

WAITAKERE CITY COUNCIL

DRAFT URUPA (MAORI BURIAL SITE) BYLAW 2010

1 Citation

This bylaw may be cited as the Waitakere City Council Urupa (Maori Burial site) 2010.

2 Commencement

This bylaw shall come into force on the [13 September 2010] (“the commencement date”).

3 Revocation

The Waitakere City Council Bylaw Number 28 (1996) Urupā (Māori Burial Site) is revoked with effect from the commencement date.

4 Purpose

This bylaw is made under Part 8 of the Local Government Act 2002 to manage, regulate, protect, maintain and preserve the Urupa (Maori Burial Site) at Waikumete Cemetery.

5 Interpretation

In this bylaw, unless the context otherwise requires:

- a) “**Act**” means the Local Government Act 2002.
- b) “**Authorised Officer**” means any person authorised by the Council to carry out any of the duties provided for in this bylaw.
- c) “**Council**” means the Waitakere City Council and its successor
- d) “**Urupa**” means that portion of Waikumete Cemetery identified from time to time by resolution of the Council as the Waikumete Urupa, which shall also be known as a Maori Burial Site.

- e) “**Urupa Komiti**” means a Management Trust comprising, Te Kawerau A Maki nominee, Ngati Whatua nominee, Te Piringatahi O Te Maungarango Marae nominee, Hoani Waititi Marae nominee, Kakariki Marae nominee and, or any other group with the delegation to to manage the operation of the Urupa.
- f) “**Cemetery Manager**” means any person appointed by the Council to control or manage or assist in the control and management of Waikumete Cemetery.

Burials

5.1 Urupa Komiti May Sell Exclusive Right of Burial

Except as otherwise provided in this bylaw, the Urupa Komiti may make plots available for sale and exclusive right of burial in such portion or portions of the Urupa as the Urupa Komiti may from time to time open up or set aside for that purpose.

6 Purchase

- 6.1 Evidence of purchase shall be recorded on a certificate. A duplicate certificate may be given upon satisfactory proof of the original having been lost and on payment of the fee fixed by the Council.
- 6.2 **Alternative provision to 7.1** *Evidence of purchase must be recorded in the cemetery register maintained by the Cemetery Manager.*
- 6.3 The price to be paid for any exclusive right to burial within the Urupa shall be set by the Council by resolution as part of the standard fees and charges.

7 Plan of Urupa and Register of Sales

- 7.1 The Cemetery Manager shall keep a plan of the Urupa and a register in which he or she shall record the burials and also the number of each plot in which the exclusive right of burial has been purchased, the name of the purchaser thereof, and the date of the purchase. The said plan and register shall be available for public inspection at the Cemetery Manager’s office, during hours where the cemetery office is open to the public.

8 Term of Purchase and Size of Plot Purchased

- 8.1 Each exclusive right of burial shall ensure for the period of sixty (60) years from the date of the sale and except as otherwise provided for the size of the plot purchased shall be 243 centimetres by 120 centimetres or 213 centimetres by 90 centimetres or 183 centimetres by 91 centimetres or 120 centimetres by 60 centimetres according to the location as may be determined from time to time by the Urupa Komiti.
- 8.2 The date of burial taking place will be deemed to the date of purchase in plots not pre-purchased.

9 Purchase Price of Exclusive Right of Burial

- 9.1 The price for exclusive right of burial shall be fixed from time to time by resolution of the Council and shall be paid to the Cemetery Manager.
- 9.2 An additional "Out of District Fee" shall be payable in the case of a burial of a deceased person not residing within the boundaries of Auckland Region for at least three (3) months prior to date of death, and in the case of a still-born child unless one of whose parents was a resident or ratepayer of the district for three months prior to the birth of such a child.
- 9.3 Residence by a person in a hospital or other institution in the City shall not be deemed resident in the City.
- 9.4 The Urupa Komiti shall decide in each case whether an "Out of District Fee" is payable in respect of such a person and may waive the payment at its discretion.

10 Buying of More than two Plots

- 10.1 Except with the prior approval of the Urupa Komiti no person shall be entitled to purchase the exclusive right to burial to more than two plots either at one time or from time to time or to own more than the exclusive right to burial of two plots at the one time.

11 Buying Two or More Adjoining Plots

- 11.1 The owner of a right over two or more adjoining plots in the old division of the Waikumete Urupa where the sixty year term is still current shall also be entitled to the exclusive use of the ground lying between them. This clause relates exclusively to Waikumete Urupa.

12 Purchaser Entitled to Provide Monuments in Certain Circumstances

- 12.1 Every person purchasing an exclusive right to burial shall be entitled to mark the grave in accordance with the regulations governing that part of the Urupa in which the plot is situated.

13 Still-born and Neonatal Children

- 13.1 For the purposes of paragraphs (2) and (4) of this clause a neonatal baby is one that has been born alive, but which has not lived for more than one month.
- 13.2 Urupa Komiti shall set aside an area of the Urupa for the burial of stillborn and neonatal children in graves measuring 120 centimetres by 60 centimetres.
- 13.3 Upon application and payment of the prescribed fee and in accordance with Clause 5.01, an exclusive right for burial may be purchased for stillborn and neonatal children.

13.4 Nothing in this clause shall in any way affect the right of the relatives of a neonatal baby to arrange for its body to be buried elsewhere in the Urupa, and under the usual conditions pertaining to the burial of children in that part.

14 Reopening of Graves

14.1 No person not being the owner of exclusive right of burial in accordance with Clause 5.01 may reopen a grave for further burial except with the consent of the Urupa Komiti, except where the person to be buried is a relative of a person already buried in that grave. The term "relative" shall mean that person's husband, wife, parent, children, sister or brother. Consent of the Urupa Komiti shall require purchase of said exclusive right of burial to that plot at current rate.

14.2 Except with approval of Urupa Komiti no reopening of a grave shall be permitted where the term of the exclusive right of burial has lapsed whether any or no burials have been affected. Where approval is received payment for exclusive right of burial at the current rate shall be required.

15 Number of Persons in a Grave

15.1 Not more than two adult persons shall be buried in any one plot without the prior consent of the Urupa Komiti.

16 Application for Burial

16.1 No person may apply for burial less than six working hours prior to the time at which that person desires the burial to take place.

17 Time of Interment Services

17.1 Interment Services within the Urupa shall begin no later than 3.00pm on any day.

18 Charges for Digging and Reopening Graves

18.1 The Council may from time to time by resolution fix the scale of charges payable for digging and reopening graves.

19 Digging of Graves

19.1 No person other than the Cemetery Manager, or assistants, shall dig any grave or open the ground for any burial in any part of the Urupa, except through the agreement with the Urupa Komiti.

20 Depth of Graves

20.1 All graves for the burial of persons 10 years of age or under shall be 152 centimetres deep; and over that age 213 centimetres deep, provided that with the consent of the Urupa Komiti and upon payment of any extra charge as fixed from time to time by resolution of the Council for every 30 centimetres more than 213 centimetres deep a grave may be made deeper.

21 Enclosure of Plots and Erection of Monuments

- 21.1 No person shall enclose any plot or erect any monument or tablet except where a plan thereof and a copy of every proposed epitaph or inscription has been approved by the Urupa Komiti and except upon payment of the prescribed fee for monuments as fixed from time to time by resolution of Council.
- 21.2 Every enclosure, monument or tablet shall be of such design and so placed that it will resist deterioration from the weather and other natural causes.
- 21.3 Notwithstanding the provisions of sub-clause 22.1 of this clause, the Urupa Komiti may, in any particular case, permit the erection of a monument or tablet composed of fibreglass or plastic material. Any such permission shall be subject to the condition that where the Urupa Komiti consider the monument has deteriorated through weathering to a state where it has become visually objectionable, the Urupa Komiti may require the relatives of the person interred to remove it and where there is default of compliance, the Urupa Komiti may itself arrange for its removal.
- 21.4 The Urupa Komiti may from time to time determine what fences, memorials or other structures may be erected in any portion of the Urupa and may set aside portions of the Urupa in which no enclosures, memorials or other structures may be erected except by the Urupa Komiti.

22 Lawn Urupa

- 22.1 In such portion or portions of the Urupa which the Urupa Komiti may from time to time set aside for use as a lawn Urupa no person shall:
- 22.2 Erect any kerb, railing fence, building or other structure on or around any single plot or part thereof.
- 22.3 Construct or place any tombstone, memorial or structure upon any plot or adjacent thereto in any such portion or portions of the Urupa except in conformity with the following provisions:
- 22.4 The Council, with the agreement of the Urupa Komiti, shall lay a flat reinforced concrete berm, flush with the ground, equidistant between each two rows of plots. The berm shall be 1m in width.
- 22.5 A memorial plaque maybe placed on the berm opposite the plot to which it relates and it shall be equidistant between projection onto the berm of the outer limits of the plot.
- 22.6 A mount to accommodate the plaque or a mount incorporating the plaque (each hereinafter referred to as "the mount") shall be placed on the berm and securely affixed thereto.
- 22.7 The surface of the mount shall slope towards the plot to which it relates and it shall reduce in height from 120mm above the berm down to 40mm.

- 22.8 The mount shall be 550mm in width and 380mm in depth, measured horizontally, of rectangular shape, and the edge nearer the plot to which it relates shall lie 120mm in from the edge of the berm.
- 22.9 The mount (and the plaque if it is not a component of the mount) shall be of a material permanently resistant to the weather, and of a type approved by the Cemetery Manager.
- 22.10 The plaque shall measure not greater than 510mm in width and not greater than 345mm in depth and it shall be placed in the centre of the mount.
- 22.11 The plaque, if not a component of the mount, shall be securely affixed to it, and flush with the surface of the mount.
- 22.12 Mounts on a berm intended to accommodate plaques for plots lying opposite each other shall be constructed back to back.
- 22.13 (For ease of reference the measurements described in sub-clause (5.18) above are shown diagrammatically in the Second Schedule of this Bylaw).

23 Berm Urupa

- 23.1 In any portion or portions of the Urupa which the Urupa Komiti may from time to time set aside for use as a concrete berm area no person shall construct, erect or place any tombstone, headstone, monument or structure without the prior permission of the Urupa Komiti.
- 23.2 No such work shall be of greater depth than 38 centimetres or greater height than 90 centimetres including concrete base which shall not exceed 15 centimetres in height. The width of a single monument shall not exceed 105 centimetres and a double monument 182 centimetres.
- 23.3 A space of at least 15 centimetres of clear berm shall be allowed in front of the monument or concrete base. The concrete base shall be extended at the rear to 7.5 centimetres from centre of berm.
- 23.4 In the case of a single monument the length of the concrete base shall not exceed 106 centimetres and for a double monument 198 centimetres.
- 23.5 Where the slope of the berm is considerable and the concrete base cannot be levelled up within the maximum height of 15 centimetres allowed the end of the concrete base at the higher end of the berm must be reduced to 05 centimetres before any increase over 15 centimetres is made to the end of the concrete base on the lower end of the berm.

24 Vehicles and Animals in the Urupa

- 24.1 No person shall ride or drive any vehicle within the Urupa otherwise than for funeral purposes or for visiting graves.

24.2 No person shall bring any animal into the Urupa without the consent of the Cemetery Manager.

Cremations

24.3 The following provisions shall apply to cremations exclusively relating to Waikumete Urupa.

24.4 The friends of the deceased person may appoint anyone whom they please to officiate at the funeral service, and the Chapel at the crematorium shall be available for any form of service or ceremony.

24.5 Two representatives of the deceased may see the body placed in the incinerating hall after the service in the chapel, but no inspection of the actual process of incineration is permitted.

24.6 Application for Cremation

Every application for cremation shall be in accordance with the Cremation Regulations 1973.

24.7 Time for Cremations

Cremation Services in the Chapel shall be so arranged as to begin no later than 3pm on any day. The delivery of a casket for cremation is to occur not later than 3pm on Saturdays, and Public Holidays and not later than 4pm on any other day.

24.8 Coffin

The coffin shall be made of some readily combustible wood or any other combustible material (as shall be approved by the Cemetery Manager) and may have the usual furniture. There shall not be any cross pegs on the bottom of the coffin and wooden pegs in this part shall be carefully countersunk. Pitch and sawdust should not be used inside the coffin. If a metal case is necessary a thin lining of zinc may be used but no other material. The coffin must not exceed 213 centimetres in length, 61 centimetres in depth and 76 centimetres in width. It may be polished but must not be painted or varnished.

24.9 No coffin shall be opened in the crematorium except when required by the Cemetery Manager.

24.10 Delaying Cremation

The Cemetery Manager may delay until after the last cremation for the day is complete the cremation of a body arriving so late as to be likely to delay succeeding cremation or which by being enclosed in a coffin not in accordance with this Bylaw will take more than the usual time to burn.

24.11 Disposal of Ashes

- (a) Cardboard or plastic boxes for receiving of ashes may be obtained at the Cemetery Manager office. Any person receiving ashes may supply an urn of any other approved material and design.
- (b) The receptacle containing the ashes must be uplifted from the Cemetery Manager within fourteen days from the date of the cremation. Any receptacles not uplifted within the period specified will be subject to a charge of \$1.00 for each day held after the fourteenth day.
- (c) For those who desire the ashes to be buried in the Urupa a special portion has been set aside in which an urn may be buried or in any plot subject to the purchase of an exclusive right of burial to that plot.

24.12 Fees for Cremation

- (a) The charges payable in respect of the Crematorium shall be fixed from time to time by resolution of the Council.
- (b) All such charges must be paid in advance when the cremation is arranged and no cremation shall be permitted to take place until such charges have been paid provided that in the case of a cremation arranged by a funeral director the Cemetery Manager may at his discretion waive the foregoing requirement as to prior payment and charge the cost of such cremation against such funeral director on the basis of a quarterly account.

24.13 Charges and fees

The Council may from time to time by resolution fix and alter the fees and charges payable under this Bylaw for burials or cremations and may fix and alter any fees or charges for services provided relating to the Urupa.

25 Enforcement and Penalties

- 25.1 Pursuant to section 239 of the Act, every person who breaches a bylaw, commits an offence and is liable on summary conviction to the penalties set out in section 242 of the Act.
- 25.2 Pursuant to section 162 of the Act, the Council may apply to the District Court for an injunction restraining a person from committing a breach of this bylaw.
- 25.3 The Council may remove or alter a work or thing which has been constructed in breach of a bylaw whether or not that thing is on private land in accordance with sections 164 and 165 of the Act.
- 25.4 In accordance with section 167 of the Act, where any property is seized under sections 164 or 165 of the Act, the property will be returned upon request to the person from whom it was seized from subject to the payment of any costs incurred by the Council in the seizing of the property.

- 25.5 Where the property is not claimed within 6 months from the date of being seized the Council may dispose of the property in accordance with section 168 of the Act subsequent to giving the owner 14 working day's notice of its decision.
- 25.6 Any costs incurred by the Council, including the costs of storage and legal fees, incurred in the removal or alteration of the property is recoverable from the person who committed the breach in accordance with section 163 of the Act.
- 25.7 Where an infringement regime is introduced under Subpart 3 of Part 9 of the Act and bylaws are deemed to infringement offences, an offence against this bylaw is an infringement offence.
- 25.8 For the avoidance of doubt it is offence under this bylaw to:
- (a) Obstruct or hinder any Council officer or other authorised officer in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred by this bylaw;
 - (b) Fail to comply with any lawful notice or direction given under this bylaw.
- 25.9 The Council may revoke any approval or licence granted under this bylaw where the terms of the licence or approval have not been complied with.

25.10 Dispensing Power

The Council may, after discussion with, or on recommendation from the Urupa Komiti, on an application in writing for dispensation seek for dispensation from complying with this bylaw (in whole or in part), subject to any other terms or conditions (if any) that the Council may choose to impose, where in the opinion of the Council, or the Urupa Komiti, full compliance with any of the provisions of this bylaw causes injurious affection to:

- i. any person, or
- ii. the operation of any business, or
- iii. causes inconvenience to any person without any corresponding benefit to the community

Adopted at a meeting of the Wiatkere City Council on [XXXXXX] 2010 by resolution [xxxxxxxxx]