

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.2000 d.208, effective May 15, 2000.
See: 32 N.J.R. 389(a), 32 N.J.R. 1781(b).

Executive Order No. 66(1978) Expiration Date

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, expires on May 15, 2005.

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: Source and Effective Date.

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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” means consisting 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 the 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 dwelling.

“Involved jurisdiction” means the New Jersey Transit Corporation (NJ TRANSIT), its authorized representative(s), and the NJ TRANSIT’s authorized railroad operator, 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 direct crossing over or under railroad tracks and right-of-way as defined under (N.J.A.C. 16:77-1.7.

“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 State 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 for the use or occupancy of NJ TRANSIT-owned property including short term uses. Uses or occupancies of NJ TRANSIT-owned property shall include:

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 which NJ TRANSIT shall determine as requiring a permit.

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 short 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).

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 an application has been received, the applicant shall be responsible to NJ TRANSIT for application fees, regardless of permit completion.

(c) Once an application has 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 shall be made after an application for a permit has been submitted.

(e) Upon the applicant’s request and proper NJ TRANSIT approval, 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 the designated fee(s), for use and occupancy of NJ TRANSIT-owned property, have been collected, as provided in > N.J.A.C. 16:77-1.6. In addition to the above, the applicant shall reimburse the party operating over the affected property for costs related to their review of the applicant’s plans and specifications, if applicable.

(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 fee will be assessed in accordance with the fee schedule rates in effect at that 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).

16:77-1.3 Permit conditions

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