



Draft Cemeteries Bylaw 2019

Effective [DATE]



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Title	Draft Cemeteries Bylaw 2019
Sponsor	Strategic Planning Group Manager Community Services and Development
Approved by	The Hauraki District Council
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Review by	[date]
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Property of the Hauraki District Council

1 Introduction

1.1 Purpose

The purpose of this bylaw is to enable the Council to control and set standards for the operation of cemeteries that it owns or is responsible for.

1.2 Title

This bylaw is the Hauraki District Council Cemeteries Bylaw 2019.

1.3 Enabling enactments

This bylaw is made in accordance with section 146(b)(v) of the Local Government Act 2002 and section 16 of the Burial and Cremation Act 1964. Nothing in this bylaw detracts from any provision of, or the necessity for, compliance with the:

- (a) Burial and Cremation Act 1964;
- (b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
- (c) Health (Burial) Regulations 1946;
- (d) Cremation Regulations 1973.

1.4 Commencement

This bylaw comes into force on [DATE] 2019.

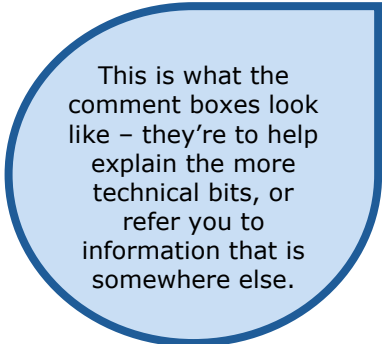
This bylaw amends Part 6 (Cemeteries) of the Hauraki District Council Consolidated Bylaw 2007 and has been renamed accordingly.

1.5 Review

A review of this bylaw will be undertaken no later than 10 years after the commencement date above.

1.6 Related information

There is related information in comment boxes in this bylaw. Related information does not form part of this bylaw and may be inserted, changed or removed without any formality.



This is what the comment boxes look like – they're to help explain the more technical bits, or refer you to information that is somewhere else.

2 Definitions

In this bylaw, definitions are as per section 2 of the Burial and Cremation Act 1964. In addition, the following definitions apply, unless the context requires otherwise.

Above ground vault	means an above ground burial structure, also known as a mausoleum.
Ashes	means the cremated remains of an individual person.
Authorised officer	means any person delegated, appointed or authorised in writing by the Council to act on its behalf and with its authority in respect of any of the matters referred to in this bylaw.
Berm	means an area of a cemetery in which memorials of prescribed maximum dimensions are allowed to be placed on concrete flush with the ground supplied by the Council.
Burial warrant	means a certificate issued by the Council, upon payment of the applicable fee, authorising the burial of the person specified in that certificate.
Council	means the Hauraki District Council or any officer authorised to exercise the authority of the Council.
Cemetery	means any cemetery owned or under the control of the Council and includes ashes walls.
District	means the Hauraki District.
Exclusive right of burial	means the right to bury or inter a deceased person (body or ashes) in an agreed plot in a Council cemetery (also referred to as a plot purchase).
Interment	means burial in the ground, inurnment or entombment.
Monument	includes any tombstone, headstone, memorial, kerbing, or other installation and includes any full grave cover or surround.
Natural burials	means the burial or interment of a body within the living topsoil layer, that body being free from any chemical treatment or preparation. They are also known as eco burials.
Plot	means a numbered lot in a cemetery, including an ashes wall, where a burial or interment can occur.
Sexton	means any person appointed by the Council to carry out work on its behalf in any cemetery.

3 Reservation of exclusive right of burial

3.1

A person may reserve the exclusive right of burial in a plot for up to 50 years. The reservation of that right will give that person, or a transferee approved by the Council, the exclusive right of burial in that plot subject to the provisions of this bylaw.

An exclusive right of burial is essentially reserving a plot. It gives you the right to bury a body or ashes in a certain plot. The Council owns and maintains the land.

3.2

Only two exclusive rights of burial (two plots) may be reserved by one person at a time.

The exclusive right of burial can be purchased at the time the burial warrant is presented to the Council for the first interment in that plot. The exclusive right of burial will be granted when the Council has received payment of the prescribed fees for the use of the plot.

3.3

When the requirements for allowing the exclusive right of burial have been met, a Certificate of Right of Burial will be issued to the applicant.

3.4

No monument or tablet will be installed on the plot unless the exclusive right of burial has been purchased and all fees relating to the burial have been paid in full.

3.5

If no burial has taken place after 50 years from the original date of reservation of the exclusive right of burial in a plot, the right of burial lapses and the Council will not be liable for any refund of any reservation fees paid.

Where an exclusive right of burial has lapsed, we may make a plot available for use by others. We'll try to contact the person who had the right of burial before it lapses.

4 Transfer of reservation of exclusive right of burial

4.1

The person who has reserved an exclusive right of burial in any plot may transfer that reservation to another person, subject to the approval of the Council and on payment of any applicable fees.

4.2

The Council may request a statutory declaration from the applicant as proof that they have the right of reservation (through succession or otherwise) to the exclusive right of burial. Unless the Council has cause to doubt otherwise, the provision of a statutory declaration will satisfy the Council's responsibility to evidence reservation of exclusive right of burial.

5 Fees

5.1

All fees are documented in the Council's current Schedule of Fees and Charges.

5.2

An out of district fee will be payable for purchase of the exclusive right of burial where the deceased person was not a resident or rate payer of the District for at least twelve months immediately prior to the date of death.

Someone in a hospital or institution in the district is as a resident in the District if they've been in the hospital or institution longer than twelve months.

5.2.1

The out of district fee will not apply:

- a) where the purchase of the exclusive right of burial is for a deceased person who resided in the District for a continuous period of at least ten years during their lifetime.
- b) where the deceased person is a child younger than twelve months old, and is of a parent that has been a resident or ratepayer of the District for at least twelve months prior to the date of death.

5.2.2

Temporary absences of short duration from the district will not detract from the resident status of the deceased person.

5.3

Unless specifically stated to the contrary, burials and related services will only be carried out on payment of the prescribed fee or fees.

A temporary absence includes when someone leaves the district for palliative care or hospice care.

5.4

Any request for waiver of fees is at the discretion of the Council and will be decided by the relevant authorised officer of the Council.

6 Burial warrants

6.1

No burial will be made in any cemetery without a burial warrant being issued and presented to the sexton as authority for burial.

6.2

- a) The application for a burial warrant must be delivered to the Council at least two working days before the burial is scheduled to take place.
- b) Clause 6.2(a) shall not apply if the deceased is required to be buried within 24 hours because of their religion and burial customs, in which case the application for a burial warrant must be delivered to the Council as soon as practicable and the Council will endeavour to complete the necessary arrangements.

6.3

If the required notice is not given, the burial or service may be delayed for a reasonable period of time as the Council decides, to enable the Council to complete the necessary arrangements.

7 Responsibility for arrangements

7.1

The funeral director, or the person(s) responsible for funeral arrangements, must ensure that the remains are in an enclosed and suitable receptacle when presented for interment, and that all equipment associated with the burial is provided at the time of burial.

7.2

Any additional expenses incurred by the Council in regard to time taken will be the responsibility of the funeral director or the person(s) arranging the funeral.

8 Days/hours of services and burials

8.1

Services and burials may take place between the hours of 10:00 a.m. and 3:00 p.m. from Monday to Saturday inclusive.

8.2

Burials may take place on a Sunday or at other times, by arrangement with the Council and on payment of any applicable fee.

8.3

No burials will take place on Christmas Day, Good Friday or Anzac Day.

8.4

This clause does not apply where it is necessary for the Council to comply with duties under section 86 of the Health Act 1956 relating to the burial of people who have died of an infectious and/or notifiable disease.

9 Grave plots and graves

9.1

No person other than the Sexton, their assistants, or any other person authorised by the Council will dig the ground in any part of the cemetery.

9.2

No person, other than the sexton, their assistants, or any other person authorised by the sexton will fill in any grave.

9.3

The Council will provide for a variety of plot types at its various cemeteries. Not all plot varieties will be available at all cemeteries.

Our website has further information on the types of plots available at each cemetery:

www.hauraki-dc.govt.nz/services/cemeteries

9.4

No more than two caskets will be buried in any plot without the prior consent of the Council.

9.5

In the case of a natural burial, only one deceased person per plot is permitted.

9.6

The minimum depth of cover for any casket shall be 1 metre, unless prior consent is given by the Council.

9.7

Any request to inter ashes into a plot that has an existing concrete top will be dealt with on a case by case basis and is subject to prior consent by the Council.

In general, one plot can hold two casket interments and four ashes interments. If there is no casket being interred, then up to eight ashes interments can be made.

In general, one ashes plot can hold two ashes interments.

9.8

Disinterment of a body must be conducted pursuant to sections 51 and 55 of the Burial and Cremation Act 1964.

10 Installation and maintenance of monuments

10.1

No monument or tablet other than those approved by the Council is to be installed in a cemetery. All monuments and tablets will be installed to the standard described in New Zealand Standard for Headstones and Cemetery Monuments NZS 4242 and kept in good order or repair by the purchasers of the plots or their agents.

10.2

The Council may carry out regular audits of monuments and tablets to ensure their safety. Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulation 1967, the Council may remove any installations of any kind that fall into a state of disrepair. A photographic record of the memorial will be taken prior to removal and retained in cemetery records.

Trees and shrubs are not allowed to be planted in our cemeteries without prior consent. See clause 13.1.

10.3

The construction of above ground vaults is not permitted in any cemetery, unless by prior agreement with the Council.

10.4

No person is to remove any monument or tablet from any cemetery or grave without the written permission of the Council.

10.5

No person will place any kerbing, fencing or other instalment on the grassed part of any grave in a lawn cemetery.

11 Floral and other tributes

11.1

Flowers, wreathes and other tributes may be placed on a burial site at the time of interment.

11.2

At any stage 30 days after the date of interment, the Council may remove from a burial site any flowers, wreathes or other tributes placed there at the time of interment and cause the surface of the burial site to be levelled off and sown in grass.

11.3

After a burial site has been levelled off and sown as described above, artificial or natural cut flowers may be placed in a container or containers on the concrete berm. The container must not be made of glass. Floral tributes are not permitted on the grass area of the plot.

11.4

After a burial site has been levelled off and sown as described above, the placement of other tributes (not including floral tributes in clause 11.3) on the concrete berm, requires the permission of the Council. Other tributes are not permitted on the grass area of the plot.

11.5

Any flowers, wreathes and other tributes placed or remaining on any burial site, which have become unsightly, or any receptacle/container which has been broken or damaged, may be removed by the sexton and may be destroyed or disposed of by the sexton or authorised officer as they see fit. The Council will be under no liability to any person in respect of such removal, distribution or disposal.

12 Work practices

12.1

No person installing or repairing any cemetery memorial or carrying out other work in any cemetery will use any footpaths or other part of the cemetery for placing or depositing any tools, planks or materials for a longer time than is reasonably necessary to complete the work.

Any person installing or attending a monument or tablet, or carrying out any other work in a cemetery, must withdraw for the duration of a nearby funeral service. Such a person must also remove tools, planks and other materials which may obstruct access to an adjoining service for the duration of said service.

12.2

Any rubble and earth not required in the filling in of the grave, or in connection with the levelling, will immediately be removed either from the cemetery or to a place within the cemetery approved by the sexton.

13 Vegetation

13.1

No tree or shrub is to be planted in any part of any cemetery without the consent of the Council.

Keep Hauraki beautiful!
We can give fines of up to \$400 to anyone caught littering in a public place – this includes our cemeteries. For more information, see the Litter Infringement Policy on our website.

13.2

No person is to disturb, damage, take or pick any cutting or flower from any tree, shrub, plant or other vegetation in any cemetery without the consent of the Council.

14 Vehicles

14.1

Unless authorised by the Council, no person may take any vehicle of any kind into a cemetery, except during the hours of daylight.

14.2

Vehicles may only be driven on access ways which are open to vehicular traffic, and parked only in designated parking areas.

14.3

Every person driving or in charge of any vehicle in any cemetery must stop or move the vehicle as directed by the sexton or other authorised officer.

14.4

All vehicles (other than hearses) must yield unconditional right of way to any funeral procession.

14.5

Any person driving a vehicle in a cemetery must obey all signs or notices concerning traffic movement and parking displayed in that cemetery.

14.6

No vehicle is to be driven at a greater speed than indicated on any road within the cemetery, and in any other direction other than indicated by traffic notices. In the absence of speed limit signs, no vehicle may be driven at a speed greater than 5 kilometres per hour in any cemetery.

15 Burial of poor person

15.1

Where application is made to the Council for the interment of a deceased poor person, the applicant shall provide an order signed by a Justice of the Peace, certifying that:

- a) such deceased person has not left sufficient means to pay the prescribed fee; and
- b) the cost of burial is not covered by an Accident Compensation or Government entitlement or subsidy; and
- c) the deceased person's relatives and friends are unable or unwilling to pay the same.

15.2

A name plaque will be placed on the grave site by the Council.

No monuments are permitted on a poor person's grave as the Exclusive Right of Burial has not been purchased and belongs to the Council. If a family or other party wishes to install a monument

on a poor person's grave this can be done upon payment of all cemetery fees and charges paid at the current rate.

16 Misconduct

16.1

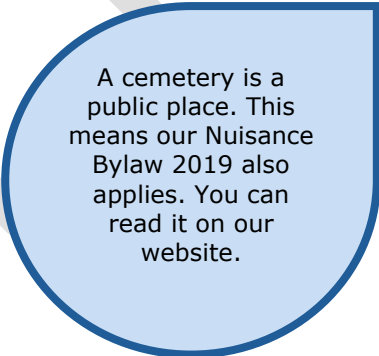
No person shall unlawfully or improperly interfere with, interrupt or delay the carrying out of any funeral service or ceremony within any cemetery.

16.2

No person shall take any photographs or moving images at a funeral without the consent of the funeral director or other person responsible for the funeral.

16.3

No person will bring into or exhibit in any cemetery any article that is a nuisance or is offensive to any other person.



A cemetery is a public place. This means our Nuisance Bylaw 2019 also applies. You can read it on our website.

17 Animals

17.1

Except with the prior written permission of the Council, no person shall allow any animal into any cemetery unless that animal is:

- a) a domestic animal, as defined in section 2 of the Dog Control Act 1996.
- b) a disability assist dog, as defined in section 2 of the Dog Control Act 1996.

17.2

Every person in control of any animal in a cemetery must ensure it is kept in a manner that the animal does not create nor is likely to create a nuisance to any person in the cemetery.

18 Offences and penalties

Every person who fails to comply with this bylaw commits an offence and shall be subject to the penalty provisions outlined in the offences, penalties, infringement offences, and legal proceedings provisions of the Local Government Act 2002 and the Burial and Cremations Act 1964, and any other enabling enactments.

19 Dispensations

The Council may at its discretion waive any of the requirements of this bylaw except any prescribed by statute if it believes good reason to do so exists.

Cemeteries Bylaw validation

This bylaw was adopted at a meeting of the Hauraki District Council on [DATE], following public consultation.

The Common Seal of the Hauraki District Council was given on [DATE] in the presence of:

_____ Mr. John Tregidga, Mayor

_____ Mr. Langley Cavers, Chief Executive