



# General Bylaw 2008

## Chapter 3

### Cemeteries

#### Explanatory Note

This Part of the *Bylaw* promotes the orderly and efficient management of cemeteries under the *Council's* control.

It should be read in conjunction with any policy or Code of Practice which *Council* has adopted and publicly notified in relation to cemeteries under its control.



Western Bay of Plenty District Council

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**Chapter 3**

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## Western Bay of Plenty District Council

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## Chapter 3

## Cemeteries

Pursuant to the powers vested in it under sections 16 and 40 of the Burial and Cremation Act 1964 and section 146 of the Local Government Act 2002, the Western Bay of Plenty makes this Bylaw.

**1. Council Cemetery Policy**

- 1.1 The *Council* may from time to time by resolution adopt a policy or Code of Practice for the purpose of maintaining, preserving, or developing the amenities or facilities of any *Cemetery* or *Cemeteries* or crematoria under its control, or for any other purpose which the *Council* considers necessary for the proper and lawful operation of *Cemeteries* or crematoria under the *Council* control. *Cemetery* Policy

**2. Related Legislation**

- 2.1 Nothing in this Chapter of the *Bylaw* derogates from any provision of, or the necessity for compliance with – Other Related Legislation
- (a) Burial and Cremation Act 1964;
  - (b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
  - (c) Cremation Regulations 1973;
  - (d) Health (Burial) Regulations 1946.

**3. Rights of Burial**

- 3.1 Subject to the provisions of the Burial and Cremation Act 1964, every *Cemetery* must be open for the interment of all deceased *Persons*, to be buried with such religious or other ceremony, or without any ceremony, as the family and friends of the deceased think proper. *Cemetery* to be Open to the Public
- 3.2 Burials may be made in any *Cemetery* in the *District*, which has not been lawfully closed, subject, in the case of *Cemeteries* under the control of the *Council*, to the provisions of this *Bylaw*. Right to burial
- 3.3 The *Council* may sell Burial *Plots* according to the *Council's* normal terms and conditions, and where the exclusive right of burial has been granted in terms of section 10 of the Burial and Cremation Act 1964, that right may be subject to such terms and conditions as *Council* may prescribe. Sale of burial *Plots*.



- 3.4 Where a person has agreed to purchase the exclusive right of burial in any *Plot* or ground where no previous interment has taken place, such agreement shall lapse six months after the agreement date if the fee remains unpaid. Purchase to be completed
- 4. Fees and Charges**
- 4.1 The fees and charges mentioned in this *Bylaw* do not include payment for any work required to be done beyond the actual digging of an ordinary grave and after burial, back-filling of the grave. Fees to Cover Digging and Filling Only
- 4.2 The *Council* may set fees and charges for all services provided for the operation and maintenance of *Cemeteries* and crematoria under its control. Setting of fees
- 4.3 The fees and charges payable in accordance with the provisions of this *Bylaw* may from time to time be amended or increased by the *Council*. Alteration of Fees
- 5. Burial**
- 5.1 No interment may be made in any *Cemetery* without a burial warrant for that purpose, obtained from the *Council* by the person having the management or control of the burial, being presented to the *Sexton* as authority for burial. No burials without *Consent*
- 5.2 The *Council* will not issue a burial warrant unless the fee for interment has been paid except that in the case of an interment under the control of a registered funeral director the *Council* may waive the need for prior payment and charge the cost directly to that registered funeral director. Fees or *Indemnity* required
- 5.3 Any burial must take place in the *Plot* as determined by the *Council*, and no headstone or monument may be erected unless all interment and other fees incurred at that time have been paid. Conditions of Burial
- 5.4 The minimum depth of a grave for a single interment must not be less than 1.6 metres and if more than one interment is to be made in the same *Plot* then a further 400mm must be dug to form an extra depth grave of 2 metres. The minimum depth of ground cover over any casket must not be less than one metre. Minimum Depth/Cover
- 5.5 No person other than the *Sexton* or his or her assistant, or any person approved by the *Council* and working under the direct supervision of the *Sexton*, may dig any grave or open the ground for burial in any part of the *Cemetery*. Any grave dug by any "person approved by *Council*" will still incur the appropriate burial fee. *Sexton* only to dig Graves
- 5.6 Burials must be held on such days and at such times as the *Council* may prescribe by resolution. If, in the opinion of the *Council*, special circumstances exist which make a burial outside of the prescribed hours desirable, the *Council* may agree to a burial outside of the prescribed hours on payment of any additional fee required. Times of funerals
- 5.7 Notification of an intended burial must be given to the *Sexton* at least eight working hours prior to the time fixed for the funeral, except in cases of emergency, when, on the certificate of a medical practitioner or Coroner's order, a shorter notice will be accepted. Notification



- 5.8 Every person who fills in any *Plot* after a burial must do all levelling and reinstatement work at his or her own cost and under the direct supervision of the *Sexton*. Levelling of *Plots*
- 5.9 Upon written application to the *Council* and payment of the prescribed fees, the urn containing the ashes of any deceased person may be buried in the appropriate part of the *Cemetery* set aside for that purpose, or in any *Plot* subject to an exclusive right of burial. Burial of Ashes
- ## 6. Headstones and Monuments
- 6.1 All above-ground grave structures, enclosures, memorial headstones and other monuments may be installed only in accordance with a *Consent* issued by the *Council* and must be kept in good order and repair by the purchasers of the *Plots* or their representatives. Headstones and Monuments
- 6.2 The *Council* may carry out regular inspections of memorial headstones and other monuments to ensure that they present no danger or inconvenience to both the public and the *Council's* Maintenance Contractors. Inspection of monuments
- 6.3 Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, the *Council* – Monuments in state of disrepair
- (a) may remove any installation of any kind that has fallen into a state of decay or disrepair; and
  - (b) may remove any item that did not receive consent under clause 6.1; and
  - (c) must take a photographic record of the installation before it is removed and the photographic record must be retained in the *Council's Cemetery* records.
- 6.4 Before any monumental work commences a drawing and specification of the proposed monument must be submitted to the *Council* for approval. Approval of Design Required
- 6.5 Where the *Council* designates land for a Memorial Park or *Berm Cemetery*, headstones and other monuments may only be erected subject to conditions specified by the *Council*. Memorial Park or *Berm Cemetery* headstones
- ## 7. Control of Activities
- 7.1 No person may remove from the *Cemetery* or from any *Plot* within the *Cemetery*, any monument, tablet, vase, wreath, plant, flower, or any other thing without first obtaining the *Consent* of the *Council*. Removal of memorials
- 7.2 Any person working around any grave, vault, or memorial, in any *Cemetery* must not use any footpath, or other part of the *Cemetery*, to deposit tools and materials for a longer time than is reasonably necessary for the purpose of completing such work. Deposit of tools and materials
- 7.3 No person may do any work in any *Plot* in the *Cemetery* unless specifically authorised by the *Sexton* to do so. No work without authority



7.4	No tree or shrub may be planted in any part of any <i>Cemetery</i> by any person without first obtaining the <i>Consent</i> of the <i>Council</i> .	Shrubs and trees
7.5	No person may in or near any part of the <i>Cemetery</i> prevent, interrupt, or delay the decent and solemn burial of any body, or remains of any body.	Misconduct
7.6	No person may, in or near any part of the <i>Cemetery</i> , so conduct himself or herself as to be offensive, to be a nuisance, or to cause annoyance to <i>Persons</i> lawfully within the <i>Cemetery</i> .	Offensive behaviour
7.7	Any person installing any memorial, or carrying out any other work in a <i>Cemetery</i> , within sight or sound of a funeral service must cease that activity and withdraw for the duration of the funeral service.	Adjoining funeral Service
7.8	Any wreath or other floral tribute may be placed on a <i>Plot</i> but the <i>Sexton</i> may at any time remove receptacles which are damaged or of a type not approved by the <i>Council</i> , or any material that in his or her opinion is neglected, unsafe or broken, and may also remove at any time dead flowers and dead foliage.	<i>Sexton</i> may remove damaged items
7.9	No person may allow any animal within the <i>Cemetery</i> grounds without the <i>Consent</i> of the <i>Sexton</i> .	No animals in <i>Cemetery</i>
7.10	Except at the specific request of the purchaser of a <i>Plot</i> or their representatives no person may, in any <i>Cemetery</i> , accept or solicit any custom from any other person for any work to be done in any <i>Cemetery</i> .	Soliciting of Orders
7.11	No person may take any photographs or moving images at a funeral without the consent of the funeral director or the family of the deceased.	No photographs or films without permission
7.12	No person may –  (a) drive or propel any vehicle of any kind in any <i>Cemetery</i> at a greater speed than 15km/h, or at a speed greater than that indicated on any road or sign within any <i>Cemetery</i> ; and  (b) unless authorised by the <i>Council</i> , drive or allow that vehicle to be on any part of any <i>Cemetery</i> except the roads open for vehicular traffic and in the direction indicated by traffic notices.	Speed Limit
7.13	Vehicles may only be driven within the <i>Cemetery</i> grounds between the hours of 6.00am and sunset on the same day, unless prior arrangements have been made with the <i>Sexton</i> .	No vehicles at night
7.14	The <i>Driver</i> of any vehicle within the limits of a <i>Cemetery</i> must yield unconditional right of way to any funeral procession and must stop or move that vehicle as directed by the <i>Sexton</i> or his or her assistant.	Unconditional right of way



## 8. Exhumation

- 8.1 Where an application for an exhumation is received by the *Council*, the exhumation must be conducted under section 51 of the Burial and Cremation Act 1964 and subject to payment of such fees as the *Council* prescribes. Exhumation

## 9. Breach of Bylaw

- 9.1 To avoid any doubt, every person who commits an offence against this chapter is liable to the penalty set out in section 242(4) of the Act. Breach of *Bylaw*