

**CEMETERIES ACT 1986**

**SHIRE OF CAPEL**

**LOCAL LAWS RELATING TO THE CAPEL AND BOYANUP PUBLIC CEMETERIES**

Under the powers conferred by the Cemeteries Act 1986, the Shire of Capel resolved on the 13<sup>th</sup> December 2000, to adopt the Model Local Law (Cemeteries) 1998 published in the Government Gazette on 12 May 1998, in relation to the Capel and Boyanup Public Cemeteries, with such modifications as are here set out.

**Clause 1.3**

Insert after “The following Local Laws are repealed: - “ – “ The Shire of Capel Public Cemetery By-laws, published in the Government Gazette of 30 September 1955, as amended.”

**Clause 3.2**

Delete

**Clause 3.4 (1)**

Delete “ or crematorium within the cemetery”

**Clause 4.2**

Delete “, or crematorium”

**Clause 4.3**

Delete “ or crematorium,”

**Clause 5.1, para (a)**

Delete “ or cremation”

**Clause 5.2**

Delete “or cremation” and “or clause 3.2”

**Clause 5.6, para (d)**

Delete

**Part 5, Division 2**

Delete

**Clause 5.12**

In subclause (1), delete –  
“Memorial Wall  
Garden of Remembrance  
Ground Niche  
Memorial Rose, Tree or Shrub  
Family Shrub  
Memorial Desk  
Granite Seat  
Book of Remembrance  
Memorial Gardens”

**Clause 5.13**

Delete

**Clause 5.14**

Delete

**Clause 6.1.1**

In paragraph (a) of subclause (1), delete “750mm” and insert “900mm”.

In paragraph (b) of subclause (1), delete “600mm” and insert “750mm”.

**Clause 7.12**

Delete and substitute –  
“7.12 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”

**Part 7, Division 2**

Delete

**Part 7, Division 3**

Delete

\* \* \* \* \*

Dated 30th December 2000.

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

**L P STRUGNELL, President**

**R G BONE, Chief Executive Officer**

**SHIRE OF CAPEL**

**LOCAL LAWS RELATING TO THE CAPEL AND BOYANUP PUBLIC CEMETERIES**

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## **CEMETERIES ACT 1986**

### **Shire of Capel**

#### **Cemeteries Local Laws**

Under the powers conferred by the Cemeteries Act 1986, the Shire of Capel resolved on the 13<sup>th</sup> December 2000, to adopt the Model Local Law (Cemeteries) 1998 published in the Government Gazette on 12 May 1998, in relation to the Capel and Boyanup Public Cemeteries, with such modifications as are here set out.

### **PART 1 - PRELIMINARY**

#### **1.1 Citation**

This Local Law may be cited as the Shire of Capel Cemeteries Local Law.

#### **1.2 Interpretation**

In this Local Law unless the context otherwise requires:

“**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 officer**” 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;

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

“**Funeral Director**” means a person holding a current funeral director’s licence;

“**Board**” means the Shire of Capel;

“**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;

“**monumental mason**” means a person holding a current monumental mason’s licence;

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

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

“**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.

#### **1.3 Repeal**

The following Local Law is repealed:-

The Shire of Capel Public Cemetery By-laws Relating published in the Government Gazette of 30 September 1955, as amended.



### **Provisions of the Cemeteries Act**

Provisions of the Cemeteries Act have been included in this document in appropriate places, boxed and hachured . These insertions are not an official part of these local laws but are included to give a fuller picture of the written law governing proceedings, or as an aid to interpretation.

In the hachured boxes, “S” denotes a section of the *Cemeteries Act 1986*.

## **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 the cemetery.

#### **Board to maintain registers and plans**

- S40 (1) A Board shall establish and maintain -
- (a) a register containing details of all burials in the cemetery, including details of the names and descriptions of the deceased persons and details of the location of the burial in every case; and
  - (b) a register of all grants of rights of burial in the cemetery, including details of the assignments or bequests of grants.
- (2) A Board shall keep and maintain plans showing the location of all burials registered under subsection (1).
- (3) A register maintained under this Act may be kept or prepared -
- (a) by making entries in or on a bound or loose-leaf book; or
  - (b) by recording or storing the particulars required by this Act to be entered in the register by means of a mechanical, electronic or other device, but so that the particulars so recorded or stored will remain in the form in which they were originally recorded or stored and will be capable of being reproduced in written form in the English language.

#### **Registers available for inspection**

- S41 (1) A Board shall make all registers kept under this Act available for inspection by members of the public at times and places set by the Board and shall on request make available copies of extracts from any register.
- (2) A Board may charge a fee for the inspection of a register or for providing an extract from or certified copy of an extract from a register.

## **Rights of Burial**

#### **Grant of Right of Burial**

- S25 (1) A Board may grant to a person for a term of 25 years the right of burial in a specified area of a cemetery and the right to place a memorial on that area.
- (2) Where the holder for the time being of a grant of a right of burial applies to the Board for the renewal of the grant the Board shall renew the grant for a further term of 25 years.
- (3) A right of burial granted under this section shall be subject to such conditions as may be prescribed by local law.

- (4) A right of burial granted under the *Cemeteries Act 1897* or renewed under subsection (2) may, if the Board and the holder for the time being of the grant agree, be renewed from time to time for a further term not exceeding 25 years in the case of any one renewal.

**Transfer of right of burial**

- S26 (1) A right of burial granted to a person under this Act may be assigned by the holder in his lifetime or bequeathed by will.
- (2) An assignment of a right of burial shall have no effect until it is produced to the Board for registration and when so registered shall have priority over any other assignment that may subsequently be produced to the Board.
- (3) The bequest of a right of burial shall have no effect until the probate of the will by which the right of burial passes is produced to the Board and the Board shall make an appropriate entry in the register upon which the bequest shall have priority over any assignment that may subsequently be produced to the Board.

**Protection of right of burial**

- S27 Before any burial is permitted to take place in a specified area which is the subject of a grant of right of burial, the Board must be satisfied that the holder of the right has consented or would not object to the burial taking place.

**Surrender of right of burial**

- S28 The holder of a right of burial granted under this Act may surrender the right to the Board upon which all rights and obligations under the right shall terminate.

**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 Board from time to time.
- (2) An application under subclause (1) is to be accompanied by the set fee.

**3.2 Deleted**

**3.3 Applications to be Accompanied by Certificates etc**

All applications referred to in clauses 3.1 and 3.2 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.4, in respect of the body.

**3.4 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 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) 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,

then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.

### 3.5 Minimum Notice Required

All bookings to hold a funeral shall be made with the Board at least twenty-four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

## PART 4 - FUNERAL DIRECTORS

### Division 3 - Licensing of funeral directors

#### **Licences**

S16 A funeral director's licence -

- (a) is valid for the conduct of funerals at the cemetery or cemeteries specified in the licence;
- (b) is valid for such period not exceeding one year from the day on which the licence is issued as the Board determines, unless the licence is sooner suspended or cancelled; and
- (c) is not transferable.

#### **Applications for licences**

S17 (1) An application for a funeral director's licence in respect of a cemetery shall be made to the Board responsible for the care, control and management of the cemetery in the manner required by the Board and shall be lodged with the Board together with the appropriate fee.

(2) An applicant who satisfies the Board that the applicant -

- (a) is of good repute and is fit to hold a funeral director's licence;

and

- (b) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals,

shall be entitled to be issued with a funeral director's licence.

- (3) The Board, or a person authorized by resolution of the Board for the purpose, may at any reasonable time inspect the facilities and equipment of an applicant for or the holder of a funeral director's licence and the applicant or holder shall take all reasonable steps to facilitate an inspection authorized by this subsection.

Penalty: \$500

**Suspension and cancellation of licences**

- S18 (1) A Board may, by notice in writing delivered to the holder of a licence, cancel or suspend the licence if -
- (a) the licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;
  - (b) the fee for the licence is due and unpaid;
  - (c) the holder of the licence is convicted of an offence against this Act or local laws made under this Act; or
  - (d) the Board is no longer satisfied in relation to the holder of the licence with respect to the matters referred to in section 17 (2).
- (2) If a licence is cancelled or suspended under this section, the person to whom the licence was issued shall deliver the licence to the Board within such period as may be specified in the notice referred to in subsection (1).

Penalty: \$500

**Appeals against decisions of Board**

- S19 (1) Where a Board -
- (a) refuses an application for a licence; or
  - (b) cancels or suspends a licence,
- the Board shall notify in writing the applicant or the person to whom the licence was issued of its decision and of the reasons for that decision.
- (2) An aggrieved applicant or person whose licence has been cancelled or suspended may appeal to a Local Court against the decision of the Board.
- (3) An appeal under this section may be instituted by the appellant lodging a notice of appeal specifying the grounds of appeal with the clerk of the Local Court to which the appeal is to be made and the Board within 1 month after the appellant received the notice referred to in subsection (1).
- (4) An appeal under this section shall be in the nature of a rehearing de novo and shall be heard before a Local Court conducted by a stipendiary magistrate.
- (5) On hearing an appeal under this section, the Local Court may -
- (a) confirm, quash or vary the decision of the Board or substitute its own decision for that of the Board; and
  - (b) make any other order as to costs or otherwise.
- (6) The decision of a Local Court in an appeal under this section is final and conclusive and the Board shall give effect to it.

**4.1 Funeral Director's Licence Expiry**

A funeral director's licence shall expire on the 30th day of June in each year.

**4.2 Single Funeral Permits**

**Single funeral permits issued to persons other than funeral directors**

- S20 (1) Subject to this section, a Board may issue a permit to any person, other than the holder of a funeral director's licence, for the conduct at a cemetery of a funeral of a person named in the permit.
- (2) An application for a permit under this section shall be made in the manner required by the Board and lodged with the Board together with the appropriate fee.
- (3) A permit issued under this section shall have effect subject to any conditions prescribed by local law and to any further conditions that may be attached by the Board in the particular case and set out in the permit.

**Single funeral permits issued to funeral directors**

- S21
- (1) Subject to this section, a Board may issue a permit to a person who is the holder of a funeral director's licence issued by another Board for the conduct at a cemetery under the care, control and management of the first mentioned Board of a funeral of a person named in the permit.
  - (2) An application for a permit under this section shall be made in the manner required by the Board and lodged with the Board together with the appropriate fee.
  - (3) In determining an application made by a funeral director under this section, a Board is not required to inquire into the matters referred to in section 17 (2).

Every 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.

**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 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 officer.

**Board may conduct funeral**

S22 A Board may conduct a funeral at a cemetery for the care, control and management of which it is responsible.

**5.6 Conduct of Funeral by 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) deleted
- 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 - Cremation*

**5.7 to 5.11 Deleted**

*Division 3 - Placement of Ashes*

**5.12 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:

Niche Wall

Family Grave

Scattering to the Winds

Other memorials approved by the Board

- (2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.

- (3) An authorised officer 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 officer 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 the written permission of the Board and the approval of the holder of the right of burial of the grave.

**5.13 Deleted**

**5.14 Deleted**

## **PART 6 - BURIALS**

### **6.1.1 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 900mm, unless that person has the permission of an authorised officer; or
  - (b) in any circumstances less than 750mm.
- (2) The permission of the 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.

### **6.1.2 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 the set fee.
- (4) 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 sub-clause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

#### **Minister may order exhumation**

S58 The Minister may in writing order the exhumation of a body and the re-burial or disposal of the ashes after cremation of the body in accordance with this Act and may further order how and by whom the costs of the exhumation, re-burial or disposal shall be met.

**Board may authorize exhumation and re-burial**

S59 A Board may in writing authorize the exhumation of a body buried in the cemetery and the re-burial or disposal of the ashes after cremation of the body in that cemetery.

**PART 7 - MEMORIALS AND OTHER WORK**

*Division 1 - General*

**Control of memorials**

S29 A Board shall control the kinds of memorial permitted in a cemetery and may impose different requirements for different areas of a cemetery.

**Permission for memorials**

- S30
- (1) A person who wishes to place or erect a memorial in a cemetery shall apply to the Board specifying the proposed location, design and materials of which the memorial is to be composed and the Board may approve or, if the Board considers the location to be incorrect or the proposed memorial to be inappropriate or indecorous or contrary to a local law, refuse the application.
  - (2) A person shall not place or assist in placing or erecting a memorial in a cemetery without the permission of the Board.  
Penalty: \$500
  - (3) A person shall not alter or add to, or assist in the alteration of or addition to or removal of, a memorial in a cemetery without the permission of the board.  
  
Penalty: \$500

**Removal or alteration of unauthorized memorial**

- S31
- (1) If a memorial in a cemetery is placed or erected or altered without the permission of the Board or, although placed, erected or altered with such permission, is placed, erected or altered contrary to the local laws or other requirements or conditions of the permission of the Board, the Board may give a written notice to the holder of the right of burial or other person who has caused the memorial to be so placed, erected or altered requiring that holder or other person within 28 days from receiving the notice to remove the memorial from the cemetery or to alter it in the manner specified in the notice to the satisfaction of the Board.
  - (2) If the holder of a right of burial or other person to whom a notice is given under subsection (1) refuses to or otherwise fails to comply with the terms of the notice, the Board may remove or alter the memorial and may recover from that holder of a right of burial or other person the costs of the removal or alteration as a debt in a court of competent jurisdiction.



**Removal or alteration of memorial in disrepair**

- S32 (1) If a memorial in a cemetery is, in the opinion of the Board, in need of repair or is in such a state of disrepair that repairs are not feasible, the Board may give a written notice to the holder of the relevant right of burial requiring that person within 28 days from receiving the notice to repair the memorial to the satisfaction of the Board or to remove the memorial from the cemetery, as the case may require and as specified in the notice.
- (2) If the holder of a right of burial to whom a notice is given under subsection (1) refuses to or otherwise fails to comply with the terms of the notice, the Board may cause the memorial to be repaired or removed from the cemetery and may recover from that holder of a right of burial the costs of the removal or repair as a debt in a court of competent jurisdiction.

**7.1 Application for Monumental Work**

A Board may require the written 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 Monumental Work**

Every 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 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 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 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 6pm 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 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 CEO.

**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 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 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.

*Division 2 - Lawn Section*

**7.13 Deleted**

**7.14 Deleted**

**7.15 Deleted**

*Division 4 - Licensing of Monumental Masons*

**7.16 Monumental Mason's Licence**

- (1) The Board may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under sub-clause (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.

**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 7.18 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 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 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.
- (3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to a Local Court against a decision of the Board under this clause in the manner stated in section 19 (3) of the Act.

**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 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.

**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 officer.

**8.8 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 officer 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 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**

**Shire of Capel**

**Cemeteries Local Law**

Modified Penalties

<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



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 Capel at Forrest Road, Capel, WA, between the hours of 9.00am to 4:30pm Monday to Friday.

Please make cheques payable to Shire of Capel. Payments by mail should be addressed to:

The Chief Executive Officer  
Shire of Capel  
PO Box 369  
CAPEL WA 6271

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**

**Shire of Capel**

**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 \_\_\_\_\_ 2000.

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

\_\_\_\_\_  
**L P STRUGNELL, President**

\_\_\_\_\_  
**R G BONE, Chief Executive Officer**