

HUTT CITY COUNCIL BYLAW 2007

CEMETERIES

Adopted by Council 3 July 2007

1. Interpretation

“**Bylaw**” means this Cemeteries Bylaw.

“**Cemetery**” means any land that is under the control of the Council to which the definition of “cemetery” in section 2 of the Burial and Cremation Act 1964 applies.

“**Council**” means the Hutt City Council.

“**Disinterment**” means the removal of a human body or container of the ashes of a human body from a plot.

“**Interment**” means the burial of a human body, or placement of a container of ashes resulting from a cremation, into a plot, and “interred” has a corresponding meaning.

“**Monument**” has the meaning set out in section 2(1) of the Burial and Cremation Act 1964.

“**Plot**” means a parcel of land, or a niche in a memorial wall, in a cemetery.

“**Plot Lease Agreement**” is an agreement entered into between the Council and a person in charge of an interment that provides for an interment on the terms and conditions set out in the agreement.

“**Sexton**” means a person appointed by the Council to manage a cemetery, or a person authorised by a Sexton to carry out one or more of the Sexton’s powers, duties or functions.

2. Interments

2.1 Any person who causes or allows an interment to take place other than in accordance with this clause 2 breaches this Bylaw.

2.2 No interment may take place in a plot unless it is conducted in accordance with a Plot Lease Agreement.

2.3 Clause 2.1 does not apply to an interment carried out in accordance with an order signed by a Justice under section 49 of the Burial and Cremation Act 1964.

3. Digging the ground in a cemetery

3.1 No person other than the Sexton may dig or otherwise open the ground or open part of a memorial wall in a cemetery.

4. Backfilling plots

4.1 A person in charge of an interment may apply to the Sexton for permission for persons to backfill ground in a plot following that interment.

4.2 A Sexton may grant written permission for the backfilling of ground in a plot following an interment, and impose any terms and conditions on the permission as he or she considers appropriate.

4.3 No person may backfill ground in a plot following an interment without the written permission of the Sexton.

- 4.4 Any person doing an activity under clause 4.3 must comply with any conditions imposed by the Sexton on his or her written permission.

5. Interruption of interment

- 5.1 No person may obstruct, interfere with, interrupt or detract from the decent and solemn process of interment or the carrying out of any funeral service or ceremony.

6. Disinterments

- 6.1 Any person who causes or allows a disinterment to take place other than in accordance with this clause 6 breaches this Bylaw.
- 6.2 No disinterment may take place unless it occurs in accordance with the terms and conditions set out in the written permission for the disinterment, obtained by the person in charge of the disinterment, from the Sexton of the cemetery in which the plot is situated.
- 6.3 A Sexton may grant written permission for a disinterment to the person who will be in charge of the disinterment, and impose any terms and conditions on the permission as he or she considers appropriate.

7. Restoration of plot and monument

- 7.1 A person in charge of an interment or disinterment must restore the plot and any monument to at least the same condition it was in immediately prior to the interment or disinterment.

8. Plants

- 8.1 No person may plant a tree, shrub, flower or other plant in a cemetery without the Council's written permission.
- 8.2 Any person doing an activity under clause 8.1 must comply with any conditions imposed by the Council on its written permission.

9. Damage to cemetery

- 9.1 No person may damage:
- (a) a tree, shrub, flower, or other plant, or any garden or lawn in a cemetery; or
 - (b) a plot, monument, grave decoration, or any other thing lawfully placed or erected on a plot.

Commentary

The following comments do not form part of the Bylaw. They are provided to alert readers to relevant law and information that relate to the Bylaw.

Statutory authority

This Bylaw is made pursuant to the Council's bylaw-making powers in the Local Government Act 2002 and the Burial and Cremation Act 1964.

Offences

It is an offence under section 239 of the Local Government Act 2002 to breach a bylaw. If you breach this Bylaw, you may be liable on conviction to a fine of up to \$20,000 under section 242(4) of the Local Government Act 2002.

Definitions

The interpretation section of this Bylaw refers to various definitions in some Acts. These include the following definitions from the Burial and Cremation Act 1964:

"Cemetery" means any land held, taken, purchased, acquired, set apart, dedicated, or reserved, under the provisions of any Act or before the commencement of this Act, exclusively for the burial of the dead generally, and, where the content so permits, includes a closed cemetery.

"Monument" includes any tombstone, headstone, memorial, kerbing, or other erection.

Fees

The Council may charge fees for matters covered under this Bylaw, including interments, disinterments, and the backfilling of plots.

The Plot Lease Agreement process

The Council will require the provision of certain information before it will enter into a Plot Lease Agreement. For more details on the information required, please contact the Council Call Centre (ph: 570 6666).

The Council will generally enter into a Plot Lease Agreement where a person requires a plot for the purpose of interring the recently deceased, or providing for the eventual interment of friends or family of the recently deceased close to or adjacent to the recently deceased.

The Council will generally not enter into Plot Lease Agreement with a person if the result would be that a person would be entitled to interments in more than one plot (except in the case of funeral directors).

The Council has a policy that it will not enter into a Plot Lease Agreement for a plot in any cemetery that has been closed.

Days and times at which interments may take place

The Council has a general policy that interments should take place on days other than Sundays and public holidays, except where good reason exists to hold an interment on such a day. A good reason may be that it is in accordance with the deceased person's religion. The Council may allow interments on Sundays and public holidays at its discretion, and will take into account the cultural and religious beliefs of the deceased person and his or her family.

The Council also usually requires that interments take place between the hours of 10.00am and 4.00pm. Again, it has discretion to allow interments outside these hours, and will take into account the cultural and religious beliefs of the deceased person and his or her family.

Cremations

The Council may specify that specific parts of a cemetery are to be reserved for the interment of containers of ashes. The Council's policy is that it will enter into a Plot Lease Agreement for a cremation only if the plot is situated in such an area.

Monuments

The Council has powers under section 9 of the Burial and Cremation Act as to whether it allows the placing of monuments on plots. The Council will not generally issue permission to place a monument unless a Plot Lease Agreement has been entered into.

Maintenance

Monuments, and trees, plants and flowers planted on plots, that are not appropriately maintained may be removed by the Council.

Record of interments

The Council keeps a chronological record of all internments in the cemeteries in its control. This record is available for public inspection at all times during ordinary office hours.

Getting a permit from the Council

If you want a permit from the Council in relation to this Bylaw, you should contact the Council Call Centre on ph 570 6666 and they will direct you to the appropriate person. There may be an application form you will need to fill in. Council officers will be able to assist you in completing an application form if you have any queries.