



TOWN OF FAIRFAX

STAFF REPORT

May 4, 2022

TO: Mayor and Town Council

FROM: Lorena Barrera, Administrative Analyst

SUBJECT: Adoption of Resolution establishing a Flag Display Policy

RECOMMENDATION

That council adopt the attached resolution establishing a Flag Display Policy for the Town of Fairfax.

BACKGROUND

At the April 6, 2022 Town Council Meeting Council approved a request to display the Ukraine flag in front of Town Hall as a show of support for the Ukraine people. To address future requests, staff drafted a flag policy that includes consideration and purpose for displaying a flag and states the location of the displayed flag.

DISCUSSION

Historically, the Town of Fairfax has displayed the United States flag and the California state flag on the flagpole that stands in front of Town Hall. That flagpole is managed by the Ross Valley Fire Department which raises, lowers, and flies at half-staff the American flag based on federal guidelines. With a Flag Display Policy, Council can approve displaying flags, or the display of commemorative flags on the flagpole mount on the front wall of the Town Hall building, below the roofline above the front door to Town Hall.

The attached resolution adopts a Flag Display Policy outlining the standards and procedures for the display of flags at Town Hall consistent with federal and state law governing the display of the United States and state flags. The Flag Display Policy is designed to ensure that the Town's flagpoles are reserved for government speech, and to avoid raising First Amendment free speech issues. Under the government speech doctrine, the Town may advance its own viewpoint without being required to accommodate the messages of others in the same forum.

The policy ensures that the Town retains control of its flagpoles to fly commemorative flags that express the Town's official sentiments. The policy prohibits third-party requests for commemorative flag displays, only allowing for the display of commemorative flags when the request is brought forth by a Town Council member and then authorized by the Town Council as an expression of the Town's official sentiments.

FISCAL IMPACT

None.

ATTACHMENT

Resolution with Flag Display Policy attached as Exhibit A.

RESOLUTION 22-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ADOPTING A FLAG DISPLAY POLICY**

WHEREAS, the Town of Fairfax displays the United States flag and the California State flag at Fairfax Town Hall; and,

WHEREAS, the Town's flagpoles are not intended to be a forum for free expression by the public; and

WHEREAS, the Town Council desires to establish a policy that provides guidance and standards for the display of flags at Town Hall, including commemorative flags;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Fairfax that the Flag Display Policy for the Town of Fairfax attached hereto and incorporated herein as Exhibit A is hereby adopted.

The foregoing Resolution was duly passed and adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 4th day of May 2022 by the following vote, to wit:

AYES:

NOES:

ABSENT:

Stephanie Hellman, Mayor

ATTEST: _____
Michele Gardner, Town Clerk

EXHIBIT A

Flag Display Policy

Section 1. Purpose:

The purpose of this policy is to establish clear guidelines for the display of flags at Town Hall. This policy applies to the Town's flagpoles at the Town Hall building, future Town flagpoles on Town property and flagpole mounts on all Town property.

In adopting this policy, the Town Council declares that the Town of Fairfax's flag displays do not serve as a forum for free expression of the public, but rather for the display of Federal and State flags, and that any commemorative flag as may be authorized by the Town Council serve as an expression of the Town's official sentiments.

Section 2. Policy.

2.1. Flags shall be displayed in accordance with federal and state regulations, including Title 4, Chapter 1 of the United States Code, and California Government Code sections 430 through 439.

2.2 Fairfax Town Hall.

- A. The United States Flag shall be flown at Fairfax Town Hall.
- B. The California State Flag shall be flown at Fairfax Town Hall.
- C. If both the United States Flag and the California Flag are flown, they shall be of the same size. The United States Flag shall be displayed in the first position of honor.
- D. If the same flagpole is used, the United States Flag shall be flown above the State Flag.
- E. As there is currently one flagpole at the Town Hall facility, should the flags be displayed at the same level, the United States Flag should be flown to the (flag's own) right of all other flags.
- F. Flags should be hoisted briskly and lowered ceremoniously. The United States Flag should be hoisted first and lowered last.
- G. To comply with federal guidelines, management of the flagpole is delegated to the Ross Valley Fire Department.

2.3 Commemorative Flags

- A. Commemorative flags shall be displayed exclusively at the Fairfax Town Hall building on the flagpole mount on the front wall of the Town Hall building, below the roofline above the front door to the Town Hall public lobby.
- B. The Town's flag displays are not intended to serve as a forum for free expression by the

public. The Town shall display commemorative flags only if authorized by a resolution of the Town Council as an expression of the Town's official sentiments. The Town will not use its flagpoles or flagpole mounts to sponsor the expression of a third party.

- C. The Town Council shall only consider a request to display a commemorative flag if the request is made by a member of the Fairfax Town Council.

- D. Commemorative flags shall be displayed for a period of time authorized by resolution of the Town Council, but in no event for longer than thirty-one (31) continuous days.