

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF KENT

CEMETERIES LOCAL LAW 2023

CONTENTS

PART 1 - PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Terms used

PART 2 - ADMINISTRATION

- 2.1 Powers and functions of CEO
- 2.2 Plans
- 2.3 Grant of right of burial
- 2.4 Board may enter into an agreement for maintenance

PART 3 - APPLICATION FOR INTERMENT

- 3.1 Application for interment permit
- 3.2 Applications to be accompanied by certificates etc.
- 3.3 Certificate of identification
- 3.4 Minimum notice required
- 3.5 Refusal of application

PART 4 - FUNERALS AND MEMORIAL SERVICES

- 4.1 Fixing times for interments
- 4.2 Memorial services or processions
- 4.3 Processions
- 4.4 Conduct of interments by the Board

PART 5 - INTERMENTS

- 5.1 Requirements for burials and coffins
- 5.2 Preparation of graves
- 5.3 Dimensions of graves
- 5.4 Ashes not to be held by the Board
- 5.5 Disposal of ashes
- 5.6 Vaults and mausoleums
- 5.7 Re-opening a grave
- 5.8 Exhumation of a coffin
- 5.9 Opening of coffin

PART 6 - APPLICATIONS FOR MEMORIALS

- 6.1 Application to place memorial
- 6.2 Australian War Graves

PART 7 - MEMORIALS PERMITTED

- 7.1 Requirement for memorial works
- 7.2 Limitation on dimensions of memorials

7.3 Display of trade names on memorials not allowed

PART 8 - MEMORIALS AND OTHER WORK

- 8.1 Numbering of graves
- 8.2 Carrying out memorial work
- 8.3 Removal of sand, soil or loam
- 8.4 Removal of rubbish
- 8.5 Plants and trees
- 8.6 Supervision
- 8.7 Placing of grave ornaments
- 8.8 Hours of work
- 8.9 Unfinished work

PART 9 - GENERAL

- 9.1 Vehicle access and speed limitation
- 9.2 Animals
- 9.3 Utility services
- 9.4 Damaging and removing of objects
- 9.5 Withered flowers
- 9.6 Littering and vandalism
- 9.7 Advertising
- 9.8 Compliance with signs and directions of the Board
- 9.9 Removal from a cemetery
- 9.10 Board may close cemetery
- 9.11 Liability for damage or works required to comply
- 9.12 Offence to fail to comply with notice
- 9.13 Board may undertake requirements of notice
- 9.14 False or misleading statement

PART 10 - OBJECTIONS AND REVIEW

- 10.1 Objections and review

PART 11 - OFFENCES AND MODIFIED PENALTIES

- 11.1 Offences
- 11.2 General penalties
- 11.3 Modified penalties

Schedule 1 – Modified Penalties

Schedule 2 – Infringement Notice

Schedule 3 – Withdrawal of Infringement Notice

**LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986**

SHIRE OF KENT

CEMETERIES LOCAL LAW 2023

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 Kent resolved on 20 September 2023 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Kent Cemeteries Local Law 2023*.

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—

- (a) Nyabing Cemetery (Reserve 14218); and
- (b) Pingrup Cemetery (Reserve 18750).

1.4 Repeal

The Shire of Kent Local Laws *Relating to the Nyabing Public Cemetery, and Pingrup Public Cemetery* published in the *Government Gazette* on 23 March 1998 are repealed.

1.5 Terms used

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

administrator 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 the deceased person; or
- (c) a person having the lawful custody of a dead body;

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 of which the volume does not exceed 4,000 cubic centimetres, or such greater volume as approved by the CEO in writing;

authorised person means a person appointed by the Board for the purposes of performing any function or exercising any power, conferred upon an authorised officer by this local law, and includes the CEO;

Board means the local government;

burial means placement of a coffin containing a dead body into a grave, and includes a natural burial;

business day means any week day as the context requires—

- (a) other than a public holiday in Western Australia, or
- (b) that reasonable notice has been given that the Shire office is closed;

cemetery means a cemetery specified in clause 1.3;

CEO means the Chief Executive Officer, for the time being, of the Board;

coffin means—

- (a) a coffin or other receptacle used for the transportation of a dead body to the grave site;
- (b) the receptacle used for the burial of a dead body in a grave; and
- (c) includes the containment of the dead body only in a shroud or biodegradable coffin;

funeral director means a person—

- (a) holding current membership of—
 - (i) the Australian Funeral Directors Association, or
 - (ii) the National Funeral Directors Association; or
- (b) a person authorised by the personal representative of a deceased person, and approved by the CEO;

- grave cover** means a covering a grave of durable material whether permeable or impermeable;
- headstone** means a memorial designed for placement at the head of a grave, commemorating a grave or the placement of ashes;
- interment** includes, as the case may be—
- (a) burial of a dead body;
 - (b) placement of ashes in a grave, niche wall or under a commemorative plaque; or
 - (c) scattering of ashes within a cemetery;
- interment permit** means a single funeral permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct the interment of a person named in the permit, and includes placement of ashes in a niche wall or memorial local, or scattering of ashes;
- local government** means the Shire of Kent;
- mausoleum** means a burial chamber 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 set out in the Act;
- memorial plaque** means a panel, plate or tablet designed or used for purposes of bearing a commemorative inscription;
- memorial work** means to install, repair, renovate or remove a memorial;
- monument** means a sculpture, statue, cover of a grave or other form of memorial approved by the Board commemorating a grave or the placement of ashes, other than a headstone or memorial plaque;
- natural burial** means burial in the ground—
- (a) without preparation of the dead body using chemical preservatives; and
 - (b) by containment of the dead body only in a shroud or biodegradable coffin;
- personal representative** means—
- (a) the administrator or executor of an estate of a deceased person;
 - (b) the person who, by law of practice, has the right to apply for administration of the estate of the 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 Board and published in the *Government Gazette*, under section 53 of the Act;
- standard grave** means a grave which does not exceed any of the following dimensions: 2.4m long, 1.2m wide and 2.1m deep;
- utility services** means municipal or public services and include the supply of water, electrical power, gas and refuse, building waste and sewerage disposal services;
- vault** means a below ground lined grave with 1 or more sealed compartments constructed to specifications approved from time to time by the Board; and
- vehicle** includes—
- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
 - (b) where the context permits, an animal being ridden or driven,
- but excludes—
- (c) a wheelchair or any device designed for use by a physically impaired person on a footpath; and
 - (d) a pram, stroller or similar device.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

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

2.2 Plans

- (1) The Board shall establish and maintain a plan of each cemetery showing—
 - (a) the location of areas set aside for burials, niche wall compartments, and placement of ashes in a garden;
 - (b) the location of an area to be used only for burials of persons of a particular religious denomination;
 - (c) the location of different areas of each cemetery to which different requirements for memorials apply;
 - (d) the location of areas set aside for the works and other uses as specified in sections 24(2)(a) and (b) of the Act; and
 - (e) areas restricted from burial without approval of the CEO.

(2) The Board may from time to time establish and vary the boundaries of any area referred to in subclause (1).

(3) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

2.3 Grant of right of burial

(1) Upon payment of the set fee, a grave, niche compartment or memorial location shall be granted right of burial for a period in accordance with section 25(1) of the Act.

(2) Upon payment of the set fee, a grant of right of burial shall be extended for a further period in accordance with section 25(2) or (4) of the Act.

(3) A grant of right of burial made and recorded at the commencement of this local law, shall remain valid for the periods specified by the Act.

(4) If the Board refuses to an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.4 Board may enter into an agreement for maintenance

The Board may enter into an agreement with the holder of a grant of right of burial under clause 2.3 for the maintenance of an area of a cemetery at the expense of the holder.

PART 3—APPLICATION FOR INTERMENT

3.1 Application for interment permit

(1) A funeral director may apply for approval for interment in a cemetery.

(2) An application for an interment permit of a dead body and shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

(3) An application under subclause (1) shall be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc.

(1) An application under clause 3.1 shall be accompanied by a certificate issued under clause 3.3, in respect of the dead body.

(2) The Board may require that an application under clause 3.1 be accompanied by either a medical certificate of death or a Coroner's order of burial, in respect of the dead body.

3.3 Certificate of identification

(1) After a dead body is placed in a coffin and prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, unless—

- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

(2) A funeral director shall provide a certificate of identification, where—

- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
- (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

3.4 Minimum notice required

An application for interment shall be made to the Board at least 5 business days prior to the day proposed for interment, otherwise an extra charge may be made.

3.5 Refusal of application

(1) The Board may refuse an application for an interment permit—

- (a) 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
- (b) on any other grounds.

(2) If the Board refuses to approve an application under subclause (1), written notice of the refusal is to be given to the applicant.

PART 4—FUNERALS AND MEMORIAL SERVICES

4.1 Fixing times for interments

(1) On receipt of a properly completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—

- (a) approve a time for the funeral; and
- (b) dig or re-open any grave that is required.

(2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.

(3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out an interment—

- (a) on a Saturday, a Sunday or a public holiday;
- (b) commencing at any time other than between the hours 9:00 am to 2.00 pm; or
- (c) to conclude later than 3.00pm.

4.2 Memorial services or processions

Upon application, the Board may permit, with or without interment or broadcasting of ashes—

- (a) the conduct of a memorial service; or
- (b) a procession.

4.3 Processions

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

4.4 Conduct of interments by the Board

When conducting an interment, or for the purposes of deciding whether to conduct an interment, under section 22 of the Act the Board may—

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

PART 5—INTERMENTS

5.1 Requirements for burials and coffins

(1) A person shall not bring a dead body into a cemetery unless—

- (a) the Board has approved an application for the burial of that dead body in accordance with clause 3.1;
- (b) it is enclosed in a coffin which in the opinion of the Board is adequate to the task and bears the name of the deceased person indelibly inscribed in legible characters on a plate properly affixed in a clearly visible position on the lid of the coffin; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

(2) Where the dead body is contained in a shroud or biodegradable coffin—

- (a) the plate referred to in subclause (1)(b) is to be placed on the outside of the shroud or biodegradable coffin; and
- (b) the lead strip referred to in subclause (1)(c) is to be placed inside the shroud or biodegradable coffin.

5.2 Preparation of graves

(1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the Board.

(2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the Board may direct the digging or preparation of a grave in an alternate position, where—

- (a) evidence of a prior interment is found, or known to have occurred;
- (b) access to the position is constrained;
- (c) the digging or preparation of the grave is unreasonably difficult; or
- (d) utility services may be interfered with.

(3) Where an alternative position for the grave is directed under subclause (2), the Board is to advise the funeral director immediately.

5.3 Dimensions of graves

(1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of the CEO.

(2) Every grave prepared by the Board shall be dug at least 1.8m deep and shall not exceed 2.3m in depth, unless otherwise determined by the Board.

(3) A person shall not bury a dead body 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 1600mm, unless that person has the permission of the CEO; or
- (b) in any circumstances less than 750mm.

(4) The permission of the Board in subclause (3) shall not be granted unless in the opinion of the CEO exceptional circumstances require granting of that permission.

5.4 Ashes not to be held by the Board

The Board shall not accept custody of ashes of a deceased person.

5.5 Disposal of ashes

(1) Except in accordance with an approved application under clause 3.2, a person shall not bring or dispose of the ashes of a deceased person in a cemetery.

(2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by the CEO, may apply to the Board for permission to dispose of the ashes of that deceased person in a cemetery by one of the following methods, if that method is available—

- (a) placed in a niche wall;
- (b) placed in a grave, vault or mausoleum subject to the appropriateness of the interment as determined by the Board;
- (c) scattered in an area approved by the Board;
- (d) placed in a memorial garden; or
- (e) placed in or under other memorials approved by the Board.

(3) The Board may require a person making an application under subclause (2) to—

- (a) provide additional information reasonably related to the application before determining the application; and
- (b) where to be placed in a grave or other position containing the remains of a dead person, to—
 - (i) provide the consent of the deceased person's personal representative; or
 - (ii) establish the appropriateness of the relationship between the deceased person whose ashes are to be interred, and the person previously interred to the CEO's satisfaction.

(4) The Board may—

- (a) approve an application under subclause (2) unconditionally or subject to any conditions; or
- (b) refuse to approve an application under subclause (2).

(5) Where an application under subclause (2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.

(6) If the Board refuses to approve an application under subclause (2), written notice of the refusal is to be given to the applicant.

5.6 Vaults and mausoleums

(1) A person shall not construct a vault or mausoleum within a cemetery, except with the specific approval of the Board.

(2) A vault or mausoleum within a cemetery shall at all times remain the property of the Board.

(3) An application under subclause (1) shall be in writing and shall be accompanied by payment of the set fee.

(4) The Board may require a person making an application under subclause (1) to provide additional information reasonably related to the application before determining the application.

(5) The Board may—

- (a) approve an application under subclause (1) unconditionally or subject to any conditions; or
- (b) refuse to approve an application under subclause (1).

(6) Where an application under subclause (1) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.

(7) If the Board refuses to approve an application under subclause (1), written notice of that refusal is to be provided to the applicant.

(8) A person shall not place a dead body in a vault or mausoleum except—

- (a) in a closed coffin;
- (b) in a soundly constructed and sealed chamber; and
- (c) in accordance with subclause (9).

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

5.7 Re-opening a grave

(1) A person shall not reopen a grave without the approval of the Board.

(2) If for the purpose of re-opening a grave in a cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

5.8 Exhumation of a coffin

(1) Subject to subclause (2), a person shall not exhume a coffin in a cemetery for the purposes of reburial within 12 months after the date of its interment.

(2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.

(3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the CEO requesting the exhumation and the CEO has authorised the exhumation.

5.9 Opening of coffin

A person shall not open a coffin in a cemetery unless—

- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the CEO an order signed by the Commissioner of Police and the CEO has approved the opening of that coffin.

PART 6—APPLICATIONS FOR MEMORIALS**6.1 Application to place memorial**

(1) Upon payment of the set fee, the Board may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of a memorial etc, so as not to detract from the amenity of the cemetery.

(2) The Board may require the written consent of the holder of the right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of the CEO to accompany an application for a memorial made under section 30 of the Act.

(3) Where written consent is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion.

(4) If the Board refuses to approve an application under subclause (2), written notice of that refusal is to be provided to the applicant.

6.2 Australian War Graves

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

- (a) may place a complying 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.

PART 7—MEMORIALS PERMITTED**7.1 Requirement for memorial works**

(1) Memorial works shall comply with such requirements and conditions as may be imposed by resolution the Board, including but not limited to—

- (a) grave cover—
 - (i) dimensions not to exceed the width and length of a standard grave without approval under clause 7.2(3);
 - (ii) thickness not to exceed 150mm; and
 - (iii) materials;
- (b) headstone, memorials and bases, monuments—
 - (i) dimensions not to extend beyond any grave cover in place or the dimensions of a standard grave if no grave cover is in place;
 - (ii) height; and
 - (iii) materials;
- (c) plaques—
 - (i) maximum dimensions;
 - (ii) dimensions shall not extend beyond any base upon which the plaque is mounted; and
 - (iii) materials; and
- (d) gravesite boundary, whether kerbing, loose or cemented rock, or fencing—
 - (i) dimensions shall not to exceed the width and length of a standard grave without approval under clause 7.2(3);
 - (ii) height; and
 - (iii) materials.

(2) Where memorial works are approved under subclause (1) and are to be undertaken by the Board, the memorial works shall be—

- (a) at the expense of the administrator;
- (b) the expense shall be calculated in accordance with the set fee; and
- (c) if specified, on the agreed date at the agreed time.

7.2 Limitation on dimensions of memorials

(1) No part of any memorial works, including any kerbing, boundary marker or enclosure is to extend beyond the dimensions of a standard grave.

(2) No part of a headstone, memorial plaque or monument above its base shall extend horizontally beyond its base.

(3) Notwithstanding subclause (1), on request of an administrator, the Board may approve memorial works over multiple adjoining gravesites—

- (a) where the persons interred are of the same family; or
- (b) for another acceptable reason.

7.3 Display of trade names on memorials not allowed

A person shall not display any trade names or marks on a memorial other than a farm or property name, or location having a close relationship with the deceased person.

PART 8—MEMORIALS AND OTHER WORK**8.1 Numbering of graves**

A person shall not install a memorial on a grave unless the number of that grave is, depending on the area where the grave is located, indelibly and legibly inscribed either on the base of the head of the monument or on the base of the headstone, or if this is not practicable, on the kerbing at the foot of the grave.

8.2 Carrying out memorial work

(1) A person shall not carry out memorial work within a cemetery unless that person is authorised by the Board to do so under clause 6.1.

(2) All material required in the erection and completion of any memorial work shall be prepared before being taken to a cemetery.

(3) The Board may place restrictions on the hours of work, access to a cemetery or other matters considered appropriate.

(4) Memorial works shall be suspended during the conduct of any funeral within a cemetery.

(5) Work is not permitted to be left unattended in an untidy or unsafe state.

8.3 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 construction of any memorial or other work, or cause any material to be removed from a cemetery except with the written approval of the Board.

8.4 Removal of rubbish

All refuse, rubbish or surplus material remaining after approved memorial works are completed shall be immediately removed from the cemetery by the person carrying out the same.

8.5 Plants and trees

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

8.6 Supervision

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

8.7 Placing of grave ornaments

(1) A person shall not place 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) outside of an area set aside by the Board as a memorial plaque section.

(2) The use of glass, porcelain, ceramics or pottery is not permitted, other than that already in place at commencement of this local law.

8.8 Hours of work

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

- (a) during a funeral; or
- (b) other than between the hours of 8:00 am and 5:00 pm on a business day.

8.9 Unfinished work

A person who does not complete any work before 5:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the Board.

PART 9—GENERAL**9.1 Vehicle access and speed limitation**

(1) A person shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within a cemetery, unless otherwise authorised by the Board.

(2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 10km per hour, and shall comply with the signs and directions in the cemetery.

9.2 Animals

A person shall not bring an animal into or allow an animal to enter or remain in a cemetery, other than—

- (a) an *assistance animal* as defined in section 9(2) of the *Disability Discrimination Act 1992* (Commonwealth); or
- (b) with the approval of the Board or an authorised person.

9.3 Utility services

(1) Other than with the approval of the Board, a person shall not—

- (a) connect any device or equipment to any utility services supplied on or at a cemetery; or
- (b) alter or interfere with utility services infrastructure located in a cemetery.

(2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at a cemetery.

9.4 Damaging and removing of objects

Subject to clause 9.5, a person shall not damage, remove or pick any tree, plant, shrub or flower in a 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.

9.5 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be disposed of in an appropriate manner.

9.6 Littering and vandalism

A person shall not—

- (a) damage, deface or interfere with any monument or gravesite in any manner whatsoever;
- (b) break or cause to be broken any glass, ceramic or other material in or upon a cemetery; or
- (c) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in a cemetery other than in a receptacle provided for that purpose.

9.7 Advertising

(1) A person shall not advertise or carry on any trade, business or profession in a cemetery without the approval of the Board.

(2) Upon payment of the set fee, the Board may consider and give approval subject to such conditions as the Board thinks fit.

9.8 Compliance with signs and directions of the Board

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

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

9.9 Removal from a cemetery

(1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in a cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery.

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

9.10 Board may close cemetery

The Board may—

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

9.11 Liability for damage or works required to comply

Where a person—

- (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in a cemetery;
- (b) does a thing not authorised by this local law; or
- (c) does not do a thing required by this local law;

the Board may by notice in writing to that person require that person within the time required in the notice to, at the option of the Board—

- (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
- (e) pay the costs of replacing that property;
- (f) pay the costs of works required to comply with this local law; or
- (g) carry out works required to comply with this local law.

9.12 Offence to fail to comply with notice

Whenever the Board gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

9.13 Board may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.12, the Board may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

9.14 False or misleading statement

A person shall not make a false or misleading statement in connection with any matter under this local law.

PART 10—OBJECTIONS AND REVIEW**10.1 Objections and review**

Division 1 of Part 9 of the *Local Government Act 1995* applies to a decision under this local law to—

- (a) refuse an application for a permit;
- (b) impose or vary a condition of a permit; or
- (c) revoke a permit.

PART 11—OFFENCES AND MODIFIED PENALTIES**11.1 Offences**

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

11.2 General penalties

A person who commits an offence under this local law commits is liable on conviction to a penalty not exceeding \$500, and if the offence is of a continuing nature, to an additional penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

11.3 Modified penalties

- (1) The offences specified in Schedule 1 are offences which may be dealt with under Section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.
- (3) The infringement notice referred to in Section 63(1) of the Act shall be in the form set out in Schedule 2.
- (4) The notice withdrawing an infringement notice referred to in Section 63(3) of the Act shall be in the form set out in Schedule 3.

Schedule 1—Modified Penalties

[cl.11.2]

Item	Clause	Nature of offence	Modified Penalty \$
1	4.2(a)	Holding a memorial service without permission	50
2	4.2(b)	Conducting a procession without permission	50
3	5.1	Failure to obtain approval to bring a dead body into a cemetery	50
4	5.2(1)	Unauthorised digging, preparation or filling of grave	50

Item	Clause	Nature of offence	Modified Penalty \$
5	5.3(1)	Unauthorised burial of dead body	50
6	5.5(1)	Unauthorised disposal of ashes	50
7	5.5(2)	Disposal of ashes in an unauthorised manner	50
8	5.6(1)	Unauthorised construction of vault or mausoleum	50
9	5.7(1)	Unauthorised reopening of a grave	50
10	5.8(1)	Unauthorised exhumation of a coffin	50
11	5.9	Unauthorised opening of a coffin	50
12	7.3	Unauthorised use of trade name or mark on a memorial	50
13	8.1	Carrying out memorial work without grave number on memorial or surrounds	50
14	8.2	Unauthorised construction of a memorial	50
15	8.3	Unauthorised use of materials taken from within a cemetery	50
16	8.4	Failure to remove rubbish and surplus materials	50
17	8.5	Unauthorised planting of tree or shrub	50
18	8.6	Failure to comply with direction of authorised person	50
19	8.7	Unauthorised placing of grave ornaments	50
20	8.8	Works carried out during unauthorised times	50
21	8.9	Failure to leave uncompleted works in a tidy and safe condition	50
22	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
23	9.1(2)	Exceeding speed limit	50
24	9.2(b)	Permitting an animal in a cemetery without approval	50
25	9.3	Interference with utility services	50
26	9.4	Damaging or removing objects	50
27	9.5	Failure to dispose of withered flowers appropriately	50
28	9.6	Littering and/or vandalism	50
29	9.7	Unauthorised advertising and/or trading	50
30	9.8(2)	Failure to obey sign or lawful direction within a cemetery	50
31	9.9(2)	Failure to comply with order to leave a cemetery	50
32	9.10	Failure to comply with closure of all or part of a cemetery	50
33	9.12	Failure to comply with notice within specified period	50
34	9.14	Making a false or misleading statement	50
35	11.1	All other offences not otherwise specified	50

Schedule 2—Infringement Notice

[cl. 11.2(3)]

Shire of Kent

INFRINGEMENT NUMBER:		
To:		
Address:		
	It is alleged that –	
At—		
On—	Day	Date
Location (as indicated)—	Nyabing Cemetery (Reserve 14218)	
	Pingrup Cemetery (Reserve 18750)	
	You committed the following offence—	
Contrary to—	Shire of Kent Cemeteries Local Law 2023	
Schedule 1 reference—	Item No.—	Clause—
Offence—		
Brief description –		

The modified penalty for the offence is –	\$
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Kent within a period of 28 days after the giving of this notice.
Name of authorised person—	
Position—	
Signature—	
Date—	
	Payments may be made— (a) <i>by EFT (contact Shire Office for details)</i> (b) <i>in person at the Shire Office during business hours</i> (c) <i>by mail to—Shire of Kent</i> PO Box 15, Nyabing 6341 Please make cheques payable to Shire of Kent.

Schedule 3—Withdrawal of Infringement Notice

[cl. 11.2(4)]

Shire of Kent

To—					
Address—					
	It is advised that –				
Infringement Notice No.—					
Dated—					
For the alleged offence of—					
	has been withdrawn.				
The modified penalty of—	\$				
Reason for withdrawal— (Delete whichever does not apply)	<table border="1" style="width: 100%;"> <tr> <td>No further action will be taken.</td> <td></td> </tr> <tr> <td>It is proposed to institute court proceedings for the alleged offence</td> <td></td> </tr> </table>	No further action will be taken.		It is proposed to institute court proceedings for the alleged offence	
No further action will be taken.					
It is proposed to institute court proceedings for the alleged offence					
Name of authorised person—					
Position—					
Signature—					
Date—					

Dated 20 September 2023

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

SCOTT CROSBY, President.

CHRISTIE SMITH, Chief Executive Officer.

11 October 2023.