

WAC 98-12-030 Definitions. For the purposes of this chapter, the following terms will be construed as follows:

(1) **"Average fair market value"** means the average of the fair market values of assets held by the endowment care fund on the first day of the current fiscal year and the first day of each of the two preceding fiscal years, or the average of the fair market value for the entire term of the fund if there are less than two preceding years.

(2) **"Board"** means the funeral and cemetery board.

(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) **"Extraordinary distributions"** means distributions from the endowment care fund pursuant to written consent of the board.

(6) **"Fair market value"** means the fair market value of the assets held by the fund, reduced by all known noncontingent liabilities.

(a) The fair market value of real estate will be established by the county assessor's valuation on the first day of the current fiscal year.

(b) The fair market value of fractional ownership interests in real estate will be determined by generally accepted valuation methods.

(c) The fair market value of the endowment care fund assets that are not publicly traded on a stock or other regulated securities exchange shall be determined by written valuation certified by a qualified independent public appraiser or qualified independent certified public accountant not affiliated with the cemetery authority or its principals within twelve months of the first day of the fiscal year. If the valuation is not provided, the asset(s) will be assigned a zero value for the purpose of determining fair market value.

(7) **"Fiduciary responsibility"** means the trustee(s) will manage the endowment care fund in accordance with RCW 11.100.020.

(8) **"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.

(9) **"Income"** means:

(a) 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; or

(b) The amount available for distribution using the total return distribution method.

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

(11) **"Total return distribution"** means the distributions of the endowment care fund based on the average fair market value of the endowment care fund assets, determined under WAC 98-12-052 multiplied by the total return percentage.

(12) **"Total return distribution method"** means an alternative distribution method intended to encourage the utilization of endowment care fund investments that will ultimately result in higher endowment care fund income levels through growth in the endowment care fund principal over time.

(13) "**Total return percentage**" means the annual percentage selected by the endowment care trustee or cemetery authority in accordance with WAC 98-12-051. The total return percentage shall not be less than three percent and not exceed five percent of the average fair market value of the endowment care fund.

(14) "**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. WSR 17-24-017, § 98-12-030, filed 11/28/17, effective 12/29/17. Statutory Authority: RCW 68.05.100. WSR 83-02-063 (Order 106), § 98-12-030, filed 1/5/83.]