

Shire of Lake Grace



LAKE GRACE, NEWDEGATE, LAKE KING AND VARLEY PUBLIC CEMETERIES LOCAL LAW

January 2017

HISTORY: Lake Grace, Newdegate, Lake King and Varley Public Cemeteries Local Law

Date:	Detail: (i.e. Adoption and Gazettal of the Local Law)
27 September 2000	Council adopted the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries Local Law
20 October 2000	Activities on Thoroughfares and Trading in Public Places Local Law gazetted
18 November 2015	Council adopted the Cemeteries Amendment Local Law 2015
15 December 2015	Cemeteries Amendment Local Law 2015 gazetted
25 February 2016	<p>Letter from Joint Standing Committee on Delegated Legislation identifying errors requiring rectification.</p> <p>23 March 2016 Ordinary Meeting of Council:</p> <p>RESOLUTION 12263 - Moved Cr Clarke, Seconded Cr Walker That Council resolves:</p> <ol style="list-style-type: none"> 1. To advise the Chair of the Joint Standing Committee on Delegated Legislation that it gives the following undertakings: <ul style="list-style-type: none"> • within 6 months, amend the local law so that clause 1.2(3) is repealed and clause 6.1 clarified; • make any consequential amendments necessarily arising from those amendments; • provide the JSCDL with a copy of the minutes of the meeting at which the Council resolves to provide these undertakings; and • where the Local Law is made publicly available, whether in hard copy or electronic form, that the law be accompanied by a copy of these undertakings; 2. To authorise the Shire President to formally advise the Chair of the Joint Standing Committee on Delegated Legislation of these undertakings; and 3. To prepare a draft amendment to the Cemeteries Local Law to rectify the errors identified by the Joint Standing Committee on Delegated Legislation. <p style="text-align: right;">MOTION CARRIED 9/0</p>
18 October 2016	Cemeteries Amendment Local Law 2016 adopted
20 December 2016	Cemeteries Amendment Local Law 2016 Gazetted

DOCUMENT CONTROL: Lake Grace, Newdegate, Lake King and Varley Public Cemeteries Local Law

Version:	Local Law Document for Publishing
January 2017	Consolidated Document including original Local Law, December 2015 Amendment and December 2016 Amendment.

CEMETERIES ACT 1986

Shire of Lake Grace

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Shire of Lake Grace

Local Laws Relating to the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries

PART 1—PRELIMINARY

1.1 Citation

This Local Law may be cited as the Local Laws Relating to the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries, 2000.

1.2 Interpretation

(1) In this Local Law unless the context otherwise requires:

“Act” means the Cemeteries Act 1986;

“animal” means any animal;

“assistance animal” means an animal who is being used as an assistance animal as defined in the *Disability Discrimination Act 1992* (Commonwealth);

“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;

“Board” means the Shire of Lake Grace;

“burial” has the same meaning as given in the Act;

“cemetery” means the Shire of Lake Grace Cemeteries, which the Governor, by order, has placed under the care control and management of the Board;

“dead body” has the same meaning given to it in the Act;

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

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

“Funeral Director” means a person holding a current funeral director’s licence; “grant” means a grant issued by the Board, of an exclusive right of burial in a grave;

“grave” means a specified area of the cemetery for burial;

“memorial” means a memorial plaque or memorial as described in this local law or as otherwise approved by the Board;

“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.

(2) Unless otherwise defined herein the terms and expressions used in this local law shall have the same meaning given to them in the Act.

Clause 1 2 Subclause (3) deleted

1.3 Application

This local law applies to the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries.

1.4 Repeal

The following Local Law is repealed:—

By-Laws relating to Lake Grace, Newdegate, Lake King and Varley Public Cemeteries published in the Government Gazettes of 27 November 1959, 2 February 1973, 14 October 1983, 20 April 1990 and 15 December 1992.

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.

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 not less than two working days prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

4.1 Funeral Director’s Licence Expiry

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

4.2 Single Funeral Permits

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 Access and Speed Limitations

(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.

(3) 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 indicated by signs.

5.4 Deleted

5.5 Deleted

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) bury a dead body only when a permit to bury has been obtained for that body;
- 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 not require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2 – Cremation (deleted)

5.7 – 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 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 less than 750mm.
- (2) A person, with the permission of the CEO or authorized officer may bury a coffin so that the distance from the top of the coffin to the original surface of the ground is not less than 600mm.
- (3) The permission of the authorized officer in subclause (2) will only be granted where in the opinion of the authorized officer exceptional circumstances require granting of that permission.

6.2 Re-opening a Grave

- (1) Subject to subclause (2), if for the purpose of re-opening a grave in the cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the reopening of that grave shall bear the cost of the removal and any necessary reinstatement.
- (2) If the Minister orders the exhumation of a body in accordance with section 58 of the Act, then the Minister may further order how and by whom the cost referred to in subclause (1) should be met.
- (3) In this clause, the word “**Minister**” has the same meaning as is given to that expression in the Act.

6.3 Exhumation of a Coffin

- (1) Subject to subclause (2), a person shall not exhume a coffin in the cemetery for the purposes of re-burial within twelve (12) months after the date of its interment.
- (2) Subclause (1) shall not apply where the exhumation is ordered or authorized pursuant to the Act.
- (3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant must have applied in writing to the Board requesting the exhumation and the Board has authorized the exhumation.

6.4 Opening of Coffin

- (1) A person shall not open a coffin in the 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 Board an order signed by the Commissioner of Police and the Board has approved the opening of that coffin.
- (2) In this clause “**Commissioner of Police**” means a Commissioner of Police for the time being appointed under the *Police Act 1982* and includes a person for the time being acting in that capacity in the absence of the Commissioner of Police.

PART 7—MEMORIALS AND OTHER WORK

Division 1—General

7.1 Application for Monumental Work

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 Specifications and Size of Monuments

- (1) A monument to be erected in the cemetery must be of stone or concrete and must conform with the following specifications.
 - a. Overall height of base and headstone above original surface of grave to be not more than 1.50 metres.
 - b. Height of base above original surface of grave to be not less than 150 mm nor more than 450mm.
 - c. Length of the base to be not more than 1.2 metres.
 - d. Width of the base to be not more than 300mm.
- (2) A memorial plaque of stainless steel, natural stone or bronze may be attached to a headstone in the cemetery in conformity with the provisions of subclause (1) and which is not more than 380 mm in length and 280 mm in width.
- (3) The number of each grave shall be indelibly and legibly inscribed on the base of all monuments erected upon it.
- (4) Trade names or makes may be displayed on any monumental works with the permission of the Board.
- (5) No portion of a headstone shall protrude outside the area of the perimeter of the base.

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 8.00 am and 6.00 pm on weekdays, and 8.00 am 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 6.00pm 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 without 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 (deleted)

7.13 – 7.14 (deleted)

Division 3 – Memorial Plaque Section (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 subclause (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 7.16 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 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 Assistance Animals

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(3), 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 Flowers

- (1) All flowers must be placed in vases or receptacles.
- (2) No person shall plant trees, shrubs or plants in the cemetery without the prior approval of the Board.
- (3) 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.

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

Subject to clause 7.2 (4), 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.

8.9 Fireworks or Firearms

- (1) A person shall not bring or discharge any fireworks within the cemetery.
- (2) A person shall not bring or discharge any firearms within the cemetery except members of the police service and in the case of a military funeral when firearms may be brought into the cemetery and discharged by members of the Australian Defence Force.

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 with drawing 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 Lake Grace

Local Laws Relating to the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries

Modified Penalties

Item No.	Clause	Nature of Offence	Modified Penalty
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

Second Schedule

Cemeteries Act, 1986

Shire of Lake Grace

Local Laws Relating to the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries

Infringement Notice

TO: _____
(Name)

(Address)

It is alleged that at ____:____ hours on _____ day
of _____ 19 ____ at _____

you committed the offence indicated below by an (x) in breach of clause of the Local Laws Relating to the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries.

(Authorised Person)

Offence

- Animal at large
- Dumping rubbish
- Excessive speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Non removal of rubbish
- Unauthorised advertising or trading
- Unauthorised vehicle use
- Disobeying sign or lawful direction
- Other Offence _____
\$ _____

You may dispose of this matter:
By payment of the penalty as shown within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Lake Grace at 1 Bishop Street, Lake Grace between the hours of 9 am to 4.30 pm Monday to Friday.
Please make cheques payable to Shire of Lake Grace. Payments by mail should be addressed to:
The Chief Executive Officer
Shire of Lake Grace
1 Bishop Street, Lake Grace WA 6353
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 Lake Grace

Local Laws Relating to the Lake Grace, Newdegate, Lake King and Varley Public Cemeteries

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)
