



**SIERRA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 110-206**

**A RESOLUTION ESTABLISHING POLICY PERTAINING TO CREMATION OF
INDIGENTS AND UNCLAIMED DECEDENTS**

WHEREAS, the Sierra County Board of Commissioners met upon notice of meeting duly published at the Sierra County Administration Building, 1712 North Date Street, Truth or Consequences, New Mexico 87901 on December 21, 2023, at 10:00 a.m. as required by law; and,

WHEREAS, the Board of County Commissioners of the County of Sierra exercises the powers of the County as a body politic and corporate pursuant to NMSA 1978, Section 4-38-1(1884); and,

WHEREAS, pursuant to NMSA 1978, Section 24-13-1, the Board of County Commissioners has a statutory obligation to cause to be decently interred or cremated the body of any unclaimed decedent or indigent person; and,

WHEREAS, the Board of County Commissioner seeks to adopt this policy to govern its obligations pursuant to Chapter 24, Article 13, and to prevent abuses of the indigent burial program.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of the County of Sierra that the Board adopts the following policy as it relates to the burial of indigents and unclaimed decedents.

- A. The Sierra County Indigent Administrator administers the Unclaimed/Indigent Cremation Program for deceased persons who have passed away within the geographical boundaries of Sierra County. The mission is to provide lawful and proper burial with dignity for those decedent residents who are indigent or go unclaimed upon death. Sierra County respects each individual in the community and will treat all with maximum regard and respect.

- B. The below local funeral home is under contract with Sierra County to provide direct cremation only.

Kirikos Family Funeral Home Inc.
303 N. Cedar Street
P.O. Box 112
Truth or Consequences, NM 87901
(575) 894-2574

PLEASE NOTE: This program does not assist with funeral expenses, viewing at the funeral home or any other service at the funeral home or a place of worship, neither before nor after cremation.

- C. PROGRAM ELIGIBILITY. Eligibility for the Unclaimed/Indigent Cremation Program is based on the deceased person who must meet all three of the requirements listed below per New Mexico State Statute upon death:

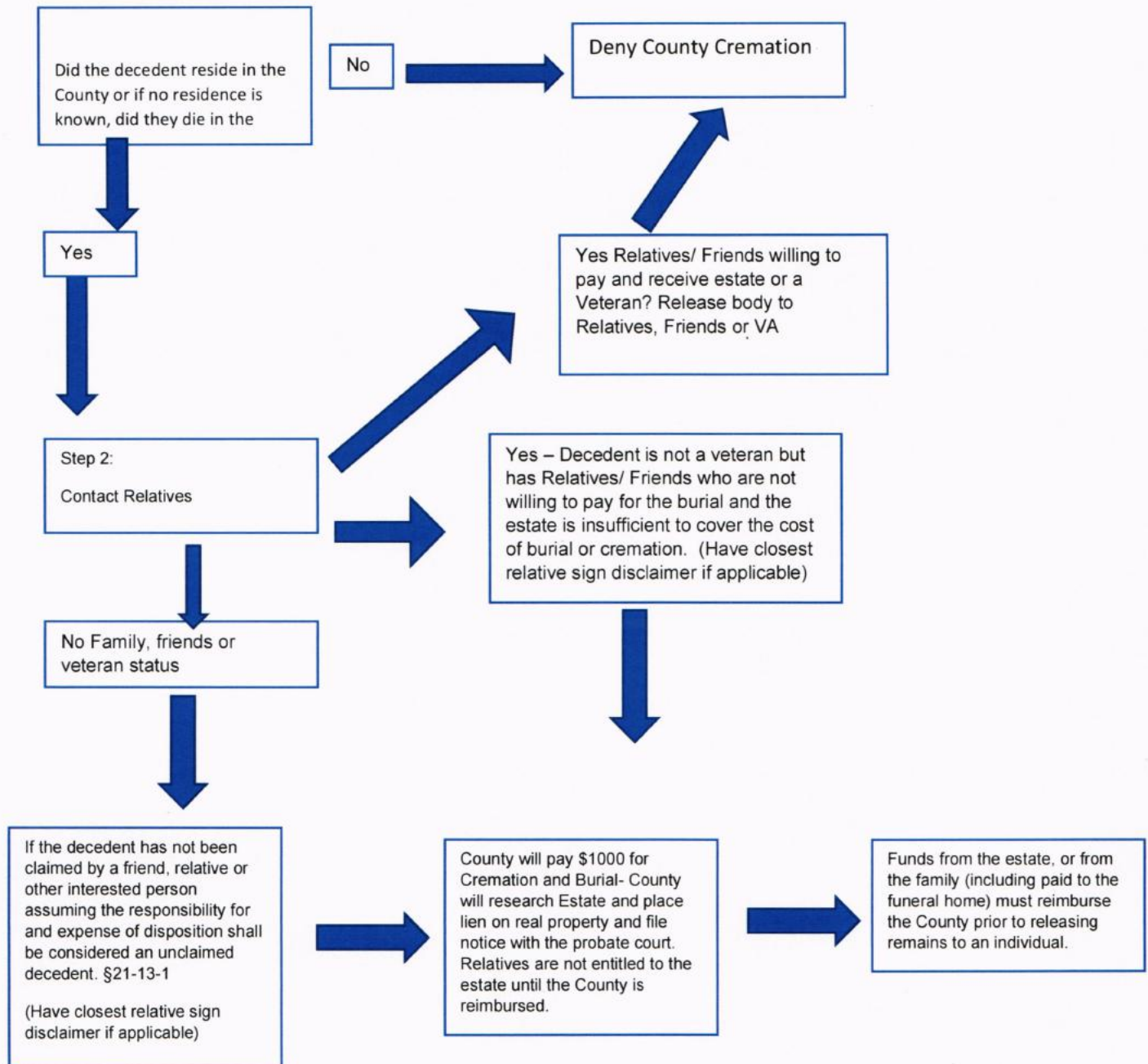
- a. Indigent Status. Deceased persons shall be considered to be an indigent if his/her estate is insufficient to cover the cost of burial or cremation (NMSA 1978 §24-13-2).
- b. Sierra County Resident. A resident is defined as someone who has lived in Sierra County for a minimum of six months prior to the time of passing. If the deceased person is declared indigent, cremation expenses shall become the responsibility of the county of residence of the deceased person (NMSA 1978 §24-13-3). If the decedent is not a resident of Sierra County at the time of death, Sierra County cannot proceed any further and will send/direct to the appropriate county of residence. In the event that the decedent's primary residence is out of the state of New Mexico, but he or she passes away in Sierra County, the occurrence will be handled on a case-by-case basis.
- c. Property/Assets Ownership. For the purposes of NMSA 1978 §24-13-2, decedents are deemed indigent when they do not own property/assets of sufficient value to cover the cost of burial or cremation. If the decedent is unclaimed (no known next of kin) and had known assets or property of sufficient value to defray the expenses of cremation or burial, per NMSA 1978 §24-13-3, invoices for the expenses shall be forwarded to such person or official authorized by law to be appointed administrator of the estate of the deceased to pay expenses from the estate. Sierra County shall not accept personal belongings and/or items accompanied with burial of indigent decedents and is not responsible for such items.

- D. SERVICES PROVIDED. The responsibility of Sierra County, under state statute, is to provide direct cremation only. This is defined as the disposition of a dead human body as

quickly as possible, without a funeral, graveside services, committal services or memorial service, whether public or private, and without embalming of the body unless embalming is required by the place of disposition (NMSA 1978 §61-32-3(I.)). The county shall ensure that the body is cremated no later than 30 days, after a determination has been made that the body has not been claimed, but no less than two weeks after death (NMSA 1978 §24-13-1). If the decedent has known legal next of kin, in accordance with state statute, he or she must acknowledge and adhere to the county program's policies and procedures of disposition, and have no further say in the proceedings. At that time, in adherence with the program's procedures and policies of disposition, Sierra County will then assume the responsibility for proper disposition (NMSA §24-12A-2).

- E. **RELEASING OF CREMATED REMAINS.** The cremated remains may be released, provided that the funeral home is reimbursed for its traditional and customary cost of conducting the cremation no later than a period of two years from the time of cremation. Pursuant to NMSA 1978, Section 24-13-6 (1999), the funeral director shall immediately notify the Board of County Commissioners of the payment and immediately refund the Board of County Commissioners the amount the County paid for the cremation. The Cremains will be held by the current contracted funeral home during this time. If the decedent is a veteran, the reimbursement date may be expedited, pending verification from the Office of Veteran Affairs. If remains are not claimed after two years the cremains shall be respectfully interred, the location of the burial shall be kept on file with the County. If the decedent is a veteran, the reimbursement date may be expedited, pending verification from the Office of Veteran Affairs. If the veteran decedent qualifies for interment in the Santa Fe National Cemetery, the burial of cremated remains may occur when the New Mexico Department of Veterans Services claims them, which may be prior to two years after the date of death, and/or prior to any other party interested in reimbursement for releasing.
- F. **Funding.** The burial or cremation expenses may be paid by the county out of the general fund or the county health care assistance fund in an amount up to one thousand dollars (\$1000) for the burial or cremation of any adult or minor.

Indigent / Unclaimed Cremation Flowchart



Form "A"

STATE OF NEW MEXICO
IN THE PROBATE COURT
SIERRA COUNTY

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

No. _____

**NOTICE OF SIERRA COUNTY'S PAYMENT OF INDIGENT CREMATION COSTS
& REQUIREMENT OF THE ESTATE TO REIMBURSE THE COUNTY PRIOR TO THE
DISTRIBUTION OF THE ESTATE TO ANY HEIR OR PRIOR TO THE PAYMENT OF ANY
OTHER DEBT**

I, Sierra County Manager _____ hereby give notice that the County of Sierra has paid \$1000.00 for the cremation of the above captioned deceased person.

NMSA 1978, Section 24-13-5 (2001) provides in pertinent part that:

The board of county commissioners of any county within this state may authorize payment for the burial or cremation of an indigent person, as defined in Section 24-13-2 NMSA 1978 or of an unclaimed decedent, as defined in Section 24-13-1 NMSA 1978. All available assets of the deceased shall be used to reimburse the county for the cost of burial or cremation. Should the county be required to pay expenses for burial or cremation of an unclaimed decedent who has left an estate, the estate shall reimburse the county for those expenses. [] .

Accordingly, the estate is liable for and is required to reimburse the County of Sierra the amount of \$1000.00 and the funeral home the remainder of the costs of cremation prior to any distribution of any asset of the estate to heir(s) or the payment of any other debts of the deceased. This debt to the County of Sierra, by operation of law, supersedes any other debt, expense or distribution.

_____, Manager

STATE OF NEW MEXICO)
)ss.
COUNTY OF SIERRA)

This instrument was acknowledged before me on the ____ day of _____, 20____, by _____, the duly appointed Manager of the County of Sierra on behalf of the Board of County Commissioners.

Notary Public

My commission expires:

Form "B"

CLAIM OF LIEN FOR INDIGENT CREMATION EXPENSES

KNOW ALL MEN BY THESE PRESENTS that the Board of County Commissioners of the County of Sierra, a political subdivision of the State of New Mexico, pursuant to NMSA 1978, Section 3-36-1 (1981), and NMSA 1978, Section 4-37-1(1975) (allowing liens created under authority of law), hereby claims a lien for indigent burial expenses. The authority of law is NMSA 1978, Section 24-13-5 (1999) which provides in pertinent part that (“the board of county commissioners of any county within this state may authorize payment for the burial or cremation of an indigent person, as defined in Section 24-13-2 NMSA 1978 or of an unclaimed decedent, as defined in Section 24-13-1 NMSA 1978. All available assets of the deceased shall be used to reimburse the county for the cost of burial or cremation. Should the county be required to pay expenses for burial or cremation of an unclaimed decedent who has left an estate, the estate shall reimburse the county for those expenses.” As a basis for this lien, the Board of County Commissioners of the County of Sierra states:

- (1) This lien is established pursuant to NMSA 1978, Section 24-13-5 (1999);
- (2) The purpose of this lien is to reimburse the County of Sierra for the payment for the indigent burial of the decedent [insert name] whose estate was found to have adequate to pay for the burial however the family elected not to claim the body. Accordingly, under the law, the family may not benefit from the estate until the County is reimbursed for the burial of their family member.
- (3) The name of the owner of the property against which this lien is established, as determined from the records of the county assessor, is [insert name];
- (4) The payment was made to [funeral home name] with Purchase Order Number [XX] dated [date];
- (5) This lien is established against the following property:
 - a. Street Address: [insert street address] *
 - b. Legal Description: [insert legal description]
- (6) The lien is in the amount of \$1,000.00.

, Manager

STATE OF NEW MEXICO)
)ss.
COUNTY OF SIERRA)

This instrument was acknowledged before me on the ____ day of _____, 20____, by _____, the duly appointed Manager of the County of Sierra on behalf of the Board of County Commissioners.

Notary Public


My commission expires:

My Commission Expires

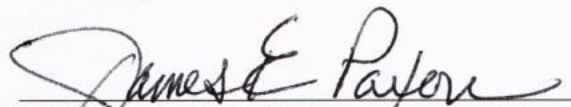
Form "D"

APPROVED, ADOPTED, AND PASSED on this 21st day of December, 2023.

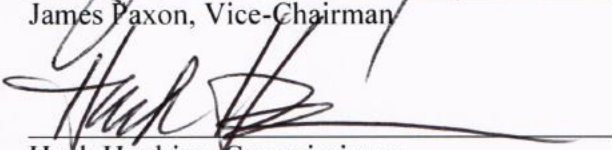
BOARD OF COUNTY COMMISSIONERS
OF SIERRA COUNTY



Travis Day, Chairman

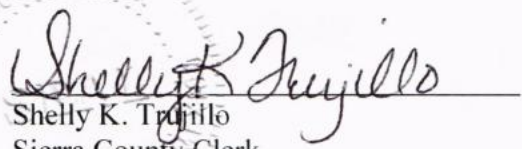


James Paxon, Vice-Chairman



Hank Hopkins, Commissioner

Attest:



Shelly K. Trujillo
Sierra County Clerk