

**SHIRE OF DONNYBROOK-BALINGUP  
CEMETERIES LOCAL LAW 2008**

Under the powers conferred by the *Cemeteries Act 1986* and under all other powers enabling it, the Council of the Shire of Donnybrook-Balingup resolved on 26 November 2008 to make the following local law.

**PART 1 – PRELIMINARY**

**1.1 Citation**

This local law may be cited as the *Shire of Donnybrook-Balingup Cemeteries Local Law 2008*.

**1.2 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 after the due processes of cremation as may be contained in a standard sized cremation urn;

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

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

“**Council**” means the Council of the Shire of Donnybrook-Balingup vested with the power to exercise the functions of the Board under Sections 5 & 6 of the Act;

“**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 Council;

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

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

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

“**funeral**” includes the burial and cremation of a dead body and all associated processions and ceremonials but does not include so much of a ceremonial that is solely a religious rite;

“**funeral director**” means a person, firm or company holding a current funeral director’s licence;

“**funeral director’s licence**” means a licence issued by the Council in accordance with clause 4.2 which entitles the holder to conduct funerals at the cemeteries;

“**grant**” means a grant of an exclusive right of burial in a specified area of a cemetery which is granted by the Council in accordance with section 25 of the Act;

“**grave**” means a grave situated in a cemetery in respect of which a grant has been made under and in accordance with the Act and this local law;

“**guide dog**” has the same meaning as is given to that expression in the *Dog Act 1976*;

“**holder**” in relation to a grant includes-

(a) a person issued with a grant by the Council;

(b) a person for the time being appearing to the Council to be the holder of that grant;

“**local government**” means the Shire of Donnybrook-Balingup;

“**mausoleum**” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

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

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

“**monument**” includes a tombstone, vault, enclosure or other approved form of memorial;

“**monumental mason**” means a person, firm or company holding a current monumental mason’s licence;

“**monumental mason’s licence**” means a licence issued by the Council;

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

“**personal representative**” means-

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

“**set fee**” refers to fees and charges set by a resolution of the Council and published in the *Government Gazette*, under section 53 of the Act;

“**single funeral permit**” means a permit issued by the Council 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 Council; and

“**vehicle**” has the same meaning as is given to that word in the *Road Traffic Act 1974* as amended from time to time, and includes trail bikes, beach buggies and other recreational vehicles licensed or unlicensed, but excludes a wheel chair being used by a physically impaired person.

Reference to any Act or local law means that Act or local law as amended from time to time and includes all regulations made thereunder.

### 1.3 **Repeal**

The Shire of Donnybrook-Balingup Cemeteries Local Law 1998, published in the *Government Gazette* on 27 November 1998 and as amended and published in the *Government Gazette* on 5 March 1999 and on 23 March 2004 is hereby repealed.

## PART 2 – ADMINISTRATION

### Division 1 - General

#### 2.1 **Powers and functions of CEO**

Subject to any direction given by the Council, the CEO shall exercise all the powers and functions of the Council in respect of the Cemeteries.

#### 2.2 **Appointment of employees**

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

#### 2.3 **Plans and registers**

(1) The Council 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; and
- (d) a register of persons cremated whose ashes have been buried or disposed in each cemetery.

(2) The plans and registers referred to in sub-clause (1) shall be open for inspection by members of the public during normal office hours of the Council and upon payment of a set fee.

### Division 2 – Right of burial

#### 2.4 **Issuing grants**

The Council 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.

#### 2.5 **Rights of holder**

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

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

- (2) The Council, 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 Council or an authorised officer may request the holder to produce the grant before the exercise of any of the rights referred to in sub-clause (1) and the holder shall forthwith comply with that request.

## **2.6 Renewal of grant**

- (1) Where, at any time during the term of a grant, a holder –
  - (a) makes written application; and
  - (b) pays a set fee,
 the Council may at its discretion 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 Council from time to time.
- (3) The Council 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 Council in accordance with sub-rule (3) deliver the existing grant to the Council.

## **2.7 Replacement of grant**

- (1) The Council may, upon –
  - (a) written application of a holder;
  - (b) payment of a set fee by the holder; and
  - (c) production of evidence to the satisfaction of the Council by the holder that a grant has been lost or destroyed,
 issue a new grant to replace a grant which is lost or destroyed.
- (2) Notwithstanding sub-clause (1), the Council may prior to issuing a replacement grant, require the holder to make a statutory declaration substantially in the form prescribed.
- (3) The replacement grant issued by the Council shall be deemed to be the original grant.

## **2.8 Transfer of grant**

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

- (a) make an application to the Council in the form prescribed;
- (b) pay a set fee and,

upon receipt of the application the Council may grant permission in accordance with section 26 of the Act.

## **2.9 Exercising the rights of holder**

If evidence is produced in writing to the satisfaction of the Council that a holder is unavailable or not immediately ascertainable, or has died and has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder's personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, then the Council 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 in the form determined by the Council from time to time.
- (2) An application referred to in sub-clause (1) is to be accompanied by –
  - (a) the set fee; and
  - (a) evidence to the satisfaction of the Council 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 clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of a 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 Council from time to time, unless –

- (a) in the opinion of a funeral director, the dead body is not in a fit state to be viewed; or
  - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.
- (2) Where –
- (a) in the opinion of a funeral director, a dead body is not in a fit state to be viewed; or
  - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body,
- then the funeral director shall complete a certificate in the form determined by the Council from time to time.

### **3.4 Minimum notice required**

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

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

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

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

### **3.7 Times for burials**

A person shall not carry out a burial –

- (a) on a gazetted public holiday in the State of Western Australia; or
- (b) at any other time other than during the following days and hours –
  - (i) Monday to Friday between 9.00 a.m. and 4.00 p.m.
  - (ii) Saturday between 9.00 a.m. and 12.00 p.m.

except with the written permission of the Council.

## **PART 4 - FUNERAL DIRECTORS**

### **4.1 Directing a funeral**

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

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

### **4.2 Funeral director's licence**

- (1) The Council may, upon the receipt of an application in writing by a fit person in the form prescribed 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 Council shall specify and in compliance with the provisions of this local law.
- (2) If the application referred to in sub-clause (1) is approved by the Council, the Council shall issue to the applicant a licence in the form prescribed.
- (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 Council 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 determined pursuant to clause 4.5, whichever shall occur sooner; and
- (b) is not transferable.

### **4.4 Responsibilities of holder of funeral director's licence**

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

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

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

The Council may, by notice in writing to a holder of a funeral director’s licence, cancel a licence if –

- (a) the holder of the licence or any employee of the holder has committed a breach of this local law, the Act or any of the conditions upon which the licence was issued;
- (b) in the opinion of the Council, 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 Council 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.

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 Council.

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

- (1) The Council may upon receipt of an application in writing by a person in the form prescribed 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 Council 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 Council may refuse an application for the single funeral permit if, in the opinion of the Council, either a coffin’s specifications or the details of the vehicle transporting the dead body to the gravesite, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

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

#### **5.2 Funeral processions**

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

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

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

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

**5.4 Vehicle access and speed limitations**

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

**5.5 Offenders may be expelled**

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

**5.6 Conduct of funeral by Council**

When conducting a funeral under section 22 of the Act the Council may –

- (a) require a written request for it to conduct the funeral to be lodged with it;
- (b) in its absolute discretion, charge a person requesting it to conduct the funeral a 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 a cemetery where the dead body is to be buried or the ashes placed;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
- (f) do or require anything 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) A 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 a cemetery and upon payment of a set fee the Council may grant permission for the ashes to be disposed of by one of the following methods-
- Niche wall
  - Family grave
  - Bush memorial
  - Other memorials approved by the Council
- (2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of the deceased person in the cemetery.
- (3) An authorised officer may place the ashes of the deceased person in the cemetery in accordance with the Council approval provided –
- (a) the person requesting the placement of the ashes has the permission of the Council; and
  - (b) the ashes are placed within an area set aside for that purpose by the Council.
- (4) An authorised officer may place the ashes of the deceased person within a grave in accordance with the Council approval, provided the person requesting the placement of the ashes has lodged evidence to the satisfaction of the Council 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 Council.

**PART 6 - BURIALS**

**6.1 Depth of graves**

- (1) A person shall not bury a coffin within a 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 750 mm, unless that person has the permission of an authorised officer; or
  - (b) in any circumstances less than 600 mm.
- (2) The permission of an authorised officer in sub-clause (1)(a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

**6.2 Vaults & Mausoleums**

- (1) A person other than those approved by Council shall not construct a brick grave, crypt, vault or mausoleum within a cemetery.
- (2) Council may, upon receipt of an application in writing by any person and upon payment of the set fee, approve the construction of a vault or mausoleum within a cemetery, which vault or mausoleum shall at all times remain the property of Council.

- (3) A mausoleum must be –
  - (a) constructed of brick, stone, concrete or similar durable material;
  - (b) be adequately ventilated and drained;
  - (c) vermin proof; and
  - (d) capable of being secured against entry by vandals or other unauthorised persons.
- (4) A person shall not place a dead body in a mausoleum except –
  - (a) in an enclosed coffin; and
  - (b) in a soundly constructed chamber; and
  - (c) in accordance with sub-clause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.
- (6) The applicant shall ensure that as soon as possible after a dead body is placed in a mausoleum, the front of the chamber is sealed with a slab of impervious material and faced with a substantial stone, slate or other material approved by the Council.

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

- (1) Subject to sub-clause (2), if for the purpose of re-opening a grave in a cemetery the Council finds it necessary to remove a monument, edging, tiles, plants, grass, shrubs or other like matter from the grave, then a person ordering a re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.
- (2) If a Minister orders the exhumation of a body in accordance with section 58 of the Act then, the Minister may further order how and by whom the costs referred to in sub-clause (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 sub-rule (2), a person shall not disinter a coffin in a cemetery for the purposes of re-burial within twelve months after the date of its interment.
- (2) Sub-clause (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 Council requesting the exhumation and the Council 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 Council an order signed by the Commissioner of Police and the Council 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 the prescribed form; and
  - (b) payment of a set fee,

the Council may issue to that person a permit to carry out monumental work on a grave specified in an application on the days, at the times and subject to the conditions specified by the Council.
- (2) An application referred to in sub-clause (1) shall be accompanied by –
  - (a) the plans and specifications of the proposed monumental work, including precise details of all words, designs and pictures intended to be inscribed on or attached to the monumental work;

- (b) if the applicant is not a holder of a grant in respect of a grave on which the work is to be carried out, the written consent of the holder or authorised representative.

**7.2 Placement of monumental work**

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

**7.3 Removal of rubbish**

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

**7.4 Operation of work**

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

**7.5 Removal of sand, soil or loam**

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

**7.6 Hours of work**

A person shall not be permitted to carry out memorial or other work on graves within a cemetery other than during the hours of 8.00 a.m. and 6.00 p.m. on weekdays, and 8.00 a.m. and noon on Saturdays, without the written permission of the Council.

**7.7 Unfinished work**

Should any work by masons or others be not completed before 6.00 p.m. on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised officer.

**7.8 Use of wood**

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

**7.9 Plants and trees**

No trees or shrubs shall be planted on a grave or within a cemetery except such as shall be approved by the Council.

**7.10 Supervision**

All workers, whether employed by the Council or by any other person, shall at all times whilst within the boundaries of a cemetery be subject to the supervision of the CEO or an authorised officer and shall obey such directions as the CEO or an authorised officer may give.

**7.11 Australian war graves**

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

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

**7.12 Placing of glass domes and vases**

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

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

Division 2 – Bush memorial section – ground niche (ashes only)

**7.13 Specification of monuments**

(1) All monuments in the bush memorial section of a cemetery shall –

- (a) be made of Donnybrook stone, concrete or granite; and
- (b) be placed upon a base of concrete footing slab; and
- (c) comply with the following specifications –
  - (i) the overall height of a monument above the original surface of the base shall be 250mm;
  - (ii) the width of the monument shall be 290 mm;



- (iii) the depth of the monument shall be 190 mm; and
- (iv) the height of the base of the monument shall be 50 mm;
- (2) A memorial plaque of admiralty bronze only is to be attached to a monument erected or being erected in the bush memorial section of the cemetery. The dimensions of all plaques are to be 229 mm by 165 mm.
- (3) A person shall not display any trade names or marks upon any monument erected within the bush memorial section of the cemetery.

### Division 3 - Licensing of monumental masons

#### **7.14 Monumental mason's licence**

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

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

A monumental mason's licence –

- (a) shall, subject to clause 7.18, be valid from a date specified therein until the 30 June next following year; and
- (b) is not transferable.

#### **7.16 Carrying out monumental work**

A person shall not carry out monumental work within a cemetery unless that person –

- (a) is a holder of a current monumental mason's licence issued pursuant to clause 7.14 or does so as an employee of the person who holds such a licence; or
- (b) is authorised by the Council to do so.

#### **7.17 Responsibilities of holder of monumental mason's licence**

A holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within a cemetery pursuant to that licence with all the requirements and conditions of a licence, this local law, the Act and any other written law which may affect the carrying out of monumental works.

#### **7.18 Cancellation of monumental mason's licence**

- (1) The Council may by notice in writing to a holder of a monumental mason's licence terminate a licence on any of the following grounds –
  - (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this local law, the Act or any other written law which may affect the carrying out of monumental works;
  - (b) that, in the opinion of the Council, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within a cemetery, is inappropriate or unbecoming; 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 a fee paid for the issue of the licence is refundable by the Council.

~~(3) An aggrieved person whose licence has been terminated under sub clause (1) may appeal to the State Administrative Tribunal against a decision of the Council under this clause in the manner stated in section 19 of the Act. Deleted as per Governors Circular 2011~~

#### **7.19 Application for single monumental work permit**

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

## 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 a cemetery, other than with the approval of the CEO or an authorised officer.
- 8.2 Guide dogs**  
Clause 8.1 shall not apply to a hearing-impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog, or a person with a certified medical condition who is accompanied by a companion dog.
- 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 a cemetery or any other object or thing on a grave or memorial or which is the property of the Council without the permission of the Council.
- 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 Council for that purpose.
- 8.5 Littering and vandalism**  
A person shall not –
- (a) break or cause to be broken any glass, ceramic or other material in or upon a cemetery;
  - (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.
- 8.6 Advertising**  
A person shall not carry on or advertise any trade, business or profession within a cemetery without the prior written approval of the Council which consent may be granted subject to such conditions as the Council thinks fit.
- 8.7 Obeying signs and directions**  
A person shall obey all signs displayed, marked, placed or erected by the Council within a cemetery and any other lawful direction by the CEO or an authorised officer.
- 8.8 Removal from cemetery**  
A person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Council, the CEO or an authorised officer is inappropriate in a cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by the Council, the CEO or an authorised officer.

## **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 the First Schedule 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 the First Schedule is set out in the fourth column of the First Schedule.
  - (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in the Second Schedule.
  - (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in the Third Schedule.

**FIRST SCHEDULE**

Cemeteries Act 1986  
Local Government Act 1995  
SHIRE OF DONNYBROOK-BALINGUP  
CEMETERIES LOCAL LAW

**OFFENCES AND MODIFIED PENALTIES**

Item No.	Clause	Nature of Offence	Modified Penalty
1	5.4	Excessive speed in vehicle	\$50.00
2	5.4	Unauthorised vehicle use	\$50.00
3	7.3	Non 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	Littering and/or vandalism	\$50.00
7	8.6	Unauthorised advertising and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00

**SECOND SCHEDULE**

Cemeteries Act 1986  
Local Government Act 1995  
SHIRE OF DONNYBROOK-BALINGUP  
CEMETERIES LOCAL LAW

**INFRINGEMENT NOTICE**

TO: \_\_\_\_\_  
(Name)

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

It is alleged that at \_\_\_\_\_: \_\_\_\_\_ hours on \_\_\_\_\_ day  
of \_\_\_\_\_ 20 \_\_\_\_\_ at \_\_\_\_\_

you committed the offence indicated below by an (x) in breach of clause ..... of the *Shire of Donnybrook-Balingup Cemeteries Local Law 2008*.  
\_\_\_\_\_  
(Authorised Person)

- Offence  
 Excessive speed in vehicle  
 Unauthorised vehicle use  
 Non removal of rubbish and surplus materials  
 Leaving uncompleted works in an untidy or unsafe condition  
 Animal at large  
 Littering and/or vandalism  
 Unauthorised advertising, and/or trading  
 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 CEO, Shire of Donnybrook-Balingup, Bentley Street, Donnybrook between the hours of 8.30 a.m. to 4.00 p.m. Monday to Friday.

Please make cheques payable to Shire of Donnybrook-Balingup. Payments by mail should be addressed to-

The CEO  
Shire of Donnybrook-Balingup  
PO Box 94  
DONNYBROOK WA 6239

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.

---

### THIRD SCHEDULE

Cemeteries Act 1986  
Local Government Act 1995  
SHIRE OF DONNYBROOK-BALINGUP  
CEMETERIES LOCAL LAW

### WITHDRAWAL OF INFRINGEMENT NOTICE

No. \_\_\_\_\_

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

\_\_\_\_\_

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

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

Penalty (3) \$ \_\_\_\_\_ is withdrawn.

(Delete whichever does not apply)

\* No further action will be taken.

\* It is proposed to institute court proceedings for the alleged offence.

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

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

Dated: 26 November 2008.

The Common Seal of the Shire of Donnybrook-Balingup was affixed by the authority of a resolution of the Council in the presence of-

S B DILLEY, Shire President  
J R ATTWOOD, Chief Executive Officer