



Torres Shire Council

Torres Shire Council Cemeteries Subordinate Local Law 2012

This Subordinate Local Law is to be read with Torres Shire Council Local Law (Cemeteries) 2012.

Made by local Government Resolution 17 April 2012

Correct as of 17 April 2012



Torres Shire Council

Subordinate Local Law (Cemeteries) 2012

Contents

Chapter 1	Introduction	
Part 1	Preliminary	
1	Short title	4
2	Objects	4
3	Definitions	4
Part 2	Local Government Cemeteries	
4	Local Law – Section 5 – Administration of cemeteries	5
5	Local Law – Section 12(1)(b) – Grant of licence.....	5
6	Local Law – Section 13(3) – Conditions of licence	5
7	Local Law – Section 14(b) – Bringing of human remains into the cemetery.....	6
8	Local Law – Section 17(2) – Grant of licence	6
9	Local Law – Section 18(2) – Conditions of licence	6
10	Local Law – Section 27(1) – General powers to regulate conduct	7
Part 3	Other Cemeteries	
11	Local Law – Section 32(3) – Term of licence.....	7
12	Local Law – Section 33(4) – Conditions of licence	7
Part 4	Cemeteries Generally	
13	Local Law – Section 42(1) - Standards for disposal of human remains in cemeteries.....	8
Part 5	Disposal Of Human Remains Outside Cemeteries	

14	Local Law – Section 45(1)(c) – Application for licence.	9
15	Local Law - Section 46(b)(iii) – Grant of licence	10

Subordinate Local Law (Cemeteries) 2012

Chapter 1 Introduction

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Torres Shire Council Subordinate Local Law (Cemeteries) 2012*.

2 Objects

The object of this subordinate local law is to provide the detailed information called upon in *Torres Shire Council Cemeteries Local Law 2012* to:

- (a) Empower the local government to establish public cemeteries; and
- (b) Provide for the proper management and control of public cemeteries in the local government area (whether established by the local government or someone else); and
- (c) Regulate the disposal of human remains in the local government's area (either inside or outside a public cemetery); and
- (d) Ensure that proper records are kept about the disposal of human remains within and outside public cemeteries.

3 Definitions

- (1) All terms have the same meaning as those provided for in *Torres Shire Council Cemeteries Local Law 2012*.
- (2) In this Subordinate Local Law:-

- (ii) The burial will not result in a nuisance to the members of the public; and
- (iii) The burial will not result in a risk to the health and safety of the general public.

7 Local Law – Section 14(b) – Bringing of human remains into the cemetery

For the purpose of Section 14(b) of the Local Law, a coffin or other form of container for human remains must comply with the requirement that the coffin or container must be constructed of waterproof material.

8 Local Law – Section 17(2) – Grant of licence

For the purpose of Section 17(2) of the Local Law, the erection or installation of a memorial will ordinarily be expected to comply with the following criteria:-

- (a) The memorial must not encroach on adjoining burial plots; and
- (b) The memorial must be consistent with the existing amenity of the local government cemetery; and
- (c) The memorial must be constructed on suitable weather resistant material.

9 Local Law – Section 18(2) – Conditions of licence

For the purpose of Section 18(2) of the Local Law, the following conditions are conditions that will ordinarily be imposed on a licence to erect or install a memorial in a local government cemetery:-

- (a) The memorial must not encroach on adjoining burial plots; and
- (b) The memorial must be consistent with the existing amenity of the local government cemetery and must be in the accordance with the design approved by the local government; and

- (c) The memorial must be constructed of suitable weather resistant material.

10 Local Law – Section 27(1) – General powers to regulate conduct

For the purpose of section 27(1) of the Local Law, the following conduct is prohibited in a local government cemetery:-

- (a) Bringing a dangerous object into a local government cemetery unless the person is authorised to bring the object under the Local Law; and
- (b) Consuming any alcohol in a local government cemetery; and
- (c) Entering or remaining in a local government cemetery when in a state of intoxication or under the influence of alcohol or any drugs; and
- (d) Depositing or leaving any refuse or rubbish in a local government cemetery; and
- (e) Behaving in a riotous, disorderly, indecent, offensive, threatening or insulting manner in a local government cemetery.

Part 3 Other Cemeteries

11 Local Law – Section 32(3) – Term of licence

For the purpose of section 32(3) of the Local Law, the term for which a licence is granted or renewed is to be one year from the date on which the local government grants the licence or renewal.

12 Local Law – Section 33(4) – Conditions of licence

For the purpose of section 33(4) of the Local Law, the following conditions must be imposed on the licence:-

- (a) The operator must open the cemetery to the public between the hours of 6:00am and 6:00pm;

- (b) The operator must conduct burials and cremations between the hours of 6:00am and 6:00pm.

Part 4 Cemeteries Generally

13 Local Law – Section 42(1) - Standards for disposal of human remains in cemeteries

For the purpose of section 42(1) of the Local Law, the standards for the disposal of human remains in cemeteries are as follows:-

- (a) A grave must be dug to a depth of:
 - (i) For a stillborn child – at least 1.2 metres; or
 - (ii) For any other child – at least 1.2 metres; or
 - (iii) All other graves – at least 1.8 metres; and
- (b) No more than 2 bodies to be buried in one grave; and
- (c) The upper surface of a coffin must be at least 1 metre below the natural soil surface; and
- (d) Grave plots must be at least:
 - (i) For a single plot – at least 2.1 metres by 1.2 metres; or
 - (ii) For a double grave plot – at least 2.1 metres by 2.1 metres; or
 - (iii) For a family grave plot – at least 2.1 metres by 3.7 metres; and
- (e) Any body interned in a mausoleum or vault must be enclosed:-
 - (i) Firstly in a wooden shell; and
 - (ii) Secondly, in a hermetically sealed shell; and

from the Department of Environment and Resource Management who will decide whether the burial can take place. In considering the application the Department will consider the following:-

- (i) Whether the burial requires approval under other legislation; and
- (ii) Whether it would be appropriate for the land or would compromise the present or future use of the land; and
- (iii) Whether access to the grave site would be restricted or denied in the future; and
- (iv) Whether the grave site will be preserved and identifiable in the future.

15 Local Law - Section 46(b)(iii) – Grant of licence

For the purpose of section 46(b)(iii) of the Local Law, the proposed disposal of human remains outside of cemeteries must be consistent with the following criteria:-

- (a) The land on which the burial will take place is suitable having regard to:-
 - (i) The Local Government's Planning Scheme; and
 - (ii) The Local Government's requirement that the land must be in excess of 2 hectares in size; and
 - (iii) The land's flood immunity; and
 - (iv) The land's ground and soil conditions; and
 - (v) The land's topography; and
 - (vi) Environmental matters; and
- (b) There are adequate procedures in place to prevent environmental harm and nuisance;

*Torres Shire Council
Subordinate Local Law (Cemeteries) 2012*

- (c) The human remains will be placed in a coffin or waterproof container;
- (d) The following records must be kept or put in place;
 - (i) The location of the grave site is to be recorded in a register in the Local Government's Offices; and
 - (ii) The erection of a marker or other means of identification on or around the grave site which stipulates the information required by the Local Government to be recorded on it.
- (e) The Local Government may require that further criteria be satisfied, including details of;
 - (i) The manner of preparation of the grave;
 - (ii) The date on which and the hours between which the burial may be performed.
- (f) Reasonable notice must be given to the Local Government of preparation of the grave to enable the Local Government to enter land and inspect the grave before the burial.

CERTIFICATION

This and the preceding 11 pages bearing my initials is a certified copy of *Torres Shire Council Subordinate Local Law (Cemeteries) 2012*, made in accordance with the provisions of the *Local Government Act 2009*, by Torres Shire Council by resolution dated 17 April 2012 .

**Chief Executive Officer
Torres Shire Council**