



# Cemeteries and Crematoria Bylaw

**Kaipara District Council**

**This Bylaw is made under sections 145 and 146 of the Local Government Act 2002 and sections 16 and 40 of the Burial and Cremation Act 1964.**

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# **Part A**

## **Preliminary provisions**

### **1. Title**

1.1 This Bylaw is the Cemeteries and Crematoria Bylaw.

### **2. Commencement**

2.1 This Bylaw comes into force on 1 May 2024

### **3. Application**

3.1 This Bylaw applies to all Council owned and controlled cemeteries and crematoria within the Kaipara District.

### **4. Purpose**

4.1 The purpose of this Bylaw is to minimise public safety risks, distress, nuisance, damage to property, and interference with ground maintenance and operational activities from the use of Council cemeteries and crematoria by the public and contractors.

### **5. Interpretation**

5.1 In this Bylaw, unless the context otherwise requires:

**Approval** means Council permission to carry out an activity. May require a permit and may be subject to conditions.

**Authorised Officer** means

- a. a person authorised by Council to perform duties under this Bylaw; or
- b. a person appointed by Council as an enforcement officer under section 177 of the Local Government Act 2002.

**Bylaw** means the Kaipara District Council Cemeteries and Crematoria Bylaw.

**Code of Practice** means the Kaipara Cemeteries and Crematoria Code of Practice.

**Council** means the Kaipara District Council.

**Person** means an individual human, a corporation, a body corporate, and an unincorporated body.

5.2 Words implying the singular include the plural and vice versa.

5.3 The [Legislation Act 2019](#) applies to this Bylaw.

5.4 Any 'Related Information' boxes and attachments are for information purposes, and do not form part of this Bylaw. They may be inserted, amended, or revoked without formality.

**Related Information**

Compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, the Kaipara District Plan, and the Regional Plan for Northland.

Where there is any conflict between this Bylaw and any Act or Regulation, the Act or regulation will take precedence.

## ***Part B***

# ***Cemeteries and Crematoria Provisions***

**6. A person must comply with the Code of Practice**

- 6.1 A person must comply with the Code of Practice in accordance with clause 7.
- 6.2 Clause 6.1 does not apply to any person acting in compliance with a lawful direction of an Authorised Officer.

**Related information**

Any Code of Practice applies to both open and closed council owned or operated cemeteries and crematoria.

Council owns and operates 10 open cemeteries and 1 closed cemetery. A full list of these cemeteries as well as other relevant information about Council owned and operated cemeteries and crematoria can be found on council's website.

## ***Part C***

# ***Code of Practice***

**7. Council may make a Code of Practice**

- 7.1 Council may, by resolution make a Code of Practice to regulate the activities in a Council owned or controlled cemetery and crematoria.

- 7.2 Any Code of Practice made under clause 7.1 may prescribe rules for one or more of the following purposes:
- i internment;
  - ii disinterment;
  - iii built structures;
  - iv ground maintenance;
  - v records; and
  - vi any other matter Council considers relevant and reasonably necessary to achieve the purpose of the Bylaw.

## 8. Fees

- 8.1 Council may by resolution and in accordance with the [Local Government Act 2002](#) and the [Burial and Crematoria Act 1964](#) set fees for permits and other provided matters.
- 8.2 Council reserves the right to determine situations when fees may be remitted, refunded, or waived on a case-by-case basis.

## Part D

# Enforcement powers, offences, and Penalties

## 9. Council can use statutory powers to enforce this Bylaw

- 9.1 Council may use its powers under the [Burial and Cremation Act 1964](#) and [Local Government Act 2002](#) to enforce this Bylaw.

### Related information

Council powers under the [Burial and Cremation Act 1964](#) and [Local Government Act 2002](#) include court injunctions, removal of works, seizure and disposal of property, cost recovery for damage, and power to request a person's name and address.

Council can also use other methods as a service provider to encourage compliance, for example providing advice, information, or warnings, or trespassing a person.

## 10. Removal of material or thing

- 10.1 Council may under the [Local Government Act 2002](#), remove or alter any material or thing in breach of this Bylaw, and may recover any costs of removal or alteration from the person who committed the breach.

## 11. Penalties

- 11.1 A person who fails to comply with this Bylaw commits an offence and is liable to a penalty under the [Burial and Cremation Act 1964](#) or the [Local Government Act 2002](#).

**Related information**

A person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000.00 under section 424 of the [Local Government Act 2002](#).

Council has chosen not to set fines in this Bylaw at this time under the [Burial and Cremation Act 1964](#).

## ***Part E***

### ***Savings and transitional provisions***

#### **12. Savings**

- 12.1 Any approvals or other authorisations issued under Part 7 – Cemeteries and Crematoria of the Consolidated General Bylaw 2020 continue to be in force in accordance with their terms, unless re-negotiated, renewed, or cancelled by Council.

#### **13. Existing inquiries to be completed under this Bylaw**

- 13.1 Any compliance or enforcement action by Council under Part 7 – Cemeteries and Crematoria of the Consolidated General Bylaw 2020 that was not completed prior to this Bylaw coming into force will continue to be actioned.