

Smith County Pauper Burial Policy

Introduction and Purpose:

The policies contained herein have been established to govern the disposition of the remains of a Pauper by the County of Smith in accordance with Title 8 Section 694.002 of the Texas Health and Safety Code.

Sec. 1 – Definitions & Use of Terms:

Pauper - a very poor person, more especially, a person who must be supported at public expense.

Remains - human remains or cremated human remains.

Cremated remains - the ashes and bone fragments remaining after the cremation process, which may include the residue of any foreign materials that were cremated with the human remains.

Cremation - the irreversible process of reducing human remains to ashes and bone fragments through extreme heat and evaporation, which may also include the processing and pulverization of bone fragments.

Crematory - a structure containing a furnace utilized for the cremation of human remains.

Columbarium - a durable, fireproof structure, or a room or other space in a durable, fireproof structure, containing niches and used or intended to be used to contain cremated remains.

Niche - a space in a columbarium used or intended to be used for the placement of cremated remains in an urn or other container.

Cemetery - a place that is used or intended to be used for interment, and includes a graveyard, burial park, or mausoleum.

Interment - the permanent disposition of remains by entombment, burial, or placement in a niche.

Grave - a space of ground located in a cemetery or burial park and that is used or intended to be used for interment in the ground.

Plot - space in a cemetery or burial park owned by an individual or organization that is used or intended to be used for interment, including a grave or adjoining graves, a crypt or adjoining crypts, a lawn crypt or adjoining lawn crypts, or a niche or adjoining niches.

Mausoleum - a durable, fireproof structure used or intended to be used for entombment.

Entombment - interment in a crypt.

Crypt - a chamber in a mausoleum of sufficient size to inter human remains.

Funeral Home - a place of business used in the care and preparation for interment or transportation of human remains, or any place where one or more persons, either as sole owner, in co-partnership, or through corporate status, are engaged or represent themselves to be engaged in the business of embalming or funeral directing.

Next of Kin - a person designated in Title 8 Section 711.002(a) of the Texas Health and Safety Code and Section 38(a) of the Texas Probate Code.

Sec. 2 - Legal Authority:

Title 8 Section 694.002 of the Texas Health and Safety Code.

§ 694.002. DUTY OF COMMISSIONERS COURT CONCERNING DISPOSITION OF BODY OF DECEASED PAUPERS.

- (a) The Commissioners Court of each county shall provide for the disposition of the body of a deceased pauper. **The Commissioners Court may adopt rules to implement this section.**
- (b) The Commissioners Court shall consider any information, including the religious affiliation of the deceased pauper, provided by a person listed in Section 711.002(a).

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, § 211, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 929, § 1, eff. Sept. 1, 1999.

Sec. 3 - General Provisions:

- a. All proceedings relating to the final arrangements for Pauper remains shall be conducted with the utmost solemnity and respect for the decedent.
- b. Decedent must have died within the boundaries of Smith County, Texas.
- c. Decedent must have domiciled and/or resided within the boundaries of Smith County, Texas for a minimum of six (6) months.
- d. All Pauper remains accepted by Smith County will be cremated unless there is positive verification that cremation conflicts with the beliefs and practices of the decedent's religious affiliation. (Title 8, Section 711.002(a) of the Texas Health & Safety Code.)
- e. If the remains are to be cremated, the cremation shall conform with all applicable state and federal regulations.
- f. The actual preparation, cremation and/or interment of Pauper remains shall be accomplished by a licensed Funeral Director at a facility designed and licensed for the purpose.
- g. Authorization by the Office of the Smith County Judge is mandatory **prior to** the pick-up, transportation, storage, preparation and/or disposition of the remains of a person for which the county is assuming responsibility for final arrangements. A funeral home taking possession of the remains of such a person, without the express authorization of the Office of the Smith County Judge, shall have assumed all responsibility for that person's final arrangements.

Sec. 4 - Specific Provisions:

- a. County shall be the sole authority regarding its responsibility for disposition of the remains of a person in accordance with Title 8 Section 694.002 of the Texas Health and Safety Code.
- b. County will assume responsibility for disposition of the remains of a person **only** when all other avenues of accountability, including the responsibilities of a person and/or persons listed in Section 711.002(a) of the Texas Health & Safety Code, (Next of Kin), have been thoroughly exhausted and it has been conclusively established that the decedent is indeed legally entitled to cremation/burial at county expense.
- c. County shall be the sole authority regarding whether the decedent meets the Pauper criteria.
- d. County will not act on behalf of anyone including, but not limited to, social agencies, medical facilities, funeral homes, their employees and/or individuals, concerning the disposition of the remains of a Pauper.
- e. County will not offer or give legal advice or opinions to anyone including, but not limited to, social agencies, medical facilities, funeral homes, their employees and/or individuals, concerning the disposition of the remains of a Pauper.
- f. County will not participate jointly with anyone including, but not limited to, social agencies, medical facilities, funeral homes, their employees and/or individuals, concerning the disposition of the remains of a Pauper.
- g. County may, at its option, relinquish its authority over the disposition of the remains of a Pauper, once established.
- h. County shall be the sole authority regarding the method of disposition of the remains of a Pauper.
- i. County shall be the sole authority regarding the facility utilized for disposition of the remains of a Pauper.
- j. County reserves the right to witness the disposition of the remains of a Pauper.
- k. County shall be the sole authority regarding the location of the final resting place of the remains of a Pauper.
- l. Final resting place of the remains of a Pauper shall be internment in a grave, or niche in a Columbarium used or intended to be used for the placement of cremated remains, or in a Mausoleum crypt.
- m. County shall arrange for the proper and lawful safekeeping of Pauper remains.
- n. Documentation as to the whereabouts of the remains shall be kept in the records of the attending Funeral Home in accordance with Title 8, Section 711.003 of the Texas Health & Safety Code, and in the Office of the Smith County Judge.
- o. Proper documentation must accompany the entire process at all times and copies shall be furnished in a timely manner to the Office of the Smith County Judge.
- p. Any and all authorizations, certificates, orders to cremate, etc., shall be properly filled out in accordance with state law and signed by the County Judge **prior to** the pick-up, transportation, storage, preparation and/or disposition of the remains of a person for which the county is assuming responsibility for final arrangements.
- q. Next of Kin desiring to claim the remains of a Pauper, will be required to reimburse Smith County for its associated costs **before** Smith County relinquishes its authority over, and possession of, the remains.

Conclusion:

All policies contained herein are in strict compliance with Title 8 Section 694.002 of the Texas Health and Safety Code. These policies are subject to change at any time. All questions relating to the aforementioned policies should be directed to the Office of Smith County Judge.