

This is an un-official compilation of the *Shire of Augusta Margaret River Cemeteries Local Law 2020* as it has effect on and after 18 December 2020. See the Notes at the end for more details.

**CEMETERIES ACT 1986  
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF AUGUSTA MARGARET RIVER**

**CEMETERIES LOCAL LAW 2020**

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**CEMETERIES ACT 1986**  
**LOCAL GOVERNMENT ACT 1995**

SHIRE OF AUGUSTA MARGARET RIVER

**CEMETERIES LOCAL LAW 2020**

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 Augusta Margaret River resolved on 12 February 2020 to make this local law.

**PART 1— PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Augusta Margaret River Cemeteries Local Law 2020*.

**1.2 Commencement**

This Local Law shall come into operation 14 days after the date of its commencement in the *Government Gazette*.

**1.3 Application**

This local law applies throughout the district.

**1.4 Repeal**

The *Shire of Augusta Margaret River Cemeteries Local Law 2010* published in the *Government Gazette* on 5 March 2010 is repealed.

**1.5 Interpretation**

In this local law unless the context 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 sized cremation urn;

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

**board** means the Shire of Augusta Margaret River;

**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 Board;

**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 a receptacle used for the burial of a dead body in a grave;

**council** means the Council of the Board;

**dead body** means the body of a human being who was born alive and also means the body of a child of not less than 28 weeks' gestation that was still born;

**funeral** means the burial or cremation of a dead body;

**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 Board in accordance with clause 4.2 which entitles the holder to conduct funerals at the cemeteries;

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

**holder** in relation to a grant of right of burial includes a person for the time being appearing to the Board to be the holder of that grant;

**memorial** includes headstones, plaques, monumental work, inscription, kerbing, enclosure and any other fixture or thing commemorating a grave or the placement of ashes;

**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 Board;

**monumental work** when a term is used as an abstract noun shall include the erection, alteration or removal of or other working upon a monument on a grave;

**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;

**military grave** means a grave eligible for commemoration by the Office of Australian War Graves;

**niche wall** means a structure for the placement of a container of ashes in a compartment secured with a covering memorial plaque;

**right of burial** means the right to use a specified area of a cemetery for burial;

**Schedule** means a Schedule to this local law;

**set fee** refers to fees and charges set by a resolution of the Council 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; and

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

## **PART 2 – ADMINISTRATION**

### *Division 1 – General*

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

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

#### **2.2 Plans and registers**

- (1) The Board 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 the 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;
  - (d) a register of cremations containing the names and descriptions of any person cremated in each cemetery; and
  - (e) 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 Board and upon payment of a set fee.

### *Division 2 – Right of Burial*

#### **2.3 Issuing grants**

The Board 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 twenty five (25) years.

#### **2.4 Right of holder**

- (1) Subject to this local law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right –
  - (a) to be buried in a grave specified in the grant; and
  - (b) to carry out monumental works on the gravesite specified in the grant.
- (2) The Board, 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 Board 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.
- (4) If the location stipulated in the grant of right of burial is significantly and adversely affected prior to or at the time of burial by unforeseen conditions such as flooding, a high water table, rock, large tree roots or any other significant matter the Board may allocate any other gravesite of the grantee's choosing that is not already subject to a grant.

#### **2.5 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 Board must renew the grant for a further term of twenty five (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 Board from time to time.
- (3) The Board 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 Board in accordance with sub-rule (3) deliver the existing grant to the Board.

## **2.6 Replacement of grant**

- (1) The Board may –
  - (a) upon the written application of a holder; and
  - (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.
- (2) Notwithstanding subclause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration in a form determined by the Board.
- (3) The replacement grant issued by the Board shall be deemed to be the original grant.

## **2.7 Transfer of grant**

A holder who desires to transfer a grant to another person shall make an application to the Board in a form determined by the board and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

## **2.8 Exercising the rights of holder**

If evidence is produced in writing to the satisfaction of the Board 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, the Board 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 on the form determined by the Board from time to time.
- (2) An application under subclause (1) is to be accompanied by –
  - (a) evidence to the satisfaction of the Board 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
  - (b) an application for a grant.

## **3.2 Applications to be accompanied by certificates, etc**

All applications referred to in clauses 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of a body.

*[Clause 3.2 amended by Government Gazette 4 December 2020 p4415]*

## **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 on 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 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 in the form determined by the Board from time to time.

## **3.4 Minimum notice required**

All bookings to hold a funeral shall be made with the Board at least twenty four (24) hours prior to the time proposed for burial on the application.



### **3.5 Fixing times for funeral**

The time fixed for a funeral is at the discretion of the Board 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 Board in accordance with clause 3.1 or 3.2, then subject to any other provision of this local law, the Board shall –

- (a) fix a time for a funeral; and
- (b) prepare a grave that is required or reserve a venue for a cremation service as the case may be.

### **3.7 Times for burials**

A person shall not carry out a burial –

- (a) on a gazette 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 10:00am and 3:00pm

Except with the written permission of the Board.

## **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 cemeteries 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 Board may upon the receipt of an application in writing by a fit person in a form determined by the Board 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 Board 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 Board, the Board shall issue to the applicant a licence in a form determined by the Board.

(3) A person who is the holder of a current funeral director's licence may apply for a new licence for the then following year by lodging with the Board 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 the 30th day of June in each year or until a licence is cancelled 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; and
  - (iii) the Act; and
- (b) the conditions imposed by the Board in respect of that licence.

### **4.5 Cancellation of funeral director's licence**

(1) The Board 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, the *Cremation Act 1929* or any of the conditions upon which the licence was issued;

- (b) in the opinion of the Board, 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 this Local law; or
- (g) the Board 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 this clause, no part of any fee paid for the issue of that licence is refundable by the Board.

#### **4.6 Single funeral permits**

(1) The Board may upon receipt of an application in writing by a person in a form determined by the Board 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 Board shall specify upon the issue of that permit or in this local law.

(2) Every application for the 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 Board may refuse an application for the single funeral permit if, in the opinion of the Board, either a coffin's specifications or the details of the vehicle transporting the dead body to the gravesite or crematorium, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

## **PART 5 – FUNERALS**

### *Division 1 – General*

#### **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 10 mm 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, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 shall pay the set fee for being late.

#### **5.3 Vehicle entry restricted**

(1) Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.

(2) This clause shall not apply to persons using wheelchairs or motorised wheelchairs.

#### **5.4 Vehicle access and speed limitations**

Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed of twenty five 25km per hour.

#### **5.5 Offenders may be expelled**

A person committing an offence under clause 5.4 may be expelled from the cemetery by the CEO or an authorised person.

#### **5.6 Conduct of funeral by the board**

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

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

### *Division 2 - Placement of Ashes*

#### **5.7 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; and
- (b) family grave.

(2) Subject to subclause (3) and (4), a person shall not place the ashes of the 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 lodged evidence to the satisfaction of the Board 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 Board.

#### **5.8 Ashes held by board**

(1) If at the expiration of six (6) months from a date of cremation at a cemetery –

- (a) the ashes of a deceased person have not been claimed; or
- (b) no arrangements have been made for the placement of the ashes of the deceased person by a personal representative, then the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.7.

(2) If prior to the expiration of six (6) months from the date of cremation the personal representative of the deceased person requests the Board to store the ashes of the deceased person, and pays to the Board a set fee monthly in advance for such storage, the Board shall store the ashes in safe custody.

(3) Notwithstanding subclause (2), should the personal representative default in the payment of the

fee referred to in subclause (2), the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.7.

## **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 subclause (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 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) An application under subclause (2) shall be in writing and shall be accompanied by payment of a set fee.

(4) A mausoleum must be –

- (a) constructed of brick, stone, concrete or similar durable material; and
- (b) adequately ventilated and drained; and
- (c) vermin proof; and
- (d) capable of being secured against entry by vandals or other unauthorised persons.

(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 subclause (6).

(6) The number of burials in a chamber must not exceed the number for which the chamber was designed.

(7) The Board 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 slab of stone, slate, or material approved by the Board.

### **6.3 Re-opening a grave**

(1) Subject to subclause (2), if for the purpose of a re-opening a grave in a cemetery the Board finds it necessary to remove a monument, edging, titles, plants, grasses, 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 reburial within twelve (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 Board requesting the exhumation and the Board 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 Board an order signed by the Commissioner of Police and the Board 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 on a form determined by the Board; and
  - (b) payment of a set fee,the Board may issue to that person a permit to carry out monumental works on a grave specified in an application on the days, at the times and subject to the conditions specified by the Board.
- (2) An application referred to in subclause (1) shall be accompanied by -
  - (a) the plans and specifications of the proposed monument 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 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.

## **7.6 Hours of work**

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 and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

## **7.7 Unfinished work**

Should any work by masons or others be not completed before 6:00pm 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 Board or an authorised person.

## **7.8 Use of wood**

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.

#### **7.9 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 Board.

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

#### **7.12 Placing of glass domes and vases**

A person shall not place glass domes, vases or other grave ornaments outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act.

#### **7.13 Specification of monuments**

(1) All monuments in the cemetery shall –

- (a) be made of natural stone; and
- (b) be placed upon a base of natural stone; and
- (c) comply with the following specifications:
  - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
  - (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 1.20m;
  - (iv) the depth of the base of the monument shall not exceed 300mm; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.

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

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

#### **7.14 Headstones**

That part of a headstone above its base shall not extend horizontally beyond that base.

#### **7.15 Requirements of a memorial plaque**

(1) All memorial plaques placed in the cemetery shall–

- (a) be made of admiralty bronze or any other material approved by the Board; and
- (b) adhere to the following dimensions; double niche wall plaque 279mm x 121mm, single niche wall plaque 146mm x 133mm.

(2) All memorial plaques made of admiralty bronze shall –

- (a) not exceed 6mm in thickness; and
- (b) be placed upon a base mounting approved by the Board.

(3) All memorial plaques made of stone shall –

- (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
- (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

### *Division 2 - Licensing of Monumental Masons*

#### **7.16 Monumental mason's licence**

(1) The Board may upon receipt of an application by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.

(2) A licence issued under subclause (1) authorises the holder to carry out monumental works within the cemetery subject to the provisions of this local law and such conditions as the Board shall specify upon the issue of that licence.

(3) An application made under subclause (1) must be submitted in the form determined by the Board from time to time.

#### **7.17 Expiry date, non-transferability**

A monumental mason's licence –

(a) shall, subject to clause 7.20 be valid from the date specified therein until the 30th day of June next following; and

(b) is not transferable.

#### **7.18 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 7.16 or does so as the employee of a person who holds such a licence; or

(b) is authorised by the Board to do so.

#### **7.19 Responsibilities of the holder of a monumental mason's licence**

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the 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.

#### **7.20 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 the ground 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.

(2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

### **PART 8 – GENERAL**

#### **8.1 Animals**

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised person.

#### **8.2 Assistance animals**

Clause 8.1 does not apply to a dog or other animal being used as an assistance animal as defined in the *Disability Discrimination Act 1992 (Commonwealth)*.

#### **8.3 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 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.

#### **8.4 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 Board 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 the 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 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.

### **8.7 Obeying signs and directions**

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

### **8.8 No benefits or gratuities**

A person employed by the Board shall not accept any gratuities or receive any financial benefit from any work undertaken within a cemetery other than the remuneration or benefit paid or given to that person by the Board.

### **8.9 Entry**

A person shall not enter or remain within a cemetery other than during the hours between sunrise and sunset except with the approval of the Board or an authorised person.

### **8.10 Fireworks or firearms**

- (1) A person shall not bring or discharge any fireworks within a cemetery.
- (2) A person shall not bring or discharge any firearms within the cemetery except in the case of a military funeral when firearms may be brought into the cemetery and discharged by members of the Defence Force.
- (3) In this clause, Defence Force has the same meaning as is given to that expression in the *Defence Force Act 1903*.

### **8.11 Recording on film or videotape**

- (1) A person shall not, without the prior approval of the Board, record on film or videotape and any image or sound within a cemetery.
- (2) A person shall not record on film or videotape a funeral, headstone or memorial within the cemetery without the prior approval of the next of kin of a deceased person whose funeral, headstone or memorial is being recorded.

### **8.12 Camping**

A person shall not camp in or upon a cemetery.

### **8.13 Lighting fires**

A person shall not light a fire within a cemetery without the prior approval of the Board.

### **8.14 Removal from the cemetery**

Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board, the CEO or an authorised person is inappropriate in the cemetery may in addition to any penalty provided by this local law be directed to leave the cemetery by the Board, the CEO 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 set out in Schedule 2.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 3.

**Schedule 1 – Modified Penalties**  
**(Cl. 9.2)**

<b>Item No.</b>	<b>Clause</b>	<b>Nature of Offence</b>	<b>Modified Penalty</b>
1	5.4	Excessive speed	\$50.00
2	5.4	Unauthorised use – driving of vehicles	\$50.00
3	7.3	Placing and removal of rubbish and surplus materials	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Animal at large	\$50.00
6	8.5	Dumping of Rubbish	\$50.00
7	8.6	Unauthorised advertising and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00

**Schedule 2 – Infringement Notice  
(Cl. 9.2)**

**Cemeteries Act 1986  
Shire of Augusta Margaret River  
Cemeteries Local Law 2020**

Infringement Notice

To: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

It is alleged that on (Date) \_\_\_\_\_ (Time) \_\_\_\_\_

you committed the offence indicated below by an (x) in breach of clause ..... of the *Shire of Augusta Margaret River Cemeteries Local Law 2020*.

\_\_\_\_\_  
(Authorised Person)

Offence

- Animal at large
- Dumping rubbish
- Excessive speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Non removal of rubbish
- Unauthorised advertising or trading
- Unauthorised vehicle use
- Disobeying sign or lawful direction

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 Chief Executive Officer of the Shire of Augusta Margaret River at 41 Wallcliffe Road Margaret River between the hours of 9am to 4.00pm Monday to Friday.

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- Withdrawal of Infringement Notice  
(Cl. 9.2)**

**Shire of Augusta Margaret River  
Cemeteries Local Law 2020**

Withdrawal of Infringement Notice

Date \_\_\_\_/\_\_\_\_/\_\_\_\_

To (1) \_\_\_\_\_

Infringement Notice No \_\_\_\_\_ dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of (2)

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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.

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- (1)     Insert name and address of alleged offender.
- (2)     Insert short particulars of offence alleged.
- (3)     Insert amount of penalty prescribed.

\_\_\_\_\_  
(Authorised Person)

Dated: 10 November 2020

The Common Seal of the Shire of Augusta Margaret River was affixed under the authority of a resolution of the Council in the presence of-

Ian Earl  
Shire President

Stephanie Addison-Brown  
Chief Executive Officer

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**Notes**

This is a compilation of the *Shire of Augusta Margaret River Cemeteries Local Law 2020* and includes any amendments referred to in the following table.

Local Laws and amendments come into operation on the 14<sup>th</sup> day after the day of publication in the gazette unless a later day is specified : s.3.14 of the *Local Government Act 1995*.

Compilation Table

Citation	Gazettal Date
<i>Shire of Augusta Margaret River Cemeteries Local Law 2020</i>	<i>24 March 2020</i>
<i>Shire of Augusta Margaret River Cemeteries Amendment Local Law 2020</i>	<i>4 December 2020</i>