for the person named on the warrant to be buried by the Sexton |
| Cemetery | any public cemetery vested in or under the control and management of the Council from time to time but excludes any closed cemetery |
| Council | the Waipa District Council |
| Disinterment | the removal of a human body from the earth |
| Eco-burial | a burial that has a low environmental impact, including that the body has not been treated with chemicals or oils that will prevent or slow down the decay of the body by bacteria (such burials may also be known as 'green' or 'natural' burials) |
| Fees and charges | the fees and charges for cemeteries set by the Council |
| Human remains | the body of a deceased person in any stage of decomposition and includes human cremains |
| Memorial park setting | a cemetery that presents a park like appearance and is laid out in grass with concrete headstone berms |
| Motor Vehicles | shall have the same meaning as 'Motor vehicles' in the Land Transport Act 1998 |
| Plot | any pre-allocated site used as a grave or place of interment of human remains |
| Reserved Plot | reservation of a pre-purchased Plot through application to Council and payment of prescribed fees to be used as a grave or place of interment for a nominated person |
| Right of burial | means the possession of a certificate in the form as prescribed in Schedule 1, issued by an Authorised Officer, which authorises the Council to bury the person specified in that certificate |

| Definition | Description |
|---------------------------|---|
| Sexton | any person employed by the Council to manage the day-to-day activities of any cemetery under its jurisdiction |
| Unveiling Ceremony | a ceremony to celebrate a memorial to a person |
| Vegetation | any shrub, tree, flower or plant of any kind |
| Written Approval | written letter of approval issued by Council or an Authorised Officer |

8. EXCLUSIVE RIGHTS TO BURIAL

- 8.1. Pursuant to section 54(c) of the Burial and Cremation Act 1964, so that burials can be registered and recorded, no person at any time shall inter human remains without the express permission of the Council.
- 8.2. Unless exclusive rights to burial have been granted (through reservation of a plot), Council will issue a burial warrant upon receipt of an application for burial, a death certificate, a Coroner's report (where applicable) or any other relevant documents and payment of the applicable fees in accordance with the Burial and Cremation Act 1964. Council may exercise discretion over the location of the burial plot, based on the cemetery burial plan and according to best practice. Interment is subject to the payment of all relevant charges.
- 8.3. Applications for reserved plots must identify who has the right of burial within the reserved plot. Two-person plots are permitted. An exclusive right to burial in reserved plots may lapse in accordance with Section 10(4) of the Burial and Cremation Act 1964.
- 8.4. The reservation of plots is restricted to two plots concurrent with the internment of a family member or friend. The Authorised Officer may make exceptions at its discretion.
- 8.5. A plot may be reserved for a period of 60 years. Council reserves the right to re-assign or resell the right of burial on any plot not used for burial after the lapse of 60 years in accordance with section 10(4) of the Burial and Cremation Act 1964.
- 8.6. A burial warrant will be issued by the Authorised Officer no less than twenty-four hours before the time fixed for the burial.
- 8.7. A burial warrant issued by the Authorised Officer shall be sufficient authority for the Sexton to proceed with the burial of the person named therein.
- 8.8. The Funeral Director or other person responsible for the management or control of the burial has an obligation to identify and be aware of on-site hazards and to be responsible for public safety on site during the burial procedure.
- 8.9. For public health and safety reasons, Council has sole responsibility for the excavation of plots in any part of the public cemetery. Family excavation may only occur with the authority of, and under the direct supervision of, the Authorised Officer.

- 8.10. The Authorised Officer may request that any person temporarily vacate any part of a cemetery for the purposes of ensuring privacy during a funeral service.
- 8.11. No person shall behave in a manner that creates a nuisance or is offensive to any other person within any cemetery.

9. HOURS OF OPERATION

- 9.1. Except pursuant to Section 86 of the Health Act 1956 (which relates to the burial of people who have died from an infectious and/or notifiable disease):
- (a) No person shall be buried on Christmas Day or Good Friday; and
 - (b) Burials shall otherwise take place between the hours of 8:00 am and 2:00 pm on any weekday and 8:00 am and 12:00 noon on Saturdays and public holidays; and
 - (c) A burial may take place outside of these times at the discretion of the Authorised Officer.

Unveiling ceremonies must be authorised by the Authorised Officer who shall have sole discretion as to whether an unveiling ceremony is permitted and, if it is permitted, the terms and conditions applicable to that unveiling.

10. ERECTION AND MAINTENANCE OF MONUMENTS, HEADSTONES, AND OTHER STRUCTURES IN MEMORIAL PARK SETTING

- 10.1. All new, memorial headstones and monuments in memorial park settings shall require written approval from the Authorised Officer prior to erection of the same. stating the size and material to be used and including any other conditions relating to the health and safety of sextons and visitors.
- 10.2. Existing monuments, vaults, tablets or other structures in older sections of any cemetery that exceed 1200mm in height are permitted to remain, be maintained or restored.
- 10.3. All memorial headstones and monuments in memorial park settings shall be devoid of offensive language, offensive symbols or gang insignia, have a minimum predicted service life of 50 years and comply with Figure 1.1 as set out in the First Schedule to this Bylaw and with any other statutory requirements. The Authorised Officer may exercise discretion in allowing or denying the use of specifically requested symbols and there shall be a further right of appeal to the Council to determine requests.
- 10.4. All above ground enclosures, memorial headstones, monuments and other structures in memorial park settings are the responsibility in perpetuity of the purchasers of the plots, their representatives or descendants in the first instance. Monuments must be kept in good order, not cause a hazard or safety risk, and be repaired where necessary by the purchasers of the rights of burial, their representatives or descendants in the first instance.

- 10.5. Authorised Officers may carry out regular inspections of memorial headstones and other monuments to ensure public safety. In accordance with the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967 the Authorised Officer has the authority to repair, reposition or remove or direct the repair, repositioning or removal of any installations of any kind that are not consistent with 10.4 above, or that fall into a state of decay, disrepair or which are, in the opinion of the Authorised Officer or the Sexton, considered unsafe.
- 10.6. If an Authorised Officer deems an above ground enclosure, memorial headstone, monument or other structure in a memorial park setting to be in an unacceptable state of decay or disrepair, or to be a hazard or safety risk the Authorised Officer will, in accordance with the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, make every attempt to serve notification on any known person who is entitled to maintain the monument or tablet a minimum of 3 months before any repositioning or removal of the same. Where the person entitled to maintain the monument or tablet cannot be identified or found public notification will be made via appropriate media channels in the district in accordance with Section 4.2 of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967.
- 10.7. Any monument or headstone removed from a memorial park setting under clause 10.6 of this Bylaw will be stored by the council in an appropriate facility until any person entitled to maintain the monument or tablet comes forward to claim same.
- 10.8. All vases and containers for flowers and plants, or any other memorabilia in any cemetery (other than in an area set aside for eco-burials) shall be of non-breakable material and placed in such a manner so as not to inhibit the maintenance of the cemetery or to cause nuisance to the public.
- 10.9. Floral tributes, except during the 28 days immediately following burial, will be restricted to containers that can be housed within the concrete berm or on the memorial. The Authorised Officer may remove or direct the removal of any tributes of any kind that are not consistent with this requirement.

11. ECO-BURIALS

- 11.1. The Council may set aside an area of a cemetery specifically for the purpose of accepting eco-burials. Eco-burials will be carried out in accordance with Council's procedures and are subject to prior approval from an Authorised Officer.
- 11.2. Plot reservations are not permitted for eco-burials.
- 11.3. In areas of cemeteries set aside for eco-burials, the following provisions shall apply (and such other provisions as the Authorised Officer may require):
 - (a) All plots are for single interment.
 - (b) Embalming of the interred is not permitted.
 - (c) A casket or shroud of biodegradable material consistent with eco-burial guidelines is required.

- (d) Memorials including containers for flowers or other items are not permitted on an eco-burial grave and may be removed by the Authorised Officer. Native vegetation chosen from the Council's list of approved plant species and varieties shall mark the site of an eco-burial and will be provided by the Council in accordance with the cemetery burial plan, planted by or under the direct supervision of the Authorised Officer.
 - (e) The Authorised Officer will place a discreet marker to identify the location of eco-burial graves and may also place a biodegradable marker.
 - (f) The location of all eco-burial graves will be recorded by the Council using Geographical Positioning System (GPS) co-ordinates..
- 11.4. All monument markers on plots designated for eco-burials or natural burials must consist of untreated biodegradable wood or wood treated to at least the H3 standard. No non-biodegradable tributes are permitted.

12. VEGETATION

- 12.1. No person shall plant any vegetation in any cemetery except with the written permission of the Authorised Officer.
- 12.2. Any vegetation planted in any portion of any cemetery may be at any time trimmed, or removed, by order of the Authorised Officer.

13. MOTOR VEHICLES

- 13.1. No person shall drive or operate any motor vehicle in any cemetery except between the hours of sunrise and sunset without the written permission of the Authorised Officer.
- 13.2. No person shall drive or operate a motor vehicle on any part of any cemetery except over the sealed carriageway provided for vehicular traffic, unless permission has been obtained from the Authorised Officer.
- 13.3. No person shall drive, operate, or park a motor vehicle contrary to any posted signs within the cemetery.
- 13.4. No person shall drive or operate a motor vehicle at a speed greater than 20 km/hr within any cemetery.
- 13.5. Every person driving or in charge of any motor vehicle in any Cemetery shall stop or move such motor vehicle at any time as directed by the Sexton or the Authorised Officer.
- 13.6. All motor vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.

14. SOLICITING OF ORDERS

- 14.1. No person shall, in any cemetery, advertise or solicit any order from any other person for any work, goods or services.

15. DISINTERMENT

- 15.1. Where an application for disinterment is received by Council, no disinterment may be carried out unless a disinterment licence has been issued by the Minister of Health in accordance with the Section 51 of the Burial and Cremation Act 1964. Disinterment is subject to the payment of all relevant charges.

16. FEES

- 16.1. Fees and charges for the issue of Licenses under this Bylaw are as set out in Council's Schedule of Fees and Charges and may be amended from time to time in accordance with section 150 of the Local Government Act 2002.

17. PENALTIES

- 17.1. Any person who does, or causes or allows to be done, anything in contravention of this Bylaw, or who omits or neglects to do, or knowingly permits to remain undone, any matter or thing required under this Bylaw, commits an offence, and
- (a) shall be liable to reimburse Council the costs for the removal or alteration of any work or thing that is, or has been, constructed in breach of this Bylaw, and/or
 - (b) may be liable on summary conviction to a fine not exceeding \$20,000.

The foregoing Bylaw was made by the **WAIPA DISTRICT COUNCIL** by Special Consultative Procedure and confirmed at a meeting of Council held on 24 September 2013. This Bylaw became operative on 14 day of October 2013.

Amendments to this bylaw were made by the **WAIPA DISTRICT COUNCIL** by Special Consultative Procedure and confirmed at a meeting of Council held on 25 September 2018 with operative effect from 1 November 2018.

¹**IN WITNESS WHEREOF** the Common Seal of the **WAIPA DISTRICT COUNCIL** was hereunto affixed pursuant to a resolution of Council passed on 25 September 2018 in the presence of:

Mayor: _____

Chief Executive: _____

¹ The original copy of this Bylaw was sealed and signed by the Mayor and the Chief Executive on 25/09/2018.

First Schedule

Headstone/Berm Dimensions



Figure 1.1 – Headstone and Berm Dimensions