

*City of San José, California*

**COUNCIL POLICY**

<b>TITLE</b> REMOVAL OF SHRINES OR MEMORIALS	<b>PAGE</b> 1 of 2	<b>POLICY NUMBER</b> 9-15
<b>EFFECTIVE DATE</b> March 8, 2016	<b>REVISED DATE</b>	
<b>APPROVED BY COUNCIL ACTION</b>	COUNCIL ACTION 3/8/16, Item 5.1	

**BACKGROUND**

This policy is being developed to address instances when shrines or memorials are erected on City property or in the public right-of-way and within City boundaries without approval from the City. This policy provides guidelines for departments to follow to ensure consistent practices across the City when removing unauthorized shrines or memorials.

**PURPOSE**

To establish a process, procedures to be used, and a time frame for the removal of shrines or memorials placed on City property or in the public right-of-way and within City boundaries without approval from the City.

**POLICY**

It is the Policy of the City Council that the guidelines below are to be used when removing shrines or memorials placed on City property or in the public right-of-way and within City boundaries without City approval. These guidelines have been developed to guide the appropriate City departments.

**GUIDELINES**

**1. Notification to the City regarding a shrine or memorial that is obstructing the public right-of-way**

The Department of Transportation (DOT) is currently the primary responder in most cases where material is illegally placed or dumped in the public right-of-way. Upon receipt of notification if a shrine or memorial in the public right-of-way by a member of the public or City staff, DOT will assess the location and determine jurisdictional responsibility. If the location is in the public right-of-way and within the boundaries of the City of San José, DOT will handle the removal. If the location is not in the public right-of-way but does fall under the City’s jurisdiction, but on City property, DOT will determine which department has the primary responsibility for removal and will notify the appropriate responder(s) from that department who will execute the necessary steps to proceed with the removal of the shrine or memorial.

**2. Notification to the City regarding a shrine or memorial that is erected on City property**

Upon receipt of notification of a shrine or memorial on City property by a member of the public or City staff, the department receiving the notification will assess the location and determine jurisdictional responsibility. If the location does fall under the City’s jurisdiction, the receiving department will determine which department has the primary responsibility for removal and will notify the appropriate responder(s) from that department who will execute the necessary steps to proceed with the removal of the shrine or memorial.

**3. Removal of shrines or memorials**

- a. Prior to removing the shrine or memorial, the responsible department will make reasonable efforts to coordinate with the family of the person for whom the shrine or memorial was

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erected or the party who erected the shrine or memorial regarding the details of the actual removal of the shrine or memorial and to identify a family member or other individual as a contact point for communication from the City regarding the removal of the items at the reported location. The responsible department will notify this contact person that the City will remove the shrine or memorial ten (10) calendar days following the City's receipt of notification that the shrine or memorial is on City property or in the public right-of-way. The contact person will be encouraged to contact the family members or other interested parties so that they may remove the items within ten (10) calendar days before the City removes them. The responsible department will also notify the contact person that anything remaining at the site after ten (10) calendar days from the date of notification to the City may be subject to removal, whether or not the contact person has in turn contacted a family member or other interested party. The City reserves the right to remove a shrine or memorial sooner than ten (10) calendar days if the shrine or memorial, or its presence at a particular site, creates a public nuisance as defined in the SJMC Section 1.13.050 and as determined by the Chief of Police, by the Department Director for the responsible department, or by the designee of the Chief of Police or the Department Director.

- b. The responsible department will coordinate with the Police Department if security for the removal of a shrine or memorial is requested by the responsible department. The Police Department will not be the department that physically removes a shrine or memorial, but will be present during the removal if needed.
- c. In instances where the memorial is identified as being gang-related, Youth Intervention Services (YIS) in the Department of PRNS will be notified in order to educate the family on the Removal of Shrines or Memorials Policy. YIS will not be the department responsible for physically removing a shrine or memorial, but will perform the appropriate coordination with the family or family representative as needed.
- d. If a point of contact has been identified through the initial outreach process, an attempt will be made to contact that person after the 10-day period has expired to arrange for delivery of any items of perceived value that remain at the location. If the City is not able to reach the contact person or the contact person is not able to make arrangements to collect the items, the responsible department will proceed with removal of all items at the location. The City Guidelines for Property Identification that are used for homeless encampment cleanups shall then apply to the sorting and disposition of personal property from the site.
- e. A family member wishing to reclaim items that are removed and stored should contact the responsible City department to make arrangements to retrieve the items.

**4. Repeat occurrences of shrines or memorials in the same location**

- a. The department originally responsible for the removal of an unauthorized shrine or memorial is not obligated to patrol the original location of a shrine or memorial that has been removed to determine if new items are placed there. If, however, the responsible department receives a report or complaint of new items in the same location, removal may occur at any time without additional notification to the original contact person or without a 10-day waiting period. If a contact has been established, an attempt will be made to notify that person that additional items are present and need to be removed.
- b. Personal property at the site of a repeat occurrence of a shrine or memorial will be handled pursuant to the process outlined in Section 3.d of this policy.