

POLICY AND PROCESS FOR POSTING OF AMERICAN FLAGS ON AUTHORITY ROADWAYS

Effective Date: March 1, 2021

1. Introduction:

N.J.A.C. 19:1-1.13(e) invests the New Jersey Turnpike Authority (the “Authority”) with broad discretion to prohibit the unauthorized placement of posters, signs, flags, memorials or other installations (the “Items”) on the Authority’s Roadway, regardless of the message stated or implied thereby. Prohibiting, or otherwise regulating all such Items on the Roadway is necessary to prevent the potential for such Items to distract drivers, obstruct views, and to otherwise create a safety hazard to the traveling public. The Authority Board of Commissioners, via Resolution No. 252-09-2020 dated September 22, 2020, has determined it to be necessary and appropriate to develop and implement this Permit Policy and Process for the Posting of American Flags on the Roadway (the “Policy”). This Policy establishes the process for, and appropriate circumstances and sites upon which American Flags can be displayed on the Roadway. However, the display of all other Items remains prohibited. This Policy supersedes all prior formal and informal policies, processes and procedures related to the display of American Flags or other Items on the Roadway.

This Policy will be implemented in the interim pending formal adoption of a regulation in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 to -15.

2. Definitions:

A. American Flag means an American flag of a design in accordance with 4 U.S.C. § 1 and 24

FR 6865, Exec. Order No. 10834 (1959) with a maximum size of 4 feet by 6 feet and in NJTA Flag Policy – 03/01/21

proper condition as determined by the Authority, to be securely affixed with non-metallic fasteners, without a pole or any supporting structure that could create a hazard, to the parapet fencing of a Roadway overpass or bridge that has an adjacent sidewalk or pathway that allows for safe installation and maintenance. Except as to Nonconforming American Flags, all American Flags shall require a permit in accordance with this Policy.

B. Roadway encompasses the Turnpike and Parkway rights-of-way, and all bridges and other structures on and over the Roadway thoroughfare, pursuant to N.J.A.C. 19:9-1.1.

C. Nonconforming American Flag Displays means American Flag displays, affixed to the parapet fencing of a Roadway overpass or bridge, that predate implementation of this Policy.

3. Requirements and Conditions.

A. Nonconforming American Flag Displays. Notwithstanding anything herein to the contrary, the Authority shall allow Nonconforming American Flag Displays to continue to be displayed, subject to the following:

(i) The individual or entity responsible for the Display shall provide the Authority with their contact information; agree to maintain the Nonconforming American Flag Display in a safe and securely-fastened manner, and in proper and acceptable condition free of tears, excessive wear or fading and vandalism or defacement; and agree to indemnify, defend and hold harmless the Authority, its Commissioners, employees, agents and consultants pursuant to the terms set forth in Paragraph F of this Section 3. The individual or entity responsible for the Nonconforming American Flag Display shall complete a Nonconforming American Flag form, which is available on the Authority's website at

<https://www.njta.com/forms-public-records/american-flag-permit-request> or by contacting the Authority at (732)750-5300 extension 8568 or emailing FlagAuthorization@njta.com.

(ii) Failure of the individual or entity responsible for the Nonconforming American Flag Display to comply with the requirements of Section 3.A.(i) hereof may result in removal and proper disposal of the Nonconforming American Flag(s) by the Authority.

B. American Flag. The Authority shall allow only American Flags, as defined in Section 2A hereof, to be displayed on Authority-specified Roadway bridges and overpasses, subject to the permitting process described herein.

C. Number of American Flags Per Location. Only one (1) American Flag in each direction (i.e., one American Flag facing southbound, one American Flag facing northbound) shall be permitted to be displayed on any Roadway bridge or overpass. In locations where the Roadways include divided local and express sections, an American Flag for each divided section (e.g. one American Flag facing southbound on the express section and one American Flag facing southbound on the local section) shall be permitted.

D. Enforcement. The Authority Operations Department or its designee shall enforce compliance with all terms and conditions of this Policy.

E. Maintenance of American Flags. All American Flags permitted under this Policy must be maintained by the permittee in accordance with the terms and conditions of this Policy. American Flags must be maintained in a proper and acceptable condition free of vandalism or defacing, tears, or excessive wear or fading. American Flags must be properly fastened at all times to the parapet fencing of the Roadway overpass or bridge upon which they are

displayed. Failure of the permittee to properly maintain its American Flag may result in removal and proper disposal of the flag by the Authority and termination of the Permit.

- F. Indemnification.** Permittees shall be required to indemnify, defend and hold the Authority, its Commissioners, employees, agents and consultants harmless from any and all suits, claims, losses, demands, or damages of whatever kind or nature that arise out of, or that are claimed to arise out of, any negligent act, error, or omission of the permittee, and as applicable, its employees, members, or agents in connection with the installation, display, maintenance, and/or removal of their American Flag. However, it is specifically understood that by issuing a permit hereunder, the Authority does not waive its sovereign immunity or any requirements, limitations, and/or defenses it may have by virtue of the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

4. Permitting Process.

- A. Permit Application.** Applicants that wish to obtain a permit from the Authority to display an American Flag must file an application with the Authority, which can be obtained at <https://www.njta.com/forms-public-records/american-flag-permit-request> (“American Flag Permit Application”) or by contacting the Authority at (732)750-5300 extension 8568 or emailing FlagAuthorization@njta.com.
- B. Application Review Process.** The Authority shall process all complete American Flag Permit Applications and render a decision concerning each application within 10 (ten) business days.
- C. Permit Duration.** All permits issued by the Authority to display an American Flag shall be valid for a period of two (2) years from the date of issuance. Permits may be renewed

by the Authority, upon written request of the permittee, for an additional two (2) year period. Permittee's may also go to <https://www.njta.com/forms-public-records/american-flag-permit-request> to request a renewal electronically or by contacting the Authority at (732)750-5300 extension 8568 or emailing FlagAuthorization@njta.com. A permittee shall be required to remove their American Flag and submit a new application for a new permit upon expiration of their existing permit or renewed permit.

- D. Obligation to Remove American Flag.** A permittee shall be required, within seven (7) days of the expiration of their permit, to remove their displayed American Flag. Should a permittee fail to remove its American Flag upon expiration of its permit, the Authority will remove and properly dispose of such American Flag.