

# Cemeteries Bylaw 2020

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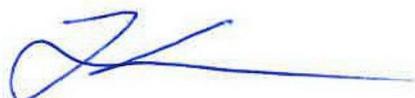
<b>Department:</b>	<b>Parks and Recreation</b>
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<b>Next review:</b>	December 2025

The Central Otago District Council in pursuance of the powers contained in the Local government Act 2002, the Burial and Cremation Act 1964 and the Bylaws Act 1910, the Council hereby makes the following bylaw.

The Central Otago District Council resolved on the 18<sup>th</sup> of November 2020 at a duly called ordinary meeting of Council, to adopt the Cemeteries Bylaw 2020. Such resolution was made following the carrying out of the Special Consultative Procedure and other procedural requirements of the Local Government Act 2002.

The bylaw came into force on 18 December 2020.

The **COMMON SEAL** of the **Central Otago District Council** was hereunto fixed in the presence of:



Mayor



Chief Executive

## Part 1. Preliminary

### 1. Title

- 1.1. This bylaw shall be known as the "Central Otago District Cemeteries Bylaw 2020".

### 2. Commencement

- 2.1. The bylaw shall come into effect on a date to be specified by Council resolution.

### 3. Purpose

- 3.1. The purpose of this bylaw
- (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, shrubs, plantations, and enclosures in a cemetery from destruction or damage.
  - (d) Prescribe conditions subject to which more than 1 deceased person, including the ashes of more than 1 deceased person, may be interred in any grave.
  - (e) Control or restrict the times at which or between which burials may be carried out.
  - (f) Regulate burial in a cemetery of the ashes of the dead.
  - (g) Subject to section 51 of the Burial and Cremations Act 1964, 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.

### 4. Scope

- 4.1. This bylaw applies to all cemeteries or burial grounds owned or administered by or under the control and management of the Central Otago District Council.

### 5. Interpretation

- 5.1. 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 Central Otago District Council Cemeteries Bylaw 2020.

**Burial Ground** has the meaning ascribed to it in the Act.

**Caretaker** means any person appointed under clause 10. For the purposes of section 17 of the Act, the Caretaker performs the functions of the sexton.

**Cemetery or cemeteries** means any land held, taken, purchased, acquired, set apart, dedicated or reserved under the provisions of the Act or before the commencement of the Act by the Central Otago District Council exclusively for the burial of the dead generally (including any Burial Ground) but excludes any closed cemetery.

**Cemeteries administrator** means the person appointed under clause 11.

**Cemeteries Handbook** means the document governing the operational standards for cemeteries adopted by the Council under clause 7.

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

**Council** means the Central Otago District 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.

## Part 2. Standards of conduct and maintenance within cemeteries

### 6. Activities and conduct in cemeteries

- 6.1. The following activities may take place in cemeteries provided the activity is carried out in accordance with the Act, this bylaw, and the Cemeteries Handbook:
- (a) 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.
- 6.2. 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 Handbook.

### 7. Cemeteries Handbook

- 7.1. The Council may from time to time adopt by resolution, and may also amend by resolution, a Cemeteries Handbook that sets out rules and conditions relating to activities and behaviour in cemeteries. This includes, but is not limited to, the following:
- (a) The location and availability of burial and ashes 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 interments, disinterment's, 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 of poor persons, still born 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 be installed or kept on graves in, cemeteries, including what things are not allowed;

- (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;
- (l) Prescribing fees associated with interments, disinterment's, re-interments, grave maintenance, monumental masonry work, burial rights, and in relation to any other good or service provided in a cemetery; and
- (m) Stating the forms that must be used by any person to apply to the Council in relation to services provided at cemeteries.

- 7.2. If a person carries out an activity in a cemetery that does not comply with any clause in the Cemeteries Handbook, 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 Handbook.
  - (b) Direct Council employees, the Caretaker, or a contractor to carry out work in the cemetery to achieve compliance with the Cemeteries Handbook.
  - (c) Recover from the person who breached the Cemeteries Handbook the costs of any work undertaken to rectify the breach as a debt due to the Council.

## **8. Prohibited activities**

- 8.1. No person, other than a Caretaker or person(s) authorised by a Caretaker, shall in or near any part of a cemetery:
- (a) Engage in interment or disinterment
  - (b) Operate any burial machinery or equipment
- 8.2. No person shall in or near any part of a cemetery;
- (a) Prevent, interrupt, or delay the 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.
  - (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.
- 8.3. No person shall engage in installing or tending a memorial or monument in a cemetery while an interment is happening at an adjoining plot.

## 9. Promotional activities

- 9.1. 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 under clause 9.3.
- 9.2. No person, including a person affiliated or contracted with a media organisations, 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 under clause 9.3.
- 9.3. The Council may grant permission to conduct the activities prohibited in clause 9.1. and 9.2. after consulting with the Funeral Director managing the interment in question.

## Part 3. Cemetery Administration

### 10. Appointment of caretakers

- 10.1. The Council may appoint a person to the role of Caretaker for any cemetery or cemeteries within the District.
- 10.2. Any person appointed by the Council as a Caretaker prior to the commencement of this bylaw through an agreement between the Caretaker and the Council, shall be deemed to be validly appointed in accordance with clause 10.1 of this bylaw.
- 10.3. The appointment of a Caretaker shall continue until the expiry of the agreement between the Caretaker and the Council, unless revoked at the discretion of the Council.
- 10.4. The functions of a Caretaker shall include the following:
  - (a) The burial of human remains (caskets and ashes) and interment;
  - (b) Disinterment and exhumation of human remains in accordance with section 51 of the Act;
  - (c) Preparing, excavating, and filling in graves;
  - (d) Supplying and safely operating burial equipment and machinery.
- 10.5. The Caretaker must not undertake an interment at a cemetery unless requested by the Council or a cemeteries administrator.

- 10.6. The Caretaker must act in accordance with all relevant New Zealand standards, the Cemeteries Handbook, Council policies and bylaws, and any other professional and legal requirements applicable to their role.

## **11. Cemeteries Administrator**

- 11.1. The Council may appoint any person to be a cemetery administrator and may revoke that appointment at any time.
- 11.2. The functions of a cemetery's administrator shall include maintaining cemetery records, making requests to the Caretaker regarding a new burial of a deceased person or preparation for a new burial.

## **12. Permission to carry out monumental mason work**

- 12.1. No person may carry out any monumental masonry work at a cemetery unless in accordance with permission issued by the Council under clause 12.
- 12.2. The Council may grant permission to allow a person to carry out monumental masonry work at a cemetery subject to the following conditions:
- (a) The monumental masonry work is authorised by the owner of the plot or next of kin; and
  - (b) The monumental masonry work satisfies all applicable requirements in the Cemeteries Handbook.
- 12.3. The Council may require any person who has undertaken monumental masonry work other than in accordance with clause 12.2 to remove or carry out repairs on the monumental masonry work to meet requirements of the Cemeteries Handbook.
- 12.4. If a person fails without reasonable excuse to comply with a direction from the Council under clause 12.3 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.

## **13. Delegations**

- 13.1. Any of the powers and functions of the Council set out in this bylaw may be delegated by it to its Chief Executive Officer and sub - delegated by the Chief Executive Officer to any other person deemed to be suitably qualified in the opinion of the Chief Executive Officer.

## Part 4. Enforcement

### 14. Offence

- 14.1. A person who contravenes clauses 6.2, 8.1, 8.2, 8.3, 9.1, 9.2, 10.5, 10.6, 12.1, or 12.3 of this bylaw commits a breach of this bylaw and is liable to fines under the Local Government Act 2002 and/or the Burial and Cremation Act 1964

### 15. Revocations

- 15.1. The Central Otago District Council General Bylaw 2008, Part 5; Cemeteries and Crematoria is revoked.

### 16. Savings

- 16.1. Any exclusive right of burial, permit, certificate, licence, warrant, or other form of approval made under the Central Otago District Council General Bylaw 2008, Part 5; Cemeteries and Crematoria continues in force as if the former bylaw had not been revoked and expires on the date specified (if any).
- 16.2. Any application for a permit, certificate, license, warrant, or other form of approval made under the Central Otago District Council General Bylaw 2008, Part 5; Cemeteries and Crematoria 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.