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## **TITLE 440 – CONTRACTORS’ REGISTRATION AND LICENSING BOARD**

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

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

#### **PART 3 – Rules and Regulations for Underground Utility Contractors**

### **3.1 Authority**

These rules and regulations are promulgated pursuant to R.I. Gen. Laws Chapter 5-65.3.

### **3.2 Purpose**

- A. The purpose of this Part is to administer and enforce the provisions of the Underground Utility Contractors’ Licensing Law, R.I. Gen. Laws Chapter 5-65.3 and to promote public safety, health, and welfare by providing a mechanism to ensure that all underground utility contractors conducting business in the State of Rhode Island have the requisite skills, training, and experience necessary to safely and adequately conduct underground utility activities within this state. Any person who fails to acquire an underground utility contractor 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 Incorporated Materials**

Reserved

### **3.4 Definitions**

In addition to the terms defined in R.I. Gen Laws § 5-65.3-2 and § 1.4 of Part 1 of this Subchapter, the following terms shall have the following meanings.

- A. "Appurtenance" means any accessory improvement to real estate associated with a primary structure. An appurtenance includes, but is not limited to, any of the following, located on land owned by the owner of the structure to enhance the residential or commercial use of the structure:
1. Garage or carport;
  2. Porch, patio, decks and deck steps, docks, sheds, tents and other fabric structures (temporary or permanent), gazebos, walkways, or fencing;
  3. Driveways, roads or bridges;
  4. A retaining wall when necessary to protect a structure or its appurtenances or to comply with building code slope requirements or when done in conjunction with landscaping work;
  5. Swimming pools;
  6. Sidewalks;
  7. Stone/masonry walls;
  8. Towers; and
  9. Roadways and parking areas.
- 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 Chapter 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 Chapter 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. "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.
- S. "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 R.I. Gen. Laws Chapter 5-20, "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 Chapter 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.
- T. "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.

### **3.5 General Administration and Procedures**

- A. Administrative procedures for the licensing of underground utility contractors shall comply with R.I. Gen. Laws Chapters 5-65, 5-65.3, and the following sections of Part 1:
  - 1. Delivery of Notices: § 1.5(A) of this Subchapter.
  - 2. Change of Address § 1.5(B) of this Subchapter
  - 3. Public Records and Information Requests: § 1.5(C) of this Subchapter.
  - 4. Certification of Registration/License § 1.5(D) of this Subchapter.
  - 5. Filing Fees and Record Changes § 1.5(E) of this Subchapter.

### **3.6 General Licensing Requirements**

- A. The licensing of underground utility contractors shall comply with R.I. Gen. Laws Chapters § 5-65, 5-65.3, and the following sections of Part 1:
  - 1. License Required: § 1.6.1 of this Subchapter.
  - 2. Transference of License Prohibited: § 1.6.2 of this Subchapter.
  - 3. Display of License Number: § 1.6.3 of this Subchapter.
  - 4. Business Entity Licenses: § 1.6.4 of this Subchapter.
  - 5. Nonresident Persons / Registered Agent: § 1.6.5 of this Subchapter.
  - 6. Change of License: § 1.6.6 of this Subchapter.
  - 7. Effect on License Due to Loss of Responsible Person: § 1.6.7 of this Subchapter.
- B. As a condition of licensure, all underground utility contractors who are licensed with the Board, shall participate and make good faith efforts to resolve all complaints, violations, and/or contested cases within the jurisdiction of the Board. Failure to do so shall result in the Board taking action against the contractor, to the extent allowable by law, including suspension of a license, without which an underground utility contractor cannot work in the state of RI.

C. Exemptions

1. Any person licensed as a master plumber under the provisions of R.I. Gen. Law Chapter 5-20 or as a master pipefitter under the provisions of R.I. Gen. Law Chapter 28-27 shall be exempt from the requirement to obtain both an underground utility contractor's license as required by R.I. Gen. Law Chapter 5-65.3 and an installer's license, as required by R.I. Gen. Law Chapter 5-56 provided that such master plumber or master pipefitter shall be required to comply with the provisions of R.I. Gen. Laws [§§ 5-65.2-3](#) and [5-56-7](#).
2. Any public utility, or agent thereof, regulated by the public utilities commission or the division of public utilities and carriers shall be exempt from the provisions of this chapter.

D. Grace Period: Compliance with the requirements of this Part shall begin as of the date this Part goes into effect. Enforcement of the licensing requirements shall begin on April 1, 2020.

### **3.7 Applications for Licensure**

A. Applications for the licensing of underground utility contractors shall comply with R.I. Gen. Laws Chapters 5-65, 5-65.3, and the following sections of Part 1:

1. General Application: § 1.7.1 of this Subchapter.
2. Examination: § 1.7.2 of this Subchapter.
3. Effective Date / Term: § 1.7.3 of this Subchapter.
4. Renewal and Reissuance of License: § 1.7.4 of this Subchapter.
5. Lapsed License: § 1.7.5 of this Subchapter.
6. Military Service License: § 1.7.6 of this Subchapter.

B. New Applicant: 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:
  - a. For applicants who have not 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).

- b. 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 be on a form as approved by the Board.
  - c. The fee for a pre-licensing application is fifty dollars (\$50.00)
- 2. 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 Chapter 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.
- 3. 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.

### **3.8 Educational Requirements- Pre-Registration and Continuing Education**

Reserved

### **3.9 Complaints**

- A. The procedure for filing a complaint against an underground utility contractor shall comply with R.I. Gen. Laws Chapters 5-65, 5-65.3, and the following sections of Part 1:
  - 1. Duty to Participate: § 1.9.1 of this Subchapter.

2. Complaints Generally: § 1.9.2 of this Subchapter.
3. Board Initiated Investigations: § 1.9.3 of this Subchapter.
4. The Board's Right to Refuse and/or Dismiss Complaints: § 1.9.4 of this Subchapter.

### **3.10 Notice of Accepted Complaints and Initial Board Investigation**

The rules and regulations pertaining to the notice of accepted complaints and initial board investigation shall comply with R.I. Gen. Laws Chapters § 5-65, 5-65.3, and § 1.10 of Part 1:

### **3.11 Prehearing Conferences and Alternative Dispute Resolution**

- A. The rules pertaining to prehearing conferences and alternative dispute resolution shall comply with R.I. Gen. Laws Chapters § 5-65, 5-65.3, and the following sections of Part 1:
  1. Pre-Hearing Conferences: § 1.11.1 of this Subchapter
  2. Alternative Dispute Resolution: § 1.11.2 of this Subchapter
  3. Pre-Hearing/Alternative Dispute Resolution Procedures: § 1.11.3 of this Subchapter
  4. Administrative Hearings Based on Contested Cases: § 1.11.4 of this Subchapter.

### **3.12 Violations**

- A. The rules pertaining to violations shall comply with R.I. Gen. Laws Chapters § 5-65, 5-65.3, and the following sections of Part 1:
  1. Authority: § 1.12.1 of this Subchapter
  2. Procedure for Investigating and Processing Violations: § 1.12.2 of this Subchapter
  3. Notices of Violation / Proposed Order: § 1.12.3 of this Subchapter
  4. Fines / Penalties: § 1.12.4 of this Subchapter
  5. Court Judgments / Arbitration Awards - Effect on Registration/License: § 1.12.5 of this Subchapter



### **3.13 Appeals**

- A. The rules pertaining to appeals shall comply with R.I. Gen. Laws § 5-65 and the following sections of Part 1:
  - 1. Appeal of Notice of Violation to Hearing Officer: § 1.13.1 of this subchapter.
  - 2. Appeal of Final Order by the Hearing Officer to the Full Board: § 1.13.2 of this subchapter.
  - 3. Appeal of Final Order by the Full Board to the Superior Court: § 1.13.3 of this subchapter.

### **3.14 Criminal Prosecution**

The rules pertaining to criminal prosecution shall comply with R.I. Gen. Laws § 5-65 and § 1.14 of this Subchapter.

### **3.15 Administrative Hearings**

- A. The rules pertaining to Administrative Hearings shall comply with R.I. Gen. Laws Chapters 42-35 and 5-65 and the following sections of Part 1:
  - 1. Notice of Hearing: § 1.15.1 of this Subchapter
  - 2. Representation: § 1.15.2 of this Subchapter
  - 3. Filing of Pleadings and Other Documents: § 1.15.3 of this Subchapter
  - 4. Service: § 1.15.4 of this Subchapter
  - 5. Time: § 1.15.5 of this Subchapter
  - 6. Motions: § 1.15.6 of this Subchapter
  - 7. Discovery: § 1.15.7 of this Subchapter
  - 8. Subpoenas: § 1.15.8 of this Subchapter
  - 9. Evidence: § 1.15.9 of this Subchapter
  - 10. Conduct of Hearings: § 1.15.10 of this Subchapter
  - 11. Decisions: § 1.15.11 of this Subchapter

### **3.16 Expungements**

The rules pertaining to expungements shall comply with R.I. Gen. Laws Chapter 5-65 and § 1.16 of this Subchapter.

### **3.17 Default**

The rules pertaining to default shall comply with R.I. Gen. Laws Chapter 5-65 and § 1.17 of this Subchapter.

### **3.18 Disqualification / Incapacity of Hearing Officer**

The rules pertaining to disqualification / incapacity of Hearing Officer shall comply with § 1.18 of this Subchapter.

### **3.19 Miscellaneous Provisions**

The rules pertaining to miscellaneous provisions shall comply with § 1.19 of this Subchapter.

### **3.20 Hearings - Public Information**

The rules pertaining to the hearings - public information shall comply with § 1.21 of this Subchapter.

### **3.21 Publication of Orders and Notices**

The publication of all orders issued by the board and notices of hearing shall comply with the requirements of R.I. Gen. Laws § 5-65-25.

### **3.22 Equal Access to Justice for Small Business**

The rules pertaining to the equal access to justice for small business shall comply with § 1.22 of this Subchapter.

### **3.23 Severability**

The rules pertaining to severability shall comply with § 1.23 of this Subchapter.

### **3.24 Standards of Professional Practice**

- A. Underground utility contractors shall perform all work in accordance with R.I. Gen. Laws Chapters 5-65, 5-65.3, these Rules and Regulations, any plans and specifications governing the project(s), and city/town/municipal regulations.

- B. The Board's investigators, staff, and/or the appropriate municipal authority, involved in the day-to-day inspection of sewer or drain installations and underground utility contracting work shall conduct enforcement of R.I. Gen. Laws Chapter 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 Chapter 5-65.3 or these Rules and Regulations has occurred.

#### **3.24.1 Applicable Building Code**

For the purposes of this Part, the building code governing the life safety, structural, mechanical, plumbing, electrical, fuel, gas, and energy requirements for underground utility activities shall be the building code that was adopted and in effect at the time the work was completed.