

## **Summary of Emergency Adoption of Regulation Underground Utility License**

- **Pursuant to Rhode Island General Law title 5, Chapter 5-65.3 the Board has the responsibility to regulate underground utility contractors and to issue a license.**
- **Emergency rules and regulations have been promulgated to expedite this process and to assure that the public is properly protected.**

**Conditions for issuing licenses are as follows:**

- **Completed Pre-Application (no fee for those who are grandfathered). Designated license number will be assigned upon completing this form.**
- **Grandfather clause is good from 1/1/15 to 06/30/15 and must show proof of license held for last 5 years from city or town in Rhode Island.**
- **Completed Application.**
- **Affidavit signed acknowledging general laws and regulations.**
- **\$20, 000.00 Bond made out to State of Rhode Island Contractors Registration and Licensing Board pursuant to RIGL 5-65.3-10.**
- **\$1,000,000.00 Insurance policy single limit public liability and property damage pursuant to RIGL 5-65.3-9. Contractors Board must be listed as the holder of certificate.**
- **Workers Compensation Insurance if employees.**
- **Verification of filings with Secretary of State's office.**
- **\$200.00 Fee for two years and \$10.00 fee for picture ID card.**
- **Heavy duty equipment operators license from DLT pursuant to 5-65.3-4 (a) (1).**
- **Proof of passing grade on written examination provided by third party testing company PSI pursuant to 5-65.3-4 (a) (2).**
- **A conditional certificate of license will be provided upon meeting all qualifications and when the rules and regulations are promulgated by the Board a picture identification card will be issued. Licensee will be required to return to Board for picture and issuance of new card.**

- **New rules and regulations will be developed with the help of the industry over the next few months and a public hearing will be conducted to assure participation of those who will be regulated and affected by this new licensing requirement.**

**State of Rhode Island Providence Plantations  
Department of Administration  
Rhode Island Contractors' Registration and Licensing Board**



**Rhode Island Underground Utility Contractors Licensing  
Regulations**

**DEPARTMENT OF ADMINISTRATION**

**CONTRACTORS' REGISTRATION AND LICENSING BOARD**

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**Effective Date: February 23, 2015**

# **UNDERGROUND UTILITY CONTRACTORS LICENSE**

## **Emergency Regulations**

### **Purpose:**

The purpose of these rules and regulations is to establish provisions, qualifications and procedures for licensing underground utility contractors engaged in the laying or repairing of underground utilities.

### **Statutory Authority:**

These rules and regulations are promulgated pursuant to Title 5, Chapters 65.3, and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

### **Section 1: Licensing:**

#### **1. LICENSE GENERALLY**

The following licensing requirements are set forth by the Contractors' Registration and Licensing Board ("Board") and pertain to the licensing of underground utility contractors, pursuant to R.I.G.L. § 5-65.3-1 *et seq.* Licensing requirements for other disciplines are contained in the respective Rules and Regulations.

##### **1.1. License Required**

An underground utility contractor's license shall be required for commercial and residential underground utility work as established by law, and may be issued by the Board. A license will be issued to only one person. 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.G.L. Chapter 5-65.3 through the use of another person's license.

##### **1.2. Public Utility Exemption to License Requirement**

Any public utility, or agent thereof, regulated by the public utilities commission or the division or public utilities and carriers shall be exempt from underground utility contractor licensing requirements. R.I.G.L. § 5-65.3-3(c).

##### **1.3. Change of Entity Type/Ownership – Terminates License**

Underground utility licenses are not transferable or assignable; the license becomes automatically invalid upon a change of ownership, or on suspension/revocation of license. R.I.G.L. § 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.

#### **1.4. Partners Must Be on Record with Board**

All partners within a partnership shall be on record with the Board. Partnerships consisting of spouses shall be treated as are 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.

#### **1.5. No Advertising or Working Without Valid License**

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.

#### **1.6. Proposals, Invoices (Must Use License Number)**

- a) All forms of advertising, inclusive of newsprint classified advertising, newsprint display advertising, pamphlets, telephone directory space ads, and display ads for work subject to R.I.G.L. Chapter 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 subject to R.I.G.L. Chapter 5-65.3 shall show the underground utility contractor's license number. All contracts exceeding \$1,000.00 must be in writing and failure to adhere to this will result in the assessment of fines.

#### **1.7. Change of License Information**

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 change, etc. and failure to do so will result in fines and possible suspension of license. (Change of Address Form, Change of Responsible Person Form, Change of Ownership and Company Name Change Form).

## **2. APPLICATIONS FOR UNDERGROUND UTILITY CONTRACTOR LICENSE**

Each applicant for an underground utility contractor's license must submit the following application, information, documentation, and fees:

### **2.1. NEW APPLICANTS**

In order to obtain an underground utility contractor's license a new applicant must submit to the Contractors' Registration and Licensing Board the following:

- a) **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 below. 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:
  - i. Name of applicant;
  - ii. Business address;

- iii. Driver's license state and number;
  - iv. Date of birth;
  - v. Home, business, and cell phone number;
  - vi. E-mail address (if applicable);
  - vii. \$50.00 pre-license application fee.
- b) **Application** - The Application, on proper form as prescribed by the Board, must include the following:
- i. Name;
  - ii. Home address;
  - iii. Driver's license state and number;
  - iv. Date of birth;
  - v. E-mail address (if applicable);
  - vi. Home, business, and cell phone number
  - vii. Business name (list all business names under which business as an underground utility contractor is to be conducted, inclusive of fictitious names);
  - viii. Name of principal responsible;
  - ix. Business address;
  - x. If non-resident underground utility contractor, must provide power of attorney constituting and appointing a registered agent in Rhode Island;
  - xi. A true and accurate 1" x 1" photograph of applicant, or digitized photograph taken by the Board for additional fee of \$10.00;
  - xii. \$200.00 application/license fee for two year period.
- c) **Hoisting License or other similar evidence** - The applicant must also provide a current Department of Labor and Training Hoisting Engineers License (R.I.G.L. 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.G.L. § 5-65.3-4(1).
- d) **Bond** - The applicant must obtain and provide the Board with a bond in the amount of twenty thousand dollars (\$20,000) with the CRLB as the holder for a two-year period and conditioned on the language contained in R.I.G.L. § 5-65.3-10.
- e) **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) (combined single limit, bodily injury, and property damage) as required by R.I.G.L. § 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.

- f) **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.G.L. 28-29 or documentation of waiver of workers' compensation coverage.
- g) **Examination Certification** – As required by R.I.G.L. 5-65.3-4(2), the applicant must take and pass a written examination (unless grandfathered pursuant to R.I.G.L. 5-65.3-7 – *see* Section 2.2). 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 test sessions a year. Testing locations, dates, and times will be posted on the Board's website. The applicant is responsible for all fees associated with the written examination, including study materials.
- h) **Corporate Documents** – If the company 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.
- i) **Photo** – If not included in pre-testing application, the applicant must 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.
- j) **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 address). 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).
- k) **Affidavit** – The applicant must submit a notarized affidavit attesting to the applicant's knowledge of the relevant governing laws: Underground Utility Contractor Law (§5-65.3-1 *et seq.*) and the Contractors' Registration Act (§5-65-1 *et seq.*). (Affidavit Form).

## **2.2. APPLICANTS PREVIOUSLY LICENSED BY A RHODE ISLAND CITY/TOWN (GRANDFATHER CLAUSE)**

Between January 1, 2015 and June 30, 2015, the grandfather clause of R.I.G.L. § 5-65.3-7 will allow 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.

An applicant previously licensed by a city or town in Rhode Island as an underground contractor must complete the above requirements in Section 2.1(a) – (f) and (h) – (k) for new applicants and must also provide documentation of the previous city/town issued license. Such applicant is not subject to the \$50.00 pre-license application fee in 2.1(a)(vii).

After June 31, 2015, the grandfather clause is no longer applicable and all applicants must comply with the New Applicant procedures as outlined above in Section 2.1.

## **2.3. INCOMPLETE APPLICATIONS**

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

## **2.4. DENIED APPLICATIONS**

When an application for a license is denied, a hearing shall be granted to the applicant provided the aggrieved applicant requests such a hearing in writing and within ten (10) days of the denial with the Board. R.I.G.L. § 5-65.3-12(b). The hearing shall be held in accord with R.I.G.L. § 42-35-1 et seq.

## **3. LICENSE CARDS**

Each licensee will be issued a license card and/or certificate of license that specifies the person is an underground utility contractor and contains his/her assigned license number and his/her photograph.

Licensee must have the license card and/or certificate in his/her possession while performing or offering to perform work, and the card must be available and presented to Board investigators upon request.

Additional card holders, for other partners, corporate officers/members, or employees may be issued upon receipt of a \$25.00 fee for each additional card and the cost of digital picture. These cards may be used for permit applications and license verification or identification and are only valid if all the criteria established by these rules and regulations as well as law are maintained by the business entity.

If a license card is lost, misplaced, or destroyed, the licensee shall file an affidavit to that effect (Lost/Misplaced Card Affidavit Form) and pay a fee of \$25.00.

## **4. LICENSE EFFECTIVE DATE, TERM, and LAPSE**

### **4.1. Effective Date**

The effective date of a license is 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).

### **4.2. License Term/Expiration**

A license is valid for the two year term for which it is issued and expires every two years on the anniversary date of the license's issuance, which is the first of the month of issuance. The license is valid only if the following conditions are met throughout the license period:

- a) The insurance required by R.I.G.L. § 5-65.3-9 remains in continuous effect; (if the Board receives notice of lapse, cancellation or non-renewal of insurance from the insurance carrier, insurance is considered non-continuous and subject to a fine); and
- b) If the licensee is an individual, survival of that individual; or
- c) If the licensee is a partnership, no change in the composition of that partnership, by death or otherwise; or
- d) 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
- e) The license maintains good standing with the Board and has paid all applicable fees and/or fines.

### **4.3. Lapsed/Surrendered License**

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 perform the work of an underground utility contractor. If a license becomes invalid or lapses, the license card must be returned to the Board; at that time, the card will be deemed surrendered. A license surrendered will not be responsible for any late fees unless an outstanding violation(s) exists and in that case would be subject to fines as well as other fees. Surrendering of license must be accompanied by a statement as to why the license is being surrendered and include the return of the license card to the Board. (Surrendering of Registration/License Form).

## **5. RENEWAL AND REISSUANCE OF LICENSE**

A license issued by the Board shall expire every two 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 years. The renewal fee is \$200.00; all renewal fees are non-refundable.

A license may be renewed upon the licensee's completion of the renewal form as prescribed by the Board and once the licensee provides the Board with up-to-date/current documentation and information as required by Section 2.1(b)-(f), (h), and (j). The licensee or other card holders may be required to sign a new affidavit and may be required to have a new digital photograph taken

by the Board (fee of \$10.00) (as required in Section 2.1(i) and (k)) in order to renew his/her license.

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.

If a license card 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 card it will not be reissued without penalty if the licensee has any outstanding claims and/or violations.

**Severability:**

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

**Effective Date:**

The above forgoing rule and regulations related to the Underground Utility Contractors License of the Rhode Island Contractors' Registration and Licensing Board, after due notice, are hereby adopted and filed with the Secretary of State this **23rd** day of **February, 2015**, to become effective 20 days from filing, **unless otherwise indicated below**, in accordance with the provisions of Title 5, Chapter 65.3, and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Filing date: February 23, 2015  
Effective Date: February 23, 2015