

Town of Franklin

355 East Central Street
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949
www.franklinma.gov

OFFICE OF THE TOWN ADMINISTRATOR

Memorandum

January 26, 2024

To: Town Council
From: Jamie Hellen, Town Administrator
Amy Frigulietti, Deputy Town Administrator

Re: **Resolution 24-07: Town Council Flag Policy**

As part of the 2024-2025 Town Council and Town Administration Goals, we agreed to evaluate and discuss a Flag Policy. Over the past year, since the *Shurtleff v City of Boston* case, Massachusetts cities and towns have discussed, strategized and wrangled with the effects of the United States Supreme Court's decision regarding flags on public property. After many discussions, meetings and seminars (most recently on January 3rd at an MMA sponsored seminar), the general legal consensus among municipal officials and their town counsel is that flags on public property are now a part of the local policy making discussions, due to Justice Breyer's comments about government speech in *Shurtleff* decision.

While we are professionally disappointed with this trend, the general legal consensus offers a "best practice" for the local authority (Town Council and School Committee here in Franklin) which is to develop a clear, formal policy with regard to flags on public property (town or school, respectively). Such policies protect municipalities from being forced to fly flags at odds with their policy and legally challenged. Said policies can be amended and adjusted over time, to reflect the political sentiments or "government speech" for those moments in time. In other words, any policy adopted today can be amended in the future.

While we feel this Supreme Court decision is likely to be challenged in the future, until said challenge occurs, staff are recommending the following flag policy for the Franklin Municipal Building, which is very similar to the Town of Medway's policy and other municipalities in the area.

- Follow directives from the POTUS as outlined in federal flag code, as well as from Her Excellency, the Governor of the Commonwealth;
- Continue existing policy of placing the "Basic Three" flags - United States, Commonwealth and Town, as the cornerstone baseline of Administration Municipal Building, as well as flags of the military and POW-MIA;

- Adopt further policy language to hoist the Progress Pride flag during the month of June in recognition of Pride Month and in response to pleas from the community and compelling support.

The policy impacts ONLY the Municipal Building Flagpole Courtyard at 355 East Central Street. All other flagpoles will be governed under the authority of the Town Administrator pursuant to Town Code Chapter 37, Article II, Section 37-3C.



TOWN OF FRANKLIN RESOLUTION 24-07

Town Council Flag Policy

The Franklin Town Council, on behalf of the Town of Franklin, hereby adopts the Town Council Flag Policy dated January 26, 2024, attached hereto as "Exhibit 1".

This resolution shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

DATED: _____, 2024

VOTED: _____

UNANIMOUS: _____

A TRUE RECORD ATTEST:

YES: _____ **NO:** _____

ABSTAIN: _____ **ABSENT:** _____

RECUSED: _____

Nancy Danello, CMC
Town Clerk

Glenn Jones, Clerk
Franklin Town Council

Town of Franklin

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EXHIBIT 1

Town Council Flag Policy

January 26, 2024

I. Introduction

This policy addresses only flags allowed to be flown on the flag poles located on the Town of Franklin Municipal Building entrance courtyard at 355 East Central Street.

II. Municipal Building Authorized Flags

The Town Council authorizes the following flags to be flown on the Town-owned flagpoles at the Municipal Building at 355 East Central Street as an expression of the Town's governmental speech:

- The official flag of the United States of America
- The official flag of the Commonwealth of Massachusetts
- The official flag of the Town of Franklin
- The official flag of the various branches of military services of the United States of America
- The official MIA-POW flag
- The Progress Pride Flag (month of June only) to be raised on the flagpole that includes the official flag of the Town of Franklin.

No other flags shall be allowed to be flown on the above described town owned flag poles; flags to be flown on those flagpoles pursuant to this policy reflect official Town of Franklin policy position and are not intended to create a forum for private expression.

Flags on the above described town owned flag poles shall follow the directives as given by the President of the United States or the Governor of the Commonwealth of Massachusetts.