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MANUAL 900-1

SECTION 02.7

OCCUPANCY PERMITS

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BUREAU OF MANAGEMENT ANALYSIS AND PROJECTS

1. Purpose

The purpose of this procedure is to ensure consistency in the review and issuance of occupancy permits on property under the jurisdiction of the New York State Canal Corporation (Corporation).

2. Applicable Law and/or Guidance

New York State Authorities Law Article 2, Title 9, and Article 9, Title 5-A

New York State Canal Law §§6, 10, 86, 100

New York State Canal Recreationway Plan

Canal Real Property Management Policy (25-6-01C)

Rules and Regulations of the New York State Canal Corporation

Occupancy and Work Permit Accommodation Guidelines (TAP-922)

Design and Construction Requirements for Occupancies:

- General Design and Construction Requirements (TAP-923A)
- Residential/Non-Commercial Docks, Decks, Platforms and Boat Launches/Ramps (TAP-923B)
- Non-Commercial Access to Canal Waters & Non-Commercial Use of Corporation Property (TAP-923C)
- Reduced Speed Buoys (TAP-923D)

Canal Permit Application (TA-W99072)

Executive Instruction entitled Issuing A Work Permit For Preliminary Planning Purposes In Advance Of A Contemplated Occupancy Permit Or Disposal Of Real Property

3. Introduction

The Corporation is responsible for the maintenance, operation, construction, reconstruction, improvement, development, financing and promotion of the Canal System and for implementation of the New York State Canal Recreationway Plan (CRP). In accordance with the provisions of the Canal Law, the Corporation has the authority to acquire, hold and dispose of real property to advance the purposes of the Corporation and thus, the interest of the State. Real property transactions (transactions) include, but are not limited to, acquisitions, sales, leases, grants of easement and the issuance of permits.

Occupancy permits, which are revocable upon 30 days notice, provide the Corporation with the greatest flexibility for managing property under its jurisdiction. Therefore, in most cases, occupancy permits are the appropriate transaction to use when the real property is needed for Corporation purposes, or may be needed for Corporation purposes in the future. Permits are not considered disposals under the Public Authorities Law as there is not a transfer of an interest in the real property.

As an interim measure, if the real property is within an existing subdivision, and such real property is currently under an occupancy permit, it may continue to be permitted under an occupancy permit and may continue to be transferred. However, such subdivision permits must be for the same use (e.g., no additional improvements, no change in existing structure footprints, etc.). If the real property is not currently under an occupancy permit, no new permit shall be issued.

Annual fees for occupancy permits are set forth in the Rules and Regulations of the New York State Canal Corporation.

Where a disposal is contemplated, unless otherwise authorized by the Executive Director, no occupancy permits will be issued in advance of completion of a disposal. In addition, a work permit shall not be issued in advance of the issuance of the occupancy permit without written authorization by the Executive Director, except in those situations when preliminary planning work such as site inspections, surveys, environmental testings or soil borings, is necessary for preparation of materials to be submitted as part of the application package. Except for preliminary planning work, when a work permit is requested in advance of an occupancy permit, the Division Permit Engineer (DPE) should consult with the Office of Real Property Management (ORPM) prior to taking any action. See SOP - WORK PERMITS (900-1-02.8) for the work permit procedure.

4. Processing and Issuing an Occupancy Permit

- 4.1. Upon receipt of an inquiry for an occupancy permit for use of real property under the jurisdiction of the Corporation, the DPE follows SOP - TRANSACTION ANALYSIS PROCESS (900-1-02.1) to record the inquiry and send out the application package. The DPE provides the inquirer the CANAL PERMIT APPLICATION (TA-W99072), the applicable OCCUPANCY PERMIT CHECKLIST based on the type of use requested and advises that the OCCUPANCY AND WORK PERMIT ACCOMMODATION GUIDELINES (TAP-922) set forth the fundamental requirements for occupancy and work permits, and advises that the DESIGN AND CONSTRUCTION REQUIREMENTS FOR OCCUPANCIES (TAP-923A-D) set forth additional requirements depending on the type of occupancy. The DPE evaluates the inquiry and assists the inquirer in understanding these documents. The DPE directs the inquirer to the Real Property page of the Corporation's website (www.canals.ny.gov) to view and download these documents or provides hardcopy upon request.

- 4.2. Upon receipt of the application package, the DPE enters permit application information into PERMITS Plus and processes any checks in accordance with SOP 900-1-02.1.
- 4.3. DPE verifies that the application package is complete.
 - 4.3.1. If incomplete, the DPE either contacts the applicant or sends a MISSING DOCUMENTS LETTER to the applicant requesting missing information.
 - 4.3.2. Once the application package is complete, the DPE enters the insurance information into PERMITS Plus and sends the insurance certificate to the Insurance Compliance Unit (ICU) and files copy in Division file. ICU notes receipt of the insurance certificate in PERMITS Plus and creates hardcopy file. ICU monitors that coverage is maintained in accordance with SOP – PERMIT AND LEASE ENFORCEMENT (900-1-02.9). Insurance renewals are processed by ICU.
 - 4.3.3. The DPE, in accordance with SOP - TRANSACTION ANALYSIS PROCESS (900-1-02.1), creates a Transaction Record, completes a TRANSACTION ANALYSIS/RECOMMENDATION (TAR) form (TA-N99116) and TAR map for the permit and notifies the Division Canal Engineer to complete the TAR. The review and approval process will be done in accordance with SOP 900-1-02.1.
 - If rejected by ORPM, the procedure stops here.
 - If approved by ORPM, Division staff proceeds to step 4.4 to progress the transaction.
- 4.4. The DPE utilizes the appropriate fee schedule and, if necessary, consults with Division real estate personnel to determine the annual occupancy permit fee. If there is no appropriate fee schedule, Division real estate personnel will conduct or coordinate an appraisal to determine the fee following SOP - APPRAISALS AND SURVEYS (900-1-02.4).
- 4.5. The DPE enters annual fee into PERMITS Plus.
- 4.6. ORPM sends an OCCUPANCY PERMIT COVER LETTER requesting the applicant to sign and return the permit, annual fee, and any required security deposit and/or bond to the Accounts Receivable Unit (ARU). The cover letter gives the applicant 30 days to respond. If there is no response within 30 days, ORPM sends a SECOND NOTICE FOR OCCUPANCY PERMITS. If there is still no response within 30 days from the

second notice, ORPM sends a PERMIT CLOSURE NOTICE notifying the applicant that the permit application is closed and sends a copy of the NOTICE to the DPE for the Transaction Record. The DPE updates PERMITS Plus permit status to “void”.

- 4.7. Upon receipt of the annual fee, any required surety deposit/bond and signed occupancy permit, ARU processes the funds, posts the payment, adds the applicant to the billing record, sets up the account for annual billing, notes on PERMITS Plus that the fee has been received and forwards the applicant-signed permit to the Director of ORPM for signature.
- 4.8. The Director of ORPM verifies that all fees have been received and the occupancy permit package is complete. Upon signature, the Director of ORPM sends a LETTER SENDING THE FULLY EXECUTED PERMIT AND (where applicable) IDENTIFICATION PLATE to the applicant. Note: Once the occupancy permit is officially in “Active” status in PERMITS Plus, the DPE may then issue a work permit that has cleared the review process for that occupancy.
- 4.9. DPE ensures that the following has been entered into PERMITS Plus:
 - TAR approved, signed and linked
 - TAR map, or comparable map, linked
 - Any new conditions from the TAR
 - Permit Area entered on Screen 1 (if applicable)
 - Contact information (for companies, including individual contact name)
 - Proof of ownership (Deed, Bill of Sale) linked
 - Any “other conditions” added to permit
 - Fees entered on Screen 2 and copied to Screen 3
 - Polygon/Polyline created in Canal Permit Editor
 - All necessary approvals completed in “OK Appr” including addition of Item # 310 “Occupancy Fee Approval” and Item # 298 “Insurance Compliance”

5. Contesting and Appealing the Occupancy Permit Fee

The DPE promptly sends appeals of the permit fee to ORPM for handling in accordance with the Rules and Regulations of the New York State Canal Corporation.

6. Administering an Occupancy Permit

After an occupancy permit is issued, it is administered as follows:

- 6.1. The DPE informs the DCE of the occupancy.
- 6.2. The DPE serves as the point-of-contact for interactions with Division and Headquarters staff.
- 6.3. The DPE, in concert with other Division staff, is responsible for the continued monitoring of the occupancy to ensure the permittee's compliance with the conditions of the occupancy permit.
- 6.4. Should the DPE receive notification of any change(s) affecting the permit, including permit information, use or applicable conditions, the DPE takes one of the following actions:
 - 6.4.1. If the change is not substantial, the DPE enters the change into PERMITS Plus. (PERMITS Plus alerts ORPM of the change.) "Not substantial" shall include, but not be limited to:
 - a. A name change(s) or the addition/deletion of a party(s), but the property ownership does not change.
 - b. Removal or addition of a temporary structure.
 - c. Expansion of dock size, as long as it does not exceed the size limitation specified in the permit or threshold established in Design and Construction Requirements for Residential/Non-Commercial Docks, Decks, Platforms and Boat Launches/Ramps (TAP-923B).
 - 6.4.1.1. If ORPM concurs with a permit revision, updates PERMITS Plus accordingly and sends to Permittee a revised permit with a cover letter briefly outlining the change and requesting the Permittee to sign and send back the permit. Upon receipt of the signed revised permit, ORPM scans it into PERMITS Plus and notifies the DPE.
 - 6.4.1.2. If ORPM does not agree that a permit revision is appropriate, contacts the DPE for further discussion and/or recommends that a new permit be issued.

- 6.4.2. If the change is substantial, the DPE issues a new permit (see Section 4 of this procedure). If there is any question as to whether a permit should either be revised or new permit issued, DPE shall consult with ORPM. “Substantial change” shall include, but not be limited to:
- a. A change in use type (e.g., residential to commercial). A new TAR determination may be necessary before a new permit is issued.
 - b. The addition of real property to an existing permit area. A new TAR determination may be necessary. If, after consultation with the DCE, the DPE determines the additional property is not significant, the DPE enters the change into PERMITS Plus.
 - c. Property ownership changes.
- 6.5. DPE notifies ARU of any changes to billing information and updates PERMITS Plus.
- 6.6. Should a permittee request to terminate an occupancy permit, the DPE will coordinate the processing of the request with ORPM. ORPM shall consult with Legal staff prior to taking any action on the request.
- 6.7. Any violations of the occupancy permit shall be addressed in accordance with SOP - PERMIT AND LEASE ENFORCEMENT (900-1-02.9) which includes guidance in emergency situations.

7. Unauthorized Use of Corporation Property

Any type of unauthorized use of Corporation property shall be addressed in accordance with SOP - PERMIT AND LEASE ENFORCEMENT (900-1-02.9) which includes guidance in emergency situations.

8. Responsibilities

Accounts Receivable Unit processes the funds, posts the payment, adds the applicant to the billing record and sets up the account.

The Division Permit Engineer coordinates the review and processing of an occupancy permit application, enters completed application information into PERMITS Plus, forwards insurance documents to the Insurance Compliance Unit and administers occupancy permits after execution.

The Division Permit Engineer and Division real estate personnel recommend to the Office of Real Property Management occupancy permit fees and, if an appraisal is required, Division real estate staff conducts or coordinates the appraisal process to determine occupancy permit annual fees, if required, in accordance with SOP - APPRAISALS AND SURVEYS (900-1-02.4).

Insurance Compliance Unit monitors that insurance coverage is maintained in accordance with SOP - PERMIT AND LEASE ENFORCEMENT (900-1-02.9) and processes insurance renewals.

Office of Real Property Management reviews the Division's permit determination following SOP - TRANSACTION ANALYSIS PROCESS (900-1-02.1), and approves or rejects the determination. ORPM coordinates the execution of the occupancy permit; appeals of permit fees; considers changes to the occupancy; and coordinates applicant contact if the occupancy permit application is rejected.

9. Flowchart



