



WESTERN
AUSTRALIAN
GOVERNMENT

Gazette

65



PERTH, MONDAY, 10 JANUARY 2000 No. 4 SPECIAL

PUBLISHED BY AUTHORITY KEVIN J. McRAE, ACTING GOVERNMENT PRINTER AT 3.30 PM

CEMETERIES ACT 1986

**TOWN OF PORT HEDLAND
LOCAL LAW (CEMETERIES)**

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LOCAL LAW (CEMETERIES)

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CEMETERIES ACT 1986

TOWN OF PORT HEDLAND

LOCAL LAW (CEMETERIES)

In pursuance of the powers conferred upon it by the abovementioned Act, and all other powers enabling it, the Town of Port Hedland hereby records having resolved on the 1st day of December, 1999 to make the following Local Law—

PART I—PRELIMINARY**1.1 Citation**

2. This local law may be cited as the “Town of Port Hedland Local Law (Cemeteries)”

1.2 Repeal

1. The local law relating to the Port Hedland Public Cemetery published in the *Government Gazette* on the 10 March 1960 and amended from time to time thereafter is hereby repealed.

1.3 Interpretation

“Act” means the Cemeteries Act, 1986;

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

“Authorised Officer” means an Officer or employee of the Council authorised by the Chief Executive Officer of the Council to exercise any power conferred by this local law;

“Board” means the Town of Port Hedland for the purposes of the Act;

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

“Cemetery” means any one of the Cemeteries;

“Chief Executive Officer” means the Chief Executive Officer for the time being appointed in accordance with clause 4 and includes any person for the time being acting in that capacity in the absence of the Chief Executive Officer;

“Council” means the Council of the Town of Port Hedland;

“Crypt” has the same meaning as vault;

“Funeral” includes the burial of a dead body and all associated processions and ceremonies 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 directors licence;

“Funeral Directors Licence” means a licence issued by the Council in accordance with clause 21 which entitles the holder to conduct funerals at the Cemetery;

“Grant” means a grant of an exclusive right of burial in a specified area of a Cemetery, which is granted by the Council in accordance with section 25 of the Act;

“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 Council in accordance with clause 3.1;

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

“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;

“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 Council in accordance with clause 63 which entitles the holder to carry out monumental works within the Cemetery;

“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 of the estate or executor of the will of a deceased person;

(b) the person who, by law or practice, has the best right to apply for administration of the estate of a deceased person, or;

(c) a person having the lawful custody of a dead body;

“Private Grave” means a grave situated in the Cemetery in respect of which a Grant has been made under and in accordance with the Act and this local law;

“Public Grave” means a grave situated in the Cemetery in respect of which a Grant of right of burial has been allocated free of charge by the Council;

“Set Fee” refers to fees and charges set by a resolution of the Council and published in the *Government Gazette* in accordance with section 53 of the Act;

“Single Funeral Permit” means a permit issued by the Council in accordance with clause 25 which entitles the holder to conduct a funeral at the Cemetery for the deceased persons 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 Council;

“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;

PART II—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 Council in respect of the Cemetery.

PART III—RIGHTS OF BURIAL

Division 1—Private Graves

3.1 Issuing Grants

(1) The Council may, upon the written application of a person and upon payment of the set fee issue that person with a Grant.

(2) The Grant shall be for a term of twenty-five (25) years from the date of issue of the Grant.

3.2 Rights of a Holder

(1) Subject to the provisions of this local law and to the prior approval of the Council, a Grant confers upon the Holder thereof an exclusive right—

(a) to bury the dead bodies of one or more deceased persons in a private grave; and

(b) to carry out monumental works on a private grave;

during the term of the Grant.

(2) Notwithstanding sub-clause (1) the Council shall in its absolute discretion determine from time to time the number of dead bodies or ashes which may be placed in each private grave.

(3) The Council 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 upon request deliver the Grant to the Council.

3.3 Renewal of a Grant of Right of Burial

(1) The Council may upon—

(a) the written application of a Holder upon the expiry of a Grant; or

(b) the written application of a Holder within the period of one (1) month after the burial of a deceased person in a private grave (or such longer period as the Council may approve); and

(c) payment of the set fee,

issue a new Grant with respect to that private grave.

(2) The Council may request the Holder to deliver the existing Grant to it prior to making a new Grant.

(3) The Holder shall forthwith upon receiving a request by the Council in accordance with sub-clause (2) deliver the existing Grant to the Council.

(4) The Council shall not issue a new Grant in respect of a private grave unless a burial has taken place more than five (5) years after the commencement of the term of the existing Grant.

(5) Where the Holder for the time being of a Grant of a right of burial applies to the Council for the renewal of the Grant the Council shall renew the Grant for a further term of 25 years.

3.4 Replacement of a Grant

(1) The Council may—

(a) upon the written application of a Holder; and,

(b) upon the production of evidence to the satisfaction of the Council

issue a new Grant to replace a Grant, which is lost or destroyed.

(2) Notwithstanding sub-clause (1), the Council may prior to issuing a replacement Grant, require the Holder to make a statutory declaration in a form determined by the Council from time to time.

(3) A replacement Grant issued by the Council shall be the original Grant.

3.5 Transfer of Grant

A Holder who desires to transfer a Grant to another person shall make an application to the Council and upon receipt of the application the Council may grant permission in accordance with section 26 of the Act.

3.6 Exercising the Rights of a Holder

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

*Division 2—Public Graves***3.7 Allocation of Public Graves**

(1) The allocation of a public grave to a person by the Council shall not confer any right upon that person other than the right to inter in the public grave the deceased person for whom it was requested.

(2) The Council shall retain all rights and powers in respect of every public grave allocated in accordance with sub-clause (1) as if the public grave were still held by it as prior to the allocation and the Council may, without limitation, re-open the grave to—

- (a) disinter and reinter the remains buried therein—
 - (i) in the same grave;
 - (ii) in another grave within the Cemetery;
 or
 - (iii) elsewhere in accordance with the Act;
- (b) disinter and cremate the remains buried therein;
- or
- (c) inter remains of other deceased persons

PART IV—APPLICATION FOR FUNERALS*Division 1—Applications***4.1 Application for Burial**

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

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

4.2 Applications to be Accompanied by Certificates Etc

All applications referred to in clause 4.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 4.3 in respect of the body.

4.3 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 in the form determined by the Council 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 Council from time to time.

*Division 2—Times for Funerals***4.4 Minimum Notice Required**

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

4.5 Receipt of the Application for a Funeral

Upon receipt of a properly completed application form in accordance with Clause 4.1 and all other things required by this Local Law, the Council shall—

- (a) fix a time for the funeral; and
- (b) dig or reopen any grave that is required.

4.6 Fixing Times for a Funeral

The time fixed for a funeral is at the discretion of the Council but subject to this Local Law will be as near as possible to the time requested by the applicant. A Saturday funeral may attract an extra charge.

4.7 Times for Burials

(1) A person shall not carry out a burial—

- (a) on Christmas Day;
- (b) on Good Friday; or
- (c) at any time other than during the following days and hours—
 - Monday to Friday — 9.00am to 4.00pm
 - Saturday — 9.00am to 11.00am

Except with the written permission of the Council.

(2) The Council may, by notice displayed at the Council Office, at least one week before a Public Holiday, close any Cemetery on that public Holiday and where a Cemetery is so closed no funeral may take place within it, except with the written permission of the Council.

4.8 Admittance of Coffins

A person shall not bring a coffin into the Cemetery other than during the hours, referred to in Clause 4.7(1)(c), except with the written permission of the Council.

PART V—FUNERAL DIRECTORS**5.1 Directing a Funeral**

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

- (a) a Funeral Director;
- (b) an employee of the Funeral Director
- (c) the holder of a single funeral permit issued in accordance with Clause 6.1.

5.2 Funeral Directors Licence

(1) The Council may upon receipt of an application in writing by any person and upon payment of the set fee, issue to the applicant a Funeral Directors licence authorising the holder to direct funerals within a Cemetery at such times and on such days and subject to such conditions as the Council shall specify upon the issue of that licence or in this Local Law.

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

(3) Any 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 Council an application in writing, and payment of the set fee.

5.3 Period of Licence

A Funeral Director's licence—

- (a) shall be valid from the date specified therein until the 30th day of June next following the date of commencement of the licence or until the licence is determined pursuant to Clause 5.5 which ever shall occur sooner; and
- (b) shall not be transferable.

5.4 Responsibilities of the Holder of a Funeral Directors Licence

The holder of a Funeral Directors 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 Local Law; and
 - (iii) the Act; and
- (b) the conditions imposed by the Council in respect of that licence.

5.5 Cancellation of a Funeral Directors Licence

(1) The Council may, by notice in writing to the holder of a Funeral Directors licence, cancel the licence if—

- (a) the holder of the licence or any employee of the holder has committed a breach of this Local Law, the Act, the Cremation Act 1927 or any of the conditions upon which the licence was issued;
- (b) in the opinion of the Council, the conduct of the holder of the Funeral Directors licence or any employee of the holder in directing or attempting to direct any funeral within a Cemetery is inappropriate or unbecoming;
- (c) the holder of the Funeral Directors licence has purported to transfer the licence issued to that holder;
- (d) the Funeral Directors licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;
- (e) the set fee for the Funeral Directors licence is due and unpaid;
- (f) the holder of the Funeral Directors licence is convicted of an offence against this Act or this Local Law; or

- (g) the Council is no longer satisfied that the holder of the Funeral Directors licence
 - (i) is of good repute and is fit to hold a Funeral Directors licence; or
 - (ii) has suitable facilities and equipment for handling and storing dead bodies in conducting funerals.
- (2) Upon the cancellation of a licence pursuant to this Clause, no part of any fee paid for the issue of that licence is refundable by the Council.

PART VI—SINGLE FUNERAL PERMITS

6.1 Application for a Single Funeral Permit

The Council may upon receipt of an application in writing by any person, in the form prescribed by the Council from time to time and upon payment of the set fee issue to the applicant a single funeral permit authorising the holder to direct the funeral of the person named in the permit within a Cemetery at such time and subject to such conditions as the Council shall specify upon the issue of that permit or in this Local Law.

6.2 Specifications and Details

Every application for a single funeral permit made in accordance with Clause 6.1 shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite or crematorium.

PART VII—FUNERALS

7.1 Requirements as to Coffins

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

- (a) the Council has received an application for the burial or cremation of that dead body in accordance with Clause 4.1.
- (b) it is enclosed in a coffin, which in the opinion of the Council is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin 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 10mm in height.

7.2 Funeral Processions

(1) Where—

- (a) a funeral procession fails to arrive at the Cemetery at the time fixed by the Council for the funeral; or
- (b) all the forms prescribed by this Local Law to hold and direct a funeral at a Cemetery are not presented to an Authorised Officer at a Cemetery at the time fixed by the Council for the funeral,

then the applicant who applied to hold the funeral under clause 4.1 shall pay the set fee for being late.

(2) No funeral procession at the Cemetery shall include more than—

- (a) one Funeral Directors hearse; and
- (b) four (4) mourning coaches;

without the prior approval of the Chief Executive Officer.

Division 2—Placement of Ashes

7.3 Disposal of Ashes

(1) The personal representatives of a deceased person whose body has been cremated may apply, in an application under Clause 4.1 or otherwise, for permission to dispose of the ashes in the Cemetery and upon payment of the set fee the Council may grant permission for the ashes to be disposed of by one of the following methods—

- Niche Wall
- Ground Niche
- Scattering to the Winds
- Other memorials approved by the Council

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

(3) An Authorised Officer may place the ashes of a deceased person in a Cemetery provided—

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

(4) An Authorised Officer may place the ashes of a deceased person within a family grave provided—

- (a) any monumental work commemorating the deceased person is in accordance with Part VIII of this Local Law;
- (b) the ashes are not deposited in an above ground repository; and
- (c) the person requesting the placement of the ashes has the written permission of the Council and the approval of the holder of the right of burial of the grave.

*Division 3—Burials***7.4 Depth of Graves**

- (1) The Council may from time to time determine the depth to which a grave in a Cemetery is dug.
- (2) Every grave prepared by the Council shall be dug at least 1.8m deep unless otherwise determined by the Council.
- (3) Notwithstanding sub-clause (1), no grave shall exceed 2.3m in depth.

7.5 Vaults, Mausoleum, Etc

- (1) a person shall not construct a brick grave, crypt, vault or mausoleum other than—
 - (a) in an area set aside from time to time by the Council for that purpose;
 - (b) with the written permission of the Council; and
 - (c) in compliance with any specifications and conditions specified in the written permission referred to in paragraph (b).
- (2) The Council may upon receipt of an application in writing by any person and upon payment of the set fee construct a vault or mausoleum within a Cemetery which vault or mausoleum shall at all times remain the property of the Council.
- (3) 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 (5)
- (4) The number of burials in a chamber must not exceed the number for which the chamber was designed.

7.6 Burying a Coffin

A person shall not bury a coffin within the Cemetery in such a manner that the distance from the top of the coffin to the surface of the ground is less than 600mm.

7.7 Re-opening a Grave

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

7.8 Disinterring a Coffin

- (1) Subject to sub-clause (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 the exhumation of a dead body and the exhumation is ordered or authorised pursuant to the Act.

7.9 Exhumation

A person shall not disinter a coffin in a Cemetery for the exhumation of a dead body unless—

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

7.10 Opening a Coffin

- (1) A person shall not open a coffin in a Cemetery unless—
 - (a) the coffin is opened for the purposes of the exhumation of a dead body; or
 - (b) that person had produced to the Council an order signed by that Commissioner of Police and the Council has approved the opening of that coffin.
- (2) In this clause—

"Commissioner of Police" means the Commissioner of Police for the time being appointed under the Police Act 1892 and includes any person for the time being acting in that capacity in the absence of the Commissioner of Police.

PART VIII—MONUMENTAL AND OTHER WORK**8.1 Placement of Monument Work**

- (1) Other than the permission of and in a manner approved by the Council, a person shall not place monumental work upon—
 - (a) a public grave;
 - (b) a military grave; or
 - (c) a private grave.

- (2) Notwithstanding sub-clause (1)(b), the Office of Australia War Graves—
- (a) may place monumental work upon a military grave; and
 - (b) is not required to pay the set fee for any monumental work that is placed upon a military grave.
- (3) A person shall not place monumental work upon a grave unless the number of that grave is indelibly and legibly inscribed on the base of that monument.

8.2 Carrying Out Monumental Work

A person shall not carry out monumental work upon a grave within a Cemetery—

- (a) unless the monumental work has first been approved by the Council; and
- (b) except in accordance with plans and specifications first approved by the Council.

8.3 Application for Monumental Work

(1) The Council may upon receipt of an application in writing by any person and upon payment of the set fee issue to the application a permit authorising the holder to carry out monumental work upon a particular grave specified in the application at such time and on such days and subject to such conditions as the Council shall specify upon the issue of that permit in this Local Law.

(2) All applications referred to in sub-clause (1) shall be accompanied by—

- (a) the plans and specifications of the monument, which plans and specifications shall include precise details of all words, designs and pictures intended to be inscribed upon or attached to the monumental work;
- (b) the written consent of the holder of the Grant of right of burial;
- (c) the quoted cost of the proposed monumental work.

(3) The Council may reject any application referred to in sub-clause (1) where it considers the proposed monumental works are inappropriate or unbecoming.

8.4 Monuments to be Kept in Good Repair and Condition

The holder shall keep the grave the subject of the grant and all monuments upon it in good repair and condition.

8.5 Placing of Glass Domes and Vases

A person shall not place glass domes, vases or other grave ornaments outside the perimeter of a grave in a Cemetery.

8.6 Plants and Trees

A person shall not plant trees, shrubs or plants on the surface of or within one metre of the outside perimeter of any grave in the Cemetery without the prior approval of the Council.

8.7 Materials

(1) A person who proposes to carry out monumental work in the Cemetery shall—

- (a) use material of good quality; and
- (b) not use any plastic or epoxy based substances for the in-filling of inscriptions on headstones, tablets or any other monumental work.

(2) An Authorised Officer may reject any material that in the Authorised Officer's opinion is not good quality and the person who brought such material into the Cemetery shall forthwith remove it therefrom.

8.8 Use of Wood

A person shall not place wooden fences, railings, crosses or other wooden erections within a Cemetery unless—

- (a) the wooden material is a temporary marker; and
- (b) the person has obtained the prior approval of the Council.

8.9 Operation of Work

All material required in the erection or completion of any monumental work shall—

- (a) be prepared as far as practicable before being brought into a Cemetery; and
- (b) be admitted at such entrances of a Cemetery and at such times as the Chief Executive Officer may direct.

8.10 Placement of Monumental Work

(1) A person shall not place monumental work in a Cemetery other than on proper and substantial foundations to the satisfaction of an Authorised Officer.

(2) All monuments in a Cemetery exceeding 1.8m in height when erected or 500kgs in weight shall have foundations extending to the bottom of the grave.

8.11 Placement of Rubbish

(1) A person shall not place rubbish soil, sand or any other surplus material resulting from monumental work upon any grave.

(2) Notwithstanding clause 8.12 a person carrying out monumental work within a Cemetery shall remove from a Cemetery all surplus materials resulting from that work, upon its completion.

8.12 Removal of Sand, Soil or Loam

Subject to clause 8.11(2), a person shall not remove sand, soil or loam from any portion of a Cemetery unless that person has the permission of the Council.

8.13 Supervision

(1) All monumental work within a Cemetery shall be carried out in a professional manner subject to the direction and/or supervision of an Authorised Officer.

(2) All persons carrying out monumental work within a Cemetery shall forthwith comply with any direction given by an Authorised Officer in accordance with sub-clause (1).

8.14 Hours of Work

A person shall not work within a Cemetery without the permission of the Chief Executive Officer or a person authorised by the Council—

- (a) other than during the days and hours specified in clause 4.7(1)(c);
- (b) on Saturdays and Sundays; or
- (c) on public holidays.

8.15 Conditions of Work

A person carrying out monumental work within a Cemetery shall not leave any uncompleted monumental work in an untidy or unsafe condition.

8.16 Application for a Monumental Mason's Licence

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

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

8.17 Period of Licence

A monumental mason's licence—

- (a) shall be valid from the date specified therein until the 30th day of June next following the date of commencement of the licence or until the licence is determined pursuant to clause 8.20 whichever shall occur sooner; and
- (b) shall not be transferable.

8.18 Carrying out Monumental Work

A person shall not carry out monumental work within a Cemetery unless that person is the holder of a current valid monumental mason's licence issued pursuant to clause 8.16 or does so as the employee of or principal of a firm or a director of a company which holds such licence or is otherwise authorised by the Council.

8.19 Responsibilities of the Holder of a Monumental Mason's Licence

The 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 of the licence, this Local Law, the Act and the Occupational Health Safety and Welfare Act 1984 and the conditions pursuant to which that licence was issued.

8.20 Cancellation of a Monumental Mason's Licence

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

- (a) That the holder of the licence has committed a breach of this Local Law, the Cemeteries the Occupation Health Safety and Welfare Act or any of the conditions upon which the licence was issued.
- (b) That, in the opinion of the Council, 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;
- (d) Upon determination 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 Council.

8.21 Application for a Single Monumental Work Permit

The Council may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a single monumental work permit authorising the holder to place a monument within a Cemetery subject to such conditions as the Council shall specify upon the issue of the permit or in this Local Law.

8.22 Specifications and Details

Every application for a single monumental work permit made in accordance with clause 8.21 shall include an application for monumental work in the form prescribed by clause 8.3.

PART IX—GENERAL**9.1 Vehicles**

(1) A person shall not drive a vehicle—

- (a) in a Cemetery at a speed exceeding 25kph;
- (b) in a Cemetery in any manner likely to cause detriment to the safety of pedestrians or other users of the Cemetery;

- (c) in a Cemetery other than on those roads directed to be used by an Authorised Officer;
 - (d) in a Cemetery other than in accordance with the directions of an Authorised Officer;
 - (e) on any part of a Cemetery that is not a constructed roadway or parking area or designated by the Council as an area in which vehicles may be driven.
- (2) A person shall not stand or park a vehicle on any part of a Cemetery—
- (a) if the standing or parking of vehicles on that part is prohibited at all times by a sign; or
 - (b) so as to cause an obstruction to or impede the flow of traffic.

9.2 Animals

(1) Subject to sub-clause (3), 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 Chief Executive Officer or an authorised Officer.

(2) Subject to sub-clause (3) the Council or an Authorised Officer may seize and remove any animal found in a Cemetery.

(3) Sub-clauses (1) and (2) 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.

9.3 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 a Cemetery except in the case of a military funeral when firearms may be brought into a 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 Act 1903.

9.4 Damaging and Removing Objects

(1) Subject to sub-clause (2) a person shall not damage, remove or pick any tree, plant, shrub or flower in a Cemetery or any other object or thing on any grave or memorial or which is the property of the Council without the permission of the Council.

(2) A person may remove withered flowers from a grave or memorial.

(3) A person who removes withered flowers from a grave or memorial shall place them in a receptacle provided by the Council for that purpose.

9.5 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 Council for that purpose.

9.6 Advertising

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

9.7 No Benefits or Gratuities

A person employed by the Council 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 Council.

9.8 Littering and Damage

A person shall not—

- (a) break or cause to be broken any glass, ceramics 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 a Cemetery other than in a receptacle provided for that purpose.

9.9 Disruption of Funeral Processions

A person shall not obstruct, hinder or disrupt a funeral procession or ceremony within a Cemetery or commit a nuisance disrespectful of the feelings and welfare of other users of the Cemetery.

9.10 Entry

A person shall not enter or remain within a Cemetery other than during the hours between sunrise and sunset except on the cycleway or with the approval of the Council or an Authorised Officer.

9.11 Filming

A person shall not film a funeral or focus upon headstones and memorials within a Cemetery without the prior approval of—

- (a) the next-of-kin of the deceased person whose funeral, headstone or memorial is being filmed; and
- (b) the Council.

9.12 Camping

A person shall not camp in or upon a Cemetery.

9.13 Lighting Fires

A person shall not light a fire within a Cemetery without the prior approval of the Council.

9.14 Obeying Signs and Directions

A person shall obey all signs displayed, marked, placed or erected by the Council within a Cemetery and any other lawful direction of an Authorised Officer.

9.15 Removal from a Cemetery

(1) Any person failing to comply with any provision of this Local Law or behaving in a manner that in the opinion of the Council or one of its Authorised Officers is inappropriate or unbecoming in a Cemetery may in addition to any penalty provided by this Local Law be ordered to leave a Cemetery by the Council or an Authorised Officer.

(2) Any person failing to comply with an order to leave a Cemetery made pursuant to sub-clause (1) may be expelled from that Cemetery and shall not re-enter a Cemetery for a period of twenty-four (24) hours.

PART X—OFFENCES AND MODIFIED PENALTY**10.1 Offence**

A person who commits a breach of any provision of this Local Law commits an offence and shall on conviction be liable to a penalty not exceeding \$1000 and if the offence is a continuing one to a further penalty not exceeding \$100.00 for every day or part of a day during which the offence is continued.

10.2 Modified Penalties

(1) A person who—

- (a) receives an infringement notice pursuant to sub-section (1) of section 63 of the Act; and
- (b) does not contest an allegation that an offence was committed, may within the time specified in the notice, pay to the Council the modified penalty payable with respect to that offence.

(2) The offences and modified penalties prescribed, with respect to offences against this Local Law shall be as specified in the First Schedule.

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

(4) The production of an acknowledgment from the Council of the payment of a modified penalty is a defence to a charge of the offence in respect of which that penalty was paid.

(5) If it appears to the Council that an alleged offence cannot be adequately punished by the payment of the modified penalty then the Council may refrain from accepting the modified penalty and may in lieu take proceedings against the alleged offender in a Court of Petty Sessions.

(6) A notice sent under section 63 (3) of the Act withdrawing an infringement notice served under section 63 (1) in respect of an offence alleged to have been committed against one of the provisions of this Local Law shall be in or to the effect of the Third Schedule.

First Schedule**CEMETERIES ACT 1986****Town of Port Hedland Local Law (Cemeteries)****MODIFIED PENALTIES**

Item No	Clause	Nature of Offence	Modified Penalty \$
1	8.11	Placing and removal of rubbish and surplus material	80.00
2	8.12	Unauthorised removals from Cemetery	80.00
3	9.1(1) (a)&(b)	Excessive speed	100.00
4	9.1(1)(c) (d) & (e) 9.1(2)	Unauthorised use—driving, parking, or standing of vehicle	80.00
5	9.2	Animal at large	80.00
6	9.3	Unauthorised fireworks or firearms	100.00
7	9.4	Unauthorised damage and removal of property	80.00
8	9.6	Unauthorised advertising, and/or trading	80.00
9	9.8	Littering and damage	80.00
10	9.9	Committing nuisance	80.00
11	9.10	Entry out of hours	80.00
12	9.11	Unauthorised filming	80.00
13	9.12	Camping	80.00
14	9.13	Unauthorised lighting of fires	100.00
15	9.14	Disobeying lawful signs	80.00

Second Schedule

CEMETERIES ACT 1986

Town of Port Hedland Local Law (Cemeteries)

INFRINGEMENT NOTICE

No:

Date

To
(Name)

.....
(Address)

It is alleged that at.....Hours on day of..... 20.....

At

You committed the offence indicated hereunder in breach of the Town of Port Hedland Local Law No 2 (Cemeteries) clause number.....

.....
Authorised Officer

<u>Clause No.</u>	<u>Nature of Offence</u>	<u>Penalty</u>
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You may dispose of this matter—

By payment of the penalty as shown within 21 days of the date of this notice to the Town of Port Hedland.

If neither the prescribed penalty is paid nor representation is made within the time specified, court proceedings may be instituted against you and the matter then determined by a court.

Please make cheques payable to the Town of Port Hedland. Payments by mail should be addressed to—

Chief Executive Officer, Town of Port Hedland, Po Box 41, Port Hedland WA 6721.



Third Schedule

CEMETERIES ACT 1986

Town of Port Hedland Local Law (Cemeteries)

WITHDRAWAL OF INFRINGEMENT NOTICE

No:

Date

To ⁽¹⁾

Infringement Notice No dated...../...../.....

For the alleged offence of ⁽²⁾

Penalty ⁽³⁾ \$.....is here by withdrawn

.....
Authorised Officer

(Delete whichever does not apply)

- * No further action
- * 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.



