

Cemeteries BYLAW

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Cemeteries Bylaw 2017



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1. Purpose

This Bylaw of the South 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.

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

2. Interpretation

2.1 In this bylaw, unless the context otherwise requires, -

Cemetery means any land vested in or under the control of the council from time to time, and dedicated as a cemetery.

Council means the governing body of the South Waikato District Council or any person delegated to act on its behalf.

2.2 To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable statutes, regulations, bylaws, and rules of law.

2.3 Unless the context requires another meaning, a term or expression that is defined in the Burial and Cremation Act 1964 and used in this bylaw, but not defined, has the meaning given by that Act.

2.4 Any explanatory notes are for information purposes, do not form part of this bylaw, and may be inserted, amended or revoked without formality.

2.5 The Interpretation Act 1999 applies to this bylaw.

3. Title

The title of the bylaw shall be the South Waikato District Council Cemeteries Bylaw 2017.

4. Commencement

This bylaw shall come into force after Council resolves to adopt the bylaw and the date of commencement of the bylaw shall be identified in Council's resolution.

5. Definitions

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

Authorised Officer means any person appointed by the Council to act on its behalf and with its authority.

Berm 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 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

1. does not create an ownership interest in 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 grassed lawn cemetery where a limited number of items only are permissible on the grave area.

Non-operational cemetery means a cemetery that has been closed by a closing order, but may accept future ash interments.

Operational cemetery means a cemetery that is accepting of new interments.

Plot means a specified area set aside for the burial of a casket or ashes.

Sexton means any person appointed by the Council to manage the day to day activities of any cemetery under its jurisdiction.

6. Burials

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

6.2 The application must be accompanied by:

- a) written permission from the owner of the exclusive right of burial in respect of a plot, where applicable;
- b) payment of the burial fees set by the Council.

6.3 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

7. Exclusive right of burial

7.1 An exclusive right of burial may be sold by the Council and may be held for eighty years. The Council will not re-purchase any presold plots without valid reason.

7.2 Any person is entitled to purchase an exclusive right of burial for no more than two plots. Any relative of a person who has bought such right may purchase two adjacent plots only at the time of burial.

- 7.3 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.
- 7.4 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.

8. Notification of burial

- 8.1 Interments may take place between the hours of 10.00am and 3.30pm on Mondays to Sundays inclusive.
- 8.2 Burials may take place outside these times by prior arrangement with Council.
- 8.3 Notification of an intended burial must be given to the Council not less than twenty four working hours prior to the time of burial. If less notice is given, an extra charge may be imposed by the Council.
- 8.4 With the approval of an authorised officer and on proviso of an additional fee being charged burials may take place on public holidays.

9. Plots and graves

- 9.1 Only the Sexton is authorised to dig a grave.
- 9.2 The Council requires prior notification if a person, or persons, wish to fill any grave.
- 9.3 The minimum depth of cover for any casket must be not less than 800mm.
- 9.4 A maximum of two deceased persons only may be buried in any one plot except where permission is granted by Council to inter an undersized casket under the plot berm.
- 9.5 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.
- 9.6 All SWDC cemeteries shall be designated Lawn cemeteries, and as such any plot(s) reserved or sold shall be done so under the proviso the terms and conditions that apply for plots within lawn cemeteries shall be met.

10. Ashes

- 10.1 Only the Sexton is authorised to dig a hole for ash interments.
- 10.2 Before any interring of ashes, an application for ash interment must be lodged with Council.
- 10.3 A maximum of three urns containing ashes that may be buried in any one plot, or a maximum of two urns may be buried in an ashes plot.
- 10.4 Ashes may not be scattered in any cemetery without prior authorisation from Council.

Note: Council and Iwi discourage the scattering of ashes on any waterway or waterbody for environmental and cultural reasons.

11. Disinterments

- 11.1 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, and subject to the payment of such fees to the Council.
- 11.2 In carrying out a disinterment, the Sexton shall dig to the top of the casket, after which he disinterment shall be the responsibility of the funeral director.

- 11.3 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.
- 11.4 If a grave becomes empty due to disinterment with an Exclusive Right of Burial in place but that right is voluntarily voided by the successors of the deceased then that plot shall revert to Council and no refund of the cost of that plot shall be made by Council.

12. Fees and Charges

- 12.1 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.
- 12.2 No Interment Warrant will be issued until all fees have been paid or satisfactory arrangements have been made for the payment of fees.

13. Burial or cremation of poor persons

- 13.1 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 or government funded grant and that his/her relatives and friends are unable to pay the same

14. Deceased servicemen

- 14.1 The fee payable to the Council for the disinterment of any deceased servicemen and the reinterment in the war graves section of the cemetery, if application is made by the War Graves Branch of the department of Internal Affairs, shall be as agreed upon between the parties at the time.

15. Memorial, floral tributes and adornments

- 15.1 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.
- 15.2 Memorials must:
- a) cover no more than two plots, provided the respective exclusive burial rights are owned by the same owner;
- b) be set in a way approved by Council.
- 15.3 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.
- 15.4 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.
- 15.5 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.
- 15.6 Above-ground memorials shall only be placed on the concrete berm.
- 15.7 Removal of any memorial must be approved by the Council and accompanied by proof of exclusive right of burial for that plot.
- 15.8 The Council may remove any unauthorised memorials from the Cemetery.
- 15.9 Adornments, including wreaths and floral tributes, may be placed on a plot for up to 90 days following an interment. After this time, all adornments will be relocated to the concrete berm. Any adornments added after this

time must be duly placed in approved receptacles, or on the concrete berm to allow for grave levelling and turf reinstatement operations to be completed. Families may request Council to have the grave levelled before the 90 day period.

- 15.10 Adornments must not inhibit the proper maintenance of the Cemetery or other graves.
- 15.11 Breakable jars, vases or receptacles must not be used as flower containers.
- 15.12 The Council may remove unapproved receptacles, ornaments or memorabilia from graves at any time to facilitate the maintenance of those graves.
- 15.13 In areas set aside as a lawn cemetery, a plaque must be placed centrally on the berm opposite the associated plot.
- 15.14 All foundations for bases, headstones, monuments 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 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.
- 15.15 Any headstone or other monument, which in the opinion of the Council is offensive, may be removed at the direction of the Council.
- 15.16 Any 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.
- 15.17 Items are permitted to be placed on grave areas to a maximum length of 1 metre from the concrete berm only. Each individual item is to be no less than 50mm in size and be easily removed for cemetery operations where deemed necessary. No hard materials such as concrete, timber edging or pavers is permitted.
- 15.18 Any private seating used must:
 - (a) be of sound construction,
 - (b) not be fixed to the ground,
 - (c) not exceed the width to accommodate up to two persons only, and
 - (d) be light enough to be moved by one person
- 15.19 All memorials shall comply with the guidelines set out in schedule 1 of this bylaw

16. Ground maintenance

- 16.1 The holder of an exclusive right of burial or their successor must ensure that:
 - a) any memorial placed on the respective is maintained and secure; and
 - b) memorials do not inhibit regular maintenance of the Cemetery.
- 16.2 No person may plant any tree, shrub, plant or other vegetation in any Cemetery.
- 16.3 The Council may cut or remove any vegetation planted in any Cemetery at its discretion.
- 16.4 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.
- 16.5 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.

17. Vehicles

- 17.1 Vehicles must use designated roadways and car parks within a Cemetery.
- 17.2 Vehicles may only access cemeteries from:
 - a) 8.00am to dusk 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.

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

17.4 Every person driving, or in charge of any vehicle in any cemetery shall stop or move such vehicle as directed by the Sexton or assistants of the Sexton.

18. Advertising

18.1 No person shall, in a manner that may be deemed to be offensive to any visitor to any cemetery, advertise or solicit any order 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, material or item to be set up, affixed or used in any 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, or permission from family, take any photographs or moving images at a funeral for media or social media purposes.

19. Records

19.1 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.

20. Dogs and Horses

20.1 No person shall take horses into a cemetery without Council permission.

20.2 No person shall take a dog into a cemetery unless it is a certified disability assist dog under the Dog Control Act 1996, which must remain restrained at all times.

21. Nuisance

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

21.2 No person shall, in or near any part of a Cemetery, or at adjacent properties, cause a nuisance or annoyance to persons who are lawfully in Cemetery, or who are approaching a Cemetery for a lawful purpose.

21.3 No person shall consume, bring or possess alcohol between the hours of 7.00pm and 8.00am within any cemetery.

Note: Refer to Public Places Bylaw – Map 2A Alcohol Restricted Areas – Cemeteries

22. Safety

22.1 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.

22.2 All necessary warning signs, protective barriers and other protective means shall be put in place prior to the commencement of any funeral or burial.

22.3 No person, other than the Council or Sexton, or their duly authorised representatives, shall fill in any grave. Upon request and with by prior arrangement with Council family are able to assist filling the grave with direction from the sexton.

23. Offences

23.1 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

24. Penalties

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

25. General

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

26. Right of appeal

26.1 Any person who claims to be unfairly or adversely affected by a decision, order or direction, given by an authorised officer or authorised agent in administering any bylaw may appeal to Council for relief.

26.2 The Appeal must be in writing setting out the reasons for the Appeal and must be received by Council within fourteen (14) days after the date on which the decision, order or direction being appealed against was given.

26.3 The Council may appoint any standing committee of Council to consider the Appeal and to consider written submissions or submissions delivered in person from the appellant if the committee so decides within 25 working days of the closing date of the receipt of the appeal.

26.4 The committee, after considering such evidence and submissions as it thinks necessary, may revoke, confirm, or modify the decision, order, or direction that gave rise to the Appeal.

27. Adoption of bylaw

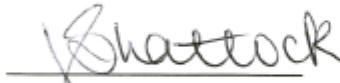
The foregoing bylaw was duly adopted by resolution of the South Waikato District Council following completion of the Special Consultative Procedure prescribed by Sections 83 & 86 of the Act.

I, Craig Hobbs, Chief Executive of South Waikato District Council, CERTIFY that this bylaw was made by Resolution No 17/317 on the 13th day of December 2017, to come into effect on the 20th day of December 2017.

Dated this 20th day of December 2017.

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





JR Shattock - Mayor



C Hobbs - Chief Executive

Annotations

Res No	Date	Subject/Description
17/317	13 December 2017	Adoption of Bylaw

Schedules

Schedule 1 - guidelines for memorials

Monuments

- Only one structure is permitted on each plot. No erected memorial at the head of the plot shall be wider than 1m in the case of a single plot, or 2m in the case of a double width (family) plot.
- No-one is permitted to install, remove or reinstate a memorial plaque or headstone without first applying for and obtaining a permit. Permit applications are available on the Council's website.
- Installations that do not meet a satisfactory standard or comply with these specifications, or compromise the Worksafe regulations will be removed by the council.
- A relative or trustee is responsible for the ongoing maintenance, including repair, of the memorial.
- Memorial bases (or platforms), shall have a maintenance space of 150mm clear, both front and back.
- A monument permit must be obtained from the council prior to installation of either a new or replacement monument.
- No permit will be issued unless the memorial design complies with the Council's standards and NZS 4242 as outlined in these specifications.
- Only a Council-approved monumental stonemason is permitted to install, remove or reinstate a memorial or headstone, with installation to a professional finish in accordance with NZ Standards 4242.
- No erected memorial at the head of any plot shall be higher than 1.20m. Such memorial shall comply with sound engineering principles and shall be aesthetically acceptable to the controlling authority. The plans of such memorial shall be submitted to, and approved by, the local authority before the erection of any such memorial will be permitted.

In all cemeteries, the measurements outlined will apply.

Note that if a statue or similar item is attached to the monument or headstone, and the combination exceeds the allowed dimensions, the monument will be considered non-compliant and the family will be asked to remove it.

Adult memorials:

1200mm maximum height

1000mm maximum width

400mm maximum depth

Infant's memorials:

500mm maximum height

550mm maximum width

240mm maximum depth

Ash Memorials:

500mm maximum height

450mm maximum width

300mm maximum depth

Ash Memorials (Ash Octagons only)

500mm maximum height

600mm width

300mm depth