

QUEENSTOWN LAKES DISTRICT CEMETERIES BYLAW 2010

This Bylaw of the Queenstown Lakes District Council is made pursuant to the Local Government Act 2002 and the Burial and Cremation Act 1964.

1. SHORT TITLE

The short title of this Bylaw shall be the "*Queenstown Lakes District Cemeteries Bylaw 2010*".

The Bylaw shall come into operation on the 7th day following the date of the giving of public notification pursuant to Section 157(1) of the Local Government Act 2002 of the making of this Bylaw. 20 March 2010

2. REPEAL

Any previous Cemetery Bylaws (and subsequent amendments hereto) made by the Queenstown Lakes District Council or any Local Authority previously existing in the Queenstown Lakes District are hereby repealed.

3. SCOPE

- 3.1. The scope of this Bylaw is to enable the Council to control and set standards for the operation of cemeteries and crematoria within the boundaries covered by the Council's responsibility or ownership.
- 3.2. This Bylaw is made pursuant to the provisions of Part 8 of the Local Government Act 2002 and the Burial and Cremation Act 1964.

4. DEFINITIONS AND INTERPRETATIONS

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

"Cemetery"	Means any land for the time being vested in or under the control of the Council from time to time and dedicated as a cemetery but excludes any closed cemetery.
"Council"	Means the Queenstown Lakes District Council.
"Crematorium" or "Crematoria"	Means any crematorium maintained by the Council.
"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 and shall include the Council-appointed Parks Manager.

“Sexton” Means any person appointed by the Council as Sexton to manage the day-to-day activities of any cemetery and crematorium under its jurisdiction and the term “Sexton” includes any person authorised by the Manager or Council to undertake any of the Sexton’s functions; (activities including arranging for the provision of plots for burials).

4.2. 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;
- (d) Health (Burial) Regulations 1946.

5. BURIALS AND PURCHASE OF EXCLUSIVE RIGHTS OF BURIAL

5.1.

- (a) Burials may be made in any cemetery vested in the Council or under its control (as long as that cemetery is not closed) in a manner provided by law, and subject to the conditions outlined in this Bylaw.
- (b) Exclusive Rights of Burial may be sold subject to terms and conditions decided by the Council and may be granted for such a limited period as the Council decides by resolution.
- (c) Where a person is to be buried in a plot where exclusive right of burial has not been purchased, the personal representative of that person will be required to pay the prescribed fee for the purchase of an exclusive right of burial or sign an indemnity accepting liability for the payment to the Council of the prescribed fee for the purchase of an exclusive right of burial in that plot.
- (d) Any such burial will take place in a plot as determined by the Manager or his delegate and no memorial will be erected on the plot unless the exclusive right of burial has been paid for and all interment and other fees incurred at that time have been paid.
- (e) No person other than those appointed by, or given permission by the Council, shall dig any grave in, or open the ground for burial in, any part of the cemetery.
- (f) The minimum depth of grave for a first interment shall be 1.8m.
- (g) On the application of any purchaser of the exclusive right of burial in any lot, the Council may permit a second burial in such lot provided there shall be at least 1.2m of covering at the average surface level of the ground over the coffin last buried.
- (h) A fee may be charged for the re-opening of a grave for a second interment.

5.2.

- (a) Every application for the purchase of an exclusive right of burial for the period resolved by the Council must be made on the standard application

form, and the purchaser shall pay to the Council the fee for an exclusive right of burial.

- (b) An application to purchase an exclusive right of burial in a plot in a cemetery as described herein shall only be processed by Council and such right shall only be available for purchase from Council immediately prior to the proposed interment PROVIDED THAT an immediate living relative of the deceased person who is being interred in a plot may purchase the exclusive right of burial in the next adjacent plot, such right to be exercisable only at the time of the purchase of the first exclusive right of burial.
- (c) The Council, on the receipt of the prescribed fee, may issue a Plot Purchase Certificate on request.
- (d) On receiving satisfactory proof of the original certificate being lost, and on the payment of the fee, the Council may issue to the entitled person a duplicate of the certificate. Should the original subsequently be found, any person holding the duplicate shall immediately return it to the Council for cancellation.
- (e) No person will be buried in any plot where that person does not hold the exclusive right of burial unless the holder of the exclusive right of burial of that plot has consented to such burial on the Right of Burial Authorisation form issued by the Council. Where doubt of ownership of a plot exists, the Council will satisfy itself as far as practicable the identity of the owner(s) of that plot.

5.3. Upon application and payment of the appropriate fees, the urn 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 having been first had and obtained.

5.4. Application for Burial Warrants

- (a) No burial will be made in any cemetery without a burial warrant for that purpose being first obtained from or under the hand of the Manager.
- (b) For all burials, the person having the management or control of the burial will apply for the burial on the Burial Application form issued by the Council, and will provide appropriate evidence of the death. Upon receipt of the Burial Application form, the Manager will issue a burial warrant.
- (c) No burial warrant will be issued until all fees have been paid or satisfactory arrangements have been made in writing for the payment of fees.
- (d) Notification of an intended full burial will be given to the Manager at least eight (8) working hours prior to the time fixed for the funeral, or for an ashes burial at least eight (8) working hours; and no burial will take place until the Sexton has received a burial warrant.
- (e) The burial warrant will be sufficient authority for the Sexton to carry out a burial and after the burial the Sexton will sign the said warrant.

6. FEES AND CHARGES

- 6.1.
- (a) The Council may by resolution publicly notify prescribed fees and charges for burials and disinterment's, cremations, the purchase of plots for exclusive right of burial, headstone erections and other services and may by resolution publicly notify, revoke or alter these fees and charges.
 - (b) The scale of fees and charges will be available from the Council website, Council Office or any Customer Service Centre.
 - (c) Plot purchase fees cover the plot and exclusive right of burial, the provision of Council services to the cemetery and the maintenance of cemetery grounds, excluding any memorial or plaque.
 - (d) No burial warrant will be issued until all fees have been paid or satisfactory arrangements have been made for the payment of fees.
 - (e) All headstones, plaques and memorials require a permit prior to being erected and no memorial permit will be issued until all fees have been paid or satisfactory arrangements have been made for the payment of fees.
- 6.2. The 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 grave.
- 6.3. A fee may be charged for cemetery record searches.
- 6.4. "*Out of District*" fees may be payable in the case of a Burial or Cremation interment 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. 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 6 months. The Cemetery Manager appointed by the Council shall determine in each case whether an "*out of district*" fee is applicable.

7. MONUMENTS, HEADSTONES AND PLAQUES

No person shall in any cemetery construct, erect or place any tombstone, headstone or other monument or any vault or any tablet or plaque or any fence kerb or other enclosure or any covering over a grave or lot unless:

- (a) A plan and a copy of the proposed headstone, monument, vault or memorial has been previously submitted to the Council with the Memorial Application form and approved by the Council in writing.
- (b) A memorial permit has been issued and the prescribed Council burial and cremation fees and charges paid.

7.1.

- (a) All foundations for kerbs, tombstones, headstones, monuments, vaults and any other above-ground structure, will be constructed to the satisfaction of the Council and in compliance with the New Zealand Headstones and Cemetery

Monuments (NZS 4242:1995 or its subsequent amendments) and subject to the following restrictions:

- i) No fence or enclosure will exceed 1000mm in height;
 - ii) In any areas that may be designated as Services Cemetery – all monuments and headstones must be constructed in accordance with the requirements of the Veterans' Affairs New Zealand.
 - iii) In any areas that may be designated as Lawn Cemetery – fences and monuments may not be constructed,
 - iv) In any areas that may be designated as a Cremation Cemetery – memorials may be constructed in accordance with the memorial strip provided by the Council.
- (b) Any headstone or other monument, which in the opinion of the Council is offensive, may be removed by the direction of the Council.

7.2. All kerbs, enclosures, tombstones, headstones, and other monuments will be kept in proper order or repair by the purchasers of lots or their representatives or assignee. 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 Council subject to Section 9 or the Burial and Cremation Act 1964 and the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967. 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.

7.3.

- (a) Wreaths
No person shall place anything in any plot or garden except during the period of five (5) days, or such other period as the Council decides, following interment or scattering of ashes. Any wreath or other floral tribute may be placed but shall be removed at the completion of such period.
- (b) Vases or Containers
- i) Floral tributes will be restricted to containers that can be housed on the memorial or concrete berm;
 - ii) The Council may remove vases and planters not on the concrete berm, or neglected, unsafe or broken containers;
 - iii) The Council may provide a vase holder in all new cremation plaque beams for vases to be inserted.

7.4.

- (a) No monumental mason or other person will without the permission of the Council remove from any cemetery any kerb, headstone, monument or tablet.
- (b) No person shall, without the permission of the Council, remove or take from any cemetery any vase, wreath, plant, flower, or any other thing, but the Council may remove any neglected or broken material for reasons of public safety.

- (c) Any mason, block layer or stone smith erecting or repairing any headstone or monument shall remove from the cemetery all excess materials and detritus, tools and equipment on completion of the work.

8. SHRUBS, TREES AND FLOWERS

- 8.1. No person shall plant shrubs, trees or flowers in any cemetery except with the written permission of the Manager.
- 8.2. Shrubs planted in any portion of any cemetery may at any time be trimmed, removed or cut down at the discretion of the Council.

9. DEPOSIT OF MATERIALS AND LEVELLING

- 9.1. No 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 that cemetery for placing or depositing any tools, planks, or materials in connection with the work of the erection, construction, or repair for a longer time than is reasonably necessary for completing this work. If this situation does occur, the Manager may serve a notice in writing on the person requiring the removal of the items and material within the period specified in the notice.
- 9.2. No person may make use of any footpath or roadway in the cemetery for the purpose of mixing cement or mortar otherwise than on a proper mixing board or in a manner approved by the Manager.
- 9.3. A person who encloses any plot of ground shall do all levelling required at his or her own cost and in accordance with the requirements of the Council.
- 9.4. Removal from the cemetery of all rubbish and earth not required in the filling in of the grave, or in connection with such levelling and maintenance, and reinstatement of the area shall occur without delay following the burial to the satisfaction of the manager.

10. HOURS FOR INTERMENTS

- 10.1. Interments may take place between the hours of 8.00am and 3.30pm on Mondays to Fridays inclusive, and between 8.00am and 3.00pm on Saturdays.

Sundays, Council and Public Holidays, **Closed for all interments.**

11. RECORDS

- 11.1. Every plot in the cemetery will be identified by a number, which shall be recorded on a plan to be kept in the Council Offices. In addition a record will be kept of all burial plots for which exclusive rights of burial have been purchased and all burials. These records will be held electronically by the Council who will make them available upon request or via Council's website. Council may charge for this information as it sees fit.
- 11.2. Cemetery plans and records are held in electronic form only.

11.3. Cemetery registers will be open for inspection at all reasonable times and may be subject to payment of the appropriate fee set by the Council.

12. DISINTERMENT

Where an application for a disinterment is received by the Council, the disinterment will be conducted in accordance with Sections 51 and 55 of the Burial and Cremation Act 1964 and subject to the payment of the appropriate fees as fixed by the Council.

13. VEHICLES

13.1. No person shall take any vehicle of any kind into a cemetery or the crematorium except between the hours of 7.00am and 8.30pm during daylight saving time and 8.00am and 5.00pm during standard time.

13.2. No person shall permit any vehicle under his or her control to remain in a cemetery or the crematorium when the gates are locked without the permission of the Manager.

13.3. No person in control of any vehicle shall drive or allow the vehicle to be driven on any part of a cemetery or the crematorium except the roads open for vehicular traffic without the permission in writing of the Manager. Any person doing so shall be liable for the repair of any resulting damage.

13.4. No person shall drive or operate any vehicle of any kind in a cemetery at a speed greater than 20km/hr, or that indicated on any road within any cemetery.

13.5. All vehicles shall give unconditional right of way to any funeral procession.

13.6. Every person driving, operating or parking any vehicle in a cemetery or the crematorium shall comply with all instructions issued by or on behalf of the Manager, or the Sexton.

13.7. No person shall drive or operate any vehicle other than a car in a cemetery or the crematorium except with the permission of the Manager.

14. MISCONDUCT

14.1. No person shall, in or near any part of a cemetery or the crematorium, prevent, interrupt or delay the decent and solemn burial or cremation of any deceased person.

14.2. No person shall, in or near any part of a cemetery or the crematorium, cause a nuisance or annoyance to people lawfully within a cemetery or the crematorium, or approaching a cemetery or the crematorium for a lawful purpose.

14.3. Any person engaged in installing or tending a memorial or monument in a cemetery shall withdraw for the duration of an adjoining interment.

15. SOLICITING OF ORDERS

- 15.1. No person shall, within any cemetery advertise or solicit any order or custom from any other person for any work in connection with a cemetery or for the sale preparation, or supply of any article, material, or thing to be set up, affixed, placed or used in a cemetery.
- 15.2. No commercial photographer or media enterprise will attend any funeral held in a cemetery for the purpose of taking photographs, without a special permit in writing for the occasion obtained from the Manager who, before any such permission is given, shall consult with the Funeral Director managing the interment in question.

16. BURIAL OF POOR PERSONS

- 16.1. Where application is made to the Council for the interment or cremation of any deceased poor person, such applicant may, on behalf of such deceased poor person, complete a declaration that such deceased poor person has not left sufficient means to pay the ordinary costs and charges fixed for an exclusive right of burial; and that the cost of burial is not covered by the Accident Compensation Corporation; and that the deceased poor person's immediate family are unable to pay such costs and charges.
- 16.2. Any such declaration made pursuant to Clause 17.1. shall be considered by the Manager and the Mayor of the Council at the relevant time and the Manager and the Mayor together may in their unfettered discretion decide to waive all or part of the fees, costs and expenses normally charged by the Council for such exclusive right of burial.

17. DECEASED SERVICEMEN DISINTERMENT

The fees, costs and charges payable to the Council for any disinterment of any deceased serviceman (or woman), upon application by Veterans Affairs New Zealand shall be as agreed upon between the parties at the time.

18. SAFETY

- 18.1. All persons, whether Council employees or staff of Funeral Directors, shall take all necessary steps to maintain any cemetery as a safe site at all times but particularly during any funeral or interment.
- 18.2. All such necessary warning signs, protective barriers and protections shall be put in place prior to any funeral or interment commencing.
- 18.3. No person, other than the Manager or Sexton, or persons duly authorised by either person, shall fill in any grave.

THIS BYLAW was passed following the Special Consultative Process as required by Section 156 of the Local Government Act 2002, by Resolution of the Queenstown Lakes District Council on the 2 March 2010

The required public notification of the Bylaw (and its commencement date) was made in the Otago Daily Times and Southland Times newspapers on the 10th day of March 2010.