

**American Jurisprudence, Second Edition  
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**Municipal Corporations, Counties, and Other Political Subdivisions**  
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**XII. Property**

**C. Control, Management, and Maintenance**

[Topic Summary](#); [Topic Contents](#); [Parallel References](#); [List of Topics](#); [Index](#)

§ 504. GENERALLY

Where property is in the lawful possession of a municipality, and is not impressed with any trust or public use, the municipality may manage such property for its own benefit. [\[FN1\]](#) Absent fraud or abuse, municipal authorities have wide latitude in the exercise of control over public property, so long as that control is exercised for the benefit of the municipality. [\[FN2\]](#) However, if a specific tract or building either is held in trust for specific purpose or has been dedicated to particular use, a municipal corporation is powerless to change the use of that property without either specific legislative direction or, if the dedication is from a private source, the appropriate consent of the dedicator. [\[FN3\]](#)

**Observation:** The power of a municipality over public grounds within its limits is derived from the legislature. [\[FN4\]](#) The state, when creating municipal governments, does not cede to them any control over state property situated within the municipalities, or over any property which the state has authorized another body or power to control. [\[FN5\]](#)

[\[FN1\]. \*Libby v. City of Portland\*, 105 Me. 370, 74 A. 805 \(1909\); \*Bryant v. Town of Essex\*, 152 Vt. 29, 564 A.2d 1052 \(1989\).](#)

Lease and concession agreement--Of city airport service station and valet parking facilities. 13B Am. Jur. Legal Forms 2d, Municipal Corporations, Counties, and Other Political Subdivisions § 180:205.

[\[FN2\]. \*House the Homeless, Inc. v. Widnall\*, 94 F.3d 176 \(5th Cir. 1996\), cert. denied, 520 U.S. 1169, 117 S. Ct. 1434, 137 L. Ed. 2d 541 \(1997\); \*Dickey v. Storey\*, 262 Ga. 452, 423 S.E.2d 650 \(1992\); \*Wilson Coalition v. Mayor and Common Council of City of Summit\*, 245 N.J. Super. 616, 586 A.2d 346, 65 Ed. Law Rep. 811 \(Law Div. 1990\); \*Hart v. Ament\*, 176 Wis. 2d 694, 500 N.W.2d 312 \(1993\).](#)

[\[FN3\]. \*Harris v. Town of Wayland\*, 392 Mass. 237, 466 N.E.2d 822, 19 Ed. Law Rep. 358 \(1984\); \*Perry Public Library Ass'n v. Lobsitz\*, 1913 OK 183, 35 Okla. 576, 130 P. 919 \(1913\); \*Allied Veterans Council v. Klamath County\*, 23 Or. App. 653, 544 P.2d 190 \(1975\) \(distinguished by, \*Brooks v. Dierker\*, 23 Or. App. 697, 544 P.2d 598 \(1975\)\); \*Buckhout v. City of Newport\*, 68 R.I. 280, 27 A.2d 317, 141 A.L.R. 1440 \(1942\) \(distinguished by, \*Wood v. City of East Providence\*, 504 A.2d 441 \(R.I. 1986\)\).](#)

[\[FN4\]. \*William R. Hickman Trust v. City of Clay Center\*, 266 Kan. 1022, 974 P.2d 584 \(1999\); \*City of St. Paul v. Chicago, M. & St. P. Ry. Co.\*, 63 Minn. 330, 63 N.W. 267 \(1895\), on reh'g on other grounds, 63 Minn. 330, 65 N.W. 649 \(1896\) and modified on other grounds on reh'g, 63 Minn. 330, 68 N.W. 458 \(1896\) and \(distinguished by, \*U.S. v. Wheeler Tp.\*, 66 F.2d 977 \(C.C.A. 8th Cir. 1933\)\); \*Galveston County Beach Park Bd. v. Johnson\*, 822 S.W.2d 828](#)

[\(Tex. App. Houston 14th Dist. 1992\)](#), writ denied with per curiam opinion, [848 S.W.2d 689 \(Tex. 1993\)](#), reh'g of writ of error overruled, (Mar. 31, 1993).

[FN5]. [Kentucky Institution for Education of Blind v. City of Louisville](#), 123 Ky. 767, 30 Ky. L. Rptr. 136, 97 S.W. 402 (1906) (distinguished by, [City of Groves v. Port Arthur Independent School Dist.](#), 366 S.W.2d 849 (Tex. Civ. App. Beaumont 1963)).

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