

**CHAPTER 77****USE OR OCCUPANCY OF NJ TRANSIT-OWNED PROPERTY****Authority**

N.J.S.A. 27:25-5(e), (h) and (k) and 27:25-7(b).

**Source and Effective Date**

R.2005 d.376, effective October 6, 2005.  
See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

**Chapter Expiration Date**

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, expires on October 6, 2010.

**Chapter Historical Note**

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was adopted as R.1984 d.625, effective January 21, 1985. See: 16 N.J.R. 2415(b), 17 N.J.R. 205(a).

Pursuant to Executive Order No. 66(1978), Chapter 77, Use of Occupancy of NJ Transit-Owned Property, was readopted as R.1995 d.111, effective January 27, 1995. See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a). Pursuant to Executive Order No. 66(1978), Chapter 77 expired on January 27, 2000.

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was adopted as new rules by R.2000 d.208, effective May 15, 2000. See: 32 N.J.R. 389(a), 32 N.J.R. 1781(b).

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was readopted as R.2005 d.376, effective October 6, 2005. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. PERMITS AND CONDITIONS**

- 16:77-1.1 Definitions
- 16:77-1.2 Permit applications
- 16:77-1.3 Permit conditions
- 16:77-1.4 Administrative fees
- 16:77-1.5 Permit fees; general conditions
- 16:77-1.6 Permit fees; transverse occupation
- 16:77-1.7 Permit fee; longitudinal occupations
- 16:77-1.8 Other provisions

**SUBCHAPTER 1. PERMITS AND CONDITIONS****16:77-1.1 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings:

“Cable” consists of more than two conductors insulated from each other, with or without a protective covering, either self-supporting or having a common support.

“Coaxial television cable” means a transmission line cable having an inner conductor surrounded by insulation and an outer sheath serving as the second conductor.

“Communication wires” means wires used for telegraph, telephone, fire alarm, police, and signal circuits, for public or private communication of signal service, which operate at a voltage not exceeding 400 volts to ground or 750 volts between any two points of the circuit and transmitted power of which does not exceed 150 watts.

“Composite coaxial cable” means a cable made up of one or more transmission lines in which one conductor is centered inside a metallic tube that serves as the second conductor. Other standard insulated conductors may be included in the same overall sheath.

“Individual service” means a service to a single individual building.

“Involved jurisdiction” means the New Jersey Transit Corporation (NJ TRANSIT), its authorized representative(s), NJ TRANSIT’s authorized railroad operator, and any railroad operating on NJ TRANSIT owned property, where appropriate.

“Lightfiber, fiberoptic and glassfiber cable” means any cable using light as a transmitter and receiver and a glass or plastic fiber as the transmission medium.

“Longitudinal occupation” means any occupation of NJ TRANSIT-owned property other than a transverse occupation as defined in this section.

“Messenger wires” means any support wire which carries no current, signal or communication transmission and has a specific purpose to assist in installing, servicing and replacing overhead occupancies. Messenger wires shall be considered as part of the wires or cables supported and no charge shall be assessed therefor.

“Municipality” means a local governing body such as a borough, township, city or village.

“NJ TRANSIT-owned property” means railroad property in the States of New Jersey, New York and Pennsylvania owned and/or operated by NJ TRANSIT regardless of the operating agent or active status of the railroad.

“Permit” means the written permission to use or occupy NJ TRANSIT-owned property. Uses or occupancies of NJ TRANSIT-owned property shall include, but not be limited to:

1. Transverse or longitudinal crossings on, over, or under NJ TRANSIT-owned property:
  - i. Aerial or underground wires and cables (communications and power);
  - ii. Poles, towers, guys and anchors;
  - iii. Pipes and sewers;

iv. Uses for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facility NJ TRANSIT determines a permit is required.

2. Uses or occupancies for short term activities, of less than one year duration.

"Permittee" means the owner of a facility which is to be constructed, installed or maintained on NJ TRANSIT-owned property, or a user of said property for a fixed term.

"Power wires" means all wires used for transmitting a supply of electrical energy except those defined as "communication wires" above.

"Transverse occupation" means that part of any overhead or under-grade line which crosses a track or tracks or any NJ TRANSIT-owned right-of-way.

"Wire" means a solid or stranded single conductor, either bare or insulated.

Amended by R.1989 d.133, effective March 6, 1989.

See: 21 N.J.R. 13(c), 21 N.J.R. 638(b).

Added "Municipality".

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

"Messenger wire" defined further.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Amended by R.2005 d.376, effective November 7, 2005.

See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

Rewrote definitions "Cable", "Communication wires", "Individual service", "Involved jurisdictions", "Longitudinal occupation", "NJ TRANSIT-owned property", "Permit" and "Permittee".

## 16:77-1.2 Permit applications

(a) No person, company, corporation, business, governmental agency or other entity may use or occupy NJ TRANSIT-owned property without obtaining a permit from NJ TRANSIT. All requests for permits shall be submitted in writing and addressed to:

NJ TRANSIT  
Real Estate Division  
Manager, Property Management—Permits  
One Penn Plaza East  
Newark, New Jersey 07105-2246

(b) Once a request for permit has been received, the applicant shall be responsible to NJ TRANSIT for application fees, regardless of permit completion. The application fee will be \$250.00 for each permit.

(c) Once stamped drawings have been entered into the review process, the applicant shall be responsible to the involved jurisdiction for the applicable review fees, regardless of permit completion.

(d) No refund of any fees shall be made after an application for a permit has been submitted.

(e) NJ TRANSIT will notify the applicant of its decision regarding the issuance of a permit. If NJ TRANSIT approves the application, after being reviewed by the involved jurisdiction, a permit will be sent to the applicant for completion. It shall be the applicant's responsibility to complete the permit and return it to NJ TRANSIT with the designated fee(s). No permit shall be issued unless all designated fee(s), have been paid to the involved jurisdiction.

(f) If at any time the permittee seeks to modify its use or occupancy of the NJ TRANSIT-owned property, the permittee shall be required to apply for a new permit according to the provisions of this section.

(g) Upon expiration of a permit, NJ TRANSIT may issue a new permit without requiring the permittee to submit a new application. A new occupancy fee will be assessed in accordance with the fee schedule rates in effect at the time.

Amended by R.1990 d.143, effective March 5, 1990.

See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Stylistic changes.

Amended by R.1995 d.111, effective February 21, 1995.

See: 26 N.J.R. 4972(a), 27 N.J.R. 750(a).

Amended by R.2005 d.376, effective November 7, 2005.

See: 37 N.J.R. 389(a), 37 N.J.R. 4311(a).

In (b), substituted "a request for permit" for "an application" and added "The application fee will be \$250.00 for each permit."; in (c), substituted "stamped drawings have" for "an application has"; in (d), added "of any fees"; rewrote (e); in (g), added "occupancy".

## 16:77-1.3 Permit conditions

(a) The permittee shall provide the indemnification and insurance coverage required by NJ TRANSIT.

1. The permittee shall indemnify, defend, keep and save harmless NJ TRANSIT, NJ TRANSIT RAIL OPERATIONS, contractors, and other railroad(s) operating on the affected property, their successors, assigns, agents, employees, servants or officials, and each and every one of them, (the "indemnified parties") against all claims, just or unjust, made against the indemnified parties on account of injuries, deaths, losses of any kind whatsoever, damages, suits, liabilities, judgments, claims for infringement of patent, trademark or copyright, cost and expenses which may in anywise accrue against the indemnified parties in consequence of the granting of a permit or which may in anywise result therefrom, and whether or not it shall be alleged or determined that the cause thereof was the negligent acts or omissions of the indemnified parties and the permittees shall appear, defend and pay, as its own expense, all costs, including counsel fees, arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the indemnified parties in any such action, the permittee shall, at its own expense, satisfy and discharge the same.

2. The railroad operations at or near the facilities involve some risk, and the permittee, as part of the consideration for a permit, and with full knowledge and appreciation of such risk, shall release and waive any right to ask