

**CITY OF VICTOR HARBOR**

city of  
Victor Harbor



# **Cemeteries**

## **CEMETERY RULES OF OPERATION**

### ***VICTOR HARBOR & INMAN VALLEY CEMETERIES***

**COUNCIL OFFICES:**

1 BAY ROAD  
VICTOR HARBOR SA 5211

TELEPHONE: 08 8551 0500  
FAX: 08 8551 0501

**POSTAL ADDRESS:**

PO BOX 11  
VICTOR HARBOR SA 5211

**EMAIL:**

localgov@victor.sa.gov.au  
web: [www.victor.sa.gov.au](http://www.victor.sa.gov.au)

**Adopted by Council 17/12/2012**

CITY OF VICTOR HARBOR CEMETERIES RULES OF OPERATION

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## CITY OF VICTOR HARBOR CEMETERIES RULES OF OPERATION

These Rules of Operation are to be read in conjunction with:

The Burial and Cremation Regulations 2014  
The Burial and Cremation Act 2013  
The Births, Deaths and Marriages Registration Regulations 2013  
Work Health and Safety Act 2012  
Work Health and Safety Regulations 2012

### DEFINITIONS

In these Rules of Operation:

**“Cemetery”** means the Victor Harbor Cemetery and the Inman Valley Cemetery.

**“Council”** means the City of Victor Harbor

**“Cemetery Authority”** means the City of Victor Harbor

**“Interment Right”** means a interment right issued under the above act for a Burial, Ashes Interment or Memorial.

**“Interment Right Holder”** means a person, their executor or administrator, their heir or successor, who is the registered holder of a Interment Right and is registered in the Council’s Cemetery Register of Interment Rights.

**“Interment”** means the placement of human remains by either burial or ashes interment.

**“Burial”** means the interment of non-cremated human remains.

**“Ashes Interment”** of human remains includes:

- the placement of cremated remains in a columbarium or other structure designed as a repository for human remains;
- the burial in the earth of cremated remains (with or without a container);

but does not include the scattering of cremated remains.

**“Site”** means the interment site -space in which burials or interments may be made.

**“Memorial”** means –

- an approved gravestone or other monument; or
- a plaque; or
- any other approved structure or physical object used to memorialize a deceased person.

**“Exhumation”** means the lawful removal of non cremated human remains from their registered location within the Victor Harbor Cemetery or the Inman Valley Cemetery.

**“Cemetery Regulations 2014”** means the Burial and Cremation Regulations 2014

# CITY OF VICTOR HARBOR CEMETERIES RULES OF OPERATION

## 1. HOURS OF OPERATION

- Opening and closing of the Victor Harbor Cemetery access gates is undertaken seven days a week at the following times:
  - Open - Vehicle Access Gates: 7.00am
  - Close - Vehicle Access Gates: SunsetNo person other than an authorised Council employee is permitted to enter or remain within the Cemetery at any other hours.
  
- The hours for burial shall be Monday to Friday 9.00 am to 3.00 pm. Any times outside of these hours need to be approved by the Council (Cemetery Officer), and are subject to additional fees. Weekends and Public Holidays are by special arrangement only, and are subject to additional fees. There will be no burials on Christmas Day or Good Friday.

## 2. FEES AND CHARGES

- The scale of fees, as amended from time to time by the Council, shall be the fees payable in respect of the services provided by the Council.
- Copies of fees and charges are available from the Council.
- All fees and charges shall be paid at Council Offices.
- To surrender/terminate a Interment Right, application is to be made to the Council. No refund will be given.

## 3. GENERAL

- 1) No person other than an authorised employee of the Council may cultivate any portion of the soil within the Cemetery either by planting lawns, flowers, trees or shrubs, or in any other manner whatsoever, without the approval of the Council.
- 2) All plants and trees within the Cemetery remain the property of the Council.
- 3) The selection of trees, plants, shrubs and materials used in the Cemetery is at the absolute discretion of the Council.
- 4) No person shall remove, damage, deface or interfere with:
  - (a) a building, memorial or other fixture or structure in the Cemetery.
  - (b) a part of the grounds of the Cemetery, including a tree, shrub, plant, flower or lawn, or a stake or label on or near anything stated in (a) above.
- 5) If the Council has reason to suspect that a person has committed, is committing or is about to commit an offence in the Cemetery, as per the Cemetery Regulations 2014 , the Council may require the person to leave the Cemetery. A person must not fail or refuse to comply with a requirement of the Council, as per the Regulations or these Rules.

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- 6) No dogs shall be taken into the Cemetery grounds other than by persons having legitimate business and unless held upon a leash. Any dogs found otherwise in the Cemetery will be removed.
  
- 7) Persons must not:
  - Sell or buy any article or thing
  - Carry on any trade, business, or call to promote or advertise at the Cemetery.
  - Disturb any funeral service at any grave, whether by working in the neighborhood thereof, or otherwise
  - Discharge any firearms except at a military funeral
  - Cut break or deface any of the plaques, memorials, trees, scrubs, plants, seats, gates, posts or fences or write thereon
  - Affix any bill or stencil mark to any tree, seat, gate, post, fence, wall pillar or railing
  - Take or injure any of the plants, flowers or shrubs
  - Interfere with trees, shrubs, flowers, vases, labels, birds, animals or other property
  - Commit any riot, breach of the peace, or nuisance or otherwise offend against decency or decorum
  
- 8) Any tent or marquee erected in the Cemetery is to be removed immediately after the funeral. The Council will require reimbursement of costs to repair any damaged turf or underground services caused by tents or marquees.
  
- 9) No person must drive a motor vehicle within the Cemetery in a dangerous or careless manner or without reasonable consideration for others. A speed limit of 10km per hour shall apply within the Cemetery. A person driving a motor vehicle within the Cemetery, must comply with any lawful directions from the Council in relation to driving or parking of vehicles.
  
- 10) The Council may realign or alter the position of memorials after consultation with the Interment Right Holder after a period of 3 months has elapsed from the time of notification and consultation.
  
- 11) The Council will take reasonable care to protect the Interment Right Holder's property and property rights within the Cemetery from loss and damage, but will not be held responsible for loss or damage caused by the deliberate or negligent actions of its employees or agents and/or equipment of Council or from other causes beyond its control.
  
- 12) The Council reserves the right of a temporary easement at any time on or across any space, for equipment and material and access necessary for interment on adjoining lots or other operational purposes.

#### 4. **FLORAL TRIBUTES**

- 1) Spent flowers will be cleared on a regular basis at the discretion of the Council.

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- 2) Floral tributes may only be placed in those areas where approved receptacles are already provided.
- 3) The Council may remove from the Cemetery any unattached ornamentation, tribute, empty flower container, broken masonry, decayed or broken wreath or dead flowers and prune, cut down or remove any plant on an interment site in the Cemetery that is, in the opinion of the Council, unsightly or overgrown.
- 4) Where a removed item may, in the opinion of the Council, be of some value to the owner, it will be recorded within a register and placed in storage for a period of three months and the owner (so far as the owner can be located by reasonable endeavours) will be notified of this fact and that, thereafter it may be disposed of by the Council.
- 5) The Council will take every precaution to ensure that floral tributes on memorials will remain intact whilst in good condition but will not be held responsible for removal either by its staff or members of the public.

### 5. INTERMENT RIGHTS

- 1) The Council may grant a Interment Right in relation to one or more sites in the Cemetery where:
  - a "Plain English Statement" form recording the burial and memorial sites Interment rights and responsibilities, is signed by the proposed Interment Right Holder; and
  - a Interment Right application form is completed and signed by the proposed Interment Right Holder; and
  - The proposed Interment Right Holder pays the Interment Right fee or reservation fee, as set down in the Council's Schedule of Fees and Charges.
- 2) Council has an absolute discretionary right to refuse any application for a Interment Right or renewal and to limit the number of Interment Rights granted to any one person.
- 3) The Interment Right Holder must notify the Council of any change in mailing address.
- 4) Any notice sent to a Interment Right Holder, at the last address recorded on Council's Register of Interment Rights, will be considered sufficient and proper legal notification in relation to any matter pertaining to a license.
- 5) Interment Rights taken out prior to 1.1.2000 have an automatic renewal to 31.12.2098. All Interment Rights taken out after 1.1.2000 are for a period of 99 years commencing from the date on the Interment Right application form. Interment Rights are to be paid in full prior to a Interment Right being issued.
- 6) The Council may extend the term of a Interment Right for further period or periods (i.e. a new Interment Right period) where:
  - a. the Interment Right provides for a right of extension; and
  - b. an application is made by the Interment Right Holder or other person no later than the expiry of the original Interment Right; and
  - c. the appropriate fee is paid.
- 7) If an application is not received within the time frame set out above, the Interment Right will expire as set out in the Interment Right.
- 8) Not withstanding the above, the Council may, in its absolute discretion, renew an expired Interment Right from the date of its expiry provided that:

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- a. the Interment Right holder applies for a renewal within two years of the Interment Right expiring; and
  - b. the appropriate fee is paid.
- 9) If an expired Interment Right is not renewed within two years of its expiry, the Council is entitled in its absolute discretion to grant a new Interment Right for the site to any applicant for a Interment Right.
- 10) Where a Interment Right expires but it is subsequently renewed within two years of its expiry date, the Interment Right will continue with the same terms and conditions but subject to a new expiry date.
- 11) A Interment Right Holder has, for the term of the Interment Right:
- a. where the Interment Right relates to an interment, an exclusive right to bury or inter human remains in the allotted site ; and
  - b. an exclusive right to install memorials within the site, subject to clause 7 below.
- 12) A transfer of Interment Right is permitted subject to the approval of the Council (Cemetery Authority) and the acceptable completion of the Transfer of Interment Right form. A transfer fee may apply according to the Fees and Charges at that time.
- 13) Interment Rights for sites that are unused and no longer required may be cancelled whereupon the allotted site will be available without restriction to the Council to deal with in its absolute discretion. Conditions for request for refunds will apply as per the Burial and Cremation Act 2013 & the Burial and Cremation Regulations 2014.
- 14) The Interment Right Holder has the sole right to request and advise the Council, as to who may be buried at a site, whose ashes may be interred in a site or regarding the placement of memorials.
- 15) In the event of the death or legal incapacity of the Interment Right Holder, it is the responsibility of the Executor or Administrator of the Interment Right Holder to transfer the Interment Right to one of the following people in descending order of entitlement:
- ( ) the executor or administrator of the Interment Right Holder
  - ( ) the spouse of the Interment Right Holder (including domestic partner of the deceased)
  - ( ) the eldest living and legally capable child of the Interment Right Holder .
  - ( ) the eldest living and legally capable grandchild of the Interment Right Holder.
  - ( ) the eldest living and legally capable sibling of the Interment Right Holder.
  - ( ) the eldest living and legally capable blood relative of the Interment Right Holder
- 16) It is the responsibility of the Interment Right Holder, or in the event of their death or legal incapacity, their Executor or Administrator or successor to renew or extend the Interment Right.

### 6. **BURIALS & INTERMENT SITES**

- 1) No burial will take place in the Cemetery unless:
- a. a Cemetery Authority Form completed by the relevant Funeral Director has been received with sufficient notice and approved by the Council; and
  - b. all relevant fees are paid to the Council; and
  - c. a copy of the Death Certificate has been provided to the Council; and
  - d. a valid Cemetery Interment Right issued in accordance with clause 5 above is held by or on behalf of the relevant party

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- 2) No more than three coffin interments shall be buried in the same burial site.
- 3) In all burial sites there may be interred a maximum of three (3) burials and a maximum of four (4) cremated remains.
- 4) Coffins shall be interred at the prescribed depth as defined by the Cemetery Regulations 2014. No grave shall be left open after an interment.
- 5) No human remains will be removed from a grave except in accordance with the Cemetery Regulations 2014.
- 6) Every grave within the Cemetery will be excavated by the Council.
- 7) The Council may fill sunken sites in accordance with the Cemetery Regulations 2014.
- 8) Any re-opening of interment sites will only occur in strict in accordance with legislative requirements prescribed in the Cemetery Regulations 2014.
- 9) Human remains will only be re-interred in strict accordance with legislative requirements prescribed in the Cemetery Regulations 2014.

### 7. **MEMORIAL PLAQUES AND MONUMENTS**

- 1) All memorials remain the property of the relevant Interment Right Holder, subject to the below conditions.
- 2) No plaque, memorial, or tribute shall be installed or altered on any site within the Cemetery by any person other than an authorised employee of Council, except: by a Monumental Mason who has submitted the appropriate Application for Memorial Work, together with any prescribed fee and obtained written permission from the Council to install a memorial.
- 3) All bronze plaques shall be installed by an authorised employee of the Council, at the expense of the Interment Right Holder.
- 4) All plaques, memorials and monuments shall be of a design, dimension and quality approved by the Council. Standard plaque sizes apply to most sections of the Cemetery.
- 5) No monument, plaque or memorial shall be removed by any person without the consent in writing of the Council.
- 6) The registered Interment Right Holder shall keep monuments, plaques and/or memorials in good repair and proper condition in accordance with manufacturers specifications.
- 7) Any monument, plaque or memorial deemed unsightly or unsafe, must be repaired or replaced by the Interment Right Holder within 8 weeks of notification by the Council.
  - All notified memorials not claimed for repair or replacement by the Interment Right Holder within 3 months of notification will be removed by the Council.
  - The memorial will be held for a period of six months after notification, prior to disposal.



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- 8) Any person, other than the Interment Right Holder may request a memorial plaque on an interment only when the Interment Right Holder has given written permission for that other person to do so.
- 9) Temporary grave markers, including wooden crosses, may only be used for a maximum period of six months. Following this period, the Council may remove the marker, allowing for its replacement by a specified monument or the grave is to be left unmarked.
- 10) The Council does not accept any responsibility for damage to monuments through acts of vandalism, ageing or deterioration. Repair of damaged monuments is the responsibility of the Interment Right Holder, who will be notified of damage by the Council.
- 11) All bronze plaques must comply with the specifications for that section and be ordered through the Council. The purchase fee for bronze plaques must be paid in full before the order will be placed.
- 12) No memorial plaque shall be installed on any site unless the relevant Interment Right for the site has been paid for in full.
- 13) The Council, at its complete discretion will remove and dispose of a monument where a Interment Right has not been renewed within two (2) years of it lapsing and will only remove or dispose of a monument in strict accordance with the Cemetery Regulations 2014.
- 14) A Interment Right Holder may reclaim a monument at any time before disposal. The removal of a monument installed by a Monumental Mason must be undertaken by a Monumental Mason with the relevant approval of and at the expense of the Interment Right Holder.