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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 Canal Law §§6, 10, 86, 100

New York State Canal Recreationway Plan

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

21 NYCRR §156 Revocable Permits

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 Accountability Act of 2005 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 shall be based on the estimated fair market value of the property. Where a fee rate schedule has not been established for an occupancy permit, annual fees shall be based upon, at a minimum, the property's fair market value as estimated by an appraisal, except in limited circumstances where the fair market value may be estimated by other means as determined by the Office of Real Property Management.

Where a disposal is contemplated, unless otherwise authorized by the Executive Director, no 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 situations described in Exhibit 11 of SOP – TRANSACTION ANALYSIS PROCESS (900-1-02.1). See SOP-WORK PERMITS (900-1-02.8) for the work permit procedure

4. Procedure for 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 Division Permit Engineer (DPE) will follow SOP-TRANSACTION ANALYSIS PROCESS (900-1-02.1) to record the inquiry and send out the application package. The DPE will send the applicable OCCUPANCY PERMIT CHECKLIST¹ based on the type of use requested.
- 4.2. Upon receipt of the application package, a Division Secretary will assign a Project Reference Number to the application, forward the application fee to the Credit and Collections Unit, and send a receipt to the applicant. Credit and Collections will deposit the funds and note the receipt of the funds in Permits Plus.
- 4.3. The DPE will verify that the application package is complete. If the application is incomplete, the DPE will send a MISSING DOCUMENTS LETTER² to the applicant requesting missing information. Once the application package is complete, the DPE will indicate this in Permits Plus.
- 4.4. The DPE will notify the Division Canal Engineer to complete the TRANSACTION ANALYSIS/RECOMMENDATION (TAR) form (TA-N99116) and the review and approval process will be done in accordance with SOP-TRANSACTION ANALYSIS PROCESS (900-1-02.1). If rejected by OLM, the procedure stops here and OLM will send a REJECTION LETTER³ to the applicant.
- 4.5. If OLM has approved the TAR determination, OLM will send the TAR to the DCE with a copy to the Contracting Officer and Finance.

1 Exhibit 1

2 Exhibit 2

3 Exhibit 3

- 4.6. The DPE will contact Division real estate personnel to determine the annual occupancy permit fee. If there is no fee schedule, Division real estate personnel will conduct an appraisal to determine the fee following SOP-APPRAISALS AND SURVEYS (900-1-02.4).
- 4.7. The DPE will verify that the insurance certificate has not expired. If expired, the DPE will obtain a current insurance certificate from the applicant. The DPE will then notify Bureau of Real Property Management (BRPM) to process the permit.
- 4.8. BRPM will send an OCCUPANCY PERMIT COVER LETTER¹ requesting the applicant to sign and return the permit, annual fee, and any required security deposit and/or bond. The cover letter will give the applicant 30 days to respond. If there is no response within 30 days, BRPM will send a SECOND NOTICE FOR OCCUPANCY PERMITS². If there is still no response within 30 days from the second notice, BRPM will send a PERMIT CLOSURE NOTICE³ notifying the applicant that the permit application is closed and send a copy of the NOTICE to the Division Canal Engineer for the Project Record. BRPM will update Permits Plus to indicate that the occupancy permit process has ceased.
- 4.9. Upon receipt of the annual fee and signed occupancy permit, BRPM will notify the Supervisor of Credit and Collections who will post the payment, add the applicant to the billing record, set up the account for annual billing, and note on Permits Plus that the fee has been received.
- 4.10. BRPM will forward the permit to the Supervisor of Real Property Management for signature, and upon signature, will send a LETTER SENDING THE FULLY EXECUTED PERMIT AND IDENTIFICATION PLATE⁴ to the applicant.

5. Contesting and Appealing the Occupancy Permit Fee

Any appeals of the permit fee will be promptly sent to BRPM for handling in accordance with current regulations and procedures.

1 Exhibit 4

2 Exhibit 5

3 Exhibit 6

4 Exhibit 7

6. Responsibilities

The Bureau of Real Property Management will coordinate execution of the occupancy permit and any appeals of permit fees.

The DPE will coordinate the review and processing of an occupancy permit application.

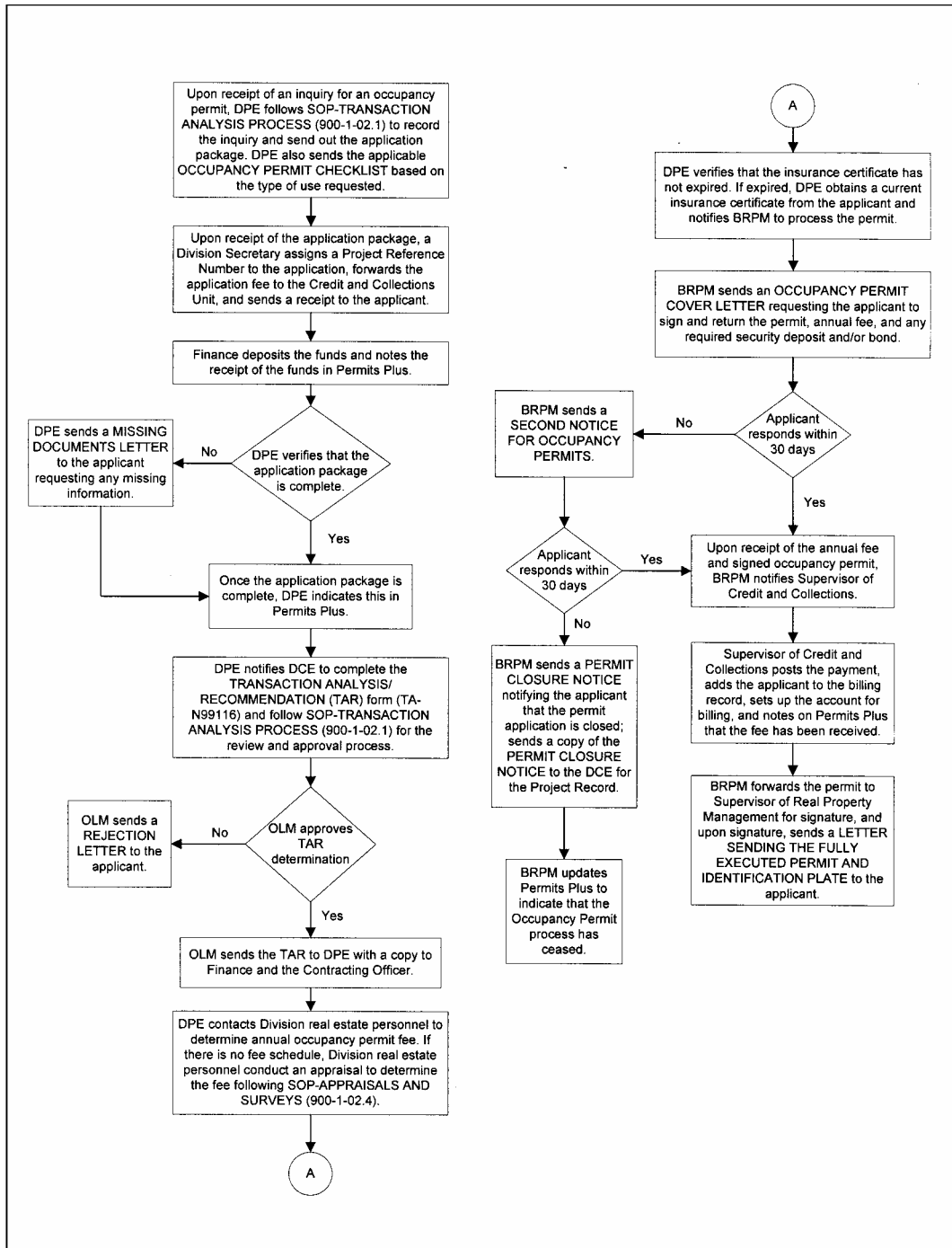
The Division real estate personnel will coordinate the appraisal process to determine occupancy permit fees, if required, in accordance with SOP-APPRAISALS AND SURVEYS (900-1-02.4).

The Division Secretary will assign a Project Reference Number to the application, forward application fee and deposit to Finance, and send a receipt to the applicant.

Finance will post fee payments, set up the account for annual billing, and note on Permits Plus when fees are received.

OLM will review the Division's permit determination following SOP-TRANSACTION ANALYSIS PROCESS (900-1-02.1) and approve or reject the determination. OLM will coordinate applicant contact if the occupancy permit application is rejected.

7. Flowchart



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EXHIBIT 1
OCCUPANCY PERMIT CHECKLIST

The applicable checklist will be sent to the applicant with the application.

NEW YORK STATE CANAL CORPORATION
INSTRUCTIONS TO APPLICANTS FOR CANAL PERMITS

An applicant requesting a Canal Permit for the occupation of Canal owned lands or any activities in/on the waters of the New York State Canal System must provide the following as indicated (X):

- Canal Permit Application (FORM TA-W99072).
- Proof of Liability Insurance Coverage (Commercial):
 - ACORD 25 (2001/08) - Certificate of Liability Insurance along with the Attached Supplemental Insurance Certificate (FORM TA-W51343-9). Please submit proof of commercial general liability coverage in the amount of \$1,000,000 each occurrence/\$2,000,000 general aggregate.
- Proof of Liability Insurance Coverage (Residential/Agricultural):
 - The Canal Corporation requires liability insurance coverage in the amount of \$ 300,000. The accepted form of proof is an insurance rider or a Standard Acord Form showing the amount of coverage and naming the "People of the State of New York, the New York State Canal Corporation and the New York State Thruway Authority" as the additional insured.
- New York State Thruway Authority/Canal Corporation Statement of Self-Insurance.
- Maps, plans and specifications detailing the proposed use of Canal lands/waters/vessels/facilities. Please provide ___ sets of plans and specifications. (For a private residential dock, a hand drawn sketch of the dock showing the dimensions, anchoring system, floatation and construction materials is sufficient).
- A location map and identifying information so that a Canal Corporation representative can locate the area to be permitted.
- Description of operation, including goods to be sold/rented, hours of operation, etc.
- Dimension of vessel(s) to be stored, any special requirements pertaining to the use of the dry dock facility and detail description of work to be performed on vessel(s)
- Copy of deed/survey and proof of ownership to the property adjacent to New York State Canal Land/Water to be permitted.
- Permit Fee: A non-refundable application fee of \$ 25.00 must be submitted by check or money with application.
- Performance Bond in the amount of \$ _____ issued by a Surety Company licensed to do business in the State of New York.
- Copies of U.S. Army Corp. of Engineers Permit and/or NYS Department of Environmental Conservation Permit.
- Copy of State Historical Preservation Office approval.
- Appendix C - State Environmental Quality Review - Short Environmental Assessment Form Part I-Project Information. Please fill out and return with your Canal Permit application.

All contractors/subcontractors that will be occupying NYSCC lands shall be require to provide proof of insurance to indemnify and save harmless the Thruway Authority/Canal Corporation, its officers or employees from any and all liability, claims, demands and recoveries arising out of the negligence or use of the property.

Permittee is responsible for obtaining all required permits from federal, state and local agencies.

NO OCCUPATION ON CANAL LANDS PURSUANT TO THIS APPLICATION SHALL COMMENCE UNTIL THE NEW YORK STATE CANAL CORPORATION ISSUES A PERMIT.

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EXHIBIT 3
REJECTION LETTER

This letter will be sent to the applicant if the application is rejected.

Date

Name
Address
City, State, Zip

Re: <Location and description of property>
Project Reference Number:

Dear <insert name>:

Thank you for your interest in the property at the above referenced location. I regret to inform you that your request has been denied at this time, because <insert appropriate text based on one of the choices below>.

Should you have any questions, I can be reached at <insert phone number>.

Sincerely,

Name
Title
Department

Option 1: the property is needed for future Canal Corporation purposes.

Option 2: the proposed use of the property is not consistent with the Canal Recreationway Plan or Canal Corporation goals.

Option 3: the Canal Corporation is not the owner of the property or the property is not under the jurisdiction of the Canal Corporation.

Option 4: If none of the above applies, insert specific details to explain the reason for the rejection.

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EXHIBIT 4
OCCUPANCY PERMIT COVER LETTER

This letter will be sent to the applicant with a permit for signature.

Initial ltr new permit 1 or 2 yrs.doc

January 31, 2006

«Name»
«Address 1»
«City», «State» «PostalCode»

Re: C _____

Dear _____:

Enclosed is the original copy of your Real Estate Permit for Use and Occupancy of New York State Canal Corporation Property.

Please sign and return this Permit by _____ to the above address together with a personal check, bank check or money order payable to the New York State Canal Corporation in the amount of \$_____. Payment may also be made by filling out the enclosed credit card authorization form and returning it with your signed permit. The amount due is summarized as follows:

Annual Fee		To		
Annual Fee		To		
Subtotal				
Less credit for fee previously paid by prior Permittee ()				
Total Due				\$ _____

When returned, we will mail you a fully approved copy of the permit with all required signatures. In the future, you will receive an invoice for your annual fee on or about _____ of each year.

If you have any questions, please call me at 518-471-4334.

Very Truly Yours,

Anthony Capobianco
Real Property Management

ACC:jh
Enclosure
cc: «cc»
D. Boshart

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EXHIBIT 5
SECOND NOTICE FOR OCCUPANCY PERMITS

This letter will be sent to an applicant that has failed to respond to the OCCUPANCY PERMIT COVER LETTER in Exhibit 4.

(Date)

Name
Address
City, State, Zip, Postal

Re: Canal Permit #

Dear Salutation:

Our letter of *(date initial letter was sent)*, (copy attached herewith) contained the original copy of the above-referenced Real Estate Permit for Use and Occupancy of New York State Canal Corporation Property.

We asked you to sign and return the Permit to the above address, along with the permit fee, if applicable. Perhaps our letter was overlooked or the permit misplaced; therefore, we have enclosed another copy for your convenience.

Unless we receive the signed Permit and fee (if requested) by *(30 days from date of letter)*, we will assume that you are no longer interested in obtaining this permit. Should you decide to again pursue occupancy of this parcel of Canal land in the future, you will be required to file for a new permit and you will be required to pay any applicable application fees.

May we have a courtesy of a reply? If you have any questions, you may reach me at *(phone number)*.

Very truly yours,

Name
Real Property Management

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EXHIBIT 6
PERMIT CLOSURE NOTICE
Page 1 of 2

This letter would be sent to an applicant who failed to respond to a second notice regarding closure of the pending permit application.

(Date)

Name
Address
City, State, Zip, Postal

Re: Canal Permit #

Dear Salutation:

On *(date of initial letter)* and *(date of Second Notice letter)*, this office sent to you a Real Estate Permit for Use and Occupancy of New York State Canal Corporation Property for your signature allowing for your occupation of Canal Corporation property. To date we have yet to receive a response from you. This is to advise you we will have no option but to consider your application closed.

Should you decide in the future that you do in fact want this permit, a new application will need to be submitted, and you will incur additional application charges.

Very Truly Yours,

Name
Real Property Management

cc: Division
OLM

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PERMIT CLOSURE NOTICE

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This letter would be sent to an applicant who failed to respond to a second notice regarding closure of the active permit.

(Date)

Name
Address
City, State, Zip, Postal

Re: Canal Permit #

Dear Salutation:

This is to advise you that the above referenced permit issued in your name has been cancelled effective *(date)*. Our records show that identification plate number *(plate no)* was given to you at the permit's inception. Please return this plate to our office as soon as possible.

If you have any questions, you can reach me at *(phone number)*.

Very Truly Yours,

Name
Real Property Management

cc: Division
OLM

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EXHIBIT 7
LETTER SENDING THE FULLY EXECUTED PERMIT AND IDENTIFICATION PLATE

This is the cover letter sent to the applicant for the executed permit and identification plate.

March 21, 2006

«name»
«Address1»
«City», «State» «PostalCode»

**Re: Canal Permit #C«permitno»
Canal Plate #«plateno»**

Dear «salutation»:

Enclosed is a fully approved copy of your *Permit for Use and Occupancy of New York State Canal Corporation Property*.

Also enclosed is your Canal identification plate, which must be displayed on the Canal Property, identified on the enclosed permit.

This plate must be visible from the water at all times. The location selected for the plate should ensure good visibility and sturdy support. Its location should not be vulnerable to icing, flooding or other risks. If this is not practical, an alternate location may be selected, but that location must have the written approval of the Canal Corporation.

The enclosed plate is the property of the NYS Canal Corporation. If it is damaged or lost, replacement plates will be available. Upon cancellation of your permit, this plate must be returned to the NYS Canal Corporation.

If you have any questions, please call me at (518) 471-4334.

Sincerely,

Anthony Capobianco
Real Property Management

AC:jh
Enclosures

cc: «cc»
D. Boshart