

Invercargill City Council

# Cemeteries and Crematorium Bylaw

2017

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1. **Short Title**

The Short Title of this Bylaw shall be the Invercargill City Council Bylaw 2017/3 - Cemeteries and Crematorium.

2. **Commencement**

This Bylaw shall come into force on 7 November 2017.

3. **Repeals**

This Bylaw repeals the Invercargill City Council Cemeteries and Crematorium Bylaw 2008/3.

This Bylaw covers all cemeteries and crematoria under the control of the Invercargill City Council – Southland Crematorium, Eastern Cemetery, Greenpoint Cemetery, Bluff [closed cemetery], St John’s [closed cemetery].

4. **Interpretation**

(a) In this Bylaw, unless the context otherwise requires:

(i) "**Act**" means the Local Government Act 2002.

(ii) "**Authorised Officer**" means any person appointed or authorised by the Local Authority to carry out or exercise the duties of an Authorised Officer under this Bylaw.

(iii) "**Cemetery Attendant**" means any person appointed by the Local Authority to control or manage or assist in the control and management of the Invercargill Cemeteries and Crematorium and to carry out burials as provided in this Bylaw.

(iv) "**Local Authority**" means the Invercargill City Council or a Committee of the Invercargill City Council or Officer authorises to exercise the authority of the Invercargill City Council.

(v) "**Vehicle**" has the same meaning as in Section 2 of the Land Transport Act 1998.

5. **Burials and Sale of Plots**

(a) Burials may be made in any cemetery for the time being vested in the local authority or under its control and not closed in a manner provided by law in that behalf subject to the conditions prescribed in this part of this Bylaw.

(b) Burial plots shall be sold upon such terms and conditions as may be decided by the local authority, including the setting of fees and charges.

6. **Provisions for All Interments**

(a) No burial whatever shall be made in any cemetery without a burial warrant for that purpose obtained from an authorised officer.

- (b) In all cases of intended burials, the funeral director or person having the management or control of the same shall make application in the form approved by the Local Authority from time to time to an authorised officer for a warrant of such burial, and shall produce to an authorised officer such evidence of death as may be required; an authorised officer, for or on behalf of the local authority, is hereby authorised to grant such warrant in the form approved by the Local Authority from time to time.
- (c) No such warrant shall be issued until there shall have been paid the fee for interment specified in Council's Annual Plan. Provided, however, that in the case of an interment under the management or control of a funeral director, the authorised officer of the local authority may, at his discretion, waive the foregoing requirement as to prior payment and charge the cost of the same against the funeral director concerned on the basis of a monthly account, or such period as the authorised officer of the local authority decides.
- (d) Notification of the intended burial shall be given to the cemetery attendant at least eight working hours prior to the time fixed for the funeral, and no such burial shall take place until the delivery to the cemetery attendant of the said warrant has been made.

**7. Warrant to be Authority to Cemetery Attendant**

- (a) The burial warrant when received by the cemetery attendant or assistant or any other person for the time being duly authorised by the local authority, shall be sufficient authority to the cemetery attendant or assistant for such burial, and after such burial the cemetery attendant or assistant shall sign the certificate at the foot of such warrant.

**8. Hours for Funerals**

- (a) No funeral shall be held on any day except between the hours of 8.00 am and 5.00 pm, Monday to Friday, and 8.00 am to 1.00 pm on Saturday, or such other hours as the local authority by direction may determine.

**9. Cemetery Attendant or Assistant Only to Dig Grave**

- (a) No person other than the cemetery attendant or assistant or any other person for the time being duly authorised by the local authority, shall dig any grave in, or open the ground for burial in, any part of any cemetery. The minimum depth of cover for any coffin shall be not less than 800mm.

**10. Burial of Ashes**

- (a) Upon application being made in that behalf and the prescribed fees paid to the local authority the urn containing the ashes of any deceased person may be buried in the special portion of the cemetery set aside for that purpose or in any plot subject to an exclusive right of burial.
- (b) No person other than the cemetery attendant or assistant or any other person for the time being duly authorised by the local authority, shall bury, or scatter or otherwise dispose of any ashes in any part of the cemetery grounds.

**11. Fees**

- (a) All fees under this Bylaw are specified in Council's Annual Plan.

**12. Purchase of the Exclusive Right of Burial**

- (a) That pre-purchase of right of burial be permitted with the plot allocated for the burial being made at the time of death – eg being the next available plot in the current burial area. The fees for the pre-purchase be kept in a special interest-bearing account to be withdrawn upon the burial of the client. The numbers of plots to be sold at any one time shall be left at the discretion of the local authority.
- (b) An agreement in the form approved by the Local Authority from time to time shall be entered into between the local authority and the purchaser, and the purchaser shall pay to the authorised officer the purchase money for such right of burial.
- (c) No burial shall take place in any plot in respect of which the right of burial shall be held by any person unless such person shall have consented to such burial in the form set out in in the form approved by the Local Authority from time to time or the funeral director has satisfied himself that such burial is authorised.

**13. Purchaser or Owner of Private Ground May Transfer**

- (a) Any purchaser or owner of the right of burial in any plot in which no burial shall have taken place may, with the consent of the local authority, transfer his or her interest in such ground to any other person upon payment to an authorised officer of such fee as the local authority by resolution decides.
- (b) Where such exclusive right of interment has been purchased the local authority may, in lieu of consenting to any such transfer, require the holder of such right to surrender the same to the local authority upon payment to such holder of the price paid by him for such right, or a sum bearing the same proportion to such price, as the area proposed to be transferred bears to the original area over which such right was purchased, and any such holder shall comply with any such requirements.

**14. Fencing, Tombstones, etc**

- (a) Owners of the exclusive right of burial plots in any cemetery other than a memorial park may surround the plots of ground allotted with kerbing in permanent materials. The highest part of such kerbing shall be not more than 300mm above the highest point of the terrain. Tombstones, headstones, or other monuments may be erected thereon.

Provided, always, that no such kerbing, tombstone, or other monument shall be erected, unless a plan or description or both as required shall have been submitted to an authorised officer and duly approved by him; and a permit issued therefore on payment of the fee prescribed in Council's Annual Plan.

- (b) All foundations for kerbs, tombstones, headstones, monuments, and vaults shall be laid to the satisfaction of the local authority and in compliance with sound engineering principles.

**15. Keeping in Order**

- (a) All kerbs, enclosures, tombstones, headstones, and other monuments shall be kept in proper order or repair by the purchasers of lots or their representatives or assigns.

Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, all monuments, tablets, and fences or erections of any kind which shall fall into a state of decay or disrepair, may at any time be removed from the cemetery by order of the local authority subject to Section 9 of the Burial and Cremation Act 1964. In the event of there being no one available to effect repairs or permit removal, a photographic record of the plot shall be taken before removal and filed with cemetery records.

**16. Shrubs and Trees**

- (a) Shrubs planted in any portion of any cemetery may at any time be trimmed, removed, or cut down by the local authority.
- (b) No tree, shrub or other plant shall be planted in any cemetery by any person without the consent of the local authority being first obtained.

**17. What Fees Cover**

- (a) Council's fees do not include payment for any work required to be done beyond the actual digging of an ordinary grave and, after burial, filling in the same.

**18. Levelling**

- (a) Every person who encloses any plot of ground shall do all levelling required at his own cost and in accordance with the requirements of the local authority.
- (b) Every such person shall, without delay, remove from the cemetery all rubbish and earth not required in the filling in of the grave, or in connection with such levelling to a place approved by the cemetery attendant.

**19. Vaults**

- (a) Any person purchasing the exclusive right of burial in any plot of ground may, by permission of the local authority, excavate the same up to the boundaries of such plot for the purpose of constructing a vault.
- (b) Before any work is commenced towards the construction of any vault, the plans and specifications of the work connected therewith and an engineer's certificate shall be submitted to the Parks Manager for approval, and no work shall be commenced until such approval has been obtained in writing.



- (c) All vaults shall be lined throughout with masonry, with concrete or with stone set in Portland cement, mortar, or other approved material. The entrance to the vault shall be of such material as shall be approved by the Parks Manager. In all cases entrances shall be securely fastened, and all work in connection with the vault shall be done to the satisfaction of the Parks Manager.
- (d) A duplicate key of each vault shall be deposited and left with the cemetery attendant.
- (e) Coffins for vaults shall be lined with lead or other approved material, firmly and securely sealed; but coffins not lined as aforesaid may be laid in vaults and completely encased in cement concrete or other approved material so as to prevent the escape of offensive odours.
- (f) All labour, materials and tools required for constructing or excavating vaults shall be provided by the person constructing the vault.
- (g) All vaults shall be kept in proper order and repair by the owners thereof, or their representatives or assigns. If at any time any vault shall become out of proper order or repair, the local authority may give such owner or his executors, administrators, or assigns, or such person or persons as are the last-known owner or owners of the right of burial in the vault, three months' notice to repair the same by posting such notice to, or leaving such notice at, his or their last-known place of abode in New Zealand. If such owner or his executors, administrators, or assigns shall fail to do or cause to be done the required repairs within such three months, the local authority may prohibit any further interment in such vault until such repairs shall have been made, or at its option may effect such repairs and recover the cost thereof from such owner, his executors, administrators, or assigns, and any such owner or other person so making default shall be liable to prosecution for an offence against this part of this Bylaw.
- (h) All earth and rubbish thrown out when excavating for vaults shall be removed without delay by the person who applies for permission to construct such vault to a place approved by the cemetery attendant.

**20. Deposit of Materials**

- (a) No monumental mason or other person erecting or repairing any headstone, monument, fence, or other work in, on, or around any grave, or constructing or repairing any vault, in any cemetery shall make use of any footpath or other part of such cemetery for placing or depositing thereon any tools, planks, casks, or material in connection with the work of such erection, construction, or repair for a longer time than is reasonably necessary for the purpose of completing such work; any such mason or other person who, after service upon him of a notice in writing signed by an authorised officer, requesting the removal thereof within a time specified in such notice, shall neglect or refuse to remove any such tools, planks, casks, or material from such cemetery, shall be liable to prosecution for any offence against this part of this Bylaw.
- (b) No person shall make use of any footpath or roadway in the cemetery for the purpose of mixing cement or mortar otherwise than upon a proper mixing board or in other approved manner.

- (c) The local authority may construct sheds or other buildings for the storage of tools, planks, casks, or other material belonging to such masons or other persons, and may make such charges for the use of the same and for the supply of turf, soil or of water or for such other services whatsoever as the local authority may from time to time fix by resolution.
- (d) If the local authority so requires, a deposit of \$500.00 shall be lodged with every application for a permit to carry out any work. Such deposit shall be refunded when the work has been completed to the satisfaction of the cemetery attendant.
- (e) If the local authority shall provide any such shed or building the local authority may require any such mason or other person to remove either from the cemetery or into such shed or building all tools, planks, casks, or other material, and any such mason or other person failing to comply with any such direction shall be liable to prosecution for an offence against this part of this Bylaw.

## 21. **Vehicles**

- (a) No person shall take any vehicle of any kind into any cemetery except between the hours of sunrise and sunset, or at such time as the local authority in any particular case by resolution decides.
- (b) No person shall permit any vehicle of any kind under his control to remain in any cemetery after sunset on any day without the permission of the local authority.
- (c) No person in control of any vehicle unless authorised by the local authority shall drive or conduct the same or permit the same to be on any part of any cemetery except the roads open for vehicular traffic.
- (d) No person shall drive or conduct any vehicle of any kind in any cemetery at a greater speed than 15 kph, or than indicated on any road within any cemetery.
- (e) All vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.
- (f) Every person driving or conducting any vehicle in any cemetery shall stop or move such vehicle as directed by the cemetery attendant or assistant.
- (g) No person shall drive or conduct any vehicle in any cemetery except in the direction indicated by traffic notices.

## 22. **Removal of Fences, Headstones, Plants etc**

- (a) No monumental mason or other person shall, without permission of the local authority, remove from any cemetery or from any grave, any kerb, headstone, monument, or tablet.
- (b) No person shall, without authority, remove or take from any cemetery, or from any grave in any cemetery, any vase, wreath, plant, flower, or any other thing, except that the local authority may cause to be removed any neglected or broken material of this nature.

**23. Misconduct**

- (a) Cemeteries and crematoria are areas set aside for respectful contemplation. Visitors to any cemetery or crematorium shall behave in a way that is respectful of other visitors' needs and cultural practices.
- (b) No person shall, in any part of any cemetery or crematorium, by any violent or improper behaviour, prevent, interrupt, or delay a funeral service.
- (c) No person shall, in any part of any cemetery or crematorium, behave in a manner which may adversely impact on other visitors' respectful contemplation. Such behaviour may include but is not limited to consumption of alcohol and/or food; littering; violent, aggressive, disrespectful or offensive behaviour; verbal abuse and/or excessive noise (human or mechanical).

**24. Soliciting of Orders**

- (a) No person shall, in any cemetery, advertise or solicit any order or custom 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 thing to be set up, affixed, placed, or used in any cemetery.
- (b) Except at the specific request of a purchaser of plots or their representatives or assigns, no persons shall, in any cemetery, accept or take any such order or custom as aforesaid.
- (c) No commercial photographer shall, without the consent of the funeral director, or special permit in writing for the occasion from an authorised officer, attend any funeral for the purpose of taking photographs, including video footage.

**25. Interment Charges – Poor Persons**

- (a) Where application is made to the local authority for the interment at reduced charges of any deceased poor person, the applicant shall, on making such application, furnish to the local authority a duly signed certificate certifying that such deceased person has not left sufficient means to pay the ordinary charge of interment fixed by this part of this Bylaw, and that his relatives and friends are unable to pay the same. Such certificate shall be in the form as approved by the Local Authority from time to time. No headstone shall be allowed to be erected unless the authority's cost for purchase of plot and burial is paid for.

**26. Disinterment**

- (a) Where an application for a disinterment is received by a local authority, 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 specified in Council's Annual Plan.

**27. Memorial Park (Berm or Garden) Cemeteries presently operating at Eastern and Greenpoint Open Cemeteries**

- (a) *Interments*

Interments may be made in ground in the cemetery set apart by the local authority for the purpose of a memorial park (berm or garden cemetery) and shown on a plan prepared by the local authority, but no fences or monuments other than headstones shall be erected, or trees, shrubs or flowers planted except as approved by the local authority, and no kerbing shall be erected anywhere within the precincts of such memorial park cemetery.

(b) *Erection of Memorials*

- (i) Upon application being made in that behalf and the prescribed fees paid to the local authority, a memorial may cause to be erected in the following manner.
- (ii) The local authority shall construct or cause to be constructed a continuous concrete platform or berm at ground level or below as required, of a width suitable to maintain stability, ranging from 650mm if underground set on solid subsoil, to 1370mm if flush with surface on which base or platform foundation work for all memorials will be placed. The cost of the platform shall be included in the purchase price of the plot.
- (iii) Concrete or granite based work for all memorials shall not stand higher than 150mm above the highest point of the concrete berm or ground level, whichever is the higher, and shall be of a depth (front to back) of 544mm and shall, where required, allow insets for flower containers. If concrete, the base for the headstone shall be finished in grey cement.
- (iv) On surface berms (or platforms) a space of 75mm clear of such memorial foundation base shall be maintained, both front and back.
- (v) No erected memorial shall, at the head of the plot, be wider than 1m in the case of a single plot or 2m in the case of a double width (family) plot.
- (vi) No erected memorial shall, at the head of any plot, be higher than 1.5m. Such memorial shall comply with sound engineering principles. All structural materials used in the memorial shall exhibit high atmospheric corrosion-resistant properties and have a minimum predicted service life of fifty years. Any stone selected shall be sound, durable and of proven suitability.
- (vii) Memorials are permitted to be constructed from natural stone. Clear or frosted glass memorials, subject to design, will be approved by the Parks Manager. The memorial is permitted to be coloured. No memorial will be permitted if it is deemed offensive. The plans of any memorial shall be submitted to, and approved by, the local authority before the erection of any such memorial is permitted in accordance with the form as approved by the Local Authority from time to time.
- (viii) If a memorial is deemed inappropriate by the Parks Manager, an applicant may apply, in writing, for the application to be reconsidered by Council.
- (ix) In constructing bases and in erecting memorials, the adjoining roads, paths or allotments shall not be injured.

- (x) All memorials shall be kept in good repair by the purchaser of the allotment or their assignee. Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, all memorials of any kind which shall fall into a state of decay or disrepair may at any time be removed from the cemetery by order of the local authority, and in the event of there being no one available to effect repairs or permit removal, a photographic record of the plot shall be taken before removal and filed with cemetery records.
  - (xi) Statues are permitted and subject to the same requirements as a headstone.
  - (xii) No memorials shall be permitted in the area designated for natural burials.
- (c) *Shrubs, Trees and Flowers*
- (i) No shrubs, trees or flowers shall be planted and maintained in the cemetery except such as shall be planted as and where directed by the local authority or its duly authorised officer.
  - (ii) In the burial area for children (up to and including ten years of age), block 40 at Eastern Cemetery, or any other block set aside solely for the burial of children, the next-of-kin may be permitted to carry out plantings of miniature shrubs or flower plants to a width of a maximum of 300mm from the front of the concrete beam.
- (d) *Vaults, and Brick or Walled-In Graves*
- (i) No vaults or brick or walled-in graves above ground shall be constructed in a memorial park cemetery.
- (e) *Vases or Containers*
- (i) All vases or containers for flowers shall be housed in insets set into the base on which the memorial is placed in such manner as shall be approved by the local authority.
  - (ii) No person shall plant anything on any plot, except for as allowed under Clause 26 (c) (ii) of this Bylaw. During a period of two weeks or such other period as the local authority decides following interment, any wreath or other floral tribute may be placed on a plot, but shall be removed at the expiration of such period.
  - (iii) After such period of two weeks has expired, no person shall place on a plot any floral tribute except flowers and foliage, which shall be placed in a special receptacle of an approved type. Any such floral tribute may be removed by the cemetery attendant at any time after the fifth day from the latest interment in that plot.
  - (iv) The special receptacle hereinbefore referred to shall be installed adjoining any tablet or plaque on the side nearest the head of the plot.
  - (v) Every part of such receptacle shall be 50mm or more below the level of the adjoining ground surface.

- (vi) The cemetery attendant shall at any time remove damaged receptacles or receptacles of a type not approved by the local authority, and the cemetery attendant may also remove at any time dead flowers and/or dead foliage.

## 28. **Cremation and the Crematorium**

### (a) *Compliance with Conditions Prior to Cremation*

- (i) No cremation shall take place in any crematorium maintained by the local authority unless the provisions of the Crematorium Regulations 1973 and of every regulation made in substitution therefor or in amendment thereof shall have been complied with.
- (ii) No cremation shall take place in such crematorium unless there shall first have been paid to an authorised officer the fees chargeable in respect of such cremation in accordance with the scale of fees as specified in Council's Annual Plan, and due notice given to the cemetery attendant, or by such other arrangement for the payment of fees as the authorised officer decides.

### (b) *Urns for Ashes*

- (i) An approved urn containing the ashes of a deceased person may be left for 14 days from the date of the cremation free of charge. At the expiry of this period a monthly fee per specified in Council's Annual Plan shall be paid; but the local authority will not hold ashes on these terms beyond three months from the day of such cremation, and at the expiration of such three months may dispose of the ashes in accordance with the aforesaid regulations.

### (c) *Casket Construction*

- (i) The casket containing any deceased person intended for cremation shall be made of an approved combustible material and the specification as to overall size shall be such as will be accepted by the incinerating process.
- (ii) Two persons properly concerned with the cremation of the deceased may see the casket placed in the receiving room after the service in the chapel.
- (iii) No inspection of the actual process of incineration shall be permitted.
- (iv) Without the consent of the cemetery attendant, no casket shall be opened after admission to the crematorium.

### (d) *Miscellaneous Provisions*

- (i) No cremation shall be held on any day except between the hours of 8.00 am and 5.00 pm, Monday to Friday, and 8.00 am to 1.00 pm on Saturday, or such other hours as the local authority by direction may determine.

- (ii) Every application for cremation, together with all necessary certificates, shall be deposited with an authorised officer prior to cremation.
- (e) *Against Damage and Interference*
- (i) No person shall –
    - In any way damage or injure the crematorium or any part thereof;
    - Paint, write, or carve on or in any way whatever disfigure the crematorium or any part thereof; or
    - Unlawfully or improperly interfere with, or interrupt the carrying out of, any cremation or of any service or ceremony in connection therewith.
- (f) *Burial of Ashes*
- (i) Upon application being made in that behalf and the prescribed fees paid to the local authority, the urn containing the ashes of any deceased person may be buried, scattered or otherwise disposed of, in the special portion of the crematorium grounds set aside for that purpose.
- (g) *Cemetery Attendant or Assistant only to Bury Ashes*
- (i) No person other than the cemetery attendant or assistant or any other person for the time being duly authorised by the local authority, shall bury, or scatter or otherwise dispose of any ashes in any part of the crematorium grounds.
- (h) *Fees*
- (i) A search fee shall be payable for every inspection of the cemetery plan and records held at the office of the local authority, and where a signed extract is required the fee therefore shall be as prescribed in Council's Annual Plan.
- (i) *Plaques and Tablets on Plots*
- (i) In the Crematorium grounds no person shall install or place any memorial plaque, memorial tablet, or other thing on any plot or place of burial without the prior permission in writing of an authorised officer and payment of the prescribed fee, and subject to compliance with the following conditions –
    - Any such memorial tablet or memorial plaque shall consist of permanent material as may be approved from time to time by the local authority.

## 29. **Offences and Penalties**

- (a) Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000, pursuant to Section 242(4) of the Local Government Act 2002.

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