

Chapter 308-50A WAC
CEMETERIES—ENDOWMENT CARE FUNDS

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WAC

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WAC 308-50A-005 Cemetery endowment care funds. Any cemetery authority not exempt under chapter 68.40 RCW shall establish, maintain, and operate an inviolable endowment care fund. Endowment care, special care, and other cemetery authorities' endowment care funds may be commingled for investment and the income therefrom shall be divided between the funds in the proportion that each contributed to the sum invested. The funds shall be held in the name of the trustees appointed by the cemetery authority with the words "endowment care fund" being a part of the name.

[Statutory Authority: RCW 68.05.105 and 18.39.175. WSR 20-09-031, § 308-50A-005, filed 4/6/20, effective 5/7/20.]

WAC 308-50A-007 Use and care of endowment care funds. Endowment care funds shall not be used for any purpose other than to provide, through income only, for the endowment care stipulated in the instrument by which the fund was established.

Endowment care funds shall be used solely for the general care, maintenance, and embellishment of the cemetery, and shall be applied in such manner as the cemetery authority may from time to time determine to be for the best interest of the cemetery.

Only income and not principle from the endowment care funds may be used for the above described cemetery care.

Endowment care funds shall be kept separate and distinct from all assets of the cemetery authority. Endowment care principal shall remain inviolable and may not be reduced in any way not found within chapter 11.100 RCW.

[Statutory Authority: RCW 68.05.105 and 18.39.175. WSR 20-09-031, § 308-50A-007, filed 4/6/20, effective 5/7/20.]

WAC 308-50A-010 Definitions. For the purposes of this chapter, the following terms will be construed as follows:

- (1) **"Board"** means the funeral and cemetery board.
- (2) **"Capital gains"** means an increase in principal and is excluded from ordinary income and net ordinary income.
- (3) **"Cemetery authority"** means an entity that has obtained a certificate of authority to operate a cemetery from the funeral and cemetery board.
- (4) **"Endowment care cemetery"** means a cemetery required to establish an endowment care fund in accordance with chapter 68.40 RCW.
- (5) **"Fiduciary responsibility"** means the trustee(s) will manage the endowment care fund in accordance with RCW 11.100.020.

(6) "**Gross sales price**," in determining "ten percent of the gross sales price" pursuant to RCW 68.40.010, gross sales price shall not include the endowment care fund portion. Endowment care shall be added to the gross sales price and separately identified as endowment care on any contract.

For example: Grave gross sales price - \$100.00. Endowment care requirement - \$10.00. Total contract price - \$110.00.

(7) "**Income**" means ordinary income, that is, interest, dividends, rents and other amounts received by the fund as current returns on investments, but excludes realized or unrealized capital gains or losses.

(8) "**Net ordinary income**" means the ordinary income of the fund reduced by the expenses of operating the fund.

(9) "**Trustee(s)**" means the bank, trust company or persons appointed by the cemetery authority or association of lot owners to hold fiduciary responsibility in managing the endowment care fund in accordance with chapter 68.44 RCW and subject to the direction of the cemetery authority.

[Statutory Authority: RCW 68.05.105 and 18.39.175. WSR 20-09-031, § 308-50A-010, filed 4/6/20, effective 5/7/20.]

WAC 308-50A-040 Records of endowment care funds. Any cemetery authority maintaining an endowment care fund shall maintain a current accounting system in accordance with generally accepted accounting principles. The system shall track sales, receipts, and disbursements and include the following:

(1) An individual contract or agreement with each individual purchasing a right of interment with reference numbering.

(2) A record of:

(a) Payments received and the amount due or paid to the endowment care fund;

(b) Reconciliation of payments to and from the fund; and

(c) All supporting bank and investment statements.

(3) All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall:

(a) Be retained and available for inspection for a period of seven years; and

(b) Be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

[Statutory Authority: RCW 68.05.105 and 18.39.175. WSR 20-09-031, § 308-50A-040, filed 4/6/20, effective 5/7/20.]

WAC 308-50A-050 Endowment care fund contribution for scattering, or additional rights of interment, entombment or inurnment. A cemetery authority not exempt per RCW 68.05.400 must make a deposit to the endowment care fund, for scattering, or additional rights of interment, entombment or inurnment, as required in RCW 68.40.010.

[Statutory Authority: RCW 68.05.105 and 18.39.175. WSR 20-09-031, § 308-50A-050, filed 4/6/20, effective 5/7/20.]

WAC 308-50A-060 Computing income from improved commercial or real estate. In determining the trust fund income for the purpose of RCW 68.44.020 and 68.44.170, an allowance for depreciation on the improved real estate will be used as a determining factor in computing fund income. The cemetery authority must document how depreciation is determined.

[Statutory Authority: RCW 68.05.105 and 18.39.175. WSR 20-09-031, § 308-50A-060, filed 4/6/20, effective 5/7/20.]

WAC 308-50A-070 Trust fund deposit requirements. All payments received must be deposited directly into the appropriate trust fund and may not be offset by amounts due from the trust prior to deposit. Such deposits must be made on or before the 20th day of the month following receipt of each payment due.

[Statutory Authority: RCW 68.05.105 and 18.39.175. WSR 20-09-031, § 308-50A-070, filed 4/6/20, effective 5/7/20.]