



Cemeteries Bylaw

2019

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1 Preliminary Provisions

1.1 This Bylaw is the Manawatū District Council Cemeteries Bylaw 2019.

1.2 This Bylaw is made under:

- (a) the Local Government Act 2002; and
- (b) section 16(1) of the Burial and Cremation Act 1964.

2 Purpose

2.1 The purpose of this Bylaw is to provide for the efficient management and maintenance of cemeteries under the Council's control.

Explanatory Note: This Bylaw does not provide for the management and maintenance of private Cemeteries or urupa. However, Council does have a Private Cemetery/Urupa Policy that includes policy guidelines and criteria for uplifting funds for the upkeep of private Cemetery/urupa.

3 Commencement

3.1 This Bylaw comes into force on 10 October 2019.

4 Interpretation and Definitions

4.1 The provisions of the Manawatū District Explanatory Bylaw 2014 and its amendments are implied into and form part of this Bylaw.

4.2 In this Bylaw, unless the context requires otherwise:

Act means the Burial and Cremation Act 1964.

Cemetery or Cemeteries has the same meaning as that term has under section 2(1) of the Act and includes all such places owned or controlled by the Council.

Council means the Manawatū District Council.

Disinterment or Disinter means to remove any body, the remains of any body, or ashes from their burial place in a Cemetery.

Disinterment Instruction and Warrant means a written approval from Council issued to an Authorised Agent as authority for Disinterment.

Exclusive Right of Burial means the selling of a Plot for an Interment in any part of a Cemetery. The Council may require evidence that the person owning the right has consented before a body is buried or ashes are Interred in such a place. Any sale may be rescinded by agreement. A right of burial shall lapse if not used during any period of 60 years after the sale.

Interment or Interred means burial of human remains or ashes in the earth.

Interment Instruction and Warrant means a written approval from Council issued to an Authorised Agent as authority for Interment.

Manager means any person appointed by the Council to control or manage or to assist in the control and management of any Cemetery.

Monument means any headstone, memorial, plaque, curbing or other erection.

Parking means stopping, standing or parking any vehicle, whether attended or not.

Permit means a written approval from the Council that authorises a person or entity to clean, repair, install or remove a Monument in any part of any Cemetery.

Plot means a specified area set aside for the burial of a casket, coffin or ashes.

Plot Holder means a person who has been allocated an Exclusive Right of Burial for a Plot within a Cemetery.

Services Section means any section of a Cemetery that has been designated for the burial of military veterans.

Tribute or Tributes means any funeral wreaths, flowers and other items left by members of the public to commemorate people who are buried in Cemeteries.

- 4.3 Reference should be made to section 2 of the Manawatu District Explanatory Bylaw 2014 for any other definitions not included in clause 4.2.
- 4.4 Any explanatory notes are for information purposes only. They do not form part of this Bylaw, and may be made, amended, revoked or replaced by the Council at any time.

5 Council's Management of Cemeteries

- 5.1 Council may set aside or designate from time to time, by resolution, specific areas within Cemeteries for certain uses, including a Services Section, lawn cemeteries, gardens of remembrance, memorial gardens and memorial ashes gardens.
- 5.2 Any Monument erected within the Cemetery must comply with any conditions specified for that area within the Cemetery, as specified in the Bylaw, and stated in any Permit issued.

6 Interment

- 6.1 No Interment may occur in any Cemetery without Council's prior issuing of a Interment Instruction and Warrant.
- 6.2 Any Interment must only take place:
 - (a) In a specific Plot where proof of purchase of the Exclusive Right of Burial has been provided; or
 - (b) In a Plot allocated by Council, if an Exclusive Right of Burial has not been purchased.
- 6.3 Other than an Authorised Agent, a person must not dig any grave in or open the ground for the Interment of human remains or ashes in any part of any Cemetery.
- 6.4 Applications for an Interment Instruction and Warrant under clause 6.1 must:
 - (a) be made within 48 hours of the intended Interment (or earlier on a case by case basis);
 - (b) be on the relevant prescribed form (available on Council's Website); and
 - (c) be accompanied by the payment of any fee set out in Council's Schedule of Fees and Charges from time to time.
- 6.5 Requests to fill in the grave by families attending the Interment must be made to Council at the time of applying for the Interment Instruction and Warrant.
- 6.6 Interments are for one body per Plot unless specifically authorised by the Council.

- 6.7 Requests for a Plot that allows up to two body Interments must be made to Council at the time of applying for the Interment Instruction and Warrant.
- 6.8 Subject to clause 6.1 above, all Interments in the Services Section of any Cemetery must comply with the requirements set out by Veterans' Affairs New Zealand for the conduct of such Interments.

7 Disinterment

Disinterment of Human Remains

- 7.1 Any Disinterment of human remains must be carried out in accordance with section 51 and section 55 of the Act.
- 7.2 The applicant must obtain a licence from MidCentral Health prior to the Disinterment of a body or the remains of a body, and a Public Health Officer must be in attendance at the time of Disinterment.
- 7.3 A Disinterment Instruction and Warrant is required from Council prior to the Disinterment of human remains.
- 7.4 An application for a Disinterment Instruction and Warrant for human remains must include:
- (a) The necessary certifications under the Act; and
 - (b) The relevant prescribed form (available on Council's Website); and
 - (c) Payment of the fees prescribed in Council's Schedule of Fees and Charges from time to time.

Explanatory Note: Council recommends that any application for the Disinterment of a body, or remains of any body, buried in a cemetery, be made by a registered funeral director.

Disinterment of Ashes

- 7.5 A Disinterment Instruction and Warrant is required from Council prior to the Disinterment of ashes.
- 7.6 Applications for a Disinterment Instruction and Warrant to Disinter ashes must include:
- (a) The relevant prescribed form (available on Council's website); and
 - (b) Payment of the fees prescribed in Council's Schedule of Fees and Charges from time to time.
- 7.7 An application under clause 7.5 must be made in writing from the next of kin or other legally authorised person at least 48 hours prior to any Disinterment of any ashes from a Cemetery.
- 7.8 Approval of any application under clause 7.5 is at the discretion of the Manager in charge of the Cemetery.
- 7.9 Ashes Disinterment must be carried out by persons specified by the Council in approving any application under clause 7.5.

8 Exclusive Right of Burial

Purchasing an Exclusive Right of Burial

- 8.1 The Council may sell Exclusive Rights of Burial in accordance with section 10 of the Act.

- 8.2 Council will only sell an Exclusive Right of Burial for a Plot in the following circumstances:
- (a) For Burial in the cemetery of a recently deceased person or for the Interment of Ashes;
 - (b) For one Plot that is immediately adjacent to a Plot sold under (a) for the Interment of a family member of the deceased person;
- 8.3 The term of the Exclusive Right of Burial shall be for 60 years unless otherwise specified by Council at the time an Exclusive Right of Burial is sold.
- 8.4 Requests seeking authority to purchase an Exclusive Right of Burial must include:
- (a) The relevant prescribed form (available on Council's Website); and
 - (b) Payment of the fees prescribed in Council's Schedule of Fees and Charges, reviewed from time to time.
- 8.5 Once an Exclusive Right of Burial has been paid in full, Council will issue the Plot Holder an Exclusive Right of Burial certificate as proof of authority.
- 8.6 Exercise of an Exclusive Right of Burial will require the Plot Holder to provide evidence of that right to the Council (a copy of the Exclusive Right of Burial certificate). Where the Plot Holder is deceased and unable to expressly authorise the use of the Plot for Interment, the evidence of the right to use the Plot and the application may be made by the family of the Plot Holder or their representative.
- 8.7 The Council will allow a Plot Holder of an Exclusive Right of Burial, or their representative, to transfer that right to another family member, subject to approval by Council.
- 8.8 Applications to cancel an Exclusive Right of Burial by the Plot Holder will be subject to a fee as prescribed in Council's Schedule of Fees and Charges, reviewed from time to time.
- 8.9 The Plot Holder must notify the Manager of any change in address.

Explanatory Note: Council will send a letter to each registered Plot Holder on a five yearly basis to ensure Council's records are kept up to date. Changes in address should be directed to the Manager of Council's Cemeteries by email at Cemeteries@mdc.govt.nz.

Lapse of an Exclusive Right of Burial (Plot Reservation)

- 8.10 Where an Exclusive Right of Burial has lapsed or is due to lapse under section 10(4) of the Act, Council will inform the Plot Holder as soon as possible and also offer the Plot Holder the opportunity to renew the Exclusive Right of Burial on the reserved Plot.

Explanatory Note: Where the Council has made reasonable attempts to contact the Plot Holder without success, the Council will continue to hold the Plot in reserve for a period of twelve months from the date of the last attempted contact with the Plot Holder or the lapse date (whichever is the later). If after this there is no response from the Plot Holder, the Council will deem the Plot to be available for use or resale.

- 8.11 If the Plot Holder wishes to renew the Exclusive Right of Burial, the Council will issue a new certificate to the Plot holder with a revised lapse date.
- 8.12 Where the Plot Holder does not wish to renew an Exclusive Right of Burial over the reserved plot, the Council will make the Plot available for use or resale and the former Plot Holder will be provided with a letter acknowledging that the Exclusive Right of Burial has lapsed.

9 Work in Cemeteries

- 9.1 Any work, construction or activity in any Cemetery, that is not associated with Monumental or lawn conversion work, requires Council's prior written approval.
- 9.2 The Council may attach to any written approval issued under clause 9.1, any terms and conditions as it considers appropriate. The holder of Council's written approval must comply with any terms and conditions imposed by Council under this clause.
- 9.3 A Permit is required from Council for lawn conversion work and the erection, alteration, repair or removal of Monuments in any Cemetery.
- 9.4 Applications for a Permit under clause 9.3 must include:
- (a) The plans for the Monument or alterations to an existing Monument including the materials to be used and the dimensions;
 - (b) The relevant prescribed form (on Council's website);
 - (c) The wording of any proposed epitaph or inscription and associated graphics; and
 - (d) Payment of the fees prescribed in Council's Schedule of Fees and Charges and reviewed from time to time.
- 9.5 When considering a Permit application submitted under Clause 9.3 the Council will have regard to the following considerations and may grant the Permit subject to any appropriate terms and conditions as determined by the Council:
- (a) The Permit application was filed by the family's representative or the monumental mason commissioned by the family or the family's representative.
 - (b) The payment of all outstanding fees relating to the purchase of an Interment Instruction and Warrant for the Plot that is the subject of the Permit application (refer to clause 6.4).
 - (c) Any proposed wording or graphics on the Monument are acceptable to Council.
 - (d) The foundations and any works described on the plan must comply with either:
 - (i) *NZS 4242:2018 Headstones and Cemetery Monuments* or its amendments, and the headstone specifications set out in Schedule 1;
 - (ii) The plaque specifications set out in Schedule 1; or
 - (iii) The requirements of Veterans' Affairs New Zealand in the case of Monuments in the Services Section of the Cemetery.
 - (e) The Monument is constructed of granite or some other naturally occurring stone approved by Council.
 - (f) The application is only for a plaque if the Plot is located in the gardens of remembrance, the memorial gardens or memorial ashes gardens.
 - (g) The installation must be carried out in accordance with the requirements of the Health and Safety at Work Act 2015.
- 9.6 Where a Permit has been granted under clause 9.3 such work must be completed in accordance with the terms and conditions of the Permit, to the satisfaction of the Council.
- 9.7 All Monuments approved for installation by a Permit after 10 October 2019 must display the installers identification mark, visible on the Monument.

9.8 Council may, at its discretion, remove and dispose any unauthorised works, structures or installations associated with any Plot(s).

10 Tributes

10.1 Tributes may be placed on the soil of a Plot within the Cemetery but must be removed within six-months of an Interment.

10.2 Tributes that are intended to remain beyond six-months of an Interment must be left in containers placed on the Monument or the concrete beam of a Plot.

Explanatory Note: The “concrete beam” of a Plot is the beam for setting the Monument and bases on.

10.3 Council Officers or an Authorised Agent may immediately remove and dispose of any:

- (a) Tributes that breach clauses 10.1 and 10.2; and
- (b) neglected or unsafe Tributes or broken vases or containers.

10.4 Shrubs or trees must not be planted in any Cemetery by any person without the Council’s prior approval.

11 Maintenance of Cemeteries

11.1 The family of the deceased must keep all enclosures, headstones, vaults and other Monuments associated with the Plot in good order and repair.

Explanatory Notes:

The Council may remove and dispose of any structure or installation in a Cemetery that falls into disrepair or neglect or poses a danger to the public under the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967.

Council is obligated under the Act to maintain Cemeteries in a safe, clean and orderly condition. Further information on Council’s maintenance of Cemeteries is contained in Council’s Long Term Plan.

12 Operating Hours

12.1 Council’s standard operating hours for Interments are:

- (a) Monday to Friday between 9.00 am to 4.00 pm;
- (b) Saturday between 9.00 am to 1.00 pm.

12.2 Interments and other funeral activities that being after 1:00 pm on a Saturday or after 4:00 pm on a weekday will incur additional fees, as outlined in Council’s Schedule of Fees and Charges from time to time.

12.3 Interments on a Sunday or public holiday (other than those listed in clause 12.4 below) will incur additional fees, as outlined in Council’s Schedule of Fees and Charges from time to time.

12.4 Interments and any other funeral activities may not take place on Easter Sunday, Anzac Day, Christmas Day, Boxing Day or New Years Day.

12.5 The date of the unveiling ceremony is to be specified on the Permit application under clause 9.3 for Monumental or Lawn Conversion Work (available on Council’s website), if known.

13 Conduct in Cemeteries

- 13.1 A person must not drive or Park any Vehicle outside of formed driveways and Parking areas in any Cemetery unless they have the Council's prior approval.
- 13.2 A person must not drive any Vehicle in any Cemetery at a speed exceeding either:
- (a) 20 kilometres per hour; or
 - (b) any other maximum speed stated by any sign erected by the Council.
- 13.3 Vehicles not already involved in a funeral procession in a Cemetery must give right of way to any funeral procession.
- 13.4 Every person driving or Parking any Vehicle in any Cemetery must stop or move the Vehicle if directed by the Manager in charge of the Cemetery.
- 13.5 Any person driving any Vehicle in a Cemetery must only drive in accordance with and in the direction indicated by signs posted by the Council for that purpose.
- 13.6 When in a Cemetery, a person must not advertise or solicit custom for any work to be done in or in connection with any Cemetery, or for the sale, preparation, or supply of any article, material, or thing to be placed or used in any Cemetery.
- 13.7 Commercial photographers must not attend any funeral or other ceremony for the purpose of taking photographs or other images except with the consent of:
- (a) the funeral director in charge of the Interment; and
 - (b) the family of the person being Interred.

14 Misconduct in Cemeteries

- 14.1 No person may:
- (a) prevent, interrupt or delay any Interment in a Cemetery;
 - (b) cause a Nuisance or annoyance to people lawfully in or approaching a Cemetery;
 - (c) damage, deface or interfere with any Plot, Tribute, structure, installation or property within a Cemetery;
 - (d) dig any ground or disturb any vegetation without Council's prior approval; or
 - (e) fly an unmanned aerial vehicle in or over a Cemetery without Council's prior approval.

15 Fees

- 15.1 Council may by resolution fix fees and charges for any activity the Council reasonably undertakes in relation to the operation and management of a Cemetery. These may include, but are not limited to, fees and charges for:
- (a) Interment and Disinterment.
 - (b) Exclusive right of Burial.
 - (c) Permits for lawn conversion work and the erection, alteration, repair or removal of Monuments and memorials.
 - (d) Manual record searches.

Explanatory Note: This clause should be read in conjunction with clause 9 of the Manawatū District Explanatory Bylaw 2014. All fees and charges for Cemetery Activities are contained in Council's Schedule of Fees and Charges and are reviewed from time to time.

- 15.2 The Interment of any deceased person not residing or not a ratepayer at the time of death must pay an 'out of District fee'. The Manager has the discretion to waive this fee, where sufficient evidence can be provided that the deceased had prior long-term residency within the Manawatū District, making such a fee inappropriate.

16 Records

- 16.1 Any person holding an Exclusive Right of Burial must notify the Manager of any change in address.

Explanatory Notes: Changes in address should be directed to the Manager of Council's Cemeteries by email at Cemeteries@mdc.govt.nz. Burial records for all the Cemeteries controlled by the Council are available on the Manawatū District Council website.

17 Offences

- 17.1 Every person who commits a breach of this Bylaw commits an offence and is liable to pay:

- (a) the maximum fine set out in the Local Government Act 2002 and Act; and
- (b) any other penalty specified in another Act for the breach of the Bylaw.

Explanatory Note: This clause should be read in conjunction with clauses 13, 14 and 15 of the Manawatū District Explanatory Bylaw 2014.

18 Repeals, Savings and Transitional Provisions

- 18.1 The Manawatu District Cemeteries Bylaw 2014 is repealed on commencement of this Bylaw.

- 18.2 Every consent, exemption or approval granted under the Manawatu District Cemeteries Bylaw 2014 that was in force immediately before the commencement of this Bylaw, continues in force as if it is a consent, exemption or approval issued under this Bylaw, but:

- (a) expires on the date specified in that consent, exemption, or approval; or
- (b) where no expiry date is specified, expires 12 months after the commencement of this Bylaw; and
- (c) may be renewed only by application made and considered in accordance with this Bylaw.

This Bylaw is made by the Manawatū District Council by resolution at a Council meeting on 10 October 2019 and must be reviewed within ten years.

Sealed with the Common Seal
of the MANAWATU DISTRICT COUNCIL
in the presence of:

Mayor

Chief Executive

Schedule 1 Headstone and Monument Regulations

Monuments shall be erected subject to conditions and restrictions specified by the Council.

1 General Conditions and Restrictions:

- 1.1. The construction of any headstone or Monument shall be in accordance with NZS 4242:2018 Headstones and Cemetery Monuments.
- 1.2. Any headstone or other Monument which is in the opinion of the Council offensive either as to itself or as to any material which may be inscribed or otherwise placed thereon, may be removed by direction of Council.

2 Burial Plot Headstone and Monument Restrictions

- 2.1 No headstones or Monuments on burial Plots shall exceed 850mm in height above the concrete strip provided, except in designated tomb-top historic areas where the maximum permitted height is 1200mm above the concrete strip.
- 2.2 All headstones or Monuments shall be constructed and installed within the size and setback conditions of Figure 1: Typical Burial Plot Headstone and Monument Standard.
- 2.3 Headstones or Monuments that are above 850mm or Monumental work in designated tomb-top historic areas of a cemetery are subject to the following conditions:
 - (a) Application to be made by 'Special Request'
 - (b) Approval for a 'Special Request' to be approved by Council
 - (c) The proposed Monument will see the bulk of its construction no higher than 850mm.

3 Cremation Plot Headstone and Monument Restrictions

- 3.1 No headstones or Monuments on cremation Plots shall exceed 500mm in height above the concrete strip provided.
- 3.2 All headstones or Monuments shall be constructed and installed within the size and setback conditions of Figure 2: Typical Cremation Plot Headstone and Monument Standard.
- 3.3 Headstones or Monuments that are above 500mm are subject to the following conditions:
 - (a) Application to be made by 'Special Request'
 - (b) Approval for a 'Special Request' to be approved by Council
 - (c) The proposed Monument will see the bulk of its construction no higher than 500mm.

4 Cemetery Garden, Walls and Lawn Plaques

- 4.1 In Cemetery areas where memorial gardens, walls or lawn plaques are permitted, the size, type and material of any plaque shall be in accordance with the standard determined by resolution of the Council for that area of the Cemetery, and are reviewed from time to time.
- 4.2 The dimension standards for plaques are as follows:
 - Memorial Ashes Garden Plots - 360mm by 160mm.

- Remembrance Garden – 200mm by 180mm.

5 Typical Burial and Cremation Plot Headstone and Monument Standards

Figure 1: Typical Burial Plot Headstone and Monument Standard

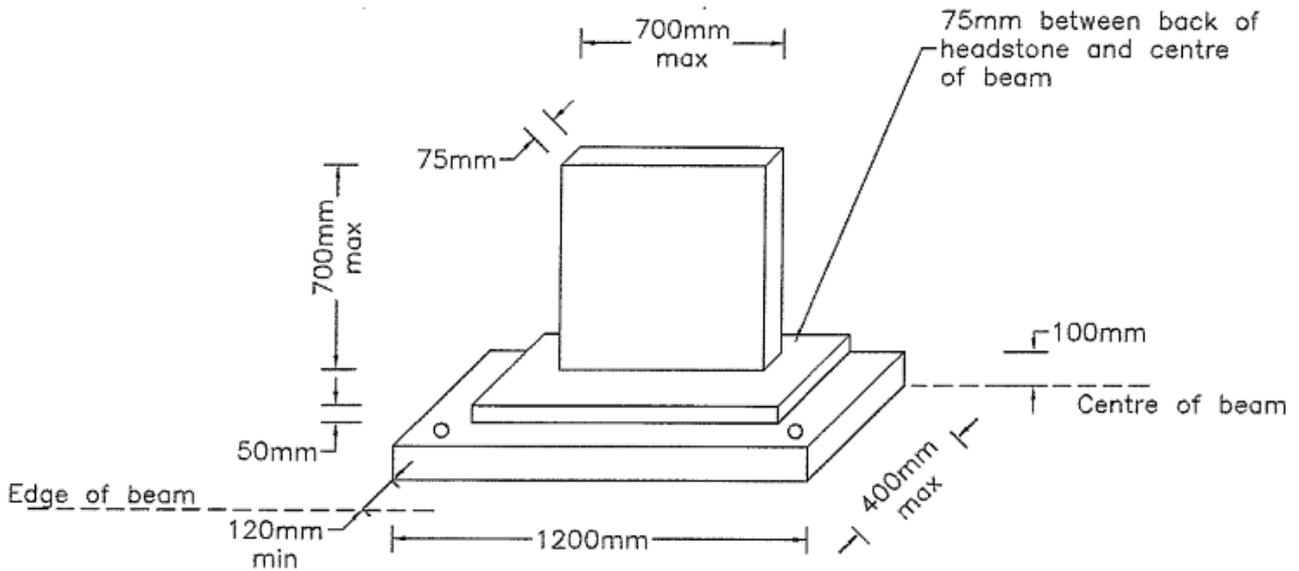


Figure 2: Typical Cremation Plot Headstone and Monument Standard

NOTE

Any variation from these standard details will require the written consent of the Council

