RESOLUTION 005-2021

ESTABLISHING AN INDIGENT / UNCLAIMED CREMATION POLICY

WHEREAS, the Catron County Commission met in a meeting on July 30, 2020 at 9:00 A.M. in the Catron County Fire Administration Building, 3 Mountaineer Rd., Reserve, New Mexico; and,

WHEREAS, NMSA 1978, Section 4-38-13 (1953) provides that board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient; and,

WHEREAS, NMSA 1978, Sections 4-37-1 et seq. provides that counties may adopt those resolutions and ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, NMSA 1978, Section 24-13-1 (1999) provides that “[f]or the purposes of Chapter 24, Article 13 NMSA 1978, a dead person whose body has not been claimed by a friend, relative or other interested person assuming the responsibility for and expense of disposition shall be considered an unclaimed decedent. It is the duty of the board of county commissioners of each county in this state to cause to be decently interred or cremated the body of any unclaimed decedent or indigent person. The county shall ensure that the body is buried or cremated no later than thirty days after a determination has been made that the body has not been claimed, but no less than two weeks after death. If the body is cremated, the county shall ensure that the cremated remains are retained and stored for no less than two years in a manner that allows for identification of the remains. After the expiration of two years the cremated remains may be disposed of, provided the county retains a record of the place and manner of disposition for not less than five years after such disposition; and,

WHEREAS, NMSA 1978, Section 24-13-2 (1999) states that “[a] deceased person shall be considered to be an indigent for purposes of Chapter 24, Article 13 NMSA 1978 if his estate is insufficient to cover the cost of burial or cremation; and,
WHEREAS, NMSA 1978, Section 24-13-3 (2001) provides that “[i]f the unclaimed decedent had known assets or property of sufficient value to defray the expenses of cremation or burial, invoices for the expenses shall be forwarded to such person or official authorized by law to be appointed administrator of the estate of the decedent, and such person or official shall pay the expenses out of the decedent’s estate. To the extent that the deceased person is indigent, the burial or cremation expenses shall be borne by the county of residence of the deceased person. If the county of residence of the deceased person is not known, the burial or cremation expenses shall be borne by the county in which the body was found. 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 six hundred dollars ($600) for the burial or cremation of any adult or minor;” and,

WHEREAS, NMSA 1978, Section 24-13-4 (1999) provides that “[t]he board of county commissioners after proper investigation shall cause any deceased indigent or unclaimed decedent to be decently interred or cremated. The cost to be paid by the county of opening and closing a grave shall not exceed six hundred dollars ($600), which sum shall be in addition to the sums enumerated in Section 24-13-3 NMSA 1978;” and,

WHEREAS, NMSA 1978, Section 24-13-5 (1999) provides that “[t]he 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. The county commissioners shall be liable either personally or officially to the county they represent in double the amount they have paid toward the burial or cremation of a person other than as authorized by this section;” and,

WHEREAS, NMSA 1978, Section 24-13-6 (1999) provides that “[s]hould any funeral director or other person allowed by law to conduct the business of a funeral director accept money from the relatives or friend of a deceased person whom the board of county commissioners has determined to be an indigent or an unclaimed decedent, the funeral director shall immediately notify the board of county commissioners of the payment or offer for payment, and the board of county commissioners shall not thereafter pay for the burial or cremation involved, or, if the board of county commissioners has already paid for the burial or cremation, the funeral director shall immediately refund the money paid to him by the board of county commissioners for the burial or cremation;” and,

WHEREAS, NMSA 1978, Section 24-13-7 (1999) provides that “[i]f any funeral director or other person authorized by law to conduct the business of a funeral director receives or contracts to receive any money or thing of value from relatives or friends of a deceased alleged indigent or unclaimed decedent whose burial or cremation expenses are paid or to be paid by the board of county commissioners and fails to notify the board of county commissioners of that fact, the funeral director or other person authorized by law to conduct the business of a funeral director shall be liable to the county in an amount double the amount paid or to be paid by the board of county commissioners of that county;” and,
WHEREAS, NMSA 1978, Section 24-13-7 (1939) requires that "[t]he various district attorneys of this state are hereby expressly empowered and directed to enforce the provisions of this act on behalf of the various counties which they represent;" and,

WHEREAS, the Board of County Commissioners hereby states that the amount allowed to be paid by law for indigent cremations, $600.00, does not cover the actual cost of cremation and burial borne by the mortuary company and the limitations of this policy are made to insure that persons do not utilize the indigent cremation program to avoid paying the actual costs of cremation and burial; and,

NOW THEREFORE, BE IT RESOLVED, by the Catron County Board of County Commissioners that the attached Credit Card Policy is hereby enacted.

APPROVED, ADOPTED, AND PASSED on this 30th day of July 2020.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CATRON

ATTEST:

M. Keith Riddle, Clerk

Anita Hand,
Vice-Chair, District I

Jean Cliff Snyder
Commissioner, District II

Van J. "Bucky" Allred
Chairman, District III
Catron County Indigent/Unclaimed Cremation Policy

Section I. Program Mission

Catron County administers the Indigent/Unclaimed Cremation Program for deceased persons who have passed away within the geographical boundaries of Catron County. The mission is to provide lawful and proper burial with dignity for those decedent residents who are indigent or go unclaimed upon death. Catron County respects each individual in the community and will treat all with maximum regard and respect. The steps for indigent/unclaimed cremation are set forth in the Flowchart designed as Form “A” attached and incorporated hereto.

Section II. Eligibility

A. Eligibility for Indigent Cremation
Eligibility for the Indigent Cremation is based on the deceased person who must meet all three of the requirements listed below per New Mexico State Statute upon death:

1. 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).

2. Catron County Resident
A resident is defined as someone who has lived in Catron 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).
   a. If the decedent is not a resident of Catron County at the time of death, Catron County cannot proceed any further and will send/direct to the appropriate county of residence.
   b. In the event that the decedent’s primary residence is out of the state of New Mexico, but he or she passes away in Catron County, the occurrence will be handled on a case-by-case basis.

3. 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. Catron County shall not accept personal belongings and/or items accompanied with indigent decedents, therefore Catron County is not responsible for such items.

B. Eligibility for Unclaimed Body Cremation
Eligibility for the Unclaimed Cremation is based on the deceased person who must meet all two of the requirements listed below per New Mexico State Statute upon death:

1. Unclaimed Status.
A deceased person’s body is not claimed by a friend, relative or other interested person assuming the responsibility for and expense of disposition.
   a. If a deceased person is not claimed but is known to have a non-indigent estate County Administration will file a Notice of Payment of Burial Expenses, attached as Form “B” with the Probate Court and will file a Claim for Indigent Burial Expenses Form “C” with the Office of the Catron County Clerk if the decedent owns real property.
   b. The Catron County Manager is authorized to apply to probate the estate of an unclaimed decedent in order to re-coup the costs of cremation.

4. Catron County Resident
A resident is defined as someone who has lived in Catron 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).
   a. If the decedent is not a resident of Catron County at the time of death, Catron County cannot proceed any further and will send/direct to the appropriate county of residence.
   b. In the event that the decedent’s primary residence is out of the state of New Mexico, but he or she passes away in Catron County, the occurrence will be handled on a case-by-case basis.

Section III. Services Provided

A. The responsibility of Catron 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(1)). 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).

B. 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 and complete Form “D” Relinquishing Rights to the Body and Decedents Property and Assets. At that time, in adherence with the program’s
procedures and policies of disposition, Catron County will then assume the responsibility for proper disposition (NMSA §24-12A-2).

Section IV. Releasing of Cremated Remains

A. The actual cost to the mortuary cremating the remains of a deceased person far exceeds the $600.00 the County is allowed to pay for the cremation pursuant to NMSA, Section 24-13-3. Accordingly, the cost of cremation is hereby defined as $600 plus the additional actual expenses of the cremation. Prior to cremating remain the County shall receive an invoice for the cremation detailing the actual cost of the cremation from the mortuary.

B. The cremated remains may be released, provided the cost of cremation has been reimbursed, in full, to Catron County, no earlier than ninety days following the date of death and no later than a period of two years from the time of cremation; cremains will be held by either the County or the funeral home during this time.

C. If remains are released the County shall first re-coup its $600.00 and the remaining balance shall be paid to the funeral home.

D. 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.

E. 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.

Section V. 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 six hundred dollars ($600) for the burial or cremation of any adult or minor.
Indigent / Unclaimed Cremation Flowchart

Did the decedent reside in the County or if no residence is known, did they die in the County?

No

Deny County Cremation

Yes

Yes Relatives/ Friends willing to pay and receive estate or a Veteran? Release body to Relatives, Friends or VA

Step 2: Contact Relatives & Check Veterans Status (complete contact checklist)

No Family, friends or veteran status

If the decedent has not been claimed by a friend, relative or other interested person assuming the responsibility for and expense of disposition shall be considered an unclaimed decedent. §21-13-1 (Have closest relative sign disclaimer if applicable)

Yes – Decedent is not a veteran but has Relatives/ Friends who are not willing to pay for the burial and the estate is insufficient to cover the cost of burial or cremation. (Have closest relative sign disclaimer if applicable)

County will pay $600 for Cremation and Burial. County will research Estate and place lien on real property and file notice with the probate court. Relatives are not entitled to the estate until the County is reimbursed.

Funds from the estate, or from the family (including paid to the funeral home) must reimburse the County prior to releasing remains to an individual.
STATE OF NEW MEXICO  
IN THE PROBATE COURT  
CATRON COUNTY  

IN THE MATTER OF THE ESTATE OF  
_________________________, DECEASED.  

No. ____________  

NOTICE OF CATRON 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, Catron County Manager Bill Green hereby give notice that the County of Catron has paid $600.00 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 Catron the amount of  
$600.00 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  
Catron, by operation of law, supersedes any other debt, expense or distribution.  

_____________________________  
Bill Green, County Manager  

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

This instrument was acknowledged before me on the __ day of ____________, 20__, by Bill Green, the  
duly appointed Manager of the County of Catron on behalf of the Board of County Commissioners.  

____________________________________  
My commission expires:  

Notary Public
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 Catron, 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 (“he 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 Catron 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 Catron 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 $[insert amount]; and

Bill Green, County Manager

STATE OF NEW MEXICO )
COUNTY OF CATRON ) ss.

This instrument was acknowledged before me on the _day of __________, 20__, by Bill Green, the duly appointed Manager of the County of Catron on behalf of the Board of County Commissioners.

My commission expires:

_________________________

Notary Public

Form “C”
Catron County Indigent Burial Form to Relinquish Rights to Claiming Decedents Body, Property & Assets

Date: ____________________

Name of Decedent: ____________________

I, ____________________, am the closest living relative or friend of the Decedent. By signing this form I hereby disclaim any rights to the body of the Decedent and by doing so understand that he/she is now considered unclaimed and the responsibility of the County.

Furthermore:
1. I understand that pursuant to New Mexico Law, NMSA 1978, Section 24-13-5 (2000) the body will be cremated and “[a]ll 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, I am disclaiming any right to the estate, if any.

2. I also understand that pursuant to NMSA 1978 24-13-6 (2000) if any funds are provided to a funeral director for the cremation or burial of the decedent, those funds must first be utilized to reimburse the County.

In the event that I, or any other person, claim the remains of the Decedent, I understand that the County must first be reimbursed for the indigent service in the amount of $600 plus the remaining actual cost of the cremation $ ______ totaling $ ________, which shall be paid in full to the Catron County Manager’s Office located at 100 Main Street, Reserve, NM 87830.

(Signature)

STATE OF NEW MEXICO )
 ) SS.
COUNTY OF CATRON )

Subscribed and sworn before me on this _____ day of __________________, 20____

by _____________________________.

____________________________________________________
Notary Public

My Commission Expires

Form “D”