



ACHD ROADSIDE MEMORIAL POLICY

1. Purpose

Idaho Code § 40-1310(8) grants ACHD general supervisory authority over all public highways, public streets, and public rights-of-way. Idaho Code § 49-1316 provides for the erection of memorials to persons killed in traffic accidents. Pursuant to those and other statutory authorities, ACHD hereby adopts this Policy. The purpose of this Policy is to provide family and friends of persons fatally injured in traffic accidents the opportunity to memorialize their loved ones by placing authorized Roadside Memorials within the public rights-of-way in a safe and consistent manner. In addition to easing the grieving process, such Roadside Memorials, when installed appropriately, may increase public awareness of the need for safety on and around public streets.

2. Definitions

- a. The **“Deceased”** is any human being fatally injured in a traffic accident within a public right-of-way and for whom an Applicant seeks a Roadside Memorial.
- b. An **“Immediate Family Member”** is a spouse, child, brother, sister, mother, father, grandparent, or legal guardian of the Deceased.
- c. An **“Applicant”** is any person who has submitted, or is working toward submitting, an application for a Roadside Memorial to be registered and licensed with ACHD.
- d. A **“Registrant”** is any person who has applied for and received approval from ACHD for a Roadside Memorial.
- e. A **“Ghost Bike”** is a bicycle, predominantly colored or painted white, installed within a public right-of-way as a memorial to a Deceased who was fatally injured in a traffic accident while riding a bicycle. A sign memorializing the Deceased cyclist and/or urging awareness of cyclists on public streets may be affixed to a Ghost Bike.
- f. A **“ACHD Memorial Sign”** is the installation of a memorial sign within a public right-of-way by an ACHD employee, pursuant to a license agreement with the District, as a Public Memorial.
- g. A **“Private Memorial”** is any decoration or group of decorations including, but not limited to flowers, balloons, crosses, wreaths, Ghost Bikes, or signs placed or erected within a public right-of-way by a person other than an employee of the District.

- h. A **“Public Memorial”** may take the form of an ACHD Memorial Sign, Ghost Bike, plaque, architectural stone, or other materials proposed by the Applicant and approved by the District, to ensure public safety, which is placed or erected within a public right-of-way.
- i. The term **“Roadside Memorial”** collectively refers to Private Memorials, Public Memorials and/or ACHD Memorial Signs. Any ACHD approved Roadside Memorial that is placed in the public rights-of-way is authorized solely as a temporary license, subject to the District’s sole discretion and absolute right of revocation.
- j. **“ACHD”** or the **“District”** is the Ada County Highway District.

3. Application and Registration

All Roadside Memorials must be registered and approved by the District or will be subject to removal. All Roadside Memorials, including those installed prior to the approval of this Policy, must be registered and/or licensed with the District as follows:

- a. Only an Immediate Family Member, or another person with written consent of an Immediate Family Member, may apply for a Roadside Memorial.

For any Deceased that was a minor, i.e. those under the age of 18 at the time of death, only a parent or other legal guardian may (i) apply to have a Roadside Memorial registered for the deceased minor; or (ii) provide written consent to another person to apply to have a Roadside Memorial registered for the Deceased minor.

For a Private Memorial, an Applicant must submit to ACHD a “Roadside Memorial Registration/Sign Application.” For Public Memorials and ACHD Memorial Signs, an Applicant must submit to ACHD a “Registration/License Agreement Application Form.”

- b. If and when ACHD approves an application for a Private Memorial, the Registrant will be responsible for the fabrication, maintenance, and costs associated with the Private Memorial in conformance with this Policy.
- c. The Registrant for any Private Memorial may remove the Private Memorial at any time. ACHD requests that the applicable Registrant provide ACHD notice whenever a registered Private Memorial has been, or is about to be, removed.
- d. Private Memorials may remain within the public right-of-way for a maximum of one (1) year from the date of installation or registration, whichever occurs first. Upon expiration of this one (1) year period, the Registrant will have thirty (30) days in which to remove the Private Memorial from the site.

- e. Notwithstanding the prior paragraph, ACHD retains absolute discretion to remove any Roadside Memorial at any time, including registered Private Memorials. Before removing a Private Memorial, whether registered or unregistered, ACHD will make a good faith effort to contact and provide advance notice of removal to the creator of an unregistered Private Memorial or the Registrant of a registered Private Memorial.
- f. For Applicants seeking to place a Roadside Memorial within or encroaching upon any real property outside the District's control, the application must include signed written consent from the owner of such real property.

Only one Roadside Memorial may be registered for any given traffic accident. If a given traffic accident resulted in more than one fatality, and the Deceased are from different families, then any Applicant seeking to place a Roadside Memorial related to that accident must include with the application signed written consent from the Immediate Family Member(s) of all others who were fatally injured in that accident regarding: (i) whether a Roadside Memorial should be installed and if so, (ii) which names, if any, should appear on the Roadside Memorial. However, no consent shall be required for any Deceased who was directly involved in criminal activity that caused the traffic accident or caused the Deceased's death.

- g. No Roadside Memorials shall be installed or erected for any Deceased who was directly involved in criminal activity that caused the traffic accident and/or led to the Deceased's death, including but not limited to, driving under the influence, reckless driving, or fleeing law enforcement officers. In coordination and cooperation with law enforcement, ACHD shall determine if the traffic accident involved criminal activity.

4. Appeal from District Decision

- a. If the Applicant does not accept the decision of the District, the Applicant may initiate an appeal by filing a written notice of appeal with the Clerk of ACHD.
- b. Any appeal must be filed within thirty (30) calendar days from the date of the decision being appealed. If the thirtieth day falls on a weekend or holiday, the notice of appeal may be filed the following business day.
- c. The appeal shall refer to the decision being appealed, identify the appellant by name, address, and telephone number, and state the grounds for the appeal. The grounds shall include a written summary of the provisions of this Policy relevant to the appeal and/or the facts relied upon and shall include a written argument in support of the appeal. A notice of appeal that does not comply with the provisions of this paragraph shall not be considered by the District, and no further action with respect thereto shall be taken under this Policy.
- d. The District shall have twenty-one (21) calendar days to reply to the appeal and may, during and after such time, meet with the appellant to discuss the matter and may also reconsider and/or amend the decision which is being appealed.

- e. No later than sixty (60) days after receiving the appeal, the District Director may reverse or affirm, in whole or in part, or otherwise modify, amend, or supplement the decision being appealed. The District Director's decision following appeal shall be final.

2. Public Memorials

- a. Consistent with the other provisions of this Policy, the District will consider License Agreement Applications for Public Memorials to replace Private Memorials.
- b. If the District approves a License Agreement Application, the Registrant shall be responsible for all costs of fabricating, installing, and maintaining an approved Public Memorial.

3. ACHD Memorial Signs

- a. In lieu of a Private Memorial or Public Memorial, an Applicant may submit a "Roadside Memorial Registration/Sign Application," for which there will be an administration fee, to request the District to install an ACHD Memorial Sign.
- b. Upon receipt and approval of a completed application, the District will install an ACHD Memorial Sign in accordance with applicable District policies and standards for roadside signs. There will be an administration fee to the Registrant for the sign to cover the costs of fabricating and installing the sign. The District will retain ownership of the sign.
- c. An ACHD Memorial Sign will read "PLEASE DRIVE SAFELY." Immediately below the sign, a separate name plaque will be added that reads "IN MEMORY OF (the Deceased's name)."
- d. For fatal accidents involving alcohol or a controlled substance, and where the driver causing the accident was convicted of vehicular homicide due to driving under the influence, or was fatally injured and shown to have been driving under the influence based on toxicology reports, Applicants may request the ACHD Memorial Sign include specific phrases relating to the cause of the accident, including but not limited to, the phrase "PLEASE DON'T DRINK AND DRIVE" instead of "PLEASE DRIVE SAFELY."
- e. The District will not automatically replace an ACHD Memorial Sign should it be damaged, stolen, or vandalized, or if the District determines that the condition of the sign has deteriorated to a point where it is no longer serviceable. However, a new sign application, for which there will be no fee, may be completed and returned to the District to request a replacement sign.

5. Placement of Roadside Memorials

Roadside Memorials may be placed within a public right-of-way owned by the District only under the following conditions:

- a. Roadside Memorials will be located in reasonably and practicably close proximity to the location of the traffic accident, depending on site and safety conditions and subject to the

other provisions of this Policy. The District reserves the right, in its sole and absolute discretion, to determine the appropriate location of Roadside Memorials.

- b. Roadside Memorials may not be placed within traffic medians or in a construction or maintenance work zone. The District can relocate or temporarily remove a Roadside Memorial at any time for construction or maintenance operations.
- c. Roadside Memorials must comply with all applicable federal, state, and local laws, rules, and regulations.
- d. Roadside Memorials may not compromise public safety by impeding vision of roadway users or blocking access to the right-of-way. Roadside Memorials may not create unsafe conditions, as determined by the District, for passing motorists, pedestrians, bicyclists, or people maintaining or visiting the Roadside Memorials.
- e. The Roadside Memorials must be located outside, and not encroach upon, any paved portion of the right-of-way, unless the District has provided express written consent thereto.
- f. Under federal law, real property acquired with transportation enhancement activities funds from the Federal Highway Administration must be managed in compliance with the property management requirements in 23 CFR § 710, Subpart D. These provisions prohibit any use of the property for purposes other than those for which the transportation enhancement activity funds were provided, which purposes do not include the installation of roadside memorials. Accordingly, the District will (i) immediately remove any Roadside Memorial installed within real property subject to 23 CFR § 710, Subpart D; and (ii) reject any application for a Roadside memorial to be placed within real property subject to 23 CFR § 710, Subpart D.
- g. Any ACHD approved Roadside Memorial that is placed in the public rights-of-way is authorized solely as a temporary license, subject to the District's sole discretion and absolute right of revocation.

6. Physical Requirements

- a. Private Memorials, except Ghost Bikes, may not exceed the following dimensions:
 - i. Twenty-four (24) inches in height, as measured from the ground.
 - ii. Twenty-four (24) inches in width, as measured along the right-of-way.
 - iii. Twenty-four (24) inches in depth, as measured perpendicular to the right-of-way.

- b. All ACHD approved Roadside Memorials should be kept free of all adornments, including but not limited to decorations and flowers. No Roadside Memorial may contain candles, flashing lights, glass, moving or spinning parts, music or amplified sound, sharp objects, or any other features determined by the District to be a potential threat to public safety.

c. Removal by District

- a. The District retains sole and absolute discretion to remove any Roadside Memorial, including if it fails to comply with applicable laws or this Policy. Notwithstanding, ACHD will do the following:
 - i. If the District determines that a Roadside Memorial fails to comply with applicable laws, including but not limited to this Policy and laws and statutes addressing encroachments on public rights-of-way, and/or if a Roadside Memorial appears abandoned, the District will make good faith efforts to contact the Registrant or, if the Roadside Memorial has not yet been registered, the individual(s) responsible for installing and/or maintaining the Roadside Memorial.
 - The District will tag the Roadside Memorial with a notice of violation, providing contact information for those who may wish to cure the deficiencies, as well as a deadline for compliance.
 - ii. If the Roadside Memorial remains non-compliant or abandoned ten (10) business days after it has been tagged with notice of violation, the District may remove any remaining items from the Roadside Memorial site.
 - iii. Notwithstanding the foregoing, the District may immediately remove any Roadside Memorial if it presents a threat to public safety or the removal is necessitated for any other ACHD traffic or operational need or condition.
- b. The District will hold items removed from a Roadside Memorial for thirty (30) calendar days to allow the Registrant or, if the Roadside Memorial has not yet been registered, the individual(s) responsible for installing and/or maintaining the Roadside Memorial, to retrieve those items. Any items not retrieved during the thirty (30) day holding period will be disposed of by the District.