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Cemetery Bylaw 2023

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

1. Title and commencement

- 1.1. This bylaw shall be known as the Taupo District Council Cemetery Bylaw 2023
- 1.2. This bylaw comes into force on [to be determined]

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 controlled by the Council; and
 - b) Minimise the potential for offensive behaviour in cemeteries 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 within Taupo District Council's control.
- 4.2. This bylaw does not apply to urupā (in line with the Burial and Cremation Act 1964) 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 A reference to a repealed enactment, standard or document is a reference to an enactment, standard or document that, with or without modification, replaces, or that corresponds to, the enactment, standard or document repealed.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 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.
Burial warrant	A warrant to allow burial, received from Taupo District Council, following application on prescribed form and receipt of the correct fees and charges.
Bylaw	Means the Taupo District Council Cemetery Bylaw 2023.
Cemetery	Any land that is purchased or vested in Council, or under control of the Council and held, taken, acquired, set apart, dedicated, or reserved, under the provisions of any Act or before the commencement of the Burial and Cremation Act 1964, exclusively for the burial of the dead generally, and where the context so permits, includes a closed cemetery within the meaning of the Burial and Cremation Act 1964 or any other act. This excludes identified Urupā.
Council	Means the Taupo 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	A purchase burial plot for the exclusive right to the owner to inter human remains in a burial space, but this does not constitute ownership of the land.
Headstone permit	A permit to allow the erection of a headstone from Taupo District Council,

	following application on prescribed form and receipt of the correct fees and charges.
<i>lawn cemetery</i>	A cemetery which presents a park like appearance and is laid out in grass with concrete headstone berms.
<i>Memorial</i>	Means any tombstone, headstone, memorial, monument, tablet, plaque, kerbing or other memorial or erection.
<i>monument</i>	Any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around a burial right.
<i>Out of District</i>	A person who has resided outside Taupo District for more than five years.
<i>Physical works</i>	Means the installation, modification, maintenance, repair, or removal of any plot or memorial.
<i>Plot</i>	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.
<i>Purchaser</i>	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.
<i>service cemetery</i>	Any cemetery or part of a cemetery that has been set aside permanently by a local authority for the burial of bodies of persons who have been on operational service in His Majesty's Forces and the wives or husbands of, or persons who have lived in a relationship in the nature of marriage with, a person who has been on operational service in His Majesty's Forces pursuant to Section 15 (a) of the Burial and Cremation Act 1964.
<i>service person</i>	A person who has been on operational service in His Majesty's Forces pursuant to Section 15 (a)(i) of the Burial and Cremation Act 1964.
<i>Unveiling ceremony</i>	A ceremony to celebrate a memorial to a person
<i>Urupā</i>	Māori burial ground or cemetery

6. The Council may make rules relating to cemeteries

6.1. The Council may make, amend, or revoke a cemetery handbook that provides rules for the use of cemeteries 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;

- b) The process for purchasing a plot, including the notification period required before a burial may be made at a cemetery
- 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) comply with the relevant requirements of Subpart 1 of Part 8 of the Local Government Act;
- c) be satisfied that the rules ensure that the purpose of the bylaw will be met;
- d) 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 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 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.