

## **DISPLAY OF FLAGS, SIGNS AND BANNERS ON SPECIFIED MUNICIPAL FLAGPOLES AND PROPERTIES**

**Article 28.** To see if the Town will vote to adopt the bylaw 4-12 set out below, or take any other action related thereto:

WHEREAS, It is important that the Town of Williamstown have standards and a process to be able to express official, Town-endorsed messages that may be appropriately accompanied by ceremonial flag-raising, signs and banners; and

WHEREAS, For these expressions of official Town sentiment to be clearly construed by the residents of the Town, it is also important to clearly demarcate and codify that the Town's flagpoles are intended as locations for official expression of the Town's sentiments and are not intended to serve as a forum for free expression by the public; and

WHEREAS, The expressions of official Town sentiment may also be communicated by means of flags, signs and banners affixed to the ground and structures of specific municipal buildings and that such affixing is not intended to serve as a forum for free expression by the public;

NOW, THEREFORE THE TOWN ESTABLISHES THE FOLLOWING BYLAW;

### **DISPLAY OF FLAGS, SIGNS AND BANNERS ON SPECIFIED MUNICIPAL PROPERTIES**

The purpose of this bylaw is to establish guidelines for the display by the Town of Williamstown of (1) flags on specific municipal flagpoles and (2) flags, signs and banners affixed to the ground and structures of specific municipal buildings.

This bylaw applies to (1) the use of flagpoles at the town hall, Field Park, town cemeteries, police station and department of public works buildings and (2) the affixing of flags, signs and banners to the grounds and structures of those buildings.

The Town's flagpoles subject to this bylaw are not intended to serve as a forum for free expression by the public. The structures and land of the municipal buildings subject to this bylaw are not intended to serve as forums for the affixing of flags, signs and banners for free expression by the public, though nothing in the bylaw is intended to prevent free expression by the public at such locations through means other than affixing, including carrying of flags, signs and banners.

The following flags, signs and banners may be displayed by the Town as an expression of the Town's official sentiments:

- a. Flags in the following order of precedence: first, the United States flag; second, the Commonwealth of Massachusetts flag; and third, the P.O.W./M.I.A. (Prisoner of War/Missing in Action) flag as provided in 36 U.S.C. § 902;
- b. Flags, signs and banners for any of the above affixed to structures and land of the specific municipal buildings subject to this bylaw.

*The Town has no formal program for how to address requests from the public to fly flags from town flagpoles, or to determine what types of flags it wants to display as an expression of the town's own position. This article is in response to a recent Supreme Court case which teaches that it is helpful if the town has established a bylaw or program for governing flags on municipal property. The Supreme Court explained that a governmental entity has the right to speak for itself and is entitled to say what it wishes and to select the views that it wants to express. When a governmental entity does so, it is engaging in government speech. Shurtleff v. City of Boston, 596 U.S. \_\_\_\_ (2022). A key issue is the extent to which the government has actively shaped or controlled the expression and messages the flags send. Because Boston "had nothing—no written policies or clear internal guidance—about what flags groups could fly and what those flags would communicate" the Court found that Boston did not make the raising and flying of private groups' flags a form of government speech and so could not deny the particular request from a religious group that was at issue in that case. This article would ensure town control over what flags, banners and signs may be flown on town flagpoles at Town Hall and other town properties by having a discrete list of what may be flown from specific locations to reflect the town's sentiments.*

**The Select Board unanimously recommends adoption of this article. 5 - 0**

Proceeding: The Select Board Chair moved, and it was seconded, the Town vote to adopt article 28. There being no discussion, the Moderator then declared article 28 passed by a majority voice vote.