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LOCAL GOVERNMENT ACT 1995

CEMETERIES ACT 1986

CITY OF MANDURAH

**CEMETERIES
LOCAL LAW 2010**

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CEMETERIES ACT 1986**

CITY OF MANDURAH

CEMETERIES LOCAL LAW 2010

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**LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986**

CITY OF MANDURAH

CEMETERIES LOCAL LAW 2010

Under the powers conferred by the *Cemeteries Act 1986*, *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Mandurah resolved on 27 April 2011 to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Mandurah Cemeteries Local Law 2010*.

1.2 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 as may be contained in a standard sized ashes container;

authorised person means a person authorised by the Council, under section 9.10 of the Act to perform all or any of the functions conferred on an authorised person under this local law;

Board means the City of Mandurah;

Cemetery means the Lakes Lawn Cemetery and the Old Mandurah Cemetery which the Governor by order has vested under the care, control and management of the Board;

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

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

funeral director means a person holding a current funeral director's licence;

funeral director's Licence means a licence issued by the Board in accordance with part 4 which entitles the holder to conduct funerals at the Cemetery;

ground niche means a specified area of the Cemetery for the placement of ashes not being a wall niche or a grave;

memorial means a memorial plaque as described in clause 7.5, a memorial as described in clause 9.1 or as otherwise approved by the Board;

monumental mason means a person holding a current monumental mason's licence;

niche wall means a building or construction wholly above ground level so constructed as to allow the disposition of ashes into a compartment in the wall or floor and being sealed from view;

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 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.

1.3 Repeal

Part VII of the City of Mandurah Consolidated Local Laws relating to Cemeteries as published in the *Government Gazette* of 13 February 1998 is repealed.

1.4 Application

This local law applies to the Lakes Lawn Cemetery and the Old Mandurah Cemetery located in the district of the City of Mandurah.

1.5 Commencement

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

PART 2—ADMINISTRATION**2.1 Powers and functions of Chief Executive Officer.**

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

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 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 clauses 3.1 shall be accompanied by either a medical certificate of death 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 in the form determined by the Board 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 dispensing with identification in the form determined by the Board from time to time.

3.4 Minimum notice required

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

PART 4—FUNERAL DIRECTORS**4.1 Funeral director's licence expiry**

(1) A funeral director's licence shall expire on 30 June in each year.

(2) A funeral director's licence is not transferable.

4.2 Responsibilities of funeral directors

(1) The Board 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.

(2) The 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 local law; and
 - (iii) the Act; and
- (b) any conditions imposed by the Board in respect of that licence.

4.3 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.

4.4 Application refusal

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

PART 5—FUNERALS*Division 1—General***5.1 Receipt of an application for a funeral**

Upon receipt of a properly completed application form, in the form determined by the Board from time to time, and the satisfaction of all other requirements of this local law, the Board may—

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

5.2 Fixing times for a funeral

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

5.3 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—
 - (i) Monday—Friday; 9:00 a.m. to 3:00 p.m.
 - (ii) Saturdays, Sundays and Public Holidays; 8:30 a.m. to 11:00 a.m.
- except with the written permission of the Board or its authorised person.

(2) The Board may, by notice displayed at the Board's Office and at the cemetery at least one week before a Public Holiday, close the 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 Board.

5.4 Requirements for funerals and coffins

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

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law; and
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid;
 - (i) under the plate referred to in subclause (b); and
 - (ii) 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.

5.5 Funeral processions

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

5.6 Vehicle entry restricted

- (1) Subject to subclause (2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.7 Vehicle access and speed limitation

- (1) A person shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the Chief Executive Officer.
- (2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 25 km per hour, and shall comply with the signs and directions in the cemetery.

5.8 Offenders may be ordered to leave

- (1) A person committing an offence under clause 5.7 may be ordered to leave the cemetery by the CEO or an authorised person.
- (2) A person who has been ordered to leave the cemetery by the CEO or an authorised person is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony in procession.

5.9 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 a funeral to be lodged with it;
- (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) bury a dead body only when a permit to bury has been obtained for that body;
- (e) specify an area in the 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 local law;
- (g) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

*Division 2—Placement of Ashes***5.10 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 Board may grant permission for the ashes to be disposed of by one of the following methods—

- (a) niche wall
- (b) ground niche
- (c) family grave
- (d) scattering to the winds
- (e) other memorials approved by the Board

(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 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 person may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the 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 750 mm, unless that person has the permission of an authorised person; or
- (b) in any circumstances less than 600 mm.

(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.

PART 7—MEMORIALS AND OTHER WORK*Division 1—General***7.1 Use of wood**

No wooden fence, railing, cross, other wooden erection or temporary marker shall be allowed on or around any grave.

7.2 Plants and trees

No trees or shrubs shall be placed on any grave or within the cemetery except such as shall be approved by the Chief Executive Officer.

7.3 Supervision

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

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

*Division 2—Memorial Plaque Section***7.5 Requirements of a memorial plaque**

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

- (a) be made of admiralty bronze;
- (b) not be less than the dimensions 380 mm x 280 mm, nor more than 560 mm x 305 mm;
- (c) not exceed 20 mm in thickness; and
- (d) be placed upon a base mounting approved by the Board.

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

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 the cemetery, other than with the approval of the CEO or an authorised person.

8.2 Dogs

Dogs are permitted to be walked in the cemetery provided—

- (a) they are restrained by the means of a leash or chain no longer than 2 m in length and under the control of a person capable of controlling the dog at all times; and
- (b) the person responsible for the dog whilst in the cemetery removes any excreta in accordance with the *City of Mandurah Dogs Local Law 2010* and disposes of such excreta in an appropriate receptacle.

8.3 Prohibited activities

Unless the prior written approval of the Board or an authorised person has been obtained a person shall not—

- (a) swim or wade in or remove fish or wildlife from lakes, tanks or other water features;
- (b) camp; or
- (c) light a fire;

within the Cemetery.

8.4 Recording

A person shall not record or film a funeral or memorial within the cemetery without the prior approval of the next of kin of the deceased person whose funeral or memorial is being held.

8.5 Damaging and removing of objects

Subject to clause 8.6, 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 Board without the permission of the Board.

8.6 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.

8.7 Littering and vandalism

A person shall not—

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery; or
- (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.

8.8 Advertising

(1) A person shall not advertise or carry on any trade, business or profession within the cemetery without the prior written approval of the Board.

(2) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

8.9 Obeying signs and directions

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

8.10 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 Board, the CEO or an authorised person is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered by the Board, the CEO or an authorised person to leave the cemetery for a period of not less than 12 hours.

PART 9—LAKES LAWN CEMETERY

This Part applies to the Lakes Lawn Cemetery only.

9.1 Flowers and memorials

- (1) The Cemetery is a lawn cemetery and all flowers must be placed in vases or receptacles provided.
- (2) An authorised person will remove all withered flowers on Monday of each week and all faded and unsightly plastic or artificial flowers and memorials on the last Monday of each calendar month.
- (3) No person shall place or affix by any method any wooden, metal, plastic or stone memorials or vases, statues or photographs, pots or other memorials within the Cemetery or on the concrete plinth without the approval of an authorised person.

PART 10—OLD MANDURAH CEMETERY

This Part applies to the Old Mandurah Cemetery only.

*Division 1—Memorial Plaques***10.1 Application for monumental work**

A Board 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.

10.2 Placement of monumental work

- (1) Every memorial shall be placed on proper and substantial foundations.

(2) A person shall not display any trade names or marks upon any monument erected within the cemetery.

(3) An admiralty bronze memorial plaque may be attached to a monument erected or being erected the cemetery.

10.3 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 works.

10.4 Operation of work

All material required in the erection and completion of any work shall, as far as practicable, be prepared before being taken to the cemetery, and all materials required by persons carrying out the works shall be admitted at such entrance as the CEO or an authorised person shall direct.

10.5 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 Board.

10.6 Hours of work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than between the hours of 8:15 a.m. and 4:00 p.m. on weekdays or 8:15 a.m. and noon on Saturdays without the written permission of the Board.

10.7 Unfinished work

Should any work by masons or others be not completed before 4:00 p.m. on weekdays or noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised person.

Division 2—Licensing of Monumental Masons

10.8 Monumental mason's licence expiry

(1) A monumental mason's licence shall, subject to clause 10.12, expire on 30 June in each year.

(2) A monumental mason's licence is not transferable.

10.9 Monumental mason's licence

(1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a 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 Board shall specify upon the issue of that licence.

10.10 Carrying out monumental work

(1) 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 10.9; or
- (b) is an employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

10.11 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 the cemetery pursuant to that licence this local law and any other written law which may affect the carrying out of monumental works.

10.12 Cancellation of a monumental mason's licence

(1) The Board 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 this local law or any other written law which may affect the carrying out of monumental works; or
- (b) that the holder of the licence has purported to transfer the licence issued to that holder to another person.

(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 Board.

PART 11—OFFENCES AND MODIFIED PENALTIES

11.1 General

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 \$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.

11.2 Modified penalties

(1) The offences specified in the 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 the Schedule 1 is set out in the fourth column of the Schedule 1.

(3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Schedule 2.

(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 Schedule 3.

Schedule 1

Local Government Act 1995

Cemeteries Act 1986

City of Mandurah Cemeteries Local Law 2010

MODIFIED PENALTIES

[clause 11.2]

Item No.	Clause	Nature of offence	Modified penalty
1	5.6	Unauthorised vehicle in cemetery	\$50.00
2	5.7	Driving in excess of 25kph in cemetery	\$50.00
3	8.1	Unauthorised animal in cemetery	\$50.00
4	8.3	Prohibited activity without approval	\$50.00
5	8.4	Recording a funeral or memorial without approval	\$50.00
6	8.5	Damage or removal of objects	\$50.00
7	8.7	Littering and vandalism within the cemetery	\$50.00
8	8.8	Unauthorised advertising, and/or trading within the cemetery	\$50.00
9	8.9	Disobeying sign or lawful direction	\$50.00
10	9.1(3)	Unauthorised placement of memorials, vases, statues, photographs or pots	\$50.00
11	10.3	Placement and non removal of rubbish and surplus materials	\$50.00
12	10.5	Unauthorised use of earth or other material taken from another part of the cemetery	\$50.00
13	10.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00

Schedule 2

Local Government Act 1995

Cemeteries Act 1986

City of Mandurah Cemeteries Local Law 2010

INFRINGEMENT NOTICE**FORM—NOTICE OF INFRINGEMENT**

[clause 11.2(3)]

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 *City of Mandurah Cemeteries Local Law 2010*

(Authorised Person)

Offence

- Unauthorised vehicle in cemetery
- Driving in excess of 25kph in cemetery
- Unauthorised animal in cemetery
- Prohibited activity without approval
- Recording a funeral or memorial without approval
- Damage or removal of objects
- Littering and vandalism within the cemetery
- Unauthorised advertising, and/or trading within the cemetery
- Disobeying sign or lawful direction
- Unauthorised placement of memorials, vases, statues, photographs or pots
- Placement and non removal of rubbish and surplus materials
- Unauthorised use of earth or other material taken from another part of the cemetery
- Leaving uncompleted works in an untidy or unsafe condition

Other Offence _____
\$ _____

Subject to the right of the Board to refrain from accepting the modified penalty, you may dispose of the alleged offence either;

- (a) by the payment of the modified penalty shown, within 28 days of the date of the notice to the Cashier, Administration Centre, City of Mandurah, 3 Peel Street (PO Box 210), Mandurah WA 6210, or in person to Ranger Services, 5 Pinjarra Road Mandurah WA, or
- (b) by having it dealt with by a Court.

If this modified penalty is not paid within the time specified, court proceedings may be taken against you under the *Fines, Penalties and Infringement Notice Enforcement Act 1994*. Fines Enforcement Registry Reminder Notices will incur additional costs.

1. INFRINGEMENT NOTICES SERVED PERSONALLY

If you take no action this matter will be registered with the Fines Enforcement Registry after which your Driver's Licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry, additional costs will also be payable. If you chance address it is important that you advise us immediately. Failure to do so may result in your Driver's Licence or any vehicle licence you hold being suspended without your knowledge.

2. INFRINGEMENT NOTICES SERVICED BY POST

If you take no action this matter will be registered with the Fines Enforcement Registry after which your Driver's Licence or any vehicle licence held by you may be suspended. If the matter is registered with the Registry additional costs will also be payable. If the above address is not your current address, or if you change address, it is important that you advise us immediately. Failure to do so may result in your Driver's Licence or any vehicle licence you hold being suspended without your knowledge.

**PLEASE PRESENT THIS NOTICE INTACT WHEN MAKING PAYMENT.
COUNCIL OFFICES TELEPHONE: 9550 3777 FACSIMILE: 9550 3888**

Schedule 3

Local Government Act 1995

Cemeteries Act 1986

City of Mandurah Cemeteries Local Law 2010

**WITHDRAWAL OF INFRINGEMENT NOTICE
FORM—WITHDRAWAL OF INFRINGEMENT**

[clause 11.2(4)]
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 9 May 2011.

The Common Seal of the City of Mandurah was affixed by authority of a resolution of the Council in the presence of—

DARREN GEORGE LEE, Deputy Mayor.
Acting for the Mayor pursuant to section 5.34 of the
Local Government Act 1995 (as amended)

MARK ROBERT NEWMAN , Chief Executive Officer.
