

5231.508 Management by governmental subdivisions.

1. *Political subdivisions as trustees.* Counties, cities, irrespective of their form of government, boards of trustees of cities to whom the management of municipal cemeteries has been transferred by ordinance, and civil townships wholly outside of any city, are trustees in perpetuity, and are required to accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund for which there is no other acting trustee, shall be used in caring for the property of the donor or lot owner who by purchase or otherwise has provided for the perpetual care of an interment space in any cemetery, or in accordance with the terms of the donation, bequest, or agreement for sale and purchase of an interment space, and the money or property thus received shall be used for no other purpose.

2. *Authority to invest funds — current care charge payments.* The board of supervisors, mayor and council, or other elected governmental body, as the case may be, may receive and invest all moneys and property, donated or bequeathed, and that portion of cemetery lot sales and permanent charges made against cemetery lots which have been set aside in a perpetual care fund, and in so investing, shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The trustee of the trust funds has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to the trust fund. The income from the investment shall be used in caring for the property of the donor in any cemetery, or as provided in the terms of the gift or donations or agreement for sale and purchase of a cemetery lot.

All current care charge payments received shall be allocated to the perpetual care fund or to the fund paying the costs of cemetery operations. Care charge payments received one year or more after the date they were incurred shall be used to fund the cost of operating the cemetery. Care charge payments received one year or more in advance of their due date shall be deposited in the perpetual care fund. Interest from the perpetual care fund shall be used for the maintenance of both occupied and unoccupied lots or spaces. Any remaining interest may be used for costs of access roads and paths, fencing, and general maintenance of the cemetery. Lots under perpetual care shall be maintained in accordance with the cemetery covenants of sale.

3. *Resolution of acceptance — interest.* Before any part of the principal may be invested or used, the county, city, board of trustees of a city to whom the management of a municipal cemetery has been transferred by ordinance, or civil township shall, by resolution, accept the moneys described in [subsection 1](#) and, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or the person in charge of the cemetery, to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold if provision was made for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space.

If there is no person in charge of the cemetery, the income from the fund shall be expended under the direction of the board of supervisors, city council, board of trustees, or civil township trustees, as the case may be, in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space.

4. *Delegates to conventions.* A township having one or more cemeteries under its control may designate up to two officials from each cemetery as delegates to attend meetings of cemetery officials, and certain expenses of the delegates not exceeding twenty-five dollars for each delegate, including association dues, may be paid out of the cemetery fund of the township.

5. *Subscribing to publications.* The cemetery officials of every township having a cemetery under its control may subscribe to one or more publications devoted exclusively to

cemetery management, and the subscriptions may be paid out of the cemetery fund of the township.

2005 Acts, ch 128, §48; 2006 Acts, ch 1117, §125

Referred to in [§636.23](#)