

A large, bold, black letter 'G' is the central element of the logo. To its left, a white map of Western Australia is set against a background of horizontal black lines.

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CEMETERIES ACT 1986

**SHIRE OF
SERPENTINE-JARRAHDAL
LOCAL LAW RELATING TO
SERPENTINE AND
JARRAHDAL CEMETERIES**

CEMETERIES ACT 1986

SHIRE OF SERPENTINE-JARRAHDALÉ

**LOCAL LAW RELATING TO SERPENTINE AND
JARRAHDALÉ CEMETERIES**

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the Shire of Serpentine-Jarrahdale hereby records having resolved on the 22nd day of September 1997, to make the following local law—

PART I—PRELIMINARY

REVOCATION

1. The following local laws are hereby revoked—

The By-laws for the Management of the Serpentine Public Cemetery (Reserve No. 10661) and the Jarrahdale Public Cemetery (Reserve No. 626) published in the Government Gazette on 6th May 1949, and as amended from time to time.

APPLICATION

2. The Serpentine and Jarrahdale cemeteries shall be subject to the following local laws.

INTERPRETATIONS

3. In this local law unless the context otherwise requires—

“Act” means the Cemeteries Act, 1986;

“authorised person” means an employee of the Council authorised by the Council to exercise any power conferred by an Act of Parliament or this local law;

“CEO” means the Chief Executive Officer or Acting Chief Executive Officer for the time being, of the Shire of Serpentine-Jarrahdale;

“Council” means the Council of the Shire of Serpentine-Jarrahdale;

“memorial” includes headstone, plaque, tombstone, monumental work, inscription, kerbing, enclosure and any other fixture or thing commemorating a grave;

“personal representative” includes the administrator and executor of an estate of a deceased person who, by law or practice, has the best right to apply for administration and any person having the lawful custody of a dead body;

“right of burial” means the right to use a specified area of a cemetery for burial;

“set fees” refers to fees and charges set by a resolution of the Council and published in the Government Gazette in accordance with section 53 of the Act;

“single funeral permit” means a permit issued by the Council in accordance with clause 23 which entitles the holder to conduct a funeral at the cemetery for the deceased persons named in the permit.

PART II—ADMINISTRATION

4. The CEO, subject to the direction of the Council, shall exercise general supervision and control over all matters concerning the administration of the cemetery and the carrying out and enforcement of this local law. All directions of the CEO shall be deemed to have been given by order of the Council.

5. A plan of the cemetery showing the distribution of the land, compartments, section, situation and number of grave and a register of all certificates of rights of burial shall be kept at the office of the Council.

PART III—RIGHTS OF BURIAL

6. Graves within the cemetery shall be either private or public.

7. A private grave is one in respect of which an exclusive right of burial has been granted by Council.

8. A public grave is one for which the land has been granted free of charge by the Council. The Council retains all rights and powers in respect of a public grave as were held by the Council prior to the grant.

9. The CEO may, upon the written application of a person and upon payment of the set fee issue that person with a Grant of Exclusive Right of Burial in a specified area of the cemetery for a term of twenty-five (25) years from the date of the grant.

10. A Grant of Exclusive Right of Burial confers upon the grantee an exclusive right—

(a) to bury the dead bodies of one or more deceased persons in a private grave;

and

(b) to carry out memorial works on a private grave;

during the term of the grant.

11. A grantee may make application to the CEO in the form determined by the CEO from time to time to transfer a Grant of Exclusive Right of Burial to another person and this may be approved by the CEO subject to payment of the set fee.

12. If application be made for interment in any grave of the remains of any person other than the person to whom the grant was issued, or a registered assignee, the written and verified consent of such grantee or assignee shall be produced together with the Grant of Exclusive Right of Burial, or in the case of an assignee, the assignment of the right of burial in the form issued by the CEO.

PART IV—APPLICATION FOR FUNERALS

13. Any person desiring to inter any dead body in the cemetery shall make an application in the form determined by the CEO from time to time and pay the set fee.

14. All applications for interment shall be accompanied by—

- (a) a medical certificate of death; or
- (b) a Coroner's order for burial;

in respect of the body.

15. All applications for interment shall be made at the office of the Council at least forty-eight (48) hours prior to the time fixed for burial, otherwise an extra charge shall be made.

PART V—DISPOSAL OF ASHES

16. A personal representative may give directions for the disposal of ashes by lodging a written authorisation with directions for disposal at the office of the Council. The CEO shall upon payment of the set fee, accept such an authorisation as evidence that the person signing the authorisation is in fact entitled to dispose of the ashes.

PART VI—TIMES FOR FUNERALS

17. The hours for burial shall be as follows—

Monday to Friday—9.00am to 2.00pm

and no burial shall be allowed to take place nor any coffin allowed to enter the cemetery at any other hour except by written permission of the CEO.

PART VII—FUNERAL DIRECTORS

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

- (a) a funeral director;
- (b) an employee of the funeral director; or
- (c) the holder of a single funeral permit issued in accordance with clause 22.

19. The CEO may upon receipt of an application in writing by any person and upon payment of the set fee, issue to the applicant a funeral director's licence in the form determined by the Council from time to time. This funeral director's licence shall authorise the holder to direct funerals within the cemetery at such times and on such days and subject to such conditions as the CEO shall specify upon the issue of that licence.

20. A funeral director's licence shall expire on the 30th day of June in each year, but may be renewed on payment of the set fee.

21. The Council may, by notice in writing to the holder of a funeral director's licence, cancel the licence if the holder of the licence or any employee of the holder, has committed a breach of this local law, the Act, or any of the conditions upon which the licence was issued, or if in the opinion of the Council, has behaved in relation to the direction of a funeral, in a manner which is inappropriate or unbecoming.

SINGLE FUNERAL PERMITS

22. The CEO may upon receipt of an application in writing by any person, in the form determined by the CEO from time to time and upon payment of the set fee issue to the applicant a single funeral permit. This single funeral permit shall authorise the holder to direct the funeral of the person named in the permit within the cemetery at such time and subject to such conditions as the CEO shall specify upon the issue of that permit.

23. Every application for a single funeral permit made in accordance with clause 22 shall include coffin specifications and details of the vehicle transporting the dead body to the grave site.

24. The transporting vehicle shall be large enough to completely contain the coffin.

PART VIII—FUNERALS

25. Every coffin shall have upon the lid an approved metal plate bearing the name of the deceased stamped or otherwise indelibly inscribed in legible characters thereon. Any coffin not complying with this local law will not be admitted to or be interred in the cemetery.

26. The time fixed for any burial shall be the time at which the funeral is to arrive at the cemetery gates and if not punctually observed, then the applicant who applied to hold the funeral under clause 13 shall pay the set fee for being late.

27. Every funeral shall enter by the principal entrance and no vehicle except the hearse and official mourning vehicles shall be permitted to enter the cemetery or stand opposite the entrance gates.

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

29. The CEO or an authorised person may forthwith expel from the cemetery a person committing an offence under clause 28.

30. Subject to the provisions of clauses 27 and 28 no person shall drive or ride any vehicle or animal within the cemetery.

PART IX—BURIALS

31. The CEO shall cause all graves to be dug or to be re-opened as and when required.

32. Every grave shall be at least two metres deep at the first interment and no interment shall be allowed in any grave with a less depth than one metre from the top of the coffin to the original surface of the surrounding ground.

33. Brick graves, catacombs or vaults may not be constructed within the cemetery.

34. A person shall not disinter a coffin in the cemetery for the exhumation of a dead body unless—

(a) the exhumation is ordered or authorised pursuant to the Act; or

(b) the holder of the Grant of Exclusive Right of Burial has applied in writing to the CEO requesting the exhumation and the CEO has authorised the exhumation.

35. If for the purpose of re-opening a grave an authorised person finds it necessary to remove a memorial, edging, tiles, 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.

PART X—MEMORIALS AND OTHER WORK

36. Subject to clause 38 the CEO may, upon receipt of an application in writing by any person and upon payment of the set fee, issue to the applicant a permit authorising the holder to carry out memorial works upon a particular grave specified in the application. This shall be at such time and on such days and subject to such conditions as the CEO shall specify upon the issue of that permit or in this local law.

37. All applications referred to in clause 36 shall be accompanied by the written consent of the holder of the Grant of Exclusive Right of Burial.

38. The CEO may reject any application referred to in clause 36 where it considers the proposed memorial works are inappropriate or unbecoming.

39. Every memorial shall be placed on proper and substantial foundations.

40. The materials used in every memorial shall be subject to the approval of the CEO or authorised person and any material rejected shall be immediately removed from the cemetery by the person erecting the memorial. All refuse or other rubbish remaining after the work is completed shall be immediately removed from the cemetery by the person causing the same.

41. Should any work by masons or others not be completed before 6.00pm on any day, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised person.

42. 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 tradespersons shall be admitted at such entrance as the CEO or an authorised person shall direct.

43. 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 CEO.

44. No person shall not be permitted to carry out memorial or other work on graves within the cemetery other than between the hours of 8.00am and 6.00pm on week days and 8.00am and noon on Saturdays, without the written permission of the CEO.

45. No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave.

46. No trees or shrubs shall be planted on any grave except such as shall be approved by the CEO.

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

48. 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.

PART XI—GENERAL

ANIMALS

49. Subject to clause 50, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery.

50. Clause 49 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.

DAMAGING AND REMOVING OF OBJECTS

51. Subject to clause 52, 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 Shire without the permission of the CEO.

52. A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Shire for that purpose.

LITTERING AND DAMAGE

53. 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.

ADVERTISING

54. A person shall not carry on or advertise any trade, business or profession within the cemetery without the prior written approval of the Council which consent may be granted subject to such conditions as the Council thinks fit.

REMOVAL FROM THE CEMETERY

55. Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Council, the CEO or an authorised person is inappropriate or unbecoming in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by the Council, the CEO or an authorised person.

56. Any person failing to comply with an order to leave the cemetery made pursuant to clause 55 may be expelled from the cemetery and shall not re-enter the cemetery for a period of twenty-four (24) hours.

PART XII—OFFENCES AND MODIFIED PENALTY

OFFENCE

57. A person who commits a breach of any provisions of this local law commits an offence. Such person 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 is continued.

MODIFIED PENALTIES

58. (1) A person who—

- (a) receives an infringement notice pursuant to sub-section (1) of section 63 of the Act; and
- (b) does not contest an allegation that an offence was committed against the local law may, within the time specified in the notice, pay to the Council the modified penalty payable with respect to that offence.

(2) The offences and modified penalties prescribed with respect to offences against this local law shall be specified in the First Schedule.

(3) The prescribed form of notice referred to in section 63 of the Act is set out in the Second Schedule.

(4) The production of an acknowledgement from the Shire of the payment of a modified penalty is a defence to a charge of the offence in respect of which that penalty was paid.

(5) If it appears to the CEO that an alleged offence cannot be adequately punished by the payment of the modified penalty then the CEO may refrain from accepting the modified penalty and may in lieu take proceedings against the alleged offender in a Court of Petty Sessions.

(6) A notice sent under section 63(3) of the Act withdrawing an infringement notice served under section 63(1) in respect of an offence alleged to have been committed against one of the provisions of this local law shall be in the form of the Third Schedule.

First Schedule

CEMETERIES ACT 1986

Shire of Serpentine-Jarrahdale

Local Laws Relating to the Serpentine and Jarrahdale Cemeteries

Item No.	Clause	Nature of Offence	Modified Penalty
1	27	Unauthorised use—driving of vehicles	\$50.00
2	28	Excessive speed	\$50.00
3	30	Unauthorised driving or riding of vehicle or animal	\$50.00
4	40	Unauthorised placing or non removal of rubbish and surplus materials	\$50.00
5	41	Leaving incomplete works in an untidy or unsafe condition	\$50.00
6	49	Animal at large	\$50.00
7	51	Unauthorised damage and removal of property	\$50.00
8	53	Dumping of rubbish	\$50.00
9	54	Unauthorised advertising and/or trading	\$50.00
10		Any other offence against this local law	\$50.00

Second Schedule

CEMETERIES ACT 1986

Shire of Serpentine-Jarrahdale

Local Laws Relating to the Serpentine and Jarrahdale Cemeteries

INFRINGEMENT NOTICE

TO:
(Name)

.....
(Address)

It is alleged that at:..... hours on day of19.....
at you committed the offence indicated hereunder by an (x) in breach
of local law clause(s) number(s)

.....
(Authorised Officer)

Offence

- Animal at large Clause 49
- Dumping rubbish Clause 53
- Excessive speed in vehicle Clause 28
- Leaving incomplete works in an untidy or unsafe condition Clause 41
- Non removal of rubbish Clause 40
- Unauthorised driving or riding of vehicle or animal Clause 30
- Unauthorised advertising or trading Clause 54
- Unauthorised damage and removal of property Clause 51
- Unauthorised vehicle use Clause 27
- Other offence Clause(s)

Modified Penalty = \$

You may dispose of this matter by payment of the penalty as shown **within 21 days** of the date of this notice to the Shire of Serpentine-Jarrahdale, 6 Paterson Street, Mundijong, between the hours of 8.30am to 4.30pm Mondays to Fridays.

If neither the prescribed penalty is paid nor representation is made within the time specified, court proceedings may be instituted against you. Please make cheques payable to the Shire of Serpentine-Jarrahdale. Payments by mail should be addressed—

Chief Executive Officer
Shire of Serpentine-Jarrahdale
6 Paterson Street
MUNDIJONG WA 6123

Third Schedule

CEMETERIES ACT 1986

Shire of Serpentine-Jarrahdale

Local Laws Relating to the Serpentine and Jarrahdale Cemeteries

WITHDRAWAL OF INFRINGEMENT NOTICE

No.

Date/...../.....

TO: ⁽¹⁾

.....
.....

Infringement notice number dated/...../..... for the alleged offence of ⁽²⁾

.....
.....

Penalty ⁽³⁾ \$ is hereby 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

.....

Chief Executive Officer
(Signed and dated)

Dated this 11th day of December 1997.

The Common Seal of the Shire of Serpentine-Jarrahdale was hereunto affixed in the presence of—

C. H. RANKIN, President.
R. A. GIBB, Acting Chief Executive Officer.

