



**WESTERN
AUSTRALIAN
GOVERNMENT
Gazette**

ISSN 1448-949X (print)

ISSN 2204-4264 (online)

PRINT POST APPROVED PP665002/00041



PERTH, WEDNESDAY, 13 SEPTEMBER 2017 No. 179 SPECIAL

PUBLISHED BY AUTHORITY KEVIN J. McRAE, GOVERNMENT PRINTER AT 12.00 NOON

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CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995

CITY OF KARRATHA

**CEMETERIES LOCAL
LAW 2017**

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

CITY OF KARRATHA

CEMETERIES LOCAL LAW 2017

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**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

CITY OF KARRATHA

CEMETERIES LOCAL LAW 2017

Under the powers conferred by the *Cemeteries Act 1986*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Karratha resolved on 21 August 2017 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This Local Law may be cited as the *City of Karratha Cemeteries Local Law 2017*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Application

This Local Law applies to all gazetted cemeteries within the boundary of the City of Karratha as listed in Schedule 2.

1.4 Interpretation

In this Local Law unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

ashes means so much of the remains of a dead body, after the due processes of cremation in accordance with the *Cremation Act 1929*, as may be contained in a cremation urn;

assistance animal has the same meaning as under the *Disability Discrimination Act 1992* (Cth);

authorised person means an employee of the City—

(a) appointed by the City under section 9.10 of the *Local Government Act 1995* for the purposes of performing any function or exercising any power conferred upon an authorised person by this local law; and

(b) appointed by the CEO of the City under section 64 of the Act to issue infringement notices in accordance with section 63 of the Act;

City means the City of Karratha;

cemetery means any of the cemeteries listed in Schedule 2;

CEO means the chief executive officer for the time being, of the City;

closed cemetery means a cemetery that is no longer used for burials unless there is explicit Ministerial approval;

coffin means a coffin or other receptacle used for the transportation of a dead body to the grave site;

cremation urn means a container used for holding the remains of a dead body after the due process of cremation in accordance with the City Guidelines for Cemetery Niche Walls;

crypt means an underground room or vault used as a burial place;

disability has the same meaning as in the *Disability Discrimination Act 1992* (Cth);

Funeral Director means a person holding a current funeral director's licence issued by the City in accordance with section 17 of the Act;

headstone means a memorial designed for placement at the head of a grave within a cemetery, commemorating a grave or the placement of ashes;

mausoleum means a burial chamber, 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 meaning set out in the Act and includes a headstone, tombstone, memorial plaque, monument, inscription, kerbing, enclosure or any other fixture commemorating a grave or the placement of ashes;

memorial plaque means a panel, plate or tablet designed or used for purposes of bearing commemorative inscription;

monument means a tombstone, sculpture, statue or other form of memorial approved by the City commemorating a grave or the placement of ashes, other than a headstone;

monumental mason means a person holding a current monumental mason's licence issued under clause 7.13;

personal representative means the administrator or executor of an estate of a deceased person;

set fee refers to fees and charges set by a resolution of the City and published in the *Government Gazette*, under section 53 of the Act;

single funeral permit means a permit issued by the City 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 City; and

vehicle has the same meaning as described in the *Road Traffic (Administration) Act 2008*.

1.5 Repeal

The *Shire of Roebourne Cemeteries Local Law 2002* as published in the *Government Gazette* on 16 June 2003 is repealed.

PART 2—ADMINISTRATION

2.1 Powers and Functions of CEO

Subject to any directions given by the Council, the CEO shall exercise all the powers and functions of the local government in respect of the cemetery.

PART 3—APPLICATION FOR FUNERALS

3.1 Application for Burial

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

(2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be Accompanied by Certificates etc

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death, certificate of cremation or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

3.3 Certificate of Identification

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a Certificate of Identification Form in the form determined by the City from time to time, unless—

- (a) in the opinion of the 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 the 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,

then the Funeral Director shall complete a certificate in the form determined by the City from time to time.

3.4 Minimum Notice Required

Unless the City determines a lesser time, all bookings to hold a funeral shall be made and paid for with the City at least 72 hours prior to the time proposed for burial on the application, otherwise an extra charge may be applied.

PART 4—FUNERAL DIRECTORS

4.1 Funeral Director's Licence Expiry

An approved funeral director's licence shall expire on the 30th day of June in each year.

4.2 Single Funeral Permits

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

4.3 Application Refusal

The City may refuse an application for a single funeral permit if, in the opinion of the City, the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds as determined by the City.

PART 5—FUNERALS

5.1 Requirements for Funerals and Coffins

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

- (a) the City has approved an application for the burial of that dead body in accordance with Part 3 of this Local Law;
- (b) it is enclosed in a coffin which in the opinion of the City is structurally sound and bears the name of the 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 ten millimetres (10mm) in height.

5.2 Funeral Processions

The time fixed by the City for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates.

5.3 Vehicle Entry Restricted

(1) Subject to clause 5.3(2), a funeral procession shall enter the cemetery by the principal entrance, and no vehicle shall enter the cemetery except—

- (a) the hearse;
- (b) official mourning coaches;
- (c) a vehicle carrying or transporting a person with a disability, including a wheelchair;
- (d) A device or equipment used to transport, carry or handle a coffin; and
- (e) a pram, baby carriage, stroller or similar device used to convey an infant.

(2) This clause shall not apply to a vehicle approved by the City or an authorised person.

5.4 Vehicle Access

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles.

5.5 Offenders may be Expelled

A person committing an offence under Part 5 may be expelled from the cemetery by the CEO or an authorised person.

5.6 Conduct of Funeral by City

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

- (a) require a written request to be lodged with the City for it to conduct a funeral;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the 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) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this Local Law; and
- (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

5.7 Management of Memorials During Reopenings

(1) Any existing monument which in the view of the City would impact on a reopening of a grave occurring shall only be removed by a monumental mason, unless otherwise approved by the City, and stored off site.

(2) City approval is required before the reconstruction of any removed monument can take place to ensure compliance with the Act and this Local Law, any substantive changes to the original monument may require an application under section 30 of the Act to be lodged with the appropriate fee, at the discretion of the City, as if it were a new memorial.

5.8 Disposal of Ashes

(1) The 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 the cemetery and upon payment of the set fee the City may grant permission for the ashes to be disposed of by one of the following methods—

- (a) niche wall;
- (b) family grave;

- (c) scattering to the winds; or
 - (d) other memorials approved by the City.
- (2) Subject to subclauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.
- (3) An authorised person may place the ashes of a deceased person in a cemetery in accordance with the City approval provided—
- (a) the person requesting the placement of the ashes has the permission of the City; and
 - (b) the ashes are placed within an area set aside for that purpose by the City.
- (4) An authorised person may place the ashes of a deceased person within a grave in accordance with the City approval, provided the person requesting the placement of the ashes has the written permission of the City and the approval of the grant holder of the right of burial of the grave.

PART 6—BURIALS

6.1 Depth of Graves

- (1) A person shall not bury a coffin within the 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 750mm, unless that person has the permission of an authorised person; or
 - (b) in any circumstances less than 600mm.
- (2) The permission of the authorised person in subclause (1)(a) will only be granted where in the opinion of the authorised person exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

- (1) A person other than the City shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.
- (2) A person may make an application to the City to have a brick grave, crypt, vault or mausoleum constructed within the cemetery, which vault or mausoleum shall at all times remain the property of the City.
- (3) A person making application under subclause (2) is required to cover the full construction cost of the brick grave, crypt, vault or mausoleum.
- (4) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (5) A person shall not place a dead body in a mausoleum except—
- (a) in a closed coffin;
 - (b) in a soundly constructed chamber; and
 - (c) in accordance with subclause (6).
- (6) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for Monumental Work

The City may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of Monumental Work

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

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 the 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 the cemetery, and all materials required by tradesmen shall be admitted at such entrance as the City or an authorised person shall direct.

7.5 Removal of Sand, Soil or Loam

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

7.6 Hours of Work

- (1) Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 8.00am to 6.00pm on weekdays, and 8.00am to noon on Saturdays, without the written permission of the City.
- (2) No work is to be conducted whilst a funeral is taking place or 30 minutes prior to, during, and 30 minutes after a funeral procession.

7.7 Unfinished Work

Should any work by masons or others be not completed before 6.00pm on weekdays and noon on Saturdays, or if clause 7.6(2) applies, they shall be required to leave the work site in a neat and safe condition to the satisfaction of the City or an authorised person.

7.8 Use of Wood

(1) No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior approval of the City or an authorised person.

(2) The City retains the right of removal at any time should the use of wood be approved whether temporary or otherwise.

7.9 Plants and Trees

(1) No plants, trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the City or an authorised person.

(2) The City retains right of removal at any time should the use of any plants, trees or shrubs be approved whether temporary or otherwise.

7.10 Supervision

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

7.11 Australian War Graves

Notwithstanding anything in this Local Law to the contrary, the Office of Australian War Graves—

- (a) may place a memorial on a military grave;
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave; and
- (c) is still required to notify the City of intending Australian War Grave and may be required to complete application for monumental works.

7.12 Placing of Glass Domes and Vases

(1) A person shall not place glass domes, vases or other grave ornaments, outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act.

(2) The City is not responsible for the maintenance of any ornaments placed on graves and maintains the right of removal of any object placed that, in the opinion of the City, has fallen into disrepair, or is otherwise subject of complaints by other cemetery users.

Division 2—Licensing of Monumental Masons

7.13 Monumental Mason's Licence

(1) The City may, upon receipt of an application in writing by any person and upon payment of the set fee, issue to the applicant an annual or single monumental mason's licence.

(2) A licence issued under subclause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this Local Law and such conditions as the City shall specify upon the issue of that licence.

7.14 Expiry Date, Non-Transferability

An annual monumental mason's licence—

- (a) shall, subject to clause 7.17, be valid from the date specified therein until the 30th day of June next following; and
- (b) is not transferable.

7.15 Carrying out Monumental Work

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

- (a) is the holder of a current monumental mason's licence issued pursuant to clause 7.13 or does so as the employee of a person who holds such a licence;
- (b) is authorised by the City to do so; or
- (c) is undertaking minor works as described under clause 7.18.

7.16 Responsibilities of a Monumental Mason

A monumental mason who holds a licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence issued under clause 7.13 with all the requirements and conditions of the licence, this Local Law, the Act and any other written law which may affect the carrying out of monumental works.

7.17 Cancellation of a Monumental Mason's Licence

(1) The City may by notice in writing to the holder of a monumental mason's licence terminate the 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 Local Law, the Act or any other written law which may affect the carrying out of monumental works;

(b) that, in the opinion of the City, 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 the 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 any fee paid for the issue of that licence is refundable by the City.

7.18 Minor Maintenance and Repair Work

Persons shall be permitted to carry out minor maintenance and repair works, not of a structural nature, such as cleaning and touch up painting on graves, without seeking approval from the City.

PART 8—GENERAL

8.1 Animals

(1) Subject to subclause (2), a person shall not bring an animal, or the carcass or remains of a deceased animal, into a cemetery or permit an animal to enter or remain in a cemetery, other than with the approval of the City or an authorised person.

(2) Subclause (1) shall not apply to an assistance animal providing assistance to a person with a disability or alleviating the effect of a disability.

8.2 Damaging and Removing of Objects

Subject to clause 8.3, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the City without the permission of the City.

8.3 Flowers

(1) All flowers must be placed in vases or receptacles if provided at existing monuments.

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

(3) The City has the right to remove flowers from new internments or existing monuments if not maintained.

8.4 Advertising

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

8.5 Obeying Signs and Directions

(1) A person shall obey all signs displayed, marked, placed or erected by the City within the cemetery or by any other lawful direction by the City or an authorised person.

(2) Vehicles must adhere to any speed signs that may be displayed, marked, placed or erected by the City within the cemetery otherwise a speed limit of ten kilometres per hour (10km/h) applies.

8.6 Removal from the Cemetery

Any person failing to comply with any provisions of this Local Law or behaving in a manner that in the opinion of the City, or an authorised person is inappropriate in the cemetery may in addition to any penalty provided by this Local Law be ordered to leave the cemetery by the City, or an authorised person.

PART 9—OFFENCES AND MODIFIED PENALTIES

9.1 General

A person who commits a breach of any provisions of this Local 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 Schedule 1 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 Schedule 1 is set out in the fourth column of Schedule 1.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act, is the form set out in Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996* as per Regulation 26.

Schedule 1
MODIFIED PENALTIES

[Clause 9.2]

Item No	Clause	Nature of Offence	Modified Penalty
1	5.4	Unauthorised use—driving of vehicles	\$50.00
2	7.3	Placing and removal of rubbish and surplus materials	\$50.00
3	7.6	Conduct work outside permitted hours	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Animal within cemetery	\$50.00
6	8.4	Unauthorised advertising, and/or trading	\$50.00
7	8.5	Disobeying sign or lawful direction	\$50.00

Schedule 2
GAZETTED CEMETERIES

[Clause 1.3]

Name	Location
2 Mile Cemetery	Lot 781, Deposited Plan 192020, Reserve 44427 immediately south of Roebourne townsite
Balla Balla Cemetery	Reserve 5698 in the Balla Balla area, north of Whim Creek
Cossack Cemetery	Lot 422 on Deposited Plan 214695, reserve 36813 in Cossack
Karratha Cemetery	Lot 929 on Deposited Plan 76543, Reserve 41146 in the suburb of Baynton
Roebourne Town Cemetery	Lots 385 and 382 on Deposited Plans 254093 and 104384, Reserve 2377 in Roebourne
Roebourne / Wickham Cemetery	Lot 183 on Deposited Plan 186207, Reserve 38759 located on Point Samson—Roebourne Road north of Roebourne townsite
Whim Creek Cemetery	Lot 42 on Deposited Plan 188103, Reserve 40201 in Whim Creek

Signed by authorised representatives of Council.

P. LONG, Mayor.
C. ADAMS, Chief Executive Officer.