



## TOWN OF LOS GATOS COUNCIL AGENDA REPORT

MEETING DATE: 2/17/2026

ITEM NO: 12

DATE: February 17, 2025

TO: Mayor and Town Council

FROM: Chris Constantin, Town Manager

SUBJECT: **Adopt Amendments to Council Policy 5-02 Flag Policy to Establish a Commemorative Flag Framework**

**RECOMMENDATION:** Adopt amendments to Council Policy 5-02 Flag Policy to establish a formal framework permitting the display of commemorative flags as an exercise of government speech, when initiated by a Councilmember and approved by resolution of the Town Council.

### **FISCAL IMPACT:**

There is no direct fiscal impact associated with adoption of the proposed policy amendments. The policy establishes a procedural framework only. Any future commemorative flag approved by resolution would involve minimal costs associated with procurement and installation, which would be addressed at the time of Council action.

### **STRATEGIC PRIORITY:**

Adoption of the proposed amendments supports the Town's 2025–2027 Strategic Priority to ensure that residents and visitors feel a sense of belonging in Los Gatos by establishing a transparent and structured process for potential commemorative flag displays.

### **BACKGROUND:**

Council Policy 5-02 currently governs the official Town seal, the Town flag, and procedures for lowering and raising flags on Town property. The policy adheres to the United States Flag Code and California law and provides administrative direction for flag status. However, the existing policy does not address commemorative or ceremonial flags and does not provide a process for Council consideration of such displays.

**PREPARED BY:** Chris Constantin  
Town Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

On December 16, 2025, the Town Council considered whether to modify the Flag Policy to address commemorative flags. At that meeting, the Council directed staff to return with proposed amendments establishing a commemorative flag framework. The Council also requested research regarding how other Santa Clara County jurisdictions approach commemorative flag displays.

Staff subsequently reviewed policies from multiple jurisdictions within the County. The majority of cities that allow commemorative flags do so under a government speech framework, require formal Council authorization by resolution, limit the duration and location of display, and expressly state that municipal flagpoles are not public forums.

The proposed amendments to Policy 5-02 are consistent with those approaches and are designed to clarify the Town's authority, preserve Council discretion, and minimize legal risk.

**DISCUSSION:**

**Purpose of the Amendment**

The proposed amendment updates Policy 5-02 to address commemorative flags while preserving the Town's compliance with federal and state law governing flag protocol. The amendment establishes that Town flagpoles are reserved for official governmental expression and are not intended to serve as a forum for private speech.

When a municipality selects and displays flags on its own property, such displays may constitute government speech provided the municipality maintains control over the message conveyed. The proposed amendment explicitly affirms that any commemorative flag display constitutes government speech and does not create a public forum.

**Framework for Commemorative Flags**

The amendment establishes clear parameters under which a commemorative flag may be displayed:

- A display must be initiated by a Councilmember.
- Approval must occur by formal resolution of the Town Council at a duly noticed public meeting.
- The resolution must expressly determine that the display constitutes government speech and relates to a legitimate governmental interest consistent with the Town's strategic priorities.
- The display may occur only at a single designated flagpole within the Town Hall complex.

- The duration of any display is limited to a defined period stated in the resolution and may not exceed thirty-one consecutive days.
- Each commemorative display requires separate Council action.

The policy further affirms that approval of one commemorative flag does not obligate the Town to approve the same or any other flag in the future and that no individual or organization has the right to compel display of a flag.

In addition to the substantive amendments establishing the commemorative flag framework, minor formatting changes were made to improve clarity and organization. Specifically, the section describing the Town seal was moved to become a subsection under the Town flag, and the procedures section was relocated under the “Lowering and Raising the Flag” section and the sentence “The Town flag may be gifted or traded upon approval from the Town Manager” was moved from the procedures section to the Town flag section, where it was deemed more appropriate. These changes are purely organizational and do not alter policy content, procedures, or authority.

### **Administrative Clarity and Legal Considerations**

By adopting clear procedural standards, the amended policy strengthens the Town’s ability to maintain control over its messaging and reduces the risk that the flagpoles could be construed as a public forum. The amendment reinforces Council discretion and ensures that any future commemorative flag display occurs through transparent public action.

The amendment does not authorize any specific commemorative flag. Any such display would require a separate resolution from the Town Council. Such a resolution is being considered tonight in the next agenda item.

#### **COORDINATION:**

The proposed amendments have been reviewed by the Town Attorney.

#### **ENVIRONMENTAL ASSESSMENT:**

Adoption of the proposed policy amendment constitutes an administrative action and does not involve construction or physical changes to the environment. Under CEQA Guidelines section 15378(b), adoption of internal governmental policy is not a project. Alternatively, the action is exempt under CEQA Guidelines section 15061(b)(3), as it can be seen with certainty that no environmental impact will result.

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**SUBJECT:** Amendment to Flag Policy 5-02

**DATE:** February 17, 2026

**CONCLUSION:**

Policy 5-02 currently governs the Town seal, Town flag, and flag protocol but does not address commemorative flags. The proposed amendments establish a clear, legally structured framework allowing the Town Council to consider commemorative flag displays as an exercise of government speech, subject to defined limitations on initiation, approval, location, and duration.

Adoption of the amended Policy 5-02 will provide transparency, preserve Council discretion, and ensure that any future commemorative flag display is consistent with federal law, state law, and the Town's strategic priorities.

**ATTACHMENTS:**

1. Current Flag Policy 5-02
2. Amended Flag Policy 5-02