

This is an un-official compilation of the *City of Busselton
Cemeteries Local Law 2015* as it has effect
on and after 23 August 2016.
See the Notes at the end for more details.

City of Busselton Cemeteries Local Law 2015

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

CITY OF BUSSELTON

CEMETERIES LOCAL LAW 2015

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**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

City of Busselton Cemeteries Local Law 2015

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 City of Busselton resolved on 11 November 2015 to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law is the *City of Busselton Cemeteries Local Law 2015*.

1.2 Application

This local law applies to the cemeteries.

1.3 Commencement

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

1.4 Terms used

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 cremation urn;

assistance animal has the same meaning as in the *Disability Discrimination Act 1992 (Cth)*;

authorised person means an employee of the Board -

(a) appointed by the Board under section 9.10 of the *Local Government Act 1995* for the purposes of performing any function or exercising any power, 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 City of Busselton;

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

Busselton Cemetery means the Busselton Cemetery located within Reserve 9298 which the Governor by order has vested under the care, control and management of the Board;

cemetery means, depending on the context, any or all of the Busselton Cemetery, the Dunsborough Cemetery and the Metricup Cemetery;

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;

cremation urn means a container used for holding the remains of a dead body after the due processes of cremation of which the volume does not exceed .004m³ (4,000 cubic centimetres), or such greater volume as approved by the CEO in writing;

disability has the same meaning as in the *Disability Discrimination Act 1992 (Cth)*;

district means the district of the City of Busselton;

Dunsborough Cemetery means the Dunsborough Cemetery located within Reserve 12304 which the Governor by order has vested under the care, control and management of the Board;

funeral director means a person holding a current funeral director's licence issued by the Board under section 17 of the Act;

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

mausoleum means a burial chamber wholly above or partially above and below ground level with one or more sealed compartments;

memorial has the meaning set out in the Act and includes a headstone, memorial plaque and monument;

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

Metricup Cemetery means the Metricup Cemetery located within Reserve 21540 which the Governor by order has vested under the care, control and management of the Board;

monument means a tombstone, sculpture, statute or other form of memorial approved by the Board commemorating a grave or the placement of ashes, other than a headstone;

monumental mason licence means a licence issued under clause 7.21(1);

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 Board, 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 porcelain, ceramics or any pottery;

plant includes trees, shrubs, annuals and perennials;

personal representative means the administrator or executor of an estate of a deceased person;

set fee means a fee or charge set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

single funeral permit means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at a cemetery a funeral of a person named in the permit;

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 or burial chamber with one or more sealed compartments; 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).

1.5 Interpretation

In this local law –

- (a) a reference to an application, approval, consent or permission means a written application, approval, consent or permission; and
- (b) a reference to a person does not include the Board.

1.6 Repeal

The *Busselton Cemeteries By-Law* published in the *Government Gazette* on 14 October 1994 is repealed.

PART 2 - ADMINISTRATION

2.1 Powers and functions of CEO

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

2.2 Plans

- (1) The Board shall establish and maintain a plan of each cemetery showing –
 - (a) the location of areas set aside for burials and placement of ashes;
 - (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 a cemetery to which different requirements for memorials apply; and
 - (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.
- (2) The Board may from time to time 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 Board.

PART 3 – APPLICATION FOR FUNERALS

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3.1 Application for burial

- (1) A person may apply for approval to bury a dead body in a cemetery in the form determined by the Board from time to time.
- (2) 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 Board 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 a cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless –
 - (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.
- (2) A funeral director shall complete a certificate in the form determined by the Board from time to time, 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 to hold a funeral shall be made with the Board at least two business days prior to the day proposed for burial, otherwise an extra charge may be made.

3.5 Fixing times for funerals

- (1) On receipt of a properly completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—
 - (a) fix a time for the funeral; and
 - (b) dig or re-open any grave that is required.
- (2) The time fixed for a funeral is at the discretion of the Board but subject to this Part will be as near as possible to the time requested by the applicant.

3.6 Times for burials

A person shall not carry out a burial—

- (a) on a Saturday, a Sunday or a public holiday; or
- (b) at any time other than between the hours 9:00 am to 3:00 pm, except with the permission of the Board or an authorised person.

PART 4 – FUNERAL DIRECTORS AND PERMIT HOLDERS

4.1 Funeral director's licence expiry

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

4.2 Single funeral permits

An application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application refusal

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

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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 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 leak proof, 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 exterior 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 10mm in height, for burial with the dead body..

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), a funeral procession shall enter by the principal entrance of the cemetery, and no vehicle shall enter the cemetery except –

- (a) the hearse;
- (b) official mourning coaches;
- (c) a vehicle carrying or transporting a person with a disability;
- (d) a device or equipment used to transport, carry or handle a coffin; and
- (e) a pram, baby carriage, stroller or a similar device.

(2) This clause does not apply to a vehicle approved by the CEO or an authorised person.

5.4 Vehicle access and speed limitation

(1) A person shall drive or ride a vehicle only 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 CEO.

(2) A person driving or riding a vehicle in an area within a cemetery -

- (a) shall not exceed the speed limit designated by a sign applying to that area; and
- (b) shall comply with the signs and directions applying to that area.

5.5 Offenders may be ordered to leave

A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised person.

5.6 Conduct of funeral by the Board

When conducting a funeral, or for the purposes of deciding whether to conduct 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) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) bury the dead body;
- (f) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (g) do or require anything which it considers is necessary or convenient for the conduct of the funeral by it.

Division 2 - Placement of Ashes

5.7 Disposal of ashes

- (1) Except in accordance with an approved application under this clause, a person shall not bring or dispose of the ashes of a deceased person in a cemetery.
- (2) A funeral director or the personal representative of a deceased person whose body has been cremated may apply to the Board for permission to dispose of the ashes of that deceased person in a 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 Board;
 - (f) placed in a memorial garden; or
 - (g) placed in or under other memorials approved by the Board
- (3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (4) The CEO or an authorised person may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.
- (5) The CEO or an authorised person may –
 - (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (2).
- (6) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (7) If the CEO or an authorised person refuses to approve an application under subclause (2), he or she is to give written notice of that refusal to the applicant.

PART 6 – BURIALS

6.1 Dimensions of graves

- (1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of an authorised person.
- (2) The permission of the authorised person in subclause (1) shall not be granted unless in the opinion of the authorised person, exceptional circumstances require granting of that permission.

6.2 Preparation of graves

A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of an authorised person.

6.3 Depth of graves

- (1) A person shall not bury a dead body within a cemetery so that the distance from the top of the dead body to the original surface of the ground is –
 - (a) subject to paragraph (b), less than 1600 mm, unless that person has the permission of an authorised person; or
 - (b) in any circumstances less than 750 mm.
- (2) The permission of the authorised person in subclause (1)(a) shall not be granted unless, in the opinion of the authorised person, exceptional circumstances require granting of that permission.

6.4 Vaults and Mausoleums

- (1) A person shall not construct a vault or mausoleum within a cemetery.
- (2) A person may request the Board to construct a vault or mausoleum within a cemetery.
- (3) A vault or mausoleum within a cemetery shall at all times remain the property of the Board.
- (4) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.
- (5) The CEO or an authorised person may require a person making an application under subclause (2) to provide additional information reasonably related to the application before determining the application.

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- (6) The CEO or an authorised person may –
 - (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (2).
- (7) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (8) If the CEO or an authorised person refuses to approve an application under subclause (2), he or she is to give written notice of that refusal to the applicant.
- (9) 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 (10).
- (10) The number of burials in a chamber must not exceed the number for which the chamber was designed.

PART 7 – MEMORIALS AND OTHER WORK

Division 1 - General

7.1 Application for memorial

The Board may require the consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of memorial

Subject to Division 3 of this Part, a memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish

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

7.4 Operation of work

All material required in the placement, erection or alteration of any memorial 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 CEO or an authorised person shall direct.

7.5 Removal of sand, soil or loam

A person shall not, without the consent of the Board –

- (a) take sand, gravel, stone, timber, trees or other material from a cemetery for use in connection with the placement, erection or alteration of any memorial or other work; or
- (b) subject to clause 7.3, remove or cause to be removed from a cemetery any sand, gravel, stone, timber, trees, shrubs, grass or other material.

7.6 Hours of work

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

- (a) during a funeral; or
- (b) other than between the hours of 8.00 am and 5.00 pm on a business day.

7.7 Unfinished work

A mason or other 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 CEO or an authorised person.

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 or with the permission of an authorised person.

7.9 Plants

A plant shall not be planted on any grave or within the cemetery except in accordance with an approval by the CEO.

7.10 Supervision

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

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 on a military grave.

7.12 Placing of glass domes and vases

A person shall not place a glass dome, vase or other grave ornament –

- (a) outside the perimeter of a grave as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn section.

Division 2 – Types of memorials permitted in different areas of a cemetery

7.13 Determination of types of memorials permitted in different areas of a cemetery

- (1) The Board may determine the types of memorials permitted in a cemetery and may impose different requirements for different areas of a cemetery.
- (2) Where the Board makes a determination under subclause (1), the CEO must give local public notice to give effect to the determination.
- (3) A proposed determination is to have effect as a determination on and from the date of publication.
- (4) A determination made under this clause 7.13 shall be recorded in a publicly accessible register of determinations that must be maintained by the Board.
- (5) The determinations in Schedule 2 –
 - (a) are to be taken to have been made in accordance with clause 7.13;
 - (b) may be amended or revoked in accordance with clause 7.15; and
 - (c) have effect on the day on which this local law commences under clause 1.3.

7.14 Memorials to be placed or erected in accordance with determination

The Board may refuse an application under section 30 of the Act if the type or location of the memorial applied for is not in accordance with a determination.

7.15 Amendment or revocation of determination

- (1) The Board may amend or revoke a determination.
- (2) The provisions of clauses 7.13(2), (3) and (4) are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Board revokes a determination, the CEO is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 3 – Specifications and materials for memorials

7.16 Specification of a monument

- (1) A monument in a cemetery shall –
 - (a) be made of natural stone;
 - (b) be placed on a base of natural stone;
 - (c) 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 150 mm nor more than 450 mm;
 - (iii) the width of the base of the monument shall not exceed 1.2m;
 - (iv) the length of the base of the monument shall not exceed 2.4m; and
 - (v) the depth of the base of the monument shall not exceed 300 mm; and
- (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (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 7.18 apply to a memorial plaque that is attached to a monument.

7.17 Specification of a 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) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150 mm nor more than 200 mm;
 - (ii) the overall height of the headstone, including the base, shall not exceed 1.2 m;
 - (iii) the length of the base of the headstone measured across the width of the grave shall not exceed 1m;
 - (iv) the width of the base of the headstone shall not exceed 300 mm; and
 - (v) that part of a headstone above its base shall not extend horizontally beyond that base.
 - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a headstone erected or being erected within a cemetery.
- (3) The provisions of clause 7.18 apply to a memorial plaque that is attached to a headstone.

7.18 Specification of a memorial plaque

- (1) A memorial plaque placed in a cemetery shall –
- (a) be made of admiralty bronze or any other material approved by the Board;
 - (b) if placed on a monument or headstone - not be less than the dimensions 140 mm x 110 mm, nor more than 560 mm x 305 mm; and
 - (c) if placed on any other memorial or in any other section of a cemetery - comply with the relevant specification in Schedule 2 relating to that section of the cemetery.
- (2) A memorial plaque –
- (a) made of admiralty bronze shall not exceed 20 mm in thickness;
 - (b) made of stone shall not exceed 50 mm in thickness; and
 - (c) shall be placed upon a base mounting approved by the Board.

7.19 Specification of fencing

Any fencing used as memorial in the memorial drive section of a cemetery shall –

- (a) be a picket fence made of white powder coated aluminium or any other materials approved by the Board;
- (b) have concrete beam foundations approved by the Board;
- (c) unless otherwise approved by the Board, comply with the following specification:
 - (i) in length, not be more than 1100 mm in length, nor less than 900 mm;
 - (ii) in width, not be more than 1100 mm in width, nor less than 900 mm; and
 - (iii) in height, not be more than 450 mm, nor less than 550 mm from the original surface of the grave.

7.20 Display of trade names on memorials not allowed

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

Division 4 – Licensing of Monumental Masons

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7.21 Monumental mason's licence

- (1) The Board may on receipt of an application by any person and on 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 a cemetery subject to the provisions of this local law and such conditions as the Board specifies on the licence.

7.22 Expiry date, non-transferability

A monumental mason's licence –

- (a) is valid from the date specified on the licence until 30 June next following; and
- (b) is not transferable.

7.23 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;
- (b) is an employee of a person who holds such a licence; or
- (c) is authorised by the Board to do so.

7.24 Responsibilities of the holder of a 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.

7.25 Cancellation of a monumental mason's licence

- (1) The Board may, by notice in writing to the holder of a monumental mason's licence, terminate the licence on any of the following grounds:
 - (a) that the holder of the licence has committed a breach of the requirements or conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
 - (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
 - (c) that the holder of the licence has purported to transfer the licence issued to that holder.
- (2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

7.26 Application for single monumental work permit

- (1) The Board may on receipt of an application by a person in the form prescribed and on payment of a set fee, issue to an applicant a single monumental work permit authorising the holder to place a monument within a cemetery subject to such conditions as the Board specifies on the permit.
- (2) An application for a single monumental work permit under subclause (1) shall include an application for a monumental work in the form prescribed.

7.27 Numbering of graves

A person shall not carry out monumental 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.

PART 8 - GENERAL

8.1 Animals

- (1) Subject to subclause (2), a person shall not bring an animal, or the carcass or remains of a deceased animal, into a cemetery or permit an animal to enter or remain in a cemetery, other than with the approval of the CEO or an authorised person.
- (2) Subclause (1) shall not apply to an assistance animal providing assistance to a person with a disability or alleviating the effect of a disability.

8.2 Utility services

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

8.3 Damaging and removing of objects

Subject to clause 8.4, a person shall not damage, remove or pick any plant in a cemetery or any other object or thing on any grave or memorial or any 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

A person shall not –

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

8.6 Signs, advertising and vending

- (1) A person shall not place or display any sign, advertisement or fixture of any nature, other than an approved memorial in a cemetery, except with the permission of the Board.
- (2) A person shall not advertise or carry on any trade, business or profession in the cemetery without the approval of the Board.
- (3) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

8.7 Board may close a cemetery

The Board may –

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

8.8 Obeying signs and directions

- (1) The Board may display, mark, place or erect a sign within the cemetery specifying any conditions relating to the use of the cemetery.
- (2) 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.

8.9 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 Board, the CEO or an authorised person is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by the Board, the CEO or an authorised person.

(2) A person to whom an order under subclause (1) is given must comply with that order.

8.10 Board may enter into an agreement for maintenance

The Board may enter into an agreement with the holder of a right of burial for the maintenance of an area of a cemetery at the expense of the holder.

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 3.

(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 4.

SCHEDULE 1
MODIFIED PENALTIES
(Clause 9.2(1))

Item No	Clause No	Nature of Offence	Penalty \$
1	5.3	Unauthorised entrance of a vehicle	50.00
2	5.4(1)	Driving or riding a vehicle other than on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery	50.00
3	5.4(2)	Excessive speed	50.00
4	5.7(1)	Bringing or disposing of the ashes of a deceased person in a cemetery	50.00
5	7.3	Failure to remove rubbish and surplus material from the cemetery	50.00
6	7.7	Leaving uncompleted works in an untidy or unsafe condition	50.00
7	7.9	Unauthorised planting of plants	50.00
8	7.12	Unauthorised placing of glass domes and vases	50.00
9	7.20	Displaying a trade name on a memorial	50.00
10	8.1	Unauthorised animal in cemetery	50.00
11	8.2(1)	Connect to or alter or interfere with utility services	50.00
12	8.3	Damage or removal of objects	50.00
13	8.5	Littering	50.00
14	8.6(1)	Place or display a sign or advertisement	50.00
15	8.6(2)	Unauthorised advertising, and/or trading	50.00
16	8.8	Disobeying sign or lawful direction	50.00

SCHEDULE 2

TYPES OF MEMORIALS PERMITTED IN DIFFERENT AREAS OF A CEMETERY

The following determinations are to be taken to have been made by the Board under clause 7.13.

Busselton Cemetery

Area of cemetery	Type of memorial	Dimensions
General section	Monument; or Headstone	As specified in clause 7.16 As specified in clause 7.17
Lawn section	Headstone	As specified in clause 7.17
Niche Wall	Memorial plaque	Single: 140mm to 145mm wide x 115mm to 120 mm high Double: 275mm to 285mm wide x 120mm to 125mm high
Rose Garden, Native Garden, Children's Garden, Family Tree or Shrub	Memorial plaque mounted on a base made of natural stone	Dimensions of base: 295mm to 315mm wide x 240mm to 250mm deep x 240mm to 250mm high. Dimensions of Memorial Plaque: not to exceed the width and height of the base it is mounted on.
Contemplation Garden Wall	Memorial plaque	Small: 275mm to 280mm wide x 120mm to 125mm high. Large: 300mm to 305mm wide x 200mm to 205mm high. Either flush or on risers no greater than 20mm high.
Memorial Drive Section	Fencing In addition to fencing, a memorial plaque, mounted on a base made of natural stone, will be allowed in this section of the cemetery.	As specified in clause 7.19. Width and length: any size that does not exceed the internal dimensions of fencing as specified in subclauses 7.19(c)(i) and (ii). Height: not to exceed the dimensions specified in clause 7.19(c)(iii).

Dunsborough Cemetery

Area of cemetery	Type of memorial	Dimensions
General section	Monument; or Headstone	As specified in clause 7.16 As specified in clause 7.17
Lawn section	Headstone	As specified in clause 7.17
Niche Wall	Memorial plaque	Single: 140mm to 145mm wide x 115mm to 120mm high.

		Double: 275mm to 285mm wide x 120mm to 125mm high.
Rose Garden Wall	Memorial plaque	275mm to 285mm wide x 120mm to 125mm high Either flush or on risers no greater than 20mm high.
Memorial Drive Section	Memorial plaque mounted on a base made of natural stone	Dimensions of Memorial Plaque not to exceed 275mm to 285mm wide x 120mm to 125mm high. Dimensions of base not to exceed 295 to 315mm wide x 240mm to 250mm deep x 240mm to 250mm high.

Metricup Cemetery

Area of cemetery	Type of memorial	Dimensions
General section	Monument; or Headstone	As specified in clause 7.16 As specified in clause 7.17

SCHEDULE 3
INFRINGEMENT NOTICE
(Clause 9.2(3))

TO: _____
(Name)

(Address)

It is alleged that at _____ : _____ hours on _____ day
of _____ 20_____ at _____

you committed the offence indicated below by an (x) in breach of clause of the City of Busselton
Cemeteries Local Law 2015

(Authorised Person)

Offence

5.3	Unauthorised entrance of a vehicle	\$50.00
5.4(1)	Driving or riding a vehicle other than on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery	\$50.00
5.4(2)	Excessive speed	\$50.00
5.7(1)	Bringing or disposing of the ashes of a deceased person in a cemetery	\$50.00
7.3	Failure to remove rubbish and surplus material from the cemetery	\$50.00
7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
7.9	Unauthorised planting of plants	\$50.00
7.12	Unauthorised placing of glass domes and vases	\$50.00
7.20	Displaying a trade name on a memorial	\$50.00
8.1	Unauthorised animal in cemetery	\$50.00
8.2(1)	Connect to or alter or interfere with utility services	\$50.00
8.3	Damage or removal of objects	\$50.00
8.5	Littering	\$50.00
8.6(1)	Place or display a sign or advertisement	\$50.00
8.6(2)	Unauthorised advertising, and/or trading	\$50.00
8.8	Disobeying sign or lawful direction	\$50.00

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 City of Busselton, 2 Southern Drive, Busselton WA 6280 between the hours of 8:30am to 4:30pm Monday to Friday.

Please make cheques payable to City of Busselton. Payments by mail should be addressed to:

The Chief Executive Officer
City of Busselton
Locked Bag 1, Busselton WA 6280

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.

LEG190004

Dated: 11 November 2015

The Common Seal of the City of Busselton was affixed under the authority of a resolution of Council in the presence of –

GRANT DOUGLAS HENLEY, Mayor
MICHAEL STEPHEN LEE ARCHER , Chief Executive Officer

Notes

This is a compilation of the *City of Busselton Cemeteries Local Law 2015* and includes any amendments referred to in the following table.

Local laws and amendments come into operation on the 14th 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>City of Busselton Cemeteries Local Law 2015</i>	<i>10 December 2015</i>
<i>City of Busselton Cemeteries Amendment Local Law 2016</i>	<i>9 August 2016</i>
