



# **PALMERSTON NORTH CEMETERIES AND CREMATORIUM BYLAW 2018**

(Incorporating Amendments as of 26 August 2020)

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# CEMETERIES AND CREMATORIUM BYLAW 2018

## PART ONE - INTRODUCTION

### 1. TITLE

1.1 The title of this bylaw is:

**“The Palmerston North Cemeteries and Crematorium Bylaw 2018”.**

### 2. PURPOSE

2.1 This bylaw is made under the authority of the Burial and Cremation Act 1964 for the purposes identified at sections 16 and 40, and the Local Government Act 2002, section 146(b)(v) including facilitation of the orderly and efficient management of the cemeteries and crematorium under the Council’s control. It covers matters such as the requirements for interment, requirements for cremation, purchasing an exclusive right of interment, fees for services, specifications for monuments, standards for the upkeep of graves and monuments, vehicle control and regulates miscellaneous other activities in the cemeteries and crematorium.

2.2 This bylaw does not alter the provisions of the:

- (a) Burial and Cremation Act 1964;
- (b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
- (c) Cremation Regulations 1973;
- (d) Health (Burial) Regulations 1946.

### 3. COMMENCEMENT

3.1 This bylaw comes into force on 1 July 2019.

### 4. INTERPRETATION

**ADMINISTRATION MANUAL** means the Cemeteries and Crematorium Bylaw Administration Manual 2018 as approved by Council when the Cemeteries and Crematorium Bylaw 2018 came into

force and as amended from time to time by delegated authority under this Bylaw.

**ASHES** mean the remains of a cremated human body.

**BYLAW** means the Palmerston North Cemeteries and Crematorium Bylaw 2018.

**CEMETERY** includes any land for the time being vested in the Council or under its control and designated as a cemetery.

**COUNCIL** means the Palmerston North City Council and includes any delegate duly authorised by the Council to act on its behalf.

**CREMATORIUM** means the Kelvin Grove Crematorium excluding the Chapel.

**HUMAN REMAINS** means the body of a deceased person.

**EXCLUSIVE RIGHT OF BURIAL** means an exclusive right of burial sold by the Council under section 10 of the Burial and Cremation Act 1964.

**GRAVE DECORATIONS** means any items left at the grave as adornments.

**INTERMENT** means burial of human remains or ashes in the earth, including the enclosure of ashes in a niche wall or any other similar structure designed for the legal disposal of ashes.

**LAWN CEMETERY** means plots that are in Council cemeteries that are maintained as lawn only.

**MONUMENT** includes any tombstone, headstone, memorial, plaque or other erection.

**MONUMENT UNVEILING CEREMONY** means a formal or informal gathering of people where a monument is revealed to family and friends for the first time.

**NATURAL BURIAL CEMETERY** means any land for the time being vested in the Council or under its control and designated as a cemetery for natural burial practices.

**NZS 4242:1995** means the New Zealand Standard for headstones and cemetery monuments.

**PLOT** means a lot in a cemetery, laid out and shown on a plan of the cemetery prepared by Council to be used as a place to legally dispose of human remains or ashes.

**PLOT HOLDER** means the person to whom an exclusive right to burial is registered to through an exclusive right of burial certificate.

## **PART TWO - LEGAL DISPOSAL OF HUMAN REMAINS AND ASHES**

### **5. INTERMENT**

- 5.1 Applications for interment must be made to the Council in the manner set out in section 3 of the Administration Manual.
- 5.2 Subject to section 5.1 above, all interments in the Services Section of a cemetery must comply with the requirements of Veterans' Affairs New Zealand.
- 5.3 Any interment in a Natural Burial Cemetery must comply with natural burial practices including:
  - (a) Human remains are not embalmed; and
  - (b) Human remains are enclosed in either a shroud made of natural material or a casket made of untreated sustainable wood; and
  - (c) Shallow burial of the human remains in the ground at a maximum depth of 1000 millimetres, and a minimum depth cover of 400 millimetres.
- 5.4 Only natural burials will be permitted in a natural burial cemetery subject to the application requirements of section 5.1 above.
- 5.5 Only one interment per plot will be permitted in a natural burial cemetery.
- 5.6 Interment is not permitted in any cemetery unless authorised by Council.

### **6. CREMATION**

- 6.1 Applications for cremation in the crematorium must be made to the Council in the manner set out in the Cremation Regulations 1973 and section 4 of the Administration Manual.
- 6.2 Removal of any human remains from the crematorium following an authorised admittance may only occur with the written approval from Council and the person who applied for the Cremation.
- 6.3 No coffin may be opened after admission to the crematorium except in accordance with section 10 of the Cremation Regulations 1973.

- 6.4 The following items are prohibited from entering the cremator:
- (a) Any item which is likely to cause a risk of explosion during cremation; or
  - (b) Release carcinogens during cremation; or
  - (c) Cause damage to the cremator during cremation; or.
  - (d) Any of the items identified at section 5.1 of the Administration Manual.
- 6.5 Any person who applies for a cremation must take reasonably practical steps to ensure that the human remains, or any coffin containing the human remains for cremation, does not contain items prohibited by clause 6.4 above.
- 6.6 Unclaimed ashes will be disposed of according to section 8 of the Cremation Regulations 1973.
- 6.7 Cremation in the crematorium is not permitted unless authorised by Council.

## **7. SCATTERING OF ASHES**

- 7.1 Applications to scatter ashes in any cemetery must be made to the Council in the manner set out in section 6 of the Administration Manual.
- 7.2 Scattering of ashes is not permitted in any cemetery unless authorised by the Council.

## **8. EXCLUSIVE RIGHT OF BURIAL**

- 8.1 The Council may sell exclusive rights of burial in accordance with section 10 of the Burial and Cremation Act 1964. Council procedures regarding requests to purchase exclusive rights of burial are set out in section 7 of the Administration Manual.
- 8.2 No person may allow interment on any plot other than in exercise of an exclusive right of burial that is authorised by the plot holder in accordance with the Administration Manual.

## **9. DISINTERMENT**

- 9.1 Any disinterment of human remains shall be conducted pursuant to section 51 of the Burial and Cremation Act 1964.

- 9.2 Applications to disinter ashes must be made to the Council in the manner set out in section 8.2 of the Administration Manual.
- 9.3 Disinterment of ashes is not permitted unless authorised by Council.



## **PART THREE - MEMORIALISATION**

### **10. MONUMENTS**

- 10.1 Applications for the erection of a monument on any plot or area within a cemetery must be made to the Council in the manner set out in section 9 of the Administration Manual.
- 10.2 The Council may remove or restore to its original condition any monument that is -
- (a) erected or altered in breach of this bylaw, or
  - (b) In such disrepair that the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967 apply.
- 10.3 The erection of a monument on any plot or area within a cemetery is not permitted unless authorised by the Council and must comply in all respects with any terms and/or conditions of the permission granted by the Council.

### **11. GRAVE DECORATIONS**

- 11.1 Except as provided for in section 11.2 and 11.3 below, after two months from the date of interment, where a grave is located in the lawn cemetery Council may remove from the soil of a grave any decorations placed there at the time of interment, to allow for ongoing maintenance as a lawn grave.
- 11.2 Except as provided for in section 11.3 below grave decorations on the soil of a grave are permitted annually provided that the following requirements are satisfied:
- (a) The plot is in an area designated by Council for grave decorations on the soil; and
  - (b) Council has provided approval in the manner set out in section 10.1 of the Administration Manual; and
  - (c) The plot is continuously maintained to a reasonable standard of tidiness; and
  - (d) The plot decorations do not contravene this bylaw.
- 11.3 Grave decorations on the soil of the grave are permitted indefinitely provided the following requirements are satisfied:

- (a) The plot is in an area of the children's zone at Kelvin Grove Cemetery designated by Council for on the soil decorations; and
  - (b) The plot is continuously maintained to a reasonable standard of tidiness; and
  - (c) The plot decorations do not contravene this bylaw.
- 11.4 Grave decorations are the sole responsibility of plot owners.
- 11.5 No person is permitted to decorate any plot that has not been used for interment.
- 11.6 No person is permitted to decorate any plot in a way that is:
- (a) Likely to cause a nuisance; or
  - (b) Likely to constitute a hazard.
- 11.7 ~~(Revoked) No person may decorate the soil of a grave located in the lawn cemetery with the use of construction materials such as concrete, stone or metal or with the construction of fences or pavement.~~
- 11.8 The Council may remove any grave decorations that contravene the bylaw, in accordance with section 10.2 of the Administration Manual.
- 11.9 Planting of plants, shrubs, or trees is prohibited in any cemetery except for plantings that are explicitly provided for as permitted plantings in section 10.3 of the Administration Manual.

## **PART FOUR - ADMINISTRATION AND MANAGEMENT**

### **12. VEHICLES**

- 12.1 Any person driving a vehicle within a cemetery must comply with any Council signs controlling traffic or imposing speed limits.
- 12.2 Any person driving a vehicle within a cemetery must give way to a funeral procession.

### **13 CEMETERY CONDUCT**

- 13.1 No person may, in or near any part of a cemetery or the crematorium, prevent, interrupt or delay an interment or cremation.
- 13.2 No person may, in or near any part of a cemetery or the crematorium, cause a nuisance or engage in objectionable behaviour.
- 13.3 No person may remove an object from a cemetery without the consent of Council unless this is done as part of maintaining a plot in which the person has a legitimate interest.
- 13.4 The Council may remove anything placed in a cemetery that is contrary to this bylaw or which is:
  - (a) Likely to constitute a hazard; or
  - (b) Likely to cause a nuisance; or
  - (c) Likely to cause damage to the cemetery; or
  - (d) Likely to impede the effective management of a cemetery.
- 13.5 No person may advertise or solicit customers for any commercial purpose in any cemetery. This does not prohibit the identification of the supplier or installer of the headstone as approved by Council.
- 13.6 No person may take photographs for a commercial purpose in any cemetery, unless consent has been expressly authorised by Council.

## **14. FEES**

14.1 The Council may by resolution, publicly notified, set fees for all services related to the operation and maintenance of cemeteries and crematoria including but not limited to:

- (a) Interments and disinterments;
- (b) Cremations;
- (c) Cremations and interment outside normal hours;
- (d) Exclusive right of burial;
- (e) Renewal of exclusive right of burial
- (f) Reservation of a plot;
- (g) Monument permits;
- (h) Monument removal or restoration work; and
- (i) Records searches.

14.2 Exclusive right of burial fees will not be refunded once interment has taken place.

## **15. PENALTIES**

15.1 Any person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Burial and Cremation Act 1964.

## **16. ADMINISTRATION MANUAL AND DELEGATIONS**

16.1 The Council has passed a resolution at the same time as making this Bylaw adopting the Administration Manual. All matters over which the Administration Manual defines, regulates, controls or prohibits related to this Bylaw, are matters that this Bylaw leaves to be addressed by resolution of Council under section 151(2) of the Local Government Act 2002.

16.2 The Council may by resolution amend the Administration Manual. Before amending the Administration Manual, the

Council will consult in accordance with the decision making requirements of section 82 of the Local Government Act 2002.

16.3 The following people are authorised delegates under this Bylaw:

- a) The Council by resolution;
- b) The Chief Executive of the Council;
- c) Every person granted delegated authority by the Chief Executive in relation to this Bylaw; and
- d) Any other person authorised to exercise a power under this Bylaw, pursuant to the Council's Delegations Manual or resolution of the Council.

16.4 Authorised delegated persons may exercise any power, function or duty under this Bylaw or carry out any act in order to achieve its effective administration on behalf of the Council other than those expressly required to be by Council resolution. This power includes, without limitation, the power to:

- a) Specify forms and procedures for the effective management of the Bylaw;
- b) Make any decision or determination required in this Bylaw in order to administer it;
- c) Make decisions regarding whether or not a permit or licence should be granted, and the terms and conditions of that permit or licence including standard conditions and variations;
- d) Make any decisions regarding suspension, withdrawal or removal of a permit.

16.5 All forms, specifications, conditions or methods for this Bylaw must be in writing and kept in the Administration Manual and shall be available to the public.

16.6 Every exercise of a power of delegation under this clause must be publically reported at least annually to Council if not exercised by Council by resolution provided that failure to report does not invalidate the exercise of the delegate's power.