



October 13, 2017

OPEN LETTER CONCERNING PROPOSED FLAG PROTECTION ORDINANCE
IN IBERVILLE PARISH

Via Facsimile to 225-687-5277
and U.S. Mail to:

Iberville Parish Council
P.O. Box 389
Plaquemine, LA 70765

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION OF
LOUISIANA
PO BOX 56157
NEW ORLEANS, LA 70156
T/504.522.0617
WWW.LAACLU.ORG

Dear Councilmembers:

I understand that the Iberville Parish Council will consider an ordinance purporting to ban “desecrating” or to “cast contempt on any American, Louisiana or Iberville Parish flag.” This letter is to advise you that any such law, if passed, would violate the Constitutional rights of the people of Iberville Parish and would be both unenforceable and counter to the fundamental principles of this country.

As reported on nola.com,¹ the proposed ordinance says it would be illegal to put any “word, mark, design or advertisement of any nature” on the flag. Further, it would outlaw “public mutilation” and intentional acts to defile, burn or “cast contempt on any American, Louisiana or Iberville Parish flag.”

In 1990, the U.S Supreme Court struck down a federal flag protection law (*United States v. Eichman*, 496 U.S. 310). A year later the Court reaffirmed the First Amendment right to burn or otherwise destroy the flag a year later in (*Texas v. Johnson*, 491 U.S. 397). This country was founded on the principles of dissent, and fundamental to those principles is the right to criticize the government. Indeed, a hallmark of a free society is the right to be critical of those in power – and one way to do that is through the symbolic power of the flag. Flag burning, “desecration,” or other acts involving the flag, like other forms of dissent, are political speech fully protected by the First Amendment to the U.S. Constitution. That means this speech can’t be censored by the government, and it can’t be made a crime.

In addition, under the language as reported on www.nola.com, items such as Budweiser beer cans, Harley Davidson motorcycle ads, and many credit cards which allow a flag image would be banned in Iberville Parish. Indeed, even the “Forever” postage stamp would be outlawed. Attached are several images, pulled from a simple Internet search, of items that would be prohibited in Iberville Parish if this ordinance were to pass.

¹ Drew Broach. “Flag burning ban pushed in Iberville Parish: report.” *NOLA.com / The Times-Picayune* 11 Oct. 2017. Accessed 12 Oct. 2017
www.nola.com/politics/index.ssf/2017/10/flag_burning_iberville_parish.html

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The people of Iberville Parish are entitled to the full range of Constitutional protections guaranteed to everyone in this country. While members of the Parish Council may not like to see alterations of any kind to official flags, all of you have sworn to uphold the Constitution and laws of Louisiana and the United States. Those laws protect the rights of dissent and to use images of the flag, even in ways that elected officials may disapprove.

We urge you not to pass this ordinance, which will violate the rights of the people you are elected to serve.

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Sincerely,



Marjorie R. Esman
Executive Director

Examples of products, advertising, and displays which would be illegal under the proposed ordinance:



Clockwise from bottom left:
U.S. postage stamp; Levi's jeans
ad; Capital One credit card;
Budweiser can; Patriotic wall
sign; Harley Davidson poster