



# Guide to the Public Display of Flags on Government Buildings

DECEMBER 2021

# **Guide to the Public Display of Flags on Government Buildings**

Any guide and model document provided by the LOC is intended to be used as a starting point in an individual city's development of its own policies and documents. Each city is unique, and any adopted document or policy should be individually tailored to meet a city's unique needs.

This guide is not intended as a substitute for legal advice. Cities should consult with their city attorney to ensure that it complies with all flag-related aspects of federal, state and local law.

## Introduction

The image of a flag flying over a government building is not uncommon. Typically, government entities – including cities – will fly the national and state flag on their buildings. The flying of some flags is even mandated by law. This guide will cover: how and when city flags should be flown; and when other non-governmental flags should be flown; and how to dispose of older flags.

## The Display of Governmental Flags

The rules and regulations impacting the display of governmental flags varies between federal and state law.

### Federal Flag Regulations

Federal law does not mandate the display of the United States flag. However, should a city choose to display the flag, it should follow the federal flag display guidelines. The United States flag should only be displayed from sunrise to sunset unless it is properly illuminated during the hours of darkness.<sup>1</sup> The flag should be displayed on or near the main building of public institutions and should be hoisted briskly and lowered ceremoniously and should not be displayed on days where the weather is inclement unless an all-weather flag is displayed.<sup>2</sup> When the United States flag is flown on the same halyard as another state or city flag, the United States flag shall be at the peak.<sup>3</sup> For further details on the display of the United States flag, a copy of *Guidelines for Display of the Flag* issued by the U.S. Department of Veterans Affairs is provided for easy reference at the end of this guide.

### State Flag Regulations

Unlike the federal requirements, the state of Oregon requires two types of flags in addition to the American flag to be displayed. All public institutions must display the United States flag, the Oregon state flag, and the National League of Families POW/MIA flag.<sup>4</sup> Both state and POW/MIA flags must be displayed during the same time when the United States flag is customarily displayed.<sup>5</sup> In addition to the display of governmental flags, state statute provides that necessary funds to defray the expenses incurred for such flags and for poles and appliances necessary in connection therewith and for the care thereof shall be paid out of the funds available for the care and maintenance of the public building.<sup>6</sup>

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<sup>1</sup> 4 USCA § 6 (West).

<sup>2</sup> 4 USCA §§ 4, 6 (West).

<sup>3</sup> 4 USCA § 7 (West).

<sup>4</sup> ORS 186.110.

<sup>5</sup> *Id.*

<sup>6</sup> ORS 186.120.

## City Flag Regulations

The rules and regulations around the display of city flags is unique to each individual city. To promote consistency, cities may choose to implement a city flag display policy via resolution passed by the city council. A sample city flag resolution is provided at the end of this guide.

## Flag Etiquette

There are federal and state guidelines as to when certain flags must be flown at half-staff, which is done during periods of mourning. For example, flags are to be flown at half-staff on all federal buildings during Memorial Day or when the President orders flags to be flown at half-staff. Similarly, the Oregon governor has similar authority to order when flags should be flown at half-staff within the state. Cities may also order flags to be flown at half-staff. Once a flag is worn out or otherwise unfit for display, it should be destroyed in a dignified manner, preferably by burning.

## The Display of Non-Governmental Flags

When a city or other government entity chooses to fly a flag on city property, this is considered government speech.<sup>7</sup> Unlike the public's First Amendment right to freedom of speech, the government is not required to display any and everything that is requested by members of the public. Rather, the city may choose to fly the non-governmental flags and commemorative flags of its choosing. It is recommended that the city council develop a policy regarding the types of flags the city will fly whether by request of a member of the public, city staff, or the council itself. Cities have broad discretion on the extent of its non-governmental flag policy. A city may choose to ban the flying on non-governmental flag outright, allow certain flags upon request, or allow all flags. If a city chooses to fly certain flags upon request of the public, it is important that the city reviews the requests in a non-discriminatory manner. Examples of various flag policies from select cities are included at the end of this guide.

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<sup>7</sup> See, for example, *Shurtleff v. City of Boston*, 986 F3d 78 (1<sup>st</sup> Cir 2021) (holding the city's display of third-party flags on the city hall flagpole constitutes government speech and decision to deny Christian organization's application to display Christian flag on city flagpole did not implicate free speech rights).



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## **Guidelines for Display of the Flag**

Public Law 94-344, known as the Federal Flag Code, contains rules for handling and displaying the U.S. flag. While the federal code contains no penalties for misusing the flag, states have their own flag codes and may impose penalties. The language of the federal code makes clear that the flag is a living symbol.







In response to a Supreme Court decision which held that a state law prohibiting flag burning was unconstitutional, Congress enacted the Flag Protection Act in 1989. It provides that anyone who knowingly desecrates the flag may be fined and/or imprisoned for up to one year. However, this law was challenged by the Supreme Court in a 1990 decision that the Flag Protection Act violates the First Amendment free speech protections.

### **Important Things to Remember**

Traditional guidelines call for displaying the flag in public only from sunrise to sunset. However, the flag may be displayed at all times if it's illuminated during darkness. The flag should not be subject to weather damage, so it should not be displayed during rain, snow and wind storms unless it is an all-weather flag.

It should be displayed often, but especially on national and state holidays and special occasions.

The flag should be displayed on or near the main building of public institutions, schools during school days, and polling places on election days. It should be hoisted briskly and lowered ceremoniously.

Image	Description
	<p>When carried in procession with other flags the U.S. flag should be either on the marching right (the flag's right) or to the front and center of the flag line. When displayed on a float in a parade, the flag should be hung from a staff or suspended so it falls free. It should not be draped over a vehicle.</p>
	<p>When displayed with another flag against a wall from crossed staffs, the U.S. flag should be on its own right (left to a person facing the wall) and its staff should be in front of the other flag's staff.</p>
	<p>In a group of flags displayed from staffs, the U.S. flag should be at the center and the highest point.</p>
	<p>When the U.S. flag is displayed other than from a staff, it should be displayed flat, or suspended so that its folds fall free. When displayed over a street, place the union so it faces north or east, depending upon the direction of the street.</p>
	<p>When the U.S. flag is displayed from as projecting from a building, the union of the flag should be placed at the peak of the unless the flag is at half-staff. When suspended from a rope extending from the building on a pole, the flag should be hoisted out, union first from the building.</p>
	<p>When flags of states, cities or organizations are flown on the same staff, the U.S. flag must be at the top (except during church services conducted at sea by Navy chaplains)</p>

The flag should never be draped or drawn back in folds. Draped red, white and blue bunting should be used for decoration, with the blue at the top and red at the bottom.

The flag may be flown at half-staff to honor a newly deceased federal or state government official by order of the president or the governor, respectively. On Memorial Day, the flag should be displayed at half-staff until noon.

### **Other Things Not to Do with the Flag**

Out of respect for the U.S. flag, never:

- dip it for any person or thing, even though state flags, regimental colors and other flags may be dipped as a mark of honor.

- display it with the union down, except as a signal of distress.

- let the flag touch anything beneath it: ground, floor, water, merchandise.

- carry it horizontally, but always aloft.

- fasten or display it in a way that will permit it to be damaged or soiled.

- place anything on the flag, including letters, insignia, or designs of any kind.

- use it for holding anything.

- use it as wearing apparel, bedding or drapery. It should not be used on a costume or athletic uniform. However, a flag patch may be attached to the uniform of patriotic organizations, military personnel, police officers and firefighters.

- use the flag for advertising or promotion purposes or print it on paper napkins, boxes or anything else intended for temporary use and discard.

During the hoisting or lowering of the flag or when it passes in parade or review, Americans should stand at attention facing the flag and place their right hand over the heart. Uniformed military members render the military salute. Men not in uniform should remove any headdress and hold it with their right hand at their left shoulder, the hand resting over the heart. Those who are not U.S. citizens should stand at attention.

When the flag is worn out or otherwise no longer a fitting emblem for display, it should be destroyed in a dignified way, preferably by burning.

## MODEL RESOLUTION REGARDING THE DISPLAY OF FLAGS ON CITY PROPERTY

CITY OF [Insert name of city], OREGON [Insert name of city], CITY COUNCIL

### **RESOLUTION NUMBER: [Insert appropriate number]**

A RESOLUTION OF THE [Insert name of city] CITY COUNCIL GOVERNING THE  
DISPLAY OF FLAGS ON CITY PROPERTY.

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WHEREAS, the city council desires to establish clear guidelines regarding the display of all flags flown on city-owned or city-maintained properties; and

WHEREAS, in adopting this resolution, the city council declares that flagpoles owned or maintained by the City of [Insert name of city] 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 any governmental and non-governmental flag authorized by the City Council either required by law or as an expression of the City Council's official government speech.

NOW, THEREFORE, BE IT RESOLVED by the [Insert name of city] City Council that:

SECTION 1: 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 ORS 186.110 and 186.120.

SECTION 2 City Flag. The City of [Insert name of city] flag shall fly at half-staff if either the United States or Oregon flag is at half-staff. The mayor may order the City of [Insert city name] flag to fly at half-staff at the death of a current or former Council Member, current City staff member, or a historically significant member of the community.

SECTION 3 Commemorative Flag.

1. As an expression of the City's official government speech, the City Council may authorize the display of a commemorative flag to fly at city-owned or city-maintained properties.
2. The City Council shall only consider a request to display a commemorative flag if the request is made by a member of the City Council. Requests to fly a commemorative flag by members of the public will not be considered.
3. The decision to approve or deny a request to display a commemorative flag shall be made at a publicly noticed council meeting.
4. Commemorative flags shall be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated.
5. 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 but be the same size or smaller than the United States and Oregon flags that are flown.

6. If any other flag is flown at half-staff, the commemorative flag will also be flown at half-staff.
7. 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 choses 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:
  - a. Flags of a particular religious movement or creed to avoid the appearance of City government endorsing religion or a particular religious movement or creed;
  - b. Flags of a political party to avoid the appearance of City government endorsing a political party; and
  - c. Flags advocating a certain outcome in an election.

SECTION 4: This Resolution is effective immediately upon passage.

PASSED:        This [Insert date of passage].

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# POLICY 29 FLAG DISPLAY

Effective Date: September, 2015

## **SECTION INDEX:   Flag Display**

- [1](#)   Purpose
- [2](#)   Reference
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### **1. PURPOSE**

It is the intent of the City of Olympia to establish a policy which follows the Washington State provisions governing the display of flags, including the United States flag, the State flag, the City flag, and the POW/MIA flag. Any additions must be approved by the City Manager.

### **2. REFERENCE**

- Washington State provisions governing the display of flags.

### **3. APPLICATION**

This Policy applies to all individuals employed by or who volunteer with the City of Olympia, unless a provision of the policy conflicts with a contract or statute (e.g., Collective Bargaining Agreement (CBA), Civil Service Rule, or Memorandum of Understanding (MOU)).

Failure to comply with this Policy may result in disciplinary action up to and including termination from City service.

### **4. GUIDANCE**

#### **A.   Display of Flags Outside Buildings**

The City of Olympia follows the Washington State provisions governing the display of flags, including the United States flag, the State flag, the City flag, and the POW/MIA flag.

#### **B.   Display of Flags Inside Buildings**

In addition to the above flags, other flags may be displayed on a permanent or temporary basis within the building. Examples include the Sister City flag, the World flag, flags received for awards which the City has applied (e.g., the Tree City flag), flags received from visiting groups, or flags designating an event or accomplishment. All flags will be displayed with authorization by the City Manager.

Revision history: Created September, 2015

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*City of San José, California*

**COUNCIL POLICY**

<b>TITLE</b> EXHIBITION OF FEDERAL, STATE, AND CITY FLAGS FROM CITY BUILDINGS – ALL OCCASIONS	<b>PAGE</b>  1 of 3	<b>POLICY NUMBER</b>  2-1
<b>EFFECTIVE DATE</b> April 27, 1970	<b>REVISED DATE</b> October 17, 2006	
<b>APPROVED BY COUNCIL ACTION</b> 4-27-70; 8-3-82, Item 11 k; 9-28-82, Item 12 a; 4-2-85, Item 7 e; 10-17-2006, Item 3.7a; 11-14-2006; Item 3.5c, Res. 73490		

**PURPOSE**

To establish guidelines for: (1) the exhibition of the flag of the United States of America, the California State flag, the San Jose City flag from City buildings and the New City Hall flag at City Hall, and (2) the display of street flags for parades and holidays, and (3) the display of ceremonial flags.

**POLICY**

It is the policy of the City of San José that flags should be displayed in conformance with Federal and State policies, as stated in the Federal "Our Flag" publication of the Congress, House Document No. 96-144; and the State of California Government Code Sections 430 and 437.

In order to establish a policy with respect to the locations and days when the United States of America, California State, and San Jose City flags should be displayed, the following standards should be followed.

The Director of General Services is responsible for ensuring the proper execution of this policy at all City facilities except the Airport, where the Director of Aviation is responsible for proper execution of this policy.

**STANDARDS**

**A. Federal, State and City Flags**

1. Outdoor flags will be flown at City facilities in the following order of precedence: first, the United States flag; second, the California State flag; third, the San Jose City flag; and fourth, the New City Hall flag.
2. Weather permitting, flags should be displayed daily in front of or at a location near City Hall, the Police Administration Building, the Civic Auditorium, the Airport, and all Fire and Police facilities during business hours.
3. Flags should not be displayed in inclement weather. However, all-weather flags may be flown on a 24-hour basis as long as they are illuminated from sunset to sunrise.

## City of San José, California

<b>TITLE</b> EXHIBITION OF FEDERAL, STATE, AND CITY FLAGS FROM CITY BUILDINGS – ALL OCCASIONS	<b>PAGE</b> 2 of 3	<b>POLICY NUMBER</b> 2-1
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The City Hall flags shall be all-weather flags, shall be flown on a 24-hour basis and shall be illuminated at night.

4. The San Jose City flag will be flown wherever there are sufficient poles to do so in accordance with #2 above. The City flag may be displayed on the same pole with, and underneath the State flag, whenever the pole is of sufficient height. The Federal, State, and City flags shall not be flown on a single pole of any height.
5. New City facilities where any flags are to be flown shall be constructed with a sufficient number of poles to allow the City flag to be flown.
6. Indoor City flags shall be displayed at a minimum in the City Council Chambers and in the Mayor's Office.
7. On recognized Federal and/or State holidays, and on other special occasions as listed below, flags should be flown from all locations listed in paragraph A-2 above.
  - a) January 1, New Year's Day
  - b) January 20, (2001, 2005, 2009, etc., every fourth year) on the day the President of the United States is inaugurated
  - c) Third Monday in January, Martin Luther King's birthday
  - d) Third Monday in February, Presidents' Day
  - e) Second Sunday in May, Mother's Day
  - f) Third Saturday in May, Armed Services Day
  - g) Last Monday in May, Memorial Day. The flags to be flown at half-staff (first raise to top, then slowly lower to half-staff) until noon and at full staff from noon until sunset. NOTE: The United States flag must always be flown by itself when displayed at half-staff.
  - h) Third Sunday in June, Father's Day
  - i) June 14, Flag Day
  - j) July 4, Independence Day
  - k) First Monday in September, Labor Day
  - l) September 9, Admission Day
  - m) September 17, Constitution Day
  - n) Second Monday in October, Columbus Day
  - o) The first Tuesday after the first Monday in November of a presidential election year and gubernatorial election days
  - p) November 11, Veteran's Day
  - q) Fourth Thursday in November, Thanksgiving Day
  - r) December 25, Christmas Day
  - s) State holidays
  - t) Special occasions of Federal, State and local proclamation
8. Flags at all City facilities shall be displayed in accordance with the above standards. However, the City Manager may order flags to be lowered to half staff including, but not limited to flags of the United States of America and State of California in honor of the death of a City employee killed in the line of duty.

## City of San José, California

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### B. Street Flags

Street flags are defined as flags flown on a guy wire over a city street. The guy wire is generally attached to city streetlights and is oriented perpendicular to the flow of traffic. Street flags may be flown in the downtown area on Veteran's Day and Memorial Day, if requested by a group sponsoring an event on that day and approved by the City Council. Funding for this flag flying may be provided by an outside agency or at the City's expense, depending on the decision of the City Council.

### C. Ceremonial Flags

The City's flagpoles are not intended to serve as a forum for free expression by the public. The following flags may be displayed by the City as an expression of the City's official sentiments:

1. Flags of Governments Recognized by the United States. Flags of the governments recognized by the United States may be displayed upon the request of the Mayor, a member of the City Council or the City Manager.
2. Flags of Sister Cities: The flags of official Sister Cities of San Jose may be displayed in conjunction with an event involving the Sister City.
3. Flags Displayed in Conjunction With Official Ceremonial Items: Other flags may be displayed in conjunction with official actions, ceremonial items, or proclamations of the City Council.
4. Flags of Professional Sports Teams: The City Manager may order the display of the flag of a professional sports team in commemoration of a significant achievement involving the City of San Jose.

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## Chapter 1.14 FLAG DISPLAY

Sections:

**1.14.010 Intent – Governing law.**

**1.14.020 Definitions.**

**1.14.030 Time and occasions for display.**

**1.14.040 Position and manner of display.**

### **1.14.010 Intent – Governing law.**

It is the intent of this chapter to provide guidance for the display of the following flags at City owned or operated facilities within the City of Sunnyside:

- A. The flag of the United States as defined in [4](#) U.S.C. [1](#).
- B. The National League of Families' POW-MIA flag as defined in [36](#) U.S.C. [902](#).
- C. The flag of the state of Washington as defined in RCW [1.20.010](#). [Ord. 2011-19 § 1 (Exh. A), 2011.]

### **1.14.020 Definitions.**

- A. "Hoist" means the act or function of raising a flag, as on a rope.
- B. "Lower" means the act or function of taking down the flag, as on a rope.
- C. "Half-staff" or "half-mast" means a style of flag display where the flag is flown at the width of the flag from the top. Usually done by first hoisting the flag to the top, then lowering it the width of the flag. [Ord. 2011-19 § 1 (Exh. A), 2011.]

### **1.14.030 Time and occasions for display.**

A. The flag of the United States and flag of the state of Washington shall be displayed on all days at the following locations:

- 1. City Hall;
- 2. Police Department;
- 3. Fire Department;
- 4. Centennial Square.

B. The National League of Families' POW-MIA flag shall be displayed along with the flag of the United States and the flag of the state of Washington upon or near at least one of the locations identified in this section on the following days:

- 1. Armed Forces Day on the third Saturday in May;

2. Memorial Day on the last Monday in May;
3. Flag Day on June 14th;
4. Independence Day on July 4th;
5. National POW-MIA Recognition Day; and
6. Veteran's Day on November 11th.

If the designated day falls on a Saturday or Sunday, then the National League of Families' POW-MIA flag will be displayed on the preceding Friday. [Ord. 2011-19 § 1 (Exh. A), 2011; Ord. 2011-15 § 1, 2011.]

**1.14.040 Position and manner of display.**

The Mayor or Deputy Mayor in the absence of the Mayor on behalf of the City Council will, by proclamation or executive order, direct the City Manager to lower the flag to half-staff on the following occasions:

- A. Peace Officers Memorial Day, May 15th (unless that day is also Armed Forces Day);
- B. Patriot Day, September 11th;
- C. National Pearl Harbor Remembrance Day, December 7th;
- D. In the event of the death of a principal federal and state government official;
- E. In the event of the death of a City employee, or a member of the public safety community, killed in the line of duty;
- F. In the event of the death of a member of the armed forces from Washington State while serving on active duty;
- G. At the direction of the President of the United States; and
- H. At the request of the Governor of the state of Washington. [Ord. 2011-19 § 1 (Exh. A), 2011.]

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The Sunnyside Municipal Code is current through Ordinance 2021-12, passed September 13, 2021.

Disclaimer: The City Clerk's Office has the official version of the Sunnyside Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.sunnyside-wa.gov/>

City Telephone: (509) 837-3782

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