

# **CEMETERIES LOCAL LAW 2017**

## **CITY OF KARRATHA**

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**CEMETERIES ACT 1986**  
**City of Karratha**  
**Cemeteries Local Law 2017**

**PART 1 - PRELIMINARY**

**1.1 Citation**

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

**1.2 Application**

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

**1.3 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 Board – appointed by the Board 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;

“Board” means the City of Karratha;

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

“cemetery” means any of the cemeteries listed in Schedule 2;

“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 Board Guidelines for Cemetery Niche Walls;

“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 Board 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, plaque, tombstone, memorial plaque, monument, inscription, kerbing, enclosure or any other fixture commemorating a grave or the placement of ashes;

“monument” means a tombstone, sculpture, statue or other form of memorial approved by the Board 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 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 described in the *Road Traffic (Administration) Act 2008*;

#### **1.4 Repeal**

The following Local Law is repealed:-

Shire of Roebourne’s Cemeteries Local Law 2002, published in the Government Gazette of 16 June 2003.

#### **1.5 Purpose and Effect**

- (1) The purpose of this local law is to provide for the orderly management of cemeteries in accordance with established plans and to create offences for inappropriate behaviour within cemetery grounds.
- (2) The effect of this local law is that all persons in the administration of the cemeteries, burying deceased in the cemeteries, or otherwise providing services to or making use of the cemeteries, are to comply with the provisions of this Local Law.

### **PART 2 - ADMINISTRATION**

#### **2.1 Powers and Functions of CEO**

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 shall 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 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 (5<sup>th</sup> Schedule) 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 in the form determined by the Board from time to time.

### **3.4 Minimum Notice Required**

Unless the Board determines a lesser time, all bookings to hold a funeral shall be made and paid for with the Board 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 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 gravesite, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

## **PART 5 - FUNERALS**

### **5.1 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;
- (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; 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 Board 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 Board 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 Board**

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

- (a) require a written request to be lodged with the Board 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;
- (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 Board would impact on a reopening occurring shall only be removed by a monumental mason, unless otherwise approved by the Board, and stored off site.
- (2) Board approval is required before the reconstruction of any removed monument can take place to ensure compliance with the Act and these Local Laws. 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 Board, 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 Board 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
  - (d) Other memorials approved by the Board
- (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 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 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 sub-clause (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 Board, subject to the person making the request agreeing to meet the full construction cost, shall not construct a brick grave, crypt, vault or mausoleum within the 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) A person making the request agrees to meeting the full construction cost of a 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; 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.

## **PART 7 - MEMORIALS AND OTHER WORK**

### **Division 1 - General**

#### **7.1 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.

## **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 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 Board 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 Board 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 Board.
- (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 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 Board 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 Board or an authorised person.

- (2) The Board 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 Board or an authorised person.
- (2) The Board 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 Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the Board or an authorised person and shall obey such directions as the Board 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 Board 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 Board 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 Board, 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 Board 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 sub-clause (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.

#### **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 Board 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 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 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 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 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 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 Board.

#### **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 Board.

## **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 Board 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 Board without the permission of the Board.

### **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 Board for that purpose.
- (3) The Board 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 Board which consent may be granted subject to such conditions as the Board thinks fit.

### **8.5 Obeying Signs and Directions**

- (1) A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery or by any other lawful direction by the Board or an authorised person.
- (2) Vehicles must adhere to any speed signs that may be displayed, marked, placed or erected by the Board 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 Board, 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 Board, 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**  
**CEMETERIES ACT 1986**  
**City of Karratha**  
**Cemeteries Local Law 2017**

Modified Penalties

<b>Item No</b>	<b>Clause</b>	<b>Nature of Offence</b>	<b>Modified Penalty</b>
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**  
**CEMETERIES ACT 1986**  
**City of Karratha**  
**Cemeteries Local Law 2017**

Gazetted Cemeteries

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