



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** May 8, 2023
FROM: Matthew Bronson, City Manager
PREPARED BY: David Hale, City Attorney
SUBJECT: City Flag Policy

RECOMMENDATION

Adopt the resolution to establish a City Flag Policy.

BACKGROUND

Historically, the City displays the United States Flag, the State of California Flag, and the City of Grover Beach Flag at City Hall and other City facilities in accordance with Federal and State law. The City can receive requests from the public to display commemorative flags on City flagpoles. However, the City does not have a formal process or policy for the approval and display of commemorative flags and the Council has provided direction to staff to develop such a policy. Establishing a City Flag Policy will serve two main purposes:

- Designate and clarify that City flagpoles are not intended to serve as a forum for free expression or speech by the public;
- Establish a process by which commemorative flags may be flown on City flagpoles, upon Council approval, to express the official sentiments of the City.

Staff reviewed several flag display policies from other jurisdictions and researched current case law on the constitutionality of flag policies. Flag policies typically address the use of flag displays and use of City flagpoles through the government speech doctrine as defined by the United States Supreme Court. This doctrine preserves the right for government to speak for itself, so long as the government does not show religious preference or encourage a certain vote in an election.

In adopting the Flag Policy, the City Council declares that the City of Grover Beach's flagpoles are not intended to serve as a forum for free expression or speech of the public, but rather for the display of Federal, State, and City flags. Furthermore, this policy enables the display of commemorative flags as authorized by City Council resolution. Pending adoption of this policy, the Council may consider such action on potential commemorative flags at any time in the future.

FISCAL IMPACT

There is no direct fiscal impact to this action.

ALTERNATIVES

The Council has the following alternatives to consider:

1. Approve the resolution to approve the City's Flag Policy; or
2. Provide staff with alternative direction.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act.

Attachments

1. Resolution with Exhibit A; City's Flag Policy

RESOLUTION NO. 23-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH,
CALIFORNIA CHANGING APPROVING A POLICY ON DISPLAY OF FLAGS**

WHEREAS, the City of Grover Beach currently displays the United States Flag and the State of California Flag at the Grover Beach City Hall; and

WHEREAS, the City of Grover Beach does not have a policy regarding the display of flags; and

WHEREAS, the City Council desires to establish a policy that provides guidance, standards and criteria for the indoor and outdoor display of flags at City facilities, including commemorative flags other than the United States, State of California, and City flags, and

WHEREAS, in adopting this Policy, the City Council desires to reflect the dignity of the flags flown at City-owned or City-maintained facilities, as well as the role the Grover Beach City Hall as an inclusive gathering location and local symbol of government and democracy; and

WHEREAS, in adopting this Policy, the City Council declares that flags and flagpoles owned or maintained by the City of Grover Beach are not intended to serve as a forum for free expression or speech by the public, but rather as a nonpublic forum for the display of the United States, State of California, and City Flags, and any Commemorative Flag authorized by the City Council as an expression of the City Council's official statements (government speech); and

WHEREAS, in adopting this Policy, the City Council declares that the following flags should not be considered commemorative flags that can be displayed or flown on City owned or maintained flagpoles: 1) flags of a particular religious movement or creed to avoid the appearance of City government endorsing religion or a particular religious movement or creed; 2) flags of a political party to avoid the appearance of City government endorsing a political party; and 3) flags advocating a certain outcome in an election.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Grover Beach approves the Policy on Display of Flags, attached, and incorporated by reference as Exhibit A.

BE IT FURTHER RESOLVED that the foregoing recitations are true and correct and are included herein by reference as findings.

On motion by _____ seconded by _____, and on the following roll-call vote, to wit:

AYES: Council Members -
NOES: Council Members -
ABSENT: Council Members -
ABSTAIN: Council Members -

the foregoing Resolution was **PASSED, APPROVED, and ADOPTED** at a Regular meeting of the City Council of the City of Grover Beach, California this 8th day of May, 2023.

D R A F T

KAREN BRIGHT, MAYOR

ATTEST:

WENDI SIMS, CITY CLERK

**CITY OF GROVER BEACH POLICY ON
DISPLAY OF FLAGS**

I. Purpose

- A. The Grover Beach City Council desires to establish clear guidelines regarding:
1. The outdoor display of the United States Flag, the California State Flag, and the City of Grover Beach Flag at City facilities or City-owned or City-maintained flagpoles; and
- B. In adopting this Policy, the City Council desires to reflect the dignity of the flags flown on flagpoles or displayed at City-owned or City-maintained facilities, as well as the role of the Grover Beach City Hall as an inclusive gathering location and local symbol of government and democracy.
- C. In adopting this Policy, the City Council declares that flagpoles owned or maintained by the City of Grover Beach are not intended to serve as a forum for free expression by the public, but rather as a non-public forum for the display of the United States, State of California, City of Grover Beach, and any commemorative flag authorized by the City Council as an expression of the City Council's official sentiments (government speech).

II. Policy

- A. Conformance with Federal and State Regulations. Flags shall be displayed in accordance with Federal and State statutes and regulations, including, but not limited to, United States Code, Title 4, Chapter 1 and California Government Code section 430 et seq., and this Policy.
1. Per California Government Code section 431(a), the Flag of the United States and the Flag of the State of California shall be prominently displayed upon or in front of public buildings of the City.
 2. Per California Government Code section 434.7, any Flag of the United States or Flag of California that the City purchases must be made in the United States.
 3. The United States Flag may only be flown at half-staff in accordance with the guidelines set forth at <https://www.usa.gov/flag>. The State of California Flag shall be flown at half-staff if the United States Flag is flown at half-staff or on order of the Governor.
- B. City Facilities other than the Grover Beach City Hall. At facilities that the City owns or maintains (other than facilities maintained by other governmental entities), there may be one flagpole where the United States Flag shall be flown, and the State of California flag may be flown as described in this Section II, entitled Policy.

C. Grover Beach City Hall.

1. There shall be flagpoles at the Grover Beach City Hall to fly the following flags in the manner described below: Flag of the United States, Flag of the State of California, Flag of the City of Grover Beach, and any approved commemorative flag.
2. The City of Grover Beach Flag shall fly at half-staff if either the United States or California Flag is at half-staff. The Mayor may order the City of Grover Beach Flag to fly at half-staff at the death of a current or former City Council Member or current City staff member or a historically significant member of the community.
3. Commemorative Flag.
 - a. As expression of the City's official government speech, the City Council may authorize the display of a commemorative flag to fly only at the Grover Beach City Hall flagpole.
 - b. The City Council shall only consider a request to display a commemorative flag if the request is made by a member of the Grover Beach City Council and another City Council member agrees to place the discussion to authorize such display on the agenda for a regular or special City Council meeting. Requests to fly a commemorative flag by members of the public will not be considered.
 - c. At a noticed and agenda City Council meeting, a majority of Council Members must agree to display the commemorative flag.
 - d. Commemorative flags shall be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated, but no longer than thirty (30) consecutive days.
 - e. Commemorative flags must be either purchased by the City or temporarily donated for the City's use and must be clean, without holes and tears, and be made of an all-weather fabric. Commemorative flags must be the same size or smaller than the United States and California flags that are flown. The City will not be responsible for the condition of the commemorative flag once flown.
 - f. If any other flag is flown at half-staff, the commemorative flag will also be flown at half-staff.
 - g. A "commemorative flag" as defined in this Policy shall mean a flag that identifies with a specific historical event, cause, nation or group of people that the City Council chooses to honor or commemorate consistent with the City's mission and priorities. The following are not allowed as Commemorative Flags and will not be considered by the City Council:

- i. Flags of a particular religious movement or creed to avoid the appearance of City government endorsing religion or a particular religious movement or creed;
- ii. Flags of a political party to avoid the appearance of City government endorsing a political party; and
- iii. Flags advocating a certain outcome in an election.

III. **Procedures**

- A. No other flag shall be placed above the United States Flag and no other flag shall be larger than the United States Flag. Other flags may be flown at the same height and in the same size, in accordance with this Policy. Where both the United State Flag and the California State Flags are flown, they shall be of the same size.
- B. Flags should be hoisted briskly and lowered ceremoniously. The United States Flag should be hoisted first and lowered last.
- C. Flags shall be displayed during operating hours on all days on which the City is open for business, and on national and State holidays. Flags may be displayed twenty-four (24) hours a day as long as they are illuminated during darkness.
- D. Flags shall not be displayed during inclement weather unless all-weather flags are used and are illuminated during darkness.
- E. When flags are displayed on a single pole, the order from top to bottom shall be: the United States Flag, the California State Flag, and, if displayed, the City of Grover Beach Flag.
- F. When the flags are flown from adjacent flag poles, the United States Flag shall be flown at the highest point of honor, which is the furthest point to the left from the standpoint of the observer ("the flag's right").
- G. When a flag is displayed at half-staff, it shall first be hoisted to the peak for a moment and then lowered to half-staff position. Before being lowered at the end of the day or when taken down, the flags shall again be hoisted to the peak for a moment and then fully lowered.