

**CHAPTER 305****BOOM COMPANIES**

**305.01-305.06** Repealed, 1947 c 221 s 1.

**CHAPTER 306****PUBLIC CEMETERIES****306.01 CEMETERY ASSOCIATIONS AND PRIVATE CEMETERIES, HOW GOVERNED**

Jurisdiction over foreign corporation doing a single act within the state. 36 MLR 264.

Limitation in certificate of ownership conveying a cemetery lot that monuments or other structures be subject to the approval of the officers of the cemetery corporation with authority to remove in case the president of the cemetery association deems the monuments improper or detrimental is a legal regulation and not invalid for indefiniteness. The approval or disapproval of monuments is within the discretion of the corporation's management except where the action is arbitrary or unreasonable. Refusal to permit a lot owner to place sculptured lions on a lot was neither arbitrary nor unreasonable. *Abell v Proprietors of Green Mount Cemetery*. 26 At(2d) 24.

A corporation organized for the purpose of operating a cemetery for profit must be organized under chapter 301. It cannot be organized under section 306.01. OAG May 16, 1950 (102).

**306.02 CEMETERY CORPORATIONS OR ASSOCIATIONS**

A cemetery association may not be organized for pecuniary profit nor may it be organized under the provision of any section of chapter 301. A cemetery may be incorporated under the provisions of section 306.02 and in no other way. OAG May 16, 1950 (102).

A member of a cemetery association may continue to act as such after his election to the city council. The offices are not incompatible. OAG Jan. 5, 1948 (358-E-9).

**306.023 UNUSED PUBLIC CEMETERY; TRANSFER TO OPERATING PUBLIC CEMETERY**

**HISTORY.** 1949 c 298 s 1.

**306.025 TRANSFER OF CEMETERIES TO VILLAGES**

**HISTORY.** 1945 c 188 s 1-7.

A public cemetery association may not transfer the cemetery to a city whose charter does not authorize the operation and maintenance of a cemetery by it. OAG Nov. 17, 1949 (870-B).

There is no statutory authority by which a town and a village may jointly acquire cemetery land, but any town may acquire by purchase or gift land within its limits to be used as a cemetery (section 365.26). A village may purchase and hold

cemetery grounds within or without its limits (section 412.19, subdivision 13). A village may receive by grant, gift, devise, or bequest in accordance with the terms of a trust real property for cemetery purposes (section 501.11 (7)). Any public cemetery association which owns a cemetery within or partly within a village may transfer such cemetery to the village together with the funds and property of the association whether the funds be of a trust character or otherwise (section 306.025). Provision is made for a village or a town entering into an agreement with another village or town for the maintenance of a cemetery under certain specified conditions (section 471.24). It would seem that by taking advantage of the above sections some practical arrangement could be worked out in the instant case. OAG April 8, 1949 (870-J).

A village is not authorized to contribute funds for the maintenance of a cemetery owned by a public cemetery association. OAG June 19, 1952 (870-J).

A village cannot accept as a gift a building used exclusively as a burial vault building if, as a part of the transaction, it must assume an unpaid obligation of \$600. OAG Nov. 13, 1952 (870-J).

Laws 1921, Chapter 358, (sections 306.21 and 306.22) is applicable to corporations owning and operating cemeteries. A village which owns a cemetery is not a corporation within the scope of Laws 1921, Chapter 358, and cannot proceed under the provisions of section 306.025. OAG June 11, 1953 (870-J).

### **306.05 LAND ACQUIRED FOR CEMETERY PURPOSES**

**HISTORY.** RS 1851 c 37 s 10; PS 1858 c 17 s 49; GS 1866 c 34 s 101; 1870 c 30 s 2; GS 1878 c 34 s 249; 1885 c 7; GS 1894 s 3096; 1901 c 220; RL 1905 s 2939; GS 1913 s 6279; GS 1923 s 7561; MS 1927 s 7561; 1941 c 240 s 1.

In recording a plat of cemetery grounds, a part of church property, the acknowledgement must be in the form prescribed by the statute for a corporate acknowledgement and if the description of the plat is certain and a proper acknowledgement appears on the plat, it is entitled to record in the office of register of deeds. OAG Dec. 14, 1948 (373-B-15).

### **306.14 TAX EXEMPT; NO ROAD OR STREET LAID THROUGH A CEMETERY WITHOUT CONSENT OF TRUSTEES**

A city may not by ordinance assess an unused part of a cemetery lot for lot maintenance and cannot enforce an assessment by tax machinery which applies to non-exempt realty. OAG Aug. 6, 1947 (870-B).

### **306.15 LOTS, CONVEYANCE**

**HISTORY.** Amended, 1951 c 492 s 1.

The owner of a cemetery lot purchased from the cemetery association or town cannot convey to another except as provided in section 306.15. OAG March 27, 1950 (870-I).

### **306.16 TITLE TO BURIAL LOTS REGAINED BY ASSOCIATION, WHEN; PROCEDURE**

**HISTORY.** Amended, 1949 c 163 s 1.

Limitation in certificate of ownership conveying a cemetery lot that monuments or other structures be subject to the approval of the officers of the cemetery corporation with authority to remove in case the president of the cemetery association deems the monuments improper or detrimental is a legal regulation and not invalid for indefiniteness. The approval or disapproval of monuments is within the discretion of the corporation's management except where the action is arbitrary or unreasonable. Refusal to permit a lot owner to place sculptured lions on a lot was neither arbitrary nor unreasonable, *Abell v Proprietors of Green Mount Cemetery*, 26 At(2d) 24.

**306.17 PUBLIC CEMETERIES**

850

**306.17 TO BE PART OF RECORDS OF ASSOCIATION**

HISTORY. Amended, 1949 c 163 s 2.

**306.18 LOTS, HOW DESCRIBED IN NOTICES AND PROCEEDINGS**

HISTORY. Amended, 1949 c 163 s 3.

**306.19 LIMITATION**

HISTORY. Amended, 1949 c 163 s 4.

**306.20 EFFECT, TIME LIMIT**

HISTORY. Amended, 1949 c 163 s 5.

**306.243 ABANDONED CEMETERIES, MAINTENANCE OF**

HISTORY. 1943 c 468 s 1; 1947 c 382 s 1.

Section 306.243 does not authorize the county board to provide for the removal of bodies within the boundary of a cemetery and the reburial thereof in other cemeteries. OAG Aug. 27, 1948 (870-D).

Power granted to county boards by the legislature to maintain abandoned cemeteries under certain prescribed conditions is a grant of power and not a positive direction to the board. OAG Nov. 25, 1949 (870-I).

**306.29 DISPOSAL OF LOTS BY OWNERS**

Where no restrictions were contained in a deed of conveyance of a cemetery lot to the present owner by which the title could subsequently be defeated, and the property was used for the purpose for which it was conveyed, the owner's title could not be defeated by any action to be taken by the town government. OAG March 27, 1950 (870-I).

**306.31 CEMETERY ASSOCIATIONS MAY ESTABLISH PERMANENT FUND**

HISTORY. 1887 c 168 s 1; 1897 c 339 s 1; 1905 c 197 s 1; GS 1913 s 6292; 1915 c 345 s 1; GS 1923 s 7585; MS 1927 s 7585.

**306.35 SURVIVING TRUSTEES; VACANCIES**

HISTORY. 1887 c 168 s 5, 6; GS 1878 Vol 2 (1888 Supp) c 34 s 260e, 260f; GS 1894 s 3114, 3115; RL 1905 s 2954; GS 1913 s 6296; GS 1923 s 7589; MS 1927 s 7589.

**306.38 INVESTMENT; INCOME; UNEXPENDED BALANCES**

HISTORY. 1887 c 168 s 11, 12, 13; GS 1878 Vol 2 (1888 Supp) c 34 s 260k, 260m; GS 1894 s 3119, 3121; RL 1905 s 2957; GS 1913 s 6299; GS 1923 s 7592; MS 1927 s 7592.

**306.41 PERMANENT CARE AND IMPROVEMENT FUND, ESTABLISHMENT, PROCEDURE; WHERE DEPOSITED**

HISTORY. 1921 c 247 s 1; MS 1927 s 7594-1.

Perpetual maintenance funds established under an ordinance enacted pursuant to the city charter need not be deposited with the county treasurer. OAG Jan. 13, 1953 (870-B).

**306.44 DEPOSIT OF FUNDS IN COUNTY TREASURY**

HISTORY. Amended, 1949 c 250 s 1.

# MINNESOTA STATUTES 1953 ANNOTATIONS

851

PRIVATE CEMETERIES 307.09

## 306.51 INTEREST ON FUND, APPORTIONMENT

HISTORY. 1921 c 247 s 12; 1953 c 205 s 1.

## 306.55 ASSESSMENTS LEVIED ON LOTS FOR CARE THEREOF, ENFORCEMENT

HISTORY. Amended, 1949 c 428 s 1.

## 306.68 REORGANIZATION OF CERTAIN ASSOCIATIONS

A cemetery association which does not have capital stock may be reorganized under section 306.68 to permit an increase in voting members of the association to such number that the association may survive and function. OAG March 30, 1950 (102).

## 306.851 SECTIONS 306.76 TO 306.83 NOT APPLICABLE TO CERTAIN CEMETERIES

HISTORY. 1949 c 147 s 1.

## CHAPTER 307

### PRIVATE CEMETERIES

#### 307.01 PLAT AND RECORD

Where the landowner complied with sections 307.01 and 307.02 in creating a private cemetery, the land is tax-exempt under section 307.09 unless, aside from platting and dedicating the land for cemetery purposes, no use is being made of it except for agriculture purposes, in which case the land is not entitled to tax exemption. OAG Feb. 25, 1949 (414-D-4).

The exemption granted by section 307.01 is not applicable to mere graves. An historical site where Indians massacred 21 Frenchmen is not exempt from ad valorem taxation. OAG May 26, 1950 (414-D-6).

#### 307.08 DAMAGE; DISCHARGE OF FIREARMS; PENALTY

HISTORY. RS 1851 c 37 s 14; PS 1858 c 17 s 53; GS 1866 c 34 s 108; 1874 s 1; GS 1878 c 34 s 256, 257; GS 1894 s 3104, 3105; RL 1905 s 2964; GS 1913 s 6322; GS 1923 s 7632; MS 1927 s 7632.

#### 307.09 EXEMPTIONS

A city has no power to assess by ordinance the unused part of a cemetery lot for lot maintenance and use the tax enforcement machinery for collection of the assessment through sale. OAG Aug. 6, 1947 (870-B).

Twelve acres of rural land platted for cemetery purposes and the plat recorded together with the fact that lots are being sold for burial purposes only and the provisions of sections 307.01 and 307.02 have been complied with, the tract would be entitled to exemption from ad valorem taxes. If no use is made of the land or if used for agricultural purposes it would lose its right to be exempt from taxation. OAG Feb. 23, 1949 (414-D-4).

The Oblate Fathers own realty on Magnuson Island in Lake of the Woods county, being the site where Fort St. Charles was situated. A chapel had been set up within the fort. In 1736, 21 Frenchmen were massacred and the remains were buried on the site now owned by the Oblate Fathers. The land is subject to ad valorem taxa-