

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.2011 d.090, effective February 15, 2011.
 See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 77, Use or Occupancy of NJ Transit-Owned Property, expires on February 15, 2018. See: 43 N.J.R. 1203(a).

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

Chapter 77, Use or Occupancy of NJ Transit-Owned Property, was readopted as R.2011 d.090, effective February 15, 2011. See: Source and Effective Date. See, also, section annotations.

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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” 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 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”.

Amended by R.2011 d.090, effective March 21, 2011.
See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a).

In definition “Communication wires”, deleted “telegraph,” preceding “telephone” and a comma following “police”.

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 a permit has been received, the applicant shall be responsible to NJ TRANSIT for application fees, regardless of permit completion. The application fee will be \$300.00 for each permit.

(c) Once stamped drawings have been entered into the review process, the applicant shall be responsible to the in-

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”.

Amended by R.2011 d.090, effective March 21, 2011.
See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a).

In (b), inserted the second occurrence of “a” and substituted “\$300.00” for “\$250.00”.

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, NJ TRANSIT’s contractors, operators and other railroad(s) operating on the affected property, their successors, assigns, contractors, agents, employees, servants or officials and each and every one of them or any other designee of NJ TRANSIT, (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 that may in anyway accrue against the indemnified parties in consequence of the granting of a permit or which may in anyway 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 permittee 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 for or demand any special, direct, incidental, indirect, punitive, reliance or consequential damages, whether foreseeable or not, for or on account of any loss or injury to any property of the permittee and its employees, including property in the care, custody, and control of the permittee, and to the facilities and contents thereof that are over, under, upon, or in the property of NJ TRANSIT, including loss of, or interference with, service or use thereof, or loss of profits or revenue, cost of capital, cost of replacement services, claims of customers or third parties, whether or not it shall be alleged or determined that the cause thereof was breach of contract, breach of warranty, negligent acts or omissions of the indemnified parties or the permittee, their successors, assigns, contractors, agents, employees, servants and officials or of other persons.

(b) The permittee shall properly safeguard all work performed under the conditions of the permit. If considered necessary by the involved jurisdiction, the permittee will be required to employ additional safety devices including uniformed traffic directors.

(c) Upon approval of a permit, the permittee shall give notice in writing to the involved jurisdiction, at least 14 days prior to use, work, or occupancy of NJ TRANSIT-owned property.

(d) Construction work materials and workmanship shall conform to NJ TRANSIT specifications.

(e) Work or occupancy shall not begin until a formal written notice to proceed is issued to the permittee by NJ TRANSIT.

(f) All uses, work or occupancy within NJ TRANSIT-owned property shall be subject to the review by the involved jurisdiction affecting the safety and operations of the trains. The safety and continuity of railroad operation shall be of the first importance and shall be at all times protected and safeguarded, and the permittee, and the permittee's contractor and/or subcontractors shall perform and arrange all use, work, and occupancy accordingly. All use and work shall be performed carefully and shall be regulated so as to avoid interruption and interference of train movements and damage to the tracks and all other facilities and appurtenances.

(g) Upon completion of installation or vacation of the site, the permittee shall restore the affected area to the satisfaction of NJ TRANSIT and/or involved jurisdiction.

(h) NJ TRANSIT assumes no obligations whatsoever in connection with the use, work, and/or occupancy by the permittee and is not obligated to make any repairs to the property or furnish people, equipment or materials in connection with use, work and/or occupancy by the permittee. The use, work, and/or occupancy provided for by the permit shall be performed at no cost to the involved jurisdiction.

(i) The permittee shall reimburse the involved jurisdiction for all actual costs incurred by the involved jurisdiction as a result of the permit project which shall include, but not be limited to, inspectors, watchmen, operators, flagmen, and other personnel. All costs will be billed at the then current billing rates which are subject to revision. The permittee shall remit payment to NJ TRANSIT within 30 days after receipt of an invoice. The permittee shall pay NJ TRANSIT a late charge of three percent of the total unpaid invoice amount for every month any invoice is owed and outstanding until the invoice is paid in full.

(j) The permittee shall have the responsibility during the term of the permit to maintain its facility in a safe and proper manner, to the satisfaction of the involved jurisdiction. If repair or maintenance of the permittee's facility is required, the permittee must notify NJ TRANSIT in writing and request permission to perform the repair or to maintain such facility. The permittee may not begin such work without prior written approval from NJ TRANSIT.

1. In the event of an emergency, the permittee shall take immediate corrective action upon notification of the involved jurisdiction.

(k) If it is deemed necessary by NJ TRANSIT, the permittee shall be required to submit a deposit in an amount sufficient to guarantee that, should the permittee fail to restore the disturbed area in a safe and proper manner, there will be enough money to pay for the cost of any work performed by the involved jurisdiction in consequence of that failure. This guarantee shall not operate to waive the permittee's complete responsibility with regard to restoring the affected area. When NJ TRANSIT deems it necessary to demand a deposit pursuant to this subsection, NJ TRANSIT will return to the permittee any unused funds upon the completion of the approved corrective measures. The deposit will be reduced by costs incurred by NJ TRANSIT including, but not limited to, administrative fees, personnel, equipment and damages.

(l) When occupations require movement or relocation of facilities by NJ TRANSIT, NJ TRANSIT and/or the appropriate involved jurisdiction shall prepare an estimate of cost. Using this estimate, NJ TRANSIT shall request as a condition in granting the permit, a written agreement by the permittee, stating that the permittee shall assume all expenses involved in the movement or relocation of facilities and any expenses for additional facilities necessitated by the move. Upon the written request of NJ TRANSIT, the permittee shall promptly change the location of its facilities, or any of them, at the sole

expense of the permittee and within 30 days after such request is made, so as to enable NJ TRANSIT to make any alterations or improvements upon its property and any changes in or additions to its facilities that it may deem necessary or advisable at any time, and nothing shall in any way be so construed as to limit NJ TRANSIT in the full and free use and occupation of the full width of its right-of-way and property at the location.

(m) Upon the termination of the permit, the permittee, subject to the review and approval by NJ TRANSIT, shall remove all permit related facilities and shall restore the affected area to the satisfaction of NJ TRANSIT. The permittee is responsible for all costs incurred for restoring the affected area.

(n) The involved jurisdiction reserves the right to impose special conditions in appropriate cases, as required at its sole discretion.

(o) The fees set forth within this chapter for transverse and longitudinal occupations are minimums. NJ TRANSIT reserves the right to negotiate higher fees for any occupation in order to accommodate circumstances and conditions specific to individual applications.

Amended by R.1990 d.143, effective March 5, 1990. See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Indemnification and insurance requirements clarified. 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 (a); in (c), substituted "14" for "seven"; rewrote (e); in (f), deleted "," following "protected"; in (g), added "completion of installation or"; rewrote (i)-(l); in (n), added "at its sole discretion". Amended by R.2011 d.090, effective March 21, 2011. See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a). Rewrote (a)1.

16:77-1.4 Administrative fees

(a) The charges in this section are intended to cover the cost of processing of papers and other incidental expenses incurred by NJ TRANSIT, and are in addition to the application fee and the occupation fees in this chapter.

(b) Administrative fees will be charged as follows:

- 1. Wire and cable crossings and longitudinal occupation over or under NJ TRANSIT-owned property:
 - i. All transverse crossings not exceeding 300 volts to one individual service \$238.00
 - ii. All other transverse crossings \$490.00
 - iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of voltage \$994.00
- 2. Pipe, sewer crossings, surface drainage and longitudinal occupations over or under NJ TRANSIT-owned property:

- i. Pipe not exceeding three inches inside diameter to one individual service \$238.00
- ii. All other transverse crossings \$490.00
- iii. All longitudinal occupations and any other agreement not already identified in this section, regardless of pipe contents \$994.00
- 3. All surface drainage not contained within a pipe and occupying NJ TRANSIT property \$972.00
- 4. Any application for any type of permit by a municipality or county \$238.00
- 5. Additional fees:
 - i. All occupations requiring engineering reviews will be assessed an additional fee as compensation to NJ TRANSIT Rail Operations.
 - ii. In addition, when railroad personnel or services are utilized by the permittee, reimbursement to NJ TRANSIT Rail Operations or other involved jurisdictions will be made within 30 days of receipt of billing.
 - iii. Any longitudinal or transverse occupation, regardless of the size of the facility, requiring more than one field excursion by NJ TRANSIT personnel shall be charged an additional \$144.00 for every outing beyond the single outing allotted each application.

Amended by R.1989 d.133, effective March 6, 1989. See: 21 N.J.R. 13(c), 21 N.J.R. 638(b).

Added new (a)5 and recodified (a)5 to (a)6. Amended by R.1990 d.143, effective March 5, 1990. See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased. 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).

Added new (a); recodified former (a) as (b) and rewrote subsection, including increasing administrative fees. Amended by R.2011 d.090, effective March 21, 2011. See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a).

Updated the administrative fees in (b)1i through (b)1iii, (b)2i through (b)2iii, (b)3 and (b)4; and in (b)5iii, substituted "144.00" for "120.00".

16:77-1.5 Permit fees; general conditions

(a) Use or occupancy permit fees are subject to the following conditions:

- 1. The permit fee equals the annual occupancy rate multiplied by the estimated duration of occupancy in years, not to exceed 20 years and no less than one year unless otherwise described within this schedule.
- 2. The minimum annual permit fee under any application shall be \$238.00.
- 3. Should the facility be terminated at any time less than the estimated years of occupancy, the permit fees collected are not subject to a refund.

4. NJ TRANSIT reserves the right to consider additional fees for crossings in excess of 200 feet. When increased preparation costs are incurred, the increases will be passed on to the permittee.

5. Any occupation of NJ TRANSIT property other than transverse track crossings will be charged as a longitudinal crossing based on the lineal foot of the occupation.

6. Fees are based on a minimum right-of-way width of 30 feet with the annual rate applicable up to a 200-foot width. For all crossings in excess of 200 linear feet, and no more than 700 linear feet, the facility will be calculated as a longitudinal occupation. Any facility crossing exceeding 700 linear feet, NJ TRANSIT reserves the right to negotiate. The formula for a transverse occupation over 200 feet is as follows:

First 200 LF:x = base rate
 200 LF to 700 LF:y = longitudinal fee divided by four.
 Over 700 LF: NJ TRANSIT reserves the right to negotiate fee(s).

Add all components (x + y) to establish the annual fee.

7. All fees for occupancies encased as a group or otherwise bundled or joined together will be calculated as if they were individual occupations.

8. Should the facility be modified during the term of the permit, during the processing of a new permit, or there is a supplement to an existing permit, the associated increase in fees will be charged. If a new permit is approved, an amount proportionate to the time remaining on the superseded permit will be credited toward the new fee.

9. In the event the facility goes beyond its paid estimated life, a new fee will be assessed in accordance with the fee schedule rates in effect at that time.

(b) An annual occupancy fee for attachments will be charged as follows when higher rates are not fixed:

1. Attachments of aerial wires and cables to poles and other structures of NJ TRANSIT-owned facilities used in wire line construction:
 - i. Up to and including 32,500 volts for each attachment to NJ TRANSIT-owned cross-arms or brackets \$13.00
 - ii. Up to and including 32,500 volts for each attachment to permittee's cross-arms or brackets when those brackets are attached to a NJ TRANSIT-owned facility \$10.00
 - iii. Wires over 32,500 volts attached to the NJ TRANSIT-owned cross-arms or brackets \$23.00 per attachment

- iv. Wires over 32,500 volts and attached to permittee's cross-arms or brackets when those brackets are attached to NJ TRANSIT-owned facilities \$20.00 per attachment
2. Attachments of aerial wires and cables to buildings or other structures:
 - i. Each wire or cable attached to NJ TRANSIT's bridges or structures, including railroad or highway bridges \$23.00 per attachment
3. Attachments of cable terminals to poles, buildings or structures, including highway bridges and railroad bridges owned by NJ TRANSIT:
 - i. Each cable terminal, loading coil, transformer or like device is subject to special consideration in each case, but not less than \$86.00.
4. Charges for attachment(s) of pipelines carried along NJ TRANSIT-owned property on bridges or other supports are subject to special consideration in each case if permitted by current New Jersey Department of Transportation specifications.
5. Charges for attachments of pipes to bridges, buildings, or structures of the NJ TRANSIT-owned property are subject to special consideration in each case.

(c) An annual occupancy fee for guy wire crossings and overhanging cross-arms and power wires and cables of transmission lines outside of NJ TRANSIT-owned right-of-way will be calculated as follows:

1. Each guy wire crossing NJ TRANSIT-owned property but not anchored thereon \$13.00
2. Cross-arms overhanging NJ TRANSIT-owned property from poles located outside thereof, one or more cross-arms on any pole \$10.00
3. Power wires and cables overhanging NJ TRANSIT-owned property from poles located outside thereof shall be calculated at the rates specified in N.J.A.C. 16:77-1.6(b) and (c) "Permit fees: transverse occupations" and on a pro-rated basis, depending upon the number of overhanging wires, excluding the neutral, ground static or lighting wires.

(d) Occupation charges for overhead or underground conveyors, pipe bridges, pedestrian tunnels, or any other facilities not covered by this section will be subject to special consideration.

(e) The minimum permit fee under any agreement where a miscellaneous use of occupancy is involved, not previously defined, shall be \$238.00. The applicant may be subject to possible charges, which may result from expenses incurred by

NJ TRANSIT's subsidiaries or involved jurisdictions. (NOTE: Permit fees for miscellaneous use or occupancy of NJ TRANSIT-owned property will be determined and charged on an individual basis because of the various types of requests.)

(f) A Permit will be issued at no charge where a facility is relocated, upon NJ TRANSIT's written request, to NJ TRANSIT-owned property from a public thoroughfare.

(g) All permits will be charged a fee in accordance with this section; however, at no time shall any fee for an existing occupancy be less than the fee established by the previous owner(s) unless there has been a significant reduction in the occupancy. The discount in the fee shall be calculated as a ratio between the old occupancy and fee to the new configuration and fee. Any increase in occupancy shall warrant an increase in the existing fee.

(h) Short-term use or occupancy fees are subject to the following conditions:

1. The permit fee equals the annual occupancy rate prorated for the estimated duration of occupancy.
2. The minimum permit fee under any application shall be \$238.00.
3. Should the facility be terminated at any time less than the estimated period of occupancy, the fees collected are not subject to a refund.
4. At no time shall a short-term use and/or occupancy fee be less than the estimated annual fee for the same use covered under the long-term fee schedule.
5. Should the facility be modified during the term of the permit, a new permit and fee will be required. If a new permit is approved, an amount proportionate to the time remaining on the superseded permit will be credited toward the new fee.
6. In the event the facility goes beyond its paid estimated life, a new fee will be assessed in accordance with the fee schedule rates in effect at that time.

(i) NJ TRANSIT may negotiate lower permit fees when requested to do so by any municipal applicant acting on its own behalf.

Amended by R.1989 d.133, effective March 6, 1989.
See: 21 N.J.R. 13(c), 21 N.J.R. 638(b).

Added (h).
Amended by R.1990 d.143, effective March 5, 1990.
See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased; fee discounts permitted under certain circumstances.
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 the section, including increasing fees throughout.
Amended by R.2011 d.090, effective March 21, 2011.
See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a).

Updated the fees in (a)2, (b)1i through (b)1iv, (b)2i, (b)3i, (c)1 and (c)2; in the introductory paragraph of (b)3, deleted a comma following "buildings"; in (b)3i, deleted a comma following "transformer"; in (e),

substituted "238.00" for "198.00" and inserted a comma following "charges"; added new (f); recodified former (f) through (h) as (g) through (i); and in (h)2, substituted "238.00" for "198.00".

16:77-1.6 Permit fees; transverse occupation

(a) All fees in this section are based on a minimum right-of-way width of 30 feet, with a fee applicable up to a 200 foot width. For all crossings in excess of 200 feet, an adjustment in the annual fee will be assessed and calculated in accordance with the example contained within this schedule under N.J.A.C. 16:77-1.5(a)6.

(b) Aerial and underground wire (power and communication) crossings not exceeding 200 feet in length will be charged an annual occupancy fee as follows:

1. Power:
 - i. All crossings up to but not exceeding 6,900 volts.....\$238.00
 - ii. Over 6,900 volts but not exceeding 32,500 volts.....\$438.00
 - iii. Over 32,500 volts but not exceeding 50,000 volts.....\$728.00
 - iv. Over 50,000 but not exceeding 345,000 volts.....\$972.00
 - v. Over 345,000 volts but not exceeding 500,000 volts.....\$1,462
 - vi. Over 500,000 volts.....\$1,944
 - vii. Ducts or pipes carrying conductors NO CHARGE
 - viii. Manholes (each).....\$124.00

(NOTE: Attachments of wires, cables, etc. to bridges, buildings, poles or structures of railroad are subject to special consideration in each case. Crossings of right-of-way by pipe type cable consisting of one or more high voltage cables encased in a steel pipe, under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted or thermal sand will be subject to special consideration and each case will be handled individually.)

2. Communication:
 - i. Telephone and other communication cables (not including composite coaxial cables or fiberoptic cables):
 - (1) Cable containing not more than 500 pairs\$238.00
 - (2) Cable containing 501 to 1,100 pairs\$422.00
 - (3) Cable containing 1,101 to 1,800 pairs\$612.00
 - (4) Cable containing over 1,800 pairs\$977.00
 - ii. Composite coaxial cables and coaxial television cables containing not more than four conductors \$355.00

- iii. All cables containing over four conductors shall be at a rate of \$51.00 for each additional conductor.
- 3. Fiberoptics:
 - i. Fiberoptic cable crossings used for long distance telephone and data transmission and for retail distribution to more than 500 households and/or retail businesses \$2,484
 - ii. Fiberoptic cable crossings used for retail distribution to 500 or less than 500 households and/or retail businesses \$1,325

(c) Poles, towers, guys and anchors and spare ducts or pipes will be charged an annual fee as follows:

- 1. Single wooden pole (per pole)..... \$58.00
- 2. All other supporting structures other than the auxiliary facilities and appurtenances listed in (c)3, 4, 5, 6 and 7 below \$115.00
- 3. Each brace, stub, pole or anchor..... \$58.00
- 4. Each guy anchored on or crossing NJ TRANSIT-owned property \$12.00
- 5. All towers, if not included in a longitudinal occupation shall be assessed per tower leg at..... \$74.00
- 6. Each span guy wire crossing \$58.00
- 7. Spare or unoccupied ducts or pipes, each (when the duct shall be occupied in the future by a cable, the annual fee for the facility occupying the duct shall govern and the \$58.00 charge cease) \$58.00

8. Guys, stubs, anchors, and push or pull braces required by specification for the support of a crossing pole on NJ TRANSIT-owned right-of-way and at the request of NJ TRANSIT shall be considered as part of the crossing pole and no charge will be made therefor.

(NOTE: The above charges in (c)1-8 are in addition to the wire and cable occupation charges provided in (b)1-3 above.)

(d) Annual permit occupancy fees for pipes and sewer crossings not exceeding 200 feet in length will be calculated as follows:

- 1. Circular lines carrying no pressure:
 - i. Pipes up to and including 12 inches ID \$238.00
 - ii. Pipes over 12 inches and not exceeding 24 inches ID \$331.00
 - iii. Pipes over 24 inches and not exceeding 60 inches ID will be

- charged at a rate of \$8.00 per inch of ID over the first 24 inches. This rate is in addition to a minimum fee of \$355.00
- iv. Pipes over 60 inches ID will be charged at a rate of \$5.00 per inch of ID over the first 60 inches. This rate is in addition to a minimum fee of \$728.00
- v. All surface drainage not contained within a pipe and occupying NJ TRANSIT property \$972.00
- 2. Circular lines under pressure and carrying non-flammable, non-explosive or non-combustible supporting materials, except coal and water slurry:
 - i. Pipes up to and including 12 inches ID \$288.00
 - ii. Pipes over 12 inches but not exceeding 24 inches ID \$365.00
 - iii. Pipes over 24 inches ID and not exceeding 60 inches ID will be charged at a rate of \$13.00 per inch of ID over the first 24 inches. This rate is in addition to the minimum fee of \$365.00
 - iv. Pipes over 60 inches ID will be charged at a rate of \$10.00 per inch of ID over the first 60 inches. This rate is in addition to the minimum fee of \$778.00
- 3. Circular lines under pressure and carrying flammable, explosive or combustible supporting materials, except coal and water slurry:
 - i. Pipes not exceeding three inches inside nominal diameter—minimum charge for any one crossing \$355.00
 - ii. Pipes over three inches inside nominal diameter and not exceeding 12 inches inside diameter—minimum charge for any one crossing \$490.00
 - iii. Pipes over 12 inches inside diameter and not exceeding 24 inches inside diameter shall be charged at a rate of \$23.00 per inch of ID over the first 12 inches. This rate is in addition to a minimum charge for any one crossing of \$490.00
 - iv. Pipes exceeding 24 inches in inside diameter shall be charged at a rate of \$22.00 per inch of ID over the first 24 inches. This is in addition to a minimum charge for any one crossing of \$778.00

4. Charges for non-circular pipes shall be determined by the diameter of a circular pipe having an equivalent cross-sectional area.

5. Charges for pipe tunnels or other special underground construction shall be subject to special consideration.

6. Pipe lines carried over NJ TRANSIT-owned property or other support structures are subject to special consideration in each case if permitted by NJ TRANSIT current specifications.

7. Manholes (each).....\$116.00

8. Charges for attachments of pipes to bridges, buildings, or structures of the NJ TRANSIT-owned property are subject to special consideration in each case.

9. Where pipe or pipes are encased in a protective pipe of larger diameter, no charge shall be made for the protective encasement.

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

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

Fees increased.

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 (b)-(d), including increasing fees throughout.

Amended by R.2011 d.090, effective March 21, 2011.

See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a).

Updated the fees throughout; in the introductory paragraph of (b)2i, substituted a colon for a semicolon at the end; in the introductory paragraph of (c), deleted a comma following "guys"; in (c)2, substituted "and" for a comma following "6"; in (c)3, deleted a comma following "pole"; in the introductory paragraph of (d)2, deleted a comma following "non-explosive"; and in the introductory paragraph of (d)3, deleted a comma following "explosive".

16:77-1.7 Permit fees; longitudinal occupations

(a) Recognizing the many variables and intangibles involved in each longitudinal occupation of NJ TRANSIT-owned property, each application shall be considered on its own merits, with minimum permit fee per year of occupancy being applied as set below.

(b) For occupations less than one mile in length, the charge shall be a proportionate amount of the rates calculated to the nearest dollar but no fee for any wire cable, duct, or pipe occupation shall be less than the charge for one-quarter mile of such occupation.

(c) The following charges cover the complete transmission line occupation and additional charges are not to be made unless there are attachments to NJ TRANSIT-owned facilities. For the purpose of determining voltage, guy wires, messengers and grounded conductors shall be considered as zero voltage. All other conductors shall be rated at voltage to other conductors, whichever is higher.

1. Aerial wires:
 - i. Transmission line, highest voltage not exceeding 6,900 volts \$2,426 per circuit per mile.
 - ii. Transmission line over 6,900 volts up to, but not including, 32,500 volts \$4,372 per circuit per mile.
 - iii. Transmission line 32,500 volts, up to and including 50,000 \$6,077 per circuit mile.
 - iv. Transmission line, 50,000 volts and over. The fee will be based on a negotiated rate.
2. Aerial and underground cables:
 - i. All longitudinal fiberoptic facility occupancy fees will be arrived at through negotiations.
 - ii. Telephone communication cables (not including composite coaxial cables):
 - (1) Cable containing not more than 1,100 pairs \$2,426 per cable per mile.
 - (2) Cable containing 1,101 to 1,800 pairs \$4,372 per cable per mile.
 - (3) Cable containing over 1,800 pairs: The fee will be negotiated at a rate not less than \$4,372 per cable per mile.
 - (4) For underground communication cables, the minimum charge is \$4,860 per cable per mile.
 - iii. Composite coaxial cable and coaxial television cables subject to negotiation but not less than \$5,911 per cable per mile.
 - iv. Underground power cables:
 - (1) When a cable is buried in an open trench and covered with soil: \$3,502 per circuit per mile.
 - (2) When a cable is buried in an open trench and surrounded with from six to 12 inches of thermal sand: \$6,077 per circuit per mile.

- (3) When a cable is encased in a steel pipe under inert oil pressure and/or further encased in a larger steel pipe and the space between the pipes filled with compacted sand: \$6,077 per mile or \$13.00 per inch of nominal diameter of the largest pipe per 100 feet of occupation or fraction thereof, whichever is greater.
- v. Spare or unoccupied ducts or pipes, each per mile \$728.00
- vi. Manholes, splicing chambers or pull boxes, each when these structures are necessary for longitudinal occupation.....No Charge
- vii. An additional charge shall be made for use of NJ TRANSIT-owned property duct lines based on the negotiated value of the facility.

(NOTE: Charges shown under (c)2v, vi and vii above are in addition to the charges shown under (c)2ii to iv inclusive.)

(d) All manholes necessary for periodic inspection, cleaning and maintenance will be covered under the longitudinal pipeline fee. On transverse occupations all manholes will be charged in excess of the transverse facilities occupancy fee.

(e) Fees for all structures other than manholes will be arrived at through negotiations. Examples of these structures are meter chambers, siphon chambers, substations, pump stations, well sites, towers, etc.

(f) An annual occupancy fee for pipes and sewers will be charged as follows:

- 1. Circular lines carrying no pressure: \$6.00 per inch of inside nominal diameter or fraction thereof per 100 feet of occupation or fraction thereof.
- 2. Circular lines under pressure and carrying non-flammable, non-explosive and non-combustible supporting materials, except coal and water slurry: \$6.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.
- 3. Circular lines under pressure and carrying flammable, explosive and combustible supporting materials, and coal and water slurry: \$13.00 per inch of inside nominal diameter per 100 feet of occupation or fraction thereof.
- 4. Charges of non-circular pipes shall be determined by the diameter of a circular pipe having an equivalent cross-sectional area.

5. Charges for pipe tunnels or other special underground construction shall be subject to special consideration.

Amended by R.1990 d.143, effective March 5, 1990. See: 21 N.J.R. 3259(b), 22 N.J.R. 837(d).

Fees increased.

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 (c) and (f), increased fees throughout; rewrote (e).

Amended by R.2011 d.090, effective March 21, 2011.

See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a).

Section was "Permit fee; longitudinal occupations". Updated the fees in (c)1i through (c)1iii, (c)2ii(1) through (c)2ii(4), (c)2iii, (c)2iv(1) through (c)2iv(3) and (c)2v; in (f)1 and (f)2, substituted "6.00" for "5.00"; in (f)1, deleted "per 100 feet of occupation or fraction thereof" from the end; in (f)2, deleted a comma following "non-explosive"; and in (f)3, deleted a comma following "explosive".

16:77-1.8 Other provisions

(a) For those applicants having over 200 occupancy permits with NJ TRANSIT, the Corporation reserves the right to negotiate permanent occupancy permits for any occupancy having an annual fee of \$360.00 or less at the time of application. The permittee shall pay to NJ TRANSIT a lump sum, which will be equivalent to 20 times the annual rate that will satisfy the annual fee for the life of the facility occupation so long as it remains unchanged. No refunds will be given for any facility which is terminated, cancelled, removed or abandoned. Permittees who qualify for this option, request such option and are accepted by NJ TRANSIT, will receive a single "blanket agreement" with an attachment containing a list of the affected occupancies covered under individual permits. Acceptance of any request for a blanket agreement and lump sum payment will be at the sole discretion of NJ TRANSIT, which shall not be unreasonably exercised. The existence of this option does not obligate NJ TRANSIT to enter into a blanket agreement with any permittee.

(b) Any facility which is altered in such a manner so as to increase the annual fee beyond the original \$360.00 limit will result in that permit being extracted from the blanket agreement and a new annual fee will be calculated, based on the existing fee schedule, and assessed annually thereafter. Monetary credit will be allocated to the new facility fee based on the unused portion of the initial 20 year period. No credit will be given for any facility requiring reassessment which has exceeded the initial 20 years of occupancy.

New Rule R.1990 d.143, effective March 5, 1990.

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

Repeal and New Rule, R.1995 d.111, effective February 21, 1995.

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

Formerly "Automatic annual fee increases".

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

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

In (a) and (b), substituted "20" for "16" throughout.

Amended by R.2011 d.090, effective March 21, 2011.

See: 42 N.J.R. 2016(a), 43 N.J.R. 743(a).

In (a) and (b), substituted "360.00" for "300.00"; in (a), inserted a comma following the first occurrence of "sum" and the fourth occurrence of "NJ TRANSIT", substituted "that" for the second occurrence of "which" and deleted a comma following "removed".