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SHIRE OF CUE

CEMETERIES ACT 1998

CEMETERIES LOCAL LAW

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CEMETERIES ACT 1998

SHIRE OF CUE

LOCAL LAW CEMETERIES 2000

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CEMETERIES ACT 1998

SHIRE OF CUE

LOCAL LAW CEMETERIES 2000**PART 1—PRELIMINARY****1.1 Citation**

This Local Law may be cited as Local Law Cemeteries 2000.

1.2 Interpretation

In this Local Law unless the context otherwise requires:

“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;

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

“Funeral Director” means a person holding a current funeral director’s licence;

“Board” means the Cue Shire;

“mausoleum” means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

“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;

“vault” means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

1.3 Repeal

The following Local Law is repealed:

Local Law for the management of the Cue/Day Dawn Public Cemetery, Reserve 2528, published in the Government Gazette on May 22 1936.

Provisions of the Cemeteries Act

Provisions of the Cemeteries Act have been included in this document in appropriate places, boxed and hachured. These insertions are not an official part of these local laws but are included to give a fuller picture of the written law governing proceedings, or as an aid to interpretation.

In the hachured boxes, “S” denotes a section of the *Cemeteries Act 1986*.

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.

Board to maintain registers and plans

S40 (1) A Board shall establish and maintain—

(a) a register containing details of all burials in the cemetery, including details of the names and descriptions of the deceased persons and details of the location of the burial in every case;

and

(b) a register of all grants of rights of burial in the cemetery, including details of the assignments or bequests of grants.

(2) A Board shall keep and maintain plans showing the location of all burials registered under subsection (1).

(3) A register maintained under this Act may be kept or prepared—

(a) by making entries in or on a bound or loose-leaf book; or

- (b) by recording or storing the particulars required by this Act to be entered in the register by means of a mechanical, electronic or other device, but so that the particulars so recorded or stored will remain in the form in which they were originally recorded or stored and will be capable of being reproduced in written form in the English language.

Registers available for inspection

S41 (1) A Board shall make all registers kept under this Act available for inspection by members of the public at times and places set by the Board and shall on request make available copies of extracts from any register.

(2) A Board may charge a fee for the inspection of a register or for providing an extract from or certified copy of an extract from a register.

Rights of Burial

Grant of Right of Burial

S25 (1) A Board may grant to a person for a term of 25 years the right of burial in a specified area of a cemetery and the right to place a memorial on that area.

(2) Where the holder for the time being of a grant of a right of burial applies to the Board for the renewal of the grant the Board shall renew the grant for a further term of 25 years.

(3) A right of burial granted under this section shall be subject to such conditions as may be prescribed by local law.

(4) A right of burial granted under the *Cemeteries Act 1897* or renewed under subsection (2) may, if the Board and the holder for the time being of the grant agree, be renewed from time to time for a further term not exceeding 25 years in the case of any one renewal.

Transfer of right of burial

S26 (1) A right of burial granted to a person under this Act may be assigned by the holder in his lifetime or bequeathed by will.

(2) An assignment of a right of burial shall have no effect until it is produced to the Board for registration and when so registered shall have priority over any other assignment that may subsequently be produced to the Board.

(3) The bequest of a right of burial shall have no effect until the probate of the will by which the right of burial passes is produced to the Board and the Board shall make an appropriate entry in the register upon which the bequest shall have priority over any assignment that may subsequently be produced to the Board.

Protection of right of burial

S27 Before any burial is permitted to take place in a specified area which is the subject of a grant of right of burial, the Board must be satisfied that the holder of the right has consented or would not object to the burial taking place.

Surrender of right of burial

S28 The holder of a right of burial granted under this Act may surrender the right to the Board upon which all rights and obligations under the right shall terminate.

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 Application for Cremation

A person who desires to hold a funeral within the cemetery shall, in the case of the cremation of a dead body:

- (a) make an application to the Board in the form determined by the Board from time to time; and
- (b) lodge with the application referred to in paragraph (a), a permit to cremate issued in accordance with the Cremation Act 1929.

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, or crematorium within 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 at least twenty four hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

PART 4—FUNERAL DIRECTORS

Division 3—Licensing of funeral directors

Licences

S16 A funeral director's licence—

- (a) is valid for the conduct of funerals at the cemetery or cemeteries specified in the licence;
- (b) is valid for such period not exceeding one year from the day on which the licence is issued as the Board determines, unless the licence is sooner suspended or cancelled; and
- (c) is not transferable.

Applications for licences

S17 (1) An application for a funeral director's licence in respect of a cemetery shall be made to the Board responsible for the care, control and management of the cemetery in the manner required by the Board and shall be lodged with the Board together with the appropriate fee.

(2) An applicant who satisfies the Board that the applicant—

- (a) is of good repute and is fit to hold a funeral director's licence;
and
- (b) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals,

shall be entitled to be issued with a funeral director's licence.

(3) The Board, or a person authorized by resolution of the Board for the purpose, may at any reasonable time inspect the facilities and equipment of an applicant for or the holder of a funeral director's licence and the applicant or holder shall take all reasonable steps to facilitate an inspection authorized by this subsection.

Penalty: \$500

Suspension and cancellation of licences

S18 (1) A Board may, by notice in writing delivered to the holder of a licence, cancel or suspend the licence if—

- (a) the licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;
- (b) the fee for the licence is due and unpaid;
- (c) the holder of the licence is convicted of an offence against this Act or local laws made under this Act; or
- (d) the Board is no longer satisfied in relation to the holder of the licence with respect to the matters referred to in section 17 (2).

(2) If a licence is cancelled or suspended under this section, the person to whom the licence was issued shall deliver the licence to the Board within such period as may be specified in the notice referred to in subsection (1).

Penalty: \$500

Appeals against decisions of Board

S19 (1) Where a Board—

- (a) refuses an application for a licence; or
- (b) cancels or suspends a licence,

the Board shall notify in writing the applicant or the person to whom the licence was issued of its decision and of the reasons for that decision.

(2) An aggrieved applicant or person whose licence has been cancelled or suspended may appeal to a Local Court against the decision of the Board.

(3) An appeal under this section may be instituted by the appellant lodging a notice of appeal specifying the grounds of appeal with the clerk of the Local Court to which the appeal is to be made and the Board within 1 month after the appellant received the notice referred to in subsection (1).

(4) An appeal under this section shall be in the nature of a rehearing de novo and shall be heard before a Local Court conducted by a stipendiary magistrate.

- (5) On hearing an appeal under this section, the Local Court may—
- (a) confirm, quash or vary the decision of the Board or substitute its own decision for that of the Board; and
 - (b) make any other order as to costs or otherwise.
- (6) The decision of a Local Court in an appeal under this section is final and conclusive and the Board shall give effect to it.

4.1 Funeral Director's Licence Expiry

A funeral director's licence shall expire on the 30th day of June in each year.

4.2 Single Funeral Permits

Single funeral permits issued to persons other than funeral directors

S20(1) Subject to this section, a Board may issue a permit to any person, other than the holder of a funeral director's licence, for the conduct at a cemetery of a funeral of a person named in the permit.

(2) An application for a permit under this section shall be made in the manner required by the Board and lodged with the Board together with the appropriate fee.

(3) A permit issued under this section shall have effect subject to any conditions prescribed by local law and to any further conditions that may be attached by the Board in the particular case and set out in the permit.

Single funeral permits issued to funeral directors

S21 (1) Subject to this section, a Board may issue a permit to a person who is the holder of a funeral director's licence issued by another Board for the conduct at a cemetery under the care, control and management of the first mentioned Board of a funeral of a person named in the permit.

(2) An application for a permit under this section shall be made in the manner required by the Board and lodged with the Board together with the appropriate fee.

(3) In determining an application made by a funeral director under this section, a Board is not required to inquire into the matters referred to in section 17 (2).

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, or crematorium.

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 or crematorium, 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 or cremation 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 or cremation 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 or clause 3.2 shall pay the set fee for being late.

5.3 Vehicle Entry Restricted

(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 motorized wheelchairs.

5.4 Vehicle Access and Speed Limitations

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 25km per hour.

5.5 Offenders may be Expelled

A person committing an offence under clause 5.4 may be expelled from the cemetery by the CEO or an authorised officer.

Board may conduct funeral

S22 A Board may conduct a funeral at a cemetery for the care, control and management of which it is responsible.

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 or cremate that dead body but may cremate the dead body only when a permit to cremate has been obtained for that body under the *Cremation Act 1929*;
- 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 or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2—Cremation

5.7 Metal Coffins Prohibited

Metal or metal lined coffins shall not be accepted by the Board for cremation at the cemetery.

5.8 Polyvinyls, etc, Prohibited

The use of polyvinyl or its derivative, polyurethane, aerosol cans, other sealed containers, glass and/or other materials determined from time to time to be not appropriate to the cremation process by the Board, in or upon coffins presented for cremation at the cemetery is prohibited.

5.9 Depositing the Coffin

(1) The Funeral Director shall deposit the coffin for cremation upon the catafalque in the Crematorium chapel or at such other position within the cemetery as may be determined from time to time by the Board.

(2) Once the coffin has been deposited for cremation in accordance with sub-clause (1), all further services will be rendered by and be under the sole control of the Board.

5.10 Removal of the Name Plate and Lead Strip

The Board shall remove the name plate and lead strip from the coffin prior to cremation at a cemetery and the lead strip shall be placed in the container with the ashes.

5.11 Removal of Metal Fittings

The Board may remove any metal or other fittings on coffins presented for cremation at the cemetery which in the opinion of the Board could impede the cremation or cause damage to the cremation equipment.

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
- Memorial Wall
- Garden of Remembrance
- Ground Niche
- Memorial Rose, Tree or Shrub
- Family Shrub
- Memorial Desk
- Granite Seat
- Family Grave
- Book of Remembrance
- Scattering to the Winds
- Memorial Gardens
- 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 authorized 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 authorized 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 Availability of Ashes

Subject to compliance with clause 5.12 and upon the payment of the set fee, the ashes of a deceased person that have not been placed within the cemetery will be made available to the personal representative of the deceased person during the normal office hours of the Board after the expiration of twenty four (24) hours after the completion of the cremation at the cemetery.

5.14 Ashes held by the Board

(1) If at the expiration of six (6) months from the date of cremation at a cemetery:

- (a) the ashes of the deceased person have not been claimed; or
- (b) no arrangements have been made for the placement of the ashes of a deceased person by the personal representative, then the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.

(2) If prior to the expiration of six (6) months from the date of cremation the personal representative of the deceased person requests the Board to store the ashes of the deceased person, and pays to the Board the set fee monthly in advance for such storage, the Board shall store the ashes in safe custody.

(3) Notwithstanding sub-clause (2), should the personal representative default in the payment of the fee referred to in sub-clause (2), the Board may dispose of the ashes in the cemetery by any of the methods listed in clause 5.12.

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—

- (a) subject to paragraph (b), less than 750mm, unless that person has the permission of an authorised officer; or
- (b) in any circumstances less than 600mm.

(2) The permission of the authorised officer in sub-clause (1) (a) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

6.2 Mausoleum, etc

(1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within the cemetery.

(2) A person may request the Board to construct a vault or mausoleum within the cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) An application under subclause (2) shall be in writing and shall be accompanied by payment of the set fee.

(4) A person shall not place a dead body in a mausoleum except:

- (a) in a closed coffin; and
- (b) in a soundly constructed chamber; and
- (c) in accordance with sub-clause (5).

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

Minister may order exhumation

S58 The Minister may in writing order the exhumation of a body and the re-burial or disposal of the ashes after cremation of the body in accordance with this Act and may further order how and by whom the costs of the exhumation, re-burial or disposal shall be met.

Board may authorize exhumation and re-burial

S59 A Board may in writing authorize the exhumation of a body buried in the cemetery and the re-burial or disposal of the ashes after cremation of the body in that cemetery.

PART 7—MEMORIALS AND OTHER WORK*Division 1—General***Control of memorials**

S29 A Board shall control the kinds of memorial permitted in a cemetery and may impose different requirements for different areas of a cemetery.

Permission for memorials

S30 (1) A person who wishes to place or erect a memorial in a cemetery shall apply to the Board specifying the proposed location, design and materials of which the memorial is to be composed and the Board may approve or, if the Board considers the location to be incorrect or the proposed memorial to be inappropriate or indecorous or contrary to a local law, refuse the application.

(2) A person shall not place or assist in placing or erecting a memorial in a cemetery without the permission of the Board.

Penalty: \$500

(3) A person shall not alter or add to, or assist in the alteration of or addition to or removal of, a memorial in a cemetery without the permission of the board.

Penalty: \$500

Removal or alteration of unauthorized memorial

S31 (1) If a memorial in a cemetery is placed or erected or altered without the permission of the Board or, although placed, erected or altered with such permission, is placed, erected or altered contrary to the local laws or other requirements or conditions of the permission of the Board, the Board may give a written notice to the holder of the right of burial or other person who has caused the memorial to be so placed, erected or altered requiring that holder or other person within 28 days from receiving the notice to remove the memorial from the cemetery or to alter it in the manner specified in the notice to the satisfaction of the Board.

(2) If the holder of a right of burial or other person to whom a notice is given under subsection (1) refuses to or otherwise fails to comply with the terms of the notice, the Board may remove or alter the memorial and may recover from that holder of a right of burial or other person the costs of the removal or alteration as a debt in a court of competent jurisdiction.

Removal or alteration of memorial in disrepair

S32 (1) If a memorial in a cemetery is, in the opinion of the Board, in need of repair or is in such a state of disrepair that repairs are not feasible, the Board may give a written notice to the holder of the relevant right of burial requiring that person within 28 days from receiving the notice to repair the memorial to the satisfaction of the Board or to remove the memorial from the cemetery, as the case may require and as specified in the notice.

(2) If the holder of a right of burial to whom a notice is given under subsection (1) refuses to or otherwise fails to comply with the terms of the notice, the Board may cause the memorial to be repaired or removed from the cemetery and may recover from that holder of a right of burial the costs of the removal or repair as a debt in a court of competent jurisdiction.

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 Placement of Monumental Work

Every memorial shall be placed on proper and substantial foundations.

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 8.00am and 6.00pm on weekdays, and 8.00am 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 6pm 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, other than as a temporary marker and with 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:

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

*Division 2—Lawn Section***7.13 Specification of Monuments**

- (1) All monuments in the lawn section of a cemetery shall:
- (a) be made of natural stone; and
 - (b) be placed upon a base of natural stone; and
 - (c) comply with the following specifications:
 - (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the width of the base of the monument shall not exceed 1.20m;
 - (iv) the depth of the base of the monument shall not exceed 300mm; and
 - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the lawn section of the cemetery.

7.14 Headstones

In the lawn section of the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

*Division 3—Memorial Plaque Section***7.15 Requirements of a Memorial Plaque**

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall:
- (a) be made of admiralty bronze or any other material approved by the Board; and
 - (b) not be less than the dimensions 380mm x 280mm, nor more than 560mm x 305mm; and
- (2) All memorial plaques made of admiralty bronze shall:
- (a) not exceed 20mm in thickness; and
 - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall:
- (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
 - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

*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 sub-clause (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 authorized 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 authorized 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 license 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 license under this clause no part of any fee paid for the issue of that license is refundable by the Board.
- (3) An aggrieved person whose license has been terminated under subclause (1) may appeal to a Local Court against a decision of the 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 authorized officer.

8.2 Guide Dogs

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, 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 Withered Flowers

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

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 authorized 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 authorized 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 authorized officer.

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

First Schedule

CEMETERIES ACT 1986

Cue Shire Council

Local Law Cemeteries 2000

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

Cue Shire Council

Local Law Cemeteries 2000

INFRINGEMENT NOTICE

TO:
(Name)

.....
(Address)

It is alleged that at : hours on day
of 20..... at

you committed the offence indicated below by an (x) in breach of clause of the Local Law Cemeteries 2000

.....
(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 Cue Shire Council at 2 Austin Street, Cue WA 6640 between the hours of 9.00am to 4.00pm Monday to Friday.

Please make cheques payable to Cue Shire Council. Payments by mail should be addressed to:

The Chief Executive Officer
Cue Shire Council
2 Austin Street
CUE WA 6640

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
Cue Shire Council
Local Law Cemeteries 2000
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)

Appendix 1
DELETIONS IF YOU WILL NOT HAVE A CREMATORIUM

- clause 1.2**
 delete the definition of "ashes"
 delete the definition of "personal representative"
- clause 3.2**
 delete
- clause 3.4(1)**
 delete "or crematorium within the cemetery,"
- clause 4.2**
 delete ", or crematorium"
- clause 4.3**
 delete "or crematorium,"
- clause 5.1, para (a)**
 delete "or cremation"
- clause 5.2**
 Delete "or cremation" and "or clause 3.2"
- clause 5.6, para (d)**
 delete
- clause 5.6, para (e)**
 delete "or the ashes placed"
- Part 5, Division 2**
 delete
- Part 5, Division 3**
 delete

Appendix 2
DELETIONS (LAWN SECTION / MEMORIAL PLAQUE SECTION)

If you will have neither a Lawn Section nor a Memorial Plaque Section—

clause 7.12
 delete and substitute—

- "7.12 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."

If you will not have a Lawn Section but will have a Memorial Plaque Section—

clause 7.12, para (b)

delete “a lawn or”

If you will not have a Memorial Plaque Section but will have a Lawn Section—

delete “or a memorial plaque”

If you will not have a Lawn Section—

Part 7, Division 2

delete

If you will not have a Memorial Plaque Section—

Part 7, Division 3

delete

LOCAL LAW CEMETERIES 2000

Form 1

CEMETERIES ACT 1986

GRANT OF RIGHT OF BURIAL

(cl 3.1)

By virtue of the *Cemeteries Act 1986*, the Cue Shire Council, in consideration of the sum shown hereunder paid by the Payer indicated on behalf of the Grantee named in the Schedule, hereby grants to the said Grantee the **RIGHT** of **BURYING BODIES** in that piece of ground within the Compartment, Section and Number on the plan of the Cemetery as shown hereunder.

TO HOLD the same to the said Grantee for the period of twenty five (25) years from the date hereof, for purposes of burial only.

This Grant is issued subject to all Local Laws and Regulations now or hereafter in force, made, or to be made under the above Act, or any future Act or Acts.

SCHEDULE

GRANT NO:

GRANTEE:

Name

Address

PAYER:

Name

Address

SUM IN CONSIDERATION Dollars

OFFICE RECORDS

GRAVE SITE—

Compartment Deceased

Section Application Number

Number Register Folio

Signature of Issuing Officer

Designation

Date

NB: This grant is an important document and **MUST BE PRODUCED** before the grave can be reopened and to an authorised monumental mason for the establishment of any headstone.

LOCAL LAW CEMETERIES 2000

Form 2

CEMETERIES ACT 1986

DECLARATION OF OWNERSHIP OF MISSING “GRANT OF RIGHT OF BURIAL”

I, (a)

of (b)

do solemnly and sincerely declare as follows—

- I am the person described as (c) in the Grant of Right of Burial numbered issued by the Cue Shire Council on the day of One thousand nine hundred and ninety

2. (d)

3. I have not transferred any of my rights under the said Grant to any person.

And I make this solemn declaration by virtue of Section 106 of the *Evidence Act 1906*.

Declared at in the State of Western Australia

this day of 20..... before me—

Signature of Declarant

Witnessed by

(Print Name)

Signature of Witness

Address of Witness

(a) Full name of Declarant

(b) Address and Occupation of Declarant

(c) State whether Grantee or Assignee

(d) Set out circumstances leading to loss or destruction of Grant, and if lost, action taken by Declarant to ascertain whereabouts of Grant.

LOCAL LAW CEMETERIES 2000
Form 3
CEMETERIES ACT 1986
ASSIGNMENT OF GRANT OF RIGHT OF BURIAL

(cl 3.4)

To the Cue Shire Council

I,

of

being the holder of a grant of right of burial numbered

and issued by the Cue Shire Council on

in respect of the Cemetery for good and

valuable consideration assign all my rights under that grant

to

(Full name)

of

(address)

Dated this day of 20.....

Signature of person assigning grant

Signature of person to whom grant is assigned

Signature of witness

Registered by the Cue Shire Council on the day of 20.....

Authorised Officer

LOCAL LAW CEMETERIES 2000
Form 4
CEMETERIES ACT 1986
APPLICATION FOR BURIAL AND INSTRUCTION FOR GRAVE

(cl 3.1)

APPLICATION No.

SURNAME OF DECEASED:

OTHER NAMES:

OCCUPATION:

ADDRESS:

AGE:

DATE OF DEATH: .../.../20...

DATE & TIME OF BURIAL:/.../20...

RELIGIOUS AFFILIATION:

AREA: SECTION:

GRAVE NO:

LENGTH & WIDTH OF COFFIN:

DEPTH OF GRAVE:

SIZE OF GROUND:

GRANT NO:

GRAVE TYPE:

PLACE "X" IN BOX IF:

- FIRST INTERMENT
- MALE:
- FEMALE:
- IS A GRANT REQUIRED: No:
- Yes:

OTHER INTERMENT APPLICATION NUMBERS:

.....

.....

.....

.....

NAME AND ADDRESS OF APPLICANT FOR/OR CURRENT HOLDER OF GRANT OF RIGHT OF BURIAL:

.....

SIGNATURE: DATE: .../.../20...

NAME OF MINISTER OR PERSON OFFICIATING:

NAME OF FUNERAL DIRECTOR:

SIGNATURE:.....

SIGNATURE:.....

DATE: .../.../20...

DATE: .../.../20...

NAME AND ADDRESS OF PERSON MAKING APPLICATION FOR BURIAL:

.....

SIGNATURE: DATE: .../.../20...

DOCTOR'S CERT, REQ'D:

CORONER'S ORDER REC'D:

GRANT OF BURIAL SENT: .../.../20...

RECEIPT No. ISSUED:

MONUMENTAL MASON:

DATE WORKS APPROVED: .../.../20...

LOCAL LAW CEMETERIES 2000

Form 5

CEMETERIES ACT 1986

APPLICATION FOR CREMATION AND INSTRUCTION FOR ASHES

(cl 3.2)

APPLICATION No.

SURNAME OF DECEASED:

OTHER NAMES:

OCCUPATION:

ADDRESS:

AGE:

DATE OF DEATH: .../.../20

DATE & TIME OF BURIAL: /.../20...

RELIGIOUS AFFILIATION:

AREA: SECTION:

GRAVE NO:

GRANT NUMBER:

GRAVE TYPE:

PLACE "X" IN BOX IF:

- MALE:
- FEMALE:

OTHER INTERMENT APPLICATION NUMBERS:

.....

.....

.....

.....

NAME AND ADDRESS OF ADMINISTRATOR:

.....

SIGNATURE:

DATE:

LOCAL LAW CEMETERIES 2000
Form 8
CEMETERIES ACT 1986
APPLICATION FOR FUNERAL DIRECTOR'S LICENCE

(S 17 (1))

(i)
hereby applies for the issue of a licence for the period beginning day of 20....
and ending the 30th day of June 20.... (ii) to undertake funerals within the Cemetery and in support of
such application supplies the following particulars:—

- 1. To be completed by all Applicants:—
 - (a) Trading name of business
.....
 - (b) Address from which business will be carried out Telephone No:
 - (c) Number of years for which Applicant has previously held a Funeral Director's Licence
 - (d) Details of offences under the Cemeteries Act, Cremation Act or the Local Law of any Cemetery
for which the Applicant or persons employed by the applicant have been convicted
.....
 - (e) Full name, address and capacity of person completing this application
(iii)
 - 2. To be completed if Applicant is a Company:-
 - (a) Full names and address of:—
 - Director/s
 - Manager/s
 - Secretary
 - (b) Registered Office
 - 3. To be completed if Applicant is A Partner:—
Full name and address of partner/s
.....
.....
 - 4. To be completed if Applicant is neither Company nor Partnership:
Full name (iv)
- Address
Signature of person completing application
.....

DIRECTIONS FOR COMPLETION

- (i) Name of Applicant or Company or business name
- (ii) The maximum period is one year
- (iii) State whether applying in person or own behalf, or
as a partner of a firm or a manager of a Company
- (iv) If this information has already been given under
item 1(e) write "as in item 1(e)"

OFFICE USE ONLY

Received
Referred to Council
Approved
Licence issued

LOCAL LAW CEMETERIES 2000
Form 9
CEMETERIES ACT 1986
FUNERAL DIRECTOR'S LICENCE

(S17 (2))

.....
of
is hereby licensed to undertake funerals within the Cemetery from the
day of 20 until the 30th day of June 20

Place of business
Conditions
.....

Given this day of 20 ...
by authority of the Cue Shire Council

.....
CEO

LOCAL LAW CEMETERIES 2000
Form 10
CEMETERIES ACT 1986
APPLICATION FOR SINGLE FUNERAL PERMIT

(cl 4.2)

I, (name)
of (address)
hereby make application for a SINGLE FUNERAL PERMIT for the Late
.....
to take place on (day) (month) 20.....
at (time) and in support of this application I hereby submit—

- 1. Medical Certificate
Coroner's Certificate
Permit to Cremate
Application for Burial
Application for Cremation
- 2. I have permission to re-open the grave if required.
- 3. The deceased will be enclosed in a substantial casket having the following dimensions-
Length Width Depth
- 4. The casket will be obtained from
- 5. There will be legible name stamped on a lead plate under the name plate on the top of the coffin.
- 6. The vehicle used to transport the coffin within the cemetery is a suitable vehicle of the following description:
Vehicle Make Type Year
- 7. If a permit is issued I will comply with the Cemetery Local Law and conditions prescribed by the local government and pay the required fees.

(Signature)

Office Use Only

Application No
Approval of Vehicle and Casket
Refer to Council:
Licence issued:

LOCAL LAW CEMETERIES 2000
Form 11
CEMETERIES ACT 1986

Application No.

AUTHORITY FOR PLACEMENT OF ASHES

(cl 5.12)

Of the Late
Died Aged
Instructions for placement of ashes:—

Total amount payable \$
If second interment state name of first interment
Location (if known)
Name of personal representative:
Address
Telephone Home Work
Signature Date

LOCAL LAW CEMETERIES 2000
Form 12
CEMETERIES ACT 1986
APPLICATION FOR MONUMENTAL WORK

(cl 5.30)

Application No.
Grant No.

Name of Deceased
Area Section Grave No.
Name of Applicant
Address of Applicant

I HEREBY CERTIFY THAT I AM AUTHORISED AS/BY THE HOLDER OF THE GRANT OF RIGHT OF BURIAL FOR THE ABOVEMENTIONED GRAVE TO APPROVE ERECTION OF THE MEMORIAL DETAILED HEREIN AND I ACCEPT THAT THE APPROVAL ISSUED WILL BE SUBJECT TO CONDITIONS STIPULATED IN THE CEMETERIES ACT, THE GRANT OF RIGHT OF BURIAL AND THE LOCAL LAW AND REGULATIONS NOW OR HEREAFTER IN FORCE.

Signature Date
NOTE: THE CUE SHIRE COUNCIL IS INDEMNIFIED AGAINST ANY LIABILITY ATTRIBUTED TO ANY INCORRECT STATEMENTS OR INFORMATION CONTAINED IN THIS FORM.

DETAILS OF MASON:

THIS SECTION TO BE COMPLETED BY THE MONUMENTAL MASON

Name of Firm
Quoted Cost Date
Address
Signature of Mason

Do You Wish To: (Please Tick)

Add Further Inscription Renovate Or Add Further
Install A New Memorial

PLAN AND SPECIFICATIONS:

NOTE: ALL PLANS AND SPECIFICATIONS OF MEMORIALS SUBMITTED MUST BE CAREFULLY DRAWN AND FULLY DIMENSIONED AND ALL MATERIALS SPECIFIED. ALL DESCRIPTION TO BE IN BLOCK LETTERS, ALL ORNAMENTS ETC, TO BE SHOWN AND DIMENSIONED. SIZE OF DOWELS AND DOWEL HOLES TO BE SPECIFIED.

LOCAL LAW CEMETERIES 2000
Form 13
CEMETERIES ACT 1986
APPLICATION FOR MONUMENTAL MASON'S LICENCE

(cl 7.16)

I/We the undersigned hereby apply for the issue of a licence for the period beginning the day of 20 and ending the day of 20 to undertake and complete monumental work within the cemetery and in support of this application enclose a fee of \$ and provide the following particulars—

- 1. To be completed by all Applicants—
(a) Address from which business will be carried on: Telephone No:
(b) Number of years for which Applicant has previously held a Monumental Mason's Licence:
(c) Full name, address and capacity of person completing this application:
2. To be completed if the Applicant is a Company—
(a) Full names and addresses of—
Director/s
Manager/s
Secretary
(b) Registered Office
3. To be completed if Applicant is a Partner—
(a) Full name and address of partner/s

4. To be completed if Applicant is neither a Company nor Partnership -

Full name:

Address:

Dated at this day of 20....

Signature:.....

CUE SHIRE COUNCIL
MONUMENTAL MASON'S LICENCE

Date Received

Date Approved

Conditions:

.....

Signature of Issuing Officer: Designation:

Date:

DOG ACT 1976

SHIRE OF CUE

LOCAL LAWS RELATING TO DOGS

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Schedule 1***Schedule 2******Schedule 3***

DOG ACT 1976

SHIRE OF CUE

DOGS LOCAL LAW

Under the powers conferred by the Dog Act 1976 and under all other powers enabling it, the Council of the Cue Shire Council resolved on the 21st February 2001 to make the following local law.

PART 1—PRELIMINARY**1.1 Citation**

This local law may be cited as the Cue Shire Dogs Local Law.

Provisions of the Dog Act

Selected provisions of the Dog Act have been included in this document, boxed and hachured, where it is believed these might assist in the interpretation or administration of this Local Law. These insertions are not an official part of the Local Law and should not therefore be included in the gazettal of the Local Law.

In the hachured boxes, “s” denotes a section of the *Dog Act 1976*.

1.2 Repeal

The Local Law relating to Dogs published in the Government Gazette on 3 May 1985 is repealed.

1.3 Definitions

In this local law unless the context otherwise requires—

“Act” means the *Dog Act 1976*;

“authorized person” means a person authorized by the local government to perform all or any of the functions conferred on an authorized person under this local law;

“CEO” means the Chief Executive Officer of the local government;

“district” means an area of the State that has been declared to be a district under the *Local Government Act 1960*, and includes for certain purposes provided for in this Act other areas which although not being within the boundaries of a district are regarded for those purposes as being part of the district;

“local government” means the Shire of Cue;

“owner” in relation to a dog means—

- (a) the person by whom the dog is ordinarily kept; or
- (b) a person who is deemed by subsection (2) to be the owner of the dog;

“person liable for the control of the dog” means each of the following—

- (a) the registered owner of the dog;
- (b) the owner of the dog;
- (c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or
- (d) a person who has the dog in his possession or under his control, but does not include—
- (e) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or
- (f) a police officer or other person acting under statutory duty or in the administration of this Act;

“pound keeper” means a person authorized by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

“premises” shall, for the purpose of determining who is the occupier, be taken to refer to any land or building, or part of any land or building, that is or is intended to be occupied as a separate residence from any adjacent tenement;

“Regulations” means the *Dog Regulations 1976*;

“thoroughfare” has the meaning given to it in section 1.4 of the *Local Government Act 1995*; and

“town planning scheme” means a town planning scheme made by the local government under the *Town Planning and Development Act 1928* which applies throughout the whole or a part of the district.

“townsite” means—

- (a) land constituted, defined, or reserved as the site of a town or village under the *Land Administration Act 1997*.

- (b) land subdivided or laid out as the site for a townsite, township, or village, in accordance with the subdivisional plan, registered in the Office of Titles or the Department of Land Administration; and
- (c) land within a town or city under the *Local Government Act 1960* that is outside the metropolitan region.

1.4 Application

This local law applies throughout the district.

PART 2—IMPOUNDING OF DOGS

Part 2 Should be read in conjunction with section 29 of the Act, which is headed "Power to seize strays, etc".

2.1 Charges and costs

The following are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995*—

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.

(2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper, satisfactory evidence—

- (a) of her or his ownership of the dog or of her or his authority to take delivery of it; or
- (b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 No breaking into or destruction of pound

A person who—

- (a) unless he or she is the pound keeper or a person authorized to do so, releases or attempts to release a dog from a pound; or
- (b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof—
 - (i) any pound; or
 - (ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog, commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

PART 3—REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

(1) An occupier of premises on which a dog is kept must—

- (a) cause a portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
- (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
- (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;
- (d) maintain the fence and all gates and doors in the fence in good order and condition; and
- (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) Where an occupier fails to comply with subclause (1), he or she commits an offence.

Penalty: Where the dog kept is a dangerous dog, \$2,000; otherwise \$1,000.

Limitations as to numbers

S26 (1) The provisions of this Part shall not operate to prevent the keeping on any premises of 2 dogs over the age of 3 months and the young of those dogs under that age.

(2) Subject to subsection (1), a local government, pursuant to local laws, may limit the number to dogs over the age of 3 months, or the number of such dogs of any specified breed or kind, that may be kept on any premises situate in a specified area to which those local laws apply unless those premises are licensed as an approved kennel establishment or are exempt.

(3) Where a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of the Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises by any such exemptions—

- (a) May be subject to conditions, including a condition that it applies only to the dogs specified therein;
- (b) Shall not operate to authorise the keeping of more than 6 dogs on those premises; and
- (c) May be revoked or varied at any time.

(4) Subject to provisions of subsection (3), a person who keeps on any premises, not being premises licenced as an approved kennel establishment, dogs over the age of 3 months in numbers exceeding any limit imposed in relation to those dogs by a local law made under subsection (2) commits an offence.

Penalty: \$1 000 and a daily penalty of \$100.

(5) Any person who is aggrieved—

- (a) by the conditions imposed in relation to any exemption from the provisions of a local law placing a limitation on the number of dogs that may be kept on any premises; or
- (b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,

may appeal in writing to the Minister who may, after such inquiry as he thinks fit, give directions to the local government concerned and effect shall be given to any such direction

(6) An appeal under subsection (5) shall be lodged with the Minister not later than 28 days after the day on which a notice of the decision that is appealable is served on the person affected by that decision.

[section 26 amended by No. 23 of 1987 s.22.]

Note:

Regulation 13(1) prescribes a modified penalty of \$100 under section 26(4) for “Keeping more than prescribed number of dogs.”

If this modification penalty is to be imposed under the Regulations, the procedures contained within regulation 13 of the Regulation must be complied with.

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been—

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—

- (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite; or
- (b) 4 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite.

PART 4—APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2—

“licence” means a licence to keep an approved kennel establishment on premises;

“licensee” means the holder of a licence;

“premises”, in addition to the meaning given to it in section 3 of the Act, means the premises described in the application for a licence; and

“transferee” means a person who applies for the transfer of a licence to her or him under clause 4.14.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with—

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs nominated by the local government; and
- (e) the fee for the application for a licence referred to in clause 4.10(1).

4.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged—

- (a) once in a newspaper circulating in the district; and
- (b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that—

- (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
- (b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where—

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the local government, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements,

under a town planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until—

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to—

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where—

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a town planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

4.9 Compliance with conditions of approval

A licensee who does not comply with the conditions of a licence commits an offence.

Penalty: Where a dog involved in the contravention is a dangerous dog, \$2,000 and a daily penalty of \$200; otherwise \$1,000 and a daily penalty of \$100.

4.10 Fees

(1) On lodging an application for a licence, the applicant is to pay a fee to the local government.

(2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 - 6.19 of the *Local Government Act 1995*.

4.11 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.12 Period of licence

(1) The period of effect of a licence is set out in section 27(5) of the Act.

(2) A licence is to be renewed if the fee referred to in clause 4.10(2) is paid to the local government prior to the expiry of the licence.

(3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

s.27(5) A licence under this section has effect for a period of 12 months, and is renewable upon payment of the prescribed fee, but may be cancelled at any time by the local government if the local government is dissatisfied with the conduct of the establishment.

4.13 Variation or cancellation of licence

(1) The local government may vary the conditions of a licence.

(2) The local government may cancel a licence—

- (a) on the request of the licensee;
- (b) following a breach of the Act, the Regulations or this local law; or
- (c) if the licensee is not a fit and proper person.

(3) The date a licence is cancelled is to be, in the case of—

- (a) paragraph (a) of subclause (2), the date requested by the licensee; or
- (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

(4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.14 Transfer

(1) An application for the transfer of a valid licence from the licensee to another person must be—

- (a) made in the form determined by the local government;
- (b) made by the transferee;
- (c) made with the written consent of the licensee; and
- (d) lodged with the local government together with—
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.10(3).

(2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.

(4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.15(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.15 Notification

The local government is to give written notice to—

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.13(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.13(2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.13(2), which notice is to be given in accordance with section 27(6) of the Act.

4.16 Inspection of kennel

With the consent of the occupier, an authorized person may inspect an approved kennel establishment at any time.

Entry of premises

12A. (1) With the authority of a warrant, an authorised person, and any other person named in the warrant, may enter and inspect any premises for any purpose relating to the enforcement of this Act.

(2) If he is satisfied that there are reasonable grounds for doing so, a Justice of the Peace may issue a warrant for the purpose of subsection (2).

PART 5—DOGS IN PUBLIC PLACES**Control of dogs in certain public places**

s.31 (1) A dog shall not be in a public place unless it is—

- (a) held by a person who is capable of controlling the dog; or
- (b) securely tethered for a temporary purpose,

by means of a chain, cord, leash or harness of a sufficient strength and not exceeding the prescribed length.

(2) A dog is exempt from the requirements of subsection (1) if—

- (a) it is an area specified by a local government under section 51 as a dog exercise area;
- (b) it is in a public place in an area of the State that is outside the metropolitan region or a townsite;
- (c) it is in or on a vehicle or boat;
- (d) it is being exhibited for show purposes;
- (e) it is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of Western Australia (Inc.) or a body approved by the local government in whose district the obedience trial or classes are conducted;
- (f) it is registered as being bona fide used in the droving or tendering of stock and is being so used or is going to or returning from a place where it will be, or has been, so used;
- (g) it is a foxhound in a registered pack bona fide engaged in hunting or hound exercise or in going to or returning from a place where it will be, or has been, so used;
- (h) it is being used for retrieving, duck hunting or other customary sporting purposes.

(3) If a dog is at any time in any public place in contravention of subsection (1) every person liable for the control of the dog at that time commits an offence against that subsection unless he establishes a defence under section 33B.

Penalty: where the dog is a dangerous dog, \$4 000;

Otherwise, \$1 000

Control of dogs in exercise areas and rural areas

S32. (1) A dog, not being a greyhound, shall not be in—

- (a) A public place in an area of the State that is outside the townsite, unless section 31(1) is complied with or a competent person is in reasonable proximity to the dog.

(2) A person is a competent person for the purposes of subsection (1) only if—

- (a) He is a person who is liable for the control of the dog;
- (b) He is capable of controlling it; and
- (c) He is carrying and capable of attaching to the dog for the purpose of controlling it, a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.

(3) The exemptions in section 31(2) (other than paragraphs (a) and (b)) also apply for the purposes of subsection (1).

(4) If a dog is at any time in any place in contravention of subsection (1) every person liable for the control of the dog at that time commits an offence against that subsection unless he establishes a defence under section 33B.

Penalty: where the dog is a dangerous dog, \$4 000

Otherwise, \$1 000.

5.1 Places where dogs are prohibited absolutely

(1) Dogs are prohibited absolutely from entering or being in any of the following places—

- (a) where so indicated by a sign, a public building;
- (b) a theatre or picture gardens;
- (c) all premises or vehicles classified as food premises or food vehicles under the *Health (Food Hygiene) Regulations 1993*;
- (d) a public swimming pool.

(2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

Special provisions for guide dogs

S8. (1) Notwithstanding anything contained elsewhere in this Act or in any other Act, regulation, local law or by-law a person who is blind or partially blind—

- (a) is entitled to be accompanied by a dog *bona fide* used by him as a guide dog, in any building or place open to or used by the public, for any purpose, or in any public transport; and
- (b) is not guilty of an offence by reason only that he takes that dog into or permits that dog to enter any building or place open to or used by the public or on any public transport.

(2) The provisions of subsection (1) shall also apply to any person who is *bona fide* engaged in the training of a guide dog.

(3) The Minister may in writing authorize a named person accompanied by a specified dog to enter and be in any building or place open to or used by the public for any purpose, or in any public transport, and, notwithstanding anything in this Act or any other written law, a person acting in accordance with that authority is not guilty of an offence by reason only that he takes that dog into or permits that dog to enter any such building, place or transport.

(4) An authority under subsection (3) may be given subject to such conditions and limitations as the Minister thinks fit, and may at any time be amended or revoked by him.

PART 6—MISCELLANEOUS

6.1 Offence to excrete

(1) A dog must not excrete on—

- (a) any thoroughfare or other public place; or
- (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: \$200.

(3) The person liable for the control of the dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 7—ENFORCEMENT

7.1 Interpretation

In this Part—

“infringement notice” means the notice referred to in clause 7.3; and

“notice of withdrawal” means the notice referred to in clause 7.6(1).

7.2 Modified penalties

(1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if—

- (a) the dog is not a dangerous dog; or
- (b) the dog is a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the dog is a dangerous dog.

7.3 Issue of infringement notice

Where an authorized person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

7.4 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

7.5 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgment.

7.6 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorized person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorized to issue an infringement notice under clause 7.3 cannot sign or send a notice of withdrawal.

7.7 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

Schedule 1

(clause 4.2)

Local laws relating to dogs**APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT**

I/we (full name)

of (postal address)

(telephone number)

(facsimile number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from / /20 .

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at (insert address of residence) on and from / /20 .

Attached are—

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside—
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment.

Signature of applicant.....

Date / /20 .

* delete where inapplicable.

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act.

OFFICE USE ONLY

Application fee paid on / /20 .

Schedule 2

(clause 4.8(1))

CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

An application for a licence for an approved kennel establishment may be approved subject to the following conditions—

- (a) each kennel, unless it is fully enclosed, must have a yard attached to it;
- (b) each kennel and each yard must be at a distance of not less than—
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption;
- (c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
- (d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;
- (e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;
- (f) the upper surface of the kennel floor must be—
 - (i) at least 100mm above the surface of the surrounding ground;

- (ii) smooth so as to facilitate cleaning;
- (iii) rigid;
- (iv) durable;
- (v) slip resistant;
- (vi) resistant to corrosion;
- (vii) non-toxic;
- (viii) impervious;
- (ix) free from cracks, crevices and other defects; and
- (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;
- (g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
- (h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;
- (i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;
- (j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of—
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;
- (k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
- (l) all external surfaces of each kennel must be kept in good condition;
- (m) the roof of each kennel must be constructed of impervious material;
- (n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
- (o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;
- (p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
- (q) suitable water must be available at the kennel via a properly supported standpipe and tap; and
- (r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside—
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

Schedule 3

(clause 7.2)

OFFENCES IN RESPECT OF WHICH MODIFIED PENALTY APPLIES

Offence	Nature of offence	Modified penalty \$	Dangerous Dog Modified Penalty \$
2.4(a)	Attempting to or causing the unauthorized release of a dog from a pound	200	400
2.4(b)&(c)	Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs	200	
3.1	Failing to provide means for effectively confining a dog	50	200
4.9	Failing to comply with the conditions of a licence	100	200
5.1(2)	Dog in place from which prohibited absolutely	200	400
6.1(2)	Dog excreting in prohibited place	40	

Dated this 22nd day of March 2001.

The Common Seal of the Shire of Cue was affixed by authority of a resolution of the Council in the presence of:

CEDRIC WYATT, Mayor/President.
SIMON HAWKINS, Chief Executive Officer

