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CEMETERY CARE AND MAINTENANCE

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IC 23-14-69 – PUBLIC CEMETERIES

- Chapter applies to:
 - A public cemetery that belongs to a township
 - An addition to a public cemetery that belongs to a township
- Chapter does NOT apply to:
 - A cemetery that is owned or controlled by a city, a town, or a voluntary association
 - A cemetery that is maintained by a township under IC 23-14-68

IC 23-14-69 – PUBLIC CEMETERIES (CONTINUED)

- The township trustee is required to care for and maintain each public cemetery located within the township.
- Duties under IC 23-14-69 include:
 - Destroying detrimental plants (IC 15-16-8-1), rampant weeds, and rank vegetation
 - Removing all unsightly accumulations and debris
 - Resetting and straightening all monuments
 - Leveling and seeding the ground
 - Mowing the lawn

IC 23-14-69 – PUBLIC CEMETERIES (CONTINUED)

- The township trustee may accept donations of land suitable for a public cemetery if the township trustee considers acceptance of land to be in the best interest of the township
- Donated land shall be conveyed to the township, set apart by the trustee for a public cemetery, and kept in good condition and repair by the township trustee
- If no land suitable for a public cemetery is donated to the township and the township board adopts a resolution approving the purchase, the trustee may purchase land for the purpose of establishing a public cemetery

IC 23-14-69 – PUBLIC CEMETERIES (CONTINUED)

- When land is purchased and conveyed to the township for the purpose of establishing a public cemetery, the land must be set apart, kept in repair, and used as provided by IC 23-14-69-6
- IC 23-14-69-6 – “A public cemetery of a township may be used by the inhabitants of the township for the interment of the dead. The township trustee may prescribe regulations governing the use of the cemetery.”

IC 23-14-69 – PUBLIC CEMETERIES (CONTINUED)

- When a township acquires title to land by donation, purchase, or otherwise for a public cemetery, the trustee shall:
 - Lay out the land in lots with streets and walks
 - Plat the land
 - Record the plat in the office of the recorder of the county. The recorder shall collect the same fees as are allowed for similar recordings.
- The lots laid out and platted must be numbered, and a specific part of the lots must be set apart and designated on the plat for a potter's field.

IC 23-14-69 – PUBLIC CEMETERIES (CONTINUED)

- After the plat has been recorded, the trustee shall appoint
 - one (1) disinterested freeholder of the township and
 - one (1) disinterested appraiser licensed under IC 25-34.1
who are residents of Indiana to appraise and fix the value of all the lots on the plat except the part assigned to the potter's field under IC 23-14-69-7(c).
- The appraisal shall be filed with and preserved by the trustee.
- Expenses incurred by the trustee for administering IC 23-14-69 shall be paid from the township fund.

IC 23-14-69 – PUBLIC CEMETERIES (CONTINUED)

- The township trustee may sell and convey the lots in a public cemetery at a private sale to persons who desire to purchase them.
 - Cannot be sold at less than the value fixed for the lot per the appraisal
- Proceeds of the sale of lots shall be used to pay the expenses the trustee may incur under IC 23-14-69-8.
 - Surplus shall be held as a fund for use in keeping the cemetery in repair
- Trustee shall keep an accurate amount of:
 - Money received by the trustee for the purpose of keeping the cemetery in repair
 - Sums the trustee has paid out, and for which the trustee has taken vouchers

CAPITAL ASSETS - CEMETERIES

- **TOWNSHIP-OWNED** cemeteries are considered capital assets and need to be properly recorded on the General Form 369 – Capital Assets Ledger
- Chapter 1 of the Accounting and Uniform Compliance Guidelines Manual for Townships:
 - “Every unit must have a capital assets policy that details the threshold at which an item is considered a capital asset.”
- Contributed or donated assets are to be reported at estimated fair value at the time received
- December 2024 Township Bulletin – Establishing the Estimated Cost of Capital Assets
 - Use method when the asset was purchased, but it is not possible to determine historical cost
 - Use method when the estimated fair value was not established at the time received

CAPITAL ASSETS – CEMETERIES (CONTINUED)

- No separate classification for cemeteries in the General Form 369
 - Cemetery ground → Land
 - Any structures on cemetery ground → Buildings
 - Roads and drainage systems → Infrastructure
- Sale of burial plots does NOT affect value of the asset as they do not alter the Township's ownership of the cemetery as a whole

IC 23-14-68 – CARE OF CEMETERIES

- Applies to each cemetery that is:
 - Without funds for maintenance,
 - Was in existence on February 28, 1939, and
 - Is operated by a nonprofit organization or is not managed by any viable organization
- Does NOT apply to:
 - Public Cemeteries
 - Cemeteries located on land which property taxes are assessed and paid under IC 6-1.1-4

IC 23-14-68 – CARE OF CEMETERIES (CONTINUED)

- The trustee shall locate and maintain all cemeteries that are within township boundaries and are without funds for maintenance, were in existence on February 28, 1939, and are operated by a nonprofit organization or is not managed by a viable organization
- If a cemetery association is claiming assistance under IC 23-14-68, the cemetery association shall furnish a verified statement of assets and liabilities to the trustee.

IC 23-14-68 – CARE OF CEMETERIES (CONTINUED)

- Maintenance of a cemetery under IC 23-14-68 includes:
 - Resetting and straightening all monuments
 - Leveling and seeding the ground
 - Constructing fences where there are none and repairing existing fences
 - Destroying and cleaning up detrimental plants (as defined in IC 15-16-8-1), rampant weeds, and rank vegetation
 - Mowing the lawn

IC 23-14-68 – CARE OF CEMETERIES

(CONTINUED)

- Townships shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery located within the township that is without funds for maintenance, was in existence on February 28, 1939, and is operated by a nonprofit organization or is not managed by any viable organization
- Township may appropriate enough money to provide for maintenance of cemetery operated by nonprofit in accordance with IC 23-14-68-4.5
- Township may levy a township cemetery tax to create a fund for maintenance of cemeteries under IC 23-14-68
 - If a fund has not been provided, the township may use part of the township fund

IC 23-14-68 – CARE OF CEMETERIES (CONTINUED)

- A trustee who fails to perform duties under IC 23-14-68 commits a Class C infraction
- A trustee who is maintaining a cemetery under IC 23-14-68-2 may sell plots within the cemetery that are not known to be owned by any plot owner for use in the interment, entombment, or inurnment of human remains
 - Proceeds from the sale of plots shall be deposited in the fund for maintenance of cemeteries
 - If a maintenance fund does not exist, proceeds should be deposited into the township fund

IC 23-14-68 – CARE OF CEMETERIES (CONTINUED)

- A trustee may appoint a cemetery caretaker to control and manage a cemetery that the trustee is obligated to maintain under IC 23-14-68
 - If one is appointed and the position becomes vacant, the township trustee has 90 days to appoint a new cemetery caretaker
 - Cemetery caretaker holds same power and duties as the trustee under IC 23-14-68

IC 23-14-68 – CARE OF CEMETERIES (CONTINUED)

- IC 23-14-68-4.5 – applies to cemeteries operated by nonprofit organizations
- If the trustee reasonably believes that the funds available to a cemetery located in their township from the perpetual care fund maintained by the owner under IC 23-14-48 and any other source are not sufficient to provide for the maintenance of the cemetery, and providing financial assistance to this cemetery will help prevent full responsibility for its maintenance from falling under the township, then the trustee may provide financial assistance for maintenance of the cemetery
- Financial assistance under IC 23-14-68-4.5 may be appropriated and provided from the fund for maintenance of cemeteries, or from the township fund if there is no maintenance fund

IC 23-14-78 – CARE OF PRIVATE CEMETERIES

- IC 23-14-78 applies to private cemeteries that are not owned or controlled by a:
 - Cemetery Corporation
 - Church
 - Association
 - Organization
- “Property owner” – the owner of record of a parcel of real property that contains a cemetery in which IC 23-14-78 applies

IC 23-14-78 – CARE OF PRIVATE CEMETERIES (CONTINUED)

- A property owner must make a reasonable effort to maintain a cemetery on their property
 - “Reasonable effort” = maintenance responsibilities in IC 23-14-68-3
 - Property owner is not required to construct a fence where there is not one unless the township provides the supplies, labor, and other expenses for the construction.
- A property owner who fails to perform maintenance responsibilities commits Class C infraction if:
 - the township provides two (2) written notices to the property owner, at the property owner’s address of record, stating that the owner is not maintaining as required
 - the property owner fails to maintain the cemetery within thirty (30) days after the second notice.

IC 23-14-78 – CARE OF PRIVATE CEMETERIES (CONTINUED)

- A township may agree to maintain a private cemetery not controlled by a cemetery corporation, church, association or organization
 - Township shall maintain the cemetery in the same manner as IC 23-14-68
 - Township may seek reimbursement from the property owner for the costs of maintaining the cemetery
- Maintenance under IC 23-14-68-3:
 - Resetting and straightening all monuments
 - Leveling and seeding the ground
 - Constructing fences where there are none and repairing existing fences
 - Destroying and cleaning up detrimental plants, rampant weeds, and rank vegetation
 - Mowing the lawn

IC 23-14-78 – CARE OF PRIVATE CEMETERIES (CONTINUED)

- Prior to a township assuming maintenance responsibilities, the property owner must:
 - Employ a professional surveyor to conduct a survey of the cemetery property
 - Convey to the township, without consideration, an easement fee or simple title to the portion of the property on which the cemetery is located
 - Convey to the township, without consideration, an easement for access to the cemetery if it is not accessible by public road
- A property owner who transfers maintenance responsibilities for a cemetery under IC 23-14-78 may not file an application for the property to receive the cemetery tax assessment rate under IC 6-1.1-6.8

IC 23-14-78 – CARE OF PRIVATE CEMETERIES (CONTINUED)

- There is no authority in IC 23-14-78 that allows a property owner to sell or furnish plots as defined in IC 23-14-33-25

IC 23-14-64 – CONVEYANCE OF C.A. LAND TO TOWNSHIPS

- IC 23-14-64 applies whenever the board of directors of a cemetery association existing under any Indiana statute before March 9th, 1939, determines by majority vote to convey the real estate belonging to the association to the township in which the association's cemetery is located.
- The township trustee may accept a conveyance of real estate described above. After the conveyance, the trustee shall maintain the cemetery as a public cemetery (IC 23-14-69)
- All expenses incurred by the trustee in administering IC 23-14-64 should be paid from the township fund

IC 23-14-64 – CONVEYANCE OF C.A. LAND TO TOWNSHIPS (CONT.)

- If a cemetery association that conveys real estate to a township has endowment funds, cash, securities, or other assets, those shall all be paid over to the township trustee when the real estate is conveyed to the township.
- A township trustee who receives these items may use them only:
 - To purchase additional land for the cemetery
 - To make permanent improvements to the cemetery
 - For the upkeep and maintenance of the cemetery
- SBOA recommendation: Proceeds should be recorded in a separate fund since they may only use them for statutorily-limited purposes.

IC 23-14-63 – CONVEYANCE OF TOWNSHIP CEMETERIES TO PRIVATE CORPORATIONS

- IC 23-14-63 applies whenever ten (10) or more heads of families who reside in
 - a township, or
 - in the immediate vicinity of a cemetery owned by a township,
and who owns lots in and whose dead relatives are buried in a cemetery owned by the township organize, either by themselves or with others, as a corporation for the burial of the dead and the maintenance of a cemetery

IC 23-14-63 – CONVEYANCE OF TOWNSHIP CEMETERIES TO PRIVATE CORPORATIONS (CONT.)

- The persons organizing as the corporation may file with the trustee a petition asking for the conveyance of the township-owned cemetery to the corporation
- The persons filing the petition must give notice of the filing at least three (3) weeks before the filing in accordance with IC 5-3-1-2 by publishing a notice concerning the petition in a newspaper:
 - That is published in the township, or
 - If there is no newspaper published in the township, in the newspaper published nearest to the township

IC 23-14-63 – CONVEYANCE OF TOWNSHIP CEMETERIES TO PRIVATE CORPORATIONS (CONT.)

- Requirements of petitioners:
 - Must state in the petition that the corporation would have at the time of taking over the cemetery an endowment or perpetual care fund of at least \$1,000
 - Must agree to increase the balance in the fund to an amount sufficient to produce enough interest to keep the cemetery in proper condition; and
 - Must agree to keep the cemetery in good order
 - Must agree to honestly and faithfully manage the cemetery

IC 23-14-63 – CONVEYANCE OF TOWNSHIP CEMETERIES TO PRIVATE CORPORATIONS (CONT.)

- Duties of the township trustee in this process:
 - IC 23-14-63-4 – “The township trustee, if satisfied that the petition is signed by a majority of the owners of lots in the cemetery who are residents of the township or of the immediate vicinity of the cemetery, shall convey the cemetery to the corporation formed by the petitioners.

IC 23-14-63 – CONVEYANCE OF TOWNSHIP CEMETERIES TO PRIVATE CORPORATIONS (CONT.)

- The corporation's responsibilities once the cemetery is conveyed to them:
 - Shall control the cemetery
 - Shall ornament, beautify, and improve the cemetery
 - May purchase additions and sell lots in the cemetery
 - May assess all lots for the care, improvement, and beautification of the cemetery
 - May receive and hold in trust gifts, donations, and legacies to be devoted to the purposes above
 - May exercise all powers of a corporation organized under any statute for the purposes of owning, managing, and maintaining cemeteries

IC 23-14-63 – CONVEYANCE OF TOWNSHIP CEMETERIES TO PRIVATE CORPORATIONS (CONT.)

- All actions that the corporation takes in accordance with statutes concerning cemeteries before the cemetery is conveyed by the trustee to the corporation are valid and binding on all parties involved in the actions.

TRUSTEE COMPENSATION FOR CEMETERY CARE

- IC 36-6-4-3 states in part: “the executive shall do the following...provide and maintain cemeteries under IC 23-14
- IC 36-6-6-10
 - Subsection (b) defines compensation as, “the total of all money paid to an elected township officer for performing duties as a township officer, regardless of the source of funds from which the money is paid.”
 - Subsection (c): “The township body shall fix the compensation of all officers and employees of the township.”
 - Subsection (e): “Except as provided in subsection (i), the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed.”

TRUSTEE COMPENSATION FOR CEMETERY CARE (CONTINUED)

- SBOA Audit Position:
 - Compensation provided to the trustee by the township board is all-inclusive for all duties that they are required to perform
 - Trustee cannot receive additional compensation for maintaining cemeteries
 - Township board can hire an employee or add cemetery care to deputy's duties
 - Board can adjust salaries of any non-elected or non-appointed official/employee if the necessary appropriations and funds are available
 - Trustee can contract out the maintenance of cemeteries
 - Trustee cannot contract with themselves to provide cemetery care
 - Contracts cannot violate Conflict of Interest laws nor Contracting with a Unit policies
 - Must be sufficient appropriations available

CONTRACTS FOR CEMETERY CARE SERVICES

- Supporting documentation for payments to independent contractors or individual vendors
 - Service contract
 - Bill or invoice from a licensed business
- Contracts should include:
 - Frequency of services
 - Rate that will be paid
 - Documentation contractor/vendor will provide to ensure services are received
- Keep in mind IRS requirements



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