



Board Agenda Item 19

DATE: June 6, 2023

TO: Board of Supervisors

SUBMITTED BY: Steve Brandau, Supervisor District 2

SUBJECT: Amendment to County Ordinance Code, regarding flags permitted to be flown at County Facilities

RECOMMENDED ACTION(S):

Conduct second hearing and take action to:

- 1. Approve proposed Ordinance for the County of Fresno Ordinance Code amending Title 13, Chapter 13.24 (Grounds and Buildings), to add 13.24.050 - Flags permitted to be flown at County Facilities, and amending Title 10 to delete Chapter 10.28 (Flags);**
- 2. Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance; and**
- 3. Direct the Clerk of the Board to post and publish the require summary in accordance with Government Code, Section 25124(b)(1).**

This item comes before your Board pursuant to the first hearing and Board approval of May 23, 2023.

ALTERNATIVE ACTION(S):

Your Board may choose not to adopt the proposed ordinance or choose to modify the ordinance as written. Amendments to the proposed ordinance would require further hearings and public noticing.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

DISCUSSION:

There has been an increasing number of controversies over specialty flags being flown at government facilities at both the local, state, and national level. Some agencies have been accused of promoting divisive and ideologically motivated speech on public property. Other agencies have been put in the unenviable role of picking and choosing winners among potential flag raising events.

An incident has yet to occur at a Fresno County facility, but the County does not have a formal flag policy in place. It is recommended that your Board update Title 13.24 (Grounds and Buildings) of the County Ordinance Code to include rules that limit permitted flags to those of the United States and the State of California. This ordinance would apply only to the official flag poles at County owned or leased facilities.

On May 9, 2023, your board conducted the initial first hearing and ordered a continuation of the first hearing. After the posting of the May 9 Board of Supervisors' meeting agenda, it was identified that there was older public nuisance language related to raising of flags (Chapter 10.28) in Title 10 (Public Peace, Morality, Welfare) of the Fresno County Ordinance Code that would conflict with the proposed new ordinance language. In addition to conflicting with the proposed ordinance, Chapter 10.28 includes exceptions to the restriction to US and California flags, as well as an unenforceable statement about government offices outside the jurisdiction of the County. Further, a County policy relating to use of its property belongs on Title 13, not Title 10, which is for public nuisances.

On May 23, 2023, your board formally passed the first hearing to approve the proposed ordinance for the County of Fresno Ordinance Code amending Title 13, Chapter 13.24 (Grounds and Buildings), to add 13.24.050 and approve the proposed amendment to amend Title 10 to delete Chapter 10.28 .

With your Board's approval today, the Ordinance would take effect 30 days after.

REFERENCE MATERIAL:

BAI #8, May 23, 2023

BAI #11, May 9, 2023

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A - Proposed Amendment to Title 13 and Title 10

Attachment B - Chapter 10.28 - Flags (Redlined)

Public Comments from Item #8 - May 23, 2023 Meeting

Public Comments from Item #11 - May 9, 2023 Meeting

CAO ANALYST:

Salvador Espino