

CHAPTER 7
CEMETERIES

TOWNSHIP CEMETERIES

Under certain conditions, the trustee of any township desiring to own and control a public cemetery, where grounds have not been heretofore appropriated or set apart, shall have the right and power to eminent domain. IC 23-14-75

The township trustee is not authorized to maintain cemeteries owned or controlled by cities or towns or by a cemetery association.

A township trustee may convey a township cemetery to private corporations under certain conditions in accordance with IC 23-14-63.

Whenever by a majority vote of the board of directors of any cemetery association existing in the State of Indiana under any Indiana Law prior to March 9, 1939, shall determine to convey to the township in which such cemetery is located the real estate belonging to the association, the township trustee may accept such conveyance. After the conveyance to the township, the cemetery shall be cared for and maintained by the township trustee as a public cemetery. All expenses incurred by the township trustee in administering the cemetery and performing the duties connected therewith shall be paid from the Township Fund.

If the cemetery association has endowment funds, cash, securities, or other assets, they shall be paid over to the township trustee at the same time that the real estate owned by the association is conveyed to the township. The trustee may use them only: (a) To purchase additional land for the cemetery; (b) to make permanent improvements to the cemetery; or (c) for the upkeep and maintenance of the cemetery. IC 23-14-64

ESTABLISHMENT OF PUBLIC CEMETERIES BY TOWNSHIPS (IC 23-14-69)

A township trustee shall care for and maintain each cemetery that is located in the township, keeping the cemeteries in a respectable condition by: (1) destroying detrimental plants (as defined in IC 15-3-4-1), noxious weeds, and rank vegetation; and (2) removing all unsightly accumulations and debris. [IC 23-14-69-3]

The township trustee may accept donations of land suitable for a public cemetery if the township trustee considers acceptance of the land to be in the best interest of the township. [IC 23-14-69-4]

Donated land shall be: (1) conveyed to the township; (2) set apart by the township for a public cemetery; and (3) kept in good condition and repair by the township trustee. [IC 23-14-69-5]

If no land suitable for a public cemetery is donated to a township and if the township legislative body adopts a resolution approving the purchase, the township executive may purchase land for the purpose of establishing a public cemetery. When land is purchased and conveyed to the township, the land must be set apart, kept in repair, and used as provided in IC 23-14-69-6. [IC 23-14-69-5]

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 23-14-69-6]

After the plat has been recorded, the township trustee shall appoint two (2) freeholders of the township 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 township trustee. [IC 23-14-69-7]

The township trustee may sell and convey the lots in a cemetery at a private sale to persons who desire to purchase them. The trustee shall not sell a lot at less than the value fixed for the lot under IC 23-14-69-7. [IC 23-14-69-8]

The proceeds of the sale of lots in a cemetery under IC 23-14-69-8(a) shall be used to pay the expenses that the township trustee may incur for the cemetery. Any surplus shall be held as a fund for use in keeping the cemetery in repair. [IC 23-14-69-8]

The township trustee shall keep an accurate account of: (1) the money received by the township trustee for the purpose of keeping the cemetery in repair; and (2) the sums that the township trustee has paid out, and for which the trustee has taken vouchers. [IC 23-14-69-8]

All expenses incurred by the township trustee for administering IC 23-14-69 shall be paid out of the township fund of the township. [IC 23-14-69-9]

These laws do not authorize a township trustee to make any contributions from public funds to any cemetery association.

The laws do not authorize a township trustee to pay from public funds for the maintenance costs or any part thereof of a cemetery under the control of a cemetery association organized for profit.

ABANDONED CEMETERIES - VERIFIED STATEMENTS - CARE AND MAINTENANCE

IC 23-14-68 applies to each cemetery that: (1) is without funds for maintenance; (2) was in existence on February 28, 1939; and (3) is operated by a nonprofit organization or is not managed by any viable organization. [IC 23-14-68-1(a)] This chapter does not apply to a cemetery located on land on which property taxes are assessed and paid under IC 6-1.1-4.

The trustee of each township shall locate and maintain all the cemeteries described in IC 23-14-68-1(a) that are within the township. However, a cemetery association claiming assistance shall furnish a verified statement of assets and liabilities to the township trustee. [IC 23-14-68-2]

The maintenance of a cemetery includes the following: (1) Resetting and straightening all monuments. (2) Leveling and seeding the ground. (3) Constructing fences where there are none and repairing existing fences. (4) Destroying and cleaning up detrimental plants (as defined in IC 15-3-4-1), noxious weeds, and rank vegetation. (5) Mowing the lawn. [IC 23-14-68-3]

The township shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery described in IC 23-14-68-1(a) that is located within the township. Funds shall be appropriated in the same manner as other township appropriations. [IC 23-14-68-4]

The township may levy a township cemetery tax to create a fund for maintenance of cemeteries. If a fund has not been provided for maintenance of cemeteries, part of the township fund may be used. [IC 23-14-68-4]

A township trustee who fails to perform the trustee's duties commits a Class C infraction. [IC 23-14-68-5]

CEMETERY UPKEEP

The State Board of Accounts can provide guidance on financial-related items related to cemetery care. The Indiana Department of Natural Resources (DNR) is responsible for the State's requirements for the upkeep and maintenance of cemeteries. For these types of questions please contact the DNR <https://www.in.gov/dnr/>.

CAPITAL ASSETS – CEMETERIES

Township owned cemeteries are considered capital assets and need to be properly recorded on General Form 369 – Capital Assets Ledger. The cemeteries are to be reported on General Form 369 – Capital Assets Ledger at the actual or estimated historical cost based on appraisals or deflated current replacement cost. Contributed or donated assets are reported at estimated fair value at the time received.

General Form 369 – Capital Assets Ledger does not have a separate classification for cemeteries, so the cemetery ground will be recorded on the capital asset ledger under land, any structures on the cemetery grounds under buildings, and roads and drainage systems will be recorded under infrastructure. There will be no effect on the value of the asset as plots are sold. The purchase of a burial plot is a real estate transaction; however, cemetery plot deeds grant burial rights that create an easement for the specific purpose of burial but do not alter the Township's ownership of the cemetery as a whole.