

Waikato District Council 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.

1. 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 operation on 1st September 2016.

2. Revocation

- 2.1. Any previous Cemetery Bylaws (and subsequent amendments hereto) made by the Waikato District Council and Franklin District Council or any Local Authority previously existing in the Waikato District or Franklin District are hereby repealed.

3. Purpose

- 3.1. The purpose of this Bylaw is to enable the Council to regulate activities and set standards for the operation of cemeteries under the control of the Council.
- 3.2. This Bylaw is made pursuant to the provisions of section 145 and 148(b)(v) of the Local Government Act 2002 and sections 16 and 40 of the Burial and Cremation Act 1964.

4. Definitions

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

Beam	means a concrete strip that marks plot row and number and in which a headstone or plaque is placed.
Burial	means interment of a body, remains or ashes
Cemetery	means any cemetery vested in or under the control of Council and dedicated as a cemetery.
Council	means the governing body of the Waikato District Council or any person delegated to act on its behalf.
Disinterment	means the removal of a body (or remains of a body) buried in any cemetery.
Exclusive right of burial	means a right that may be purchased from Council which grants the purchaser, and his or her assignee, the exclusive right of burial in a designated burial plot for a specified number of years; and <ol style="list-style-type: none"> 1. does not create an ownership interest over the designated plot; and 2. lapses in accordance with section 10 of the Burial and Cremation Act 1964.
Grave	means the area where the body of a deceased person is, or their ashes, are buried.

Headstone	means a memorial that projects above the ground.
Interment	means the burial of a body or ashes in a plot.
Lawn cemetery	means a grass lawn cemetery where no headstones project above the ground.
Non-operational cemetery	means a cemetery that has been closed by a closing order, but may accept future ash interments.
NZS 4242: 1995	means the New Zealand Standard for Headstones and Cemetery Monuments.
Operational cemetery	means a cemetery that is accepting of new interments.
Plot	means a specified area set aside for the burial of a casket/coffin or ashes.

5. Burials

- 5.1. Before a burial may take place, all relevant prescribed forms must be submitted to the Council for approval.
- 5.2. Relevant prescribed forms must be accompanied by:
 - a) medical certificate or coroner's authorisation where required;
 - b) written permission from the owner of the exclusive right of burial for that plot; and
 - c) payment of the fee, set by Council, for burial.
- 5.3. Burials must take place:
 - a) in a specific plot where the exclusive right of burial has been purchased; or
 - b) in a plot chosen by Council if no exclusive right of burial has been purchased.

6. Exclusive right of burial

- 6.1. Exclusive right of burial may be sold by Council and may be held for sixty (60) years. Council will not purchase any presold plots.
- 6.2. In cemeteries where plot pre-purchase is available a person is entitled to purchase the exclusive right of burial for no more than two plots. Any relative of a person so buried may, at the time of burial, purchase two adjacent plots at the time of burial only.
- 6.3. Where doubt of ownership of a plot exists, Council may satisfy itself, so far as practicable, that the burial is authorised.
- 6.4. Council will not sell the exclusive right of burial in respect of any plot in those portions of a cemetery reserved exclusively for the burial of the bodies of persons who have served in Her Majesty's Forces.

7. Notification of burial

- 7.1. Interments may take place between the hours of 10.00am and 4.00pm on Mondays to Fridays inclusive, and between 10.30am and 3.30pm 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 Council not less than eight (8) working hours prior to the time of burial. If this notice is not given, an extra charge may be imposed by Council.

8. Plots and graves

- 8.1. Only Council is authorised to dig a grave.

- 8.2. Council prefers prior notification if a person, or persons, wish to fill any grave.
- 8.3. The minimum depth of cover for any casket/coffin must be no less than 800mm.
- 8.4. A maximum of two (2) caskets may be buried in any one burial plot.
- 8.5. A grave may be reopened for subsequent burial(s) where consent is given by Council and:
 - a) by the owner of the exclusive right of burial, or their assignee; and
 - b) the relevant prescribed form is provided.

9. Ashes

- 9.1. Ash burials may take place in the appropriate portion of the cemetery set aside for that purpose or in any plot subject to exclusive right of burial where:
 - a) an exclusive right of burial has been purchased; and
 - b) the owner of the exclusive right of burial has given consent.
- 9.2. The maximum number of urns containing ashes that may be buried in any one burial plot is eight (8), excluding caskets.
- 9.3. Ashes may not be scattered in any cemetery unless in an approved area

10. Disinterment

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

11. Memorials and adornments

- 11.1. Any memorial must be approved by Council, prior to installation, using the relevant prescribed form and accompanied by:
 - a) proof of exclusive right of burial for that plot; and
 - b) payment of the fee set by Council, for memorials.
- 11.2. Memorials must:
 - a) cover no more than two (2) plots; provided they are jointly owned
 - b) limit inscriptions to the front for double beam areas; and
 - c) be set as approved by Council.
- 11.3. Memorials and the associated plot must be kept in good repair by the holder of the exclusive right of burial, or their assignee.
- 11.4. Only a Monumental Mason who complies with Council's Health and Safety approval requirements, and preferably a fully NZQA qualified Monumental Mason may undertake any structural 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. A photographic record of the memorial will be taken prior to removal and be retained in cemetery records.
- 11.6. Above-ground memorials, including railing, fencing or structures must not be placed on any area of grave other than a designated berm.

- 11.7. Removal of any memorial must be approved by Council using the relevant prescribed forms and accompanied by proof of exclusive right of burial for that plot.
- 11.8. Council may remove any unauthorised memorials from any Cemetery that does not comply with approved permits or is a potential health and safety risk.
- 11.9. Adornments, including all wreaths and floral tributes may be placed on a plot for up to 28 days following an interment. After this time, all adornments will be relocated to the concrete beam. Any adornments added after this time must be confined to approved receptacles, or the concrete beam.
- 11.10. Adornments may not inhibit the proper maintenance of the cemetery or other graves.
- 11.11. Breakable jars, vases or receptacles are not permitted to be used as flower containers.
- 11.12. 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 for use 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, will be constructed to the satisfaction of Council and in compliance with the New Zealand Headstones and Cemetery Monuments NZS 4242:1995 or its subsequent amendments, and subject to the following restrictions:
 - a) No memorial stone, fence or enclosure will exceed 1200mm in height. Refer to the Memorial Specification Document on Council's website.
 - b) In any areas that may be designated as Services Cemetery – all monuments and headstones must be constructed in accordance with the requirements of Veterans' Affairs New Zealand.
- 11.15. Any headstone or other monument, may be removed if it does not comply with the approved permit, whether for reasons of size or content, may be removed at the direction of Council.
- 11.16. No Monumental Mason or other person will, without the permission of Council, remove from any cemetery any kerb, headstone, monument or tablet.
- 11.17. Any authorised person erecting or repairing any headstone or monument shall remove all excess materials and detritus, tools and equipment from the cemetery on completion of work.

12. Ground maintenance

- 12.1. The holder of the exclusive right of burial or their successors must ensure:
 - a) where permitted, memorials associated with that plot are safe and secure;
 - b) where permitted, kerbs, enclosures, tombstones, headstones, other monuments and their base structures, are kept in good order; and
 - c) memorials do not inhibit regular maintenance of the Cemetery.
- 12.2. No person may plant any tree, shrub, plant or other vegetation without prior permission from the Council.
- 12.3. 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 Council.
- 12.5. All Monumental Masons or other person erecting or repairing any headstone or monument shall remove from the cemetery all materials and tools on completion of the work.

- 12.6. No person may make use of any footpath or roadway in the Cemetery for the purpose of mixing cement or mortar otherwise than on a proper mixing board or in a manner approved by Council.
- 12.7. A person who encloses any plot shall do all levelling required at his or her own cost and in accordance with the requirements of Council.
- 12.8. Removal from the cemetery of all rubbish and earth not required in the filling in of the grave, or in connection with such levelling and maintenance, and reinstatement of the area shall occur without delay following the burial to the satisfaction of Council.

13. Records

- 13.1. Council will keep up to date plans showing areas available for burial and burial plots available for purchase, if applicable. These plans will be available for public inspection at the relevant cemetery office during office hours or via Councils website.
- 13.2. In accordance with the provisions of section 50 of the Burial and Cremation Act 1964 Council will maintain records of each burial.

14. Indigent (poor) persons

- 14.1. Indigent persons may be interred in any cemetery and plot under the control of Council and in accordance with section 49 of the Burial and Cremation Act 1964.
- 14.2. Where application is made to the Council for the interment or cremation 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 Work and Income New Zealand entitlement and that his/her relatives and friends are unable to pay the same.

15. Vehicles in cemeteries

- 15.1. Vehicles are only permitted to use designated roadways and car parks whilst in the cemetery. Vehicles may only access cemeteries from:
 - a) Half an hour after sunrise and half an hour before sunset.
- 15.2. The speed limit in all cemeteries must not exceed 20km/hr unless posted otherwise.

16. Dogs and horses

- 16.1. No horses are permitted in any Waikato District Council cemetery unless authorised by Council
- 16.2. Dogs will only be permitted in Waikato District Council cemeteries in accordance with the Waikato District Council Dog Control Bylaw 2015.

17. Misconduct

- 17.1. No person shall, in or near any part of a cemetery, prevent, interrupt or delay the decent and solemn burial or cremation of any deceased person.
- 17.2. No person shall, in or near any part of a cemetery, cause a nuisance or annoyance to people lawfully within a cemetery, or approaching a cemetery for a lawful purpose.

- 17.3. Any person engaged in installing or tending a memorial or monument in a cemetery shall withdraw for the duration of an adjoining interment

18. Soliciting of orders

- 18.1. No person shall, within any cemetery advertise or solicit any order or custom from any other 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 the Funeral Director, or a special permit in writing for the occasion from the Council, take any photographs or moving images at a funeral.

19. Safety

- 19.1. All persons, whether Council employees or staff of Funeral Directors, shall take all necessary steps to maintain any cemetery as a safe site at all times but particularly during any funeral or interment.
- 19.2. All such necessary warning signs, protective barriers and protections shall be put in place prior to any funeral or interment commencing.
- 19.3. No person, other than the Cemetery Officer or Sexton, or persons duly authorised by either person, shall fill in any grave.

20. Fees and charges

- 20.1. Council may by resolution publicly notified prescribe fees and charges for burials and disinterment's, cremations, the purchase of plots for exclusive right of burial, headstone erections and other services and may by resolution publicly notified, revoke or alter these fees and charges.
- 20.2. A copy of fees and charges will be available from the Council's website, office or any customer service centre.
- 20.3. Plot purchase fees cover the plot and exclusive right of burial, the provision of Council services to the cemetery and the maintenance of cemetery grounds, excluding any memorial or plaque.
- 20.4. No burial warrant will be issued until all fees have been paid or satisfactory arrangements have been made for the payment of fees.
- 20.5. All headstones, plaques and memorials require a permit prior to being erected and no memorial permit will be issued until all fees have been paid or satisfactory arrangements have been made for the payment of fees.
- 20.6. Fees do not include payment for any work required to be done beyond the digging of an ordinary grave and, after the burial, filling in the grave.
- 20.7. Out of District fees may be payable in the case of a burial or cremation interment of a deceased person not residing in or not a ratepayer of the district for a predetermined time. The time frame for such a requirement shall be determined by Council. For the purposes of this bylaw, a person in a hospital or institution in the district shall be deemed as resident in the district if they have been a resident of the hospital or institution longer than six (6) months. The Cemetery Officer appointed by Council shall determine in each case whether an out of district fee is applicable.

21. Offences

- 21.1. Every 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. Any person who, in the opinion of an authorised officer, commits a breach of any of the provisions of this bylaw shall, if requested by the officer, supply his/her full name and address.

22. Penalties

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

23. General

- 23.1. Any notice, order or other document that is required by this bylaw to be served or given or sent to any person shall be deemed to have been duly served, given or sent if delivered to such person or left at his or her residence or workplace or posted to such person at his or her last known address.
- 23.2. 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 the 11th day of July 2016.

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

Mayor

Chief Executive