

Chapter 5. STANDARDS AND CONTRACTORS' LICENSING BOARD.**001. BOARD DUTIES.**

The duties of the Board include, but are not limited to:

001.01 Setting construction standards for water wells;

001.02 Setting fees; and

001.03 Approving regulations.

002. COMMITTEES.

No committees thus established will have authority to take final action on any matters assigned to it but will report its findings and make recommendations to the full Board for action as necessary.

003. CONDUCT OF BUSINESS.

The Board must conduct business as follows:

003.01 PARLIAMENTARY RULES. The Board will at all officially convened meetings conduct its business in accordance with the current edition of Robert's Rules of Order, except insofar as they may be inconsistent with these rules and regulations.

004. PUBLIC HEARINGS.

The Board must conduct public hearings as follows:

004.01 CALLING PUBLIC HEARINGS. The Board may at any time, on its own motion, order any public hearing which the Board is authorized, either by law or by inherent authority, to conduct and, after giving notice, conduct such hearing in the manner appropriate to the nature of the hearing as hereinafter provided.

004.02 FORMAL ADJUDICATORY HEARINGS. The Board will set a formal adjudicatory hearing when requested by any individual appealing a decision of the Board. The Board hereby adopts by reference for its rules of practice and procedure in any formal adjudicatory hearing Title 184, Chapter 1 of the Nebraska Administrative Code, except that the word “Board” will be substituted for “Department.”

004.03 INFORMAL, NON-ADJUDICATORY HEARINGS. All Board hearings, except hearings held pursuant to 004.02 of this Chapter, will be informal, non-adjudicatory hearings governed by this rule and regulation.

004.03(a) NOTICE OF HEARING.

004.03(a)(1) GENERAL. Notice will be given for all public hearings held by the Board.

004.03(a)(2) REQUIRED PUBLICATION. The Department will, at a minimum, publish notice:

004.03(a)(2)(i) On the Department’s website;

004.03(a)(2)(ii) At least once in a Nebraska newspaper of general circulation; and

004.03(a)(2)(iii) In any other manner required by law.

004.03(a)(3) SUPPLEMENTAL PUBLICATION. The Department may, in its discretion, supplement the notice required in 004.03(a)(2) of this Chapter.

004.03(a)(4) WHEN GIVEN. Notice in the manners described in 004.03(a)(2) and 004.03(a)(3) of this Chapter will be given at least ten (10) days before the date of the hearing.

004.03(a)(5) CONTENT OF NOTICE. All notice published under this Chapter must contain the date, time, location, and purpose, of the meeting. An agenda may be provided, as appropriate.

004.03(b) PRESIDING OFFICER.

004.03(b)(1) DEFAULT PRESIDING OFFICER. Unless delegated in the manner prescribed in 004.03(b)(2) of this Chapter, the Chair of the Board must preside over all hearings.

004.03(b)(2) DELEGATION OF PRESIDING OFFICERSHIP.

004.03(b)(2)(i) The Chair has the power to delegate to another Board member the presiding officership.

004.03(b)(2)(ii) All presiding officer delegations must be documented in a writing that:

004.03(b)(2)(ii)(A) Is signed and dated by the Chair; and

004.03(b)(2)(ii)(B) Identifies the Board member to whom the presiding officership was delegated.

004.03(b)(2)(iii) A delegation of the presiding officership automatically expires upon the adjournment of the Board meeting held immediately after the presiding officership delegation is made or the vacation of the Chair from office, whichever is sooner.

004.03(b)(2)(iv) A copy of the delegation documented pursuant to 004.03(b)(2)(ii) of this Chapter must be entered into the hearing record.

004.03(b)(3) POWERS OF THE PRESIDING OFFICER. The presiding officer has the power to:

004.03(b)(3)(i) Open the proceedings;

004.03(b)(3)(ii) Enter into the record the notice given for the hearing;

004.03(b)(3)(iii) Take appearances;

004.03(b)(3)(iv) Accept and ensure exhibits are numbered properly;

004.03(b)(3)(v) Answer questions asked or call upon other persons present to answer questions asked; and

004.03(b)(3)(vi) Close the proceedings.

004.03(b)(4) LIMITATIONS ON POWERS OF THE PRESIDING OFFICER. The presiding officer, acting alone, has not the power to take any action involving a final determination from the proceedings when action of the full Board is required by law.

004.03(b)(5) CHANGE OF PRESIDING OFFICER DURING MEETING. The record in any hearing will not be affected by any change of presiding officers during the conduct of that hearing.

004.03(c) HEARING EXAMINER. The presiding officer may appoint a hearing examiner to assist the presiding officer in exercising the powers described in 004.03(b)(3) of this Chapter. The conduct of the hearing officer is subject to the provisions of 004.03(b)(4) and 004.03(b)(5) of this Chapter.

004.03(d) OATH NOT REQUIRED. No person will be required to be sworn or take an oath prior to presenting any comments, which may consist of any oral or written question, statement relevant to the subject of the hearing, and any document.

004.03(e) RECEIPT OF COMMENTS.

004.03(e)(1) SEQUENCE. Comments at a public hearing will be received in the following sequence:

004.03(e)(1)(i) Board members and staff;

004.03(e)(1)(ii) Other state agencies; and

004.03(e)(1)(iii) All other persons in the order the presiding officer chooses.

004.03(e)(2) OPPORTUNITY TO BE HEARD. All persons present will be given the opportunity to be heard on matters relevant to the business and purpose of the hearing.

004.03(f) PRESENTATION OF COMMENTS. All persons presenting comments at a hearing must first state their full name and address, and declare whether they are appearing on their own behalf or on behalf of another person or organization, in which case the person or organization represented must be named.

004.03(g) PROPRIETY OF COMMENTS. All comments presented at the hearing are to be directed at the business and purpose of the hearing. Any comments not directed at the business and purpose of the hearing, or which are cumulative or repetitive, must, at the request of the presiding officer or hearing examiner, be terminated and excluded from the record.

004.03(h) STAFF COMMENTS. In addition to comments presented by other persons, the Board may, through the Board staff or otherwise, secure and present such comments as it may consider necessary or desirable. A copy of the notice given for the public hearing and a statement explaining the business and purpose of the hearing will be made as part of the hearing record.

004.03(i) RECORD MADE. A record of the hearing will be made with the comments presented being a part thereof. Such record may consist of written statements and other documents, along with tape recordings of oral evidence or transcripts as deemed necessary by the Board.

004.03(j) RECORD HELD OPEN. The record of public hearings may be held open for a specific period of time at the discretion of the presiding officer for submission of any comments not available or presented at the time of the hearing. At the designated time the hearing will be closed by the presiding officer after the inclusion of any comments submitted and accepted.

005. APPROVAL.

The Department, with the approval of the Board, must adopt and promulgate rules and regulations for the establishment of standards for the:

005.01 Construction of water wells;

005.02 Installation of pumps and pumping equipment; and

005.03 Decommissioning of water wells.

006. REQUESTS FOR REPORTING.

The Board will routinely, as part of each meeting, request reports from each agency represented on the Board. In advising the Department as provided under the Act, the Board will, following such reports, assign any subjects or proposals requiring Board advice, consultation, or advice and consent to any standing or special committee of the Board for further investigation or work and will upon report of any such committee to the Board take such further action as deemed appropriate. The Board may take such action at any regular or special meeting of the Board with or without a public hearing.