

## **Franklin District Council Cemeteries Bylaw 2008**

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### **1. Title and Commencement**

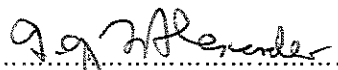
- (1) This Bylaw may be cited as the Franklin District Council Cemeteries Bylaw 2008 and shall come into force on 1 June 2008.
- (2) This Bylaw applies to the Franklin District.
- (3) This Bylaw repeals that part of the Franklin District Council General Bylaw 1997 comprising the New Zealand Standard Model General Bylaw NZS 9201:14:1972 Cemeteries and Crematoria (as amended).

### **2. Cemeteries Bylaw Validation**

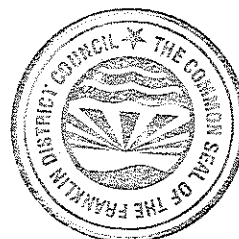
- (1) The Franklin District Council Cemeteries Bylaw 2008 was duly made at a meeting of the Franklin District Council held on 22 May 2008 after completion of the special consultative procedure under section 86 of the Local Government Act 2002.
- (2) The Common Seal of the Franklin District Council was affixed hereto, pursuant to a resolution of Council, on 22 May 2008 in the presence of:



Mark Ball  
**Mayor**



Ian Alexander  
**Acting Chief Executive**



22. 05. 08

**Date**

### 3. Scope

- (1) The purpose of this Bylaw is to enable the Council to control and set standards for the operation of cemeteries within the Franklin District under the Council's ownership or control.
- (2) This Bylaw is made pursuant to section 146 of the Local Government Act 2002 and the Burial and Cremation Act 1964.
- (3) Nothing in this Bylaw shall derogate 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) Cremation Regulations 1973; and
  - (d) Health (Burial) Regulations 1946.

### 4. Definitions and Interpretation

For the purposes of this Bylaw, the following definitions shall apply:

**Cemetery** means any cemetery vested in or under the control of the Council and dedicated as a cemetery.

**Council** means the Franklin District Council and includes employees and contractors of the Council.

**District** means the Franklin District.

**Manager** means any person appointed by the Council to control or manage or to assist in the control and management of any cemetery and crematorium under the jurisdiction of the Council and to carry out burials and cremations as provided in this Bylaw.

**Sexton** means any person appointed by the Council to manage the day to day activities of any cemetery and crematorium under its jurisdiction. Such activities include arranging for the provision of plots for burials.

### 5. Burials and Sale of Plots

- (1) No burial shall be made in any cemetery except as provided for in this Bylaw.
- (2) Burial plots sold by the Council shall be sold upon the terms and conditions as decided by the Council and the exclusive right of burial may be granted for sixty (60) years.
- (3) No burial shall be made in any cemetery without a burial warrant for that purpose obtained by the person having the management or control of the burial from the Council and presented to the Sexton as authority for burial.
- (4) Unless the exclusive right of burial has been purchased, burials shall take place in such plots as the Manager shall determine and no headstone or memorial shall be erected on the plot.
- (5) The holder of an exclusive right of burial must give written consent to any burial using that plot. Where doubt of ownership of a plot exists, the Council will satisfy itself as far as practicable of the ownership of the plot.

- (6) The holder of an exclusive right of burial in any plot in which no burial has taken place may, with the consent of the Council, transfer his or her interest in such ground to any other person upon payment of any fee set by the Council. However, the Council may at its discretion require the holder to surrender that right back to the Council upon reimbursement of the current fee for the purchase of an exclusive right of burial.
- (7) Upon application and payment of the appropriate fees, the receptacle containing the ashes of any deceased person may be buried in the appropriate portion of the cemetery set aside for that purpose or in any plot subject to an exclusive right of burial.
- (8) No person other than the Sexton or assistants of the Sexton or any other person duly authorised by the Council shall dig any grave in, or open the ground for burial in, any part of the cemetery. The minimum depth of cover for any casket shall be no less than one metre.
- (9) No person other than the Sexton or assistants of the Sexton or any other person duly authorised by the Sexton shall fill in a grave.

## **6. Fees**

- (1) Fees for all services provided for the operation and maintenance of cemeteries are set in the Fees and Charges section of the Franklin District Council Long Term Council Community Plan and are reviewed annually as part of the Annual Plan process.
- (2) All prescribed fees must either be paid prior to burial or a personal representative or relative of the deceased must sign an Agreement accepting liability of the payment to the Council of the prescribed fees incurred within a period of 12 months. However, in the case of fees payable by a funeral director, the Council may alternatively charge the funeral director on the basis of a monthly account.
- (3) "Out of District" fees may be payable in the case of a burial of a deceased person not residing in or not a ratepayer of the district for a predetermined time. The time frame for such a requirement shall be determined by the Council. This fee may also apply to the burial of a stillborn child if the parents were not residents or ratepayers of the district. For the purposes of this bylaw, a person in a hospital or institution in the district shall be deemed as resident in the district if they have been a resident of the hospital or institution longer than 3 months. The Manager appointed by the Council shall determine in each case whether an "Out of District" fee is applicable.

## **7. Hours of Operation**

Funerals may be held on such days and at such times as the Council shall determine.

## **8. Monuments, Memorials, Headstones, Structures etc.**

- (1) All above ground grave structures, enclosures, memorial headstones and other monuments shall be installed to NZS 4242 (including any amendments or alterations or substitutions to the Standard) and kept in good order or repair to the satisfaction of the Council by the purchasers of the plots or their representatives. Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, the Council may remove any installations of any kind that shall fall into a state of decay or disrepair. A photographic record of the memorial shall be taken prior to removal and retained in cemetery records.
- (2) A permit must be obtained from the Council before any monumental mason or other person commences any work on any plot in any cemetery. Any monuments or memorials must comply with the requirements of the Council.

- (3) No vaults, kerbing or fencing are permitted in any cemetery.
- (4) No person shall, without the written permission of the Council, remove from any cemetery or grave any headstone, monument or plaque.
- (5) No monumental mason or other person erecting, maintaining or repairing any headstone, monument or memorial shall make use of any footpath or other part of the cemetery for placing or depositing thereon any tools or materials in connection with the work for a longer time than is reasonably necessary for the purpose of completing such work.
- (6) Any person undertaking authorised works associated with any plot must adequately protect the surrounding plots, monuments and cemetery infrastructure.
- (7) The Council may remove any unauthorised physical works or structures associated with plots.

#### **9. Floral and Other Tributes**

- (1) No person shall, without the authority of the Council, remove or take from any grave in any cemetery, any vase, wreath, plant, flower or other object, except that the Sexton may cause to be removed any dead flowers or foliage, or any other items or materials placed on or around a burial site.
- (2) No glass jars, tins or breakable vases may be used as flower containers at any time.
- (3) Wreaths and floral tributes may be placed on a plot for up to one calendar month following the date of interment.
- (4) After one calendar month from the date of interment, a receptacle shall be used for the placing of flowers and foliage. All receptacles shall be housed in insets into the base on which the memorial is placed in such a manner as approved by the Council.
- (5) Any objects removed by the Council or the Sexton will be held awaiting disposal instructions from the deceased's next of kin for one month, after which period such objects may be disposed of by the Council.

#### **10. Trees, Shrubs and Plants**

- (1) No tree, shrub or plant shall be planted in any part of any cemetery without the consent of the Council being first obtained.
- (2) Any trees, shrubs or plants in any portion of any cemetery may at any time be trimmed, maintained or removed by the Council.

#### **11. Vehicles**

- (1) No person shall take any vehicle into, or allow any vehicle to remain within, any cemetery outside of sign-posted hours except with the permission of the Council.
- (2) Except with the permission of the Council or the Sexton, no person shall drive or park a vehicle in any cemetery except in areas set aside for the driving or parking of vehicles.
- (3) No vehicle shall 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.

- (4) Every person driving or in charge of any vehicle in any cemetery shall stop or move such vehicle as directed by the Sexton or assistants of the Sexton.
- (5) All vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.

## **12. Conduct and Activities within Cemeteries**

- (1) No person shall, in or near any part of a cemetery, prevent, interrupt or delay the burial of any deceased person.
- (2) No person shall, in or near any part of a cemetery, cause a nuisance, annoyance or offence to people lawfully within a cemetery.
- (3) No person shall damage, deface or interfere with any burial place, headstone, monument or memorial or any building or property within any building in a cemetery. The Council accepts no responsibility for the effects of vandalism or intentional damage on any headstone, monument or memorial.
- (4) Any person installing or maintaining a memorial in a cemetery shall withdraw for the duration of any funeral service.
- (5) No person shall, without the permission of the Council, hold in any cemetery any memorial, monument unveiling or other service or ceremony of any kind.
- (6) No person shall, in any cemetery, advertise or solicit any order from any other person for any work whatsoever to be done in or in connection with any cemetery, or for the sale, preparation or supply of any article, material or item to be set up, affixed or used in any cemetery.
- (7) Except at the specific request of the purchaser of a plot or their representatives or assigns, no person shall, in any cemetery accept or take any such order mentioned in subclause (6) above.
- (8) No person shall, without the consent of the family and funeral director, take any photographs or moving images at a funeral.
- (9) Except with the permission of the Council, no person shall be permitted to bring any stock into any cemetery for any purpose.

## **13. Deceased Servicemen**

- (1) The fee payable to the Council for the disinterment of any deceased servicemen and the reinterment in the services cemetery (*previously "war graves section"*) of the cemetery, if application is made by Veterans Affairs New Zealand, shall be as agreed upon between the parties at the time.
- (2) Interment of ex-service personnel who have had war service, or service that is defined as equivalent to war service, as gazetted by the Minister of Veterans Affairs, and their spouses/partners may be buried in a Services Cemetery. The standard ex-service memorial available from Veterans Affairs New Zealand is the only type of memorial that is permitted, and no additional memorial is to be permitted.

#### **14. Disinterment**

Where a request for a disinterment and/or a reinterment is received by the Council or other cemetery owner, the disinterment shall be conducted pursuant to sections 51 and 55 of the Burial and Cremation Act 1964 and subject to the payment of such fees as the Council decides.

#### **15. Offences and Penalties**

Any person who fails to comply with the requirements of this Bylaw commits an offence and shall be liable on summary conviction to the penalty set out in section 242(4) of the Local Government Act 2002, being a fine not exceeding \$20,000.