



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041

5887



PERTH, MONDAY, 26 NOVEMBER 2007 No. 247 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.00 PM

© STATE OF WESTERN AUSTRALIA

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

**KALGOORLIE-BOULDER
CEMETERY BOARD**

**KALGOORLIE-BOULDER
CEMETERIES BY-LAW 2007**

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

KALGOORLIE-BOULDER CEMETERY BOARD

KALGOORLIE-BOULDER CEMETERIES BY-LAW 2007

ARRANGEMENT

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Interpretation
- 1.3 Repeal

PART 2—ADMINISTRATION

Division 1—General

- 2.1 Appointment of Manager
- 2.2 Appointment of employees
- 2.3 Plans and registers

Division 2—Right of burial

- 2.4 Issuing grants
- 2.5 Rights of holder
- 2.6 Renewal of grant
- 2.7 Replacement of grant
- 2.8 Transfer of grant
- 2.9 Exercising the rights of holder

PART 3—APPLICATION FOR FUNERALS

- 3.1 Application for burial
- 3.2 Application for cremation
- 3.3 Applications to be accompanied by certificates, etc
- 3.4 Certificate of identification
- 3.5 Minimum notice required
- 3.6 Fixing times for funeral
- 3.7 Receipt of application for funeral
- 3.8 Times for burials and cremations

PART 4—FUNERAL DIRECTORS

- 4.1 Directing a funeral
- 4.2 Funeral director's licence
- 4.3 Funeral director's licence expiry
- 4.4 Responsibilities of holder of funeral director's licence
- 4.5 Cancellation of funeral director's licence
- 4.6 Single funeral permits

PART 5—FUNERALS

Division 1—General

- 5.1 Requirements for funerals and coffins
- 5.2 Funeral processions
- 5.3 Vehicle entry restricted
- 5.4 Vehicle access and speed limitations
- 5.5 Offenders may be expelled
- 5.6 Conduct of funeral by Board

Division 2—Cremation

- 5.7 Metal coffins prohibited
- 5.8 Polyvinyls, etc, prohibited
- 5.9 Depositing the coffin
- 5.10 Removal of name plate and lead strip
- 5.11 Removal of metal fittings

Division 3—Placement of ashes

- 5.12 Disposal of ashes
- 5.13 Availability of ashes
- 5.14 Ashes held by Board

PART 6—BURIALS

- 6.1 Depth of graves
- 6.2 Mausoleum, etc
- 6.3 Re-opening a grave
- 6.4 Disinterring a coffin
- 6.5 Exhumation
- 6.6 Opening a coffin

PART 7—MEMORIALS AND OTHER WORK*Division 1—General*

- 7.1 Application for monumental work
- 7.2 Placement of monumental work
- 7.3 Removal of rubbish
- 7.4 Operation of work
- 7.5 Removal of sand, soil or loam
- 7.6 Hours of work
- 7.7 Unfinished work
- 7.8 Use of wood
- 7.9 Plants and trees
- 7.10 Supervision
- 7.11 Australian war graves
- 7.12 Placing of glass domes and vases

Division 2—Lawn section

- 7.13 Specification of monuments
- 7.14 Headstones

Division 3—Memorial plaque section

- 7.15 Requirements of memorial plaque

Division 4—Licensing of monumental masons

- 7.16 Monumental mason's licence
- 7.17 Expiry date, non-transferability
- 7.18 Carrying out monumental work
- 7.19 Responsibilities of holder of monumental mason's licence
- 7.20 Cancellation of monumental mason's licence
- 7.21 Application for single monumental work permit

PART 8—GENERAL

- 8.1 Animals
- 8.2 Guide dogs
- 8.3 Damaging and removing of objects
- 8.4 Withered flowers
- 8.5 Littering and vandalism
- 8.6 Advertising
- 8.7 Obeying signs and directions
- 8.8 No benefits or gratuities
- 8.9 Entry
- 8.10 Fireworks or firearms
- 8.11 Recording on film or videotape
- 8.12 Camping
- 8.13 Lighting fires
- 8.14 Removal from cemetery

PART 9—OFFENCES AND MODIFIED PENALTY

- 9.1 General
- 9.2 Modified penalties

First Schedule—Modified penalties

Second Schedule—Infringement notice

Third Schedule—Withdrawal of infringement notice

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

KALGOORLIE-BOULDER CEMETERY BOARD

KALGOORLIE-BOULDER CEMETERIES BY-LAW 2007

Under the powers conferred by the *Cemeteries Act 1986* and under all other powers enabling it, the Kalgoorlie-Boulder Cemetery Board resolved on the 18th day of October 2007 to make the following By-law.

PART 1—PRELIMINARY

1.1 Citation

This By-law may be cited as the *Kalgoorlie-Boulder Cemeteries By-law 2007*.

1.2 Interpretation

In this By-law unless the context otherwise requires—

“**Act**” means the *Cemeteries Act 1986*;

“**administrator**” includes executor and any person who, by law or practice, has the right to apply for administration, and any person having the lawful custody of the body of a deceased person;

“**ashes**” means so much of the remains after the due processes of cremation as may be contained in a standard sized cremation urn;

“**authorised officer**” means an employee of the Board authorised by the Board for the purposes of performing any function or exercising any power conferred upon an authorised officer by this By-law;

“**Board**” means the Kalgoorlie-Boulder Cemetery Board as constituted under section 7 of the Act;

“**burial**” has the same meaning as is given to it in the Act;

“**cemeteries**” means all cemeteries which the Governor by order has vested under the care, control and management of the Board;

“**cemetery**” means any one of the cemeteries;

“**crematorium**” has the same meaning as is given to it in the *Cremation Act 1929*;

“**crypt**” has the same meaning as vault;

“**dead body**” has the same meaning as that expression in the Act;

“**funeral**” includes the burial and cremation of a dead body and all associated processions and ceremonials but does not include so much of a ceremonial that is solely a religious rite;

“**funeral director**” means a person, firm or company holding a current funeral director’s licence;

“**funeral director’s licence**” means a licence issued by the Board in accordance with clause 4.2 which entitles the holder to conduct funerals at the cemeteries;

“**grant**” means a grant of an exclusive right of burial in a specified area of a cemetery which is granted by the Board in accordance with section 25 of the Act;

“**grave**” means a grave situated in a cemetery in respect of which a grant has been made under and in accordance with the Act and this By-law;

“**guide dog**” has the same meaning as is given to that expression in the *Dog Act 1976*;

“**holder**” in relation to a grant includes—

(a) a person issued with a grant by the Board;

(b) a person for the time being appearing to the Board to be the holder of that grant;

“**Manager**” means the Manager for the time being appointed by the Board and includes any person for the time being acting in that capacity in the absence of the Manager;

“**mausoleum**” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

“**memorial**” has the same meaning as is given to it in the Act;

- “**military grave**” means a grave eligible for commemoration by the Office of Australian War Graves;
- “**monument**” includes a tombstone, vault, enclosure or other approved form of memorial;
- “**monumental mason**” means a person, firm or company holding a current monumental mason’s licence;
- “**monumental mason’s licence**” means a licence issued by the Board;
- “**monumental work**” when the term is used as an abstract noun shall include the erection, alteration or removal of or other working upon a monument on a grave;
- “**personal representative**” means—
- (a) the administrator or executor of an estate of the will of a deceased person;
 - (b) the person, who, by law or practice, has the right to apply for administration of the estate of a deceased person; or
 - (b) a person having the lawful custody of a dead body;
- “**set fee**” refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;
- “**single funeral permit**” means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit;
- “**vault**” means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board;
- “**vehicle**” has the same meaning as is given to that word in the *Road Traffic Act 1974* as amended from time to time, and includes trail bikes, beach buggies and other recreational vehicles licensed or unlicensed, but excludes a wheel chair being used by a physically impaired person;

Reference to any Act, Statute or By-law means that Act, Statute or By-law as amended from time to time and includes all regulations made thereunder.

1.3 Repeal

The following By-laws are hereby repealed—

- (a) The By-laws made by the Trustees of the Kalgoorlie General Cemetery under the provisions of the *Cemeteries Act 1897*, published in the *Government Gazette* on 5 October 1934; as amended.
- (b) The By-laws made by the Trustees of the Kalgoorlie General Cemetery under the provisions of the *Cemeteries Act 1897*, published in the *Government Gazette* on 21 December 1951; as amended.
- (c) The By-laws made by the Trustees of the Boulder General Cemetery under the provisions of the *Cemeteries Act 1897*, published in the *Government Gazette* on 4 March 1977; as amended.

PART 2—ADMINISTRATION

Division 1—General

2.1 Appointment of Manager

The Board shall appoint a Manager who shall, at its direction, exercise administration management and control and carry out the policies of the Board.

2.2 Appointment of employees

The Board may directly or by delegation to a Manager appoint support staff to administer and supervise work within a cemetery and carry out such work as is required for the general care of the cemetery.

2.3 Plans and registers

- (1) The Board shall establish and maintain—
 - (a) a plan of each cemetery showing the location and identifying number of every burial place or grave and the distribution of the land, compartments and sections;
 - (b) a register containing the identification numbers of graves and the names and description of the persons buried;
 - (c) a register of grants made with respect to each cemetery;
 - (d) a register of cremations containing the names and descriptions of any person cremated in each cemetery; and
 - (e) a register of persons cremated whose ashes have been buried or disposed in each cemetery.
- (2) The plans and registers referred to in sub-clause (1) shall be open for inspection by members of the public during normal office hours of the Board and upon payment of a set fee.

Division 2—Right of burial

2.4 Issuing grants

The Board may, upon the written application of a person and upon payment of a set fee issue that person with a grant for a term of twenty five (25) years.

2.5 Rights of holder

(1) Subject to this By-law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on a holder, during the term of the grant, an exclusive right—

- (a) to bury one or more dead bodies or the ashes of one or more dead bodies in a grave specified in the grant; and
- (b) to carry out monumental works on the grave specified in the grant.

(2) The Board, in its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in the grave.

(3) The Board or an authorised officer may request the holder to produce the grant before the exercise of any of the rights referred to in sub-clause (1) and the holder shall forthwith comply with that request.

2.6 Renewal of grant

(1) Where, at any time during the term of a grant, a holder—

- (a) makes written application; and
- (b) pays a set fee,

the Board may at its discretion renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant.

(2) The set fee for the issue of a new grant pursuant to this clause shall be determined by the Board from time to time.

(3) The Board may request the holder to deliver an existing grant to it prior to issuing a new grant.

(4) The holder shall forthwith upon receiving a request by the Board in accordance with sub-rule (3) deliver the existing grant to the Board.

2.7 Replacement of grant

(1) The Board may—

- (a) upon the written application of a holder; and
- (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.

(2) Notwithstanding sub-clause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration substantially in the form prescribed.

(3) The replacement grant issued by the Board shall be deemed to be the original grant.

2.8 Transfer of grant

A holder who desires to transfer a grant to another person shall make an application to the Board in the form prescribed and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

2.9 Exercising the rights of holder

If evidence is produced in writing to the satisfaction of the Board that a holder is unavailable or not immediately ascertainable, or has died and has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder's personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, then the Board may approve any other person.

PART 3—APPLICATION FOR FUNERALS**3.1 Application for burial**

(1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.

(2) An application referred to in sub-clause (i) is to be accompanied by—

- (a) evidence to the satisfaction of the Board that the holder of the grant in respect of the grave in which the body is intended to be buried has consented to or would not object to the burial; or
- (b) an application for a grant.

3.2 Application for cremation

A person who desires to hold a funeral within a cemetery shall, in the case of a cremation of a dead body—

- (a) make an application to the Board in the form determined by the Board from time to time; and
- (b) lodge with the application referred to in paragraph (a), a permit to cremate issued in accordance with the *Cremation Act 1929*.

3.3 Applications to be accompanied by certificates, etc

All applications referred to in clauses 3.1 and 3.2 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.4, in respect of a body.

3.4 Certificate of identification

(1) After a dead body is placed in a coffin and prior to the dead body being removed to a cemetery, or crematorium within the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless—

- (a) in the opinion of a funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

(2) Where—

- (a) in the opinion of a funeral director, a dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body,

then the funeral director shall complete a certificate in the form determined by the Board from time to time.

3.5 Minimum notice required

All bookings to hold a funeral shall be made with the Board at least twenty four (24) hours prior to the time proposed for a burial or cremation on the application, otherwise an extra charge may be made.

3.6 Fixing times for funeral

The time fixed for a funeral is at the discretion of the Board but subject to this By-law will be as near as possible to the time requested by the applicant.

3.7 Receipt of application for funeral

Where an application is received by the Board in accordance with clause 3.1 or 3.2, then subject to any other provision of this By-law, the Board shall—

- (a) fix a time for a funeral; and
- (b) prepare a grave that is required or reserve a venue for a cremation service as the case may be.

3.8 Times for burials and cremations

A person shall not carry out a burial or cremation—

- (a) on a gazetted public holiday in the State of Western Australia; or
- (b) at any other time other than during the following days and hours—
 - (i) Monday to Friday between 9.00 a.m. and 4.00 p.m.
 - (ii) Saturday between 9.00 a.m. and 12.00 p.m.

except with the written permission of the Board.

PART 4—FUNERAL DIRECTORS

4.1 Directing a funeral

A person shall not direct a funeral within a cemetery or otherwise make use of the cemetery for any purpose connected with directing the funeral unless that person is—

- (a) the funeral director;
- (b) an employee of the funeral director;
- (c) a holder of a single funeral permit.

4.2 Funeral director's licence

(1) The Board may upon the receipt of an application in writing by a fit person in the form prescribed and upon payment of a set fee, issue to an applicant a funeral director's licence authorising a holder to direct funerals within a cemetery at such times and on such days and subject to such conditions as the Board shall specify and in compliance with the provisions of this By-law.

(2) If the application referred to in sub-clause (1) is approved by the Board, the Board shall issue to the applicant a licence in the form prescribed.

(3) A person who is the holder of a current funeral director's licence may apply for a new licence for the then following year by lodging with the Board an application form and upon payment of the set fee.

4.3 Funeral director's licence expiry

A funeral director's licence—

- (a) shall expire on the 30th day of June in each year or until a licence is determined pursuant to clause 4.5, whichever shall occur sooner; and
- (b) is not transferable.

4.4 Responsibilities of holder of funeral director's licence

A holder of a funeral director's licence shall be responsible for the compliance by every person purporting to be authorised to direct a funeral within a cemetery pursuant to that licence with—

- (a) all the requirements of—
 - (i) the licence,
 - (ii) this By-law; and
 - (iii) the Act; and
- (b) the conditions imposed by the Board in respect of that licence.

4.5 Cancellation of funeral director's licence

The Board may, by notice in writing to a holder of a funeral director's licence, cancel a licence if—

- (a) the holder of the licence or any employee of the holder has committed a breach of this By-law, the Act, the *Cremation Act 1929* or any of the conditions upon which the licence was issued;
- (b) in the opinion of the Board, the conduct of the holder of the funeral director's licence or any employee of the holder in directing or attempting to direct a funeral within a cemetery is inappropriate or unbecoming;
- (c) the holder of the funeral director's licence has purported to transfer the licence issued to that holder;
- (d) the funeral director's licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;
- (e) the fee for the funeral director's licence is due and unpaid;
- (f) the holder of the funeral director's licence is convicted of an offence against this Act or this By-law; or
- (g) the Board is no longer satisfied that the holder of the funeral director's licence—
 - (i) is of good repute and is fit to hold the funeral director's licence; or
 - (ii) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals.

Upon the cancellation of the licence pursuant to this clause, no part of any fee paid for the issue of that licence is refundable by the Board.

4.6 Single funeral permits

(1) The Board may upon receipt of an application in writing by a person in the form prescribed and upon payment of a set fee issue to an applicant a single funeral permit authorising a holder to direct a funeral of the person named in a permit within a cemetery at such time and subject to such conditions as the Board shall specify upon the issue of that permit or in this By-law.

(2) Every application for the single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of a vehicle transporting a dead body to a gravesite, or crematorium.

(3) The Board may refuse an application for the single funeral permit if, in the opinion of the Board, either a coffin's specifications or the details of the vehicle transporting the dead body to the gravesite or crematorium, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

PART 5—FUNERALS

Division 1—General

5.1 Requirements for funerals and coffins

A person shall not bring a dead body into a cemetery unless—

- (a) the Board has approved an application for a burial or cremation of the dead body in accordance with Part 3 of this By-law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of a deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 Funeral processions

The time fixed by the Board for a burial or cremation shall be the time at which a funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then an applicant who applied to hold a funeral under clause 3.1 or clause 3.2 shall pay a set fee for being late.

5.3 Vehicle entry restricted

(1) Subject to clause 5.3(2), every funeral procession shall enter by a principal entrance, and no vehicle except a hearse and official mourning coaches, shall be permitted to enter a cemetery.

(2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle access and speed limitations

Vehicles shall proceed within a cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed a speed of 25 km per hour.

5.5 Offenders may be expelled

A person committing an offence under clause 5.4 may be expelled from a cemetery by the Manager or an authorised officer.

5.6 Conduct of funeral by Board

When conducting a funeral under section 22 of the Act the Board may—

- (a) require a written request for it to conduct the funeral to be lodged with it;
- (b) in its absolute discretion, charge a person requesting it to conduct the funeral a set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) bury or cremate a dead body but may cremate the dead body only when a permit to cremate has been obtained for the body under the *Cremation Act 1929*;
- (e) specify an area in a cemetery where the dead body is to be buried or the ashes placed;
- (f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this By-law;
- (g) do or require anything which it considers is necessary or convenient for the conduct of the funeral by it.

Division 2—Cremation

5.7 Metal coffins prohibited

Metal or metal lined coffins shall not be accepted by the Board for cremation at a cemetery.

5.8 Polyvinyls, etc, prohibited

The use of polyvinyl or its derivative, polyurethane, aerosol cans, other sealed containers, glass and/or other materials determined from time to time to be not appropriate to a cremation process by the Board, in or upon coffins presented for cremation at a cemetery is prohibited.

5.9 Depositing a coffin

- (1) A funeral director shall deposit a coffin for cremation upon a catafalque in a crematorium chapel or at such other position within a cemetery as may be determined from time to time by the Board.
- (2) Once the coffin has been deposited for cremation in accordance with sub-clause (1), all further services will be rendered by and be under the sole control of the Board.

5.10 Removal of name plate and lead strip

The Board shall remove a name plate and lead strip from a coffin prior to cremation at a cemetery and the lead strip shall be placed in a container with the ashes.

5.11 Removal of metal fittings

The Board may remove any metal or other fittings on a coffin presented for cremation at a cemetery which in the opinion of the Board could impede a cremation or cause damage to the cremation equipment.

Division 3—Placement of ashes

5.12 Disposal of ashes

(1) A personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in a cemetery and upon payment of a set fee the Board may grant permission for the ashes to be disposed of by one of the following methods—

- Niche wall
- Memorial wall
- Garden of remembrance
- Ground niche
- Memorial rose, tree or shrub
- Family shrub
- Memorial desk
- Granite seat
- Family grave
- Book of remembrance
- Scattering to the winds
- Memorial gardens
- Other memorials approved by the Board

(2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of the deceased person in the cemetery.

(3) An authorised officer may place the ashes of the deceased person in the cemetery in accordance with the Board approval provided—

- (a) the person requesting the placement of the ashes has the permission of the Board; and
- (b) the ashes are placed within an area set aside for that purpose by the Board.

(4) An authorised officer may place the ashes of the deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has lodged evidence to the satisfaction of the Board that a holder of the grant in respect of the grave in which the ashes are to be placed has consented to or would not object to the placement and has the written permission of the Board.

5.13 Availability of ashes

Subject to compliance with clause 5.12 and upon the payment of a set fee, the ashes of a deceased person that have not been placed within a cemetery will be made available to a personal representative of the deceased person during the normal office hours of the Board after the expiration of twenty four (24) hours after the completion of a cremation at the cemetery.

5.14 Ashes held by Board

(1) If at the expiration of six (6) months from a date of cremation at a cemetery—

- (a) the ashes of a deceased person have not been claimed; or
- (b) no arrangements have been made for the placement of the ashes of the deceased person by a personal representative, then the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.

(2) If prior to the expiration of six (6) months from the date of cremation the personal representative of the deceased person requests the Board to store the ashes of the deceased person, and pays to the Board a set fee monthly in advance for such storage, the Board shall store the ashes in safe custody.

(3) Notwithstanding sub-clause (2), should the personal representative default in the payment of the fee referred to in sub-clause (2), the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.

PART 6—BURIALS

6.1 Depth of graves

(1) A person shall not bury a coffin within a cemetery so that the distance from the top of the coffin to the original surface of the ground is—

- (a) subject to paragraph (b), less than 750 mm, unless that person has the permission of an authorised officer; or
- (b) in any circumstances less than 600 mm.

(2) The permission of an authorised officer in sub-clause (1)(a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within a cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under sub-clause (2) shall be in writing and shall be accompanied by payment of a set fee.

(4) A mausoleum must be—

- (a) constructed of brick, stone, concrete or similar durable material; and
- (b) adequately ventilated and drained; and
- (c) vermin proof; and
- (d) capable of being secured against entry by vandals or other unauthorised persons.

(5) A person shall not place a dead body in a mausoleum except—

- (a) in a closed coffin; and
- (b) in a soundly constructed chamber; and
- (c) in accordance with sub-clause (6).

(6) The number of burials in a chamber must not exceed the number for which the chamber was designed.

(7) The Board shall ensure that as soon as possible after a dead body is placed in a mausoleum, the front of the chamber is sealed with a slab of impervious material and faced with a substantial slab of stone, slate, or other material approved by the Board.

6.3 Re-opening a grave

(1) Subject to sub-clause (2), if for the purpose of re-opening a grave in a cemetery the Board finds it necessary to remove a monument, edging, tiles, plants, grass, shrubs or other like matter from the grave, then a person ordering a re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

(2) If a Minister orders the exhumation of a body in accordance with section 58 of the Act then, the Minister may further order how and by whom the costs referred to in sub-clause (1) shall be met.

(3) In this clause, the word “Minister” has the same meaning as is given to that expression in the Act.

6.4 Disinterring a coffin

(1) Subject to sub-rule (2), a person shall not disinter a coffin in a cemetery for the purposes of re-burial within twelve (12) months after the date of its interment.

(2) Sub-clause (1), shall not apply where the coffin is disinterred for the purposes of an exhumation of a dead body and the exhumation is ordered or authorised pursuant to the Act.

6.5 Exhumation

A person shall not disinter a coffin in a cemetery for an exhumation of a dead body unless—

- (a) the exhumation is ordered or authorised pursuant to the Act; or
- (b) a holder of a grant of right of burial has applied in writing to the Board requesting the exhumation and the Board has authorised the exhumation.

6.6 Opening a coffin

(1) A person shall not open a coffin in a cemetery unless—

- (a) the coffin is opened for the purposes of an exhumation of a dead body; or
- (b) that person has produced to the Board an order signed by the Commissioner of Police and the Board has approved the opening of that coffin.

(2) In this clause—

“**Commissioner of Police**” means a Commissioner of Police for the time being appointed under the *Police Act 1892* and includes a person for the time being acting in that capacity in the absence of the Commissioner of Police.

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for monumental work

(1) Upon—

- (a) the written application of a person on the prescribed form; and
- (b) payment of a set fee,

the Board may issue to that person a permit to carry out monumental work on a grave specified in an application on the days, at the times and subject to the conditions specified by the Board.

(2) An application referred to in sub-clause (1) shall be accompanied by—

- (a) the plans and specifications of the proposed monumental work, including precise details of all words, designs and pictures intended to be inscribed on or attached to the monumental work;
- (a) if the applicant is not a holder of a grant in respect of a grave on which the work is to be carried out, the written consent of the holder or authorised representative.

7.2 Placement of monumental work

Every memorial shall be placed on proper and substantial foundations as determined by the Board.

7.3 Removal of rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from a cemetery by the person carrying out the same.

7.4 Operation of work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to a cemetery, and all materials required by tradesmen shall be admitted at such entrance as the Manager or an authorised officer shall direct.

7.5 Removal of sand, soil or loam

No sand, earth or other material shall be taken from any part of a cemetery for use in the erection of any memorial or work except with the written approval of the Board.

7.6 Hours of work

A person shall not be permitted to carry out memorial or other work on graves within a cemetery other than during the hours of 8.00 a.m. and 6.00 p.m. on weekdays, and 8.00 a.m. and noon on Saturdays, without the written permission of the Board.

7.7 Unfinished work

Should any work by masons or others be not completed before 6.00 p.m. on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the Manager or an authorised officer.

7.8 Use of wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around a grave, other than as a temporary marker and with the prior approval of the Board.

7.9 Plants and trees

No trees or shrubs shall be planted on a grave or within a cemetery except such as shall be approved by the Board.

7.10 Supervision

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of a cemetery be subject to the supervision of the Manager or an authorised officer and shall obey such directions as the Manager or an authorised officer may give.

7.11 Australian war graves

Notwithstanding anything in this By-law to the contrary, the Office of Australian War Graves—

- (a) may place a memorial on a military grave; and
- (b) is not required to pay a set fee for any memorial that is placed upon the military grave.

7.12 Placing of glass domes and vases

A person shall not place glass domes, vases or other grave ornaments—

- (a) outside the perimeter of a grave in a cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) on a lawn area set aside by the Board as a lawn or a memorial plaque section.

*Division 2—Lawn section***7.13 Specification of monuments**

(1) All monuments in a lawn section of a cemetery shall—

- (a) be made of natural stone; and
- (b) be placed upon a base of natural stone; and
- (c) comply with the following specifications—
 - (i) the overall height of a monument above the original surface of a grave shall not exceed 1.05 m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150 mm nor more than 450 mm;
 - (iii) the width of the base of the monument shall not exceed 1.20 m;
 - (iv) the depth of the base of the monument shall not exceed 300 mm; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.

(2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.

(3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.14 Headstones

In a lawn section of a cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

*Division 3—Memorial plaque section***7.15 Requirements of memorial plaque**

(1) All memorial plaques placed in a memorial plaque section of a cemetery shall—

- (a) be made of admiralty bronze or any other material approved by the Board; and
- (b) be of the dimensions approved by the Board for the area in which the memorial plaque is to be placed.

(2) All memorial plaques made of admiralty bronze shall—

- (a) not exceed 20 mm in thickness; and
- (b) be placed upon a base mounting approved by the Board.

(3) All memorial plaques made of stone shall—

- (a) not exceed 50 mm in thickness placed upon a base mounting approved by the Board; or
- (b) not be less than 100 mm in thickness if it is not to be placed upon the base mounting.

*Division 4—Licensing of monumental masons***7.16 Monumental mason's licence**

(1) The Board may upon receipt of an application in writing by a fit person and upon payment of a set fee issue to an applicant a monumental mason's licence.

(2) A licence issued under sub-clause (1) authorises a holder to carry out monumental works within a cemetery subject to the provisions of this By-law and such conditions as the Board shall specify upon the issue of that licence.

7.17 Expiry date, non-transferability

A monumental mason's licence—

- (a) shall, subject to clause 7.20, be valid from a date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.18 Carrying out monumental work

A person shall not carry out monumental work within a cemetery unless that person—

- (a) is a holder of a current monumental mason's licence issued pursuant to clause 7.16 or does so as an employee of the person who holds such a licence; or
- (b) is authorised by the Board to do so.

7.19 Responsibilities of holder of monumental mason's licence

A holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within a cemetery pursuant to that licence with all the requirements and conditions of a licence, this By-law, the Act and any other written law which may affect the carrying out of monumental works.

7.20 Cancellation of monumental mason's licence

(1) The Board may by notice in writing to a holder of a monumental mason's licence terminate a licence on any of the following grounds—

- (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this By-law, the Act or any other written law which may affect the carrying out of monumental works;
- (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within a cemetery, is inappropriate or unbecoming; or
- (c) that the holder of the licence has purported to transfer the licence issued to that holder.

(2) Upon the termination of a monumental mason's licence under this clause no part of a fee paid for the issue of the licence is refundable by the Board.

(3) An aggrieved person whose licence has been terminated under sub-clause (1) may appeal to the State Administrative Tribunal against a decision of the Board under this clause in the manner stated in section 19(2) of the Act.

7.21 Application for single monumental work permit

(1) The Board may upon receipt of an application in writing by a person in the form prescribed and upon payment of a set fee, issue to an applicant a single monumental work permit authorising a holder to place a monument within a cemetery subject to such conditions as the Board shall specify upon the issue of that permit or in this By-law.

(2) Every application for the single monumental work permit under sub-clause (1) shall include an application for monumental work in the form prescribed

PART 8—GENERAL**8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in a cemetery, other than with the approval of the Manager or an authorised officer.

8.2 Guide dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.3 Damaging and removing of objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in a cemetery or any other object or thing on a grave or memorial or which is the property of the Board without the permission of the Board.

8.4 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.5 Littering and vandalism

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon a cemetery;
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising

A person shall not carry on or advertise any trade, business or profession within a cemetery without the prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

8.7 Obeying signs and directions

A person shall obey all signs displayed, marked, placed or erected by the Board within a cemetery and any other lawful direction by the Manager or an authorised officer.

8.8 No benefits or gratuities

A person employed by the Board shall not accept any gratuities or receive any financial benefit from any work undertaken within a cemetery other than the remuneration or benefit paid or given to that person by the Board.

8.9 Entry

A person shall not enter or remain within a cemetery other than during the hours between sunrise and sunset except with the approval of the Board or an authorised officer.

8.10 Fireworks or firearms

(1) A person shall not bring or discharge any fireworks within a cemetery.

(2) A person shall not bring or discharge any firearms within the cemetery except in the case of a military funeral when firearms may be brought into the cemetery and discharged by members of the Defence Force.

(3) In this clause, "Defence Force" has the same meaning as is given to that expression in the *Defence Force Act 1903*.

8.11 Recording on film or videotape

(1) A person shall not, without the prior approval of the Board, record on film or videotape any image or sound within a cemetery.

(2) A person shall not record on film or videotape a funeral, headstone or memorial within the cemetery without the prior approval of the next of kin of a deceased person whose funeral, headstone or memorial is being recorded.

8.12 Camping

A person shall not camp in or upon a cemetery.

8.13 Lighting fires

A person shall not light a fire within a cemetery without the prior approval of the Board.

8.14 Removal from cemetery

A person failing to comply with any provisions of this By-law or behaving in a manner that in the opinion of the Board, the Manager or an authorised officer is inappropriate in a cemetery may in addition to any penalty provided by this By-law be ordered to leave the cemetery by the Board, the Manager or an authorised officer.

PART 9—OFFENCES AND MODIFIED PENALTIES**9.1 General**

A person who commits a breach of any provisions of this By-law commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

9.2 Modified penalties

(1) The offences specified in the First Schedule are offences which may be dealt with under section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in the First Schedule is set out in the fourth column of the First Schedule.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Second Schedule.

(4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.

First Schedule
CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995
Kalgoorlie-Boulder Cemetery Board
Kalgoorlie-Boulder Cemeteries By-law 2007
MODIFIED PENALTIES

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed in vehicle	\$50.00
2	5.4	Unauthorised vehicle use	\$50.00
3	7.3	Non removal of rubbish and surplus materials	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Animal at large	\$50.00
6	8.5	Littering and vandalism	\$50.00
7	8.6	Unauthorised advertising, and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00
9	8.9	Unauthorised entry out of hours	\$50.00
10	8.10	Unauthorised fireworks or firearms	\$50.00
11	8.11	Unauthorised recording on film or videotape	\$50.00
12	8.12	Unauthorised camping	\$50.00
13	8.13	Unauthorised lighting of fires	\$50.00

Second Schedule
CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995
Kalgoorlie-Boulder Cemetery Board
Kalgoorlie-Boulder Cemeteries By-law 2007
INFRINGEMENT NOTICE

TO: _____
 (Name)

 (Address)

It is alleged that at _____:_____ hours on _____ day
 of _____ 20 _____ at _____

you committed the offence indicated below by an (x) in breach of clause of the
 Kalgoorlie-Boulder
 Cemeteries By-law 2007

 (Authorised Person)

Offence

Excessive speed in vehicle

Unauthorised vehicle use

Non removal of rubbish and surplus materials

Leaving uncompleted works in an untidy or unsafe condition

Animal at large

Littering and/or vandalism

Unauthorised advertising, and/or trading

Disobeying sign or lawful direction

Unauthorised entry out of hours

Unauthorised fireworks or firearms

Unauthorised recording on film or videotape

Unauthorised camping

Unauthorised lighting of fires

Other offence _____

\$ _____

You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Manager, Kalgoorlie-Boulder Cemetery Board, Memorial Drive, Kalgoorlie between the hours of 9.30 a.m. to 11.00 a.m. and 12.00 p.m. to 3.00 p.m. Monday to Friday.

Please make cheques payable to Kalgoorlie-Boulder Cemetery Board. Payments by mail should be addressed to—

The Manager
Kalgoorlie-Boulder Cemetery Board
PO Box 79
KALGOORLIE WA 6433

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

—————

Third Schedule

CEMETERIES ACT 1986

LOCAL GOVERNMENT ACT 1995

Kalgoorlie-Boulder Cemetery Board

Kalgoorlie-Boulder Cemeteries By-law 2007

WITHDRAWAL OF INFRINGEMENT NOTICE

No. _____

Date ____/____/____

To (1) _____

Infringement Notice No _____ dated ____/____/____ for the alleged offence of (2)

Penalty (3) \$ _____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

* It is proposed to institute court proceedings for the alleged offence.

—————

(1) Insert name and address of alleged offender.

(2) Insert short particulars of offence alleged.

(3) Insert amount of penalty prescribed.

(Authorised Person)

Dated 18 October 2007.

The Common Seal of the Kalgoorlie-Boulder Cemetery Board was affixed by the authority of a resolution of the Board in the presence of—

KERRY EVERETT, Chairman.
GAYE NEWTON, Manager.

—————