

SHIRE OF CUBALLING



*Model Local Law  
(Cemeteries)  
1998*

**SHIRE OF CUBALLING**  
**MODEL LOCAL LAW (CEMETERIES) 1998**

**ARRANGEMENT**

**PART 1 - PRELIMINARY**

- 1.1 Citation
- 1.2 Interpretation
- 1.3 Repeal

**PART 2 - ADMINISTRATION**

- 2.1 Powers and Functions of CEO

**PART 3 - APPLICATION FOR FUNERALS**

- 3.1 Application for Burial
- 3.2 Applications to be Accompanied by Certificates etc.
- 3.3 Certificate of Identification
- 3.4 Minimum Notice Required

**PART 4 - FUNERAL DIRECTORS**

- 4.1 Funeral Director's Licence Expiry
- 4.2 Single Funeral Permits
- 4.3 Application Refusal

**PART 5 - FUNERALS**

*Division 1 - General*

- 5.1 Requirements for Funerals and Coffins
- 5.2 Funeral Processions
- 5.3 Vehicle Entry Restricted
- 5.4 Vehicle Access and Speed Limitations
- 5.5 Offenders may be Expelled
- 5.6 Conduct of Funeral by Board

**PART 6 - BURIALS**

- 6.1 Depth of Graves
- 6.2 Mausoleum, etc.

## **PART 7 - MEMORIALS AND OTHER WORK**

### *Division 1 - General*

- 7.1 Application for Monumental Work
- 7.2 Placement of Monumental Work
- 7.3 Removal of Rubbish
- 7.4 Operation of Work
- 7.5 Removal of Sand, Soil or Loam
- 7.6 Hours of Work
- 7.7 Unfinished Work
- 7.8 Use of Wood
- 7.9 Plants and Trees
- 7.10 Supervision
- 7.11 Australian War Graves
- 7.12 Placing of Glass Domes and Vases

### *Division 2 - Licensing of Monumental Masons*

- 7.16 Monumental Mason's Licence
- 7.17 Expiry Date, Non-Transferability
- 7.18 Carrying out Monumental Work
- 7.19 Responsibilities of the Holder of a Monumental Mason's Licence
- 7.20 Cancellation of a Monumental Mason's Licence

## **PART 8 - GENERAL**

- 8.1 Animals
- 8.2 Guide Dogs
- 8.3 Damaging and Removing of Objects
- 8.4 Withered Flowers
- 8.5 Littering and Vandalism
- 8.6 Advertising
- 8.7 Obeying Signs and Directions
- 8.8 Removal from the Cemetery

## **PART 9 - OFFENCES AND MODIFIED PENALTY**

- 9.1 General
- 9.2 Modified Penalties

**First Schedule** - Modified Penalties

**Second Schedule** - Infringement Notice

**Third Schedule** - Withdrawal of Infringement Notice

**CEMETERIES ACT 1986**  
**SHIRE OF CUBALLING**

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**  
**PUBLIC CEMETERIES**

**PART 1 - PRELIMINARY**

**1.1 Citation**

This Local Law may be cited as the Local Law Relating to the Cuballing and Popanyinning Public Cemeteries.

**1.2 Interpretation**

In this Local Law unless the context otherwise requires:

“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 Shire of Cuballing;

“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;

“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:-

The Shire of Cuballing local law Relating to Cemeteries published in the Government Gazette of 7 October 1910, as amended.

## 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 Applications to be Accompanied by Certificates etc.**

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

### **3.3 Certificate of Identification**

(1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless:

(a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;  
or

(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

(2) Where:

(a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed;  
or

(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

then the Funeral Director shall complete a certificate in the form determined by the Board from time to time.

### **3.4 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 issued with a funeral director's licence.

(3) The Board, or a person authorised 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 authorised 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 30<sup>th</sup> 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 the 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.

## 4.3 Application Refusal

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite, are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

## **PART 5 - FUNERALS**

### **5.1 Requirements for Funerals and Coffins**

A person shall not bring a dead body into the cemetery unless:

- (a) the Board has approved an application for the burial of that dead body in accordance with Part 3 of this Local Law;
- (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid;

and

- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

### **5.2 Funeral Processions**

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

### **5.3 Vehicle 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 motorised 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 the 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) specify an area in the cemetery where the dead body is to be buried;
- e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this Local Law;
- f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

## **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 and disposal shall be met.

### **Board may authorise exhumation and re-burial**

S59 A Board may in writing authorise the exhumation of a body buried in the cemetery and then 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 or, a memorial in a cemetery without the permission of the Board.

Penalty: \$500

#### **Removal or alteration of unauthorised 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 8.00 am and 6.00 pm on weekdays, and 8.00 am and noon on Saturdays, without the written permission of the Board.

## **7.7 Unfinished Work**

Should any work by masons or others be not completed before 6 pm 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 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 and shall obey such directions as the CEO or an authorised officer may give.

## **7.11 Australian War Graves**

Notwithstanding anything in this Local Law to the contrary, the Office of Australian War Graves -

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

## **7.12 Placing of Glass Domes and Vases**

A person shall not place glass domes, vases or other grave ornaments outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40 (2) of the Act.

## *Division 4 - Licensing of Monumental Masons*

### **7.13 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.

### **7.14 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 30<sup>th</sup> day of June next following; and
- (b) is not transferable.

### **7.15 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 7.13 or does so as the employee of a person who holds such a licence; or
- (b) is authorised by the Board to do so.

### **7.16 Responsibilities of the Holder of a Monumental Mason's Licence**

The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within the cemetery pursuant to that licence with all the requirements and conditions of the licence, this Local Law, the Act and any other written law which may affect the carrying out of monumental works.

### **7.17 Cancellation of a Monumental Mason's Licence**

- (1) The Board may by notice in writing to the holder of a monumental mason's licence terminate the licence on any of the following grounds -
  - (a) that the holder of the licence has committed a breach of the requirements and conditions of the licence, this Local Law, the Act or any other written law which may affect the carrying out of monumental works;
  - (b) that, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within the cemetery, is inappropriate or unbecoming; or
  - (c) that the holder of the licence has purported to transfer the licence issued to that holder.

- (2) Upon the termination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.
- (3) An aggrieved person whose licence has been terminated under subclause (1) may appeal to a Local Court against a decision of 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 authorised 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 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 prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

### **8.7 Obeying Signs and Directions**

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised officer.

## **8.8 Removal from the Cemetery**

Any person failing to comply with any provisions of this Local Law or behaving in a manner that in the opinion of the Board, the CEO or an authorised officer is inappropriate in the cemetery may in addition to any penalty provided by this Local Law be ordered to leave the cemetery by the Board, the CEO or an authorised officer.

## **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**

**SHIRE OF CUBALLING**

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING  
PUBLIC CEMETERIES**

*Modified Penalties*

<b>Item No.</b>	<b>Clause</b>	<b>Nature of Offence</b>	<b>Modified Penalty</b>
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 material	\$50.00
4	7.7	Leaving uncompleted works in an untidy or unsafe condition	\$50.00
5	8.1	Animal at large	\$50.00
6	8.5	Dumping of rubbish	\$50.00
7	8.6	Unauthorised advertising, and/or trading	\$50.00
8	8.7	Disobeying sign or lawful direction	\$50.00

**Second Schedule**  
**Cemeteries Act, 1986**  
**SHIRE OF CUBALLING**  
**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

*Infringement Notice*

TO: \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

It is alleged that at \_\_\_\_\_ : \_\_\_\_\_ hours on \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
at \_\_\_\_\_

you committed the offence indicated below by an (x) in breach of clause ..... of the Shire of Cuballing Local Law relating to the Cuballing and Popanyinning Public Cemeteries.

\_\_\_\_\_  
G W Foster  
**CHIEF EXECUTIVE OFFICER**

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 show within 21 days of the date of this notice (or the date of the giving of this notice if that is a different date) to the Chief Executive Officer of the Shire of Cuballing at Campbell Street, Cuballing between the hours of 9 am to 4.30 pm Monday to Friday.

Please make cheques payable to Shire of Cuballing. Payments by mail should be addressed to: The Chief Executive Officer, Shire of Cuballing, PO Box 13, CUBALLING WA 6311

If the penalty is not paid within the time specified, then a complaint of the alleged offence may be made and heard and determined by a court.

**Third Schedule**  
**Cemeteries Act, 1986**  
**SHIRE OF CUBALLING**  
**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**  
**PUBLIC CEMETERIES**

*WITHDRAWAL OF INFRINGEMENT NOTICE*

No. \_\_\_\_\_ Date \_\_\_\_/\_\_\_\_/\_\_\_\_

To (1) \_\_\_\_\_

Infringement Notice No. \_\_\_\_\_ dated \_\_\_\_/\_\_\_\_/\_\_\_\_ for the alleged offence of (2)

---

Penalty (3) \$\_\_\_\_\_ is withdrawn.

(Delete which ever 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.

---

G W Foster  
**CHIEF EXECUTIVE OFFICER**

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

**Form 1**

**CEMETERIES ACT 1986**

**GRANT OF RIGHT OF BURIAL**

(cl 3.1)

By virtue of the Cemeteries Act 1986, the Shire of Cuballing, 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 .....

Section .....

Number.....

Deceased .....

Application 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 RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

**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 -

1. I am the person described as (c)  
in the Grant of Right of Burial numbered .....  
issued by the Shire of Cuballing 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 ..... 19..... 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 RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

**Form 3**

**CEMETERIES ACT 1986**

**ASSIGNMENT OF GRANT OF RIGHT OF BURIAL**

(cl 3.4)

To the Shire of Cuballing

I, .....

of .....

being the holder of a grant of right of burial numbered .....

and issued by the Shire of Cuballing 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 ..... 19 .....

.....  
Signature of person assigning grant

.....  
Signature of person to whom grant is assigned

.....  
Signature of witness

Registered by the Shire of Cuballing on the ... day of

..... 19 ....

.....  
G W Foster  
**CHIEF EXECUTIVE OFFICER**

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

**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 .../.../19....

DATE & TIME OF BURIAL: ...../.../19... 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: .../.../19....

NAME OF MINISTER OR PERSON OFFICIATING:

NAME OF FUNERAL DIRECTOR:

SIGNATURE: .....

SIGNATURE: .....

DATE: .../.../19....

DATE: .../.../19....

NAME AND ADDRESS OF PERSON MAKING APPLICATION FOR BURIAL:

SIGNATURE: .....

DATE: .../.../19....

DOCTOR'S CERT, REQ'D:

CORONER'S ORDER REC'D:

GRANT OF BURIAL SENT: .../.../19...

RECEIPT NO. ISSUED: .....

MONUMENTAL MASON: .....

DATE WORKS APPROVED: ../.../19.....

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

**Form 5**

**CEMETERIES ACT**

**CERTIFICATE OF IDENTIFICATION**

(cl 3.3(1))

I, .....

of .....

hereby certify that on the ..... day of ..... 19 ..... at .....

I identified that body of a deceased person as that of .....

The body was in a coffin bearing the name plate/inscription marked:

.....

SIGNED: .....

WITNESS: .....

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

**Form 6**

**CEMETERIES ACT 1986**

**CERTIFICATE DISPENSING WITH IDENTIFICATION**

(cl 3.3(2))

I, .....  
of .....  
the funeral director engaged to arrange the funeral of the body of  
.....

certify that -

- (a) the body has not been identified because:
  - \* in my opinion, the body is not in a fit state to be viewed
  - \* after reasonable effort I have been unable to have an identification made;and
- (b) the body is in a coffin bearing the name plate/inscription marked: .....

Dated this ..... day of ..... 19 .....

Signed: .....

Endorsed by the applicant for the funeral: .....  
(Full name)

Signed: .....  
(Signature)

(\* delete if inapplicable)

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**  
**PUBLIC CEMETERIES**  
**Form 7**  
**CEMETERIES ACT 1986**  
**APPLICATION FOR FUNERAL DIRECTOR'S LICENCE**

(S 17 (1))

(i) .....  
 hereby applies for the issue of licence for the period beginning ..... day of .....  
 19 .....  
 and ending the 30<sup>th</sup> day of June 19..... (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 .....
  - (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 benefit, 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 ..... Approved .....  
 Licence Issued ..... Referred to Council .....

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

**Form 8**

**CEMETERIES ACT 1986**

**FUNERAL DIRECTOR'S LICENCE**

(S17 (2))

.....  
of .....

is hereby licensed to undertake funerals within the ..... Cemetery from  
the

..... day of ..... 19 ..... until the 30 day of June 19 .....

Place of business .....

Conditions.....

.....

Given this ..... day of ..... 19 .....

By the authority of the Shire of Cuballing

.....

**CHIEF EXECUTIVE OFFICER**

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**  
**PUBLIC CEMETERIES**  
**Form 9**  
**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) ..... 19 .....  
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 Laws 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 RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

**Form 10**

**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 RELATING TO THE CUBALLING AND POPANYINNING**

**PUBLIC CEMETERIES**

Form 11

**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 SHIRE OF CUBALLING IS INDEMNIFIED AGAINST ANY LIABILITY ATTRIBUTED TO ANY INCORRECT STATEMENTS OF 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 MEMORIAL SUBMITTED MUST BE CAREFULLY DRAWN AND **FULLY** DIMENSIONED AND ALL MATERIALS SPECIFIED. SPECIFIED.

**LOCAL LAW RELATING TO THE CUBALLING AND POPANYINNING**  
**PUBLIC CEMETERIES**  
**Form 12**  
**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 ..... 19..... and ending the ..... day of ..... 19..... 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 address 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 ..... 19.....  
Signature .....

---

**SHIRE OF CUBALLING**  
**MONUMENTAL MASON'S LICENCE**

Date Received .....  
Date Approved .....

Conditions: .....  
.....  
Signature of Issuing Officer: ..... Designation: .....  
Date: .....