

SOUTHLAND DISTRICT COUNCIL

Cemetery bylaw 2006

Approved 28 June 2006.

Copy for public inspection

In pursuance of the power contained in the Local Government Act 2002, the Burial and Cremation Act 1964 and any other Act or authority enabling the Southland District Council in that behalf the Council makes the following Bylaw:

SOUTHLAND DISTRICT COUNCIL CEMETERY BYLAW 2006

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1.0 **SHORT TITLE, COMMENCEMENT AND APPLICATION**

- 1.1 This Bylaw shall be referred to as the "Southland District Council Cemetery Bylaw 2006" and shall come into force on 29 June 2006.
- 1.2 This Bylaw is complementary to the Burial and Cremation Act 1964.
- 1.3 This Bylaw applies to all property and premises in cemeteries under Council's control at Halfmoon Bay, Winton, East Winton, Lumsden, Wyndham, Dipton, Edendale, Woodlands, Otautau, Riverton, Lynwood, Wallacetown, Centre Hill and Wairio and any other cemetery which may be constituted as controlled by Council.

- 1.4 Nothing in this bylaw will derogate from any provision of, or the necessity for compliance with the:

Burial and Cremation Act 1964

Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967

Cremation Regulations 1973

Health (Burial) Regulations 1946.

2.0 **REVOCATION**

The Southland District Council Cemetery Bylaw 1996 is revoked.

3.0 **DEFINITION**

For the purposes of this bylaw the following definitions shall apply:

“Cemetery” means any cemetery vested in or under the control of the Council from time to time but excludes any closed cemetery.

“Sexton” means any person approved by the Council to manage the day to day activities of any cemetery under its jurisdiction. Such activities to include arranging for the provision of plots for burials.

“Council” means the Southland District Council.

“Beam Lawn Cemetery” means a cemetery in which the surface is laid down as a grass lawn with headstones, plaques and tablets erected on the beam provided by Council at the head of the graves.

“Double Plot” means two plots in depth only subject to exclusive right of burial.

“Exclusive Right of Burial” means the purchase of a plot(s) for exclusive burial at a later date. An exclusive right of burial shall lapse 60 years after the purchase without a burial taking place.

“Existing plot” means a plot previously used for an interment.

“Stillborn child” has the same meaning as in section 2 of the Births and Deaths Registration Act 1951.

4.0 **BURIALS AND PLOTS**

- 4.1 Burials may be made in any cemetery controlled by Council and not closed.
- 4.2 Burials plots shall be sold according to Council's normal terms and conditions, and the exclusive right of burial may be granted under Section 10 of the Burial and Cremation Act 1964.
- 4.3 No burial shall be made in any cemetery without a Warrant to Inter obtained from Council.
- 4.4 The Funeral Director or person having the management or control of the burial shall make application to the Council for a burial warrant and shall produce to the Council evidence of death.
- 4.5 No warrant shall be issued until the fee for interment has been paid. In the case of an interment under the management or control of a Registered Funeral Director, Council may, at its discretion, waive the foregoing requirement as to prior payment and charge the cost of the same against the Funeral Director concerned.
- 4.6 Notification of the intended burial shall be given to the Sexton at least 16 working hours prior to the time arranged for the funeral, and no burial will take place until the Sexton has received the burial warrant.
- 4.7 No person other than the Sexton or his/her assistants or any other person authorised by Council, shall dig any grave, or open the ground for burial, in any part of any cemetery.
- 4.8 At the time of issue of a burial warrant, Council may, upon specific application made to it, authorise the digging and filling of the grave by relatives and associates of the deceased under the direction of the Sexton or other person authorised by Council.
- 4.9 The minimum depth of cover to any coffin shall be not less than one metre.
- 4.10 Upon application being made and the prescribed fees paid to Council, the urn containing the ashes of the 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.

5.0 **BEAM LAWN CEMETERIES**

- 5.1 Interments may be made in ground in the cemetery set apart by Council for the purpose of a Beam Lawn Cemetery and shown on a plan prepared by the Council.
- 5.2 Interments shall be in sequential order along the headstone beam provided.
- 5.3 The Council shall construct a continuous concrete platform or beam at ground level or below as required, of a width suitable to maintain stability on which base or platform foundation work for all memorials and headstones are placed.
- 5.4 All headstones shall be constructed in accordance with New Zealand Standard 4242:1995 - Headstones and Cemetery Monuments.
- 5.5 All memorials shall be kept in good repair by the purchaser of the allotment or their representative. Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, all memorials of any kind which may fall into a state of decay or disrepair, may at any time be removed from the cemetery by order of the Council and in the event of there being no person available to effect repairs or permit removal, a photographic record of the plot shall be taken before removal and filed with cemetery records.
- 5.6 All vases or containers for flowers and other tributes shall be housed in insets into the base on which the memorial is placed, and shall be approved by the Council. No glass vases or containers shall be permitted in the cemetery.
- 5.7 In any beam lawn cemetery no person shall:
- (a) Erect any kerb, railing, fence, building, or other structure on or around any plot or part of;
 - (b) Install or place any memorial plaque, memorial tablet, or other thing on any plot without the prior permission of Council, and subject to compliance with the following conditions:
 - (i) Any memorial tablet, plaque or headstone shall consist of a permanent material as may be approved by Council;
 - (ii) Such tablet, plaque shall be of an approved size and set in an approved position in an approved manner.
- 5.8 A temporary single grave marker may be placed at the head of the grave prior to a permanent memorial being installed.

6.0 HOURS FOR BURIALS

Burials shall be held between the hours of 9.00 am and 4.00 pm Monday to Friday, and 9.00 am to 1.00 pm on Saturday, or such other hours as Council may determine. Burials will not take place on Public Holidays.

7.0 FEES

7.1 All fees prescribed under this Bylaw as due and payable shall be as the Council decides by resolution which shall be publicly notified in a newspaper circulating within the district.

7.2 Fees for interment shall be all inclusive of Goods and Services Tax in the following categories:

- (a) Full plot standard interment
- (b) Full plot infant (including stillborn) interment parallel to the beam
- (c) Full plot cremated ashes*
- (d) Ashes plot cremated ashes
- (e) Full plot exclusive right to burial
- (f) Ex Servicemen.

* The first ashes interment will be charged as per (d) ashes plot cremated ashes. Subsequent ashes interments into the same plot will not be charged.

7.3 For all other services actual and reasonable costs shall be payable.

8.0 INTERMENT CHARGES: POOR PERSONS

8.1 Where application is made to the Council for the interment free of charge of any deceased poor person, the applicant will furnish to the Council an order duly signed by a Justice of the Peace and certifying that the deceased person has not left sufficient means to pay the ordinary charge of interment prescribed by Council, and the deceased relatives and friends are unable to pay the same in accordance with Section 49 of the Burial and Cremation Act 1964.

8.2 Burial will take place in a plot as determined by Council and no fence or headstone will be erected unless the plot has been purchased as provided in subclause 8.3 of this Bylaw.

8.3 Any friend or relative of a person so buried may, within two years from the date of such burial or such extended time as the Council sees fit, purchase the plot by paying all outstanding charges at current contract rates.

9.0 **MANAGEMENT OF BURIALS WHERE A REGISTERED FUNERAL DIRECTOR IS NOT RESPONSIBLE FOR THE MANAGEMENT OF A BURIAL**

The following conditions apply for burials in cemeteries managed by the Southland District Council only where a registered Funeral Director is not responsible for the organisation and management of the burial.

- 9.1 An application shall be made to the Council for a burial warrant. The application shall state:
- full name of deceased
 - evidence of death certified by a Registered Medical Practitioner
 - name of cemetery in which burial to take place
 - date and time for burial
 - any special services required for burial.
- 9.2 Payment of the burial fee shall be made at the time of application for a burial warrant.
- 9.3 A person shall be nominated to act as Manager of the Burial. The Manager of the Burial shall assume full responsibility for liaison with the Sexton at the cemetery and directing the burial process.
- 9.4 Council will require its Sexton or other approved person to be present at the burial and certify that the burial is completed.
- 9.5 By arrangement with the Sexton, digging and filling of graves by relatives and associates of the deceased may be permitted. Activities associated with this will be restricted to the immediate environs of the grave site and disturbance or damage to neighbouring graves or headstones shall be avoided.
- 9.6 The burial shall not contravene the requirements of the Burial and Cremation Act 1964, Health Burial Regulations 1946 and the Southland District Council Cemetery Bylaw 2006.

10.0 **DECEASED SERVICEMEN**

- 10.1 The fee payable to the Council for the disinterment/reinterment of any deceased serviceman in the war graves section of any cemetery, if application is made by the War Graves Branch of the Department of Internal Affairs, shall be as set by Council.

11.0 **EXCLUSIVE RIGHT OF BURIAL**

- 11.1 Applications for purchase of the exclusive right of burial can be made. The site will be by arrangement with Council staff.
- 11.2 Application for an exclusive right of burial shall be accepted on payment of application to staff administering interments.

12.0 **ERECTION AND MAINTENANCE OF MONUMENTS, HEADSTONES AND STRUCTURES**

- 12.1 Purchasers or owners of burial plots in any cemetery, other than a lawn cemetery, may surround the plots of ground allotted with kerbing in permanent materials. The highest part of such kerbing shall be not more than 300 mm above the highest point of the terrain. Tombstones, headstones or other monuments may be erected.
- 12.2 All foundations for kerbs, tombstones, headstones, monuments shall be constructed of permanent materials and be laid to the satisfaction of Council and in compliance with sound engineering principles.
- 12.3 New Zealand Standard 4242:1995 Headstones and Cemetery Monuments shall be used as a guide for compliance purposes.
- 12.4 All kerbs, enclosures, tombstones, headstones and other monuments shall be kept in proper order or repair by the purchasers or owners of plots or their representatives. Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets), Regulations 1967, and Section 9 of the Burial and Cremation Act 1964 all monuments, tablets and fences or erections of any kind which fall into a state of decay or disrepair may at any time be removed from the cemetery by Council. 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.
- 12.5 No Monumental Mason or other person, without permission of Council, may remove from any cemetery or from any grave any kerb, headstone, monument or tablet.
- 12.6 No person without authority, will remove or take from any cemetery, or from any grave in any cemetery, any vase, wreath, plant, flower or any other thing. Council may remove any neglected or broken material of this nature.

- 12.7 No monumental mason or other person erecting or repairing any headstone, monument, fence or other work in, or around any grave, in any cemetery shall make use of any footpath or other part of such cemetery for placing or depositing 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 mason or other person who, after receiving notice in writing by the Council requesting the removal thereof within a time specified in such notice, neglects or refuses to comply with the notice issued shall be liable for prosecution for an offence against this Bylaw.
- 12.8 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 an approved manner.
- 12.9 Council may construct sheds or other buildings for the storage of tools, planks, casks, or other material belonging to any Mason or other persons and may make charges for the use of and for the supply of turf, water or other services as the Council may determine.
- 12.10 If Council provides any shed or building, Council may require any Mason or other person to remove from the cemetery and place in the building or shed all tools, planks, casks or other material. Any mason or other person failing to comply with this direction shall be liable to prosecution for an offence against this Bylaw.

13.0 **SHRUBS AND TREES**

- 13.1 Shrubs planted in any portion of any cemetery may at any time be trimmed or cut down and removed by Council.
- 13.2 No tree shall be planted in any cemetery by any person without the consent of Council being first obtained.

14.0 **WREATHS AND TRIBUTES**

- 14.1 No person shall place any growing plant in any plot. During a period of seven days or such other period as the Council decides following an interment, any wreath or other floral tribute may be placed on a plot, but shall be removed at the expiration of such period.

15.0 **SPECIAL RECEPTACLE FOR FLOWERS**

- 15.1 After seven days no person shall place on a plot any floral tribute except flowers and foliage which shall be placed in a special receptacle.
- 15.2 The special receptacle shall be installed adjoining any tablet or plaque on the side nearest the head of the plot.
- 15.3 The Sexton is at liberty at any time to remove damaged receptacles or receptacles of a type not approved by the Council, and he/she may also remove at any time dead flowers and dead foliage.

16.0 **VEHICLES**

- 16.1 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 Council in any particular case by resolution decides.
- 16.2 No person shall permit any vehicle of any kind under his/her control to remain in any cemetery after sunset on any day without the permission of Council.
- 16.3 No person in control of any vehicle, unless authorised by the Council, shall drive, conduct, or permit the vehicle to be on any part of any cemetery except the roads open for vehicular traffic, and in directions indicated by traffic signs.
- 16.4 No person shall drive or conduct any vehicle of any kind in any cemetery at a greater speed than 20 km/hr, or than the speed indicated on any road within any cemetery.
- 16.5 Every person driving or conducting any vehicle in any cemetery shall stop or move the vehicle as directed by the Sexton or Funeral Director or their assistants.

17.0 **SOLICITING OF ORDERS**

- 17.1 No person shall advertise or solicit any order or custom from any other person for any work to be done in or in connection with any cemetery, unless specifically requested to by the purchaser of plots.
- 17.2 No commercial photographer or news media person shall, without the consent of the Funeral Director, or special permit in writing for the occasion from Council, attend any funeral at a cemetery under the Council's jurisdiction for the purpose of taking photographs for commercial or media purposes.

18.0 **DISINTERMENT**

18.1 Where an application for a disinterment of any deceased is received by Council, the disinterment shall be conducted pursuant to Sections 51 and 55 of the Burial and Cremation Act 1964 and subject to the payment of all costs involved in the disinterment by the applicant.

19.0 **MISCONDUCT**

19.1 No person, in any part of any cemetery, by any violent or improper behaviour, may prevent, interrupt, or delay the funeral service.

20.0 **OFFENCES**

20.1 Every person commits an offence against this Bylaw who by any act contravenes or fails to comply with any of the provisions of this Bylaw.

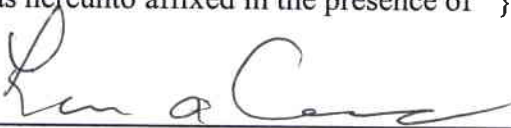
20.2 Every person who commits a breach of this Bylaw is liable to a fine not exceeding \$100.00 in any case and, where the breach is a continuing one, to a further fine not exceeding \$10.00 for every day or part of a day during which the breach has continued.

21.0 **CERTIFICATION OF FUNERAL DIRECTORS**

21.1 The Southland District Council will require Funeral Companies to provide copies of their certificate of registration on an annual basis.

This Bylaw has been made and confirmed by a resolution passed at a meeting of the Southland District Council held on the 28th day of June 2006.

THE COMMON SEAL of the }
SOUTHLAND DISTRICT COUNCIL }
was hereunto affixed in the presence of }







MAYOR

CHIEF EXECUTIVE