

**440-RICR-10-00-3**

## **TITLE 440 – Contractors' Registration and Licensing Board**

### **CHAPTER 10 – GENERAL ADMINISTRATION, REGISTRATION, LICENSING, AND FILING CLAIMS**

#### **SUBCHAPTER 00 - N/A**

#### **Part 3 – Licensing of Underground Utility Contractors**

### **3.1 AUTHORITY**

- A. These rules and regulations are promulgated pursuant to R.I. Gen. Laws Ch. 5-65.3 and in accordance with R.I. Gen. Laws Ch. 42-35, as amended. The Underground Utility Contractors' Licensing Law, R.I. Gen. Laws § 5-65.3-1 et seq. may also be subject to certain provisions of the Contractors Registration Act, R.I. Gen. Laws § 5-65-1 et seq.

### **3.2 PURPOSE**

- A. The purpose of these rules and regulations is to establish provisions, qualifications and procedures for licensing underground utility contractors engaged in the laying, installing, altering, replacing or repairing of underground utilities and to promote the public health, welfare, and safety through the implementation of the Underground Utility Contractors' Licensing Law, R.I. Gen. Laws § 5-65.3-1 et seq. by providing a minimum and uniform standard for underground utility contractors' to ensure they have the requisite skills, training, and experience necessary to conduct business in Rhode Island. R.I. Gen. Laws § 5-65.3-1 et seq. requires every underground utility contractor who engages in the installation, repair, alteration or replacement of an underground utility as defined in R.I. Gen. Laws § 5-65.3-2, be issued a license with the Contractors' Registration and Licensing Board. Any person who fails to acquire a license as stipulated is subject to penalties for operating without a license.
- B. If a person intends to conduct work outside of the scope of an underground utility contractor and within the scope of another trade, license, or registration, the person must first obtain the proper license or registration. Failure to obtain the

proper license or registration and conducting that scope of work under an underground utility contractor license may result in fines.

### **3.3 DEFINITIONS**

- A. "Appurtenance" means any accessory improvement to real estate associated with a primary structure.
- B. "Building Sewer" means that part of the drainage system that extends five feet (5') from the outer wall of the building or structure and conveys the discharge to public sewer, private sewer, individual sewage disposal system or point of disposal as defined in state building code.
- C. "Community water supply" means any public water supply which served at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.
- D. "Drain" or "Building Drain" means the part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes inside and that extends beyond the walls of the building and conveys the drainage from the building; any pipe that carries water in a building or structure drainage system.
- E. "Good Standing" means an applicant who seeks to obtain an underground utility contractor's license must not have any pending unresolved claims, violations, penalties, or fines with the Board for any license or registration held by the applicant, or with any other licensing agency in Rhode Island or out of state.
- F. "Individual Private Water Systems" means a type of system designed to supply property owner(s) and/or one tenant of record with potable water for consumption and use.
- G. "Lateral" means the service line from the sewer main or force main to the property line or curb line.
- H. "Multi-Family Residential Systems" means supply systems that serve three (3) or more residential dwelling units.

- I. "Municipality" or "Municipal Authority" means the appropriate state or local city or town authority involved in the day-to-day inspection of underground utility work or sewer and drain installations. The municipalities assist the Board in enforcement of R.I. Gen. Laws Ch. 5-65.3 and, pursuant to R.I. Gen. Laws § 5-65.3-18, shall have the authority to demand the production of a license by an underground utility contractor, as well as investigate and, where appropriate, make complaints to the Board regarding underground utility contractor work or violations.
- J. "Onsite Wastewater Treatment System" means any system of piping, tanks, dispersal areas, alternative toilets or other facilities designed to function as a unit to convey, store, treat or disperse wastewater by means other than discharge into a public wastewater system.
- K. "Onsite Wastewater Treatment System License" or "OWTS" means a license obtained under R.I. Gen. Laws Ch. 5-56 and granted by the Department of Environmental Management, or R.I. Gen. Laws § 5-20-38 for installing, constructing, altering, repairing or causing to be installed, constructed, altered, or repaired any individual sewage disposal system; or installing a water service.
- L. "Pipe" or "Water Service" means the pipe from the water main or other source of potable water supply, or from the meter when the meter is at the public right of way, to the water distribution system of the building served.
- M. "Plans and Specifications" means construction and/or engineering plans, including system site plans, storm drain plans and profiles, cross sections, detailed drawings, etc., or reproduction thereof, showing the location, character, dimensions, and details for the work proposed, and approved or to be approved by the owner, engineer, municipality, or architect. When approved, such plans become a supplement to these Rules and Regulations and the underground utility contractor must perform work in accord with said plans.
- N. "Potable Water" means water that is fit or suitable to drink; water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the bacteriological and chemical quality requirements of the Department of Public Health or regulations of the public authority having jurisdiction.

- O. "Service Line" means a pipe for the transmission or conveyance of potable water under pressure either from an individual well or from a distribution main, to a building or structure.
- P. "Sewer" means the part of the waste system that extends from the end of the building sewer and conveys the discharge to a public sewer, private sewer, individual sewage disposal system or other point of disposal.
- Q. "Storm Drain" means any pipe or structure designed to collect, carry, and divert surface water runoff.
- R. "Structure" means any:
1. Residential or commercial building; or
  2. Building containing one or more residences and their appurtenances. Structure may also include modular and mobile homes, which come within the jurisdiction of the Board as structures at the time they are placed on support blocking or permanent foundations in the place they will be used.
- S. "Underground utility" means the installation, repair, alteration, or replacement of underground utilities, sewer lines, storm drainage lines or water lines, water service and laterals, laying drains and related services outside of buildings, making connections with public and/or private underground utilities, provided that such work is to be done between the main, lateral, related services and/or appurtenances to within five feet (5') of the outer wall of a building or structure and specifically excluding gas and telecommunications work and any work defined in R.I. Gen. Laws § 28-27-28.
- T. "Underground Utility Contractor" means any corporation, association, sole proprietorship, firm, partnership, limited liability corporation, limited liability partnership, or other business organization that is engaged in the installation, repair, alteration, or replacement of underground utilities, outside of buildings, making connections with public and/or private underground utilities provided that such work is to be done between the main, laterals, services and/or appurtenances to within five feet (5') of the outer walls of a building or structure. The term "underground utility contractor" shall include any agent, servant, and/or employee of a licensed underground utility contractor. The term "underground utility contractor" does not include individuals licensed under Chapter 20 of this Title, "Plumbers and Irrigators." An underground utility contractor is a person

who has a contract, either oral or written, with the property owner to perform work subject to R.I. Gen. Laws Ch. 5-65.3; who may engage one or more subcontractors to perform all or part of the work; and who may have responsibility for the entire project which is the subject of the contract.

- U. "Water Supply System" means and includes any apparatus, equipment, water service pipes, water distribution pipes, and the necessary connecting pipes, control valves, and all appurtenances adjacent to the structure or premises, including the supply of water to the main water distribution line, geo-thermal, and all other water needs that require storage, pumping, treatment, filtration, or alteration in any way.

### **3.4 GENERAL LICENSING**

- A. The following licensing requirements pertain to the licensing of underground utility contractors pursuant to R.I. Gen. Laws § 5-65.3-1 et seq. Licensing requirements for other disciplines are contained in the respective Rules and Regulations.

#### **3.4.1 License Required**

- A. An underground utility contractor's license shall be required for commercial and residential work as established by law, and may be issued by the Board, by a Board approved third party, or by a Board approved third party, online. A license will be issued to only one (1) person, as defined herein. Other persons shall not be included in that license, but each shall be separately licensed and shall separately meet the underground utility contractor licensing requirements. Each applicant for an underground utility contractor's license must also be of good moral character and be in good standing with the Contractors' Registration and Licensing Board. No entity or person may perform work subject to R.I. Gen. Laws Ch. 5-65.3 without a license or under another person's license per 3.4.2; such actions will result in fines as set forth in § 1.6 of Part 1.

#### **3.4.2 Business Entity License**

- A. Any corporation, LLC or partnership may obtain a license. The applicant must identify a principal responsible on the application. The principal responsible is the individual officer member or partner who will be responsible for all actions taken by all individuals employed by the corporation/partnership/LLC and for any

violations of the statute that occur under that license. The principal responsible is required to take and pass the required written examination, obtain the required insurance and bonding requirements, and satisfy all other qualifications and requirements for licensure per 3.4.1. If any one of the officers, partners or members of the corporation or LLC are no longer part of the corporation/partnership/LLC, another member/partner/ officer must become licensed under R.I. Gen. Laws § 5-65.3-1 et seq.

### **3.4.3 Public Utility Exemption to License Requirement and Plumber/Pipefitter Alternate License Requirement**

- A. Public Utility Exemption: Any public utility, or agent thereof, regulated by the Public Utilities Commission or the Division of Public Utilities and Carriers shall be exempt from underground utility contractor licensing requirements per R.I. Gen. Laws § 5-65.3-3(c).
- B. Plumbers/Pipefitters Alternate License Requirement: any person licensed as a master plumber (R.I. Gen. Laws Ch. 5-20) or as a master pipefitter (R.I. Gen. Laws Ch. 28-27) shall be exempt from the requirement to obtain both an underground utility contractor's license under R.I. Gen. Laws Ch. 5-65.3 and an installer's license under R.I. Gen. Laws Ch. 5-56 provided that such master plumber or master pipefitter shall be required to comply with the provisions of R.I. Gen. Laws § 5-65.3-3 and R.I. Gen. Laws § 5-56-7. If a master plumber or master pipefitter intends to conduct underground utility contracting work and does not possess a valid installer's license under R.I. Gen. Laws Ch. 5-56, the master plumber or pipefitter must obtain an underground utility contractor's license as provided by R.I. Gen. Laws Ch. 5-65.3 and these Rules and Regulations.

### **3.4.4 Change of Entity Type / Ownership – License Termination**

- A. Underground utility contractor licenses are not transferable or assignable; the license becomes automatically invalid upon a change of ownership, or on suspension/revocation of license as promulgated by R.I. Gen. Laws § 5-65.3-11. If a person licensed as an individual, partnership, limited liability company or corporation seeks to change to another type of entity, the license will be terminated and the new entity must license anew. If a person requests to maintain the same license number for the new entity, the Board may assign that number to the new entity once a form established by the Board is completed.

The responsibility for all work performed by the previous entity over the last year will be assumed by the new entity.

#### **3.4.5 Partners on Record with the Board**

- A. All partners within a partnership shall be on record with the Board. Partnerships consisting of spouses shall be treated as partnerships consisting of unrelated persons. Notification must be made to the Board for any change in the composition of that partnership, except for the reallocation of interest among the existing partners.

#### **3.4.6 Cannot Advertise or Work Without Valid License**

- A. No person shall advertise or otherwise hold out to the public that person's services as an underground utility contractor unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed unless that person holds a current, valid license.

#### **3.4.7 Advertising, Proposals, Contracts and Invoices Must Contain License Number**

- A. All forms of advertising, inclusive of newsprint classified advertising, newsprint display advertising, pamphlets, telephone directory space ads, online ads, and display ads for work subject to R.I. Gen. Laws Ch. 5-65.3, prepared by an underground utility contractor or at the underground utility contractor's request or direction, shall clearly show/display the underground utility contractor's license number.
- B. All written contracts and proposals subject to R.I. Gen. Laws Ch. 5-65.3 shall show the underground utility contractor's license number. All contracts exceeding one thousand dollars (\$1,000.00) must be in writing and failure to adhere to this will result in the assessment of fines (see § 1.6 of Part 1.)

#### **3.4.8 Change of Licensee Information**

- A. A licensee must provide the Board with any changes to the information contained in the application and license, such as change of address, change of responsible party, agent of service, etc. Failure to do so will result in fines and possible suspension of license. Forms for making such changes (Change of Address Form, Change of Responsible Person Form, Change of Ownership and

Company Name Change Form) are available on the Board's website:  
[www.crb.ri.gov](http://www.crb.ri.gov).

### **3.4.9 Effect of Death or Incapacity on Business Entity License**

- A. In the event that a firm licensee/principal responsible person dies or is incapacitated by illness or injury so as not to be able to perform the work of an underground utility contractor, the Board or its Executive Director may issue, upon application and evidence of death (death certificate) or incapacitation (doctors note), a provisional license to one of the top four (4) corporate officers, to a partner, a designated LLC member, or to a designated corporate officer until either:
1. The new potential principal responsible takes the written licensing examination within one-hundred-twenty (120) days; or
  2. The new potential principal responsible provides evidence to the Board that he/she can perform the work of an underground utility contractor. Evidence may include, but is not limited to:
    - a. prior work history (to include dates of work performed, who the work was for, what work was performed);
    - b. OWTS license and/or other licenses held;
    - c. references from engineers, plumbers, or prior licensed employers; and
    - d. license card/certificate demonstrating that the potential new principal responsible is a member of the corporation or business entity.
- B. Once the Board receives the application, the evidence that the licensee/principal responsible is deceased or incapacitated, and the evidence that the new potential principal responsible has fulfilled § 3.4.9 (A)(1) or (2), the Board will determine if the license may be issued.

## **3.5 APPLICATIONS**

### **3.5.1 New Applicants**

A. In order to obtain an underground utility contractor's license, a new applicant must be in good standing and must submit to the Contractors' Registration and Licensing Board the following:

1. Pre-License Application: If applicant has never previously applied for or held an underground utility contractor's license, the applicant must submit a pre-license application in addition to the application in § 3.5.1(A)(2). The purpose of the pre-license application is to process the applicant for testing through the Board's third-party testing provider and to issue a tracking number for the license. The pre-license application shall include:
  - a. Name of Applicant;
  - b. Address;
  - c. Driver's license state and number;
  - d. Date of Birth;
  - e. Home, business and cell phone number(s);
  - f. e-mail address (if applicable); and
  - g. Fifty dollar (\$50.00) pre-licensing application fee.
2. Application: The application on the proper form as prescribed by the Board must include the following:
  - a. Name;
  - b. Home address;
  - c. Driver's license state and number;
  - d. Date of birth;
  - e. e-mail address (if applicable);
  - f. Home, business and cell phone number(s);

- g. Business name (list all business names under which business as an underground utility contractor is to be conducted, inclusive of fictitious names);
  - h. Name of principal responsible;
  - i. Business address;
  - j. If non-resident underground utility contractor, must provide name, contact information and signature of a registered agent in Rhode Island;
  - k. A true and accurate one inch by one inch (1" x 1") photograph of applicant or a digitized photograph taken by the Board for an additional fee of ten dollars (\$10.00), if required; and
  - l. Two hundred dollar (\$200.00) application/licensing fee for a two (2) year period.
3. Hoisting License or other similar evidence: The applicant must also provide a current Department of Labor and Training Hoisting Engineers License (R.I. Gen. Laws Ch. 28-26) or other similar license or certification as evidence that the underground utility contractor is capable of installing, repairing, alternating, or replacing sewer lines, storm drainage lines or waterlines, and services in accordance with approved plans and specifications pursuant to R.I. Gen. Laws § 5-65.3-4(1). Other similar evidence may include, but is not limited to:
- a. prior work history (to include dates of work performed as an employee, who the work was for, what work was performed);
  - b. OWTS license and/or other licenses held;
  - c. references from engineers, plumbers, or prior licensed employers; and
  - d. license card/certificate demonstrating that the applicant is/was a member of a corporation or business entity.
- (1) If after the Board staff review of the application, the Board deems the evidence presented insufficient to demonstrate

that the applicant is capable of performing the work of an underground utility contractor, the Board may direct the applicant to appear before the full Board or a Board subcommittee to assess the applicant's qualifications.

4. Bond: The applicant must obtain and provide the Board with a bond in the amount of twenty thousand dollars (\$20,000.00) with the Board as the holder for a two (2)-year period and conditioned on the language contained in R.I. Gen. Laws § 5-65.3-10.
5. Insurance: The applicant must obtain and provide the Board with documentation of public liability and property damage insurance covering the work of the underground utility contractor and in the amount of one million dollars (\$1,000,000.00) (combined single limit, bodily injury, and property damage) as required by R.I. Gen. Laws § 5-65.3-9. The insurance must be continuously in effect throughout the period of licensure; failure to maintain insurance shall invalidate registration and may result in a fine to the licensee. Applicants must provide verification of a minimum of six (6) month's insurance coverage from the date of application. A certificate of insurance constitutes satisfactory evidence of insurance coverage so long as it lists the Board as the holder and the policy number. Failure to secure and maintain insurance coverage may result in the imposition of fines and penalties (see § 1.6 of Part 1). If the licensee, in performance of work subject to R.I. Gen. Laws Ch. 5-65.3, through failure to comply with this subsection, causes damage to another entity or to the property of another person for which that entity could have been compensated by an insurance company had the required insurance been in effect, the Board may assess a civil penalty against the licensee in an amount up to five thousand dollars (\$5,000.00) in addition to such other action as may be taken under R.I. Gen. Laws § 5-65.3-1 et. seq.
6. Workers' Compensation Coverage: If the applicant states that he/she has one or more employees, the applicant must provide the Board with proof of proper workers' compensation coverage as required under R.I. Gen. Laws Ch. 28-29 or documentation of waiver of workers' compensation coverage.
7. Examination Certification: As required by R.I. Gen. Laws § 5-65.3-4(2), the applicant must take and pass a written examination (unless grandfathered

pursuant to R.I. Gen. Laws § 5-65.3-7 – see § 3.5.2 of this Part). The examination will test the applicant's understanding of the rules and regulations, and his/her ability to read and interpret approved plans and specifications. Upon passage of the examination, the applicant must submit to the Board with his/her application certification of passage of the examination. If the applicant fails an examination, he/she is permitted to take further examinations to obtain a passing grade upon payment of the prescribed fee for each examination. The Board will ensure that third-party testing company conducts at least three (3) test sessions a year. Testing locations, dates, and times will be posted on the Board's website. The applicant is responsible for all fees/costs associated with the examination, including study materials.

8. Corporate Documents: If the licensee is a corporation or LLC, the corporation or LLC must be properly registered with and certified by the Secretary of State's Office. The applicant must provide the corporate documents to the Board as proof that the corporation or LLC is properly registered with the Secretary of State. Any lapse or revocation of corporate status with the Secretary of State may result in the imposition of fines and/or action on the license, including suspension, revocation, or invalidation (see §1.6 of Part 1).
9. Photo: If not included in pre-license application, the applicant may be required to provide the Board with a true and accurate 1" x 1" photograph or digitalized photograph taken by the Board for an additional fee of \$10.00.
10. Proof of Rhode Island Residency: The applicant must provide the Board with proof that the applicant is a resident of Rhode Island (utility bill, tax form, other official document with applicant's current Rhode Island address).
11. Agent of Service: Out-of-state applicants must provide a power of attorney constituting and appointing a registered agent in Rhode Island (Agent of Service/ Power of Attorney Form).
12. The applicant must sign and submit a form attesting to the applicant's knowledge of the relevant governing laws. R.I Gen. Laws §§ 5-65.3-1 et seq. and 5-65-1 et seq.

13. Military Service Member: Pursuant to R.I. Gen. Laws § 5-87-1, military service member applicants for licensure who possess a registration/license from another state may include in their application evidence of education, training, or service completed as a member of the Armed Forces or Reserves of the United States, the National Guard of any state, the Military Reserves of any state, or the Naval Militia of any state and evidence of their out-of-state registration/license. The Board or its Executive Director will consider such evidence toward the qualifications for Board governed registration/licensure and will expedite the issuance of the registration/license once the out-of-state registration/license has been deemed to be substantially equivalent to Rhode Island requirements. If obtaining the Rhode Island registration/license has additional requirements that are not the same as the out-of-state registration/license, the Board or its Executive Director may issue the service member a temporary registration/license while the service member completes the additional requirements so long as the service member has the proper insurance and bonding (if required) in place.
14. Military Service Member's Spouse: In accordance with R.I. Gen. Laws § 5-88-1, the Board or its Executive Director will expedite the issuance of a Board governed registration/license to a military service member's spouse who holds a current registration/certification/license in another state to perform professional services; whose spouse is a member of the armed forces of the United States; whose spouse is the subject of a military transfer to Rhode Island; and who left employment to accompany the spouse to Rhode Island. The Board or its Executive Director will determine whether the out-of-state registration/certification/license is substantially the same to the registration/license in Rhode Island. If obtaining the Rhode Island registration/license has additional requirements that are not the same as the out-of-state registration/license, the Board or its Executive Director may issue the service member's spouse a temporary registration/license while he/she completes the additional requirements so long as the service member's spouse has the proper insurance and bonding (if required) in place.
15. Falsified documents may be punishable with fines up to ten thousand dollars (\$10,000.00).

### **3.5.2 Grandfather Clause for Applicants Previously Licensed by a Rhode Island City/Town (expired July 1, 2015)**

- A. Between January 1, 2015 and July 1, 2015, the grandfather clause of R.I. Gen. Laws § 5-65.3-7 allowed those who previously were licensed by a Rhode Island city or town within the previous five (5) years to obtain an underground utility contractor's license without having to take the written examination.
- B. An applicant previously licensed by a city or town in Rhode Island as an underground contractor was required to complete the above requirements in Section 3.5.1 for new applicants and to also provide documentation of the previous city/town issued license. Such applicant was not subject to the \$50.00 pre-license application fee in § 3.5.1 of this Part.
- C. As of July 1, 2015, the grandfather clause is no longer applicable and all applicants must comply with the New Applicant procedures as outlined above.

### **3.6 INCOMPLETE APPLICATIONS**

- A. The Board may return an incomplete application for licensure to the applicant with an explanation of the deficiencies. Returned applications may be subject to late filing fees.

### **3.7 DENIED APPLICATIONS**

- A. Pursuant to R.I. Gen. Laws § 5-65.3-12(b), when an application for a license is denied, a hearing shall be granted to the applicant provided that the aggrieved applicant requests such a hearing in writing and within ten (10) days of the denial with the Board. The hearing shall be held in accord with R.I. Gen. Laws § 42-35-1 et seq. and as set out below.
  - 1. The Board will provide the applicant a notice of denial of licensure and will grant a hearing provided the aggrieved/denied applicant requests a hearing in writing to the Board within ten (10) days of the denial.
  - 2. Upon a timely request for a hearing, the matter will be set for consideration by the members of the full Board at the next regular meeting for which agenda space is available. The Board will mail notice of the time, date, and location of the scheduled hearing to the address provided on the applicant's application.

3. Postponement/Continuance: a postponement or continuance may be requested and granted in the same manner as stated in § 1.5.6(C) of this Subchapter.
4. At the hearing, the aggrieved/denied applicant will be afforded the opportunity to respond to and present evidence and argument regarding the denial of his/her license.
5. After the hearing, and based upon the evidence and arguments presented, the Board will determine if the aggrieved/denied applicant should be granted a license or if the denial should be affirmed. The Board will issue a final order with its determination.
6. If the denial is reversed by the full Board, the Board will continue processing and issuing the license to the applicant. If the denial is affirmed, the license will not be issued and the applicant may appeal the final order to Superior Court pursuant to R.I. Gen. Laws § 42-35-1 et seq. and § 1.5.8 of Part 1.

### **3.8 LICENSE**

- A. Each person will be issued a license that specifies the person is an underground utility contractor and contains his/her assigned license number and may contain his/her photograph.
- B. A partnership's, corporation's or LLC's license will contain the license number and the name of the principal responsible. If the corporation/LLC has employees, corporate officers, partners, or members that need to pull permits or other documentation under the partnership's/corporation's/LLC's name and license number, the partnership/corporation/LLC can obtain additional copies of the firm licenses from the Board for that purpose. Such additional copies of the license may be issued by the Board upon receipt of a twenty dollar (\$20.00) fee for each additional license copy and the ten dollar (\$10) cost of digital picture, if required. These cards/certificates may be used only for permit applications, license verification, or identification purposes and are only valid if all the criteria established by these rules and regulations as well as law are maintained by the business entity.

- C. A licensee must have the license in his/her possession while performing or offering to perform work, and the license must be available and presented to Board investigators upon request.
- D. If a license is lost, misplaced, or destroyed, the licensee shall file an affidavit to that effect (Lost/Misplaced License Affidavit Form) and pay a fee of twenty-five dollars (\$25.00).

### **3.9 LICENSE EFFECTIVE DATE, TERM AND LAPSED/SURRENDERED LICENSE**

#### **3.9.1 Effective Date**

- A. The effective date of a license shall be when all documents and/or fees required by law and these regulations have been processed by the Board, including documentation that the applicant has successfully passed the written examination (if applicable).

#### **3.9.2 License Term/Expiration**

- A A license is valid for a two (2) year term and expires every two (2) years on the anniversary date of the license's issuance, which is the first day of the month of issuance. The license is valid only if the following conditions are met throughout the license period:
  - 1. The insurance required by R.I. Gen. Laws § 5-65.3-9 and the bond required by R.I. Gen. Laws § 5-65.3-10 remain in continuous effect (if the Board receives notice of lapse, cancellation or non-renewal of insurance from the insurance carrier or bonding company, insurance or bond is considered non-continuous and licensee may be subject to a fine); and
  - 2. If the licensee is an individual, survival of that individual; or
  - 3. If the licensee is a partnership, no change in the composition of that partnership, by death or otherwise; or
  - 4. If the licensee is a corporation or limited liability company, survival of that corporation or limited liability company, including compliance with all applicable laws governing corporation; and

5. The licensee maintains good standing with the Board and has paid all applicable fees and/or fines.

### **3.9.3 Lapsed/Surrendered License**

- A. A person whose license has lapsed is considered non-licensed from the date the lapse occurred until the date the license is renewed, reissued, or reinstated. During a period of lapse, the person shall not solicit or perform the work of an underground utility contractor.
- B. If a license becomes invalid or lapses, the license card/certificate must be returned to the Board. At that time, the license will be deemed surrendered. A license surrendered will not be responsible for any late fees unless an outstanding violation(s) exists. In that case, the licensee would be subject to fines as well as other fees. Surrendering of licensure must be accompanied by a statement as to why the license is being surrendered and include the return of the license card/certificate to the Board (Surrendering of Registration/License Form). If the licensee is a corporation or LLC and employees, partners, officers, or other members are in possession of additional cards/certificates, those cards/certificates must also be surrendered to the Board.
- C. If a license lapses for more than sixty (60) days, thereafter the licensee will be required to become licensed anew and will have to take the written examination and may be subject to late fees. At no time during the period of lapse may any underground utility work be solicited or performed.
- D. The Executive Director will grant an exception for lapsed licenses of military personnel called to duty or service.

### **3.10 RENEWAL AND REISSUANCE OF LICENSE**

- A. A license issued by the Board shall expire every two (2) years on the anniversary date of the license's issuance (on the first of the month of issuance) and may be renewed on or before that date for a period of two (2) years upon payment of the two hundred dollar (\$200.00) renewal fee, as set forth in R.I. Gen. Laws § 5-65.3-5. All renewal fees are non-refundable.
- B. A license may be renewed upon the licensee's completion of the renewal form as prescribed by the Board, payment of the required fee or fees, and valid certificates of insurance coverage and bond as described in R.I. Gen. Laws §§ 5-

65.3-9 and 5-65.3-10 and in these regulations. The licensee may be required to sign an affidavit and may be required to have an updated digital photograph taken by the Board (fee of ten dollars (\$10.00)) in order to renew his/her license. Additionally, an out-of-state licensee must provide the Board with the current name and contact information of the agent of service/ power of attorney.

- C. The effective date of a renewed or reissued license is when all documents and/or fees required by law and these regulations have been processed by the Board.
- D. If a license has been surrendered and the licensee wishes to reinstate, no additional charge will be administered if reinstatement is sought within the license period. If one surrenders his/her license it will not be reissued without penalty if the licensee has any outstanding claims and/or violations.
- E. A late fee of thirty five dollars (\$35.00) shall be charged for any license renewal, reissuance, or reinstatement received by the Board after the license's expiration date.
- F. The Board may return an incomplete application for renewal of licensure to the licensee with an explanation of the deficiencies. Returned forms may be subject to late filing fees.
- G. Falsified documents may be punishable with fines up to ten thousand dollars (\$10,000).

### **3.11 REVOCATION OR SUSPENSION OF LICENSE AFTER HEARING**

- A. Pursuant to R.I. Gen. Laws § 5-65.3-12, in addition to imposing penalties/fines against the underground utility contractor or person required to be licensed, the Board may suspend or revoke the license of any underground utility contractor after a hearing (as conducted in accord with R.I. Gen. Laws. § 5-65.3-13, § 1.6.4 of this Subchapter, and R.I. Gen. Laws Chapter 42-35, the Administrative Procedures Act) when the weight of the evidence establishes any one or more of the following violations:
  - 1. Obtaining or conspiring with others to obtain a license by inducing the issuance of that license in consideration of the payment of money or any other thing of value, or by and through a willful or fraudulent misrepresentation of facts in the procurement of a license;

2. Gross negligence or incompetence in the performance of any licensed work in accordance with any underground utility ordinance, or rules of any city or town, or any law of this state regulating the conduct of sewer, drain, and water work;
3. Willfully and fraudulently loaning its license to any other underground utility contractor for the purpose of permitting that underground utility contractor to engage in any underground utility work in violation of the provision of this chapter;
4. Willfully violating any of the provisions of R.I. Gen. Laws Ch. 5-65.3; and
5. For any violation of R.I. Gen. Laws § 5-65-10 of the Contractors' Registration Act, including:
  - a. That the licensee has violated a provision of R.I. Gen. Laws § 5-65-3, including the requirement to be licensed in order to undertake, offer to undertake, or submit a bid to do underground utility contractor work; failing to notify the Board of any change in partners or corporate officers; obtaining a permit without a valid license; failing to maintain a list of all subcontractors or other licensees/contractors performing work for the licensee; hiring non-registered or non-licensed subcontractors; failing to include license number in all advertising; failing to obtain permits prior to commencing work; failing to have a written contract for a project over \$1,000; failing to have a right of rescission in the contract; and failing to provide owner a notice of possible mechanic's lien;
  - b. That the insurance or bond required by R.I. Gen. Laws § 5-65.3-9 and R.I. Gen. Laws § 5-65.3-10 are not currently in effect;
  - c. That the underground utility contractor engaged in dishonest or fraudulent conduct that the Board finds injurious to the welfare of the public;
  - d. That the licensee has violated a rule or order of the Board;
  - e. That the licensee has knowingly assisted an unlicensed person to act in violation of this chapter;

- f. That a lien was filed on a structure/property under R.I. Gen. Laws Ch. 34-28 because the licensee or applicant wrongfully failed to perform a contractual duty to pay money to the person claiming the lien;
- g. That the licensee has substantially violated state or local building codes;
- h. That the licensee has made false or fraudulent statements on his/her application;
- i. That a licensee has engaged in repeated acts in violation of R.I. Gen. Laws § 5-65.3-1 et seq. and the Board's rules and regulations, inclusive of substandard workmanship and any misuse of license;
- j. That the underground utility contractor performed work or arranged to perform work while his/her license was suspended, invalidated, or revoked;
- k. That the licensee breached a contract;
- l. That the licensee performed negligent and/or improper work;
- m. That the licensee failed to complete a project for underground utility work or a willful failure to comply with the terms of a contract or written warranty;
- n. That the licensee has misrepresented his/her license status as valid when the license is actually suspended, revoked, invalidated, inactive, or the person is not licensed as required by the Board;
- o. That the licensee has failed to pay a fine or comply with any order issued by the Board;
- p. That the licensee has failed to provide or sign any form required by the Board for licensure or renewal of license;
- q. That the licensee has violated any of the provisions in R.I. Gen. Laws Ch. 25-3, 28-3, 28-12, 28-14, 28-36, 28-50, and/or 37-13 (although no monetary penalties may be assessed for violations of

these chapters, the Board may suspend or revoke the license for such violations);

- r. That the person (licensed or not) used another contractor's license or registration or identification card/certificate, or allows another person to use his/her underground utility contractor's license fraudulently in any way;
- s. When the use of fraudulent advertising entices an individual to hire an unlicensed underground utility contractor.

### **3.12 REVOCATION OR SUSPENSION OF LICENSE WITHOUT A HEARING**

Pursuant to R.I. Gen. Laws §§ 5-65.3-12(3) and 5-65-10(f), in emergency situations, when a licensee is acting to the detriment of the health, welfare, and safety of the general public, the Board's Executive Director may revoke or suspend a license without a hearing for just cause for a period of thirty (30) days.

### **3.13 REINSTATEMENT/CONDITIONAL REINSTATEMENT OF LICENSE**

- A A license revoked may only be reinstated or reissued, within the Board's discretion, upon written request and presentation to the Board of sufficient evidence or proof of settlement or full payment of all outstanding claims, violations, and/or Board orders.
- B. The Executive Director may reissue or reinstate a suspended license upon proof of compliance with or arrangements to comply with all outstanding orders issued by the Board and any settlements, claims, or violations.
- C. Upon written request to the Board, the Board or the Executive Director may, within their discretion, conditionally reinstate the license and/or attach conditions to the reinstated license, including but not limited to: contract amount limitations; time limitations for performance; contract reviews by the Board; or other Board monitoring.
- D. Disciplinary action taken on a license held by a corporation, LLC, partnership, or joint venture may preclude future licensing of the principal of that business entity.

### **3.14 PERFORMANCE REQUIREMENTS**

- A. Underground utility contractors must perform all underground utility contracting work in accordance with R.I. Gen. Laws Chapters 5-65.3, 5-65, these Rules and Regulations, any plans and specifications governing the project(s), and additionally rely on generally accepted practices, industry standards, and city/town/municipal regulations to determine if a deficiency exists and what remedies shall be implemented to correct any identified defects or problems.
- B. The Rhode Island Contractors' Registration and Licensing Board and the Board staff, under normal conditions, will inspect underground utility contractors' work to ensure it is in accord with laws, regulations, current city/town/municipal regulations, plans and specifications governing the project, and industry standards and will inspect for code violations, violations of R.I. Gen. Laws Chapter 5-65.3, violations of these Rules and Regulations, and violations of related provisions of R.I. Gen. Laws Ch. 5-65. Underground utility contractor responsibility does not extend to items which have been subject to owner neglect, modifications, or abnormal use.

### **3.15 REGULATIONS OF CITIES AND TOWNS**

- A. In addition to following plans and specifications, all underground utility work shall be performed in accordance with the local rules, regulations, and standards specified by the city or town within which the work is being performed. R.I. Gen. Laws § 5-65.3-8.
- B. Pursuant to R.I. Gen. Laws § 5-65.3-18, the appropriate municipal authority, involved in the day-to-day inspection of sewer or drain installations and underground utility contracting work shall assist the Board in enforcement of R.I. Gen. Laws Ch. 5-65.3 and may investigate and, where appropriate, make complaints against underground utility contractors (or those required to be licensed) where sufficient evidence has been obtained to sustain a reasonable belief that a violation of R.I. Gen. Laws Ch. 5-65.3 or these Rules and Regulations has occurred.

### **3.16 APPLICABLE BUILDING CODES**

Underground utility work must also be performed in accordance with prevailing building codes promulgated and adopted by the Rhode Island Building Code

Commission. Inspection of specific components or systems by registered/licensed inspectors of the governmental authority having jurisdiction will provide evidence of presumed compliance.