

Commissioners,

At Wednesday evening's Public Hearing, several speakers and commissioners asked if there can be an exception for the US flag in the Fairfax County zoning ordinance. Staff repeatedly insisted no, the zoning ordinance must be content neutral. However, US Code specifies special treatment of the US flag.

Doesn't US code supersede anything in our zoning laws? I strongly recommend the Planning Commission check with the County Attorney re: "4 USC Ch. 1: THE FLAG"

In short, re: displaying the US flag outdoors:

- When the flag is displayed from a staff projecting from a window, balcony, or a building, the union should be at the peak of the staff unless the flag is at half-staff. When it is displayed from the same flagpole with another flag, the flag of **the United States must always be at the top** except that the church pennant may be flown above the flag during church services for Navy personnel when conducted by a Naval chaplain on a ship at sea.
- When the flag is displayed over a street, it should be hung vertically, with the union to the north or east. If the street runs north-south, the stars should face east. For streets running east-west, the stars should face north. If the flag is suspended over a sidewalk, the flag's union should be farthest from the building and the stars facing away from it.
- When flown with flags of states, communities or societies on separate flag poles which are of the same height and in a straight line, **the flag of the United States is always placed in the position of honor—to its own right. The other flags may be the same size but none may be larger.**
- **No other flag should be placed above it. The flag of the United States is always the first flag raised and the last to be lowered.**
- **When flown with the national banner of other countries, each flag must be displayed from a separate pole of the same height. Each flag should be the same size. They should be raised and lowered simultaneously. The flag of one nation may not be displayed above that of another nation in time of peace.**
- The flag should be raised briskly and lowered slowly and ceremoniously.

- Ordinarily it should be displayed only between sunrise and sunset, although the Flag Code permits night time display "when a patriotic effect is desired." Similarly, the flag should be displayed only when the weather is fair, except when an all weather flag is displayed. ...
- It should be illuminated if displayed at night. ...
- [<http://us-flag.net/code/>]

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Excerpts from the Code

itself [<https://uscode.house.gov/view.xhtml?path=/prelim@title4/chapter1&edition=prelim>]:

§6. Time and occasions for display

(a) It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaves in the open. **However, when a patriotic effect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness.**

(b) The flag should be hoisted briskly and lowered ceremoniously.

(c) The flag should not be displayed on days when the weather is inclement, except when an all weather flag is displayed. ...

(e) The flag should be displayed daily on or near the main administration building of every public institution.

(f) The flag should be displayed in or near every polling place on election days.

(g) The flag should be displayed during school days in or near every schoolhouse. ...

### §7. Position and manner of display

...(b) The flag should not be draped over the hood, top, sides, or back of a vehicle or of a railroad train or a boat. When the flag is displayed on a motorcar, the staff shall be fixed firmly to the chassis or clamped to the right fender.

(c) **No other flag or pennant should be placed above or, if on the same level, to the right of the flag of the United States of America**, except during church services conducted by naval chaplains at sea, when the church pennant may be flown above the flag during church services for the personnel of the Navy. **No person shall display the flag of the United Nations or any other national or international flag equal, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within the United States or any Territory or possession thereof ... .**

(e) The flag of the United States of America should be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed from staffs. ...

(f) When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or to the United States flag's right. ...

(g) When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

(h) When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the window sill, balcony, or front of a building, the union of the flag should be placed at the peak of the staff unless the flag is at half-staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of the sidewalk, the flag should be hoisted out, union first, from the building.

(i) When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left.

...

(j) When the flag is displayed over the middle of the street, it should be suspended vertically with the union to the north in an east and west street or to the east in a north and south street. ...

(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. .... By order of the President, the flag shall be flown at half-staff upon the death of principal figures ...the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff, ...

#### §8. Respect for flag

No disrespect should be shown to the flag of the United States of America...

(a) The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.

(b) The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise. ...

**(g) The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature.**

**(i) The flag should never be used for advertising purposes in any manner whatsoever. ... Advertising signs should not be fastened to a staff or halyard from which the flag is flown.**