

CHAPTER 306

PUBLIC CEMETERY ASSOCIATIONS

306.01 CEMETERY ASSOCIATIONS AND PRIVATE CEMETERIES, HOW GOVERNED.

Action to wind up the affairs of a group who were actively, but illegally, engaged in promoting the organization of a cemetery association. Receiver appointed. *Amundson v Cloverleaf Memorial Assn.* 221 M 353, 22 NW(2d) 171.

306.02 CEMETERY CORPORATIONS OR ASSOCIATIONS.

Land owned by a cemetery association is not exempt from taxation as a public burying ground unless the land is actually and presently used for burial of the dead; and this holds even if the land be platted, dedicated, and held for future use for burial purposes. *State v Ritschel*, 220 M 578, 20 NW(2d) 679.

The word cemetery comprehends a place where burials have been made and will continue to be made in the future. *State v Ritschel*, 220 M 589, 20 NW(2d) 673.

A cemetery may be transferred by its controlling association to a city, the city to provide for its future maintenance. OAG Aug. 13, 1943 (870-B).

Where a portion of the cemetery tract is used as a home of the caretaker, with tool-house and greenhouse for raising flowers, the part so used is a part of the cemetery whole and is exempt from taxation. OAG Feb. 5, 1946 (414-D-4).

306.025 TRANSFER TO VILLAGES.

The burial of the dead is a public function often imposed in the exercise of legislative power upon local governmental authorities. *Brown v Maplewood*, 85 M 498, 89 NW 872; *State v Ritschel*, 220 M 585, 20 NW(2d) 673.

L. 1945, c. 188, permit a cemetery association to transfer its cemetery assets to a village, and the village to accept. OAG Aug. 22, 1945 (870-J); OAG Mar. 14, 1946 (870-J).

306.05 LAND ACQUIRED FOR CEMETERY PURPOSES.

An intention on the part of a cemetery association to use its land in the future for the burial of dead affords no basis for exemption of the land from taxation under the constitutional and statutory provisions of Minnesota; and the fact that its present use is prevented by a city ordinance is immaterial. *State v Ritschel*, 220 M 579, 20 NW(2d) 673.

306.09 SALE OF LOTS.

Land acquired by a cemetery corporation and platted pursuant to the statute for cemetery purposes and used for burials, is dedicated to the exclusive purpose of burial; and is without power to convey such lands except for the purpose of burials. It cannot mortgage such property and the mortgage to Wolford in the instant case is void. *Wolford v Crystal Lake Cemetery*, 54 M 440, 56 NW 56.

306.10 FUNDS, HOW USED; GRANTS IN TRUST.

Exemption of property from taxation does not comprehend exemption from the payment of excise and impost taxes. A cemetery is authorized, under its power to defray the necessary expenses in the management and care of its cemetery, to pay unemployment compensation taxes imposed on the basis of labor employed

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in operating and maintaining its cemetery. *Christgau v Woodlawn*, 208 M 263, 293 NW 619.

306.11 VACANCIES; ANNUAL MEETING; REPORT OF TRUSTEES.

Stockholders and lot owners of a cemetery association having perpetual existence may, in the case of inability of its officers, call a meeting for the purposes of an election. OAG Feb. 11, 1944 (102-B-1).

306.12 ACTION FOR DAMAGES.

Finding that defendant cemetery failed to keep premises in reasonably safe condition for use of invitee was sustained by evidence that it allowed wire pedestal to remain on grave in area occupied by those attending a burial service. *Hutchinson v Hillside Cemetery*, 212 M 242, 4 NW(2d) 81.

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

See, notes under section 306.02.

Exemption of property from taxation does not comprehend exemption from the payment of excise and impost taxes by the owner of the exempted property, especially those which are not imposed in lieu of property taxes. A public cemetery is not a corporation organized and operated exclusively as charitable corporation. *Christgau v Woodlawn Cemetery*, 208 M 263, 293 NW 619.

Land owned by a cemetery association is not exempt from taxation as a public burying ground unless the land is actually and presently used for the burial of the dead. *State v Ritchel*, 220 M 578, 20 NW(2d) 673.

That an association organized under this chapter owns land does not necessarily render that land exempt from taxation. Land must be used for burial purposes, or must be a part of a tract so used, and so much a part that it forms a cemetery unit and is essential to the larger tract for present or future cemetery purposes. OAG Feb. 5, 1946 (404-D-4).

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

306.243 ABANDONED CEMETERIES, MAINTENANCE OF.

Amended by L. 1947 c. 382 s. 1.

Where the 30-year life of the cemetery association had expired the association legally transferred the cemetery property to the city, the city having agreed to maintain and operate it as a public cemetery. OAG Dec. 10, 1943 (59-A-22).

306.28 PUBLIC CEMETERY ASSOCIATIONS MAY SELL PROPERTY IN CERTAIN CASES.

A cemetery association may transfer land to a village, and the village may accept even if the land lies outside the village limits. OAG Jan. 3, 1946 (870-J).

306.46 DEPOSIT OF AND INTEREST ON FUND.

Moneys must be placed in the officially designated county depository. Investment of the funds is mandatory only upon petition of two-thirds of the boards of directors of the cemeteries in the county. OAG Jan. 3, 1946 (551).

306.48 INVESTMENT OF FUNDS.

Mandatory features of this section discussed. County cemetery funds may be invested in United States Treasury "G" Bonds. OAG Jan. 3, 1946 (551).

306.87 DEFINITIONS.

See annotations under section 306.02.