

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF NARROGIN

CEMETERY LOCAL LAW 2016

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**CEMETERIES ACT 1986
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SHIRE OF NARROGIN

CEMETERY LOCAL LAW 2016

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Narrogin resolved on _____ to adopt the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Narrogin Cemetery Local Law 2016*.

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 Narrogin Cemetery (Reserve 1875) located in the district.

1.4 Repeal

The *Bylaws Relating to Narrogin General Cemetery (Reserve 745)* published in the *Government Gazette* on 24 February 1950, and amended from time to time are repealed.

1.5 Definitions

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 cremation urn of which the volume does not exceed 4,000 cubic centimetres, or such greater volume as approved by the CEO in writing;

assistance animal has the meaning set out in the *Disability Discrimination Act 1992* (Commonwealth);

authorised person means a person –

- (a) appointed by the local government under section 9.10 of the *Local Government Act 1995* for the purposes of performing any function or exercising any power, other than the giving of infringement notices, conferred upon an authorised person by this local law; or
- (b) authorised under section 64 of the Act to give infringement notices;

Board means the Council of the local government;

business day means any week day other than a public holiday in Western Australia;

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

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

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

disability has the meaning set out in the *Disability Discrimination Act 1992* (Commonwealth);

district means the district of the local government;

funeral director means a person –

- (a) holding current membership of –
 - (i) the Australian Funeral Directors Association, or
 - (ii) the National Funeral Directors Association; or
- (b) a person authorised by the personal representative of a deceased person, and approved by the CEO;

grant of right of burial means a right granted under clause 2.3 for immediate burial of a dead body, and for the purposes of this local law, includes placement of ashes in a grave, the niche wall or under a memorial plaque, or scattering of ashes within the cemetery;

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

interment includes, as the case may be –

- (a) burial of a dead body;
- (b) placement of ashes in a grave, niche wall or under a commemorative plaque; or
- (c) scattering of ashes;

interment permit means a single funeral permit issued by the local government under section 20 or 21 of the Act which entitles the holder to conduct the interment of a person named in the permit, and includes placement of ashes in a niche wall or memorial local, or scattering of ashes;

local government means the Shire of Narrogin;

mausoleum means a burial chamber 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;

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

monument means a sculpture, statue, cover of a grave or other form of memorial approved by the local government commemorating a grave or the placement of ashes, other than a headstone or memorial plaque;

natural stone means –

- (a) any variety of non-fabricated, naturally occurring stone or rock; or
- (b) any fabricated compound or fabricated aggregate which, in the opinion of the local government, has similar durability and aesthetic qualities as the materials specified in paragraph (a) above, suitable for decorative purposes and monumental sculpture and includes granite, but not glass, porcelain, ceramics or any pottery;

personal representative means –

- (a) the administrator or executor of an estate of a deceased person;
- (b) the person who, by law of practice, has the right to apply for administration of the estate of the deceased person; or
- (c) a person having the lawful custody of a dead body;

reservation means the pre-need purchase of a certificate made under clause 2.4 setting aside for use of the person reserving the grave, niche or memorial position, prior to any grant of right of burial made under clause 2.3;

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;

standard grave means a grave which does not exceed any of the following dimensions: 2m long, 1.2m wide and 2.1m deep;

utility services means municipal or public services and include the supply of water, electrical power, gas and refuse, building waste and sewerage disposal services;

vault means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board; and

vehicle includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, and includes a bicycle and a skateboard.

PART 2 - ADMINISTRATION

2.1 Powers and functions of CEO

Unless a matter is specified to be determined by the Board, the CEO shall exercise all the powers and functions of the local government in respect of the cemetery.

2.2 Plans

- (1) The local government shall establish and maintain a plan of the cemetery showing –
 - (a) the location of areas set aside for burials, niche wall compartments, and placement of ashes in a garden;
 - (b) the location of an area to be used only for burials of persons of a particular religious denomination;
 - (c) the location of different areas of the cemetery to which different requirements for memorials apply;
 - (d) the location of areas set aside for the works and other uses as specified in sections 24(2)(a) and (b) of the Act; and
 - (e) areas restricted in accordance with clause 2.6.
- (2) The Board may from time to time establish and vary the boundaries of any area referred to in subclause (1).
- (3) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the local government.

2.3 Grant of right of burial

- (1) Upon payment of the set fee, a grave, niche compartment or memorial location shall be granted right of burial for a period in accordance with section 25(1) of the Act.
- (2) Upon payment of the set fee, a grant of right of burial shall be extended for a further period in accordance with section 25(2) or (4) of the Act..
- (3) A grant of right of burial made and recorded at the commencement of this local law, shall remain valid for the periods specified by the Act.
- (4) If the local government refuses to an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.4 Pre-need services

- (1) Prior to issue of a grant of right of burial, and upon payment of the set fee, pre-need purchase of a certificate (reservation) for a specific position of gravesite, niche compartment or memorial location may be approved for a period not exceeding five years.
- (2) Upon payment of the set fee, pre-need purchase of a certificate may be renewed for a further period not exceeding five years.
- (3) Cancellation of a pre-need purchase certificate may be made by the person holding the reservation or authorised representative at any time.
- (4) For avoidance of doubt, pre-need purchase of a certificate is not a grant of right of burial.
- (5) If the local government refuses to an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.5 Local government may enter into an agreement for maintenance

The local government may enter into an agreement with the holder of a grant of right of burial under clause 2.3 or holder of a pre-need certificate under clause 2.4 for the maintenance of an area of the cemetery at the expense of the holder.

2.6 Historical Indigenous areas

- (1) No interments or memorials are permitted in the portions of the cemetery identified by the Board under clause 2.2, except with the specific approval of the Board, as records of burials in this area are unobtainable, or pre-date establishment of the district.
- (2) Should evidence be discovered, reporting requirements of section 15 or section 41 of the Aboriginal Heritage Act 1972, as the case may require, shall be complied with.

PART 3 - APPLICATION FOR INTERMENT

3.1 Application for interment permit

- (1) A funeral director may apply for approval for interment in the cemetery.

- (2) An application for an interment permit is for a dead body, shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.
- (3) An application under subclause (1) shall be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc

- (1) An application under clause 3.1 shall be accompanied by a certificate issued under clause 3.3, in respect of the dead body.
- (2) The local government may require that an application under clause 3.1 be accompanied by either a medical certificate of death or a Coroner's order of burial, in respect of the 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 the cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, 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) A funeral director shall provide a certificate, 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.

3.4 Minimum notice required

An application for interment shall be made with the local government at least four business days prior to the day proposed for interment otherwise an extra charge may be made.

3.5 Refusal of application

- (1) The local government may refuse an application for a interment permit if –
 - (a) in the opinion of the local government, 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
 - (b) on any other grounds.
- (2) The local government may refuse an application for a pre-need certificate.
- (3) If the local government refuses to approve an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

PART 4 - FUNERALS AND MEMORIAL SERVICES

4.1 Fixing times for interments

- (1) On receipt of a properly completed application form and the satisfaction of all other requirements of the Act and this local law, the local government may –
 - (a) approve a time for the funeral; and
 - (b) dig or re-open any grave that is required.
- (2) The time approved for an interment is at the discretion of the local government but will be as near as possible to the time requested by the applicant.
- (3) Except with the permission of the local government and subject to such conditions as may be applied, a person shall not carry out an interment –
 - (a) on a Saturday, a Sunday or a public holiday;
 - (b) commencing at any time other than between the hours 9:00 am to 2.00 pm; or
 - (c) to conclude later than 3.00pm.

4.2 Memorial services or processions

- Upon application, the local government may permit, with or without interment or broadcasting of ashes –
- (a) conduct of a memorial service; or
 - (b) a procession.

4.3 Processions

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

4.4 Conduct of interments by the local government

When conducting an interment, or for the purposes of deciding whether to conduct an interment, under section 22 of the Act the local government may –

- (a) require a written request to be made for the local government to conduct an interment;
- (b) in its absolute discretion, charge any person requesting it to conduct an interment the set fee for the conduct of that funeral;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the interment, determine the manner in which the interment shall be conducted;
- (d) specify an area in the cemetery for the interment;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (f) do or require anything which considered is necessary or convenient for the conduct of the funeral by the local government.

PART 5 - INTERMENTS

5.1 Requirements for burials and coffins

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

- (a) the local government has approved an application for the burial of that dead body in accordance with clause 3.1;
- (b) it is enclosed in a coffin which in the opinion of the local government is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate properly affixed in a clearly visible position on the lid of the coffin; 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 Preparation of graves

- (1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the local government.
- (2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the local government may direct the digging or preparation of a grave in an alternate position, where –
 - (a) evidence of a prior interment is found, or known to have occurred;
 - (b) access to the position is constrained;
 - (c) the digging or preparation of the grave is unreasonably difficult; or
 - (d) utility services may be interfered with.
- (3) Where an alternative position for the grave is directed under subclause (2), the local government is to advise the funeral director immediately.

5.3 Dimensions of graves

- (1) A person shall not bury a dead body in the cemetery other than in a standard grave, unless that person has the permission of the CEO.
- (2) Every grave prepared by the Board shall be dug at least 1.8m deep and shall not exceed 2.3m in depth, unless otherwise determined by the Board.
- (3) A person shall not bury a dead body 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 1600mm, unless that person has the permission of the CEO; or
 - (b) in any circumstances less than 750mm.

- (4) The permission of the local government in subclause (3) shall not be granted unless in the opinion of the CEO exceptional circumstances require granting of that permission.

5.4 Ashes not to be held by the local government

The local government shall not accept custody of ashes of a deceased person.

5.5 Disposal of ashes

- (1) Except in accordance with an approved application under clause 3.1, a person shall not bring or dispose of the ashes of a deceased person in the cemetery.
- (2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by the CEO, may apply to the local government for permission to dispose of the ashes of that deceased person in the cemetery by one of the following methods, if that method is available –
 - (a) placed in a niche wall;
 - (b) placed under a family tree or shrub;
 - (c) placed under a bench seat;
 - (d) placed in a grave, vault or mausoleum;
 - (e) scattered in an area approved by the local government;
 - (f) placed in a memorial garden; or
 - (g) placed in or under other memorials approved by the local government.
- (3) The local government may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.
- (4) The local government may –
 - (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (2).
- (5) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (6) If the local government refuses to approve an application under subclause (2), written notice of the refusal is to be given to the applicant.

5.6 Vaults and mausoleums

- (1) A person shall not construct a vault or mausoleum within the cemetery, except with the specific approval of the Board.
- (2) A vault or mausoleum within the cemetery shall at all times remain the property of the local government.
- (3) An application under subclause (1) shall be in writing and shall be accompanied by payment of the set fee.
- (4) The local government may require a person making an application under subclause (1) to provide additional information reasonably related to the application before determining the application.
- (5) The Board may –
 - (a) approve an application under subclause (1) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (1).
- (6) Where an application under subclause (1) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (7) If the Board refuses to approve an application under subclause (1), written notice of that refusal is to be provided to the applicant.
- (8) A person shall not place a dead body in a vault or mausoleum except –
 - (a) in a closed coffin;
 - (b) in a soundly constructed and sealed chamber; and
 - (c) in accordance with subclause (9).
- (9) The number of burials in a chamber must not exceed the number for which the chamber was designed.

5.7 Re-opening a grave

- (1) A person shall not reopen a grave without the approval of the local government.
- (2) If for the purpose of re-opening a grave in the cemetery, the local government finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

5.8 Exhumation of a coffin

- (1) Subject to subclause (2), a person shall not exhume a coffin in the cemetery for the purposes of reburial within 12 months after the date of its interment.
- (2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.
- (3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the CEO requesting the exhumation and the CEO has authorised the exhumation.

5.9 Opening of coffin

A person shall not open a coffin in the cemetery unless –

- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the CEO an order signed by the Commissioner of Police and the CEO has approved the opening of that coffin.

PART 6 - APPLICATIONS FOR MEMORIALS

6.1 Application to place memorial

- (1) Upon payment of the set fee, the local government may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of memorial work etc, so as not to detract from the amenity of the cemetery.
- (2) The local government may require the written consent of the holder of the right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of the CEO to accompany an application for a memorial made under section 30 of the Act.
- (3) Where written consent is not able to be produced, the local government may approve with or without conditions or decline an application in its absolute discretion.
- (4) If the local government refuses to approve an application under subclause (2), written notice of that refusal is to be provided to the applicant.

6.2 Australian War Graves

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves –

- (a) may place a complying 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.

PART 7 - MEMORIALS PERMITTED

7.1 Limitation on dimensions of memorials

- (1) No part of a memorial, including any grave cover, kerbing, boundary marker or enclosure is to extend beyond the standard dimensions of a gravesite.
- (2) No part of a monument above its base shall extend horizontally beyond its base.
- (3) Notwithstanding subclause (1), on request of the personal representative, the local government may approve a memorial over adjoining multiple gravesites, where –
 - (a) the persons interred are of the same family; or
 - (b) for other acceptable reason.

7.2 Specification for monument

- (1) A monument in the cemetery –
 - (a) shall be made of natural stone;
 - (b) shall be placed on a base of natural stone;

- (c) the portion not being a grave cover, shall comply with the following specifications –
 - (i) unless a greater height is approved by the CEO, the overall height of a monument above the original surface of the grave shall not exceed 1.2m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the width of the base of the monument shall not exceed 1.2m;
 - (iv) the length of the base of the monument measured along the length of the grave shall not exceed 600m;
 - (d) the portion being a grave cover, shall comply with the following specifications
 - (i) unless a greater height is approved by the CEO, the overall height of a monument above the original surface of the grave shall not exceed 300mm;
 - (ii) the width of the grave cover shall not exceed 1.2m;
 - (iii) the length of the grave cover shall not exceed 2.4m; and
 - (e) shall have foundations extending to a depth of 1.0 metre unless concrete beam foundations are approved by the local government.
- (2) Subject to subclause (3) a memorial plaque may be attached to a monument that has been or is being erected.
- (3) The provisions of clause 7.4 and clause 7.5 apply to plaques that are attached to a headstone.

7.3 Specification for headstone

- (1) A headstone shall –
- (a) be made of natural stone;
 - (b) be placed on a base of natural stone;
 - (c) comply with the following specifications –
 - (i) be placed on proper and substantial foundations extending to a depth of 1 metre unless concrete beam foundations are provided
 - (ii) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150mm nor more than 200mm;
 - (iii) the overall height of the headstone, including the base, shall not exceed 1.2m;
 - (iv) the length of the base of the headstone measured across the width of the grave shall not exceed 1.2 metre;
 - (v) the width of the base of the headstone measured along the length of the grave shall not exceed 300mm; and
 - (vi) no part of a headstone above its base shall extend horizontally beyond that base.
 - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the local government.
- (2) Subject to subclause (3) a memorial plaque may be attached to a headstone erected or being erected within the cemetery.
- (3) The provisions of clause 7.4 and clause 7.5 apply to plaques that are attached to a headstone.

7.4 Specification for memorial plaque

- (1) A memorial plaque shall –
- (a) be made of –
 - (i) admiralty bronze;
 - (ii) polished or brushed stainless steel, or
 - (iii) other material approved by the local government;
 - (b) have the dimensions not being more than –
 - (i) single – 380mm x 280mm; or
 - (ii) double – 560mm x 280mm.
- (2) If not mounted on a monument, headstone or wall other than a niche wall, a memorial plaque is to –
- (a) be mounted on a base not more than –
 - (i) single – 395mm x 295mm; or
 - (ii) double – 575mm x 295mm.

- (b) have foundations extending to a depth of 1.0 metre unless concrete beam foundations are approved by the local government.
 - (c) the highest part of the memorial plaque is to be not less than 150mm nor more than 450mm above the surrounding surface.
- (3) A memorial plaque –
- (a) made of admiralty bronze shall not exceed 20mm in thickness;
 - (b) made of polished or brushed stainless steel shall not exceed 8mm in thickness;
 - (c) made of stone
 - (i) shall not exceed 50mm in thickness if placed upon a base;
 - (ii) shall not be less than 100 millimetres in thickness if it is not to be placed upon a base mounting and
 - (d) shall be placed upon a base mounting approved by the local government.
- (4) A memorial plaque shall not to extend beyond the physical dimensions of the monument, headstone, base or other item on which it is mounted.

7.5 Specification for niche wall and other commemorative plaques

- (1) A niche wall or other commemorative plaque shall –
- (a) be made of –
 - (i) admiralty bronze;
 - (ii) polished or brushed stainless steel, or
 - (iii) other material approved by the local government;
 - (b) have the dimensions not being more than –
 - (i) single – minimum of 140mm x 115mm, to maximum of 145mm x 120mm
 - (ii) double – minimum of 275mm x 120mm, to maximum of 285mm x 125mm
- (2) If not mounted on a monument, headstone or wall, a niche wall or commemorative plaque is to –
- (a) be mounted on a base not more than –
 - (i) single – minimum of 155mm x 130mm, to maximum of 160mm x 135mm
 - (ii) double – minimum of 290mm x 1350mm, to maximum of 300mm x 140mm
 - (b) have foundations extending to a depth of 1.0 metre unless concrete beam foundations are approved by the local government.
 - (c) the highest part of the commemorative plaque is to be not less than 150mm nor more than 450mm above the surrounding surface.
- (3) A niche wall or commemorative plaque shall be –
- (a) made of admiralty bronze shall not exceed 20mm in thickness;
 - (b) made of polished or brushed stainless steel shall not exceed 8mm in thickness;
 - (c) placed upon a base mounting approved by the local government.
- (4) A commemorative plaque shall not to extend beyond the physical dimensions of the monument, headstone, base or other item on which it is mounted.

7.6 Specification for gravesite fencing

Any fencing used as a memorial or part of a memorial shall –

- (a) be a picket fence made of white powder coated aluminium or other materials approved by the local government;
- (b) have concrete foundations not less than 250mm square and 750mm deep not more than 1200mm apart, or concrete beam foundations approved by the local government;
- (c) unless otherwise approved by the local government, comply with the following specification –
 - (i) in length, not be more than 2400mm in length, nor less than 900mm;
 - (ii) in width, not be more than 1200mm in width, nor less than 900mm; and
 - (iii) in height, not less than 450mm, nor more than 550mm from the original surface of the grave.

7.7 Display of trade names on memorials not allowed

A person shall not display any trade names or marks on a memorial.

7.8 Use of wood

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

PART 8 - MEMORIALS AND OTHER WORK

8.1 Numbering of graves

A person shall not carry out memorial work on a grave unless the number of that grave is, depending on the area where the grave is located, indelibly and legibly inscribed either on the base of the head of the monument or on the base of the headstone, or if this is not practicable, on the kerbing at the foot of the grave.

8.2 Carrying out memorial work

- (1) A person shall not carry out memorial work within the cemetery unless that person is authorised by the local government to do so under clause 6.1.
- (2) All material required in the erection and completion of any memorial work shall, be prepared before being taken to the cemetery.
- (3) The local government may place restrictions on the hours of work, access to the cemetery or other matters considered appropriate.
- (4) Memorial works shall be suspended during the conduct of any funeral within the cemetery.
- (5) Work is not permitted to be left unattended in an untidy or unsafe state.

8.3 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 construction of any memorial or other work, or cause any material to be removed from the cemetery except with the written approval of the local government.

8.4 Removal of rubbish

All refuse, rubbish or surplus material remaining after approved memorial works are completed shall be immediately removed from the cemetery by the person carrying out the same.

8.5 Plants and trees

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved by the local government.

8.6 Supervision

All workers, whether employed by the local government or by any other person, shall at all times while within the boundaries of the cemetery be subject to the supervision of the local government and shall obey any directions of the local government.

8.7 Placing of grave ornaments

- (1) A person shall not place vases or other grave ornaments –
 - (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
 - (b) outside of an area set aside by the Board as a memorial plaque section.
- (2) The use of glass, porcelain, ceramics or pottery is not permitted, other than that in place at commencement of this local law.

8.8 Hours of work

Except in accordance with the permission of an authorised person, a person shall not carry out memorial or other work within the cemetery –

- (a) during a funeral; or
- (b) other than between the hours of 8:00 am and 5:00 pm on a business day.

8.9 Unfinished work

A person who does not complete any work before 5:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the local government.

PART 9 - GENERAL

9.1 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 local government.
- (2) A person driving a vehicle, within the cemetery, shall not exceed the speed limit of 20 kilometres per hour, and shall comply with the signs and directions in the cemetery.

9.2 Assistance animals

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).

9.3 Utility services

- (1) Other than with the approval of the local government, a person shall not –
 - (a) connect any device or equipment to any utility services supplied on or at the cemetery; or
 - (b) alter or interfere with utility services infrastructure located in the cemetery;
- (2) The local government may recover from a person the reasonable costs incurred by the local government for the supply to and use of any utility services by that person at the cemetery.

9.4 Damaging and removing of objects

Subject to clause 9.7, 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 local government.

9.5 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be disposed of in an appropriate manner.

9.6 Littering and vandalism

A person shall not –

- (a) damage, deface or interfere with any monument or gravesite in any manner whatsoever;
- (b) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;
- (c) discard, deposit, leave or cause to be discarded, deposited or leave any refuse or litter in the cemetery other than in a receptacle provided for that purpose.

9.7 Advertising

- (1) A person shall not advertise or carry on any trade, business or profession in the cemetery without the approval of the Board.
- (2) Upon payment of the set fee, the Board may consider and give approval subject to such conditions as the Board thinks fit.

9.8 Signs and directions of the Board

- (1) The local government may display, mark, place or erect a sign within the cemetery specifying conditions relating to the use of the cemetery.
- (2) A person shall obey all signs displayed, marked, placed or erected by the local government within the cemetery and any other lawful direction by the local government.

9.9 Removal from the cemetery

- (1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the local government is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery.
- (2) A person to whom an order under subclause (1) is given must comply with that order.

9.10 Local government may close cemetery

The local government may –

- (a) temporarily close the cemetery or any part of it;
- (b) exclude from the cemetery the public and all persons or so many of the public or so many persons as the local government consider to be necessary;
- (c) regulate, prohibit or restrict access to the cemetery or any part of it; or
- (d) direct persons to leave the cemetery or any part of it, for purposes of –
 - (i) a funeral or public convenience;
 - (ii) maintenance, redevelopment or extension of the cemetery;
 - (iii) public safety; or
 - (iv) other operational reasons.

9.11 Fireworks or firearms

Upon application, and subject to the approval of the Commissioner of Police, the CEO may permit an honour guard and discharge of firearms in a volley salute for a deceased military or police officer.

9.12 Liability for damage or works required to comply

- (1) Where a person –
 - (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in the cemetery;
 - (b) does a thing not authorised by this local law; or
 - (c) does not do a thing required by this local law;the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government –
 - (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
 - (e) pay the costs of replacing that property;
 - (f) pay the costs of works required to comply with this local law; or
 - (g) carry out works required to comply with this local law.
- (2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

9.13 Offence to fail to comply with notice

Whenever the local government gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

9.14 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.13, the local government may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

PART 10 - OFFENCES AND MODIFIED PENALTIES

10.1 General penalties

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 to a further penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

10.2 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 third column of Schedule 1.
- (3) The infringement notice referred to in section 63(1) of the Act shall be substantially in the form set out in the Schedule 2.
- (4) The notice withdrawing an infringement notice referred to in section 63(3) of the Act shall be substantially in the form set out in Schedule 3.

SCHEDULE 1 – MODIFIED PENALTIES

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES APPLY

Item	Clause	Nature of offence	Modified Penalty \$
1	4.2(a)	Memorial service without permission	50
2	4.2(b)	Procession without permission	50
3	5.1	Failure to obtain approval to bring a dead body into the cemetery	50
4	5.2(1)	Unauthorised digging, preparation or filling of grave	50
5	5.3(1)	Unauthorised burial of dead body	50
6	5.5(1)	Unauthorised disposal of ashes	50
7	5.5(2)	Disposal of ashes in an unauthorised manner	50
8	5.6(1)	Unauthorised construction of vault or mausoleum	50
9	5.7(1)	Unauthorised reopening of a grave	50
10	5.8(1)	Unauthorised exhumation of a coffin	50
11	5.9	Unauthorised opening of a coffin	50
12	7.7	Use of trade name or mark on a memorial	50
13	8.1	Failure to place grave number on memorial or surrounds	50
14	8.2	Unauthorised construction of a memorial	50
15	8.3	Unauthorised use of materials taken from within the cemetery	50
16	8.4	Failure to remove rubbish and surplus materials	50
17	8.5	Unauthorised planting of tree or shrub	50
18	8.6	Failure to comply with direction of authorised person	50
19	8.7	Unauthorised grave ornaments	50
20	8.8	Works carried out during unauthorised times	50
21	8.9	Failure to leave uncompleted works in a tidy and safe condition	50
22	9.1(a)	Not driving vehicle on vehicular access way or constructed roadways or within designated areas	50
23	9.1(b)	Exceeding speed limit	50
24	9.3	Interference with utility services	50
25	9.4	Damaging or removing object	50
26	9.5	Failure to dispose of withered flowers correctly	50
27	9.6	Littering and/or vandalism	50

28	9.7	Unauthorised advertising and/or trading	50
29	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
30	9.9(2)	Failure to comply with order to leave cemetery	50
31	9.10	Failure to comply with closure of all or part of cemetery	50
32	9.13	Failure to comply with notice within specified period	50

SCHEDULE 2 – INFRINGEMENT NOTICE

[cl. 10.2(3)]

INFRINGEMENT NOTICE

Shire of Narrogin

INFRINGEMENT NUMBER –		
To:		
Address:		
	It is alleged that –	
At –		
On –	Day	Date
Location –	Narrogin General Cemetery (Reserve 745)	
	You committed the following offence –	
Contrary to –	Shire of Narrogin Cemetery Local Law 2016	
Schedule 1 reference –	Item No. –	Clause –
Offence –		
Brief description –		
The modified penalty for the offence is –	\$	
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Narrogin within a period of 28 days after the giving of this notice.	
Name of authorised person –		
Position –		
Signature –		
Date –		
	Payments may be made – a) On-line at www.narrogin.wa.gov.au b) EFT to _____ c) In person at – Shire of Narrogin, 89 Earl St, Narrogin during business hours	

	d) By mail to – Shire of Narrogin PO Box 188, Narrogin 6312 Please make cheques payable to Shire of Narrogin.
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SCHEDULE 3 – WITHDRAWAL OF INFRINGEMENT NOTICE

[cl. 10.2(4)]

WITHDRAWAL OF INFRINGEMENT NOTICE

Shire of Narrogin

To –	
Address –	
	It is advised that –
Infringement Notice No. –	
Dated –	
For the alleged offence of –	
	has been withdrawn.
The modified penalty of –	\$
Reason for withdrawal –	No further action will be taken.
(Delete whichever does not apply)	It is proposed to institute court proceedings for the alleged offence
Name of authorised person –	
Position –	
Signature –	
Date –	

Dated this _____ day of _____ 2016.

The Common Seal of the Shire of Narrogin was affixed by authority of a resolution of Council in the presence of –

R.S. YURYEVICH, Chairman of Commissioners

A.J. COOK, Chief Executive Officer