



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 17, 1978

ATTORNEY GENERAL OPINION NO. 78-25

Mr. Philip E. Winter
Assistant County Attorney
Lyon County Courthouse
Emporia, Kansas 66801

Re: Corporations--Cemetery Corporations--Same Located Within
Two Miles of Third Class City

Synopsis: Any corporation formed for establishment and maintenance
of cemeteries in or within two miles of any city of
the third class must comply with the provisions of K.S.A.
17-1307, 17-1308, 17-1311, 17-1312, and 17-1312(a)
through 17-1312(b).

* * *

Dear Mr. Winter:

You request my opinion whether a non-profit corporation created
in 1977 to operate and maintain a previously existing "unincor-
porated non-profit cemetery" must comply with the provisions of
K.S.A. 17-1307, 17-1308, 17-1311, 17-1312, and 17-1312(a) through
17-1312(b) (Chapter 102, Laws of 1901, as amended and supplemented.)

K.S.A. 17-1307 provides in pertinent part that

"[e]very corporation hereafter formed or
organized or that has been organized subse-
quent to March 1, 1914, for the purpose of
the establishment and maintenance of ceme-
teries in, or within two miles of any city
of the third class" [Emphasis added.]

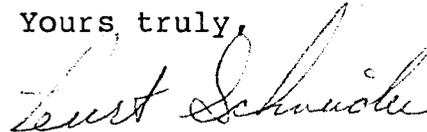
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shall comply with the remaining requirements found at K.S.A. 17-1307, *et seq.* The above quoted phrase manifests clearly an intent by the legislature to include *all* such corporations so formed within the purview of these statutes.

Your question is posed in such manner as to suggest that perhaps the new corporation does not fall within the dual, definitional criteria required by K.S.A. 17-1307, *i.e.*, "establishment and maintenance of cemeteries," since the establishment of the cemetery has already occurred. I am not so persuaded. That the cemetery itself is already in existence, at the formation of the new cemetery corporation is not significant. It is the acquisition of the cemetery by the corporation which "establishes" the corporate cemetery which in turn places the corporation categorically and clearly within the parameters of the Act.

I do not find elsewhere in the Kansas statutes provision exempting a corporation such as above discussed from the requirements of K.S.A. 17-1307, *et seq.* Accordingly, it is my considered opinion that the same must therefore comply with said Act.

Yours, truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj

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