

City of Framingham



The City Council of Framingham



ORDER NO. 2023-053 REQUEST OF THE ORDINANCE AND RULES SUBCOMMITTEE

UPON THE REQUEST OF THE ORDINANCE AND RULES SUBCOMMITTEE, THE CITY OF FRAMINGHAM, THROUGH THE FRAMINGHAM CITY COUNCIL, IT IS SO ORDERED:

That the Council votes to approve an Ordinance Codifying City Policy regarding the Display of Flags on Municipal Property in Framingham. Be it ordained by the Framingham Council, as follows:

- Whereas,** Framingham traditionally displays three flags on municipal property: the United States, the Commonwealth of Massachusetts, and the City of Framingham; *and*
- Whereas,** Historically, the City of Framingham has also on occasion flown various other flags in addition to the flag of the City of Framingham; *and*
- Whereas,** The question of what parameters could be legally applied to the selection of such other flags became a subject of dispute in 2017 when the City of Boston declined to fly the Christian flag of Camp Constitution, prompting the court case *Shurtleff v. Boston*, which was appealed all the way to the Supreme Court of the United States; *and*
- Whereas,** In June 2022, the Supreme Court released an opinion in *Shurtleff v. Boston* stating that the City of Boston's prior policy for determining which flags could fly on the third flagpole did not meet the standard of government speech, as it did not clearly limit such flag-raising to expressing official messages of the City, and therefore this prior policy had to be regarded as creating a public forum for private speech to which all voices were entitled to access; *and*
- Whereas,** Writing for the Court, however, Justice Stephen Breyer laid out a test by which the raising of other flags on the City's flagpole could be properly limited to government speech, and stated explicitly that "nothing prevents Boston from changing its policies going forward"; *and*
- Whereas,** It is important that the City of Framingham to be able to express its official solidarity with people who have come to Framingham from other nations, and to express other official, City-endorsed messages from the Mayor and City Council that may be appropriately accompanied by ceremonial flag-raising; *and*
- Whereas,** For these expressions of official City sentiment to be clearly construed by the residents of Framingham, it is also important to clearly demarcate and codify that the City's flagpoles are not intended to serve as a forum for free expression by the public; *and*
- Whereas,** The clearest way to establish a new City of Framingham policy in regard to the display of flags in our City is to enshrine our standards for such displays in city ordinance;
- Therefore,** *Be it ordained by the Framingham Council, as follows:*

City of Framingham



The City Council of Framingham



SECTION 1.

Article X of the Framingham Ordinances is hereby amended by adding at the end thereof the following new section:

Section 8. DISPLAY OF FLAGS ON MUNICIPAL PROPERTY

The purpose of this Ordinance is to establish guidelines for the display by the City of Framingham of (1) flags of governments recognized by the Federal Government, and (2) other flags on municipal property.

Section 8.1 Policy.

It is the policy of the City of Framingham that flags should be displayed in conformance with Federal and State policies, as stated in the Federal "Our Flag" publication of the Congress, House Document No. 96-144; Chapter 2, Section 6 of the Massachusetts General Laws and Chapter 2, Section 6A of the Massachusetts General Laws.

Section 8.2 Order of Precedence.

Outdoor flags will be flown at City facilities in the following order of precedence: first, the United States flag; second, the Commonwealth of Massachusetts flag; and third, the City of Framingham flag.

Section 8.3 Special occasions of Federal, State and local proclamation.

1. Flags at the Memorial Building shall be displayed in accordance with the above standards. However, the Mayor may order flags to be lowered to half-staff including, but not limited to flags of the United States of America and the Commonwealth of Massachusetts in honor of the death of a President of the United States, Governor of the Commonwealth, local leader, City employee killed in the line of duty, or in observance of a specific event or circumstance.
2. Pursuant to proclamation of the Mayor and Council, other flags may be flown by the City in place of the City of Framingham flag

Section 8.4 Other Flags.

The City's flagpoles are not intended to serve as a forum for free expression by the public. The following flags may be displayed by the City as an expression of the City's official sentiments:

1. *Flags of Governments Recognized by the United States.* Flags of governments recognized by the United States may be displayed upon the proclamation of the Mayor and Council.

City of Framingham



The City Council of Framingham



2. *Flags Displayed in Conjunction With Official Events or Ceremonies.* By proclamation of the Mayor and Council, other flags may be displayed as official City events or ceremonies.
3. *POW MIA.* The Prisoner of War (POW) or Missing in Action (MIA) flag.
4. *Pride Flag or Progress Pride.* The rainbow pride flag was designed by Gilbert Baker for the 1978 San Francisco Gay Freedom Day celebration. The flag was designed as a "symbol of hope" and liberation. The flag does not depict an actual rainbow.
5. *Juneteenth Flag.*
6. *Ownership of Other Flags.* The City shall acquire ownership of all flags that it flies in place of the City of Framingham flag.

SECTION 2.

Severability

If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 3.

Effective Date

This ordinance shall take effect on August 1, 2023.

FIRST READING:

YEAS: Bryant, Cannon, King, Leombruno, Long, Mallach, Ottaviani, Stefanini, Steiner
NAYS: None
ABSTAIN: None
ABSENT: Alexander, Stewart-Morales. All other members were present in person or via teleconferencing
PASSED IN COUNCIL: July 18, 2023

City of Framingham



The City Council of Framingham



SECOND READING:

YEAS: Alexander, Bryant, Cannon, King, Leombruno, Long, Mallach, Ottaviani,
Stefanini, Steiner, Stewart-Morales
NAYS: None
ABSTAIN: None
ABSENT: All members were present in person or via teleconferencing.
PASSED IN COUNCIL: September 5, 2023

A TRUE RECORD, ATTEST:

9/7/2023
Date Approved

Lisa A. Ferguson
Lisa A. Ferguson, City Clerk
Emily L. Butler, Assistant City Clerk

9/7/23
Date Approved

Charlie Sisitsky
Charlie Sisitsky, Mayor