



Legislation Text

File #: 23-0572, Version: 1

City of Alexandria, Virginia

MEMORANDUM

DATE: JANUARY 3, 2023

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: JAMES F. PARAION, CITY MANAGER /s/

FROM: JEREMY MCPIKE, DIRECTOR OF GENERAL SERVICES

DOCKET TITLE:

Consideration of a Resolution Designating Certain Flags to Be Flown on Certain City Properties in Accordance with the City's Flag Policy. [ROLL-CALL VOTE]

ISSUE: Designation of certain flags to be flown on certain City properties in accordance with the City's flag policy.

RECOMMENDATION: That City Council approve the attached resolution designating certain flags to be flown on certain City flagpoles or other flag-flying locations owned by the City in accordance with City's flag policy.

BACKGROUND: On May 2, 2022, the Supreme Court of the United States held, in *Shurtleff v. Boston*, that the City of Boston, Massachusetts violated the Free Speech Clause of the First Amendment by barring a religious group from flying the Christian flag on a flagpole outside of Boston's city hall. The Supreme Court held that while flags flying outside of Boston's city hall usually convey the city's speech, because Boston (1) allowed private entities to use the flagpole in front of City Hall, but did not actively control the flag raising nor shape the messages the flags sent, and (2) did not have a written policy on what flags groups could fly and what flags could communicate, Boston effectively turned one of their flagpoles into a designated public forum, and as such could not discriminate based on the speech or expression offered in that public forum. The *Shurtleff* case was largely decided on 1) Boston's lack of editorial control over flags flown on its flagpole, and 2) that Boston did not have a written policy on who may fly flags, what may be on them, nor how to decide which flags could be flown.

On October 25, 2022, in response to the *Shurtleff* decision, City Council adopted Resolution No. 3105 declaring

that any expressive content on City flagpoles or other flag-flying locations owned by the City is an expression by the City itself, and that the City's flagpoles and other flag-flying locations owned by the City are not intended as a public forum. The resolution also defines six categories of flags that may be flown by the City on City-owned property.

One category of flags allowed by Resolution No. 3105 are flags displayed in conjunction with or pursuant to official proclamations or resolutions by the City Council, or "Commemorative Flags", but the resolution does not define which Commemorative Flags the City wishes to fly.

DISCUSSION: In accordance with Resolution No. 3105, staff has drafted a resolution to designate which Commemorative Flags may be flown, during specific time periods, on the City's flagpoles and other City-owned flag-flying locations for City Council approval. This resolution expires upon the installation of the next City Council in 2025. Staff will bring a new resolution thereafter every three years in conjunction with the three-year term of each new City Council.

Additional flags to be flown on the City's flagpoles and other flag flying locations owned by the City may be approved by Council via resolution.

FISCAL IMPACT: There is no direct fiscal impact to implement this policy.

ATTACHMENT: Resolution

STAFF:

Emily A. Baker, Deputy City Manager

Joanna Anderson, City Attorney

Jeremy McPike, Director, Department of General Services

Shawn Lassiter, Assistant City Attorney

Alfred Coleman, Deputy Director, Department of General Services