

**Operating Manual**

**For**

**Rapid City Trenching Board**

Revised May 3, 2021

# **Rapid City Trenching Board Operating Manual**

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## **Section 1**

### **GENERAL MATTERS**

## GENERAL MATTERS

### 1.1. PURPOSE

- 1.1.1. The purpose of the Board is to protect the public health, safety, and welfare, and to guard against unsafe, unstable, or short-lived products or services related to installation of utility systems sewer collection systems and water distribution systems and to excavating in the public right-of-way. The Board shall also ensure new or small volume contractors are able to obtain a license without hardship. (Rapid City Municipal Code Section 13.24.0780).

### 1.2 AUTHORITY

- 1.2.1 The authority of the Board is vested by Chapter 13.24 of the Rapid City Municipal Code and other applicable ordinances as may be enacted by the Council
- 1.2.2 The Board's authority is limited to the licensing of trenching contractors, and sewer and water contractors, sewer and water installers, and trenching journeymen as defined in Municipal Code, and to hearing appeals from determinations of the Public Works Director on the interpretation and application of licensing ordinances. The Board's authority ~~and~~ does not extend to the establishment or enforcement of the requirements set forth by the City of Rapid City *Standard Specifications for Public Works Construction*. However, the Board may, as it sees fit, recommend changes or additions to the Standard Specifications.

### 1.3. BOARD MEMBERSHIP

- 1.3.1 Board Membership requirements are contained in Municipal Code Chapter 13.24.
- 1.3.2. The Board prefers that one Contractor member shall be a sole proprietorship. However, Municipal Code does not specifically make provisions for such preference.
- 1.3.3. The Board prefers that the consulting engineer member practice primarily in the area of municipal engineering for government with an emphasis in sanitary engineering. However, Municipal Code does not specifically make provisions for such preference.

1.3.4. ~~Solicitation for~~Appointment of Members is included in the Bylaws.

1.3.5. Resignation and Replacement is included in the ~~h~~Bylaws.

#### **1.4. STAFF SUPPORT**

1.4.1. City staff assistance shall be available to the Board. The Public Works Administration staff shall provide the majority of support; however, support from the Water Division, Wastewater Division, Attorney's Office and Community ~~Planning and Development Services~~ Department will also be available.

## **Section 2**

# **MUNICIPAL CODE SECTION 13.24 — TRENCHING CONTRACTOR'S LICENSES**

## CHAPTER 13.24: TRENCHING CONTRACTOR'S LICENSES

### Section

- 13.24.010 Definitions.
- 13.24.020 License required.
- 13.24.030 License application.
- 13.24.040 License fees and renewal.
- 13.24.050 Requirements for issuance.
- 13.24.060 Limitations on licenses generally.
- 13.24.070 City of Rapid City Infrastructure Design Criteria Manual.
- 13.24.080 Rapid City Trenching Board.
- 13.24.090 License—Revocation, suspension or probation.
- 13.24.100 Criminal penalty.

### **13.24.010 Definitions.**

The following words, terms and phrases are defined and shall be interpreted as such throughout this Chapter. Terms not defined in this section shall have the meaning customarily assigned to them:

**CONTRACTOR.** A licensed sewer and water contractor or licensed trenching contractor as defined in this Section.

**DIRECTOR.** City of Rapid City Public Works Director.

**EMPLOYEE.** A person whose compensation for construction work is reported by the employer on an Internal Revenue Service W-2 form and is also otherwise considered an employee under applicable law.

**EXCAVATING.** Any operation in which earth, rock or other material in the ground is moved or otherwise displaced and/or replaced at a depth of 12 inches or greater below the surface by means of tools, equipment or explosives, and includes trenching, digging, ditching, drilling, tunneling and cable or pipe plowing for the purpose of installing cable, conduit or pipe other than water, sanitary sewer or storm sewer pipe. **EXCAVATING** shall not include grading or scraping for street construction or reconstruction, drilling or auguring for installation of utility poles, light poles, sign posts, or mailboxes, or tilling of soil for landscaping purposes to a depth of 12 inches or less.

**PLUMBER'S RIDER.** A plumbing contractor licensed and permitted under Chapter 15.24 of the Rapid City Municipal Code that has secured a trenching contractor's license and paid the applicable fees for such license.

**SEWER and WATER CONTRACTOR.** A person who engages in the trade or business of selling and setting up sewer and water installations.

**SEWER and WATER INSTALLATION.** The new construction, alteration, repair or

improvement of water mains and appurtenances, water service lines and appurtenances, water treatment plant piping and equipment; sewer mains and appurtenances, sanitary sewer services, sewer treatment plant piping and equipment; and storm sewers, and the placement of sewer and water pipe into a building sufficient distance to allow connection to the building plumbing. **SEWER** and **WATER INSTALLATION** does not include the minor adjustment of manhole castings, valve boxes and curb boxes to finish grade for street construction.

**SEWER** and **WATER INSTALLER**. A person other than a contractor, who is engaged as an employee of, or is otherwise working under the direction of, a sewer and water contractor in sewer and water installation, and when present at a job site has direct supervision over work being performed.

**STANDARD SPECIFICATIONS**. City of Rapid City Standard Specifications for Public Works Construction, as adopted by the City.

**STATE LICENSE**. Either a sewer and water contractor's, installer's or plumbing license issued by the State of South Dakota in accordance with the provisions of Administrative Rules of South Dakota Chapter 20:53:06, or, a plumber's license issued by the State of South Dakota in accordance with the provisions of SDCL Chapter 36-25.

**STORM SEWERS**. All pipes, culverts, catch basins, inlets, detention pond inlet and outlet piping, and storm sewer appurtenances which will become an integral part of the public storm sewer system, whether located in public right-of-way or drainage easements, except parking lot drainage pipes and appurtenances are not considered **STORM SEWERS** for purposes of this Chapter.

**TRENCHING BOARD**. The Rapid City Trenching Board, as established in Section 13.24.080. Also referred to in this Chapter as Board.

**TRENCHING CONTRACTOR**. A person who undertakes or offers to undertake excavating in the public right-of-way (streets, alleys, or other public places) for any purpose.

**TRENCHING JOURNEYMAN**. A person other than a contractor, who is engaged as an employee of, or is otherwise working under the direction of a trenching contractor in excavating work, and when present at a job site, has direct supervision over work being performed.

#### **13.24.020 License required.**

A. *Sewer and water contractor*. It is unlawful for any person to conduct, carry on or engage in the business of sewer and water main installation, or to act in the capacity of a sewer and water contractor, without having first secured a City sewer and water contractor's license.

B. *Sewer and water installer*. It is unlawful for any person to act or to give the appearance of acting as a sewer and water installer without having first secured a City sewer and water installer's license.



C. *Trenching contractor.* It is unlawful for any person to, in any manner, engage in the business of excavating in the public right-of-way (streets, alleys or other public places), or in City infrastructure easements, or act or give the appearance of acting as a trenching contractor without having first secured a City trenching contractor's license. A licensed sewer and water contractor may also act as a trenching contractor.

D. *Trenching journeyman.* It is unlawful for any person to act or give the appearance of acting as a trenching journeyman without having first secured a City trenching journeyman's license. A licensed sewer and water installer may also act as a trenching journeyman.

#### **13.24.030 License application.**

A. *Public Works Department to administer provisions.* The Public Works Department shall administer the provisions of this Chapter. Before a contractor's, installer's or journeyman's license may be issued, the applicant shall be required to complete an application form. The Board shall determine the applicant's eligibility to take the required exam based on the information provided on the application. The examination shall be given under the direction of the Trenching Board.

B. *Examination and reexamination.* Any applicant who fails to pass the examination may apply for reexamination after 30 days from the date of the previous examination without payment of an additional exam fee. Should any applicant fail to pass a second time, the Board may refuse to permit a third examination until after the expiration of 6 months. License fees shall not be refunded if an applicant fails to pass the examination. No reexamination will be permitted more than 1 year from the date of the first failed examination without a new application and payment of the full examination fee.

C. *State license required.* Applicants for both sewer and water contractor and sewer and water installer licenses must possess a current state license of a class at least equal to the class of City license for which they have applied. Applicants for trenching contractor and trenching journeyman licenses are not required to possess a state license.

#### **13.24.040 License fees and renewal.**

A. *Fee schedule.* Every person making application for a license shall pay to the Finance Officer all nonrefundable fees as set by resolution of the Common Council.

B. *License term and renewal.* All licenses issued under this Chapter shall expire February 28 of the next even-numbered year following its issuance. Any license not renewed by the last business day in March in such even-numbered year shall be ineligible for renewal. In order to obtain a license after the grace period, the applicant shall be required to complete the application requirements for a new license. If an applicant applies for an initial license within 4 months of the time for renewals, the license issued shall be issued for a term extending to February 28 of the second even-numbered year following its issuance.

#### **13.24.050 Requirements for issuance.**

A. *Sewer and water contractor's license.* License may be issued only to a person who makes application therefor, pays the application fee, meets the requirements stated in this Chapter, including passing the required examination, presenting to the City Finance Office a valid current state license, and the following additional requirements:

1. *Liability insurance.* Liability insurance shall be required of every contractor. Every applicant for a sewer and water contractor's license shall present to the City Finance Office for its review, a valid certificate of insurance at the time of application. It shall be the duty of every sewer and water contractor to continually maintain valid liability insurance. The minimum required general aggregate liability shall be \$2,000,000, with \$50,000 fire damage and \$1,000,000 each occurrence;

2. *Worker's compensation insurance.* Proof of worker's compensation insurance shall be provided prior to the issuance of a contractor's license, as applicable;

3. *Proof of excise tax number.* Applicants for a contractor's license shall be required to supply their excise tax number, as applicable.

4. *Previous utility main installation experience.* Applicants for sewer and water contractor's license shall be required to show at least one year of previous experience installing utility mains.

B. *Trenching contractor's license.* License may be issued only to a person who makes application therefor, pays the application fee, meets the requirements stated in this Chapter, including passing the required examination, and the following additional requirements:

1. *Liability insurance.* Liability insurance shall be required of every contractor. Every applicant for a trenching contractor's license shall present to the City Finance Office for their review, a valid certificate of insurance at the time of application. It shall be the duty of every trenching contractor to continually maintain valid liability insurance. The minimum required general aggregate liability shall be \$300,000, with \$50,000 fire damage and \$300,000 each occurrence;

2. *Worker's compensation insurance.* Proof of worker's compensation insurance shall be provided prior to the issuance of a contractor's license, as applicable;

3. *Proof of excise tax number.* Applicants for a contractor's license shall be required to supply their excise tax number, as applicable.

C. *Installer and journeyman license.*

1. *Sewer and water installer.* License may be issued only to the person who meets the requirements in this Chapter, including passing the required examination and presenting to the Trenching Board a valid current state license.

2. *Trenching journeyman.* License may be issued only to the person who meets the

requirements in this Chapter, including passing the required examination.

D. *Age at time of application.* Applicants for any license issued under this Chapter must have attained at least 18 years of age at the time of making application therefor.

#### **13.24.060 Limitations on licenses generally.**

A. At the time of issuance of any license, the Board may elect to place any licensee on probation for up to 12 months to allow the City and the Trenching Board to review the performance of the licensee. During any probationary period, any water and sewer contractor or trenching contractor will be allowed to have only 1 right-to-work permit active at any given time. The probationary status may be extended if the Trenching Board determines that the licensee has not completed enough work to allow for proper evaluation.

B. Each sole proprietorship, partnership or corporation who performs work as discussed in this Chapter shall employ at least one contractor licensed to perform the work. If the employment of the licensed contractor is terminated or ends for any reason, the entity shall immediately notify the City. The entity shall ensure that, within 60 days of the end of employment of the licensed contractor, it employs a licensed contractor in accordance with this Chapter. If an entity fails to provide timely notice of a change in employment of a contractor and/or fails to employ a licensed contractor in accordance with this Section, the City may refuse to issue any permits until the entity is in compliance or seek criminal penalties pursuant to Section 13.24.100.

C. It is unlawful for any person to perform, or allow to be performed, any work for which they are licensed without having a licensed person present at the job site with direct supervision over all aspects of the work at all times when work is being performed. Permitted persons to exercise such supervision include:

1. The licensed contractor; or
2. A licensed installer or journeyman.

D. No person to whom a license is issued shall allow any other person to operate thereunder.

E. Licenses shall be the property of person to whom the license is issued and shall not be transferable.

F. The following are exceptions:

1. Plumbing contractors licensed and permitted under Chapter 15.24 of the Rapid City Municipal Code are not governed by this Chapter, except when performing excavation in public right-of-way or performing new construction, alteration, repair or improvement of water or sewer mains and appurtenances. A plumbing contractor may excavate in the public right-of-way for the purposes of installing service lines only, provided he or she has secured a trenching contractor's license and paid fee as set by resolution of the Common Council for a trenching contractor (plumbers rider) license.

2. Private utility companies, or the City, when excavating in the public right-of-way for the purposes of repairing, altering or maintaining their facilities, are exempt from the licensing requirements of this Chapter. This exemption shall not apply to installation of new facilities or replacement of existing facilities.

#### **13.24.065 Retest for License Renewal**

Upon the City's adoption of changes to the Standard Specifications for Public Improvements or the Infrastructure Design Criteria Manual, the Trenching Board may require that each licensee, as applicable, retake and pass a contractor's examination based upon the updated specifications and criteria. If the Trenching Board imposes such a requirement, the Board shall provide written notice to existing licensees affected by the requirement.

#### **13.24.070 City of Rapid City Infrastructure Design Criteria Manual.**

All work completed by a licensee must meet the criteria set out in the current edition of the City of Rapid City Infrastructure Design Criteria Manual.

#### **13.24.080 Rapid City Trenching Board.**

There is established the Rapid City Trenching Board. The Board shall consist of 6 members composed of Public Works Director, a registered professional engineer engaged in consulting business within the City, an employee of a nongovernmental utility company other than telecommunications having underground utilities within the City, 2 licensed contractors, and a representative from the telecommunications industry. Members shall be appointed for 2-year staggered terms by the Mayor subject to confirmation by the Council at its first regular meeting in January. The members of the Board, except for City staff, shall serve without compensation for the service. The Board shall be assisted by City staff as directed by the Director.

A. *Purpose of the Board.* The purpose of the Board is to protect the public health, safety and welfare, and to guard against unsafe, unstable or short-lived products or services related to installation of utility systems, and to excavating in the public right-of-way. The Board shall also ensure new or small volume contractors are able to obtain a license without hardship.

B. *Powers and duties of the Board.*

1. The Board is authorized to adopt the rules and regulations as shall become necessary with the approval of the Council. The Board shall notify all license holders of the proposed rules and regulations within 30 days prior to the delivery of the rules and regulations to the Council.

2. The Board shall hold meetings as necessary for transaction of business; for examination of applicants, to determine the qualifications and fitness of all applicants; and to grant approval for licenses and renewals to applicants who show proper qualifications and documentation.

3. The Board shall have the power to review any license issued hereunder at any time.

4. The Board may hear appeals from determinations of the Public Works Director on interpretation and application of licensing ordinances. The decisions of the Board on all such appeals are final. All decisions of the Board with regard to licenses denied, issued, revoked, suspended, or placed on probation shall be eligible for final review by the Council.

#### **13.24.090 License—Revocation, suspension or probation.**

A. The Board, in its discretion, may revoke, suspend, or place on probation any license for reasons including, but not limited to, the following: performance of work without a permit; performance of consistently substandard work; violation of any applicable federal, state or local statute, ordinance, rule or regulation; violation of any provision of this Chapter; or demonstrated inability or unfitness to perform the work for which he or she has been licensed.

1. The Board may revoke any license for a period of 1 year from the date the revocation became effective. Once the period of revocation has ended a licensee upon which the penalty of revocation has been imposed may apply for a new license, subject to any probationary period imposed by the Board as part of its issuance of the license.

2. The Board may suspend any license for a period not to exceed 30 days from the date the suspension became effective. Once the period of suspension has ended, the Board may, at its discretion, place the licensee on probation, as set forth in below.

3. The Board may elect to place any licensee on probation for up to 12 months to allow the City and the Trenching Board to review the performance of the licensee. During any probationary period, any water and sewer contractor or trenching contractor will be allowed to have only 1 right-to-work permit active at any given time. If the Trenching Board determines that the licensee has not completed enough work to allow for proper evaluation, the Board may extend a licensee's probationary status for up to six months without an additional hearing under this Section.

4. The Board may elect to impose any combination of suspension, revocation, and/or probation under this Section, or it may impose a probationary period upon any license issued after suspension or revocation, in accordance with Section 13.24.060.

B. License revocation, suspension or probation shall be imposed only after licensee has had notice and an opportunity to be heard.

1. The notice of intent to impose penalty shall be sent by first class mail to the licensee's address of record on file with the Board. The Board shall mail the notice of intent to impose penalty no later than 14 days prior to the hearing date.

2. The hearing will take place at a regular or special Board meeting, at the discretion of the Board, provided the notice of intent is mailed no later than 14 days prior to the meeting date. A vote of a majority of Board members present shall be required to take any action on the license.

3. The Board shall provide written notice of its decision, to be sent by first class mail to the licensee's address of record on file with the Board. The effective date of any action shall be 14 days from the date of mailing of the Board's written notice of decision, unless the Board finds that immediate imposition of any action is necessary to protect the health and safety of the public.

C. Should any applicant or licensee be aggrieved by a decision of the Board, he or she may, within 10 days, provide written notice to the Public Works Director of his or her intent to appeal the decision to the Council. After the aggrieved applicant or licensee has provided written notice, he or she will have a hearing before the Council. The Council may affirm, modify or reverse the action of the Trenching Board. All decisions of the Council shall be final.

D. Any licensee subject to investigation by the Board shall cooperate fully with the Board. Failure to cooperate fully with the Board is a basis for license probation, revocation or suspension.

#### **13.24.100 Criminal penalty.**

Any person violating this Chapter shall be subject to the general penalty provision of Section 1.12.010.

## **Section 3**

### **JURISDICTIONAL ~~AREA~~ OF THE BOARD**

### **3. JURISDICTIONAL AREA OF THE BOARD**

#### **3.1. TRENCHING (Excavating)**

- 3.1.1. Within the corporate limits of the City of Rapid City: All excavating in public right-of-way is required to be performed in accordance with the licensing provisions of Municipal Code Chapter 13.24.
- 3.1.2. Outside the corporate limits of the City of Rapid City: The licensing provisions of Municipal Code Chapter 13.24 do not apply to excavating outside the corporate limits of the City.
- 3.1.3. Excavating is defined in Municipal Code Section 13.24.010 — Definitions.

#### **3.2. SEWER & WATER INSTALLATION**

- 3.2.1. *Sewer and water systems owned and operated by the City of Rapid City:* All sewer and water installation is required to be performed in accordance with the licensing provisions of Municipal Code Chapter 13.24.
- 3.2.2. *Sewer and water systems owned and operated by sanitary districts, homeowners' associations, and similar organizations located within the corporate limits of the City ~~or within the three-mile platting jurisdictional limits of the City~~:* All sewer and water installation for new systems, including extensions to or replacements of existing systems, are required to be performed in accordance with the licensing provisions of Municipal Code Chapter 13.24. However, repairs may be performed by persons satisfying said utility owner's requirements.
- 3.2.3. The Board recommends that the Public Works- Department enter into agreements with the various water and sewer utility owners within the City and the three-mile platting area to have the City of Rapid City *Standard Specifications for Public Works Construction* (Standard Specifications) apply in the same manner as the licensing provisions of Municipal Code Chapter 13.24 as described above.



## **Section 4**

# **INDEMNIFICATION OF BOARD MEMBERS**

#### **4. INDEMNIFICATION OF BOARD MEMBERS**

4.1 Board Members are indemnified per Rapid City Municipal Code Section 2.04.100

4.2 See Rapid City Municipal Code Section 2.04.100 below.

##### **Rapid City Municipal Code 2.04.100 Proceedings against—Defense.**

The city shall provide for the defense and pay all judgments in any case or proceeding against any city officer, employee or member of any board, which board has been created by ordinance or statute, unless it is determined by a majority vote of the entire Common Council that the officer, employee or board member was clearly acting outside the scope of their official duties or that the officer, employee or board member acted illegally, maliciously or wantonly.

## **Section 5**

### **BYLAWS**

## 5. BYLAWS

### 5.1 BOARD MEMBERSHIP

#### 5.1.1 ~~Solicitation for~~ Appointment of Members

- 5.1.1.1 Two months prior to expiration of a member's term, the ~~Chairperson~~ shall call for public solicitation of interest to fill the upcoming vacancy.
- 5.1.1.2 The ~~Chairperson~~ shall prepare a list of persons expressing interest in filling the vacancy and shall present the list to the Board for consideration.
- 5.1.1.3 From the list submitted by the ~~Chairperson~~, the Board shall recommend persons to the Mayor and Council for appointment to the Board.
- 5.1.1.4 New members shall be seated on the Board at the first meeting in January.

#### 5.1.2 Resignation & Replacement

- 5.1.2.1 At any regular or special meeting duly called, any one or more members of the Board may be removed for cause upon affirmative vote of two-thirds of the members of the entire Board, and a successor shall be selected in accordance with Section 45.1 of these Bylaws.
- 5.1.2.2 The Board shall have the discretion to recommend to the Council that a member be removed and replaced after having missed three consecutive meetings with unexcused absences.

### 5.2 OFFICERS — TERMS - DUTIES

#### 5.2.1 ~~Chairperson~~

- 5.2.1.1 The ~~Chairperson~~ shall preside at the meetings of the Board. They Chair shall determine the need for and call special meetings of the Board. They ~~Chair~~ may perform such other duties as assigned by the Board.

#### 5.2.2 ~~Vice-Chairperson~~

- 5.2.2.1 The ~~Vice-Chairperson~~ shall, in the absence or disability of the ~~Chairperson~~, perform the duties and exercise the powers of the

~~Chairperson.~~ They Vice-Chair may perform other duties as assigned by the Board.

### 5.2.3 Election of Officers

5.2.3.1 A ~~C~~hairperson shall be elected by the Board at the first meeting of each year. The existing ~~C~~hairperson may be considered for a subsequent term. The ~~C~~hairperson shall serve a one-year term.

5.2.3.2 City staff are not eligible for ~~C~~hairperson.

### 5.2.4 Vacancies

5.2.4.1 Any officer may resign at any time by giving written notice to the Board.

5.2.4.2 Vacant officer positions shall be filled by elective action of the remaining Board members from among candidates by nomination of Board members.

## 5.3 MEETINGS — REGULAR & SPECIAL

### 5.3.1 Rules

5.3.1.1 ~~Board meetings shall be conducted in accordance with Robert's Rules of Order.~~ All meetings shall be conducted in accordance with these Bylaws. Where these bylaws do not prescribe specific procedural rules, the Board shall conduct all business in general compliance with Robert's Rules of Order and/or the Rapid City Common Council procedures.

5.3.1.2 The ~~Chairperson~~ shall be a voting member of the Board.

### 5.3.2 Regular Meetings

5.3.2.1 Regular meetings shall be held as needed on the third Thursday of the month. The need for a meeting shall be decided by the Chair and the Public Works Director. In the event of a conflict with holidays or other events, a majority present at a meeting of the Board or the ~~Chairperson~~ may change the date of ~~said~~ a future meeting.

5.3.2.2 All actions of the Board shall be approved by voice vote, unless a roll call vote is called for by a member of the Board.

5.3.2.3 All meetings or portions thereof ~~at which official action is taken~~ shall be open to the general public, ~~except actions involving~~

~~discipline of licensed persons for which the meeting may be closed to all but the subject licensed person and their representative and others requested to be present by the Board.~~

5.3.2.4 The order of business at regular meetings shall be a) roll call of members b) minutes of previous meeting, c) old business, d) new business, e) items of Board members and visitors not on the agenda, and ~~g~~f) adjournment.

### 5.3.3 Special Meetings

~~5.3.3.1~~ Special meetings may be called by the Chairperson. It shall be the duty of the Chairperson to call a special meeting when requested to do so by a majority of the members of the Board. Board members shall be notified not less than five (5) days in advance of such special meeting.

### 5.3.4 Quorum

~~5.3.4.1~~ The quorum to conduct business shall consist of four (4) members.

## 5.4 GENERAL PROVISIONS

### 5.4.1 Amendment of Bylaws

5.4.1.1 These bylaws may be amended at any regular meeting of the Board.

5.4.1.2 Proposed amendments shall be submitted to the Board at least (30) days prior to consideration.

5.4.1.3 Approved amendments shall be submitted to the Council for its approval.

~~5.4.1.4~~ Notice of proposed amendments shall be advertised in the Rapid City Journal.

5.4.1.54 The Board shall notify all license holders of the proposed amendment(s) rules and regulations within 30 days prior to the delivery of the rules and regulations to the Council's consideration of the amendment(s).

### 5.4.2 Publication of Meeting Minutes

5.4.2.1 Minutes of all Board meetings shall be taken by Public Works staff, and the Board shall approve meeting minutes.

~~5.4.2.2~~ Approved minutes shall be made available at the Public Works Administration office, 300 Sixth Street.

## **Section 6**

# **OPERATING PROCEDURES**



## **6. BOARD OPERATING PROCEDURES**

### **6.1 Adoption of and Revisions to Operating Procedures**

6.1.1 Adoption of and revisions to operating procedures shall be duly noted in the minutes of Board meetings

6.1.2 Operating procedures shall be provided to any person upon request

### **6.2 Operating Procedures Adopted**

6.2.1 EXAMINATION OF APPLICANTS

6.2.2 DISCIPLINE OF LICENSED PERSONS

Rapid City Trenching Board  
Operating Procedures

EXAMINATION OF APPLICANTS

6.2.1

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**1. Contents of Examinations**

- 1.1 Applicants for sewer and water contractors or journeyman licenses shall be examined on the basis of the contents of Chapters 7, 8, 9, 11, 13, 41, 90, 91 of the *Standard Specifications for Public Works Construction*, Chapter 13 of the *Rapid City Municipal Code*, Chapter 2 of the *Utility Construction Code*, and any regulation governing permitting work in City right-of-way;
- 1.2 Applicants for trenching contractors or journeyman licenses shall be examined on the basis of the contents of Chapters 7, 11, 13, 41, 90, and 91 of the *Standard Specifications for Public Works Construction*, Chapter 13 of the *Rapid City Municipal Code*, Chapter 2 of the *Utility Construction Code*, and any regulation governing permitting work in City right-of-way;

**2. Administration of Examinations**

- 2.1 No examination shall be administered until the applicant has paid applicable license and/or testing fees, and has provided a picture identification and proof of possession of a State license, if applicable;
- 2.2 Applicants shall be administered proctored examinations ~~alone in a closed room~~ without reference materials; Applicants shall not take their cell phone or any other electronic device into the testing room.
- 2.3 Applicants shall have 90 minutes to complete an examination.

**3 Revisions to Examinations**

- 3.1 Revisions to examinations shall not be made without approval by the Board;
- 3.2 Revisions to examinations shall become effective within 30 days of Board approval;
- 3.3 Examinations administered by the Board ~~shall~~may be reviewed ~~at least every 2 years~~ on a regular basis for conformance to current *Standard Specifications for Public Works Construction*, the *Infrastructure Design Criteria Manual*, Rapid City licensing and permitting regulations, and industry standards.
- 3.4 The Board may require a reexamination for renewal licenses in accordance with RCMC 13.24.065 upon amendment of the Standard Specifications and/or the

Infrastructure Design Criteria Manual.

# Operating Procedures

## DISCIPLINE OF LICENSED PERSONS

### 6.2.2

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#### 1. Violations

- 1.1 Allowing an unlicensed person to conduct sewer and water installation or excavating under license holder's license;
- 1.2 Using fFalse pPretenses to obtain a license;
- 1.3 Aiding or aAbetting an uUnlicensed pPerson to engage in work requiring license;
- 1.4 ~~Willful~~ nNoncompliance with *City Standard Specifications*;
- 1.5 Performing work without a permit;
- 1.6 Violation of a sStop wWork oOrder;
- 1.7 Performance of consistently substandard work;
- 1.8 Violation of any applicable federal, state, or local statute, ordinance, rule, or regulation, including RCMC Chapter 13.24;
- 1.9 Demonstrated inability or unfitness to perform the work for which he or she has been licensed; or
- 1.10 For any licensee subject to investigation by the Board, his or her failure to cooperate fully with the Board.

#### 2. Disciplinary Actions

- 2.1 The Board may take one or more of the following disciplinary actions for any violation. The Board may treat the following as an escalating discipline scheme where repeated violations justify a higher level of discipline. However, the Board may also adopt any of the following actions for any offense, including revocation or suspension of the license, if the Board feels that the circumstances warrant the disciplinary action.
- 2.2 Options for Disciplinary Action:
  - 2.2.1 Informal Notification; — 1st Offense
  - 2.2.2 Written Notice of Violation; — 2nd Offense
  - 2.3 Show Cause Hearing — 3rd Offense
  - 2.4 2.3 Public Notice of Violation; — Depends on Outcome of 2.3

2.2.4 Revocation of License for a period of 1 year;

2.2.5 Suspension of License for a period not to exceed 30 days; or

2.2.6 Placement of License on Probation.

5.3 The Board shall hold a show cause hearing before any disciplinary action is taken pursuant to Sections 5.2.3, 5.2.4, 5.2.5, or 5.2.6.

### **3. Procedures for Show Cause Hearing**

3.1 Notification to Licensed Person. The notice of intent to take action on any license shall be sent by first class mail to the licensee's address of record on file with the Board. The Board shall mail the notice of intent to take action no later than 14 days prior to the hearing date.

#### 3.2 Conduct of Hearing

3.2.1 Show Cause Hearings shall be conducted by the Public Works Director;

3.2.2 Board members, City Staff, or members of the public may present evidence of violations.

3.2.3 The license holder may submit refuting evidence, admit violation, explain mitigating circumstances, demonstrate compliance, and/or explain any corrective action taken to date;

3.2.4 Hearings may take place at a regular Board meeting or at a special Board meeting.

#### 3.3 Final Action

3.3.1 The evidence presented at the Hearing shall be used to determine the final disciplinary action taken;

3.3.2 Disciplinary action shall require a vote of a majority of Board members present.

~~3.3.23~~ Within 10 days of the conclusion of the Hearing, the Board shall provide written notice of its decision, to be sent by first class mail to the licensee's address of record on file with the Board.

3.2.4 The effective date of any penalty imposed shall be 14 days from the date of mailing of the Board's written notice of decision, unless the Board finds that immediate imposition of any action is necessary to protect the health and safety of the public.

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### **4. Penalties**

7.1 Probationary Period

## ~~7.2 Monetary Penalties~~

~~7.2.1 The Board may recommend that City levy monetary penalties up to the maximum amount permitted by State law, which amount may not exceed \$100 per violation per day.~~

## ~~7.3 Revocation of License~~

## ~~7.4 Legal Remedies~~

## ~~7.5~~

# **4 Appeals of Disciplinary Actions**

~~4.5.1 Any license holder subjected to disciplinary action by the Board may, within 30 days of said action, appeal the Board's action to the Council by requesting to have their appeal placed on the agenda of the next regularly scheduled Council meeting. Should any applicant or licensee be aggrieved by a decision of the Board with regard to licenses denied, issued, revoked, suspended, or placed on probation, he or she may, within 10 days, provide written notice to the Director of Public Works Director of his or her intent to appeal the decision to the Council. After the aggrieved applicant or licensee has provided written notice, he or she will have a hearing before the Council. The Council may affirm, modify or reverse the action of the Trenching Board. All decisions of the Council shall be final.~~