

New Plymouth District Council

Cemeteries and Crematoria Bylaw 2020



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth
District Council**

DOCUMENT HISTORY

Meeting	Date	Decision	Next Review
Council	21 April 2020	Adopt Bylaw	

Cemeteries and Crematoria Bylaw 2020

New Plymouth District Council

The purpose of this bylaw is to facilitate the orderly, safe, and efficient management of cemeteries and crematoria under the control of the Council; and minimise the potential for offensive behaviour in cemeteries and crematoria under the control of the Council.

1. Title and commencement

- 1.1. This bylaw is the New Plymouth District Council Cemeteries and Crematoria Bylaw 2020.
- 1.2. This bylaw comes into force on 1 May 2020.

2. Authority

- 2.1. This bylaw is made under:
 - a) Sections 145 and 146(b)(v) of the Local Government Act 2002; and
 - b) Sections 16 and 40 of the Burial and Cremation Act 1964

3. Purpose

- 3.1. The purpose of this bylaw is to:
 - a) Facilitate the orderly, safe, and efficient management of cemeteries and crematoria controlled by the Council; and
 - b) Minimise the potential for offensive behaviour in cemeteries and crematoria controlled by the Council.

Note: Please refer to the Burial and Cremation Act 1964 and Cremation Regulations 1973 for general rules and procedures relating to burial and cremation.

4. Application of this bylaw

- 4.1. This bylaw applies to all cemeteries and crematoria controlled by the Council.
- 4.2. This bylaw does not apply to urupa or any other cemetery, crematorium or burial ground that is not controlled by the Council.
- 4.3. Nothing in this bylaw shall derogate from any provision of or compliance with the:
 - a) Burial and Cremation Act 1964;
 - b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
 - c) Cremation Regulations 1973; or
 - d) Health (Burial) Regulations 1946.

- 4.4. A reference to a repealed enactment, standard or document is a reference to an enactment, standard or document that, with or without modification, replaces, or that corresponds to, the enactment, standard or document repealed.

5. Interpretation

Definitions

- 5.1. In this bylaw, unless the context otherwise requires:

Act means the Burial and Cremation Act 1964.

Approved Person means a person who is approved by the Council to carry out works or undertake activities in any cemetery or crematorium and shall include any funeral director.

Assignee means the person or persons to whom an exclusive right of burial is transferred to on the death of the holder of the exclusive right of burial.

Body has the same meaning as defined in the Act.

Bylaw means the New Plymouth District Council Cemeteries and Crematoria Bylaw 2020.

Council means the New Plymouth District Council.

Designated natural burial area means an area in a cemetery designated by the Council to be a natural burial area.

Exclusive Right of Burial means the right of burial in a surveyed plot within a Council cemetery record, sold by the Council under section 10 of the Act.

Memorial means any tombstone, headstone, memorial, monument, tablet, plaque, kerbing or other memorial or erection.

Physical works means the installation, modification, maintenance, repair, or removal of any plot or memorial.

Plot means a lot in a cemetery that is surveyed for the purposes of interment and shown on the official cemetery plan deposited in the cemetery office.

Purchaser means a purchaser of the Exclusive Right of Burial in a plot, and owner of such exclusive right, and may include their executors, administrators and assignees.

6. The Council may make rules relating to cemeteries and cremation

- 6.1. The Council may make, amend or revoke a cemeteries and crematoria handbook that provides rules for the use of cemeteries and crematoria controlled by the Council. The handbook may include rules relating to the following non-exhaustive list of matters:
- a) Days and hours of operation for cemeteries and crematoria;

- b) The process for purchasing a plot, including the notification period required before a burial may be made at a cemetery or a cremation at a crematorium;
 - c) Burial warrants;
 - d) Behaviour in cemeteries, including rules relating to appropriate behaviour, trade, vehicles, animals, and photography or filming;
 - e) Interment and disinterment;
 - f) Undertaking physical works in a cemetery;
 - g) The placement, maintenance and removal of tributes, decorations, trees and shrubs, including donated plants;
 - h) Cremation; and
 - i) Natural burial.
- 6.2. The council must, before making, amending or revoking a handbook in clause 6.1:
- a) comply with the relevant requirements under Subpart 1 of Part 6 of the Local Government Act 2002;
 - b) be satisfied that the rules ensure that the purpose of the bylaw will be met;
 - c) have regard to:
 - i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and
 - ii) any other matters considered relevant by the council.
- 6.3. A cemeteries and crematoria handbook made, amended or revoked under clause 6.1 must be made publicly available.

7. Conditions of burial

Exclusive Rights of Burial and burial warrants

7.1. Any body may be buried in a plot provided that:

- a) Either:
 - i) The Exclusive Right of Burial has been purchased for that plot; or
 - ii) The consent of the purchaser of that Exclusive Right of Burial or their assignee for that plot has been obtained; and
- b) A burial application has been received by the Council, in addition to any other notification required under rules made by the Council under this bylaw; and
- c) The burial complies with any rules made by the Council under this bylaw; and
- d) All applicable fees have been paid or arrangements for the fees to be paid have been made with the Council.

Note: Section 10 of the Act applies to the sale of the exclusive right of burial in any part of a cemetery.

8. Disinterment of bodies or remains

Licence required

- 8.1. Before a body or the remains of a body may be removed from its burial place in a cemetery a licence must be obtained from the Minister of Health under section 51 of the Act. A copy of that licence shall be provided to the Council.
- 8.2. Prior written approval of the Council must be obtained before the disinterment.

Disinterment procedure

- 8.3. Council may specify a disinterment procedure in the cemeteries and crematoria handbook as per clause 6.1 of this bylaw. Any disinterment must follow this procedure.

9. Physical works associated with plots

- 9.1. Physical works may only be undertaken in a cemetery by an approved person, who has obtained written approval from the Council for the physical works and must be undertaken in accordance with the requirements of this bylaw or the handbook made by Council under clause 6.1 of this bylaw.
- 9.2. If an approved person undertaking physical works fails to comply with any conditions of the approval given under clause 9.1, the Council may revoke that approval and remove any physical works or any part of them that fails to meet any conditions.

Council may remove unauthorised works

- 9.3. The Council may remove any unauthorised physical works, or any other physical works which, in the opinion of the Council, may cause offence or be a safety hazard to visitors to the cemetery.

10. Fees

- 10.1. The Council may, in accordance with the provisions of section 150 of the Local Government Act 2002, set prescribed fees for all services provided for the operation and maintenance of cemeteries controlled by the Council.

11. Offences and penalties

- 11.1. Any person who fails to comply with the requirements of this bylaw or the handbook made by Council under clause 6.1 of this bylaw commits a breach of this bylaw, and is liable to a penalty under the Local Government Act 2002.