SHIRE OF WILLIAMS LOCAL LAWS RELATING TO WILLIAMS AND MARLING PUBLIC CEMETERIES

LOCAL LAWS RELATING TO WILLIAMS AND MARLING PUBLIC CEMETRIES

CEMETERIES ACT 1986

HISTORY: Shire of Williams Cemetery Local Laws

Date:	Detail: (i.e. Adoption and Gazettal of the Local Law)
20th August 1997	Council Adopted the Local Law relating to Cemeteries
24th October 1997	Local Law relating to Cemeteries gazetted
19th December 2001	Council adopted the Cemeteries Amendment Local Law 2001
8th February 2002	Cemeteries Amendment Local Law 2001 gazetted

DOCUMENT CONTROL: Cemetery Local Laws

Version:	Local Law Document for Publishing:
June 2020	Consolidated Document including original Local Law and December 2001 Amendments

Disclaimer:

This version is an administrative version and while every attempt to ensure it is correct, only the Gazetted version as amended should be relied on. In particular, text boxes and notes in this version do not form part of the local law.

Cemeteries Act - 1986

Shire of Williams

Local Laws relating to Williams and Marling Public Cemeteries

In pursuance of the powers conferred upon it by the abovementioned Act and of all other powers enabling it, the Council of the Shire of Williams hereby records having resolved on the 20th day of August, 1997, to make the following local laws:

Part I - Preliminary

REVOCATION

1. The following local laws are hereby revoked:-

   The Williams Public Cemetery By-laws published in the *Government Gazette* on 26 May, 1922, as amended.

APPLICATION

2. Each of the Williams and Marling Public Cemeteries will be subject to the following Local Laws.

INTERPRETATIONS

3. In these local laws unless the context otherwise requires:

   "Act" means the Cemeteries Act, 1986;

   "Authorised Person" means an employee of the Council authorised by the Council to exercise any power conferred by an Act of Parliament or these local laws;

"CEO" means the Chief Executive Officer or Acting Chief Executive Officer for the time being, of the Shire of Williams;

"Council" means the Council of the Shire of Williams;

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

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

"Right of Burial" means the right to use a specified area of a cemetery for burial;

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

"Single Funeral Permit" means a permit issued by the Council in accordance with clause 23 which entitles the holder to conduct a funeral at the cemetery for the deceased persons named in the permit.

Part II - Administration

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

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

Part III - Rights of Burial

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

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

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

9. The Council may, upon the written application of a person and upon payment of the set fee issue that person with a Grant of Exclusive Right of Burial in a specified area of the Cemetery.

10. A Grant of Exclusive Right of Burial shall be for a term of twenty-five (25) years from the date of issue or from the date of burial if the set fee has been pre-paid.

11. A Grant of Exclusive Right of Burial confers upon the grantee an exclusive right:

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

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

    during the term of the grant.

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

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

Part IV - Applications for Funerals

14. Any person desiring to inter any dead body in the cemetery or place ashes in the niche wall shall make an application in the form determined by the Council from time to time and pay the set fee.

15. All applications for interment shall be accompanied by:

    (a) a medical certificate of death; or

    (b) a Coroner's order for burial;

    in respect of the body.

16. All applications for interment shall be made at the office of the Council at least twenty four hours prior to the time fixed for burial, otherwise an extra charge shall be made.

Part V - Disposal of Ashes

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

Part VI - Times for Funerals

18. The hours for burial shall be as follows:

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

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

Part VII - Funeral Directors

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

    (a) a Funeral Director;

    (b) an employee of the Funeral Director; or

    (c) the holder of a single funeral permit issued in accordance with clause 23.

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

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

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

SINGLE FUNERAL PERMITS

23. The Council may upon receipt of an application in writing by any person, in the form determined by the Council from time to time and upon payment of the set fee issue to the applicant a single funeral permit

authorising the holder to direct the funeral of the person named in the permit within the cemetery at such time and subject to such conditions as the Council shall specify upon the issue of that permit.

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

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

Part VIII - Funerals

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

27. The time fixed for any burial shall be the time at which the funeral is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 14 shall pay the set fee for being late.

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

29. 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.

30. A person committing an offence under clause 29 may be forthwith expelled from the cemetery by the CEO or an authorised person.

31. No bicycle shall be ridden within the cemetery.

Part IX Burials

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

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

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

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

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

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

36. If for the purpose of re-opening a grave the Council finds it necessary to remove a memorial, edging, tiles, plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

Part X - Memorials and Other Work

37. Subject to Clause 38 the Council may upon receipt of an application in writing by any person and upon payment of the set fee issue to the applicant a permit authorising the holder to carry out memorial works upon a particular grave specified in the application at such time and on such days and subject to such conditions as the Council shall specify upon the issue of that permit or in these local laws.

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

39. The Council may reject any application referred to in clause 37 where it considers the proposed memorial works are inappropriate or unbecoming.

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

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

42. Should any work by masons or others be not completed before 6pm on any day, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised person.

43. All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery; and all materials required by tradesmen shall be admitted at such entrance as the CEO or an authorised person shall direct.

44. No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Council.

45. 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 Council.

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

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

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

49. Notwithstanding anything in these local laws to the contrary, the Office of Australian War Graves;

    (a) may place a memorial on a military grave; and

    (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

Part XI - General

ANIMALS

50. Subject to clause 51, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery without Council approval.

51. Clause 50 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

DAMAGING AND REMOVING OF OBJECTS

52. Subject to clause 53, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Council without the permission of the Council.

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

LITTERING AND DAMAGE

54. A person shall not;

    (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery;

    (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

ADVERTISING

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

REMOVAL FROM THE CEMETERY

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

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

OFFENCE

58. A person who commits a breach of any provisions of these local laws commits an offence and shall on conviction be liable to a penalty not exceeding $500.00 and if the offence is a continuing one to a further penalty not exceeding $20.00 for every day or part of a day during which the offence is continued.

MODIFIED PENALTIES

59. (1) A person who;

(a) receives an infringement notice pursuant to sub-section (1) of section 63 of the Act; and

(b) does not contest an allegation that an offence was committed against these local laws, may within the time specified in the notice, pay to the Council the modified penalty payable with respect to that offence.

(2) The offences and modified penalties prescribed, with respect to offences against these local laws shall be as specified in the First Schedule.

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

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

(5) If it appears to the Council that an alleged offence cannot be adequately punished by the payment of the modified penalty then the Council may refrain from accepting the modified penalty

and may in lieu take proceedings against the alleged offender in a Court of Petty Sessions.

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

First Schedule

Cemeteries Act - 1986

Shire of Williams

Local laws relating to the Williams and Marling Public Cemeteries

Item No.	Clause	Nature of Offence	Modified Penalty
1	29	Excessive speed	$50.00
2	29	Unauthorised use - driving of vehicles	$50.00
3	31	Riding of bicycle	$20.00
4	41	Placing and removal of rubbish and surplus materials	$50.00
5	42	Leaving incomplete works in an untidy or unsafe condition	$50.00
6	50	Animal at large	$50.00
7	52	Unauthorised damage and removal of property	$50.00
8	54	Dumping of Rubbish	$50.00
9	55	unauthorised advertising, and/or trading	$50.00
10		Any other offence	$40.00

Second Schedule

Cemeteries Act - 1986

Shire of Williams

Local laws relating to the Williams and Marling Public Cemeteries.

Infringement Notice

TO: _____

(Name)

_____

(Address)

It is alleged that at _____ : _____ hours on _____ day of_____

20 _____ at _____ you committed the offence indicated

hereunder by an (x) in breach of local law number _____

_____

(Authorised Officer)

Offence

Animal at large

Dumping rubbish

Excessive speed in vehicle

Leaving incomplete works in an untidy or unsafe condition

Non removal of rubbish

Riding of bicycle

Unauthorised advertising or trading

Unauthorised damage and removal of property

Unauthorised vehicle use

Other offence _____

$ _____

You may dispose of this matter:

By payment of the penalty as shown within 21 days of the date of this notice to the Shire of Williams between the hours of 9.00am to 4.00pm Monday to Friday.

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

The CEO

Shire of Williams

PO Box 96

Williams WA, 6391

Third Schedule

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Local laws relating to the Williams and Marling Public Cemeteries.

Withdrawal of Infringement Notice

No. _____

Date ____ / ____ / ____

To (1) _____

_____

Infringement Notice No _____ dated ____ / ____ / ____ for the alleged offence

of (2) _____

_____

Penalty (3) $ _____ is hereby withdrawn.

(Delete whichever does not apply)

- No further action will be taken
- It is proposed to institute court proceedings for the alleged offence

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(1) Insert name and address of alleged offender.

(2) Insert short particulars of offence alleged.

(3) Insert amount of penalty prescribed.

Dated this 20th day of August 1997.

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

G.J. Warren, President

V. Epiro, Chief Executive Officer