

**LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986**

SHIRE OF EAST PILBARA

CEMETERIES AMENDMENT LOCAL LAW 2020

Under the powers conferred by the *Local Government Act 1995*, the *Cemeteries Act 1986* and all other powers enabling it, the Council of the Shire of East Pilbara resolved on 28 August 2020 to make the following local law.

1. Citation

This local law is cited as the *Shire of East Pilbara Cemeteries Amendment Local Law 2020*.

2. Commencement

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

3. Principal Local Law

This local law amends the *Shire of East Pilbara Cemeteries Local Law 2010* as published in the *Government Gazette* on 17 January 2011.

4. Clause 2.4 replaced

Clause 2.4 is deleted and replaced with—

2.4 Issuing grants

The local government may, upon the written application of a person and upon payment of a set fee, issue that person with a grant for a term of 25 years.

5. Clause 2.7 amended

Clause 2.7(2) is deleted and replaced with—

(2) Notwithstanding subclause (1), the local government may, prior to issuing a replacement grant, require the holder to make a statutory declaration.

6. Clause 2.8 amended

Clause 2.8(1)(a) is deleted and replaced with—

(a) Make an application to the local government; and

7. Clause 3.1 amended

Clause 3.1(1) is deleted and replaced with—

(1) A person may apply for approval to bury a dead body in the cemetery.

8. Clause 3.3 replaced

Clause 3.3 is deleted and replaced with—

3.3 Certificate of identification

(1) After a dead body is placed in a coffin and prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification, unless—

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

(2) Where—

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

then the funeral director shall complete a certificate to that effect.

9. Clause 4.2 replaced

Clause 4.2 is deleted and replaced with—

4.2 Funeral director's licence

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

(2) If the application referred to in subclause (1) is approved by the local government, the local government shall issue to the applicant a licence.

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

10. Clause 4.6 amended

Clause 4.6(1) is deleted and replaced with—

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

11. Clause 5.6 amended

(1) Clause 5.6(1) is deleted and replaced with—

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

- (a) niche wall;
- (b) family grave;
- (c) bush memorial; or
- (d) other memorials approved by the local government.

(2) In clause 5.6 (2), the words 'in the form prescribed in Schedule 14' are deleted.

12. Clause 7.1 amended

Clause 7.1(1)(a) is deleted and replaced with—

- (a) the written application of a person; and

13. Clause 7.18 replaced

Clause 7.18 is deleted and replaced with—

7.18 Application for single monumental work permit

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

(2) Every application for a single monumental work permit under subclause (1) shall include an application for monumental work.

14. Clauses 8.1 and 8.2 deleted and replaced

Clause 8.1 and 8.2 are deleted and replaced with—

8.1 Animals

A person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an 'assistance animal' as defined in section 9(2) of the *Disability Discrimination Act 1992 (Cth)* or with the approval of the CEO.

15. Schedules deleted

Schedules 4 to 17 inclusive are deleted.

Dated 28 August 2020.

The Common Seal of the Shire of East Pilbara was affixed by authority of a resolution of the Council in the presence of—

Cr LYNNE CRAIGIE OAM, President.
JEREMY EDWARDS, Chief Executive Officer.

Cemeteries Act 1986
Local Government Act 1995

SHIRE OF EAST PILBARA

CEMETERIES LOCAL LAW 2010

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Cemeteries Act 1986
Local Government Act 1995

SHIRE OF EAST PILBARA

CEMETERIES LOCAL LAW 2010

Under the power conferred by the *Cemeteries Act 1986* and under all other powers enabling it, the local government of the Shire of East Pilbara resolved on 17 December 2010 to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law is the *Shire of East Pilbara Cemeteries Local Law 2010*.

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 the Marble Bar, Nullagine and Newman cemeteries in the district.

1.4 Interpretation

(1) In this local law unless the contrary otherwise requires –

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

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

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

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

“**CEO**” means the Chief Executive Officer of the local government;

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

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

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

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

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

“**district**” means the district of the local government;

- “funeral”** includes the burial and cremation of a dead body and all associated processions and ceremonials but does not include so much of a ceremonial that is solely a religious rite;
- “funeral director”** means a person, firm or company holding a current funeral director’s licence;
- “funeral director’s licence”** means a licence issued by the local government in accordance with clause 4.2, which entitles the holder to conduct funerals at the cemeteries;
- “grant”** means a grant of an exclusive right of burial in a specified area of a cemetery which is granted by the local government in accordance with section 25 of the Act;
- “grave”** means a grave situated in a cemetery in respect of which a grant has been made under and in accordance with the Act and this local law;
- “guide dog”** has the same meaning as is given to that expression in the *Dog Act 1976*;
- “holder”** in relation to a grant includes –
- (a) a person issued with a grant by the local government;
 - (b) a person for the time being appearing to the local government to be the holder of that grant;
- “local government”** means the Shire of East Pilbara;
- “mausoleum”** means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;
- “memorial”** has the same meaning as is given to it in the Act;
- “military grave”** means a grave eligible for commemoration by the Office of Australian War Graves;
- “monument”** includes a tombstone, vault, enclosure or other approved form of memorial;
- “monumental mason”** means a person, firm or company holding a current monumental mason’s licence;
- “monumental mason’s licence”** means a licence issued by the local government;
- “monumental work”** when the term is used as an abstract noun shall include the erection, alteration or removal of or other working upon a monument on a grave;
- “personal representative”** means –
- (a) the administrator or the executor of an estate of the will of a deceased person;
 - (b) the person who, by law or practice, has the right to apply for administration of the estate of a deceased person; or
 - (c) a person having the lawful custody of a dead body;
- “set fee”** refers to fees and charges set by a resolution of the local government and published in the *Government Gazette*, under section 53 of the Act;
- “single funeral permit”** means a permit issued by the local government 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 local government; and

“**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.

- (2) Reference to any Act or local law means that Act or local law as amended from time to time and includes all regulations made thereunder.
- (3) This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2).

* Paragraph (3) was inserted on 23 December 2014 by way of global amendment by the Governor. This provision is effective from the date of gazettal on 6 January 2015.

1.5 Repeal

The *Shire of East Pilbara Local Law relating to the Marble Bar, Nullagine and Newman Cemeteries*, published in the *Government Gazette* on 10 November 2000 is hereby repealed.

PART 2 – ADMINISTRATION

Division 1 - General

2.1 Powers and functions of CEO

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

2.2 Appointment of employees

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

2.3 Plans and registers

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

*Division 2 – Right of Burial***2.4 Issuing grants**

The local government may, upon the written application of a person and upon payment of a set fee, issue that person with a grant for a term of 25 years.

(1) .

2.5 Rights of holder

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

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

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

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

2.6 Renewal of grant

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

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

the local government may, at its discretion, renew the grant for a further term of 25 years commencing on the expiry date of the grant.

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

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

(4) The holder shall forthwith, upon receiving a request by the local government in accordance with subclause (3), deliver the existing grant to the local government.

2.7 Replacement of grant

(1) The local government may, upon –

- (a) written application of a holder;
 - (b) payment of a set fee by the holder; and
 - (c) production of evidence by the holder, to the satisfaction of the local government, that a grant has been lost or destroyed,
- issue a new grant to replace a grant which is lost or destroyed.

(2) Notwithstanding subclause (1), the local government may, prior to issuing a replacement grant, require the holder to make a statutory declaration.

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

2.8 Transfer of grant

(1) A holder who desires to transfer a grant to another person shall –

- (a) make an application to the local government; and
- (b) pay a set fee.

- (2) Upon receipt of the application, the local government may grant permission in accordance with section 26 of the Act.

2.9 Exercising the rights of holder

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

PART 3 – APPLICATION FOR FUNERALS

3.1 Application for burial

- (1) A person may apply for approval to bury a dead body in the cemetery.
- (2) An application referred to in subclause (1) is to be accompanied by –
- (a) the set fee; and
 - (b) evidence to the satisfaction of the local government that the holder of the grant, in respect of the grave in which the body is intended to be buried, has consented to or would not object to the burial; or
 - (c) an application for a grant.

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 or a Coroner's order of burial, and a certificate issued under clause 3.3 in respect of a dead body.

3.3 Certificate of identification

- (1) After a dead body is placed in a coffin and prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification, unless –
- (a) in the opinion of a funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort, the funeral director is unable to arrange for a person to identify the dead body.
- (2) Where –
- (a) in the opinion of a funeral director, a dead body is not in a fit state to be viewed or;
 - (b) after reasonable effort, the funeral director is unable to arrange for a person to identify the dead body,
- then the funeral director shall complete a certificate to that effect.

3.4 Minimum notice required

All bookings to hold a funeral shall be made with the local government not less than 2 working days prior to the time proposed for a burial or cremation on the application otherwise an extra charge may be made.

3.5 Fixing times for funeral

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

3.6 Receipt of application for funeral

Where an application is received by the local government in accordance with clause 3.1, then subject to any other provision of this local law, the local government shall –

- (a) fix a time for a funeral; and
- (b) prepare a grave that is required.

3.7 Times for burials

A person shall not carry out a burial –

- (a) on a gazetted public holiday in the State of Western Australia; or
- (b) at any other time other than during the following days and hours –
 - (i) Monday to Friday between 9 a.m. and 4 p.m.; or
 - (ii) Saturday between 9 a.m. and 12 p.m.,

except with the written permission of the local government.

PART 4 – FUNERAL DIRECTORS**4.1 Directing a funeral**

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

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

4.2 Funeral director's licence

- (1) The local government may, upon the receipt of an application in writing and upon payment of a set fee, issue to an applicant a funeral director's licence authorising a holder to direct funerals within a cemetery at such times and on such days and subject to such conditions as the local government shall specify and in compliance with the provisions of this local law.
- (2) If the application referred to in subclause (1) is approved by the local government, the local government shall issue to the applicant a licence.
- (3) A person who is the holder of a current funeral director's licence may apply for a new licence for the following year by lodging with the local government an application form and upon payment of the set fee.

4.3 Funeral director's licence expiry

A funeral director's licence –

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

4.4 Responsibilities of holder of funeral director's licence

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

- (a) all the requirements of –
 - (i) the licence;
 - (ii) this local law;
 - (ii) the Act; and
- (b) the conditions imposed by the local government in respect of that licence.

4.5 Cancellation of funeral director's licence

- (1) The local government may, by notice in writing to a holder of a funeral director's licence, cancel a licence if –
 - (a) the holder of the licence or any employee of the holder has committed a breach of this local law, the Act or any of the conditions upon which the licence was issued;
 - (b) in the opinion of the local government, the conduct of the holder of the funeral director's licence or any employee of the holder in directing or attempting to direct a funeral within a cemetery, is inappropriate or unbecoming;
 - (c) the holder of the funeral director's licence has purported to transfer the licence issued to that holder;
 - (d) the funeral director's licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;
 - (e) the fee for the funeral director's licence is due and unpaid;
 - (f) the holder of the funeral director's licence is convicted of an offence against this Act or the local law; or
 - (g) the local government is no longer satisfied that the holder of the funeral director's licence –
 - (i) is of good repute and is fit to hold the funeral director's licence; or
 - (ii) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals.
- (2) Upon the cancellation of the licence pursuant to subclause (1), no part of any fee paid for the issue of that licence is refundable by the local government.

4.6 Single funeral permits

- (1) The local government may, upon receipt of an application in writing by a person and upon payment of a set fee, issue to an applicant a single funeral permit authorising a holder to direct a funeral of the person named in a permit within a cemetery at such time and subject to such conditions as the local government shall specify upon the issue of that permit or in this local law.
- (2) Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of a vehicle transporting a dead body to a gravesite.
- (3) The local government may refuse an application for a single funeral permit if, in the opinion of the local government, either a coffin's 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.

4.7 Review of decision

An aggrieved person whose licence has been cancelled or suspended under this part may appeal to the State Administrative Tribunal against a decision of the local government under this part and in the manner stated in section 19 of the Act.

PART 5 – FUNERALS

Division 1 – General

5.1 Requirements for funerals and coffins

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

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

5.2 Funeral processions

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

5.3 Vehicle entry restricted

- (1) Subject to clause 5.3(2), every funeral procession shall enter by a principal entrance and no vehicle, except a hearse and official mourning coaches, shall be permitted to enter a cemetery.
- (2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

5.4 Vehicle access and speed limitations

- (1) A person shall –
 - (a) drive a vehicle on the access way, constructed roadway or vehicular pathway or other area designated for the use of vehicles within a cemetery; and
 - (b) not exceed the speed limit of 25 kilometres per hour; and
 - (c) park the vehicle in a designated area indicated by a sign or structure or device that guides and directs the vehicle.
- (2) A person who contravenes subclause (1) shall be ordered to leave the cemetery in accordance with clause 8.8.

5.5 Conduct of funeral by local government

When conducting a funeral under section 22 of the Act, the local government may –

- (a) require a written request for the local government to conduct the funeral, and such request to be lodged with the local government;
- (b) in its absolute discretion, charge a person a set fee for the conduct of that funeral by the local government;
- (c) where no fee or a reduced fee has been charged by the local government to conduct the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in a 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 to be done, which the local government considers is necessary or convenient for the conduct of the funeral by the local government.

Division 2 – Placement of ashes

5.6 Disposal of ashes

- (1) A personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 for permission to dispose of the ashes in a cemetery and upon payment of a set fee, the local government may grant permission for the ashes to be disposed of by one of the following methods –
 - (a) niche wall;
 - (b) family grave;
 - (c) bush memorial; or
 - (d) other memorials approved by the local government.
- (2) If the application referred to in subclause (1) is approved by the local government, the local government may issue to the applicant an authority.
- (3) Subject to subclauses (4) and (5), a person shall not place the ashes of the deceased person in the cemetery.
- (4) An authorised officer may place the ashes of the deceased person in the cemetery in accordance with the local government approval provided –
 - (a) the person requesting the placement of the ashes has the permission of the local government; and
 - (b) the ashes are placed within an area set aside for that purpose by the local government.
- (5) An authorised officer may place the ashes of the deceased person within a grave in accordance with local government approval provided, the person requesting the placement of the ashes has lodged evidence to the satisfaction of the local government that a holder of the grant in respect of the grave in which the ashes are to be placed, has consented to or would not object to the placement and has the written permission of the local government.

PART 6 – BURIALS

6.1 Depth of graves

- (1) A person shall bury a coffin, within a cemetery, so that the distance between the top of the coffin and the original surface of the ground is –
 - (a) not less than 750 mm, unless that person has the permission of an authorised officer; or
 - (b) in any circumstances not less than 600 mm.
- (2) The permission of an authorised officer in subclause (1)(a) will only be granted where, in the opinion of the authorised officer, exceptional circumstances require granting of that permission.

6.2 Vaults and mausoleums

- (1) A person, other than those approved by the local government, shall not construct a brick grave, crypt, vault or mausoleum within a cemetery.
- (2) The local government may, upon receipt of an application in writing by any person and upon payment of the set fee, approve the construction of a vault or mausoleum within a cemetery, which vault or mausoleum shall at all times remain the property of the local government.
- (3) A mausoleum must be –
 - (a) constructed of brick, stone, concrete or similar durable material;
 - (b) be adequately ventilated and drained;
 - (c) vermin proof; and
 - (d) capable of being secured against entry by vandals or other unauthorised persons.
- (4) A person shall not place a dead body in a mausoleum except –
 - (a) in an enclosed coffin;
 - (b) in a soundly constructed chamber; and
 - (c) in accordance with subclause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.
- (6) The applicant shall ensure that as soon as possible after a dead body is placed in a mausoleum, the front of the chamber is sealed with a slab of impervious material and faced with a substantial stone, slate or other material approved by the local government.

6.3 Re-opening a grave

- (1) Subject to subclause (2), if, for the purpose of re-opening a grave in a cemetery, the local government finds it necessary to remove a monument, edging, tiles, plants, grass, shrubs or other like matter from the grave, then a person ordering a re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.
- (2) If a Minister orders the exhumation of a body in accordance with section 58 of the Act then, the Minister may further order how and by whom the costs referred to in subclause (1) shall be met.
- (3) In this clause, the word “**Minister**” has the same meaning as is given to that expression in the Act.

6.4 Disinterring a coffin

- (1) Subject to subclause (2), a person shall not disinter a coffin in a cemetery, for the purposes of re-burial, within 12 months after the date of its interment.
- (2) Subclause (1) shall not apply where the coffin is disinterred for the purposes of an exhumation of a dead body and the exhumation is ordered or authorised pursuant to the Act.

6.5 Exhumation

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

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

6.6 Opening a coffin

- (1) A person shall not open a coffin in a cemetery unless –
 - (a) the coffin is opened for the purposes of an exhumation of a dead body; or
 - (b) that person has produced to the local government an order signed by the Commissioner of Police and the local government has approved the opening of that coffin.
- (2) In this clause, “**Commissioner of Police**” means a Commissioner of Police for the time being appointed under the *Police Act 1892* and includes a person for the time being acting in that capacity in the absence of the Commissioner of Police.

PART 7 – MEMORIALS AND OTHER WORK*Division 1 – General***7.1 Application for monumental work**

- (1) Upon –
 - (a) the written application of a person; and
 - (b) payment of a set fee,the local government may issue to that person a permit to carry out monumental work on a grave specified in an application on the dates, at the times and subject to the conditions specified by the local government.
- (2) An application referred to in subclause (1) shall be accompanied by –
 - (a) the plans and specifications of the proposed monumental work, including precise details of all words, designs and pictures intended to be inscribed on or attached to the monumental work;
 - (b) if the applicant is not a holder of a grant in respect of a grave on which the work is to be carried out, the written consent of the holder or authorised representative.

7.2 Placement of monumental work

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

7.3 Removal of rubbish

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

7.4 Operation of work

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

7.5 Removal of sand, soil or loam

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

7.6 Hours of work

A person shall not be permitted to carry out memorial or other work on graves within a cemetery other than during the hours of 8 a.m. and 6 p.m. on weekdays, and 8 a.m. and noon on Saturdays, without the permission of the local government.

7.7 Unfinished work

Should any work by masons or others not be completed before 6 p.m. on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

7.8 Use of wood

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

7.9 Plants and trees

No trees or shrubs shall be planted on a grave or within a cemetery except with the prior approval of the local government.

7.10 Supervision

All workers, whether employed by the local government or by any other person shall, at all times, whilst within the boundaries of a cemetery, be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer 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; and
- (b) is not required to pay a set fee for any memorial that is placed upon the military grave.

7.12 Placing of glass domes and vases

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

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

Division 2 – Licensing of monumental masons

7.13 Monumental mason's licence

- (1) The local government may, upon receipt of an application in writing and upon payment of a set fee, issue to an applicant a monumental mason's licence.
- (2) A licence issued under subclause (1) authorises a holder to carry out monumental works within a cemetery subject to the provisions of this local law and such conditions as the local government shall specify upon the issue of that licence.

7.14 Expiry date, non-transferability

A monumental mason's licence –

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

7.15 Carrying out monumental work

A person shall not carry out monumental work within a 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 an employee of the person who holds such a licence; or
- (b) is authorised by the local government to do so.

7.16 Responsibilities of holder of monumental mason's licence

A holder of a monumental mason's licence shall be responsible for the compliance, by every person purporting to be authorised, to carry out monumental works within a cemetery pursuant to that licence with all the requirements and conditions of 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 monumental mason's licence

- (1) The local government may, by notice in writing to a holder of a monumental mason's licence, terminate a licence on any of the following grounds –
 - (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this 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 local government, 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;

- (c) that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason's licence under this clause, no part of a fee paid for the issue of the licence is refundable by the local government.

7.18 Application for single monumental work permit

- (1) The local government may, upon receipt of an application in writing by a person and upon payment of a set fee, issue to an applicant a single monumental work permit authorising a holder to place a monument within a cemetery subject to such conditions as the local government shall specify upon the issue of that permit or in this local law.
- (2) Every application for a single monumental work permit under subclause (1) shall include an application for monumental work.

PART 8 – GENERAL

8.1 Animals

A person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than an 'assistance animal' as defined in section 9(2) of the *Disability Discrimination Act 1992 (Cth)* or with the approval of the CEO.

Damaging and removing of objects

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

8.4 Withered flowers

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

8.5 Littering and vandalism

A person shall not –

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

8.6 Advertising

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

8.7 Obeying signs and directions

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

8.8 Removal from cemetery

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

PART 9 – OFFENCES AND MODIFIED PENALTIES**9.1 Offences**

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 and, if the offence is a continuing one, a further penalty not exceeding \$20 for every day or part thereof 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 column 4 of Schedule 1.

9.3 Form of notices

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

Schedule 1
OFFENCES AND MODIFIED PENALTIES

[cl 9.2(1) & (2)]

Item No.	Clause	Nature of offence	Modified penalty
1	5.4	Failure to drive vehicle on designated access way, roadway or vehicular pathways or designated areas	\$50.00
2	5.4	Failure to drive vehicle under speed limit of 25 km/hr	\$50.00
3	7.3	Failure to remove rubbish and surplus materials	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Bringing an animal into or permitting an animal to enter or remain in a cemetery without approval	\$50.00
6	8.5	Littering and/or vandalism	\$50.00
7	8.6	Unauthorised advertising and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00

Schedule 2 – Form 1
INFRINGEMENT NOTICE

[cl 9.3(1)]

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 *Shire of East Pilbara Cemeteries Local Law 2010*.

(Authorised Person)

Offence

- ☐ Excessive speed in vehicle (cl 5.4)
- ☐ Unauthorised vehicle use (cl 5.4)
- ☐ Non removal of rubbish and surplus materials (cl 7.3)
- ☐ Leaving uncompleted works in an untidy or unsafe condition (cl 7.7)
- ☐ Animal at large (cl 8.1)
- ☐ Littering and/or vandalism (cl 8.5)
- ☐ Unauthorised advertising and/or trading (cl 8.6)
- ☐ Disobeying sign or lawful direction (cl 8.7)
- ☐ Other offence _____

\$ _____

You may dispose of this matter –

By payment of the penalty as shown, within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date), to the CEO, Shire of East Pilbara Administration Centre, Corner Kalgan and Newman Drives, Newman or from the Marble Bar Administration Centre, Francis Street, Marble Bar, between the hours of 8:30 a.m. to 4 p.m., Monday to Friday.

Please make cheques payable to the “Shire of East Pilbara.” Payments by mail should be addressed to –

The Chief Executive Officer
Shire of East Pilbara
PMB 22
NEWMAN WA 6753

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

Schedule 3 – Form 2
WITHDRAWAL OF INFRINGEMENT NOTICE

[cl 9.3(2)]

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

(Authorised Person)

[1] Insert name and address of alleged offence

[2] Insert short particular of offence alleged.

[3] Insert amount of penalty prescribed.
