



GISBORNE
DISTRICT COUNCIL

**Gisborne District
Cemeteries and Crematoria
Bylaw 2008**

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PART I – Citation and Interpretation

1. Introduction

- 1.1 This Bylaw may be cited as the Gisborne District Council Cemeteries and Crematoria Bylaw 2008.
- 1.2 This Bylaw shall come into force on the 1st of July 2008 and shall apply to the whole of the Gisborne District.
- 1.3 All Bylaws of the Gisborne District Council relating to burial and cemeteries in force prior to the enactment of this Bylaw are hereby repealed.
- 1.4 The purpose of this Bylaw is to enable the Council to set and control standards for the operation of cemeteries and crematoria within the boundaries covered by the Council's responsibility or ownership.
- 1.5 Nothing in this Bylaw shall derogate from any provision of, or the necessity for, compliance with the:
 - Births and Deaths Registration Act 1951
 - Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967
 - Burial and Cremation Act 1964
 - Health (Burial) Regulations 1946
 - Health Act 1956
 - Historic Places Act 1993
 - Local Government Act 2002
 - Public Works Act 1981
 - Reserves Act 1977
 - Resource Management Act 1991

2. Interpretation

2.1 The Interpretation Act 1999 shall apply to this Bylaw.

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

Act	Means the Local Government Act 2002.
Adult	In this Bylaw, except where inconsistent with the context, means any person over the age of 12 year.
Berm	Means a load bearing structure fabricated from concrete of prescribed dimensions, set flush with the ground and supplied by the Council, for the purpose of mounting monuments.
Body	Has the same meaning as in section 2 of the Burial and Cremation Act 1964.
Burial	Means to bury, or place the ashes of, a dead body.
Burial Warrant	Means a certificate issued by the Council, after approval of an application by the funeral director or other person responsible for the management or control of a burial, which gives authority for the person named on the warrant to be buried by the Council.
Cemetery	Has the same meaning as in Section 2 of the Burial and Cremation Act 1964.
Child	Means any person twelve years of age or younger.
Closed Cemetery or Area	Means a cemetery which has been closed by a closing order as stated in Part VI of the Burial and Cremation Act 1964 and subsequent amendments.
Council	Means the Gisborne District Council.
Exclusive Right of Burial	Is as defined in Section 10 of the Burial and Cremation Act 1964.
Funeral Director	Means a person, who in the course of their business, carries out burials and related matters.
Holder of the Exclusive Right of Burial	Includes his or her duly authorised agent or a relative where such person is deceased.

Maintenance in Perpetuity	Means that the Council will maintain all cemeteries to an appropriate standard as set by the Council from time to time, for the period that the cemetery is under the control and management of the Council. Where cemeteries are disused or closed, the level of service could be to a minimal standard to preserve access and maintain safety, as per Section 43 of the Burial and Cremation Act 1964 and subsequent amendments.
Memorabilia	Includes wreaths, vases, artificial or natural cut flowers or foliage, plants, figurines, toys and ornaments and other objects placed on a grave in memory of a deceased person but that are not permanently attached to that grave.
Monument	Has the same meaning as in Section 2 of the Burial and Cremation Act 1964.
Monumental Area	Means a part of a cemetery in which full grave cover by monuments is permitted, subject to prior approval of such structures by the Council.
Plot	Means a gravesite as shown on a cemetery plan held available for public inspection at a cemetery and/or offices of the Council.
Prescribed Fee	Means the fees determined by the Council in accordance with section 150 of the Local Government Act 2002.
Returned Services Area	Means an area of a cemetery set aside for the burial of bodies or ashes of eligible servicemen or service women as defined by the most recent version of the Office of Veterans' Affairs publication, "War Graves and Services Cemeteries Handbook." or subsequent amendments.
Sexton	Means any person appointed by the Council to manage the day to day activities of any cemetery under its jurisdiction. Such activities include arranging for the provision of plots for burials.
Stillborn Children	Has the meaning as set out in Section 2 of the Births and Deaths Registration Act 1951.
Tablet	Has the same meaning as in Section 2 of the Burial and Cremation Act 1964.

Working Hours	Means the hours from 8am to 5 pm from Monday to Friday inclusive, but excludes Saturday, Sunday, New Year's Day, ANZAC Day, Good Friday and Christmas Day.
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- 2.3 Words importing the masculine gender include the feminine gender and the neuter gender.
- 2.4 Words importing the singular number include the plural number, and words importing the plural number include the singular number.
- 2.5 For the purposes of this Bylaw the word "shall" refers to practices that are mandatory for compliance with the Bylaw, while the word "should" refers to practices which are advised or recommended.
- 2.6 The headings to the sections of this Bylaw shall not affect the construction thereof.
- 2.7 Council is the owner of a building at Taruheru Cemetery which is leased to a commercial entity. This building houses a cremator which is owned and operated by a commercial entity.

PART II – General

3. Purchase of Exclusive Right of Burial

- 3.1 Burials and the Sale of Plots:
- 3.1.1 Burials may be made in any plot in any cemetery vested in the Council or under its control that is not closed, subject to this Bylaw and the terms and conditions determined by the Council.
- 3.1.2 The Council may determine the size and location of the plots that may be sold and the allocation of the sold plots.
- 3.1.3 Burial plots shall be sold upon the terms and conditions as may be determined by the Council and the exclusive right of burial may be granted for such limited period as the Council determines.
- 3.1.4 The Council, upon receipt of the prescribed fees for any exclusive right of burial, shall issue a Certificate of Title to Plot to the applicant, and on request and payment of the prescribed fee the Council may issue a duplicate Certificate of Title to Plot to replace any lost Certificate of Title to Plot.

3.1.5 Unless the exclusive right of burial has been obtained, a burial shall take place in a plot and in a cemetery determined by the Council.

3.1.6 No person shall place any monument on a grave until all the prescribed fees have been paid.

3.2 Exclusive Right of Burial

3.2.1 The exclusive right of burial shall be granted to the purchaser of a plot once the Council has received the prescribed fees or suitable financial arrangements acceptable to the council have been made, for the exclusive right of burial has been completed.

3.2.2 The purchase of the exclusive right of burial excludes the digging and closing of a grave or the opening and closing of the ground for burial.

3.2.3 The holder of an exclusive right of burial must comply with any conditions imposed by the Council before a burial may take place.

3.2.4 Burial of any other person than the owner of the exclusive right to be buried within a plot will only take place with the express prior consent of the holder of the right.

3.3 Transfer of Exclusive Right

3.3.1 The holder of the exclusive right to be buried in a plot in which no burial has taken place may sell or transfer that right to any other person with the consent of the Council, subject to the payment of the prescribed fee to the Council.

3.3.2 The holder of the exclusive right of burial in a plot in which no burial has taken place may sell or transfer that right to the Council on such terms and conditions as the Council may determine, subject to the payment of the prescribed fee to the Council. Plots that have been bought back may be resold by the Council.

3.4 Lapse of Right of Burial

3.4.1 When an application is made to buy the exclusive right to burial in any plot and the payment of the prescribed fee is not made in full within the period determined by the Council, it may extend the period of payment or determine that the application has lapsed.

3.4.2 Where an application has lapsed the Council may buy the exclusive right to burial back in accordance with clause 3.3.2 of this Bylaw.

3.5 Fees

3.5.1 The Council may pursuant to section 150 of the Local Government Act 2002 prescribe fees for all the services that it provides in cemeteries.

3.5.2 Except as provided for in clause 5.4, burials will only be carried out on payment of all the prescribed fees or suitable financial arrangements acceptable to the council have been made, for the exclusive right of burial has been completed.

3.5.3 Out of District Fees

3.5.3.1 An out of District fee shall be payable under the following circumstances:

- a) Where the burial is of a deceased person not permanently residing within the boundaries of the Gisborne District for at least twelve months prior to date of death; or
- b) Where the deceased person is a child of less than twelve months of age, including stillborn children, unless one of whose parents was a resident or ratepayer of the District for at least twelve months prior to date of death.

3.5.3.2 Temporary absences of short duration from the district will not detract from the permanency of residence.

3.5.3.3 The Council will determine if payment of the Out of District fees are required.

4. Burial Warrants

4.1 Requirement

No burial shall be made in any cemetery without a burial warrant for that purpose, obtained by the funeral director or other person having the management or control of the burial from the Council and presented to the sexton as authority for burial.

4.2 Application

A person requiring a burial warrant shall apply to the Council on the approved form of application for a burial warrant as issued by the Council.

No burial warrant shall be issued until the Council has received written certification as defined under Section 26 of the Births and Deaths Registration Act 1951 or suitable financial arrangements acceptable to the council have been made, for the exclusive right of burial has been completed.

4.3 Delivery in Advance

The application for a burial warrant shall be delivered to the sexton at least eight working hours before the burial by the funeral director or other person responsible for the management or control of the burial.

4.4 Authority to Bury

Receipt of the original burial warrant shall be sufficient authority for the sexton to proceed with the burial of the person named on that warrant. After completion of the burial the sexton shall sign the certificate at the foot of the warrant.

5. Services and Burials

5.1 Hours of Services and Burials

5.1.1 Burials at cemeteries administered by the Gisborne District Council may be held on such days and at such times as the Council shall determine.

5.1.2 Except to comply with the duties of the Council under Section 86 of the Health Act 1956 relating to the burial of people who have died of an infectious and/or notifiable disease, burial may take place between the hours of 10.00 a.m. and 3.00 p.m. from Monday to Friday inclusive and from 10.00 to 1.00pm on Saturdays. No burials shall take place on Sundays, New Year's Day, ANZAC Day, Good Friday or Christmas Day.

5.1.3 The sexton will, after consultation with the funeral director or other person responsible for the management or control of the burial, determine the time of burial.

5.1.4 Burials may take place at other times by special arrangement with the Council and on payment of the prescribed additional fee.

5.2 Notice of Services

5.2.1 The sexton shall be given not less than eight working hours notice of any burial or service.

5.2.2 If such notice is not given, the burial or service may be delayed for a reasonable period of time as the sexton decides to enable the sexton to complete the necessary arrangements.

5.2.3 Any extra expenses incurred shall be the responsibility of the funeral director or other person responsible for the management or control of the burial.

5.3 Responsibility for Arrangements

5.3.1 The funeral director or other person responsible for the management or control of the burial must ensure that the remains are in a suitable receptacle when presented for burial and ensure that all equipment associated with the burial is provided at the time of burial.

5.3.2 Any additional expenses incurred by the Council shall be the responsibility of the funeral director or other person responsible for the management or control of the burial.

5.4 Burial of Poor Persons

5.4.1 Where application is made to the Council for the interment of a deceased poor person, the applicant shall provide a declaration signed by a Justice of the Peace, certifying that:

- (a) Such deceased person has not left sufficient means to the pay all the prescribed fees; and
- (b) All the prescribed fees are not covered by an Accident Compensation or Government entitlement or subsidy; and
- (c) The deceased person's relatives are unable or unwilling to pay the same.

5.4.2 Additional proof to confirm the declaration may be required by the Council.

5.5 Burials Outside of the Council Cemeteries

Burials outside of cemeteries owned or controlled by the Council are subject to Sections 46, 47 and 48 of the Burial and Cremation Act and subsequent amendments.

5.6 Burial Plots and Graves

5.6.1 Digging of Graves

5.6.1.1 No person other than the sexton or assistants of the sexton or any other person authorised by the Council shall dig any grave in or open the ground for burial in any part of a cemetery.

5.6.1.2 No person other than the sexton or assistants of the sexton or person duly authorised by the sexton shall fill in any grave.

5.6.2 Burial of Ashes

5.6.2.1 With the prior approval of the Council any person may scatter the ashes of a deceased person in a cemetery.

5.6.2.2 With the prior approval of the Council and on payment of the prescribed fees any person may bury a container holding the ashes of a deceased person in any plot, subject to the exclusive right of burial.

5.6.3 Size of Caskets

If a casket for a child is too large for a child burial plot, it shall be buried in an adult burial plot subject to the payment of the prescribed fees.

5.6.4 Reopening of Graves

No grave may be re-opened for a further burial except with the consent of the holder of the exclusive right of burial.

5.6.5 Disinterment

5.6.5.1 Where a request for a disinterment and/or reinterment is received by the Council, the disinterment shall be conducted pursuant to section 51 and 55 of the Burial and Cremation Act 1964 and subject to the payment of the prescribed fees.

5.6.5.2 The disinterment and/or reinterment of a body must be conducted with the prior approval of the Council and must take place in the presence of the sexton, a funeral director and staff and an inspector of the Ministry of Health. Any other person may only attend with prior approval of the Council.

5.6.5.3 It will be the responsibility of the Council to open the grave only to the extent of exposing the lid of the casket. Removal of the casket from the grave will be the responsibility of the funeral director present.

5.6.5.4 No plot from which a disinterment has taken place will be used for any subsequent burial and no refund of the cost of the original burial or any part of that cost will be made.

6. Installation, Maintenance and Removal of Monuments

6.1 Construction and Installation

- 6.1.1 Minimum structural design, installation and renovation for all monuments shall be those specified in New Zealand Standard for Headstones and Cemetery Monuments NZS4242:1995.
- 6.1.2 Only one tablet or monument will be allowed on any one grave, including extra depth burial graves, and it shall be placed on the grave in a position approved by the Council. A tablet may be attached to an existing monument. Monuments may only be erected within the plot boundary.
- 6.1.3 All monuments shall be constructed of permanent materials. The Council may from time to time by resolution publicly notified determine a list of permanent materials that may be used in the construction of monuments.
- 6.1.4 All monuments will be constructed in accordance with sound engineering principles and will meet the aesthetic requirements of the Council.
- 6.1.5 Delivery and installation of monuments will be at the expense of the owner and will be carried out at times agreed with the sexton.
- 6.1.6 Any rubble and earth not required in the filling in of the grave or in connection with the levelling will immediately be removed either from the cemetery or to a place within the cemetery approved by the sexton.

6.2 Work Practices

- 6.2.1 No person erecting or repairing any monument or carrying out other work in any cemetery shall use any footpaths or other part of the cemetery for placing or depositing there, any tools, planks or materials for a longer time than is reasonably necessary to complete the work.
- 6.2.2 Any person mixing cement or mortar within a cemetery shall do so on a proper mixing board approved by the Council. Residue shall be removed from the cemetery.
- 6.2.3 Any person installing or attending a monument or carrying out any other work in a cemetery shall withdraw for the duration of an adjoining funeral service. Such person shall also remove tools, planks and other materials which may obstruct access to an adjoining service for the duration of said service.

6.3 Maintenance of Monuments

6.3.1 All monuments shall be kept in proper order and repair by the holder of the exclusive right of burial.

6.3.2 Should a monument fall into a state of decay or disrepair, or be deemed by the Council to be unsafe, it may at any time be dealt with by the Council pursuant to the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967. A photographic record of the monument shall be taken prior to removal and retained in cemetery records.

6.4 Safety

The Council may carry out regular audits of all monuments to ensure the health and safety of any persons or property within the cemetery boundaries.

6.5 Removal of Monuments

No person will be allowed to remove from a grave or plot any monument without obtaining the prior written permission of the Sexton.

6.6 Authorisation

Maintenance and any other work in a cemetery may only be carried out by a person duly authorised by the Council, or under the supervision of a Council employee.

7. Types of Cemetery

7.1 Lawn Areas Cemeteries

7.1.1 Types of burials

Lawn area cemeteries may inter either ashes or full body remains.

7.1.2 Provision by the Council

The Council will provide a continuous concrete berm at ground level approximately 500mm wide for a single row or approximately 1 metre wide for a double row for monuments to be placed on.

7.1.3 Conditions and criteria

The following conditions and criteria are applicable to lawn cemeteries:

- (a) Headstone bases will not stand higher than 150mm above the berm and will be a maximum depth front to back of 400mm;
- (b) The base will maintain clear space of 100mm at the front of the berm;
- (c) No monument including the base will be wider than 1 150mm for a single plot or 2 300mm for a double width plot. No monument, inclusive of its base will stand higher than 1 metre above the berm;
- (d) Headstone bases will allow for inserts for flower containers where this is required;
- (e) No grave shall be enclosed with any railing or kerbing or similar and no monument except a tablet shall be placed on any grave;
- (f) No person shall place on any plot any memorabilia except flowers and foliage which shall be placed in the flower containers inserted in the headstone.

7.2 Berm Areas

7.2.1 Ash Berm Areas

7.2.1.1 Types of burials

Ash berm areas may inter only crematorial ashes. A maximum of two sets of ashes may be interred in an ash berm cemetery plot.

7.2.1.2 Provision by the Council

The Council will provide a concrete berm at ground level of approximately 350mm for a single plot or 700mm width for a double plot.

7.2.1.3 Conditions and criteria

The following conditions and criteria are applicable to the construction of monuments in ash berm areas:

- (a) The concrete based work for all monuments will not stand higher than 100mm above the berm and will be of a depth (front to back) not exceeding 250mm, length 600mm;
- (b) No monument including the base will stand higher than 700mm above the berm;

- (c) Headstone bases will allow for inserts for flower containers where this is required.

7.2.2 Ash Garden Berm Areas

7.2.2.1 Types of Burials

Ash garden berm areas may inter only crematorial ashes. A maximum of two sets of ashes may be interred in each plot.

7.2.2.2 Provision by the Council

The Council will provide a continuous concrete (“desk type”) berm on a ground level concrete platform.

7.2.2.3 Conditions and criteria

The following criteria are applicable to the construction of tablets in ash garden berm areas:

- (a) No monument or structure other than a tablet may be placed on the berm. The tablet will be set in a position and manner approved by the Council;
- (b) No tablet will exceed a depth of 230mm or be wider than 370mm for a single plot or 750mm for a double plot.

7.3 Monumental Cemeteries

7.3.1 Application For Approval

Any person wishing to install a monument in any part of a cemetery must apply on the prescribed form for the Council approval to carry out such work. The applicant must submit details of the monument design, including materials and dimensions, and details of all inscriptions and their positions on the monument and pay the prescribed fee.

7.3.2 Types of Burial

Monumental cemeteries may inter either ashes or full body remains.

7.3.3 Construction criteria

The following criteria are applicable to the construction of monuments in monumental cemeteries:

- (a) The holder of an exclusive right to burial may enclose the plot or plots allotted to him or her with kerbing. Where the allocated plots are contiguous they may be enclosed as a single unit;

- (b) The kerbing of the plots in a monumental area will be constructed of permanent materials approved by the Council and shall not exceed a maximum height of 300mm above the ground level;
- (c) Monuments may be erected within the plot boundary.

7.4 Services Cemeteries

7.4.1 Eligibility

- 7.4.1.1 Areas of cemeteries may be laid out as Services Cemeteries.
- 7.4.1.2 Those eligible for burial there are as defined in the most recent version of the Office of Veterans' Affairs publication, "War Graves and Services Cemeteries Handbook".
- 7.4.1.3 Notwithstanding section 7.4.1.2, the body or ashes of the spouse or partner of a returned service person may at the request of the surviving returned services partner be interred in an extra depth plot in the Services Cemetery.

7.4.2 Commemoration

Commemoration shall be as described in the above-mentioned publication, or by other means as agreed with the Office of Veteran's Affairs.

7.4.3 Waiver of Fees

The Council may waive the prescribed fee payable for the exclusive right of burial in the Services Cemeteries. Other prescribed fees shall be payable.

7.5 Closed Cemeteries

7.5.1 Closure and Maintenance in Perpetuity

As deemed appropriate, the Council may apply to officially close cemeteries under Part VI of the Burial and Cremation Act 1964.

- 7.5.2 The Council shall maintain such cemeteries in perpetuity, subject to conditions as set under Part IV of the Act.

8. Memorabilia

8.1 Memorabilia Placed at Time of Interment

8.1.1 Memorabilia may be placed on graves at the time of burial.

8.1.2 After the lapse of five days from the date of burial, the Council may remove from any grave, any memorabilia placed there at the time of burial and cause the surface of the grave to be levelled off and sown with grass.

8.2 Permitted Memorabilia

After a grave has been levelled and sown as described above, artificial or natural cut flowers may be placed in a container or containers set in recesses in the monument or the base of the monument.

8.3 Removal and Disposal Of Memorabilia

8.3.1 Memorabilia placed or remaining on any grave which have become unsightly or which has been broken or damaged may be removed by the sexton.

8.3.2 Artificial or natural cut flowers or foliage, plants or broken or damaged receptacles may be destroyed.

8.3.3 The Council may in any cemeteries permanently remove and dispose of memorabilia that impedes or constrains the Council's ability to maintain the cemetery or causes littering.

8.3.4 Subject to sections 8.1.2 and 8.3.1 of this Bylaw, memorabilia may not be removed from a grave except with the approval of the holder of the exclusive right of burial of the plot.

9. Crematoria

9.1 Compliance with Conditions

The Cremations Regulations 1973 are applicable to all crematoria within the District.

9.2 Restriction on access

Subject to section 9.3 of this Bylaw access to any crematorium and any cremation process within the District is restricted and general entrance by members of the public is not allowed.

9.3 Limited access permitted:

Where a cremation takes place in accordance with a religious ceremony that traditionally practices cremation, persons directly concerned with the deceased may at the manager of the crematorium's discretion attend the placing of the coffin in the incineration hall.

10. Vegetation

- 10.1 No vegetation shall be planted on any grave or within the cemetery boundaries without the prior consent of the Council.
- 10.2 Vegetation planted in any portion of the cemetery may at any time be trimmed, removed or cut down at the discretion of the Council.
- 10.3 No person shall disturb, damage, take or pick any cutting or flower from any tree, shrub, plant or other vegetation in any cemetery without the consent of the Council.
- 10.4 No person shall plant, cut down or destroy any tree or shrub in any cemetery without the consent of the Council.

11. Vehicles

11.1 Hours of Entry

Unless authorised by the Council, no person shall take any vehicle of any kind into any cemetery except during the hours of daylight. Vehicles shall be removed from the cemetery during the hours of darkness.

11.2 Traffic to Keep to Roads

Within cemeteries, vehicles may only be driven on formed roads which are open to vehicular traffic and park only in designated parking areas.

11.3 Right of Way for Funerals

All vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.

11.4 Drivers to Obey Instructions

Any person driving a vehicle in a cemetery shall stop or move that vehicle as directed by the sexton or other authorised officer.

11.5 Traffic Signs

11.5.1 Any person driving a vehicle in a cemetery shall obey all signs or notices concerning traffic movement and parking displayed in that cemetery.

11.5.2 No vehicle shall be driven at a greater speed than indicated on any road within the cemetery, and in any other direction other than indicated by traffic notices.


11.5.3 In the absence of speed limit signs, no vehicle may be driven at a speed greater than 10 kilometres an hour in any cemetery.

11.6 Exemption

These provisions will not apply to an emergency vehicle (as defined in the Land Transport (Road User) Rule 2004) used at the time to save or protect life or health, or prevent injury or serious damage to property.

12. Soliciting Trade

12.1 Trade

With the exception of the transactions of the Council employees, undertaken in the course of management of the cemetery, no person may solicit trade or  advertise goods or services within any cemetery.

12.2 Display of manufacturer's name

12.2.1 Notwithstanding section 12.1 of this Bylaw and with the consent of the holder of the exclusive right to burial in a plot a manufacturer of a monument, other than a tablet, may display his or her name in a space no larger than 50mm by 100mm on the monument.

12.2.2 The display of the manufacturer's name will be unobtrusive and meeting the aesthetic requirements of the Council.

12.3 Photography

12.3.1 No person shall take any photograph or make video recordings for commercial or editorial purposes, or for the purposes of publication, at a funeral without prior approval of the funeral director or other person responsible for the management or control of the burial.

12.3.2 No person shall take any photograph or make video recordings for commercial or editorial purposes, or for the purposes of publication, of a grave without prior approval from the holder of the exclusive right to burial.

13. Animals

- 13.1 Subject to the provisions of other Bylaws, no person shall take into or allow to remain in any cemetery, any animal, other than during the hours of daylight.
- 13.2 Any animal in a cemetery must be under the control of the owner at all times.

14. Conduct

14.1 Damage

No person shall damage, paint, write or carve on any building or monument within a cemetery or crematorium or damage property within any cemetery.

14.2 Interference with Services

No person shall unlawfully or improperly interfere with, interrupt or delay the carrying out of any funeral service or ceremony within any cemetery or crematorium.

14.3 Offensive behaviour

A person entering or present in a cemetery or crematorium shall not behave in a manner that creates a nuisance or is offensive or is likely to create a nuisance or offensive to any other person.

14.4 Offensive articles

No person will bring into or exhibit in any cemetery or crematorium any article that is a nuisance or is offensive to any other person.

15. Records

The Council will keep plans of the cemeteries it controls, records of all rights of burial granted, and a record of all burials in the cemeteries. Plans and records will be open for inspection by the public at the offices of the Council during normal office hours.

PART III – Miscellaneous

16. Offences and Breaches

- 16.1 No person shall do anything or cause any condition to exist for which prior approval from the Council is required under this Bylaw without first obtaining that approval and the failure to do so shall constitute a breach of this Bylaw.

- 16.2 No application for a prior approval from the Council, and no payment of or receipt for any fee paid in connection with such application or approval, shall confer any right, authority, or immunity on the person making such application or payment.
- 16.3 Any person commits a breach of this Bylaw who:
- (a) does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw; or
 - (b) omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by them at the time and in the manner therein provided; or
 - (c) does not refrain from doing anything which under this Bylaw they are required to abstain from doing; or
 - (d) knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw; or
 - (e) refuses or neglects to comply with any notice duly given to him/her under the Bylaw; or
 - (f) obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon them by this Bylaw; or
 - (g) fails to comply with any notice or direction given under this Bylaw.
- 16.4 Any person commits a breach of this Bylaw who:
- (a) having constructed, affixed or provided, or caused to be constructed, affixed, or provided, any monument or any work or material of any description whatsoever, contrary to, or otherwise than in accordance with the provision of this Bylaw; or
 - (b) having omitted to construct, affix, or provide any work or materials as required thereby, and who does not within a reasonable time after notice in writing has been given to them by the Council or any authorised officer of the Council, fails to carry out the remedial action specified in that notice.
- 16.5 The notice issued under section 16.3 and 16.4 shall state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of the Council.

17. Penalties for Breach of the Bylaw

- 17.1 Every person who fails to comply with any part of this Bylaw commits an offence and shall be subject to the penalty provisions outlined in the offences, penalties, infringement offences, and legal proceedings provisions of the Act and the other enabling enactments contained in section 1.5 of this Bylaw.
- 17.2 Where any person is alleged to have committed an infringement offence, that person may either—
- (a) Be proceeded against summarily for the offence; or
 - (b) Be served with an infringement notice as provided in the Act.
- 17.3 Any person found guilty of breaching the following sections of this Bylaw, will be liable to an infringement fine in accordance with Section 16(i) of the Burial and Cremation Act 1964:
- (a) Section 5.6.1 Unauthorised digging or closing of a grave or opening or closing of the ground for burial;
 - (b) Section 5.6.4 Unauthorised reopening of grave;
 - (c) Section 6.2 Failure to remove tools and material;
 - (d) Section 6.5 Unauthorised removal of a monument;
 - (e) Section 8.3.4 Unauthorised removal of memorabilia;
 - (f) Section 10 Offences relating to vegetation;
 - (g) Section 11 Offences relating to vehicles;
 - (h) Section 12 Offences relating to soliciting trade
 - (i) Section 13 Offences relating to animals;
 - (j) Section 14 Offences relating to misconduct;
- 17.4 The Council may in accordance with Section 162 of the Local Government Act 2002 apply for an injunction restraining a person from committing a breach of this Bylaw.
- 17.5 The continued existence of any work or object in a state contrary to this Bylaw shall be deemed a continuing offence within the meaning of this section.

18. Removal of Works

- 18.1 The Council may pull down, remove or alter or cause to be pulled down, removed or altered any vegetation, work, material or thing erected or being in contravention of this Bylaw or section 163 of the Local Government Act 2002.
- 18.2 The Council may recover from any person responsible for the erection or from any person permitting the continued existence of any such vegetation work material or object all costs incurred by it, in connection with such pulling down, removal or alteration.
- 18.3 The exercise of this authority shall not relieve any such person from responsibility for any penalty for erecting or permitting the continued existence of any such vegetation work, material or object.

19. Officers to Continue in Office

All officers appointed by the Council under or for the purpose of the repealed Gisborne District Council Cemeteries and Crematoria Bylaw 1990, and holding office at the time of the coming into operation of this Bylaw, shall be deemed to have been appointed under this Bylaw.

20. Dispensing Power

- 20.1 Where in the opinion of the Council full compliance with any of the provisions of this Bylaw would needlessly or injuriously affect any person, or the course or operation of the business of, or be attended with loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the special application of that person, dispense with the full compliance with the provisions of this Bylaw; provided that any other terms or conditions (if any) that Council may deem fit to impose shall be complied with by that person.
- 20.2 The Council may, after consideration of any representation by affected persons and if in its opinion it is justified, extend, withdraw or amend the dispensation granted in terms of section 20.1.
- 20.3 Except if expressly granted otherwise, the dispensation by the Council in terms of section 20.1 shall only be applicable to the person it is granted to and shall be restricted to the particular issue considered by the Council and such dispensation will not constitute a justification for the breach of the provisions of this Bylaw outside the expressed terms of the dispensation.