

**WESTERN AUSTRALIA
CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

**SHIRE OF PINGELLY
CEMETERIES LOCAL LAW 2027**

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

TABLE OF CONTENTS

PART 1 — PRELIMINARY	4
1.1 Citation	4
1.2 Commencement	4
1.3 Application.....	4
1.4 Repeal	4
1.5 Definitions	4
PART 2 — ADMINISTRATION.....	5
2.1 Powers and functions of CEO	5
2.2 Cemetery records and plans.....	5
2.3 Grant of right of burial.....	5
2.4 Pre-need certificate	5
2.5 Local government may enter into an agreement for maintenance	5
2.6 Electronic communications	5
2.7 Historical records.....	5
PART 3 — APPLICATION FOR INTERMENT.....	6
3.1 Application for burial.....	6
3.2 Applications to be accompanied by certificates etc.....	6
3.3 Certificate of identification.....	6
3.4 Minimum notice required	6
3.5 Refusal of application	6
PART 4 — FUNERAL DIRECTORS	6
4.1 Funeral director's licence expiry.....	6
4.2 Single funeral permits.....	6
4.3 Application refusal.....	6
PART 5 — FUNERALS	6
5.1 Requirements for funerals and coffins	6
5.2 Funeral processions	7
5.3 Vehicle entry restricted	7
5.4 Vehicle access and speed limitation.....	7
5.5 Offenders may be ordered to leave	7
5.6 Conduct of funeral by local government	7
5.7 Recording.....	7
5.8 Disposal of ashes	7
5.9 Ashes not to be held by the local government.....	8

PART 6 — BURIALS	8
6.1 Depth of graves	8
6.2 Mausoleum, vault etc	8
6.3 Re-opening a grave	8
6.4 Exhumation of a coffin	8
PART 7 — MEMORIALS AND OTHER WORK	8
7.1 Application for monumental work	8
7.2 Placement of monumental work	9
7.3 Removal of rubbish	9
7.4 Operation of work	9
7.5 Removal of sand, soil or loam	9
7.6 Hours of work	9
7.7 Unfinished work	9
7.8 Use of wood	9
7.9 Memorial trees	9
7.10 Supervision	9
7.11 Australian War Graves	9
7.12 Placing of glass domes and vases	9
7.13 Offensive material on memorials	10
7.14 Monumental mason's licence	10
7.15 Expiry date, non-transferability	10
7.16 Carrying out monumental work	10
7.17 Responsibilities of the holder of a monumental mason's licence	10
7.18 Cancellation of a monumental mason's licence	10
7.19 Unsafe memorials	10
PART 8 — GENERAL	11
8.1 Animals	11
8.2 Damaging and removing of objects	11
8.3 Withered flowers	11
8.4 Littering and vandalism	11
8.5 Advertising	11
8.6 Obeying signs and directions	11
8.7 Removal from the cemetery	11
8.8 Utility services	11
8.9 Local government may close cemetery	11
PART 9 — LIABILITY AND NOTICES	12
9.1 Liability for damage or works required to comply	12
9.2 Offence to fail to comply with notice	12
9.3 Local government may undertake requirements of notice	12
PART 10 — OBJECTIONS AND REVIEW	12
10.1 Application of Division 1, Part 9 of the Local Government Act 1995	12
PART 11 — OFFENCES AND MODIFIED PENALTIES	12
11.1 General	12
11.2 Modified penalties	12
SCHEDULE 1 — MODIFIED PENALTIES	13
SCHEDULE 2 — INFRINGEMENT NOTICE	13
SCHEDULE 3 — WITHDRAWAL OF INFRINGEMENT NOTICE	14
DECLARATION	15

PART 1 — PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Pingelly Cemeteries Local Law 2027.

1.2 Commencement

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

1.3 Application

This local law applies to the Pingelly Cemetery (Reserve 1835, Lots 684 and 821) and the Moorumbine Public Cemetery (Avon Location 1176).

1.4 Repeal

The Shire of Pingelly Cemeteries Local Law 2003, published in the Government Gazette on 10 June 2003, is repealed.

1.5 Definitions

In this local law, unless the context otherwise requires—

Act means the Cemeteries Act 1986;

ashes means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

authorised person means a person appointed by the local government under section 9.10 of the Local Government Act 1995 to perform any function or exercise any power conferred on an authorised person by this local law;

business day means a day other than a Saturday, Sunday or public holiday in Western Australia;

cemetery means the Pingelly Cemetery or the Moorumbine Public Cemetery, as the context requires;

CEO means the chief executive officer for the time being of the local government;

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

funeral director means a person holding a current funeral director's licence;

grant of right of burial means a right granted under clause 2.3 for burial of a dead body, and includes placement of ashes in a grave, memorial garden or under a memorial plaque, or scattering of ashes within the cemetery;

local government means the Shire of Pingelly;

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 meaning given to it in the Act;

memorial tree means a tree planted in an area designated by the local government under clause 7.9 to commemorate a deceased person;

monumental mason means a person holding a current monumental mason's licence;

personal representative means—

- (a) the administrator or executor of an estate 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 lawful custody of a dead body;

pre-need certificate means a certificate issued under clause 2.4;

set fee refers to fees and charges set by a resolution of the local government and published in the Government Gazette under section 53 of the Act;

single funeral permit means a permit issued by the local government 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;

State Administrative Tribunal means the State Administrative Tribunal established under the State Administrative Tribunal Act 2004;

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

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

vehicle includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, and an animal being ridden or driven, but excludes a wheelchair or similar device designed for use by a physically impaired person, and a pram, stroller or similar device.

PART 2 — ADMINISTRATION

2.1 Powers and functions of CEO

Subject to any direction given by the local government, the CEO is to exercise all the powers and functions of the local government in respect of the cemetery.

2.2 Cemetery records and plans

- (1) The local government is to maintain the registers and plans required under section 40 of the Act, whether in written or electronic form, and is to keep those registers and plans up to date.
- (2) The local government is to establish and maintain a plan of each cemetery showing—
 - (a) the location of areas set aside for burials, a memorial garden, and placement of ashes;
 - (b) the location of an area to be used only for burials of persons of a particular religious denomination, where applicable;
 - (c) the location of different areas of the cemetery to which different requirements for memorials apply;
 - (d) the location of an area designated for memorial trees under clause 7.9; and
 - (e) the location of areas set aside for works and other uses specified in section 24(2)(a) and (b) of the Act.
- (3) The plans referred to in subclause (2) are to be open for inspection by members of the public during the ordinary office hours of the local government.

2.3 Grant of right of burial

- (1) On payment of the set fee, a grave, niche compartment or memorial location is to be granted right of burial for a period in accordance with section 25(1) of the Act.
- (2) On payment of the set fee, a grant of right of burial may be extended for a further period in accordance with section 25(2) or (4) of the Act.
- (3) If the local government refuses an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.4 Pre-need certificate

- (1) Prior to the issue of a grant of right of burial, and on payment of the set fee, a person may apply to the local government for a pre-need certificate reserving a specific gravesite, niche compartment or memorial location for a period not exceeding 5 years.
- (2) On payment of the set fee, a pre-need certificate may be renewed for a further period not exceeding 5 years.
- (3) A pre-need certificate may be cancelled at any time by the person holding it, or their authorised representative.
- (4) For the avoidance of doubt, a pre-need certificate is not a grant of right of burial.
- (5) If the local government refuses an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.5 Local government may enter into an agreement for maintenance

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

2.6 Electronic communications

Where this local law requires or permits an application, notice, consent, approval or other communication to be given, it may be given by electronic means, in a form and manner approved by the local government.

2.7 Historical records

- (1) An applicant for a grant of right of burial, or for the interment of a dead body or ashes under clause 3.1, is to provide biographical or historical information about the deceased person, in a form determined by the local government, for inclusion in an online memorial or historical record system maintained or approved by the local government, and pay the set fee for that purpose.
- (2) The local government may waive the requirement in subclause (1) in a particular case.

PART 3 — APPLICATION FOR INTERMENT

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

3.2 Applications to be accompanied by certificates etc

An application referred to in clause 3.1 is to 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 the body.

3.3 Certificate of identification

- (1) Before a dead body is removed to the cemetery, the funeral director is to identify the dead body and complete a certificate of identification, in the form determined by the local government.
- (2) Where the funeral director is unable to identify the dead body under subclause (1), the funeral director is to complete a certificate, in the form determined by the local government, dispensing with identification.

3.4 Minimum notice required

A booking to hold a funeral is to be made with the local government at least 72 hours prior to the time proposed for burial, otherwise an extra charge may be made.

3.5 Refusal of application

- (1) The local government may refuse an application for a single funeral permit or a grant of right of burial—
 - (a) if, in the opinion of the local government, the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate; or
 - (b) on any other reasonable grounds, including grounds relating to public safety, the operation of the cemetery, compliance with the Act, or the preservation of cemetery infrastructure.
- (2) If the local government refuses an application under subclause (1), written notice of the refusal, and the reasons for it, is to be given to the applicant.

PART 4 — FUNERAL DIRECTORS

4.1 Funeral director's licence expiry

A funeral director's licence expires 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 is to include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application refusal

The local government may refuse an application for a single funeral permit if, in the opinion of the local government, 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 reasonable grounds, including grounds relating to public safety, the operation of the cemetery, compliance with the Act, or the preservation of cemetery infrastructure.

PART 5 — FUNERALS

DIVISION 1 — GENERAL

5.1 Requirements for funerals and coffins

A person must not bring a dead body into the cemetery unless—

- (a) the local government has approved an application for the burial of that dead body in accordance with Part 3;
- (b) it is enclosed in a coffin which, in the opinion of the local government, is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate 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 millimetres in height.

5.2 Funeral processions

The time fixed by the local government for a burial is the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, the applicant who applied to hold the funeral under clause 3.1 is liable for a late fee, in addition to the fee already paid or payable for the funeral, calculated as one-half of that fee.

5.3 Vehicle entry restricted

- (1) Subject to subclause (2), a funeral procession is to enter by the principal entrance, and no vehicle except the hearse and official mourning coaches is permitted to enter the cemetery.
- (2) Subclause (1) does not apply to a person using a wheelchair or motorised wheelchair.

5.4 Vehicle access and speed limitation

- (1) A person must drive a vehicle only on a vehicular access way, the constructed roadway, or other area designated for the use of vehicles within the cemetery, unless otherwise authorised by the CEO.
- (2) A person driving a vehicle within a cemetery must not exceed a speed of 20 kilometres per hour, and must comply with the signs and directions in the cemetery.

5.5 Offenders may be ordered to leave

- (1) A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised person.
- (2) A person ordered to leave the cemetery under subclause (1) must leave immediately in a peaceful manner, and must not cause a disturbance to a funeral congregation, ceremony or procession.

5.6 Conduct of funeral by local government

When conducting a funeral under section 22 of the Act, the local government may—

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge the set fee for the conduct of that funeral;
- (c) where no fee or a reduced fee has been charged for the conduct of the funeral, determine the manner in which the funeral is to be conducted;
- (d) specify an area in the 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 an application or obtain a consent required under this local law; and
- (f) do or require anything it considers necessary or convenient for the conduct of the funeral.

5.7 Recording

A person must not record or film a funeral or memorial service within the cemetery without the prior approval of the personal representative of the deceased person whose funeral or memorial service is being held, or the local government.

DIVISION 2 — PLACEMENT OF ASHES

5.8 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, on payment of the set fee, the local government may grant permission for the ashes to be disposed of by one of the following methods—
 - (a) niche wall;

- (b) family grave;
 - (c) memorial garden;
 - (d) scattering to the winds; or
 - (e) another method approved by the local government.
- (2) Subject to subclauses (3) and (4), a person must not place the ashes of a deceased person in the cemetery.
 - (3) An authorised person may place the ashes of a deceased person in a cemetery in accordance with a local government approval, provided the person requesting the placement has the permission of the local government and the ashes are placed within an area set aside for that purpose.
 - (4) An authorised person may place the ashes of a deceased person within a grave in accordance with a local government approval, provided the person requesting the placement has the written permission of the local government and the approval of the holder of the right of burial of the grave.

5.9 Ashes not to be held by the local government

The local government is not required to accept custody of the ashes of a deceased person.

PART 6 — BURIALS

6.1 Depth of graves

- (1) A person must 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 750 millimetres, unless that person has the permission of an authorised person; or
 - (b) in any circumstances, less than 600 millimetres.
- (2) The permission referred to in subclause (1)(a) is only to be granted where, in the opinion of the authorised person, exceptional circumstances require it.

6.2 Mausoleum, vault etc

- (1) A person other than the local government must not construct a brick grave, crypt, vault or mausoleum within the cemetery.
- (2) A person may request the local government to construct a vault or mausoleum within the cemetery, which is to at all times remain the property of the local government.
- (3) An application under subclause (2) is to be in writing and accompanied by payment of the set fee.
- (4) A person must not place a dead body in a mausoleum except—
 - (a) in a closed coffin;
 - (b) in a soundly constructed and sealed chamber; and
 - (c) in accordance with subclause (5).
- (5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

6.3 Re-opening a grave

- (1) A person must not reopen a grave without the approval of the local government.
- (2) If, for the purpose of re-opening a grave, the local government finds it necessary to remove plants, grass, shrubs or similar matter from the grave, the person who ordered the re-opening is liable for the cost of removal and any necessary reinstatement.

6.4 Exhumation of a coffin

- (1) Subject to subclause (2), a person must not exhume a coffin in the cemetery for the purpose of reburial within 12 months after the date of its interment.
- (2) Subclause (1) does not apply where the exhumation is ordered or authorised under the Act.
- (3) Subject to subclauses (1) and (2), and to the Act and any other written law, before any other exhumation, the holder of the grant of right of burial must apply in writing to the CEO requesting the exhumation, and the CEO must have authorised it.

PART 7 — MEMORIALS AND OTHER WORK

DIVISION 1 — GENERAL

7.1 Application for monumental work

- (1) The local government may require the written consent of the holder of the right of burial of the grave to accompany an application for a permit to carry out monumental work under section 30 of the Act.
- (2) The local government may approve an application referred to in subclause (1) unconditionally or subject to conditions, including conditions restricting the materials, dimensions or design of the memorial so as not to detract from the amenity of the cemetery, or refuse to approve the application.
- (3) If the local government refuses to approve an application, written notice of the refusal, and the reasons for it, is to be given to the applicant.

7.2 Placement of monumental work

A memorial is to be placed on proper and substantial foundations.

7.3 Removal of rubbish

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

7.4 Operation of work

Material required for the erection and completion of memorial work is, as far as possible, to be prepared before being taken to the cemetery, and is to be admitted only at the entrance directed by the CEO or an authorised person.

7.5 Removal of sand, soil or loam

A person must not take sand, earth or other material from any part of the cemetery for use in memorial work, or otherwise remove it from the cemetery, except with the written approval of the local government.

7.6 Hours of work

A person must not carry out memorial or other work on a grave within the cemetery other than between 8.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the local government.

7.7 Unfinished work

Work not completed before 6.00pm on a weekday, or noon on a Saturday, is to be left in a neat and safe condition to the satisfaction of the CEO or an authorised person.

7.8 Use of wood

A wooden fence, railing, cross or other wooden erection must not be placed on or around a grave, other than as a temporary marker with the prior approval of the local government.

7.9 Memorial trees

- (1) The local government may designate an area of the cemetery in which a person may apply to plant a memorial tree to commemorate a deceased person.
- (2) A person must not plant a memorial tree, or any other tree or shrub, on a grave or within the cemetery, except with the approval of the local government.
- (3) An application to plant a memorial tree is to specify the species proposed, and the local government may approve the application unconditionally or subject to conditions, including conditions as to species, location and ongoing maintenance, having regard to the amenity and long-term management of the cemetery.
- (4) A memorial tree approved under this clause may be planted by the applicant or, on payment of the set fee, by the local government on behalf of the applicant.
- (5) The local government is to keep a record of each memorial tree approved under this clause, and the person it commemorates.

7.10 Supervision

A worker, whether employed by the local government or another person, is at all times while within the cemetery subject to the supervision of the CEO or an authorised person, and must obey their directions.

7.11 Australian War Graves

Despite 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 a memorial placed on a military grave.

7.12 Placing of glass domes and vases

A person must not place a glass dome, vase or other grave ornament outside the perimeter of a grave, as defined in the plans kept under section 40(2) of the Act.

7.13 Offensive material on memorials

- (1) A person must not display, or cause to be displayed, material, wording, symbols or images on a sign, memorial or other object visible within the cemetery that are reasonably likely to offend, intimidate, vilify, threaten or harass a person.
- (2) Where, in the opinion of the local government, a person does not comply with subclause (1), the local government may remove or require the removal of the material, wording, symbol or image.

DIVISION 2 — LICENSING OF MONUMENTAL MASONS

7.14 Monumental mason's licence

The local government may, on receipt of a written application and payment of the set fee, issue a monumental mason's licence, authorising the holder to carry out monumental work within the cemetery subject to this local law and any conditions specified by the local government.

7.15 Expiry date, non-transferability

A monumental mason's licence—

- (a) is, subject to clause 7.18, valid from the date specified in it until the following 30 June; and
- (b) is not transferable.

7.16 Carrying out monumental work

A person must not carry out monumental work within the cemetery unless that person—

- (a) holds a current monumental mason's licence issued under clause 7.14, or is the employee of a person who holds such a licence; or
- (b) is otherwise authorised by the local government to do so.

7.17 Responsibilities of the holder of a monumental mason's licence

The holder of a monumental mason's licence is responsible for compliance, by every person purporting to carry out monumental work within the cemetery under that licence, with the requirements and conditions of the licence, this local law, the Act, and any other written law affecting the carrying out of monumental work.

7.18 Cancellation of a monumental mason's licence

- (1) The local government 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 has committed a breach of the requirements or conditions of the licence, this local law, the Act, or any other written law affecting the carrying out of monumental work;
 - (b) that, in the opinion of the local government, the conduct of the holder, or a person in the holder's employ, in carrying out or attempting to carry out work within the cemetery is inappropriate or unbecoming; or
 - (c) that the holder has purported to transfer the licence.
- (2) On the termination of a monumental mason's licence under this clause, no part of a fee paid for the issue of that licence is refundable.
- (3) A person aggrieved by a decision under subclause (1) may apply to the State Administrative Tribunal for a review of the decision.

DIVISION 3 — UNSAFE MEMORIALS

7.19 Unsafe memorials

- (1) Where the local government reasonably believes that a memorial is unsafe, unstable or in a state of disrepair such that it may present a risk to a person, the local government may, without further notice, take any action it considers necessary to secure the memorial, including laying it flat or fencing off the area.

- (2) Where the local government takes action under subclause (1), it is to give written notice to the holder of the grant of right of burial of the grave, if known, requiring the holder to repair or restore the memorial within 28 days from receiving the notice, in accordance with section 32 of the Act.
- (3) If the holder does not comply with a notice given under subclause (2), the local government may repair, restore or remove the memorial, and clause 9.1 applies to the recovery of the local government's costs in doing so.

PART 8 — GENERAL

8.1 Animals

A person must not bring an animal into, or permit an animal to enter or remain in, the cemetery, other than an assistance animal as defined in section 9(2) of the Disability Discrimination Act 1992 (Commonwealth), or with the approval of the CEO or an authorised person.

8.2 Damaging and removing of objects

Subject to clause 8.3, a person must not damage, remove or pick a tree, plant, shrub or flower in the cemetery, or any other object or thing on a grave or memorial or which is the property of the local government, without the permission of the local government.

8.3 Withered flowers

A person may remove withered flowers from a grave or memorial, and is to place them in a receptacle provided by the local government for that purpose.

8.4 Littering and vandalism

A person must not—

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

8.5 Advertising

- (1) A person must not advertise or carry on a trade, business or profession within the cemetery without the prior written approval of the local government.
- (2) The local government may grant approval under subclause (1) subject to any conditions it thinks fit.
- (3) This clause does not apply to an activity carried out under, and in accordance with, a licence, permit or approval granted under Part 4 or Division 2 of Part 7 of this local law.

8.6 Obeying signs and directions

A person must obey a sign displayed, marked, placed or erected by the local government within the cemetery, and any other lawful direction of the CEO or an authorised person.

8.7 Removal from the cemetery

A person failing to comply with a provision of this local law, or behaving in a manner that, in the opinion of the local government, the CEO or an authorised person is inappropriate in the cemetery — including behaviour that is disruptive, threatening, unlawful or unsafe — may, in addition to any penalty provided by this local law, be ordered to leave the cemetery by the local government, the CEO or an authorised person.

8.8 Utility services

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

8.9 Local government may close cemetery

- (1) The local government may—
 - (a) temporarily close the cemetery, or part of it;

- (b) exclude from the cemetery members of the public, or so many as the local government considers necessary;
 - (c) regulate, prohibit or restrict access to the cemetery, or part of it; or
 - (d) direct a person to leave the cemetery, or part of it,
for the purpose of a funeral, public convenience, maintenance, redevelopment or extension of the cemetery, public safety, or another operational reason.
- (2) A person must comply with a closure, exclusion, restriction or direction under subclause (1).

PART 9 — LIABILITY AND NOTICES

9.1 Liability for damage or works required to comply

- (1) Where a person—
- (a) causes damage to a grave, memorial, structure, building, furniture, plant or other item or thing in the cemetery;
 - (b) does a thing not authorised by this local law; or
 - (c) fails to do a thing required by this local law,
the local government may, by notice in writing, require that person, within the time specified in the notice, to, at the option of the local government, pay the cost of reinstating or replacing the property, pay the cost of works required to comply with this local law, or carry out those works.
- (2) Before giving a notice under subclause (1), the local government is to give the person a reasonable opportunity to make a submission in relation to the matter, unless the local government reasonably believes that urgent action is required for public safety or to prevent further damage.
- (3) On a failure to comply with a notice given under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it.

9.2 Offence to fail to comply with notice

A person who fails to comply with a notice given under this local law requiring the person to do a thing commits an offence.

9.3 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.2, the local government may do the thing specified in the notice and recover, as a debt from the person to whom the notice was given, the costs incurred in doing so.

PART 10 — OBJECTIONS AND REVIEW

10.1 Application of Division 1, Part 9 of the Local Government Act 1995

Where the local government makes a decision as to whether it will grant, renew, vary or cancel an approval, licence, permit, certificate or grant of right of burial under this local law, or refuses to do so, the provisions of Division 1 of Part 9 of the Local Government Act 1995 and regulation 33 of the Local Government (Functions and General) Regulations 1996 apply to that decision.

PART 11 — OFFENCES AND MODIFIED PENALTIES

11.1 General

A person who commits a breach of a provision of this local law commits an offence and is liable, on conviction, to a penalty not exceeding \$500, being the maximum penalty permitted by section 55 of the Act, and, if the offence is a continuing one, to a further penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

11.2 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 that set out in Schedule 1.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in Schedule 2.

- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 3.

SCHEDULE 1 — MODIFIED PENALTIES

[clause 11.2]

Clause	Nature of Offence	Modified Penalty
5.4(1)	Driving other than on a designated vehicular access way	\$50
5.4(2)	Exceeding the speed limit within the cemetery	\$50
5.7	Recording a funeral or memorial service without approval	\$50
6.3(1)	Unauthorised re-opening of a grave	\$50
6.4(1)	Unauthorised exhumation of a coffin	\$50
7.3	Failure to remove rubbish and surplus material	\$50
7.5	Unauthorised removal or use of sand, soil or loam	\$50
7.6	Carrying out memorial or other work outside permitted hours	\$50
7.7	Leaving uncompleted work in an untidy or unsafe condition	\$50
7.9(2)	Unauthorised planting of a tree or shrub	\$50
7.12	Unauthorised placement of a glass dome, vase or grave ornament	\$50
7.13(1)	Displaying offensive material on a memorial	\$50
8.1	Unauthorised animal in the cemetery	\$50
8.4	Littering or vandalism within the cemetery	\$50
8.5	Unauthorised advertising or trading within the cemetery	\$50
8.6	Failure to obey a sign or lawful direction	\$50
8.8(1)	Unauthorised interference with utility services	\$50
8.9(2)	Failure to comply with closure, exclusion, restriction or direction	\$50
9.2	Failure to comply with a notice	\$50

SCHEDULE 2 — INFRINGEMENT NOTICE

[clause 11.2(3)]

To: _____ (Name)

_____ (Address)

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

you committed the offence indicated below, being an offence against clause ____ of the Shire of Pingelly Cemeteries Local Law 2027.

Offence: _____

Modified penalty: \$_____

You may dispose of this matter by payment of the penalty shown within 21 days of the date of this notice to the Chief Executive Officer, Shire of Pingelly, 17 Queen Street, Pingelly, between 8.30am and 4.30pm Monday to Friday. Please make cheques payable to the Shire of Pingelly.

If the penalty is not paid within the time specified, a complaint of the alleged offence may be made and heard and determined by a court.

_____ (Authorised Person)

SCHEDULE 3 — WITHDRAWAL OF INFRINGEMENT NOTICE

[clause 11.2(4)]

No. _____ Date ____/____/____

To: _____ (Name and address of alleged offender)

Infringement Notice No. _____ dated ____/____/____ for the alleged offence of

Penalty \$_____ is withdrawn.

(Delete whichever does not apply)

* No further action will be taken.

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

_____ (Authorised Person)

DECLARATION

Dated this _____ day of _____ 2027.

The Common Seal of the Shire of Pingelly was affixed by authority of a resolution of the Council in the presence of—

JACKIE MCBURNEY, Shire President

ANDREW DOVER, Chief Executive Officer