



CITY OF BEND

POLICY FOR MEMORIALS/MONUMENTS IN PUBLIC RIGHTS-OF-WAY

Policy No. 2024-3

Bend Code Chapter 1.30.005 provides for ‘City Manager Authority to Adopt Administrative Regulations, Policies and Guidelines.’ All regulations, policies and guidelines adopted by the City Manager shall be consistent with the City of Bend Charter, the Bend Code, and Council ordinances.

The following policy conforms to the above stated standards.

Authorized by City Manager:

DocuSigned by:
Eric King
409FF33FB4F64D3

Eric King, City Manager

Dated: 5/23/2024

Reviewed by Legal Counsel:

DocuSigned by:
Mary Winters
8B6252FA6CD44E1

Mary Winters, City Attorney

Dated: 5/23/2024

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I. PURPOSE

The purpose of this Policy is for the City to exercise its ability to engage in government speech by creating a policy allowing for the hosting of a limited number of memorials or monuments to individuals in selected locations in or on City of Bend public rights-of-way. All considerations and decisions about memorials or monuments will be made in light of the City's responsibility to manage public rights-of-way for safe access and use by the general public.

II. FINDINGS

A. In 2021, Barry Washington, Jr. was killed in downtown Bend. In 2023, Taylor Wyss was killed in downtown Bend close to the location of Washington's death. Both Washington and Wyss were victims of gun violence in public places, in an area of public right-of-way. Unfortunately, these were neither the first and will likely not be the last people in Bend to lose their lives to violence.

B. In the time following the deaths of Washington and Wyss, family members and others established and maintained memorials at the locations of the deaths.

C. The City recognizes the desire and need for people, including family members, community members, and others, to commemorate and recognize the lives of those who have been lost, and acknowledges that there are circumstances where that commemoration may be appropriate in a public right-of-way.

D. Too many lives are lost to violence. The City believes this statement to be true irrespective of any position on rights related to gun ownership, or debates about the appropriate degree of gun regulation.

E. Government, including local government, has the ability to engage in its own speech to communicate its values, messages, and priorities. The City intends do so by creating this Policy to host a limited number of memorials or monuments to individuals lost to violence in Bend, by guns or other causes, in some locations in public rights-of-way managed by the City.

III. DEFINITIONS

A. "Memorial" or "monument" means an installation, structure, art display or piece of artwork designed and intended to commemorate the life of an individual. For the purposes of this Policy, the City intends this Policy, the application process, and the requirements of the Policy to apply to memorials and monuments that are intended to be permanent. All memorials and monuments proposed to be in public rights-of-way will be subject to this Policy and any other requirements and standards adopted or applied by the City, in its sole discretion. Items or structures that are left, placed, or constructed in City rights-of-way without approval under this Policy are subject to removal, at the

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sole discretion of the City.

IV. POLICY & PROCEDURE

A. No person or entity shall place any memorial or monument in any location in the public rights-of-way in the city without first obtaining a memorial permit.

B. The applicant for a memorial permit must be a direct family member of the person to be commemorated or have a signed written authorization from a direct family member on a form determined by the City.

C. The City will generally not require insurance or proof of insurance from an applicant for a memorial permit.

D. As part of the memorial permit application, applicants will be required to submit a proposed design and location for a memorial or monument for the City's¹ consideration. Applicants are responsible for securing any and all permissions, rights, and/or licenses needed from the creator and/or artist of the memorial or monument.

E. Generally speaking, applicants for a memorial permit should demonstrate that there is unanimity or consensus among the family of the person to be commemorated, including but not necessarily limited to the design and location of the proposed memorial or monument.

F. There will be no fee for a memorial application or permit.

G. The City considers monuments and memorials in public rights-of-way proposed under this Policy to be its own expression, and therefore reserves all discretion to determine whether it will host a particular monument or memorial. This includes but is not limited to discretion on whether to accept a proposed design, whether to agree to a proposed location, and whether to continue maintaining or to remove any existing memorial or monument that has previously been placed or approved.

H. Without in any way limiting that discretion, the City will include consideration of the following non-exhaustive list of factors and issues in determining whether to approve a memorial application:

1. The memorial or monument is intended to commemorate an individual who lost their life in Bend due to violence.
2. Whether the individual to be commemorated lost their life in a public place,

¹ For purposes of this policy, all references to decisions or considerations of or by the City mean the City Manager or their designee(s).

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such as a public street or other public rights-of-way.

3. Whether the proposed memorial or monument is consistent with the values of peace, non-violence, equality, inclusion, and a welcoming environment for all residents and visitors to the city. The City expressly reserves the right to determine whether a memorial or monument is consistent with City values, messages, and priorities, and may deny any memorial application if any aspect of the proposal is inconsistent with the City's expression of its values, messages, or priorities.

4. Whether the proposed design can be safely and effectively integrated at the proposed location in the public right-of-way without compromising access or safety for pedestrians and others using the public right-of-way, including access under the ADA and PROWAG. Any proposed design must comply with any affected or applicable City standards and specifications and should not present any actual or potential interference with any current or future infrastructure.

5. Generally speaking, proposed memorials and monuments should not occupy more physical space than the space occupied by a typical park bench, and preferably less space, so that the memorial or monument can be effectively integrated into the space of the public right-of-way without interfering with or detracting from traditional uses of public rights-of-way for movement of pedestrians and vehicles, and to facilitate the conducting of business and other activities. The City reserves all rights to determine whether the size, location, and other characteristics of a proposed memorial or monument are compatible with the proposed location or area.

6. Memorials and monuments should be constructed with durable and sustainable materials and techniques in order to provide a lasting commemoration and to minimize expense and difficulty of any maintenance that may be needed over time. Components that involve flashing lights, movement or components that move, or connections to utilities or infrastructure and other elements that can add complexity and complication to construction or maintenance are generally disfavored. The City may require that proposed memorials and monuments adhere to a City-approved template or standard.

7. The City will consider whether the proposed memorial or monument and the proposed location are compatible with the surrounding area and uses. Residential areas are generally disfavored for memorials or monuments subject to this Policy, in that memorials and monuments may sometimes inspire vigils, commemorations, or other gatherings.

8. The City will generally approve only a single memorial or monument for a particular individual.

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- I. The City may deny a memorial application in its sole discretion, whether for factors included in this Policy or for any other reason.
- J. The City will have sole maintenance responsibility for an approved memorial or monument, except where the City, in its sole discretion, enters into or requires a maintenance agreement with another party.
- K. No approved and/or installed memorial or monument may be expanded, altered, or modified in any way without express written approval from the City.
- L. The City reserves the right and full discretion to remove, alter, or modify an approved and/or installed memorial or monument at any time, with or without notice to an applicant or any other party. Approval of a memorial permit in no way grants the applicant or any other party any ownership, control, or rights to the memorial or monument or to any location in the public right-of-way, and any permissions, express or implied, related to an application for a memorial permit or a memorial permit may be terminated or revoked by the City at any time.
- M. Consideration or approval of a memorial application is not a land use decision, and no particular timelines or processes apply.
- N. The manner in which the City considers a memorial application and the City's decision on an application are solely at the discretion of the City. Such decision is not subject to any appeal.

Certificate Of Completion

Envelope Id: B65B154507624D5597AD9946DCBBA7BD	Status: Completed
Subject: Complete with DocuSign: ADM 2024-3 ROW Memorial.pdf	
Source Envelope:	
Document Pages: 6	Signatures: 2
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Brenda Mingus
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	710 NW Wall St.
	Bend, OR 97703
	bmingus@bendoregon.gov
	IP Address: 98.142.36.35

Record Tracking

Status: Original	Holder: Brenda Mingus	Location: DocuSign
5/23/2024 4:27:51 PM	bmingus@bendoregon.gov	

Signer Events

Mary Winters
 mwinters@bendoregon.gov
 Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

 8B6252FA6CD44F1...
 Signature Adoption: Pre-selected Style
 Using IP Address: 98.142.36.35


Timestamp

Sent: 5/23/2024 4:28:26 PM
 Viewed: 5/23/2024 4:28:54 PM
 Signed: 5/23/2024 4:29:13 PM

Electronic Record and Signature Disclosure:

Accepted: 5/23/2024 4:28:54 PM
 ID: 6c1abf12-21df-47bc-8b55-62e857ad3029
 Company Name: City of Bend

Eric King
 eking@bendoregon.gov
 City Manager
 City of Bend
 Security Level: Email, Account Authentication (None)

DocuSigned by:

 409FF33EB4E64D3...
 Signature Adoption: Pre-selected Style
 Using IP Address: 98.142.36.35

Sent: 5/23/2024 4:29:14 PM
 Viewed: 5/23/2024 4:29:45 PM
 Signed: 5/23/2024 4:29:49 PM

Electronic Record and Signature Disclosure:

Accepted: 5/11/2021 3:40:52 PM
 ID: 1be4d586-76d4-4e39-83e4-3feae319b4d0
 Company Name: City of Bend

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/23/2024 4:28:26 PM
Certified Delivered	Security Checked	5/23/2024 4:29:45 PM
Signing Complete	Security Checked	5/23/2024 4:29:49 PM
Completed	Security Checked	5/23/2024 4:29:49 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Bend (we, us or City) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you may be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below. Paper copies may also be requested from City by contacting Procurement.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

Notices and disclosures may be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we may provide electronically to you through the DocuSign system required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. You can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact the City:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To advise the City of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at dgalanaugh@bendoregon.gov and in the body of such request you must state: your previous email address, your new email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to dgalanaugh@bendoregon.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number.

To withdraw your consent with the City

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;**
- ii. send us an email to dgalanaugh@bendoregon.gov and in the body of such request you must state your email, full name, mailing address, and telephone number.**

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here:
<https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and**
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and**
- Until or unless you notify the City as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by the City during the course of your relationship with the City.**