

Invercargill City Council

# Cemeteries and Crematorium Bylaw

2022

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## **PART 1 - PRELIMINARY**

### **Short Title**

The Short Title of this Bylaw shall be the Invercargill City Council Bylaw 2022 – Cemeteries and Crematorium.

### **Commencement**

This Bylaw shall come into force on 1 November 2022.

### **Repeals**

This Bylaw repeals the Invercargill City Council Cemeteries and Crematorium Bylaw 2017/3.

### **Scope**

This Bylaw covers all cemeteries and crematoria under the control of the Invercargill City Council – This includes, but is not restricted to, Southland Crematorium, Eastern Cemetery, Greenpoint Cemetery, Bluff [closed cemetery], St John's [closed cemetery].

### **Purpose**

The purpose of this Bylaw is to:

- a) set standards to maintain and preserve cemeteries.
- b) direct the positions and depths of all graves within a cemetery.
- c) protect buildings, monuments, lawns, shrubberies, plantations, and enclosures in a cemetery from destruction or damage.
- d) prescribe conditions subject to which more than one deceased person, including the cremated remains of more than one deceased person, may be interred in any grave.
- e) control or restrict the times at which or between which cemetery operations may be carried out.
- f) regulate burial in a cemetery of the cremated remains.
- g) subject to section 51 of the Act, regulate and restrict the disinterment and removal of bodies.
- h) regulate the use of, and any activities undertaken at cemeteries, in order to protect land, structures and infrastructure associated with cemeteries from damage, misuse, or loss.
- i) prescribe fees payable in respect of goods or services provided by Council in relation to cemeteries.

## **Interpretation**

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

**Act** means the Burial and Cremation Act 1964 or any superseding legislation.

**Bylaw** means the Invercargill City Council Bylaw 2022 – Cemeteries and Crematorium.

**Cemetery or cemeteries** means any land owned or operated by the Council as a cemetery but excludes any closed cemetery.

**Cemetery Operations** means cremations, burials, disinterments, ash interments.

**Cemeteries administrator** means the person appointed under Part 3 of this Bylaw.

**Cemeteries and Crematorium Guidelines** means the document governing the operational standards for cemeteries adopted by the Council under Part 2 of this Bylaw.

**Closed cemetery** means a cemetery that has been closed in accordance with the Act.

**Council** means the Invercargill City Council.

**Disinter or disinterment** means the removal of a human body or ash remains from the earth or any vault.

**Inter or interment** means the placement of a human body or ash remains in a grave or any vault.

**Monument** includes a headstone, plaque, panel, or other memorial to a deceased person.

**Monumental masonry work** includes the establishment, repair, or modification of a monument.

**Sexton** means the person appointed under Part 3 of this Bylaw.

## **Part 2 - STANDARDS OF CONDUCT AND MAINTENANCE WITHIN CEMETERIES**

### **Activities and Conduct in Cemeteries**

The following activities may take place in cemeteries provided the activity is carried out in accordance with the Act, this Bylaw, and the Cemeteries and Crematorium Guidelines:

- a) cremation, interment and disinterment;
- b) the installation and maintenance of memorials, monuments, headstones and plaques; and
- c) maintenance and construction of park features by Council approved contractors.

Every person present in a cemetery must conduct themselves in accordance with the Act, this Bylaw, and any standards for behaviour set out in the Cemeteries and Crematorium Guidelines.

### **Cemeteries and Crematorium Guidelines**

The Council may adopt by resolution, Cemeteries and Crematorium Guidelines that set out rules and conditions relating to activities and behaviour in cemeteries or otherwise relating to cemeteries, which may include, but is not limited to, the following:

- a) the location and availability of burial and cremated remains plots, and the purchase of exclusive rights on burial plots;
- b) the manner of burial, including the depth, preparation and testing of graves, size of caskets;
- c) requirements for notification and application to the Council to carry out cremations, interments, disinterments, re-interments, grave maintenance, monumental masonry work, purchase burial rights, and in relation to any other good or service provided in a cemetery;
- d) hours of access to cemeteries, when funerals can be held, and when maintenance and other work is allowed in cemeteries;
- e) the burial and cremation of poor persons, stillborn children and operational service personnel and their partners;
- f) responsibility for the health and safety of persons visiting and working in cemeteries;
- g) requirements for disinterments;
- h) requirements concerning monuments, fences, signs, trees and shrubs, and other things that may or may not be installed or kept on graves in cemeteries
- i) the type of maintenance and other work that can be carried out in cemeteries, and who is responsible for carrying out maintenance or other work;
- j) standards of behaviour for persons in cemeteries, including whether animals or vehicles may be brought into cemeteries and under what conditions;

- k) special conditions related to particular cemeteries or types of cemeteries; prescribing fees associated with interments, disinterments, re-interments, grave maintenance, monumental masonry work, burial rights, and in relation to any other good or service provided in a cemetery; and
- l) stating the forms that must be used by any person to apply to the Council in relation to services provided at cemeteries.

If a person carries out an activity or any works in a cemetery that does not comply with any clause in the Cemeteries and Crematorium Guidelines, the Council or the Cemeteries Administrator may do any of the following:

- a) direct the person to comply with the relevant clause in the Cemeteries and Crematorium Guidelines;
- b) direct Council employees, the Sexton, or a contractor to carry out work in the cemetery to achieve compliance with the Cemeteries and Crematorium Guidelines; and
- c) recover from the person who breached the Cemeteries and Crematorium Guidelines the costs of any work undertaken to rectify the breach as a debt due to the Council.

### **Prohibited Activities**

No person, other than a Sexton or person(s) authorised by a Sexton, shall in or near any part of a cemetery:

- a) engage in interment or disinterment; and
- b) operate any burial machinery or equipment.

No person shall in or near any part of a cemetery:

- a) prevent, interrupt or delay the decent and solemn burial of any deceased person, or human remains;
- b) cause a nuisance or annoyance to people lawfully within a cemetery, or approaching a cemetery for a lawful purpose; and
- c) cause any damage to land, buildings or chattels located in a cemetery, including but not limited to lawns, shrubberies, plantations, enclosures, monuments, and graves.

No person shall engage in installing or tending a memorial or monument in a cemetery while an interment is happening at an adjoining plot.

### **Promotional Activities**

No person shall within any cemetery promote, advertise or tout any goods or services for sale or supply, without obtaining permission in writing from the Council.

No person, including a person affiliated or contracted with a media organisation, shall attend any funeral held in a cemetery for the purpose of filming, taking photographs, or recording unless either:

- a) it is solely for a private purpose; or

b) permission in writing for the occasion is obtained from the Council.

The Council may grant permission to conduct the activities prohibited in this section after consulting with the Funeral Director managing the interment in question.

## **Part 3 - CEMETERY ADMINISTRATION**

### **Appointment of Sextons**

The Council may appoint a person in the role of Sexton for any cemetery or cemeteries within the District.

Any person appointed by the Council as a Sexton prior to the commencement of this Bylaw through an agreement between the Sexton and the Council, shall be deemed to be validly appointed in accordance with this Bylaw.

The appointment of a Sexton shall continue until the expiry of the agreement between the Sexton and the Council, unless revoked at the discretion of the Council.

The functions of a Sexton shall include the following:

- a) cremations;
- b) the burial of human remains (caskets and ashes) and interment;
- c) disinterment and exhumation of human remains in accordance with section 51 of the Act;
- d) preparing, excavating and filling in graves; and
- e) supplying and safely operating burial equipment and machinery.

The Sexton must not undertake an interment at a cemetery unless requested by the Council or a cemeteries administrator.

The Sexton must act in accordance with all relevant New Zealand standards, the Cemeteries and Crematorium Guidelines, Council Policies and Bylaws, and any other professional and legal requirements applicable to their role.

### **Cemeteries Administrator**

The Council may appoint any person to be a cemeteries administrator, and may revoke that appointment at any time.

The functions of a cemeteries administrator shall include maintaining cemetery records, making requests to the Sexton regarding a new burial of a deceased person or preparation for a new burial.

### **Permission to Carry out Monumental Masonry Work**

No person may carry out any monumental masonry work at a cemetery or crematorium unless in accordance with permission issued by the Council under this section of the Bylaw.

The Council may grant permission to allow a person to carry out monumental masonry work at a cemetery subject to the following conditions:



- a) All work completed must comply with the provisions of NZS 4242:2018 Headstones and Cemetery Monuments and NZS 9201: Part 14: 1999 and any updated provisions. Work must be signed off by a member of the New Zealand Master Monumental Masons Association or a mason that holds a New Zealand Certificate in Stonemasonry (Level 4).
- b) the monumental masonry work is authorised by the owner of the plot or next of kin; and
- c) the monumental masonry work satisfies all applicable requirements in the Cemeteries and Crematorium Guidelines.

The Council may require any person who has undertaken unapproved monumental masonry to remove or carry out repairs on the monumental masonry work to meet requirements of the Cemeteries and Crematorium Guidelines.

If a person fails without reasonable excuse to comply with a direction from the Council to remove or carry out repairs within 30 days, the Council may remove the monumental masonry work or carry out the repairs, and any costs incurred by the Council shall be a debt payable by that person to the Council.

## **PART 4 - ENFORCEMENT**

### **Offence**

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.

### **Savings**

Any exclusive right of burial, permit, certificate, licence, warrant, or other form of approval made under the Cemeteries and Crematorium Bylaw 2017/3 continues in force as if the former Bylaw had not been revoked, and expires on the date specified (if any).

Any application for a permit, certificate, licence, warrant, or other form of approval made under the Cemeteries and Crematorium Bylaw 2017/3 that was filed before the day on which this Bylaw commences must be dealt with by the Council as if it had been made under this Bylaw.

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