

GOLD COAST CITY COUNCIL



LOCAL LAW No 27

(CEMETERIES)

REPEALED (GAZETTE 19/12/08)

**GOLD COAST CITY COUNCIL  
LOCAL LAW NO 27  
(CEMETERIES)**

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**SUMMARY OF PROVISIONS**

**PART 1 – PRELIMINARY**

**Citation**

1. This local law may be cited as Gold Coast City Council Local Law No. 27 (Cemeteries).

**Objects**

2. The objects of this local law are to:-
- (a) empower the Council to establish public cemeteries; and
  - (b) provide for the proper management and control of Council's cemeteries; and
  - (c) regulate the disposal of human remains in the Council's area (either inside or outside a Council cemetery); and
  - (d) ensure that proper records are kept about the disposal of human remains within Council cemeteries.

**Definitions**

3. In this local law, unless the context otherwise indicates, the following terms shall have the meaning set against them respectively:-

“Authorised Person” – means a person authorised by the Council to exercise the powers of an authorised person under this local law.

“Council cemetery” - A reserve or other land under the control of the Gold Coast City Council and used as a cemetery”

“Sexton” - The person appointed by the Council to act as Sexton of a Council cemetery.

**Portions for religious denominations**

4. (1) The Council may set apart a portion of a Council cemetery for the use and interment of the bodies of deceased members of certain religious denomination or communion, which portion shall be subject nevertheless to the general supervision and control of the Council.

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- (2) The Council shall not at any time interfere, directly or indirectly, with the performance of a religious ceremony in the burial of the body of a deceased person according to the usage of the religious denomination or communion to which the deceased person may have belonged.
- (3) The Council may amend the boundaries of a position so set apart at Section 4(1) or undertake works within the said position and shall not be liable for any claim or compensation.

**Disturbance of graves**

5. A person shall not:-

- (a) for any reason within a Council cemetery, disturb a grave or vault, nor erect, remove, nor alter a monument, tombstone, railing, or the like, without the written authority of an Authorised Person;
- (b) permit an animal other than a seeing eye dog onto a Council cemetery without the written authority of an Authorised Person;
- (c) within a Council cemetery, undertake any activity other than visiting a grave or attending a funeral without the permission of an Authorised Person;
- (d) except with the permission of an Authorised Person enter or be in a cemetery enclosure between the hours of six o'clock in the evening (6 p.m.) one day and the hour of six o'clock in the morning (6 a.m.) on the following day;
- (e) within a Council cemetery, sell or buy an article or thing;
- (f) within a Council cemetery, distribute a hand-bill, card, circular, or advertisement;
- (g) within a Council cemetery, take part in a meeting other than of a religious or commemorative character;
- (h) disturb a funeral service at a grave, whether by working in the neighbourhood of it or otherwise;
- (i) within a Council cemetery, discharge a firearm except at a military funeral;
- (j) within a Council cemetery, damage or disturb flowers or other tokens placed upon a grave; or
- (k) within a Council cemetery, commit a riot, breach of the peace, or nuisance, or otherwise offend against decency or decorum.

Maximum Penalty Units: 20 Penalty Units

**Disturbance of remains**

- 5A (1) A person must not disturb or interfere with human remains that have been buried or placed within or outside a Council cemetery under this local law unless the Council authorises the disturbance or interference with the remains.

Maximum Penalty Units: 500 Penalty Units

- (2) However, this section does not affect the exhumation or other disturbance or interference with human remains on the order of a coroner or other lawful authority.

#### **Authorisation for disturbance or interference with remains**

6. (1) An Authorised Person may give an approval for disturbance or interference with remains on conditions considered appropriate.

*Examples –*

*The Authorised Person may approve the removal of the remains from 1 Council cemetery to another to comply with the wishes of members of the deceased's family.*

*The Council may authorise the opening of a grave and the burial of another in the same grave in compliance with the expressed wishes of both or all deceased persons who have been or are to be buried in the grave.*

- (2) Application under this Section must be accompanied by such information and materials as may be necessary to determine the application in the interests of justice including but not limited to the following subject matters –
- (a) Identity of the deceased.
  - (b) Wishes of the deceased.
  - (c) Authority of the applicant.
  - (d) Consent of interested parties.
  - (e) Details of Location and relocation sites and consents.
- (3) A person to whom an authorisation is given under this local law must comply with the conditions of the authorisation.

Maximum Penalty Units: 500 Penalty Units

#### **Hours of burial**

7. The hours appointed for the performance of burials are from eight o'clock in the morning to five o'clock in the afternoon (8 a.m. to 5 p.m) from Monday to Saturday in each week. On Sundays the hours appointed for burials are from two o'clock in the afternoon to five o'clock in the afternoon (2 p.m. to 5 p.m.). A burial shall not be allowed to take place at any other time unless in cases of great urgency, and upon the written authority of an Authorised Person, and subject to such conditions as may be imposed. Burial services conducted after 3.30 pm on weekdays and weekends will incur an additional fee.

#### **Fees and charges**

8. The Council may in each year by resolution fix the fees to be charged for the right of burial in various grave plots in its cemeteries.

Where a person who has acquired the right of burial in a grave plot desires to sell it back to the Council, the Council may repurchase such right for such price as it determines but so that such price shall not exceed eighty per centum (80%) of the original purchase price.

### **Receipt for fees to be produced**

9. The Sexton shall have power to refuse to break the ground for the purpose of digging a grave or allow the ground to be broken by a person for the purpose of erecting a vault, monument, tombstone, tablet, railing, or other erection until an official receipt is produced by such person for the payment of the prescribed fees or charges.

### **Recovery of fees**

10. All fees and charges imposed or authorised by the Sections of this local law shall be payable forthwith and may be recovered by the Council as a debt in any Court of competent jurisdiction, either from the undertaker or other person who arranged for such fees or charges to be incurred, or from the legal personal representative of the deceased person.

### **Sexton to prepare all graves**

11. A person other than the Sexton or his assistants appointed by the Council shall not be allowed to prepare a grave within a Council cemetery.

### **Depth of graves**

12. All graves in a Council cemetery shall be sunk to a depth of at least one point eight (1.8) metres deep. More than two (2) bodies of adults shall not be buried in a grave which is sunk to a depth of less than two point one (2.1) metres. A coffin shall not be buried so that the lid thereof is less than ninety (90) centimetres below the surface.

A grave shall be five (5) centimetres longer and five (5) centimetres wider than the dimensions of the coffin or casket - including all attachments thereto - indicated in the application for burial, on such grave and fees shall be payable for a grave to be so dug.

Every new grave shall be sunk to a depth of one point eight (1.8) metres: Provided that a person may requisition for a depth of two point one (2.1) metres on payment of the extra fee.

In a grave sunk to a depth of one point eight (1.8) metres there may be buried no more than two (2) adult bodies.

In a grave sunk to a depth of two point one (2.1) metres there may be buried three (3) adult bodies.

A grave shall not be sunk deeper after the first burial therein, - that is to say a coffin once buried shall not be disturbed for the purpose of deepening the grave.

### **Application for burial**

13. Application for interment shall be made on a form prescribed by an Authorised Person and shall contain all of the information indicated on such form as being required to be given. Every such application shall be signed by the person proposing to carry out such burial.

Application for burial shall be delivered to the Sexton not less than twenty four (24) hours before the time nominated in an application for the proposed arrival of the funeral procession at the Council cemetery. Provided that the Sexton may in a particular case, if he

is of the opinion that by reason of difficulty in excavation or other reason of which he shall be judge, state an hour later than that named in the application at which such procession may arrive at the Council cemetery.

### **Pauper burials**

14. All charges will be remitted on burial of the body of a pauper in the Council cemetery (except in the case of burials by persons under contract with the Government, to perform such burials) upon its being proved to the satisfaction of an Authorised Person that a person was a pauper.

Where a pauper is buried by such contractors the charge shall be in accordance with the scale of fees as fixed in each year by resolution of the Council.

### **Reserving private graves**

15. A person may make written application to an Authorised Person to select a plot in the Council cemetery, and upon payment of the prescribed fee an Authorised Person may grant such application. Upon the granting of such application such person shall have the right during his lifetime by notice to an Authorised Person to nominate persons whose bodies or ashes may, subject to the Sections of this local law be buried in such plot during his lifetime, and subject to these Sections of this local law the bodies or ashes of such persons may, upon his death, be buried in such plot. After his death, if there is still room for the burial of another body or of other ashes in such plot, an Authorised Person may permit the body or ashes of a deceased person who appears to him to have been a descendant or relative of such person to be buried therein.

### **Brick graves or vaults**

16. A person requiring a brick grave or vault to be made or constructed within a Council cemetery shall submit plans thereof for the approval of the Council, and make or construct it under the direction of a person appointed by the Council and at his own cost. A body interred in such vault shall be enclosed firstly in a wooden shell, secondly in a leaden shell hermetically sealed, and thirdly in an outer shell, on the lid whereof which shall be placed a metal plate with the name of the deceased stamped thereon. An Authorised Person may approve the use of alternative materials.

### **Erection of monuments and the like and the inscriptions thereon**

17. A person desirous of or intending to construct or erect on, over, beside, or around a grave, a monument, tombstone, headstone, tablet, rails, or enclosure, vault or other erection shall make application together with the prescribed fee to the Council and shall submit to the Council a plan or description of the proposed structure or erection, and a copy of an epitaph or inscription proposed to be engraved, inscribed, or placed on such structure, or erection. The Council may approve and allow, or may disallow wholly or in part, or approve and allow with such modifications as it sees fit, such structure or erection or epitaph or inscription. Any proposed work which has not been approved and allowed as aforesaid shall not be proceeded with. The Council may serve notice on the person at whose direction such work was carried out contrary to the provisions of this local law requiring such work to be taken down and removed within the time specified in such notice.

### Removal of memorials

18. (a) Council may remove or reposition a memorial if it has become unsafe or has fallen into a state of disrepair.
- (b) If there is no immediate danger to the public, Council must, before removing a memorial under this section, give members of the deceased's family whose identity and whereabouts are known to Council reasonable notice of its intention to remove the memorial.
- (c) Council is not obliged to reinstate a memorial removed under this section.

### Dimension of graves

19. The dimensions allowed for a single grave shall be two point four by one point two (2.4 x 1.2) metres.

### Gratuities not allowed without permission

20. A Sexton and other persons employed in a Council cemetery by the Council shall not receive any gratuity for the performance of their duties without the special permission of the Council.

### Plan of Council cemetery

21. A plan of the Council cemetery, a register of all special grants, and of the position of all graves in the Council cemetery, shall be kept by the Council and shall be open for inspection upon application to it.

### Lawn Cemeteries

22. In a portion or in portions of a Council cemetery which the Council may from time to time set aside for use as a lawn Council cemetery, the following conditions shall apply:-
- (a) It shall not be lawful to place, construct, erect, or maintain on or over or around a grave a wall, fence, slab, vault, monument, or other structure or a vase or other receptacle save and except that each plot may be marked with a memorial tablet and a Council supplied vase may be placed in the memorial tablet vase hole.
- (b) Memorial tablets shall have square upper and lower surface dimensions of 530mm by 530mm and shall be either :
- (i) moulded concrete block 40mm thick fitted with either a cast bronze, non-ferrous metal or stone plaque which is not more than 6mm raised above the surface of the concrete; or
- (ii) granite tablet 100mm thick; or
- (iii) tablet constructed of any other material which has a proven durability in excess of 70 years and is approved by an Authorised Person.



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- (c) Memorial tablets may have a 13mm diameter vase hole which shall be located 50mm from the top and situated on the vertical centre line.
- (d) Memorial tablets may have portraits, emblems or other approved items attached, however such attachments shall not extend more than 6mm above the surface of the tablet.
- (e) Memorial tablets whether or not supplied by Council must be installed by Council's cemetery staff. An installation fee as resolved by Council shall be paid prior to installation.
- (f) Where a memorial tablet is supplied by Council, all costs of inscription shall be based on the range of approved specimen memorial tablets, and any additional costs shall be borne by the applicant.
- (g) A person shall not plant, tend, place nor keep nor cause to be planted, tended, placed or kept on a grave, a tree, shrub, plant, article or object.
- (h) Floral tributes are permitted to be laid on the grave temporarily, and in the Council supplied vase but not otherwise.
- (i) Any person who contrary to this local law or to any resolution made thereunder places, constructs, erects, or maintains a wall, fence, slab, vault, monument, or other structure or erection, vase or other receptacle, or plants, tends, or keeps a tree, shrub or plant on, over or around a grave shall be guilty of an offence and, in addition to any other remedy the Council may have, the Sexton may pull down or eradicate, or cut down and remove such structure, erection, vase or other receptacle, tree, shrub, or plant constructed, erected, planted, maintained, kept, grown or tended contrary to this local law or resolution made thereunder. The provisions of this paragraph are in addition to and not in derogation of any other provisions of this local law.

Maximum Penalty Units: 20 Penalty Units

### **Columbarium and Garden Niches**

**23.** In any portion or portions of a Council cemetery the Council may erect a columbarium or make a garden of remembrance or rose garden of remembrance and urns containing ashes may be deposited in niches in the columbarium and garden or rose garden of remembrance subject to the following conditions:-

- (a) Niches shall be provided by the Council and shall be of the following kinds:-
  - (i) Single niches;
  - (ii) Double niches;
  - (iii) Family niches
- (b) Niches may be purchased on payment of the fees fixed by the Council in each year by resolution.
- (c) In each case the ashes shall be contained in an approved urn.
- (d) Inscription plates for columbarium's shall:
  - (i) For a single niche have surface dimensions of 140mm (width) and 130mm (height);

- (ii) For a double niche have surface dimensions of 165mm (width) and 230mm (height);
  - (iii) For a family niche have surface dimensions of 165mm (width) and 300mm (height);
  - (iv) be a maximum of 3mm thick;
  - (v) be made of a durable non-ferrous metal, however stainless steel is permitted; or
  - (vi) be constructed of any other material which has a proven durability in excess of 70 years and is approved by an authorised person.
- (e) Inscription plates for gardens of remembrance shall:
- (i) have surface dimensions of either 530mm by 530mm or 380mm (width) by 280mm (height) or 230mm (width) by 180mm (height);
  - (ii) have a maximum thickness of 150mm and a minimum thickness of 100mm, 50mm of which shall be recessed into the ground;
  - (iii) be moulded concrete block fitted with either a durable non-ferrous metal, however stainless steel is permitted, or stone plaque which is not more than 6mm raised above the surface of the concrete; or
  - (iv) be a granite tablet; or
  - (v) be constructed of any other material which has a proven durability in excess of 70 years and is approved by an authorised person.
- (f) Inscription plates for rose gardens of remembrance shall:
- (i) Have surface dimensions of either 530mm (width) by 430mm (height) or 280mm (width) by 240mm (height);
  - (ii) Be 50mm thick;
  - (iii) Be made of grandee grey granite;
  - (iv) Be fitted with a durable non-ferrous metal plaque.
- (g) Inscription plates may have portraits, emblems or other approved items attached, however such attachments shall not extend more than 6mm above the surface of the plate.
- (h) Inscription plates whether or not supplied by Council must be installed by Council's cemetery staff. An installation fee as resolved by Council shall be paid prior to installation.
- (i) Where an inscription plate is supplied by Council, all fees shall be based on the range of approved specimen inscription plates, and any additional costs shall be borne by the applicant.
- (j) Council shall maintain a niche for a period of seventy (70) years from the time it is first used for the disposal of ashes. After the expiration of seventy (70) years Council may remove a niche and demolish a columbarium or garden of remembrance. Unless claimed by a descendant of the deceased person, Council shall bury free of charge, the contents of niches and inscription plates in a general Garden of Remembrance.
- (k) If ashes are removed from a niche, such niche shall automatically revert to the Council.

24. It shall not be lawful for a person other than a sexton, to place, construct, erect, plant or maintain on, in, over or around a columbarium, garden or rose garden of remembrance, a wall, fence, slab, vault, monument, tablet, inscription plate, tree, shrub, plant, object or other structure or a vase or other receptacle. Floral tributes are permitted to be laid on the niche temporarily, and in a Council supplied vase but not otherwise.
25. Any person who contravenes a provision of sections 23 or 24 of this local law shall be guilty of an offence and, in addition to any other remedy the Council may have, the Sexton may pull down or eradicate or cut down or remove any wall, fence, slab, vault, monument, tablet, inscription plate, tree, shrub, plant, object or other structure or a vase or other receptacle. The provisions of this paragraph are in addition to and not in derogation of any other provisions of this local law.

Maximum Penalty Units: 20 Penalty Units

#### **Authorised Person and Sexton's decisions final**

26. The decision of an Authorised Person or of the Sexton, as the case may be, with respect to any matter which by these Local Laws is left to his discretion, shall be final. Neither the Council, nor an Authorised Person, nor the Sexton, nor any other officer or servant of the Council, shall in any way be liable for anything done or permitted to be done by it or him, or any other person, in good faith and in pursuance of or arising out of the exercise by an Authorised Person or the Sexton, as the case may be, of such discretion.

#### **Interment of Dead**

27. A person shall not without the previous consent in writing of the Council inter the body of a deceased person or cause the body of a deceased person to be interred in any place within the City elsewhere than in a cemetery lawfully established and for the time being actually used as a cemetery.

#### **Penalty**

28. A person who in any respect contravenes or fails to comply with any provision of the Sections of this local law shall be guilty of an offence and shall be liable to a penalty.

#### **Objects in Graves**

29. An object, other than what is placed in a coffin with the deceased person, may not be placed in a Council Cemetery grave without the approval of an Authorised Person.