



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE O-20-21

AN ORDINANCE AMENDING CHAPTER 10 OF THE BOROUGH CODE, BUILDING AND HOUSING, BY CREATING SECTION 10-15, DISPLAY OF FLAGS

WHEREAS, the Government Speech Doctrine establishes that a government organization, such as the Borough of Highlands, may advance its own expression without requiring viewpoint neutrality when the government itself is the speaker, so long as its expression does not show religious preference (See Matal v. Tam, 137 S. Ct. 1744, 1757 (2017)); and

WHEREAS, the Borough of Highlands maintains flagpoles on various public buildings and within public parks and playgrounds within the Borough of Highlands; and

WHEREAS, the Borough Council wishes to permit the display of commemorative flags upon Borough owned flagpoles as a form of government expression; and

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands as follows:

SECTION I.

Chapter 10, Building and Housing, Section 10-15, Display of Flags, is hereby created to read as follows:

10-15 DISPLAY OF FLAGS.

Section 10-15. Display of Flags.

A. In addition to the Flag of the United States, the Borough of Highlands may display such additional flags on Borough owned flagpoles on public buildings and in public parks and playgrounds as the Borough Council may authorize by resolution as a form of government speech, provided the display of same shall not show religious preference.

B. The Flag of the United States shall be displayed highest and any such additional flags shall be flown below the Flag of the United States. The Flag of the United States shall be displayed in accordance with and in the manner prescribed in Chapter 1 of Title 4 of the United States Code (4. U.S.C.S. §§ 1-10).

C. The Borough's flagpoles are not intended to serve as a forum for free expression by the public. Rather, the Borough's flagpoles are to be used exclusively by the Borough, where the Borough Council may display a commemorative flag as a form of government expression. The Borough will not display a commemorative flag based on a request from a third party, nor will the Borough use its flagpoles to sponsor the expression of a third party.

D. No person shall display or place upon any flagpole owned by the Borough of Highlands any flag or other object not otherwise authorized as an expression of government speech by the Borough Council of the Borough of Highlands and without the express written permission of the Borough of Highlands.

E. Owing to their very nature as expressive locations meant for contemplation and reflection, monuments and memorials shall not be deemed locations for flying expressive flags via resolution.

F. In addition to the Flag of the United State and such other flags as may be authorized by proclamation of the Mayor or resolution of the Borough Council, the following flags are hereby permitted to be displayed upon flagpoles owned by the Borough of Highlands as a form of expression of government speech, in the manner set forth above:

1. Flag of the State of New Jersey.
2. Flag of the County of Monmouth.
3. Flag of the Borough of Highlands.
4. P.O.W./M.I.A. (Prisoner of War/Missing in Action) flag as provided In Title 36, Chapter 9, §902 of the United States Code (36 U.S.C.S. §902).
5. Killed in Action Flag (required by P.L. 2017, Chapter 188).

SECTION II. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION III. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV. EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage and publication in accordance with law.

First Reading and Set Hearing Date for O-20-21

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
MAZZOLA			X			
RYAN			X			
VALKOS		X	X			
BROULLON	X		X			

This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's Office.

DATE OF VOTE: 09/16/2020



Michelle Hutchinson, Acting Municipal Clerk
Borough of Highlands

Public Hearing and Adoption October 7, 2020 O-20-21

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL		X	X			
MAZZOLA			X			
RYAN			X			

VALKOS			X			
BROULLON	X		X			

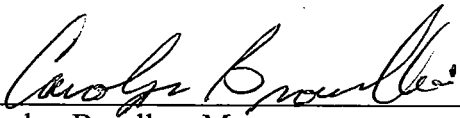
This is a Certified True copy of the Original Resolution on file in the Municipal Clerk's

Office.

DATE OF VOTE: 10/7/2020



Michelle Hutchinson, Acting Municipal Clerk
Borough of Highlands



Carolyn Broullon, Mayor