

# WAITAKERE CITY COUNCIL

## BYLAW NO. 18 1990

### CEMETERIES AND CREMATORIA

#### 1 SHORT TITLE

The short title of this Bylaw shall be the Waitakere City Council Bylaw No. 18 1990 - Cemeteries and Crematoria.

#### 2 COMMENCEMENT

This Bylaw shall come into force on the 13th day of March 1990.

#### 3 INTERPRETATION

1 In this bylaw, unless the context otherwise requires:-

- (a) CEMETERY means the Waikumete Cemetery, Glen Eden and Swanson Cemetery, Swanson, except where expressly stated otherwise.

COUNCIL means the Waitakere City Council.

REGISTRAR OF CEMETERIES means the officer for the time being holding the position of Cemetery Manager.

#### 4 BURIALS

##### 4.01 Council may sell exclusive Right of Burial

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

##### 4.02 Certificate of Purchase

Evidence of such purchase shall be recorded on a certificate in the form set out in the First Schedule of this Part of this Bylaw PROVIDED that 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.

##### 4.03 Plan of Cemetery and Register of Sales

The Registrar of Cemeteries shall keep a plan of the Cemetery and a register in which he shall record the burials and also the number of each plot in which the exclusive right of burial has been purchased, and 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 Registrar's office, Waikumete, during ordinary office hours.

4.04 Term of Purchase and Size of Plot Purchased

Each exclusive right of burial shall ensure for the period of sixty years from the date of the sale and 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 Council. The date of burial taking place will be deemed to be the date of purchase in plots not pre-purchased.

4.05 Purchase Price of Exclusive Right of Burial

- (1) The price of exclusive right of burial shall be fixed from time to time by resolution of the Council and shall be paid to the Registrar of Cemeteries.
- (2) With specific reference to Swanson Cemetery, 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 Waitakere City for at least three months prior to date of death, and in the case of a stillborn child unless one of whose parents was a resident or ratepayer of the district for three months prior to the birth of such child. Residence by a person in a hospital or institution in the City shall not be deemed resident in the City and the Cemetery Manager of the Council shall decide in each case whether an "Out of District Fee" is payable in respect of such a person.

4.06 Buying of More Than Two Plots

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

4.07 Buying Two or More Adjoining Plots

The owner of a right over two or more adjoining plots in the old division of the Waikumete Cemetery 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 Cemetery.

4.08 Purchaser Entitled to Provide Monuments in Certain Circumstances

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 Cemetery in which the plot is situated.

4.09 Still-Born and Neonatal Children

- (1) Council shall make available an area of the cemetery for the burial of still-born and neonatal children in graves measuring 120 centimetres by 60 centimetres and except as provided in Clause 4.09 (2) no such grave shall be capable of purchase nor marked by a headstone or be otherwise identified.

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- (2) Upon application and payment of the prescribed fee and in accordance with Clause 4.01, an exclusive right for burial may be purchased for stillborn and neonatal children.
- (3) For the purposes of paragraphs 4.09 (1) and 4.09 (2) of this clause a neonatal baby is one that has been born alive, but which has not lived for more than twenty-eight days.
- (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 cemetery, and under the usual conditions pertaining to the burial of children in that part.

4.10 **Armed Services Area**

The Council will not sell the exclusive right of burial in respect of any plot in those portions of the Cemetery reserved exclusively for the burial of servicemen and service women and known as the Soldiers, Naval and Air Force Areas respectively.

4.11 **Repurchase of Unused Exclusive Right for Burial**

Subject to Clause 4.04 Council may, if in the opinion of Registrar of Cemeteries a resale value will be realised, re-purchase the exclusive right for burial offered to it where no interments have taken place, at the original purchase price.

4.12 **Transfer of Right of Burial**

Any purchaser of an exclusive right of burial in any plot in which there have been no burials, may with the consent of the Council and after payment of the registration fee as fixed by the Council transfer the plot to any other person.

- 4.13 Any purchaser applying for a transfer of a plot shall pay all duty and taxes relating to the transfer.

4.14 **Burial of Indigent Persons**

In applying for the burial at reduced charges of a person, who died indigent, the applicant shall certify in writing to the Registrar of Cemeteries that the deceased had left insufficient means to pay the ordinary burial charge as fixed by this Bylaw and that his next-of-kin or other persons are unable or unwilling to pay the same.

4.15 **Re-opening of Graves**

Where the exclusive right of burial has not been sold by the Council no grave may be re-opened for a further burial except with the consent of the Council, unless the person to be buried is a relative of a person already buried in that grave. The term "relative" as used here shall mean husband, wife, parent, children, sister or brother. Consent of Council would require purchase of said exclusive right of burial to that plot at current date.

- (1) Except with special approval of Council no re-opening 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 will be required.
- 4.16        **No. of Persons in a Grave**
- Not more than three adult persons shall be buried in any one plot without the prior written consent of the Council PROVIDED however that the burial of more than one person in plots in portions of the Cemetery referred to in Clause 4.10 hereof or in that portion of the Cemetery known as the "Mercantile Marine Area" shall not be permitted.
- 4.17        In all cases, application for burial shall be made to the Registrar of Cemeteries in the form set out in the Second Schedule of this Part of this Bylaw.
- 4.18        **Application for Burial**
- No person shall apply for a burial less than six working hours prior to the time at which he desires the burial to take place.
- 4.19        **Time of Interment Services**
- Interment Services within the Cemetery shall be so arranged as to begin no later than 3.00 PM on any day.
- 4.20        **Burial Charges**
- Payment of the fees prescribed shall accompany the application referred to in Clause 4.16 above, PROVIDED however that in the case of a burial under the management or control of a funeral director, the Registrar of Cemeteries may waive at his discretion the requirement as to prior payment and may charge the cost of the burial against the funeral director concerned on the basis of a quarterly account.
- 4.21        **Scale of Charges**
- The Council may from time to time fix the scale of charges payable for digging and re-opening graves, for the attendance of the Cemetery Manager at an interment in any vault and for the disinterment or interment of any body and for other services in the cemetery.
- 4.22        **Digging of Graves**
- No person other than the Cemetery Manager, or his assistants, appointed by the Council shall dig any grave or open the ground for any burial in any part of the Cemetery.

4.23 Depth of Graves

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 but in the event of a greater depth being required an extra charge as fixed by the Council shall be made for every 30 centimetres more than 213 centimetres deep.

4.24 Construction of Vaults

(1) A person purchasing the exclusive right of the burial in any plot shall not excavate the plot for the purpose of constructing nor shall he construct any vault therein unless before the construction he has submitted to the Council and to the territorial local authority plans of and specifications for the proposed work and has been given approval for the work by both the Council and the territorial local authority.

(2) Plans and Specifications of Vaults

The plans and specifications referred to in 4.24 above shall show the depth, the length, and the breadth of the vault, the lining thereof (which shall be of brickwork or of concrete or of stone set in cement) and provision must be made for all entrances to the vault being securely fastened.

4.25 Coffins in Vaults

No person shall place any coffin in any vault unless the coffin is lined with lead or other metal approved by the Council and is firmly and securely soldered; HOWEVER an ordinary and unlined coffin may be laid in any vault, provided that the vault is immediately thereafter completely encased with concrete so as to prevent the escape of noxious vapour.

4.26 Vaults to be Kept in Good Repair

The purchaser of the plot in which a vault has been constructed or his assignee shall keep and maintain the vault in proper order and repair to the satisfaction of the Council. If such purchaser or his assignee fails so to do the Council may prohibit any further interment therein until the vault has been put in proper order and repair.

4.27 Enclosure of Plots and Erection of Monuments

(1) No person who has purchased the exclusive right of burial in any plot shall enclose such plot or erect any monument or tablet (as these works are defined in Section 2 of the Burial and Cremation Act 1964) unless before he erects such enclosure, monument or tablet, he submits a plan thereof and a copy of every proposed epitaph or inscription for approval by the Council and pays the permit fee for monuments as fixed from time to time by the Council.

(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.

- (3) Notwithstanding the provisions of sub-clause 4.27 (1) of this clause, the Council 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 conditions that, if in the Council's opinion it has deteriorated through weathering to a state where it has become visually objectionable, the Council may call upon the relatives of the person interred to remove it. In default of compliance, the Council may itself arrange for its removal.

**4.28 Restriction of Memorials or other Structures**

The Council may from time to time determine what fences, memorials or other structures may be erected in any portion of the Cemetery and may set aside portions of the Cemetery in which no enclosures, memorials or other structures shall be erected except by the Council and no person shall erect an enclosure, memorial or other structure except in accordance with the provisions of this Clause.

**4.29 Disinterments**

- (1) An application for disinterment will only be accepted from a Funeral Director and conducted pursuant to Sections 51 and 55 of the Burial and Cremation Act 1964 and subject to the payment of such fees as the Council by resolution decides.
- (2) If a grave is rendered empty by disinterment of a body interred therein that plot will revert back to Council and Council shall not be liable to make any refund or allowance if a body is disinterred from the burial plot.

**4.30 Lawn Cemetery**

- (1) In any portion or portions of the Cemetery which the Council may from time to time set aside for use as a lawn cemetery no person shall:
- (a) Erect any kerb, railing fence, building or other structure on or around any single plot or part thereof.
  - (b) Construct or place any tombstone, memorial or structure upon any plot or adjacent thereto in any such portion or portions of the cemetery except in conformity with the following provisions.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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 Registrar of Cemeteries.

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- (6) 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.
- (7) The plaque, if not a component of the mount, shall be securely affixed to it, and flush with the surface of the mount.
- (8) Mounts on a berm intended to accommodate plaques for plots lying opposite each other shall be constructed back to back.

(For ease of reference the measurements described in sub-clause (2) above are shown diagrammatically in the Third Schedule of this Part of this Bylaw).

**4.31 Berm Cemetery**

- (1) In any portion or portions of the cemetery which the Council 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 Council and subject, in any event, to compliance with the following conditions:-
  - (a) 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.
  - (b) 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.
  - (c) 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.
  - (d) 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 concrete base at the higher end of the berm must be reduced to 0.5 centimetres before any increase above 15 centimetres is made to the end of the concrete base on the lower end of the berm.

**4.32 Work on Graves**

No person shall do any work on any grave unless specifically authorised by the Registrar of Cemeteries so to do or without like authority place any permanent materials thereon PROVIDED that this clause shall not apply to the relatives or friends of a person buried therein beautifying the grave by placing flowers thereon.

**4.33 Removal of Rubbish**

Every person who, when excavating for any vault or erecting any memorial or fence, or putting any grave in order digs up or throws out any earth or rubbish shall remove the same to a place in the Cemetery as set aside for this purpose by the Cemetery Manager.

**4.34 Shrubs and Trees**

Any shrub planted in the Cemetery shall be kept trimmed to the satisfaction of the Registrar of Cemeteries and no person shall plant any shrub or tree therein without his consent. The Registrar of Cemeteries may require the removal of any shrub, or tree which he may consider cannot be trimmed effectively.

4.35 Vehicles and Animals in the Cemetery

No person shall ride or drive any vehicle with the cemetery otherwise than for funeral purpose or for visiting graves nor bring any animal into the Cemetery without the consent of the Cemetery Manager.

5. **CREMATIONS**

The following provisions shall apply to cremations exclusively in the Waikumete Cemetery.

5.01 Application for Cremation

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

5.02 Time for Cremations

Cremation Services in the Chapel shall be so arranged as to being not later than 3.00 PM on any day. The delivery of a casket for cremation is to occur not later than 3.00 PM on Saturdays and Public Holidays and not later than 4.00 PM on any other day.

5.03 Coffin

The coffin shall be made of some readily combustible wood or any other combustible material (as shall be approved by the Council) 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. The Council will not permit cremation of a body in a lead or iron coffin. If a metal case is necessary a thin lining of tin 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 maybe polished but must not be painted or varnished.

5.04 Funeral Service

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.

5.05 Incineration

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.

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5.06 Coffin not to be Opened

The coffin shall not be opened in the crematorium except when required by the Cemetery Manager.

5.07 Late 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.

5.08 Disposal of Ashes

Cardboard or plastic boxes for receiving of ashes may be obtained at the Cemetery Manager's Office. Any person receiving ashes may supply an urn of any other approved material and design.

5.09 Uplifting Receptacles

The receptacle containing the ashes must be uplifted from the Cemetery Manager within fourteen days from the date of the cremation. Any receptacles aforementioned not uplifted within the period specified will be subject to a charge of \$1.00 for each day held after the fourteenth day.

5.10 Burning of Ashes

For those who desire the ashes to be burned in the Cemetery a special portion has been set aside in which an urn can be burned or in any plot subject to the purchase of an exclusive right of burial to that plot.

5.11 Niches for Depositing of Ashes

- (a) Receptacles containing ashes maybe deposited in niches provided by the Council in walls at the rear of the crematorium the choice of these two sites being with the person desiring that the ashes shall be so deposited.
- (b) Ashes will be accepted for deposit upon and subject to the following conditions:-
  - (i) Niches in the Columbarium are of three kinds whilst those in the walls at the rear of the crematorium are of two kinds. Niches may be purchased on payment of the charges as fixed from time to time by the Council.
  - (ii) On the expiration of 50 days in the case of Columbarium Niches and 20 years for niches in the wall from the date that the niches have been purchased it shall revert to the Council for redisposal in such manner as the Council shall think fit unless, in the case of niches with 20 year tenure, before the expiration of that period an application has been made to the Council for renewal for the period of despite for a further 20 years, and payment made of an amount as fixed by the Council and applying at time of renewal.

On the expiration of such second period of 20 years the niche shall revert to the Council without right of renewal.

- (c) In every case the ashes shall be contained in a receptacle approved by the Council and the Council will supply a receptacle free of charge upon application.
- (d) Inscription plates shall be supplied and affixed only by the Council and without charge provided however that the cost of inscribing the plate shall be borne by the purchaser.
- (e) If a niche is rendered empty by the removal of the receptacle it shall revert to the Council.
- (f) The Council shall not be called upon to make any refund or other allowance if a receptacle is removed from its niche before the end of the period in respect of which payment has been made.
- (g) The Council will arrange for the burial of the ashes in a receptacle taken from a niche in a portion of the cemetery adjoining the crematorium and designated the Garden of Remembrance and no charge shall be made for this service.

5.12 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 the proper fees have been paid PROVIDED that in the case of a cremation arranged by a funeral director the Registrar of Cemeteries may at this 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.

**6 CHARGES AND FEES**

The Council may from time to time by resolution fix and alter the fees and charges payable under this Part of this Bylaw for burials or cremations and may fix and alter any fees or charges for services provided by the Council in respect of burials or cremations in the district.

**7 DISPENSING POWER**

Where in the opinion of the local authority full compliance with any of the provisions of this bylaw would needlessly or injuriously affect the course of operation of the business of, or be attended with loss or inconvenience to, any proprietor without any corresponding benefit to the community, the local authority may, on the special application of that proprietor dispense with the full compliance with the provisions of this bylaw PROVIDED THAT any other terms or conditions (if any) that the local authority may deem fit to impose shall be complied with by such proprietor as aforesaid.

**8 OFFENCES AND PENALTIES**

Every person commits an offence against this bylaw who does any act in contravention of or fails to comply with any requirement thereof. Every person commits an offence against this bylaw who does in anyway or form destroy, damage or alter any sign erected in accordance with the provisions of this bylaw. Every person who commits an offence against this bylaw is liable on summary conviction to a fine not exceeding \$500.00 for every day or part of a day during which the offence continues. The continued existence of any work or thing in a state contrary to any requirement of this bylaw shall be deemed a continuing offence.

The Common Seal of the )  
WAITAKERE CITY COUNCIL )  
was hereunto affixed pursuant to a )  
resolution of Council passed on )  
28 February 1990 in the presence of: )

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**CHIEF EXECUTIVE OFFICER**

\_\_\_\_\_  
**MANAGER: FINANCE & ADMINISTRATION**