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CEMETERIES ACT 1986

**SHIRE OF VICTORIA PLAINS
LOCAL LAW No. 2
CALINGIRI CEMETERY
LOCAL LAWS**

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SHIRE OF VICTORIA PLAINS

**LOCAL LAW No. 2
CALINGIRI CEMETERY LOCAL LAWS**

In pursuance of the powers conferred upon it by the above mentioned Act and of all other powers enabling it, the Council of the Shire of Victoria Plains hereby records having resolved on 24 February 1998, to make the following local law:

REVOCATION

1. Calingiri Cemetery (Reserve 16738) By-laws published in the *Government Gazette* on 21 April 1960, are hereby revoked.

INTERPRETATIONS

2. In these local laws 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 these local laws;
 - “CEO” means the Chief Executive Officer or Acting Chief Executive Officer for the time being, of the Shire of Victoria Plains;
 - “Council” means the Council of the Shire of Victoria Plains;
 - “memorial” includes headstone, plaque, tombstone, monumental work, inscription, kerbing, enclosure, and any other fixture of 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 other 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 fee” 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 19 which entitles the holder to conduct a funeral at the cemetery for the deceased person/s named in the permit.
 - “Cemetery” means the Calingiri Public Cemetery (Reserve 16738)

ADMINISTRATION

3. 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 these local laws and all directions of the CEO shall be deemed to have been given by order of the Council.
4. 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.

RIGHTS OF BURIAL

5. Graves within the cemetery shall be either private or public.
6. A private grave is one in respect of which an exclusive right of burial has been granted by Council.
7. 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.
8. The Council 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 as detailed in Form 1.
9. A Grant of Exclusive Right of Burial shall be for a term of twenty five (25) years or any such other term decided by Council from the date of issue or from the date of burial if the set fee has been pre-paid.
10. A Grant of Exclusive Right of Burial confers upon the grantee an exclusive right—
 - (a) to bury the dead body/bodies of one or more deceased persons in a grave; and
 - (b) to carry out memorial works on grave;during the term of the grant.

11. A grantee may make written application to the Council to transfer a Grant of Exclusive Right of Burial to another person and this may be approved by the Council 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 Council.

APPLICATION FOR FUNERALS

13. Any person desiring to inter any dead body in the cemetery shall make an application as detailed in Form 2 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 application for interment shall be made at the office of the Council at least twenty four hours prior to the time fixed for burial, other wise an extra charge may be made.

DISPOSAL OF ASHES

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

TIME FOR FUNERALS

17. The hours for burial shall be as follows—

- Monday to Friday—9 am to 4 pm;
- Saturday—8.30 am to 11.30 am;

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 Council.

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;
- (c) the holder of approval issued in accordance with clause 19.

SINGLE FUNERAL PERMITS

19. The Council may upon receipt of an application in writing by any person, in the form specified and upon payment of the set fee issue to the applicant a duplicate of Form 2 authorising 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 Council shall specify.

20. Every application for a single funeral permit made in accordance with clause 19 shall include coffin specifications.

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

FUNERALS

22. Every coffin shall have upon the lid as 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.

23. 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.

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

25. 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 15 km per hour.

26. A person committing an offence under clause 25 may be forthwith expelled from the cemetery by the CEO or an authorised person.

27. No bicycle shall be ridden within the cemetery.

BURIALS

28. The Council shall cause all graves to be dug or to be reopened as and when required.
29. Every grave shall be at least 1.8 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 to the coffin to the original surface of the surrounding ground.
30. Brick graves, catacombs or vaults may not be constructed within the cemetery.
31. 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 Council requesting the exhumation and the Council has authorised the exhumation.
32. If for the purpose of reopening a grave the council finds it necessary to remove a memorial, edging, tiles, 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.

MEMORIALS AND OTHER WORK

33. The Council may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant approval for the holder to carry out memorial works upon a particular grave specified in the application at such time and on such days and subject to such conditions as the Council shall specify upon the issue of that approval or in these local laws.
34. All application referred to in clause 35 shall be accompanied by the written consent of the holder of the Grant of Exclusive Right to Burial.
35. The Council may reject any application referred to in clause 33 where it considers the proposed memorial works are inappropriate or unbecoming.
36. Every memorial shall be placed on proper and substantial foundations.
37. 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.
38. Should any work by masons or others not be completed before 6 pm 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.
39. 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 person shall direct.
40. 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 Council.
41. Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than between 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 Council.
42. No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave.
43. No trees or shrubs shall be planted on any grave except such as shall be approved by the CEO.
44. All workers, whether employed by Council 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 person and shall obey such directions as the CEO or authorised person may give.
45. Notwithstanding anything in these local laws 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.

GENERAL

46. Subject to clause 47, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery.
47. Clause 46 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.
48. Subject to clause 49, 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 Council without the permission of the Council.
49. A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Council for that purpose.
50. 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.

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

52. Any person failing to comply with any provisions of these local laws 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 these local laws, be ordered to leave the cemetery by the Council, the CEO or authorised person.

53. Any person failing to comply with an order to leave the Cemetery made pursuant to clause 52 may be expelled from the Cemetery and shall not re-enter the Cemetery for a period of twenty four (24) hours.

54. Council, by resolution made at the annual budget meeting shall set the fees payable as detailed in the fourth schedule, and other matters as considered appropriate.

OFFENCES AND MODIFIED PENALTY

55. A person who commits a breach of any provisions of these local laws 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 which the offence is continued.

56. (1) A person who;

- (a) receives an infringement notice pursuant to subsection (1) of section 63 of the Act; and
- (b) does not contest an allegation that an offence was committed against these local laws, 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 these local laws shall be as specified in the First Schedule.

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

(4) The production of an acknowledgement from the Council 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 Council that an alleged offence cannot be adequately punished by the payment of the modified penalty then the Council 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 these local laws shall be in or to the effect of the Third Schedule.

First Schedule

Cemeteries Act 1986

Shire of Victoria Plains

Local laws relating to the Calingiri Cemetery

Item No	Clause	Nature of Offence	Modified Penalty
1	25	Excessive speed	\$50.00
2	24, 25	Unauthorised use—driving of vehicles	\$50.00
3	27	Riding of bicycle	\$20.00
4	37	Placing and removal of rubbish and surplus materials	\$50.00
5	38	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
6	46	Animal at large	\$50.00
7	48	Unauthorised damage and removal of property	\$50.00
8	50	Dumping of Rubbish, or breaking of glass etc	\$50.00
9	51	Unauthorised advertising, and/or trading	\$50.00
10		Any other offence	\$40.00

Second Schedule

Cemeteries Act 1986

Shire of Victoria Plains

Local laws relating to the Calingiri Cemetery

INFRINGEMENT NOTICE

TO:.....
(Name)

.....
(Address)

It is alleged that athours onday of
19.....at.....you committed the offence indicated
hereunder by an (x) in breach of local law number

.....
(Authorised Officer)

Offence

- Animal at large
- Dumping rubbish
- Excessive speed in vehicle
- Leaving uncompleted works in an untidy or unsafe condition
- Non removal of rubbish
- Riding of bicycle
- Unauthorised advertising or trading
- Unauthorised damage and removal of property
- Unauthorised vehicle use

Other offence.....
S.....

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 Victoria Plains, Cavell Street, Calingiri between the hours of 9.00 am to 4.00 pm Monday to Friday.

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 Victoria Plains.

Payments by mail should be addressed—

The CEO
Shire of Victoria Plains
PO Box 21
CALINGIRI WA 6569

Third Schedule

Cemeteries Act 1986

Shire of Victoria Plains

Local laws relating to the Calingiri Cemetery

WITHDRAWAL OF INFRINGEMENT NOTICE

No.

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

To⁽¹⁾.....

Infringement Notice Nodated...../...../..... 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 institutes 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.

Fourth Schedule

Cemeteries Act 1986

Shire of Victoria Plains

Local Laws relating to the Calingiri Cemetery

MATTERS FOR WHICH COUNCIL MAY SET A FEE

Grave digging to a depth of 1.8m

- persons 10 years and over
- child under 10 years
- stillborn child
- each additional 300 mm depth
- reopening of any grave

Land for Burial

- 2.4 x 1.2 metres
- 2.4 x 2.4 metres
- 2.4 x 3.5 metres

Other charges payable

- additional for interment without due notice
- additional for interment on a weekend or a public holiday
- interment of ashes in the Memorial Garden
- interment of ashes in a grave
- permission to erect any monument
- erection of grave number plate
- reinstatement of monument, headstone etc where grave reopened
- Grant of Exclusive Right of Burial
- transfer of Grant of Exclusive Right of Burial

Form 1

Shire of Victoria Plains

Calingiri Cemetery

GRANT OF EXCLUSIVE RIGHT OF BURIAL

Applicant—

Given Names.....

Surname.....

Address.....

Granted to—

Given Names.....

Surname.....

Address.....

Reservation—

Section.....

Compartment.....

Size of ground.....

This grant is made, subject to—

- being valid for twenty five (25) years from date of approval by CEO, or as otherwise determined by Council,
- being non-transferrable without the written agreement of the applicant,
- all legislation, regulations and local laws now in effect, and future amendment made from time to time.

Applicants signature.....

Date.....

Approved

CEO signature.....

Date.....

Reference

Form 2

Shire of Victoria Plains

Calingiri Cemetery

APPLICATION AND FORM OF ORDER FOR BURIAL

Details of Deceased

Name.....

Age..... Date of Death.....

Last place of residence.....

Place where death occurred.....

Cause of Death.....

Occupation.....

Birthplace.....

Religious Affiliation.....

Details of Funeral Ceremony

Funeral to start at.....

Day and Date of burial..... Time.....am/pm

Name of person officiating.....

Cemetery Details

Public or Private Grave..... Reserved.....

Section of grave on plan..... Number.....

Is it 1st or 2nd interment in grave.....

If 2nd name of previous interment.....

Approx date..... No in burial register.....

Size of ground..... of coffin.....

Depth of grave.....

Funeral Directors Certification

I certify that a coffin purporting to contain the above remains is to be interred in the ground on

Signature of Applicant.....

Full Name.....

On behalf of.....

Address.....

Date.....

Office Use

No in Burial Register..... Receipt No.

for \$..... received on by.....

(for CEO)

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

Dated 24 February 1998.

T. FIELDS, President.
R. DEW, Chief Executive Officer.



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