STATE OF IDAHO

BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

Selected Laws and Rules Pertaining to

The Practice of the Professions of

Engineering and Land Surveying

As of April 4, 2013

State of Idaho

BOARD OF LICENSURE OF
PROFESSIONAL ENGINEERS AND
PROFESSIONAL LAND SURVEYORS

1510 E. Watertower St., Suite 110, Meridian, ID 83642-7993
Voice (208) 373-7210 FAX (208) 373-7213 TDD Relay 1-800-377-3529
Internet http://www.ipels.idaho.gov

TABLE OF CONTENTS

REFERENCE	PAGE NUMBER
Rules of Professional Responsibility (IDAPA 10, Title 1, Chapter 2)	1
Engineers and Surveyors (Idaho Code, Title 54, Chapter 12)	7
Plats and Vacations (Idaho Code, Title 50, Chapter 13)	25
Condominium Property Act (Idaho Code, Title 55, Chapter 15)	38
Corner Perpetuation and Filing (Idaho Code, Title 55, Chapter 16)	48
Rules for Corner Perpetuation and Filing (IDAPA 10, Title 1, Chapter 3)	52
Coordinate System of Land Description (Idaho Code, Title 55, Chapter 17)	54
Recording of Surveys (Idaho Code, Title 55, Chapter 19)	57
Highway Right-of-Way Plats (Idaho Code, Title 40, Chapter 2)	60
Surveys Must Conform to United States Manual (Idaho Code, Title 31, Chapter 27)	61
Professional Service Contracts (Idaho Code, Title 67, Chapter 23)	62
Rules of Continuing Professional Development (IDAPA 10, Title 1, Chapter 4)	64
Rules of Procedure (IDAPA 10, Title 1, Chapter 1)	70

NOTE

While every effort has been made to accurately reproduce the Administrative Rules and the Idaho Code in this booklet, this is an unofficial copy of the Administrative Rules and Idaho Code since it has not been published by the Office of the Administrative Rules Coordinator of the Department of Administration.

IDAPA 10
TITLE 01
CHAPTER 02

10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

000. LEGAL AUTHORITY.

These rules are promulgated as authorized by Section 54-1208(1), Idaho Code. (7-1-93)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility." (5-8-09)

02. **Scope.** In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Professional Responsibility, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a license as a Professional Engineer or Professional Land Surveyor, on all entities authorized to offer or perform engineering or land surveying services through a business entity or other legal entity and on every person holding a certificate as an engineer intern or a certificate as a land surveyor intern. Each Licensee and Certificate Holder under the laws of the state of Idaho is charged with being familiar with these Rules and knowledgeable in their application to the practice of engineering and land surveying. Such application shall include the recognition that the practice of engineering or the practice of land surveying is a privilege and the Licensee or Certificate Holder shall be forthright, candid, and timely in statements or written responses to the Board, or its representatives, on matters pertaining to these Rules. All Licensees or Certificate Holders in their original application, and for renewals thereof, shall certify that they have read and agree to abide by the Rules which are in force at the time of application or renewal. These Rules shall not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Licensee or Certificate Holder to Board action pursuant to Chapter 12, Title 54, Idaho Code. (4-7-11)

002. ADMINISTRATIVE APPEALS.

Persons desiring to contest the actions taken in accordance with these rules shall seek administrative relief under the Attorney General's Rules, IDAPA 04, Title 11, Chapter 01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-98)

003. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost in the main office of this agency. (7-1-93)

004. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (7-1-93)

01. Board. The Board of Licensure of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Certificate Holder. Any person holding a current certificate as an Engineer Intern or a Land Surveyor Intern or a business entity (which is also herein referred to as a "person") holding a current certificate of authorization, which has been duly issued by the Board. (5-8-09)

03. Deceit. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. (3-29-10)

04. Incompetence. Failure to meet the standard of care. (3-29-10)

05. Licensee. Any person holding a current license as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, which has been duly issued by the Board. (5-8-09)

06. Misconduct. A violation or attempt to violate these rules of professional responsibility or to knowingly assist or induce another to do so, or do so through the acts of another; a finding of guilt of commitment of a felony or a plea of guilty to a felony; commit fraud or deceit; failure to respond within twenty (20) days of an inquiry from the Board or its representative, unless such time is extended by the Board for justifiable cause; state or imply an ability to influence improperly a government agency or official. (4-7-11)

005. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Licensees and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (5-8-09)

02. Standard of Care. Each Licensee and Certificate Holder shall exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (3-29-10)

03. Professional Judgment. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation.

(5-8-09)

04. Obligation to Communicate Discovery of Discrepancy. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform the Licensee or Certificate Holder whose

work is believed to contain the discrepancy, error or omission. Such communication shall reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy shall respond within twenty (20) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer shall notify the Licensee or Certificate Holder in writing, who shall have another twenty (20) days to respond. Failure to respond (with supportable evidence) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer may notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) days. (3-29-12)

05. Obligation to Comply with Rules of Continuing Professional Development. All Licensees shall comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development." (5-8-09)

006. COMPETENCY FOR ASSIGNMENTS.

01. Assignments in Field of Competence. A Licensee shall undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Licensee, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Licensee is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the Licensee's competence, a Licensee may sign and seal the cover sheet for the total project only when the Licensee has first determined that all elements of the project have been prepared, signed and sealed by others who are competent, licensed and qualified to perform such services. (5-8-09)

02. Aiding and Abetting an Unlicensed Person. A Licensee or Certificate Holder shall avoid actions and procedures which, in effect, amount to aiding and abetting an unlicensed person to practice engineering or land surveying. (5-8-09)

03. Use of Seal on Documents. A Licensee shall affix his signature and seal only to plans or documents prepared under his responsible charge. (5-8-09)

007. PUBLIC STATEMENTS.

01. Reports, Statements or Testimony. A Licensee shall not commit fraud, violate the standard of care, or engage in deceit or misconduct in professional reports, statements or testimony. He shall, to the best of his knowledge, include all relevant and pertinent information in such reports, statements or testimony. (3-29-10)

02. Opinions Based on Adequate Knowledge. A Licensee or Certificate Holder, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue,

upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony. (5-8-09)

03. Statements Regarding Public Policy. On matters connected with establishing public policy a Licensee or Certificate Holder shall issue no statements, criticisms or arguments which are paid for by an interested party, or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party, or parties, on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the matters. (5-8-09)

04. Actions in Regard to Other Licensees or Certificate Holders. A Licensee or Certificate Holder shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Licensee or Certificate Holder, nor shall he indiscriminately criticize another Licensee's or Certificate Holder's work in public. If he believes that another Licensee or Certificate Holder is guilty of fraud, deceit, negligence, incompetence, misconduct or violation of these rules he should present such information to the Board for action. (5-8-09)

008. CONFLICT OF INTEREST.

01. Conflict of Interest to Be Avoided. Each Licensee or Certificate Holder shall conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, shall forthwith disclose the circumstances in writing to the employer or client. In addition, the Licensee or Certificate Holder shall promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Licensee's or Certificate Holder's judgment or quality of service, or jeopardize the clients' interests. (5-8-09)

02. Compensations From Multiple Parties on the Same Project. A Licensee or Certificate Holder may accept compensation, financial or otherwise, from more than one (1) party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. (5-8-09)

03. Solicitation From Material or Equipment Suppliers. A Licensee or Certificate Holder shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 008.02. (5-8-09)

04. Gratuities. A Licensee or Certificate Holder shall not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the Licensee or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Licensee's or Certificate Holder's professional judgment. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither shall a Licensee or Certificate Holder make any such improper offer. (5-8-09)

05. Solicitation From Agencies. A Licensee, a Certificate Holder or a representative thereof shall not solicit or accept a contract from a governmental authority on which an existing principal or officer of his organization serves as a member of the elected policy and governing

body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract for the services of a Licensee or a Certificate Holder. (5-8-09)

06. Professional Services Decisions of Agencies. A Licensee, Certificate Holder or representative thereof serving as a member, advisor or consultant to a governmental board, commission or department shall not participate in decisions with respect to professional services to be offered, that have been offered or may have been performed by that person's associates, firm or employer for the concerned governmental body upon which that person serves, whether such professional services are commissioned by an entity of the said governmental body or by another person or entity. (5-8-09)

07. Unfair Advantage of Position and Work Outside Regular Employment. When a Licensee or an individual Certificate Holder is employed in a full time position, the person shall not use the advantages of the position to compete unfairly with other professionals and shall not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. (5-8-09)

009. SOLICITATION OF WORK.

01. Commissions. A Licensee or Certificate Holder shall not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Licensee or Certificate Holder for the purpose of securing business or employment. (5-8-09)

02. Representation of Qualifications. A Licensee or Certificate Holder shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Licensee or Certificate Holder shall not indulge in publicity that is misleading. (5-8-09)

03. Assignment on Which Others Are Employed. A Licensee or Certificate Holder shall not knowingly seek or accept employment for professional services for an assignment which another Licensee or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. (5-8-09)

04. Contingency Fee Contracts. A Licensee or Certificate Holder shall not accept an agreement, contract, or commission for professional services on a "contingency basis" which may compromise his professional judgment and shall not accept an agreement, contract or commission for professional services which includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgment. (5-8-09)

05. Selection on the Basis of Qualifications. A Licensee or Certificate Holder should seek professional employment or professional service work on the basis of qualifications

and competence for proper accomplishment of the work assignment. On selections for professional engineering and land surveying services that are required pursuant to Idaho Code Section 67-2320, a licensee or certificate holder, in response to solicitations described in Idaho Code Section 67-2320(2)(a) shall not submit information that constitutes a bid for services requested. (5-8-09)

010. IMPROPER CONDUCT.

01. Fraudulent or Dishonest Enterprises. A Licensee or Certificate Holder shall not knowingly associate with, or permit the use of his name or the firm name in a business venture by any person or firm which it is known, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature. (5-8-09)

02. Confidentiality. Licensees or Certificate Holders shall not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. (5-8-09)

03. Actions by Other Jurisdictions. The surrender, revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a business entity, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, shall be sufficient cause after a hearing for disciplinary action as provided in Title 54 Chapter 12, Idaho Code. (5-8-09)

011. RULE AND STATUTE VIOLATIONS.

01. Affidavits for Rule and Statute Violations. Any person who believes that a Licensee or Certificate Holder by his actions, or failure to properly act, is guilty of fraud, deceit, negligence, incompetence, misconduct, or violation of these rules, or any applicable statute, may file a written affidavit with the Executive Director of the Board which shall be sworn to or affirmed under penalty of perjury, signed and in which the alleged rule and statute violations shall be clearly set forth and that the applicable Licensee or Certificate Holder, or both, should be considered for the appropriate disciplinary action by the Board. Following the receipt of such affidavit, the Board may investigate, hold hearings and adjudicate the charges. The Board will not accept an affidavit more than two (2) years after discovery of the matter by the complainant. (3-29-12)

02. Investigation of Statute or Rule Violations. The Board may, at its own discretion, initiate investigation of alleged or possible statute or rule violations that have come to its attention. (5-3-03)

012. -- 996. (RESERVED).

997. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Board are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (7-1-93)

998. -- 999. (RESERVED).

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES
CHAPTER 12
ENGINEERS AND SURVEYORS

54-1201. Declaration of policy. To safeguard life, health and property, every person practicing or offering to practice professional engineering or professional land surveying, as herein defined, for any project physically located in this state, shall submit evidence of his qualifications and be licensed as hereinafter provided; and it shall be unlawful for any person to practice or offer to practice professional engineering or professional land surveying for any project physically located in this state, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a licensed professional engineer or professional land surveyor, unless such person has been duly licensed or is exempted under the provisions of this chapter. Except as exempted by section 54-1223, Idaho Code, an engineer shall be allowed to practice professional engineering as defined in this chapter only when he has become duly licensed as a professional engineer by the board under this chapter. Except as exempted by section 54-1223, Idaho Code, a land surveyor shall be allowed to practice professional land surveying as defined in this chapter only when he has become duly licensed as a professional land surveyor by the board under this chapter. The practice of professional engineering or professional land surveying shall be deemed a privilege granted by the Idaho board of licensure of professional engineers and professional land surveyors through the board, based on qualifications of the individuals as evidenced by the person's license, which shall not be transferable. [54-1201, added 1939, ch. 231, sec. 1, p. 516; am. 1957, ch. 234, sec. 1, p. 547; am. 1986, ch. 140, sec. 1, p. 377; am. 1996, ch. 357, sec. 1, p. 1186; am. 2001, ch. 247, sec. 1, p. 890; am. 2008, ch. 378, sec. 2, p. 1024.]

54-1202. Definitions. As used in this chapter, unless the context or subject matter requires otherwise:

(1) "Benchmark" means a material object, natural or artificial, whose elevation is referenced to an adopted datum.

(2) "Board" means the Idaho board of licensure of professional engineers and professional land surveyors, hereinafter provided by this chapter.

(3) "Business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

(4) "Consulting engineer" means a professional engineer whose principal occupation is the independent practice of professional engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial and product affiliation that might tend to infer a conflict of interest; and who is cognizant of his public and legal responsibilities, and is capable of discharging them.

(5) "Engineer" means a person who is qualified to practice engineering by reason of his special knowledge and use of mathematical, physical and engineering sciences, and the principles and methods of engineering analysis and design, acquired by professional education and engineering experience.

(6) "Engineer intern" means a person who has qualified for, taken and passed an examination in the fundamentals of engineering subjects as provided in this chapter.

(7) "Land survey" means measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more ownerships;

(b) Retrace or establish land boundaries;

(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or

(d) Plat lands and subdivisions thereof.

(8) "Land surveyor intern" means a person who has qualified for, taken and passed an examination in the fundamentals of surveying subjects as provided in this chapter.

(9) "Professional engineer" means a person who has been duly licensed as a professional engineer by the board under this chapter.

(10) "Professional engineering" and "practice of professional engineering" mean any service or creative work offered to or performed for the public for any project physically located in this state, such as consultation, investigation, evaluation, planning, designing, teaching upper division engineering design subjects, and responsible charge of observation of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such service requires the application of engineering principles and data. A person shall be construed to practice or offer to practice professional engineering within the meaning and intent of this chapter who practices or offers to practice any of the branches of the profession of engineering for the public for any project physically located in this state or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer or through the use of some other title implies that he is a professional engineer or that he is licensed under this chapter, or holds himself out as able to perform or who does perform for the public for any project physically located in this state, any engineering service or work or any other service designated by the practitioner which is the practice of professional engineering.

(11) "Professional land surveying" and "practice of professional land surveying" mean responsible charge of land surveying to determine the correct boundary description, to establish or reestablish land boundaries, or to plat lands and subdivisions thereof. Any person shall be construed to practice or offer to practice professional land surveying who engages in professional land surveying, or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional land surveyor, or who represents himself as able to perform or who does perform any professional land surveying service or work or any other service designated by the practitioner which is professional land surveying.

(12) "Professional land surveyor" means a person who is qualified by reason of his knowledge of the principles of land surveying acquired by education and practical experience to engage in the practice of professional land surveying and who has been duly licensed as a professional land surveyor by the board under this chapter.

(13) "Public" means any person, firm, corporation, partnership, company, government agency, institution or any other entity recognized by law.

(14) "Responsible charge" means the control and direction of engineering work, or the control and direction of land surveying work, requiring initiative, professional skill, independent judgment and professional knowledge of the content of relevant documents during their preparation. Except as allowed under section 54-1223, Idaho Code, reviewing, or reviewing and correcting, documents after they have been prepared by others does not constitute the exercise of responsible charge.

(15) "Rules of professional responsibility" means those rules, if any, promulgated by the board, as authorized by the Idaho Code.

(16) "Signature" means either: an original handwritten message identification containing the name of the person who applied it; or a digital signature which is an electronic authentication

process attached to or logically associated with an electronic document. The digital signature must be unique to the person using it; must be capable of verification; must be under the sole control of the person using it; and must be linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(17) "Standard design plan" means a building, structure, equipment or facility which is intended to be constructed or sited at multiple locations and for which some or all of the plans must be prepared by a professional engineer. [54-1202, added 1939, ch. 231, sec. 2, p. 516; am. 1957, ch. 234, sec. 2, p. 547; am. 1961, ch. 258, sec. 1, p. 422; am. 1978, ch. 170, sec. 1, p. 372; am. 1986, ch. 140, sec. 2, p. 377; am. 1996, ch. 357, sec. 2, p. 1187; am. 2000, ch. 289, sec. 1, p. 991; am. 2001, ch. 247, sec. 2, p. 890; am. 2002, ch. 6, sec. 1, p. 6; am. 2007, ch. 219, sec. 1, p. 655; am. 2008, ch. 378, sec. 3, p. 1024; am. 2011, ch. 136, sec. 10, p. 389.]

54-1203. Idaho board of licensure of professional engineers and professional land surveyors. A board to be known as the "Idaho board of licensure of professional engineers and professional land surveyors" is a division of the Idaho department of self-governing agencies and shall administer the provisions of this chapter. It shall consist of five (5) persons duly licensed as provided by this chapter, appointed by the governor from among nominees recommended by any organized and generally recognized state engineering society in this state for the professional engineer members or any organized and generally recognized state land surveying society in this state for the professional land surveyor member. The board shall be comprised of four (4) persons licensed as professional engineers and one (1) person licensed as a professional land surveyor. The members of the board shall have the qualifications required by section 54-1204, Idaho Code. The members of the present board shall continue to serve for the balance of their respective terms of appointment. Each member of the board shall take, subscribe and file the oath required by chapter 4, title 59, Idaho Code, before entering upon the duties of the office. On the expiration of the term of any member, a successor shall be appointed in like manner by the governor for a term of five (5) years. Any appointment to complete a term that has not expired, because of resignation or inability of a member to serve for any reason, shall be for the unexpired portion of the term. A member of the board shall hold office until the expiration of the term for which he was appointed and until his successor has been appointed and qualified. A member after serving two (2) consecutive full terms in addition to any unexpired portion of a term, shall not be reappointed for a period of two (2) years. The board, on its own initiative, may appoint any former member as an emeritus member for special assignment to assist the board in the administration of this chapter. [54-1203, added 1939, ch. 231, sec. 3, p. 516; am. 1974, ch. 13, sec. 109, p. 138; am. 1978, ch. 170, sec. 2, p. 373; am. 1986, ch. 140, sec. 3, p. 379; am. 1996, ch. 357, sec. 3, p. 1189; am. 2008, ch. 378, sec. 4, p. 1028.]

54-1204. Qualification of members of board. Members of the board shall be citizens of the United States and residents of this state, and they shall have been engaged for at least twelve (12) years in the practice of engineering for the professional engineer members or land surveying for the professional land surveyor member, shall have been in responsible charge for at least five (5) years of important professional engineering or professional land surveying work, and shall be licensed under the provisions of this chapter. Responsible charge of engineering or land surveying teaching may be construed as responsible charge of important professional engineering or professional land surveying work. [54-1204, added 1939, ch. 231, sec. 4, p. 516; am. 1957, ch. 234, sec. 3, p. 547; am. 1978, ch. 170, sec. 3, p. 374; am. 1986, ch. 140, sec. 4, p. 380; am. 1996, ch. 357, sec. 4, p. 1189; am. 2008, ch. 378, sec. 5, p. 1028.]

54-1205. Compensation and expenses of board members. Each member of the board shall be compensated as provided by section 59-509(i), Idaho Code, when attending to the work of the board or any of its committees and for the time spent in necessary travel; and, in addition thereto, shall be reimbursed for all actual travel, per diem, incidentals and clerical expenses necessarily incurred in carrying out the provisions of this chapter. [54-1205, added 1939, ch. 231, sec. 5, p. 516; am. 1957, ch. 234, sec. 4, p. 547; am. 1978, ch. 170, sec. 4, p. 374; am. 1980, ch. 247, sec. 59, p. 624; am. 1986, ch. 140, sec. 5, p. 380; am. 2000, ch. 289, sec. 2, p. 993; am. 2007, ch. 219, sec. 2, p. 657.]

54-1206. Removal of board members and filling vacancies. The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any reason prescribed in the Idaho Code for removal of state officials. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as provided in section 54-1203, Idaho Code. [54-1206, added 1939, ch. 231, sec. 6, p. 516; am. 1986, ch. 140, sec. 6, p. 380.]

54-1207. Board -- Organization and meetings. The board shall hold at least one (1) regular meeting each year. The rules of the board may provide for additional regular meetings and for special meetings. Notice of all meetings shall be given as may be provided in the rules. The board shall annually elect a chairman, a vice-chairman and a secretary, who shall be members of the board, and they may provide for an assistant or executive director who need not be a member of the board. Three (3) members shall constitute a quorum. [54-1207, added 1939, ch. 231, sec. 7, p. 516; am. 1978, ch. 170, sec. 5, p. 374; am. 1996, ch. 357, sec. 5, p. 1190; am. 2000, ch. 289, sec. 3, p. 993.]

54-1208. Board -- Powers. (1) The board shall have the power to adopt and amend administrative rules including, but not limited to, rules of professional responsibility, rules of continuing professional development not to exceed sixteen (16) hours annually for each profession for which the professional is licensed, and rules of procedure, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the administration of the chapter and the regulation of proceedings before the board. These actions by the board shall be binding upon persons licensed under this chapter and shall be applicable to business entities holding a certificate of authorization as provided in section 54-1235, Idaho Code. It shall adopt and have an official seal which shall be affixed to each license and certificate issued. It shall have power to provide an office, office equipment and facilities and such books and records as may be reasonably necessary for the proper performance of its duties.

(2) In carrying into effect the provisions of this chapter, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents, or other pertinent data in any disciplinary matters or in any case wherever a violation of this chapter is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena as herein provided, the board may apply to any court of any jurisdiction to enforce compliance with same.

(3) The board is hereby authorized in the name of the state to apply for relief by injunction in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this chapter or to restrain any violation thereof. Venue for all such actions shall be in the district court of the fourth judicial district, Ada county, Idaho.

(4) The board may subject an applicant for licensure or certification to such examination as it deems necessary to determine qualifications.

(5) Any action, claim or demand to recover money damages from the board or its employees which any person is legally entitled to recover as compensation for the negligent or otherwise wrongful act or omission of the board or its employees, when acting within the course and scope of their employment, shall be governed by the Idaho tort claims act, chapter 9, title 6, Idaho Code. For purposes of this section, the term "employees" shall include, in addition to those persons listed in section 6-902(4), Idaho Code, special assignment members, emeritus members and any independent contractors while acting within the course and scope of their board related work.

(6) The board may recommend arbitration of disputes between professional engineers or disputes between professional land surveyors. [54-1208, added 1939, ch. 231, sec. 8, p. 516; am. 1957, ch. 234, sec. 5, p. 547; am. 1963, ch. 22, sec. 1, p. 163; am. 1974, ch. 13, sec. 110, p. 138; am. 1986, ch. 140, sec. 7, p. 380; am. 1990, ch. 192, sec. 1, p. 424; am. 1998, ch. 220, sec. 6, p. 758; am. 1999, ch. 273, sec. 1, p. 686; am. 2000, ch. 289, sec. 4, p. 993; am. 2001, ch. 247, sec. 3, p. 892; am 2008, ch. 378, sec. 6, p. 1029.]

54-1209. Receipts and disbursements. The secretary of the board, or assistants thereto as may be designated by the board, shall receive and account for all moneys derived under the provisions of this chapter, and shall pay the same to the state treasurer, who shall keep such moneys in a separate account to be known as the "professional engineers' and professional land surveyors' account." Such moneys shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only on approval of the board. All moneys in the "professional engineers' and professional land surveyors' account" are hereby specifically appropriated for the use of the board. The secretary and executive director of the board shall be bonded to the state of Idaho in the time, form and manner prescribed in chapter 8, title 59, Idaho Code. The executive director of the board shall receive such salary as the board shall determine in addition to the expenses provided for in section 54-1205, Idaho Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures from this fund for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under this chapter, including the expenses of the board's delegates to annual conventions of, and membership dues to, the National Council of Examiners for Engineering and Surveying and any of its subdivisions. Under no circumstances shall the total amount of expenditures approved by the board in payment of the expenses and compensation provided for in this chapter exceed the accumulated amount of the fees collected as herein provided. All warrants on said "professional engineers' and professional land surveyors' account" shall be drawn by the state controller on vouchers by the board and the state board of examiners. [54-1209, added 1939, ch. 231, sec. 9, p. 516; am. 1971, ch. 136, sec. 35, p. 522; am. 1978, ch. 170, sec. 6, p. 375; am. 1986, ch. 140, sec. 8, p. 382; am. 1990, ch. 192, sec. 2, p. 425; am. 1994, ch. 180, sec. 97, p. 490; am. 1996, ch. 357, sec. 6, p. 1190; am. 2000, ch. 289, sec. 5, p. 994.]

54-1210. Records and reports. (1) The board shall keep a record of its proceedings and a record of all applications for licensure or certification, which record shall show: the name, date of birth and last known address of each applicant; the date of the application; the place of business of such applicant; his education, experience and other qualifications; type of examination required; whether or not the applicant was rejected; whether or not a certificate or license was granted; the dates of the action of the board; and any other information as may be deemed necessary by the board.

(2) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and minutes thereof, duly certified by the secretary of the board under

seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(3) Annually the board shall submit to the governor a report of its activities of the preceding year, and shall also transmit to him a summary statement of the receipts and expenditures of the board.

(4) Board records and papers are subject to disclosure according to chapter 3, title 9, Idaho Code. [54-1210, added 1939, ch. 231, sec. 10, p. 516; am. 1957, ch. 234, sec. 6, p. 547; am. 1986, ch. 140, sec. 9, p. 382; am. 1990, ch. 213, sec. 76, p. 541; am. 1996, ch. 357, sec. 7, p. 1190; am. 2008, ch. 378, sec. 7, p. 1030.]

54-1211. Roster. A complete roster showing the names and last known addresses of all professional engineers, all professional land surveyors, all business entities holding certificates of authorization as required under section 54-1235, Idaho Code, and all who possess current certification as engineer interns and as land surveyor interns shall be maintained by the board in an electronic format available to the public. [54-1211, added 1939, ch. 231, sec. 11, p. 516; am. 1961, ch. 258, sec. 2, p. 422; am. 1963, ch. 28, sec. 1, p. 169; am. 1978, ch. 170, sec. 7, p. 375; am. 1986, ch. 140, sec. 10, p. 383; am. 1991, ch. 30, sec. 11, p. 66; am. 1996, ch. 357, sec. 8, p. 1191; am. 2000, ch. 289, sec. 6, p. 995; am. 2008, ch. 278, sec. 8, p. 1030.]

54-1212. General requirements for examination and license. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be issued until an applicant has successfully passed an examination given by or under the supervision of the board, nor shall a license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, be issued to an applicant having habits or character that would justify revocation or suspension of his license or certificate, as provided in section 54-1220, Idaho Code. Except for military personnel stationed in the state of Idaho on military orders and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for assignment to the examinations for initial certification or licensure. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for assignment to an examination:

(1) As a professional engineer:

(a) Graduation from an approved engineering program of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record, after graduation, of an additional four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant is competent to practice professional engineering; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering program, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record, after graduation, of four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional engineering.

(2) As a professional land surveyor:

(a) Graduation from an approved surveying program of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of surveying acceptable to the board, and a specific record of an additional four (4) years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice professional land surveying; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board as being of satisfactory standing, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying program, passage of an examination on the fundamentals of surveying acceptable to the board, and a specific record of an additional four (4) years or more of progressive combined office and field experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying.

(3) As an engineer intern:

(a) Graduation from or in the last two (2) semesters of an approved engineering program of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to enroll as an engineer intern; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, and evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year engineering program, and indicating that the applicant is competent to be enrolled as an engineer intern.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of section 54-1212(3)(a), Idaho Code, and a passing grade is attained, a certificate will be issued only after the applicant graduates.

(4) As a land surveyor intern:

(a) Graduation from, or in the last two (2) semesters of, an approved surveying program of four (4) years or more in a school or college approved by the board as being of satisfactory standing and indicating that the applicant is competent to be enrolled as a land surveyor intern; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying program, and indicating that the applicant is competent to be enrolled as a land surveyor intern.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of subsection (4)(a) of this section, and attains a passing grade, a certificate shall be issued only after the applicant graduates.

In counting years of experience for assignment to the professional engineer or professional land surveyor examination, the board may, at its discretion, give credit, not in excess of one (1) year, for satisfactory graduate study toward a master's degree and not in excess of an additional one (1) year for satisfactory graduate study toward a doctorate degree. In the event an applicant obtains a doctorate degree without first obtaining a master's degree, the board may, at its discretion, give credit, not in excess of two (2) years.

In considering the combined education and experience qualifications of applicants, the board shall consider engineering teaching, land surveying teaching, each year of satisfactory

completion of undergraduate college education, advanced degrees in engineering and advanced degrees in land surveying in establishing the applicants' minimum composite knowledge and skill.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the practice of engineering, but if such experience, in the opinion of the board, has involved responsible supervision of a character that will tend to expand the engineering knowledge and skill of the applicant the board may in its discretion give such credit therefor as it may deem proper.

Any person having the necessary qualifications prescribed in this chapter to entitle him to assignment to an examination for licensure or certification shall be eligible for such assignment although he may not be practicing his profession at the time of making his application.

The Board may postpone acting on an application for assignment to any examination if disciplinary or criminal action related to the applicant’s practice has been taken or is pending in any other jurisdiction. The board may postpone the release of scores to applicants on any examination if there is any unresolved examination irregularity involving the applicant. The board may investigate and adjudicate the validity of examination irregularities and if the examination irregularities are substantiated, the board may invalidate the score of the applicant. [54-1212, added 1939, ch. 231, sec. 12, p. 516; am. 1957, ch. 234, sec. 7, p. 547; am. 1961, ch. 258, sec. 3, p. 422; am. 1978, ch. 170, sec. 8, p. 371; am. 1986, ch. 140, sec. 11, p. 375; am. 1990, ch. 192, sec. 3, p. 424; am. 1992, ch. 61, sec. 1, p. 192; am. 1996, ch. 357, sec. 9, p. 1185; am. 1997, ch. 189, sec. 1, p. 514; am. 2000, ch. 289, sec. 7, p. 995; am. 2002, ch. 125, sec. 1, p. 350; am. 2003, ch. 15, secs. 1 and 2, p. 43 and 46; am. 2004, ch. 84, secs. 1 and 2, p. 313 and 315; am. 2008, ch. 378, secs. 9 and 10, p. 1030 and 1033; am. 2010, ch. 111, sec. 1, p. 223; am. 2012, ch. 24, sec. 1, p. 78.]

54-1213. Applications and Fees. Applications for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be on forms prescribed and furnished by the board. The application shall show the applicant's education and a detailed summary of his engineering or land surveying experience. An applicant for licensure as a professional engineer or professional land surveyor shall furnish not less than five (5) references, of whom three (3) or more should be professional engineers or professional land surveyors, as applicable, having personal knowledge of the applicant's engineering or land surveying experience. Applications for certificates of authorization shall be made in accordance with section 54-1235, Idaho Code.

The maximum application fee for professional engineers or professional land surveyors seeking to be licensed by examination shall not exceed one hundred dollars ($100). The application fee shall accompany the application. The examination fee, which shall be separate from the application fee, shall be paid by the applicant directly to the entity designated by the board.

The maximum application fee for an applicant who seeks a certificate as an engineer intern or land surveyor intern shall not exceed fifty dollars ($50.00). The application fee shall accompany the application. The examination fee, which shall be separate from the application fee, shall be paid by the applicant directly to the entity designated by the board.

The maximum application fee for business entities seeking a certificate of authorization shall be two hundred dollars ($200). The application fee shall accompany the application.

The amount of the license fee or certificate fee shall be fixed by the board prior to June 30 of any year and shall continue in force until changed.

Should the board deny the issuance of a certificate or license to any applicant, the application fee paid shall be retained as a processing fee. [54-1213, added 1939, ch. 231, sec. 13, p. 516; am. 1957, ch. 234, sec. 8, p. 547; am. 1961, ch. 258, sec. 4, p. 422; am. 1963, ch. 23, sec. 1, p. 164; am. 1970, ch. 95, sec. 1, p. 238; am. 1978, ch. 170, sec. 9, p. 379; am. 1984, ch. 254, sec. 1, p. 605; am. 1986, ch. 140, sec. 12, p. 385; am. 1990, ch. 192, sec. 4, p. 428; am. 1996, ch. 357, sec. 10, p. 1194; am. 1998, ch. 220, sec. 7, p. 759; am. 2000, ch. 289, sec. 8, p. 997; am. 2001, ch. 247, sec. 4, p. 893; am. 2004, ch. 84, sec. 3, p. 317; am. 2008, ch. 378, sec. 11, p. 1035; am. 2009, ch. 20, sec. 1, p. 46; am. 2010, ch. 111, sec. 2, p. 225; am. 2012, ch. 24, sec. 2, p. 81.]

54-1214. Examinations. (1) Examinations will be held at such times and places as the board directs. The board shall determine the acceptable grade on examinations.

(2) Written examinations may be taken only after the applicant has met the other minimum requirements as given in section 54-1212, Idaho Code, and has been approved by the board for admission to the examinations as follows:

(a) Fundamentals of Engineering -- The examination consists of a test on the fundamentals of engineering acceptable to the board. Passing this examination qualifies the examinee for an engineer intern certificate, provided he has met all other requirements of certification required by this chapter.

(b) Principles and Practice of Engineering -- The examination consists of a test on applied engineering acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional engineer, provided he has met the other requirements for licensure required by this chapter.

(c) Fundamentals of Surveying -- The examination consists of a test on the fundamentals of surveying acceptable to the board. Passing this examination qualifies the examinee for a land surveyor intern certificate, provided he has met all other requirements for certification required by this chapter.

(d) Principles and Practice of Surveying -- The examination consists of a test on applied surveying acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional land surveyor, provided he has met the other requirements for licensure required by this chapter.

(3) A candidate failing all or part of an examination for the first time may apply for reexamination, which may be granted upon payment of an application fee equal to the application fee for the required examination plus a separate examination fee paid by the applicant directly to the entity designated by the board. In the event of a second failure, the examinee shall be required to obtain a minimum of one (1) additional year of experience, acceptable to the board, from the date of the second examination failure, and submit evidence of having completed an additional eight (8) semester credits of college level academic education relating to the examination, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a third examination. The separate application and examination fees shall be as set forth herein. In the event of a third or subsequent failure, the examinee shall be required to obtain a minimum of three (3) additional years of experience, acceptable to the board, from the date of the third or subsequent examination failure, and submit evidence of having completed an additional twelve (12) semester credits of college level academic education relating to the examination, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a subsequent examination. The separate application and examination fees shall be as set forth herein.

(4) The board may prepare and adopt specifications for the written examinations in engineering and land surveying. [54-1214, added 1939, ch. 231, sec. 14, p. 516; am. 1957, ch. 234, sec. 9, p. 547; am. 1961, ch. 258, sec. 5, p. 422; am. 1970, ch. 95, sec. 2, p. 238; am. 1978,

ch. 170, sec. 10, p. 380; am. 1984, ch. 254, sec. 2, p. 606; am. 1986, ch. 140, sec. 13, p. 386; am. 1990, ch. 192, sec. 5, p. 429; am. 1996, ch. 357, sec. 11, p. 1195; am. 1998, ch. 220, sec. 8, p. 760; am. 2000, ch. 289, sec. 9, p. 998; am. 2008, ch. 378, sec. 12, p. 1036; am. 2009, ch. 20, sec. 2, p. 46; am. 2010, ch. 111, sec. 3, p. 225.]

54-1215. License -- Seals -- Intern certificates. (1) The board shall issue a license upon payment of the fee as provided for in this chapter to any applicant who, in the opinion of the board, has satisfactorily met all of the requirements of this chapter for licensure as a professional engineer or professional land surveyor, and a certificate shall be issued to those who qualify as an engineer intern or a land surveyor intern. In the case of a professional engineer, the license shall authorize the practice of "professional engineering," and in the case of a professional land surveyor the license shall authorize the practice of "professional land surveying." Licenses shall show the full name of the licensee, shall give a license number, and shall be signed by the chairman and the secretary of the board under seal of the board.

(2) The issuance of a license by the board shall be prima facie evidence that the person named therein is entitled to all the rights, privileges and responsibilities of a licensed professional engineer or of a licensed professional land surveyor, provided that said license has not expired or has not been suspended or revoked.

(3) Each licensee hereunder shall, upon licensure, obtain a seal, the use and design of which are described below. It shall be unlawful for any person to affix or to permit his seal and signature to be affixed to any documents after the license of the licensee named thereon has expired or has been suspended or revoked, unless said license shall have been renewed, reinstated, or reissued, or for the purpose of aiding or abetting any other person to evade or attempt to evade any portion of this chapter.

(a) The seal may be a rubber stamp, crimp or electronically generated image. Whenever the seal is applied, the licensee's signature and date shall also be included. If the signature is handwritten, it shall be adjacent to or across the seal. No further words or wording is required. A facsimile signature generated by any method will not be acceptable unless accompanied by a digital signature.

(b) The seal, signature and date shall be placed on all final specifications, land surveys, reports, plats, drawings, plans, design information and calculations, whenever presented to a client or any public or governmental agency. Any such document presented to a client or public or governmental agency that is not final and does not contain a seal, signature and date shall be clearly marked as "draft," "not for construction" or with similar words to distinguish the document from a final document. In the event the final work product is preliminary in nature or contains the word "preliminary," such as a "preliminary engineering report," the final work product shall be sealed, signed and dated as a final document if the document is intended to be relied upon to make policy decisions important to the life, health, property, or fiscal interest of the public.

(c) The seal and signature of the licensee and date shall be placed on all original documents in such a manner that such seal, signature and date are reproduced when the original document is copied. The application of the licensee's seal and signature and the date shall constitute certification that the work thereon was done by him or under his responsible charge. Each plan or drawing sheet shall be sealed and signed and dated by the licensee or licensees responsible for each sheet. In the case of a business entity, each plan or drawing sheet shall be sealed and signed and dated by the licensee or licensees involved. Copies of electronically produced documents, listed in paragraph (b) of this subsection, distributed for informational uses such as for bidding purposes or working copies, may be issued with the licensee's seal and a notice that the original document is

on file with the licensee's signature and the date. The words "Original Signed By:" and "Date Original Signed:" shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications and like documents need bear the seal and signature of the licensee and the date.

(d) The seal and signature shall be used by licensees only when the work being stamped was under the licensee's responsible charge.

(e) The design of the seal shall be as determined by the board.

(4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of this chapter, a certificate as an engineer intern or land surveyor intern. The engineer intern or land surveyor intern certificate does not authorize the certificate holder to practice as a professional engineer or a professional land surveyor. [54-1215, added 1939, ch. 231, sec. 15, p. 516; am. 1957, ch. 234, sec. 10, p. 547; am. 1961, ch. 258, sec. 6, p. 422; am. 1978, ch. 170, sec. 11, p. 371; am. 1986, ch. 140, sec. 14, p. 375; am. 1996, ch. 357, sec. 12, p. 1185; am. 1997, ch. 49, sec. 1, p. 83; am. 2000, ch. 289, sec. 10, p. 991; am. 2001, ch. 247, sec. 5, p. 889; am. 2002, ch. 6, sec. 2, p. 6; am. 2007, ch. 219, sec. 3, p. 657; am. 2008, ch. 378, sec. 13, p. 1037.]

54-1216. Expirations and Renewals -- Fees. Following issuance or renewal of licenses for professional engineers and professional land surveyors, expiration shall be on the last day of the month during which the licensee was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years, and shall become invalid on that date unless renewed. On or after July 1, 2010, the executive director of the board shall send renewal notices to business entities that have been issued a certificate of authorization. The renewal fee amount shall be for a period of one (1) year plus a prorated annual renewal fee amount for the number of months from and including August to and including the month in which the certificate of authorization was originally issued. Thereafter, certificates of authorization for business entities shall expire on the last day of the month in which the certificates were initially issued and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed and every business entity certified under this chapter, of the date of the expiration of said license or certificate of authorization and the amount of the fee that shall be required for its renewal. Such notice shall be mailed to the last known address of the licensee or business entity at least one (1) month in advance of the date of the expiration of said license or certificate of authorization. Renewal shall be effective at any time in the appropriate year during the month in which the licensee was born or during the month in which the certificates were initially issued in the case of business entities, by the payment of a renewal fee to be fixed by the board at not more than one hundred fifty dollars ($150). The failure on the part of any licensee or certificate holder to renew his or its license or certificate biennially in the month in which they were born or in the month in which the certificates were initially issued in the case of business entities, as required above shall not deprive such person or business entity of the right of renewal, but the fee to be paid for the renewal of a license or certificate after the month in which it is due shall be increased twenty percent (20%) for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the renewal fee for each renewal cycle delinquent, but in no event more than three hundred dollars ($300). Any work performed after a license or certificate of authorization has expired, but before delayed renewal has been effected, shall become valid upon delayed renewal as if the license or certificate of authorization had not expired, but the licensee

or certificate holder may be subject to disciplinary action by the board for practice on an expired license or such other action as provided pursuant to this chapter.

Following issuance or renewal of certificates for engineer interns and land surveyor interns, expiration shall be on the last day of the month during which the certificate holder was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years. The notification to holders of certificates shall be processed as prescribed above for licensees except that the biennial renewal fee shall not be more than thirty dollars ($30.00). The failure on the part of any holder of a certificate to effect renewal shall not invalidate his status as an engineer intern or land surveyor intern, but his name shall be removed from the board's mailing list. [54-1216, added 1939, ch. 231, sec. 16, p. 516; am. 1953, ch. 162, sec. 1, p. 257; am. 1961, ch. 258, sec. 7, p. 422; am. 1963, ch. 24, sec. 1, p. 166; am. 1970, ch. 95, sec. 3, p. 238; am. 1978, ch. 170, sec. 12, p. 381; am. 1979, ch. 111, sec. 1, p. 355; am. 1984, ch. 254, sec. 3, p. 607; am. 1986, ch. 140, sec. 15, p. 389; am. 1990, ch. 192, sec. 6, p. 430; am. 1996, ch. 357, sec. 13, p. 1197; am. 2000, ch. 289, sec. 11, p. 1001; am. 2001, ch. 247, sec. 6, p. 895; am. 2008, ch. 378, sec. 14, p. 1038; am. 2010, ch. 111, sec. 4, p. 226.]

54-1218. Public work. It shall be unlawful for this state, or for any county, city, school district, irrigation district, drainage district, highway district, or other subdivision of the state, having power to levy taxes or assessments against property situated therein, to engage in the construction of any public work when the public health or safety is involved unless the plans and specifications and estimates have been prepared by, and the construction reviewed by a professional engineer. [54-1218, added 1939, ch. 231, sec. 18, p. 516; am. 1978, ch. 170, sec. 14, p. 383; am. 2008, ch. 378, sec. 15, p. 1039.]

54-1219. Comity licensure -- Fee. The board, upon application therefor and the payment of a fee of not to exceed a maximum of one hundred fifty dollars ($150), may issue a license as a professional engineer or professional land surveyor to any person who holds a license issued to the applicant by the proper authority of any state, territory or possession of the United States, the District of Columbia, or of a foreign country, provided that, in the opinion of the board, the applicant possesses the education, experience and examination credentials, or their equivalents, that were specified in the applicable licensing chapter in effect in this state at the time such license was issued, provided that a professional land surveyor applicant must successfully pass a land surveying examination as prepared and administered by the board, and provided such state, territory, possession or country will license, without examination and upon substantially the same condition, to applicants holding licenses issued by the board under this chapter. In the event the applicant has been licensed and has practiced as a professional engineer or professional land surveyor in another jurisdiction for a minimum of eight (8) years, has no outstanding disciplinary action, and is in good standing under a licensing system which, in the opinion of the board, maintains substantially equivalent professional standards as required under this chapter, the board may, in its discretion, waive the requirement for satisfaction of prescriptive credentials in education and examination. The board may postpone acting on an application for a license by comity if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any other jurisdiction. [54-1219, added 1939, ch. 231, sec. 19, p. 516; am. 1957, ch. 234, sec. 11, p. 547; am. 1961, ch. 258, sec. 8, p. 422; am. 1970, ch. 95, sec. 4, p. 238; am. 1978, ch. 170, sec. 15, p. 384; am. 1984, ch. 254, sec. 4, p. 608; am. 1986, ch. 140, sec. 17, p. 390; am. 1990, ch. 192, sec. 8, p. 431; am. 1996, ch. 357, sec. 15, p. 1199; am. 2003, ch. 15, sec. 3, p. 48; am. 2008, ch. 378, sec. 16, p. 1040; am. 2012, ch. 24, sec. 3, p. 81.]

54-1220. Disciplinary action -- Procedures. (1) Any affected party may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of any provision of this chapter, or violation of any of the rules promulgated by the board against any individual licensee or certificate holder or against any business entity holding a certificate of authorization or against a person applying for a license or against a business entity applying for a certificate of authorization. Repeated acts of negligence may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive director of the board. The executive director of the board shall be considered an affected party and may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or trivial, or unless settled informally, shall be heard by the board within six (6) months after the date they were received at the board office unless such time is extended by the board for justifiable cause.

(3) Hearing proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(4) If, after such hearing, the board votes in favor of sustaining the charges, the board may, in its discretion, impose an administrative penalty, not to exceed five thousand dollars ($5,000) for deposit in the general fund of the state of Idaho. In addition, the board, in its discretion, may admonish, reprimand, suspend, revoke, refuse to renew, refuse to grant, or any combination thereof, the individual's license or certificate or a business entity's certificate of authorization. The board may also, in its discretion, require the individual to practice under the supervision of another licensee, or require the individual to successfully complete continuing education courses as may be prescribed by the board.

(5) The board shall have jurisdiction over licensees whose licenses are not current provided the action relates to services performed when the license was current and valid. [54-1220, added 1939, ch. 231, sec. 20, p. 516; am. 1957, ch. 234, sec. 12, p. 547; am. 1963, ch. 25, sec. 1, p. 167; am. 1978, ch. 170, sec. 16, p. 384; am. 1986, ch. 140, sec. 18, p. 391; am. 1991, ch. 21, sec. 1, p. 44; am. 1993, ch. 216, sec. 63, p. 646; am. 1996, ch. 357, sec. 16, p. 1199; am. 2000, ch. 289, sec. 12, p. 1002; am. 2001, ch. 247, sec. 7, p. 896; am. 2004, ch. 84, sec. 4, p. 318; am. 2007, ch. 219, sec. 4, p. 659; am. 2008, ch. 378, sec. 17, p. 1040.]

54-1221. Reissuance of licenses and certificates. The board, upon petition of an individual or a business entity, may reissue or reinstate a license or certificate or certificate of authorization, provided three (3) or more members of the board vote in favor of such reissuance or reinstatement. A new license or certificate or certificate of authorization, to replace any license or certificate revoked, lost, destroyed or mutilated, may be issued upon payment of such reasonable charge therefor as shall be fixed by the board to cover the estimated cost of such reissuance, but not exceeding ten dollars ($10.00) in any case. [54-1221, added 1939, ch. 231, sec. 21, p. 516; am. 1957, ch. 234, sec. 13, p. 547; am. 1963, ch. 26, sec. 1, p. 168; am. 1986, ch. 140, sec. 19, p. 392; am. 2001, ch. 247, sec. 8, p. 897; am. 2008, ch. 378, sec. 18, p. 1041.]

54-1222. Violations and penalties -- Prosecution of offenses. Any person who shall practice, or offer to practice, professional engineering or professional land surveying in this state without being licensed in accordance with the provisions of this chapter, or any person presenting or attempting to use as his own the license or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a license or certificate, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall attempt to use an expired or revoked license or

practice at any time during a period the board has suspended or revoked his license, or any person who shall violate any of the provisions of this chapter, shall be guilty of a misdemeanor.

Legal counsel selected by the board, or the attorney general of this state or anyone designated by him may act as legal advisor of the board. It shall be the duty of the attorney general of this state to enforce the provisions of this chapter relating to unlicensed practice and to prosecute any unlicensed person violating the same. The attorney general shall be reimbursed by the board for any fees and expenses incurred by the attorney general in representing the board or prosecuting unlicensed persons. [54-1222, added 1939, ch. 231, sec. 22, p. 516; am. 1957, ch. 234, sec. 14, p. 547; am. 1974, ch. 13, sec. 111, p. 138; am. 1978, ch. 170, sec. 17, p. 385; am. 1986, ch. 140, sec. 20, p. 392; am. 2000, ch. 289, sec. 13, p. 1003; am. 2008, ch. 378, sec. 19, p. 1041.]

54-1223. Saving clause -- Exemptions. (1) This chapter shall not be construed to affect:

(a) The practice of any other profession or trade for which a license is required under any law of this state or the United States.

(b) The work of an employee or a subordinate of a person holding a license under this chapter, provided such work does not include final engineering design or land surveying decisions and is done under the direct responsibility, checking, and supervision of, and verified by, a person holding a license under this chapter.

(c) Any individual teaching upper division engineering subjects that are classified as engineering design for any college or university in this state as of July 1, 1988, and any such individual employed after July 1, 1988, for a period of five (5) years from the date of employment with any college or university in this state.

(d) An individual doing surveying work for himself, or through a business entity, on property owned or leased by the individual or business entity, or in which the individual or business entity has an interest, estate or possessory right and which affects exclusively the property or interests of the individual or business entity; provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made by a licensed professional land surveyor as provided in this chapter.

(e) An individual doing survey work for himself, or through a business entity with respect to the location, amendment, or relocation of a mining claim.

(f) The practice of engineering by employees of a business entity as long as the services provided by them are for internal business entity use only.

(2) The board, at its discretion, may exempt an exceptional individual who has twelve (12) or more years of appropriate experience in engineering from the requirement for satisfactory completion of an examination in the fundamentals of engineering.

(3) An applicant for licensure as a professional engineer either by examination or by comity who has earned a bachelor degree in engineering from an approved engineering program and has, in addition, earned a doctorate degree in engineering from a college or university which offers an approved undergraduate program in the same discipline as the doctorate degree earned, shall be exempt from the requirement for satisfactory completion of an examination in the fundamentals of engineering. Honorary doctorate degrees are not considered earned degrees for purposes of this subsection.

(4) In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, safety or environment through the provision of engineering services, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt the provision of engineering services.

(5) A professional engineer licensed in Idaho may review the work of a professional engineer who is licensed in another jurisdiction of the United States or a foreign country on a project that is a site adaptation of a standard design plan to determine that the standard design plan meets the standard of care and is applicable to the intended circumstance, with or without modification. The Idaho professional engineer shall demonstrate responsible charge, as defined in this chapter, by performing professional services related to his assignment including developing or obtaining a complete design record with design criteria and calculations, performing necessary code research and developing any necessary and appropriate changes to the standard design plan necessary to properly apply the standard design to the intended circumstance. The nonprofessional services, such as drafting, need not be redone by the Idaho professional engineer, but must clearly and accurately reflect the Idaho professional engineer's work. The burden is on the Idaho professional engineer to show such compliance. The Idaho professional engineer shall have control of and responsibility for the entire work product, shall seal, sign and date it as required in this chapter, and shall be in possession of all original documents or certified copies of documents related to the professional engineer's work for the project.

(6) In the event a licensee in responsible charge of a project leaves employment, is transferred, is promoted, becomes incapacitated, dies or is otherwise not available to seal, sign and date final documents, the duty of responsible charge of the project shall be accomplished by the successor licensee by becoming familiar with and reviewing, in detail, and retaining the project documents to date. Subsequent work on the project must clearly and accurately reflect the successor licensee's responsible charge. The successor licensee shall seal, sign and date all work product in conformance with section 54-1215, Idaho Code. [54-1223, added 1939, ch. 231, sec. 23, p. 516; am. 1957, ch. 234, sec. 15, p. 547; am. 1970, ch. 95, sec. 5, p. 238; am. 1978, ch. 170, sec. 18, p. 386; am. 1984, ch. 254, sec. 5, p. 608; am. 1986, ch. 140, sec. 21, p. 393; am. 1990, ch. 192, sec. 9, p. 432; am. 1994, ch. 356, sec. 1, p. 1116; am. 1996, ch. 357, sec. 17, p. 1200; am. 1999, ch. 273, sec. 2, p. 686; am. 2000, ch. 289, sec. 14, p. 1003; am. 2001, ch. 247, sec. 9, p. 897; am. 2002, ch. 6, sec. 3, p. 9; am. 2006, ch. 137, sec. 1, p. 392; am. 2007, ch. 219, sec. 5, p. 659; am. 2008, ch. 378, sec. 20, p. 1042; am. 2010, ch. 111, sec. 6, p. 228.]

54-1225. Appeals. Any person or organization who shall feel aggrieved by any action of the board in denying, suspending or revoking a license or certificate or certificate of authorization, as is appropriate, may appeal therefrom in accordance with the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code. [54-1225, added 1939, ch. 231, sec. 25, p. 516; am. 1957, ch. 234, sec. 16, p. 547; am. 1978, ch. 170, sec. 19, p. 387; am. 2008, ch. 378, sec. 21, p. 1043.]

54-1226. Separability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. [54-1226, added 1939, ch. 231, sec. 26, p. 516; am. 2000, ch. 289, sec. 16, p. 1004.]

54-1227. Surveys – Authority and Duties of Professional Land Surveyors and Professional Engineers. Every licensed professional land surveyor is hereby authorized to make land surveys and it shall be the duty of each licensed professional land surveyor, whenever making any such land survey that is not preliminary in nature, to set permanent and reliable magnetically detectable monuments at all unmonumented corners field located, the minimum size of which shall be one-half (1/2) inch in least dimension and two (2) feet long iron or steel

rod unless special circumstances preclude use of such monument; and such monuments must be permanently marked with the license number of the professional land surveyor responsible for placing the monument. Professional engineers qualified and duly licensed pursuant to this chapter may also perform those nonboundary surveys necessary and incidental to the work customarily performed by them. [(54-1227) 1903, p. 81, sec. 7; reen. R.C. & C.L., sec. 1408; C.S., sec. 2240; am. 1921, ch. 158, sec. 1, p. 351; I.C.A., sec. 53-2306; am. 1957, ch. 234, sec. 17, p. 547; am. 1978, ch. 170, sec. 20, p. 388; am. 1986, ch. 140, sec. 22, p. 395; am. 1992, ch. 61, sec. 2, p. 194; am. 1996, ch. 357, sec. 19, p. 1202; am. 2008, ch. 378, sec. 22, p. 1043; am. 2011, ch. 136, sec. 11, p. 391.]

54-1228. Administering and certification of oaths -- Authority of professional land surveyors. Every professional land surveyor is authorized to administer and certify oaths, when it becomes necessary to take testimony to identify or establish old or lost corners, or to perpetuate a corner that is in a perishable condition, or whenever the importance of the land survey makes it desirable. A record of such oaths shall be kept as part of the field notes of the land survey. [(54-1228) 1903, p. 81, sec. 6; am. R.C., sec. 1409; reen. C.L., sec. 1409; C.S., sec. 2241; am. 1921, ch. 158, sec. 2, p. 351; I.C.A., sec. 53-2307; am. 1957, ch. 234, sec. 18, p. 547; am. 1978, ch. 170, sec. 21, p. 388; am. 1986, ch. 140, sec. 23, p. 395; am. 2008, ch. 378, sec. 23, p. 1044.]

54-1229. Legal survey of land. No survey of land, or plat or subdivision shall be legal unless made by or under the responsible charge of a professional land surveyor.

All land surveys made under the authority of the state, or of any political subdivision of the state, must be performed by a professional land surveyor. [(54-1229) 1903, p. 81, secs. 9, 12; reen. R.C. & C.L., sec. 1410; C.S., sec. 2242; am. 1921, ch. 158, sec. 3, p. 351; I.C.A., sec. 53-2308; am. 1957, ch. 234, sec. 19, p. 547; am. 1978, ch. 170, sec. 22, p. 388; am. 1986, ch. 140, sec. 24, p. 395; am. 1996, ch. 357, sec. 20, p. 1202; am. 1998, ch. 220, sec. 9, p. 761; am. 2000, ch. 289, sec. 17, p. 1004.]

54-1230. Public surveying -- Right of entry. Any person employed in the execution of any survey authorized by the congress of the United States may enter upon lands within this state for the purpose of exploring, triangulating, leveling, surveying, and of doing any work which may be necessary to carry out the objects of then existing laws relative to surveys, and may establish permanent station marks, and erect the necessary signals and temporary observatories, doing no unnecessary injury thereby. [(54-1230) 1919, ch. 31, sec. 1, p. 112; C.S., sec. 2243; I.C.A., sec. 53-2309; am. 1986, ch. 140, sec. 25, p. 395.]

54-1231. Public surveying -- Assessment of damages for entry. If the parties interested cannot agree upon the amount to be paid for damages caused thereby, either of them may petition the district court in the county in which the land is situated, which court shall appoint a time for a hearing as soon as may be, and order at least twenty (20) days' notice to be given to all parties interested, and, with or without a view of the premises, as the court may determine, hear the parties and their witnesses and assess damages. [(54-1231) 1919, ch. 31, sec. 2, p. 112; C.S., sec. 2244; I.C.A., sec. 53-2310.]

54-1232. Public surveying -- Tender of damages for entry. The person so entering upon land may tender to the injured party damages therefor, and if, in case of petition or complaint to the court, the damages finally assessed do not exceed the amount tendered, the

person entering shall recover costs; otherwise the prevailing party shall recover costs. [(54-1232) 1919, ch. 31, sec. 3, p. 112; C.S., sec. 2245; I.C.A., sec. 53-2311.]

54-1233. Public surveying -- Costs of assessment of damages. The costs to be allowed in all such cases shall be the same as allowed according to the rules of the court, and provisions of law relating thereto. [(54-1233) 1919, ch. 31, sec. 4, p. 112; C.S., sec. 2246; I.C.A., sec. 53-2312.]

54-1234. Monumentation – Penalty and Liability for Defacing. If any person shall willfully deface, injure or remove any signal, monument or other object set as a permanent boundary survey marker, benchmark or point set in control surveys by agencies of the United States government or the state of Idaho by a professional land surveyor or an agent of the United States government or the state of Idaho, he shall forfeit a sum not exceeding one thousand five hundred dollars ($1,500) for each offense, and shall be liable for damages sustained by the affected parties in consequence of such defacing, injury or removal, to be recovered in a civil action in any court of competent jurisdiction. [(54-1234) 1919, ch. 31, sec. 5, p. 112; C.S., sec. 2247; I.C.A., sec. 53-2313; am. 1986, ch. 140, sec. 26, p. 396; am. 2008, ch. 378, sec. 24, p. 1044; am. 2011, ch. 136, sec. 12, p. 391.]

54-1235. Practice by a business entity. (1) The practice of or offer to practice professional engineering or professional land surveying, as defined in this chapter, by professional engineers or professional land surveyors, through a business entity, or by a business entity through professional engineers or professional land surveyors, as employees, or officers, is permitted subject to the provisions of this chapter, provided that all personnel of such business entity, who act in its behalf as professional engineers or professional land surveyors in this state are licensed as provided by this chapter, or are persons lawfully practicing under the exemptions enumerated in this chapter, and further provided that said business entity, except utilities regulated by the Idaho public utilities commission, has been issued a certificate of authorization by the board as provided by this chapter. No business entity shall be relieved of responsibility for the conduct or acts of its employees or officers by reason of its compliance with the provisions of this chapter, nor shall any individual practicing professional engineering or professional land surveying as defined in this chapter, be relieved of responsibility for engineering or land surveying services performed by reason of his employment or relationship with such business entity. All final drawings, specifications, plats, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or professional land surveying as defined in this chapter, which shall have been prepared or approved for the use of or for delivery to any person or for public record within this state shall be dated and bear the signature and seal of the professional engineer or professional land surveyor who prepared or approved them.

(2) A business entity organized pursuant to this section may provide or offer to provide allied professional services as defined in section 30-1303, Idaho Code, in connection with the providing of engineering or land surveying services, by persons licensed in allied professions acting as employees or officers, provided such persons are duly licensed or otherwise legally authorized to render such allied professional services within this state.

(3) A business entity desiring a certificate of authorization for engineering, for land surveying, or for both, shall file with the board a description of the engineering or land surveying service to be offered or practiced in the state, an application upon a form to be prescribed by the board and the designation required by the following paragraph, accompanied by the application fee.

(4) Such business entity shall file with the board a designation of an individual or individuals duly licensed to practice professional engineering or professional land surveying in this state who shall be in responsible charge of the practice of professional engineering or land surveying, as applicable, by said business entity in this state. In the event there shall be a change in the individual or individuals in responsible charge, such changes shall be designated in writing and filed with the board within thirty (30) days after the effective date of such change.

If all requirements of this chapter are met, the board shall issue to such business entity a certificate of authorization for professional engineering, for land surveying, or for both; provided, however, the board may refuse to issue a certificate if any facts exist which would entitle the board to suspend or revoke an existing certificate.

A professional engineer or professional land surveyor who renders occasional, part-time or consulting engineering or land surveying services to or for a business entity may not be designated as the person in responsible charge for the professional activities of the business entity.

(5) The secretary of state shall not accept for filing from any person any assumed business name which includes within its name any of the words "engineer," "engineering," "land surveyor," "land surveying," or any modification or derivation thereof, unless the board shall have issued a letter indicating that the person has a licensed professional in responsible charge of the professional activities of the sole proprietorship or business entity. The board may notify the secretary of state, in writing, that it waives any objection to the name if the person is clearly not governed by chapter 12, title 54, Idaho Code. The secretary of state shall not accept for filing the organizational documents of an Idaho business entity, or authorize the transaction of business by any foreign business entity which includes, among objects for which it is established or within its name, any of the words "engineer," "engineering," "land surveyor," "land surveying," or any modification or derivation thereof, unless the board shall have issued for said applicant a certificate of authorization or a letter indicating the eligibility of said applicant to receive such certificate. The board may notify the secretary of state, in writing, that it waives any objection to the name or purpose of any business entity if it is clearly not governed by chapter 12, title 54, Idaho Code. The business entity applying shall include such certificate or letter from the board with any filings submitted to the secretary of state. [54-1235, added 1963, ch. 20, sec. 1, p. 161; am. 1978, ch. 170, sec. 23, p. 389; am. 1979, ch. 176, sec. 1, p. 527; am. 1986, ch. 140, sec. 27, p. 396; am. 1990, ch. 192, sec. 10, p. 433; am. 1996, ch. 357, sec. 21, p. 1203; am. 2001, ch. 247, sec. 10, p. 898; am. 2008, ch. 378, sec. 25, p. 1044.]

54-1236. Exclusive jurisdiction of the state -- Restriction on requirement for additional licenses or fees. (1) Only the board of licensure of professional engineers and professional land surveyors of the state of Idaho is authorized and empowered to issue licenses to persons to practice the profession of engineering or land surveying.

(2) No local jurisdiction shall have the authority to require additional licensure or to require payment of any fees in order for any professional engineer or professional land surveyor to engage in the practice of the profession for which the board has issued a license. [54-1236, added 2004, ch. 84, sec. 5, p. 319; am. 2008, ch. 378, sec. 26, p. 1046.]

TITLE 50
MUNICIPAL CORPORATIONS
CHAPTER 13
PLATS AND VACATIONS

50-1301. Definitions. The following definitions shall apply to terms used in this section and sections50-1302 through 50-1334, Idaho Code.

(1) Basis of bearing: The bearing in degrees, minutes and seconds, or equivalent, of a line between two (2) monuments or corners that serves as the reference bearing for all other lines on the survey;

(2) Easement: A right of use, falling short of ownership, and usually for a certain stated purpose;

(3) Functioning street department: A city department responsible for the maintenance, construction, repair, snow removal, sanding and traffic control of a public highway or public street system which qualifies such department to receive funds from the highway distribution account to local units of government pursuant to section 40-709, Idaho Code;

(4) Idaho coordinate system: That system of coordinates established and designated by chapter 17, title 55, Idaho Code;

(5) Land survey: Measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more ownerships;

(b) Retrace or establish land boundaries;

(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or

(d) Plat lands and subdivisions thereof.

(6) Monument: A physical structure or object that occupies the position of a corner;

(7) Owner: The proprietor of the land (having legal title);

(8) Plat: The drawing, map or plan of a subdivision, cemetery, townsite or other tract of land, or a replatting of such, including certifications, descriptions and approvals;

(9) Private road: A road within a subdivision plat that is not dedicated to the public and not a part of a public highway system;

(10) Public highway agency: The state transportation department, any city, county, highway district or other public agency with jurisdiction over public highway systems and public rights-of-way;

(11) Public land survey corner: Any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management;

(12) Public right-of-way: Any land dedicated and open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic;

(13) Public street: A road, thoroughfare, alley, highway or bridge under the jurisdiction of a public highway agency;

(14) Reference point: A special monumented point that does not occupy the same geographical position as the corner itself and where the spatial relationship to the corner is known and recorded and that serves to locate the corner;

(15) Sanitary restriction: The requirement that no building or shelter which will require a water supply facility or a sewage disposal facility for people using the premises where such building or shelter is located shall be erected until written approval is first obtained from the state board of health and welfare by its administrator or his delegate approving plans and

specifications either for public water and/or sewage facilities, or individual parcel water and/or sewage facilities;

(16) Street: A road, thoroughfare, alley, highway or a right-of-way which may be open for public use but is not part of a public highway system nor under the jurisdiction of a public highway agency;

(17) Subdivision: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of this definition;

(18) Witness corner: A monumented point on a lot line or boundary line of a survey, near a corner and established in situations where it is impracticable to occupy or monument the corner. [50-1301, added 1967, ch. 429, sec. 219, p. 1249; am. 1970, ch. 184, sec. 1, p. 533; am. 1971, ch. 329, sec. 1, p. 1294; am. 1988, ch. 175, sec. 1, p. 306; am. 1990, ch. 170, sec. 1, p. 367; am. 1992, ch. 262, sec. 1, p. 778; am. 1994, ch. 364, sec. 4, p. 1141; am. 1997, ch. 190, sec. 1, p. 518; am. 1998, ch. 220, sec. 1, p. 753; am. 1999, ch. 89, sec. 1, p. 290; am. 2010, ch. 256, sec. 1, p. 649; am. 2011, ch. 136, sec. 6, p. 386.]

50-1302. Duty to File. Every owner creating a subdivision, as defined in section 50-1301, Idaho Code, shall cause a land survey and a plat thereof to be made which shall particularly and accurately describe and set forth all the streets, easements, public grounds, blocks, lots, and other essential information, and shall record said plat. This section is not intended to prevent the filing of other survey maps or plats. Description of lots or parcels of land, according to the number and designation on such recorded plat, in conveyances or for the purposes of taxation, shall be deemed good and valid for all intents and purposes. [50-1302, added 1967, ch. 429, sec. 220, p. 1249; am. 1997, ch. 190, sec. 2, p. 519; am. 2011, ch. 136, sec. 7, p. 388.]

50-1303. Survey -- Monuments -- Accuracy. The centerline intersections and points where the centerline changes direction on all streets, avenues, and public highways, and all points, witness corners and reference points on the exterior boundary where the boundary line changes direction shall be marked with magnetically detectable monuments the minimum size of which shall be five-eighths (5/8) of an inch in least dimension and two (2) feet long iron or steel rod unless special circumstances preclude use of such monument and all lot and block corners, witness corners and reference points for lot and block corners shall be marked with monuments conforming to the provisions of section 54-1227, Idaho Code. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. All lot corners of a burial lot within a platted cemetery need not be marked with a monument, but the block corners shall be monumented in order to permit the accurate identification of each burial lot within the cemetery. The monuments shall conform to the provisions of section 54-1227, Idaho Code. The locations and descriptions of all monuments within a platted cemetery shall be recorded upon the plat, and the courses and distances of all boundary lines shall be shown, but may be shown by legend. The survey for any plat shall be conducted in such a manner as to produce an unadjusted mathematical error of closure of each area bounded by property lines within the survey of not more than one (1) part in five thousand (5,000). [50-1303, added 1967, ch. 429, sec. 221, p. 1249; am. 1997, ch. 190, sec. 3, p. 519; am. 1998, ch. 220, sec. 2, p. 754; am. 2008, ch. 378, sec. 1, p. 1023; am. 2011, ch. 136, sec. 8, p. 388.]

50-1304. Essentials of plats. (1) All plats offered for record in any county shall be prepared in black opaque image upon stable base drafting film with a minimum base thickness of 0.003 inches, by either a photographic process using a silver image emulsion or by use of a black opaque drafting film ink, by mechanical or handwritten means. The drafting film and image thereon shall be waterproof, tear resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. If ink is used on drafting film, the ink surface shall be coated with a suitable substance to assure permanent legibility. The drafting film must be of a type which can be reproduced by either a photographic or diazo process. Plats shall be eighteen (18) inches by twenty-seven (27) inches in size, with a three and one-half (3 1/2) inch margin at the left end for binding and a one-half (1/2) inch margin on all other edges. No part of the drawing or certificates shall encroach upon the margins. Signatures shall be in reproducible black ink. The sheet or sheets which contain the drawing or diagram representing the survey of the subdivision shall be drawn at a scale suitable to ensure the clarity of all lines, bearings and dimensions. In the event that any subdivision is of such magnitude that the drawing or diagram cannot be placed on a single sheet, serially numbered sheets shall be prepared and match lines shall be indicated on the drawing or diagram with appropriate references to other sheets. The required dedications, acknowledgments and certifications shall appear on any of the serially numbered sheets.

(2) The plat shall show: (a) the streets and alleys, with widths and courses clearly shown; (b) each street named; (c) all lots numbered consecutively in each block, and each block lettered or numbered, provided however, in a platted cemetery, that each block, section, district or division and each burial lot shall be designated by number or letter or name; (d) each and all lengths of the boundaries of each lot shall be shown, provided however, in a platted cemetery, that lengths of the boundaries of each burial lot may be shown by appropriate legend; (e) the exterior boundaries shown by distance and bearing; (f) descriptions of survey monuments; (g) point of beginning with ties to at least two (2) public land survey corner monuments in one (1) or more of the sections containing the subdivision, or in lieu of public land survey corner monuments, to two (2) monuments recognized by the county surveyor; and also, if required by the city or county governing bodies, give coordinates based on the Idaho coordinate system; (h) the easements; (i) basis of bearings; and (j) subdivision name.

(3) When coordinates in the Idaho coordinate system are shown on a plat, the plat must show the national spatial reference system monuments and their coordinates used as the basis of the survey; the zone; the datum and adjustment; and the combined adjustment factor and the convergence angle and the location where they were computed. [50-1304, added 1967, ch. 429, sec. 222, p. 1249, am. 1978, ch. 106, sec. 1, p. 218; am. 1990, ch. 170, sec. 2, p. 368; am. 1997, ch. 190, sec. 4, p. 520; am. 2010, ch. 256, sec. 2, p. 650.]

50-1305. Verification. The county shall choose and require an Idaho professional land surveyor to check the plat and computations thereon to determine that the requirements herein are met, and said professional land surveyor shall certify such compliance on the plat. Such certification shall not relieve the professional land surveyor who prepared the plat from responsibility for the plat. For performing such service the county shall collect from the subdivider a fee as provided by local ordinance reasonably related to the cost of providing such service. [50-1305, added 1967, ch. 429, sec. 223, p. 1249; am. 1979, ch. 88, sec. 1, p. 214; am. 1989, ch. 102, sec. 1, p. 235; am. 1997, ch. 190, sec. 5, p. 521.]

50-1306. Extraterritorial effects of subdivision -- Property within the area of city impact -- Rights of city to comment. All plats situate within an officially designated area of

city impact as provided for in section 67-6526, Idaho Code, shall be administered in accordance with the provisions set forth in the adopted city or county zoning and subdivision ordinances having jurisdiction. In the situation where no area of city impact has been officially adopted, the county with jurisdiction shall transmit all proposed plats situate within one (1) mile outside the limits of any incorporated city which has adopted a comprehensive plan or subdivision ordinance to said city for review and comment at least fourteen (14) days before the first official decision regarding the subdivision is to be made by the county. Items which may be considered by the city include, but are not limited to, continuity of street pattern, street widths, integrity and continuity of utility systems and drainage provisions. The city's subdivision ordinance and/or comprehensive plan shall be used as guidelines for making the comments hereby authorized. The county shall consider all comments submitted by the city. Where the one (1) mile area of impact perimeter of two (2) cities overlaps, both cities shall be notified and allowed to submit comments. [50-1306, added 1967, ch. 429, sec. 224, p. 1249; am. 1979, ch. 88, sec. 2, p. 215; am. 1999, ch. 391, sec. 1, p. 1088.]

50-1306A. Vacation of plats -- Procedure. (1) Any person, persons, firm, association, corporation or other legally recognized form of business desiring to vacate a plat or any part thereof which is inside or within one (1) mile of the boundaries of any city must petition the city council to vacate. Such petition shall set forth particular circumstances of the requests to vacate; contain a legal description of the platted area or property to be vacated; the names of the persons affected thereby, and said petition shall be filed with the city clerk.

(2) Written notice of public hearing on said petition shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of public hearing to all property owners within three hundred (300) feet of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two (2) successive weeks in the official newspaper of the city, the last of which shall be not less than seven (7) days prior to the date of said hearing; provided, however, that in a proceeding as to the vacation of all or a portion of a cemetery plat where there has been no interment, or in the case of a cemetery being within three hundred (300) feet of another plat for which a vacation is sought, publication of the notice of hearing shall be the only required notice as to the property owners in the cemetery.

(3) When the procedures set forth herein have been fulfilled, the city council may grant the request to vacate with such restrictions as they deem necessary in the public interest.

(4) When the platted area lies more than one (1) mile beyond the city limits, the procedures set forth herein shall be followed with the county commissioners of the county wherein the property lies. The county commissioners shall have authority, comparable to the city council, to grant the vacation, provided, however, when the platted area lies beyond one (1) mile of the city limits, but adjacent to a platted area within one (1) mile of the city, consent of the city council of the affected city shall be necessary in granting any vacation by the county commissioners.

(5) In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and slope purposes, public notice of intent to vacate is not required. Vacation of these easements shall occur upon the recording of the new or amended plat, provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing.

(6) When public streets or public rights-of-way are located within the boundary of a highway district, the highway district commissioners shall assume the authority to vacate said public streets and public rights-of-way as provided in subsection (4) of this section.

(7) All publication costs shall be at the expense of the petitioner.

(8) Public highway agencies acquiring real property within a platted subdivision for highway right-of-way purposes shall be exempt from the provisions of this section.

(9) Land exclusive of public right-of-way that has been subdivided and platted in accordance with this chapter need not be vacated in order to be replatted. [50-1306A, as added by 1971, ch. 6, sec. 1, p. 16; am. 1985, ch. 244, sec. 1, p. 575; am. 1989, ch. 247, sec. 1, p. 596; am. 1992, ch. 262, sec. 2, p. 779; am. 1994, ch. 364, sec. 5, p. 1142; am. 1997, ch. 190, sec. 6, p. 521; am. 1998, ch. 220, sec. 3, p. 755.]

50-1307. Designation of townsite and addition -- Necessity of distinctiveness -- Limitations on rule. Plats of towns, subdivisions or additions must not bear the name of any other town or addition in the same county, nor can the same word or words similar or pronounced the same, be used in making a name for said town or addition, except the words city, place, court, addition or similar words, unless the same is contiguous and laid out and platted by the same party or parties platting the addition bearing the same name, or a party files and records the written consent of the party or parties who platted the addition bearing the same name. All plats of the same name must continue the block numbers of the plat previously filed. [50-1307, added 1967, ch. 429, sec. 225, p. 1249.]

50-1308. Approvals. (1) If a subdivision is not within the corporate limits of a city, the plat thereof shall be submitted, accepted and approved by the board of commissioners of the county in which the tract is located in the same manner and as herein provided. If the city or county has established a planning commission, then all plats must be submitted to said commission in accordance with provisions of chapter 65, title 67, Idaho Code. No plat of a subdivision requiring city approval shall be accepted for record by the county recorder unless said plat shall have first been submitted to the city and has been accepted and approved and shall have written thereon the acceptance and approval of the said city council and bear the signature of the city engineer and city clerk. No plat of a subdivision shall be accepted for record by the county recorder unless said plat has been certified, within thirty (30) days prior to recording, by the county treasurer of the county in which the tract is located. The county treasurer shall not withhold certification for any reason except for county property taxes due, but not paid, upon the property included in the proposed subdivision.

(2) Plats resulting from the exercise of any right granted under the provisions of sections 50-1314 and 63-210(2), Idaho Code, may be accepted for record and recorded by the county recorder without being certified by the county treasurer and the record of any such plat which has previously been recorded without being certified by the county treasurer shall not be invalid or defective because of not having been so certified by the county treasurer. [50-1308, added 1967, ch. 429, sec. 226, p. 1249; am. 1979, ch. 286, sec. 1, p. 731; am. 1981. ch. 304, sec. 1, p. 626; am. 1981, ch. 317, sec. 1, p. 661; am. 1996, ch. 322, sec. 52, p. 1080; am. 1997, ch. 190, sec. 7, p. 523.]

50-1309. Certification of plat -- Dedication of streets and alleys -- Dedication of private roads to public -- Jurisdiction over private roads. 1. The owner or owners of the land included in said plat shall make a certificate containing the correct legal description of the land, with the statement as to their intentions to include the same in the plat, and make a dedication of all public streets and rights-of-way shown on said plat, which certificate shall be acknowledged before an officer duly authorized to take acknowledgments and shall be indorsed on the plat. The professional land surveyor making the survey shall certify the correctness of said plat and he shall place his seal, signature and date on the plat.

2. No dedication or transfer of a private road to the public can be made without the specific approval of the appropriate public highway agency accepting such private road.

3. Highway districts shall not have jurisdiction over private roads designated as such on subdivision plats and shall assume no responsibility for the design, inspection, construction, maintenance and/or repair of private roads. [50-1309, added 1967, ch. 429, sec. 227, p. 1249; am. 1988, ch. 175, sec. 2, p. 307; am. 1989, ch. 102, sec. 2, p. 235; am. 1992, ch. 262, sec. 3, p. 780; am. 1997, ch. 190, sec. 8, p. 523.]

50-1310. Filing and recording -- Record of plats -- Filing of copy. All approved plats of subdivisions shall, upon the payment of the required fees, be filed by the county clerk or county recorder, and such filing with the date thereof shall be indorsed thereon. The plat or opaque copy thereof shall then be bound or filed with other plats of like character in a proper book or file designated as "Records of Plats."

At the time of filing such plat, the owner or his representative shall also file with the county clerk or county recorder one (1) copy thereof. The copy shall be upon stable base drafting film with a minimum base thickness of 0.003 inches. The image thereon shall be by a photographic process using a silver image emulsion. The copy and image thereon shall be waterproof, tear-resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. The original plat shall be stored for safe keeping in a reproducible condition by the county. It shall be proper for the recorder to maintain for public reference a set of counter maps that are prints of the original maps. The original maps shall be produced for comparison upon demand. Full scale copies thereof shall be made available to the public, at the cost allowed in section 31-3205, Idaho Code, by the county recorder. [50-1310, added 1967, ch. 429, sec. 228, p. 1249, am. 1978, ch. 106, sec. 2, p. 219; am. 1993, ch. 343, sec. 1, p. 1282; am. 1997, ch. 190, sec. 9, p. 523.]

50-1311. Indexing of plat records. The said books of "record of plats" shall be provided in the front part thereof with indices, in which shall be duly entered in alphabetical order all maps, plats and diagrams recorded therein, and when so filed, bound and indexed, shall be the legal record of all such maps, plats, diagrams, dedication and other writings. [50-1311, added 1967, ch. 429, sec. 229, p. 1249.]

50-1312. Effect of acknowledging and recording plat. The acknowledgment and recording of such plat is equivalent to a deed in fee simple of such portion of the premises platted as is on such plat set apart for public streets or other public use, or as is thereon dedicated to charitable, religious or educational purposes; provided, however, that in a county where a highway district exists and is in operation no such plat shall be accepted for recording by the county recorder unless the acceptance of said plat by the commissioners of the highway district is endorsed thereon in writing. [50-1312, added 1967, ch. 429, sec. 230, p. 1249; am. 1978, ch. 78, sec. 1, p. 153; am. 1992, ch. 262, sec. 4, p. 781.]

50-1313. Dedication must be accepted. No street or alley or highway hereafter dedicated by the owner to the public shall be deemed a public street, highway or alley, or be under the use or control of said city or highway district unless the dedication shall be accepted and confirmed by the city council or by the commissioners of the highway district. An acceptance imposes no obligation or liability upon the city council or highway district until the street, highway or alley is declared to be open for public travel. [50-1313, added 1967, ch. 429, sec. 231, p. 1249, am. 1978, ch. 78, sec. 2, p. 153; am. 1992, ch. 55, sec. 2, p. 161.]

50-1314. Enforcing Execution of Plat – Assessment of Costs. Whenever the owners of any tract of land have divided and sold or conveyed five (5) or more parts thereof, or invested the public with any right therein, and have failed and neglected to execute and file a plat for record, as provided in sections 50-1301 through 50-1313, Idaho Code, the county recorder, when instructed by the board of county commissioners, shall notify some or all of such owners and proprietors by mail or otherwise, and demand an execution of such plat; if such owners or proprietors, whether notified or not, fail and neglect to execute and file for record said plat within thirty (30) days after the issuance of such notice, the recorder shall cause to be made a plat of such tract and any surveying necessary therefor. Said plat shall be prepared in accordance with requirements in sections 50-1301 through 50-1325, Idaho Code, and in addition, be signed and acknowledged by the recorder, who shall certify that he executed it by reason of the failure of the owners or proprietors named to do so, and filed for record, and, when so filed for record, shall have the same effect for all purposes as if executed, acknowledged and recorded by the owners or proprietors themselves.

A correct statement of the costs and expenses of such plat, surveying and recording, verified by oath, shall be by the recorder laid before the next session of the county board, who shall allow the same and order the same to be paid out of the county treasury, and who shall, at the same time, assess the same amount pro rata upon all several lots or parcels of said subdivided tract; said assessment may be billed to the property owner and, if not paid as requested, shall be collected with, and in like manner as the property taxes, and shall go to the county current expenses fund; or said board may direct suit to be brought in the name of the county before any court having jurisdiction, to recover from the said original owners or proprietors, said cost and expense of preparing and recording said plat. [50-1314, added 1967, ch. 429, sec. 232, p. 1249; am. 2011, ch. 120, sec. 1, p. 330.]

50-1315. Existing plats validated. None of the provisions of sections 50-1301 through 50-1325, Idaho Code, shall be construed to require replatting in any case where plats have been made and recorded in pursuance of any law heretofore in force; and all plats heretofore filed for record and not subsequently vacated are hereby declared valid, notwithstanding irregularities and omissions in manner of form of acknowledgment or certificate. Provided, however:

(1) When plats have been accepted and recorded for a period of five (5) years and said plats include public streets that were never laid out and constructed to the standards of the appropriate public highway agency, said public street may be classified as public right of way; and

(2) Public rights of way for vehicular traffic included in plats which would not conform to current highway standards of the appropriate public highway agency regarding alignments and access locations which, if developed, would result in an unsafe traffic condition, shall be modified or reconfigured in order to meet current standards before access permits to the public right of way are issued. [50-1315, added 1967, ch. 429, sec. 233, p. 1249; am. 1992, ch. 262, sec. 5, p. 781; am. 1993, ch. 412, sec. 9, p. 1514.]

50-1316. Penalty for selling unplatted lots. Any person who shall dispose of or offer for sale any lots in any city or county until the plat thereof has been duly acknowledged and recorded, as provided in sections 50-1301 through 50-1325, shall forfeit and pay one hundred dollars ($100) for each lot and part of a lot sold or disposed of or offered for sale. [50-1316, added 1967, ch. 429, sec. 234, p. 1249.]

50-1317. Vacation procedure in unincorporated areas and in cities not exercising their corporate functions -- Filing of petition -- Notice of hearing. Whenever any person,

persons, firm, association or corporation interested in any city which if unincorporated, or which, if incorporated, is not exercising its corporate functions, or interested in any platted and subdivided tract or acreage outside the limits of any incorporated city, may desire to vacate any lot, tract, public street, public right-of-way, private road, common, plot or any part thereof in any such city, it shall be lawful to petition the board of county commissioners of the county where such property is located, setting forth the particular circumstances of the case, and giving a distinct description of the property to be vacated and the names of the persons to be particularly affected thereby; which petition shall be filed with the appropriate county or highway district clerk and notice of the pendency of said petition shall be given for a period of thirty (30) days by written notice thereof, containing a description of the property to be vacated, posted in three (3) public or conspicuous places in said city, and also within the limits of said platted acreage, or in the event such property is located within a county in which there is published a newspaper, as defined by law, such notice shall also be published in such newspaper, once a week for two (2) successive weeks. Provided, however, when a public street or public right-of-way is located within the boundary of a highway district, the commissioners of the highway district shall assume the authority to vacate said public street or public right-of-way. Land exclusive of public right-of-way that has been subdivided and platted in accordance with this chapter need not be vacated in order to be replatted. [50-1317, added 1967, ch. 429, sec. 235, p. 1249; am. 1992, ch. 262, sec. 6, p. 781; am. 1997, ch. 190, sec. 10, p. 524; am. 1998, ch. 220, sec. 4, p. 756.]

50-1318. In absence of opposition -- Grant of petition -- Restrictions. If no opposition be made to such petition or application within the said thirty (30) day period, the board of county commissioners shall vacate the same, with such restrictions as they may deem reasonable and for the public good. [50-1318, added 1967, ch. 429, sec. 236, p. 1249.]

50-1319. In presence of opposition -- Continuance of application -- Hearing -- When petition granted. If opposition be made thereto, such application shall be heard by the appropriate board of county commissioners or highway district commissioners at a time fixed by said board, at which time, if the objector shall consent to said vacation, or if the petitioner shall produce to the board of county commissioners the petition of two-thirds (2/3) of the property holders of lawful age in said town, or owning two-thirds (2/3) of the tracts in such platted and subdivided acreage, the said board of county commissioners may proceed to hear and determine upon said application, and may if in their opinion justice requires it, grant the prayer of the petitioner, in whole or in part. [50-1319, added 1967, ch. 429, sec. 237, p. 1249; am. 1992, ch. 262, sec. 7, p. 782.]

50-1320. Vesting of title on vacation. The part so vacated, if it be a lot or tract, shall vest in the rightful owner, who may have the title thereof according to law; or if a public square or common, the property may vest in the proper county, or if in a city, the property shall vest in the council for the use of such city, and the proper authorities may sell the same, and make a title to the purchaser thereof, and appropriate the proceeds thereof for the benefit of said corporation or county, as the case may be; or if the same be a street, all right and title thereto shall be distributed in accordance with section 50-311. [50-1320, added 1967, ch. 429, sec. 238, p. 1249.]

50-1321. Necessity for consent of adjoining owners -- Acknowledgment and filing of consent -- Limitation on rule -- Prerequisites to order of vacation. No vacation of a public street, public right of way or any part thereof having been duly accepted and recorded as part of a plat or subdivided tract shall take place unless the consent of the adjoining owners be obtained

in writing and delivered to the public highway agency having jurisdiction over said public street or public right of way. Such public street or public right of way may, nevertheless, be vacated without such consent of the owners of the property abutting upon such public street or public right of way when such public street or public right of way has not been opened or used by the public for a period of five (5) years and when such nonconsenting owner or owners have access to his, her or their property from some other public street, public right of way or private road. However, before such order of vacation can be entered it must appear to the satisfaction of the public highway agency that the owner or owners of the property abutting said public street or public right of way have been served with notice of the proposed abandonment in the same manner and for the same time as is now or may hereafter be provided for the service of the summons in an action at law. Any vacation of lands within one (1) mile of a city shall require notification and consent of the city. [50-1321, added 1967, ch. 429, sec. 239, p. 1249; am. 1992, ch. 262, sec. 8, p. 782.]

50-1322. Appeal from order granting or denying application to vacate. Whenever the governing body shall grant the application, or refuse the application of any person or persons, made as provided for the vacation of any lot, tract, street, common, plat or any part thereof, an appeal may be taken from any act, order or proceeding of the board made or had pursuant to by any person aggrieved thereby within twenty (20) days after the first publication or posting of the statement as required by section 31-819, Idaho Code. Procedure upon such appeal shall be in all respects the same as prescribed in sections 31-1510, 31-1511 and 31-1515, Idaho Code. [50-1322, added 1967, ch. 429, sec. 240, p. 1249.]

50-1323. Limitation of actions to establish adverse rights or question validity of vacation. Every action brought to establish adverse rights or interests in the affected property or to determine the invalidity of any action by which any lot, tract, street, common, plat or any part thereof has been vacated must be brought within six (6) months after the effective date of this act or within six (6) months after a certified copy of the ordinance, resolution or order of vacation has been filed for record in the office of the county recorder of the county in which the affected property is located. Any person, firm or corporation having any objection thereto may bring such action. [50-1323, added 1967, ch. 429, sec. 241, p. 1249.]

50-1324. Recording vacations. (1) Before a vacation of a plat can be recorded, the county treasurer must certify that all taxes due are paid and such certification is recorded as part of the records of the vacation. The treasurer shall withhold the certification only when property taxes are due, but not paid.

(2) Upon payment of the appropriate fee therefor, the county recorder of each county shall index and record, in the same manner as other instruments affecting the title to real property, a certified copy of each ordinance, resolution or order by which any lot, tract, public street, public right of way, private road, easement, common, plat or any part thereof has been vacated. Such certification shall be by the officer having custody of the original document and shall certify that the copy is a full, true and correct copy of the original. [50-1324, added 1967, ch. 429, sec. 242, p. 1249; am. 1992, ch. 262, sec. 9, p. 783; am. 1994, ch. 79, sec. 1, p. 181.]

50-1325. Easements -- Vacation of. Easements shall be vacated in the same manner as streets. [50-1325, added 1967, ch. 429, sec. 243, p. 1249.]

50-1326. All plats to bear a sanitary restriction -- Submission of plans and specifications of water and sewage systems to state department of environmental quality --

Removal or reimposition of sanitary restriction. For the purposes of sections 50-1326 through 50-1329, Idaho Code, any plat of a subdivision filed in accordance with chapter 13, title 50, Idaho Code, or in accordance with county ordinances adopted pursuant to chapter 38, title 31, Idaho Code, shall be subject to the sanitary restriction. There shall be placed upon the face of every plat prior to it being recorded by the county clerk and recorder, the sanitary restriction, except such sanitary restriction may be omitted from the plat, or if it appears on the plat, may be indorsed by the county clerk and recorder as sanitary restriction satisfied, when there is recorded at the time of the filing of the plat, or at any time subsequent thereto, a duly acknowledged certificate of approval issued by the director of the department of environmental quality, for either public water and/or public sewer facilities, or individual water and/or sewage facilities for the particular land. The owner shall have the obligation of submitting to the director all information necessary concerning the proposed facilities referred to. Such certificate of approval may be issued for the subdivision or any portion thereof. Until the sanitary restrictions have been satisfied by the filing of said certificate of approval, no owner shall construct any building or shelter on said premises which necessitates the supplying of water or sewage facilities for persons using such premises. The sanitary restrictions shall be reimposed on the plat upon the issuance of a certificate of disapproval after notice to the responsible party and an opportunity to appeal, if construction is not in compliance with approved plans and specifications, or the facilities do not substantially comply with regulatory standards in effect at the time of facility construction. [50-1326, as added by 1971, ch. 329, sec. 2, p. 1294; am. 1989, ch. 233, sec. 1, p. 569; am. 2001, ch. 103, sec. 90, p. 331.]

50-1327. Filing or recording of noncomplying map or plat prohibited. No person shall offer for recording, or cause to be recorded, a plat not containing a sanitary restriction, unless there is submitted for record at the same time the certificate of approval from the director of the department of environmental quality as required in section 50-1326, Idaho Code. The filing and recording of a noncomplying plat shall in no way invalidate a title conveyed thereunder. [50-1327, as added by 1971, ch. 329, sec. 3, p. 1294; am. 1989, ch. 102, sec. 3, p. 236; am. 1989, ch. 233, sec. 2, p. 570; am. 2001, ch. 103, sec. 91, p. 332.]

50-1328. Rules for the administration and enforcement of sanitary restriction. The state board of environmental quality may adopt rules pursuant to section 39-107(8), Idaho Code, including adoption of sanitary standards necessary for administration and enforcement, pursuant to section 39-108, Idaho Code, of sections 50-1326 through 50-1329, Idaho Code. The rules and standards shall provide the basis for approving subdivision plats for various types of water and sewage facilities, both public and individual, and may be related to size of lots, contour of land, porosity of soil, ground water level, pollution of water, type of construction of water and sewage facilities, and other factors for the protection of the public health or the environment. [50-1328, as added by 1971, ch. 329, sec. 4, p. 1294; am. 1989, ch. 233, sec. 3, p. 570; am. 2001, ch. 103, sec. 92, p. 332.]

50-1329. Violation a misdemeanor. Any person, firm or corporation who constructs, or causes to be constructed, a building or shelter prior to the satisfaction of the sanitary restriction, or who installs or causes to be installed water and sewer facilities thereon prior to the issuance of a certificate of approval by the director of the department of environmental quality, shall be guilty of a misdemeanor. Each and every day that such activities are carried on in violation of this section shall constitute a separate and distinct offense. [50-1329, as added by 1971, ch. 329, sec. 5, p. 1294; am. 1989, ch. 233, sec. 4, p. 571; am. 2001, ch. 103, sec. 93, p. 332.]

50-1330. Jurisdiction of public streets and public rights of way within a highway district. In a county with highway districts, the highway district board of commissioners in such district shall have exclusive general supervisory authority over all public streets and public rights of way under their jurisdiction within their district, excluding public streets and public rights of way located inside of an incorporated city that has a functioning street department, with full power to establish design standards, establish use standards and regulations in accordance with the provisions of title 49, Idaho Code, accept, create, open, widen, extend, relocate, realign, control access to or vacate said public streets and public rights of way. Provided, however, when said public street or public right of way lies within one (1) mile of a city, or the established county/city impact area or adjacent to a platted area within one (1) mile of a city or the established county/city impact area, consent of the city council of the affected city shall be necessary prior to the granting of acceptance or vacation of said public street or public right of way by the highway district board of commissioners. [50-1330, added 1983, ch. 233, sec. 1, p. 637; am. 1992, ch. 262, sec. 10, p. 783.]

50-1331. Setting of interior monuments for a subdivision. Interior monuments for a subdivision need not be set prior to the recording of the plat of the subdivision if the land surveyor performing the survey work certifies that the interior monuments will be set on or before a specified date as provided in subsection (1) of section 50-1333, Idaho Code, and if the person subdividing the land furnishes to the governing body of the county or city which approved the subdivision, a bond or cash deposit guaranteeing the payment of the cost of setting the interior monuments for the subdivision, as provided in section 50-1332, Idaho Code. [50-1331, added 1987, ch. 227, sec. 1, p. 482.]

50-1332. Setting interior monuments after recording of plat -- Bond or cash deposit required -- Release of bond -- Return of cash deposit -- Payment for survey work -- County surveyor performing survey work. (1) If the interior monuments for a subdivision are to be set on or before a specified date after the recording of the plat of the subdivision, the person subdividing the land described in the plat shall furnish, prior to recording the plat, to the governing body of the city or county which approved the plat, either a bond or cash deposit, at the option of the governing body, in an amount equal to one hundred twenty percent (120%) of the estimated cost of performing the work for the interior monumentation. The estimated cost of performing such work will be determined by the professional land surveyor signing the plat.

(2) If the person subdividing the land described in subsection (1) of this section pays the professional land surveyor for performing the interior monumentation work and notifies the governing body of such payment, the governing body, within two (2) months after such notice, shall release the bond or return the cash deposit upon a finding that such payment has been made. Upon written request from the person subdividing the land, the governing body may pay the professional land surveyor from moneys within a cash deposit or bond held by it for such purpose and return the excess amount of the cash deposit, if any, to such person.

(3) In the event of the inability, refusal or failure of such professional land surveyor to set the interior monuments for a subdivision, the governing body may direct the county surveyor in his official capacity or contract with a professional land surveyor in private practice to set such monuments and reference such monuments for recording as provided in section 50-1333, Idaho Code. Payment of the fees of a county surveyor or professional land surveyor in private practice performing such work shall be made as otherwise provided in this section. In the event the professional land surveyor signing the plat performed his services pursuant to a contract between the person subdividing the land and a business entity possessing a certificate of authorization, as required in this chapter, and the professional land surveyor is unable, refuses or fails to set the

interior monuments for a subdivision, a substitute professional land surveyor employed by the same business entity may assume responsible charge for the remainder of the project and set the monuments, as provided in this chapter, and the governing body shall not direct the county surveyor or contract with a professional land surveyor in private practice to set such monuments.

(4) In the event any interior monument cannot be placed at the location shown on the plat, the professional land surveyor shall place a witness corner or reference point and he shall file a record of survey as provided in chapter 19, title 55, Idaho Code, to show the location of any witness corner or reference point in relation to the platted location of the corner. In the event the professional land surveyor signing the plat does not set the interior monuments for a subdivision, the substitute professional land surveyor shall file a record of survey as provided in chapter 19, title 55, Idaho Code, to show which monuments were set by which professional land surveyor. [50-1332, added 1987, ch. 227, sec. 1, p. 482; am. 1997, ch. 190, sec. 11, p. 525; am. 1998, ch. 220, sec. 5, p. 757; am. 2011, ch. 136, sec. 9, p. 388; am. 2012, ch. 25, sec. 1, p. 82.]

50-1333. Recording of plats with only exterior monuments referenced. (1) If the person subdividing any land has complied with subsection (1) of section 50-1332, Idaho Code, the professional land surveyor may prepare the plat of the subdivision for recording with only the exterior monuments set thereon when submitted for recording. There shall be a certification on the plat by the professional land surveyor that the interior monuments for the subdivision will be set in accordance with section 50-1303, Idaho Code, on or before a specified date and the said interior monuments will be referenced on the plat with a unique symbol. The time for setting the interior monuments shall not exceed one (1) calendar year from the date the plat is recorded or as determined by the governing body of such city or county.

(2) After the interior monuments for a subdivision have been set as provided in the certification required on the plat in subsection (1) of this section, the professional land surveyor performing such work shall, within five (5) days after completion of such work, give written notice to the person subdividing the land involved, the surveyor or engineer of the city or county by which the subdivision was approved and the governing body of such city or county.

(3) In the event that the person subdividing the land involved fails or refuses to authorize the payment for interior monumentation, the professional land surveyor may request payment from the governing body, and upon inspection by the governing body of the interior monumentation, the governing body shall pay the professional land surveyor from moneys held. [50-1333, added 1987, ch. 227, sec. 1, p. 483; am. 1997, ch. 190, sec. 12, p. 525.]

50-1334. Review of water systems encompassed by plats. Whenever any plat is subject to the terms and requirements of sections 50-1326 through 50-1329, Idaho Code, no person shall offer for recording, or cause to be recorded, a plat unless he or she shall have certified that at least one (1) of the following is the case:

(1) The individual lots described in the plat will not be served by any water system common to one (1) or more of the lots, but will be served by individual wells.

(2) All of the lots in the plat will be eligible to receive water service from an existing water system, be the water system municipal, a water district, a public utility subject to the regulation of the Idaho public utilities commission, or a mutual or nonprofit water company, and the existing water distribution system has agreed in writing to serve all of the lots in the subdivision.

(3) If a new water system will come into being to serve the subdivision, that it has or will have sufficient contributed capital to allow the water system's wells, springboxes, reservoirs and mains to be constructed to provide service without further connection charges or fees to the

landowners of the lots, except for connection of laterals, meters or other plant exclusively for the lot owner's own use.

Failure to comply with this section is a misdemeanor subject to the provisions of section 50-1329, Idaho Code. The certification must be filed or recorded as part of the plat document preserved for public inspection. Property owners in the area encompassed by the plat will be entitled to the benefits of the third provision of this section when that option is chosen. [50-1334, added 1990, ch. 178, sec. 1, p. 377.]

TITLE 55
PROPERTY IN GENERAL
CHAPTER 15
CONDOMINIUM PROPERTY ACT

55-1501. Short Title. This act shall be known and may be cited as the "Condominium Property Act." [55-1501, added 1965, ch. 225, sec. 1, p. 515.]

55-1502. Purpose – Public policy. Whereas, the availability of more adequate financing for construction, land development and improvement, and business expansion is beneficial and advantageous to the development of the state of Idaho and in the public interest, and, whereas, the condominium estate is a concept of holding property, which concept should be clarified in the state of Idaho to permit and facilitate the construction and development of condominiums and condominium projects, together with the financing of the same;

Now, therefore, the condominium estate in property is hereby declared to be a lawful estate in property and consistent with the public policy of the state of Idaho. [55-1502, added 1965, ch. 225, sec. 2, p. 515.]

55-1503. Definitions. As used in this act unless the context otherwise requires:

(a) "Condominium" means an estate in property as defined in section 55-101B, Idaho Code, as amended.

(b) "Project" means the entirety of the property divided or to be divided into condominiums.

(c) "Property" means the land described in the declaration recorded pursuant to section 55-1505, together with every building, improvement or structure thereon, and every easement or right appurtenant thereto, and all personal property intended for use in connection therewith or for the use, benefit or enjoyment of the condominium owners.

(d) "Unit" means the separate interest in a condominium.

(e) "Common area" means the entire project excepting all units.

(f) "Management body" means any person or persons managing a project, and includes the condominium owners acting themselves, a corporation or association of which the owners are members or stockholders, a board of governors or directors elected by the owners, or a management agent selected by the owners, by the corporation or association, or by the board, or named in the declaration.

(g) "Limited common areas" mean those common areas and facilities designated in the declaration for use of a certain condominium owner or owners to the exclusion, limitation or restriction of others.

(h) "Person" means any individual or any corporation, joint venture, limited partnership, partnership, firm, association, trustee or other similar entity or organization. [55-1503, added 1965, ch. 225, sec. 3, p. 515.]

55-1504. Requirements to qualify. The requirements of this act shall apply to condominiums only (a) if there shall be recorded in the county in which such condominiums are located or to be located a declaration, as provided in this act, together with a plat or plats, and (b) if said documents, or either of them, contain an expression of intent to create a project which is subject to the provisions of this act, and (c) if at least one (1) of such documents contains:

(i) a plat or survey map of the surface of the ground included within the project,

(ii) diagrammatic floor plans of the building or buildings built or to be built thereon in sufficient detail to identify each unit, its relative location and approximate dimensions, showing elevations where multi-level or multi-story structures are diagramed, and

(iii) a certificate consenting to the recordation of such documents pursuant to this act, executed and acknowledged by the record owner and the holder of any recorded security interest in such property. A condominium project is created if there has been substantial compliance in good faith with the provisions of this section.

The declaration and the plat or plats may, prior to the first sale of a condominium, be amended or revoked by a subsequently recorded instrument executed and acknowledged by the then record owner and the then holder of any recorded security interest in such property. Until such recordation of such a revocation, the provisions of this act shall continue to apply to such property. The term "record owner" as used in this section means the owner or owners of the property; or, in the case of property held under a recorded lease, the lessee; or, in the case of property held under a recorded sublease of such a lease, the sublessee; or, in the case of property held under a recorded assignment of such a lease or such a sublease, the assignee, but does not include holders or owners of unrecorded interests, or mineral interests, of easements or of rights of way. [55-1504, added 1965, ch. 225, sec. 4, p. 515.]

55-1505. Contents of declaration. (1) The declaration shall contain the following:

(a) A legal description of the surface of the ground within the project.

(b) A legal description of each unit in the project, which description may consist of the identifying number, symbol or name of such unit as shown on the plat.

(c) The percentage of ownership interest in the common area which is to be allocated to each unit for purposes of tax assessment under section 55-1514, Idaho Code, and for purposes of liability as provided by section 55-1515, Idaho Code. Such percentage shall be fixed by taking as a basis the value of each unit in relation to the value of the property as a whole. For said purposes, the percentage so fixed shall be conclusive, subject only to clear and convincing proof of bad faith at the time of and in the making of such allocation or the last prior amendment thereof. If a substantial change is made to the value or size of one (1) or more units as compared with other units, upon petition by a unit owner for reevaluation and allocation of percentage of ownership interest, the allocation shall be amended. Reallocation shall not occur more frequently than every three (3) years. If the board of managers fails to act, reallocation may be accomplished by court action. If court action is necessary the prevailing party may be awarded attorney’s fees and costs for unreasonable pursuit or refusal.

(2) The declaration may but need not also contain any of the following:

(a) A description of the buildings in the project, stating the number of stories and basements, the number of units and the principal materials of which they are or are to be constructed.

(b) A statement of the location of each unit, its approximate area, number of rooms, and immediate common area to which it has access, and any other data for its proper identification.

(c) A description of the common areas and facilities.

(d) A description of any limited common areas and facilities, if any, stating to which units their use is reserved or the terms of applicable restrictions or limitations.

(e) The value of the property and of each unit.

(f) A statement of the purposes for which the building and each of the units are intended and restricted as to use.

(g) Provisions as to the percentage of votes by the condominium owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage, taking, or destruction of all or part of the property.

(h) Any or all of the provisions hereinafter referred to in section 55-1507, Idaho Code, as proper provisions of bylaws.

(i) Provisions for the management of the project by any management body or bodies; for the voting majorities, quorums, notices, meeting dates, and other rules governing such body or bodies; and for recordation, from time to time, as provided for in the declaration, of certificates of identity of the persons then composing such management body or bodies, which certificates shall be conclusive evidence of the facts recited therein in favor of any person relying thereon in good faith.

(j) As to any management body:

(1) For the powers thereof, including power to enforce the provisions of the declaration;

(2) For maintenance by it of fire, casualty, liability, worker's compensation and other insurance and for bonding of the members of any management body;

(3) For provision by it of and payment by it for maintenance, utility, gardening and other services; for employment of personnel necessary for operation of the project, and legal and accounting services;

(4) For purchase by it of materials, supplies and the like and for maintenance and repair of the project;

(5) For payment by it of taxes and special assessments which would be a lien upon the entire project or common areas, and for discharge by it of any lien or encumbrance levies against the entire project or common areas;

(6) For payment by it for reconstruction of any portion or portions of the project damaged, taken or destroyed;

(7) For delegation by it of its powers;

(8) For entry by it or its agents into any unit when necessary in connection with any maintenance or construction for which the management body is responsible;

(9) For an irrevocable power of attorney to the management body to sell and convey the entire project for the benefit of all of the owners thereof when partition of the project may be had under section 55-1511, Idaho Code, which power shall: (i) be binding upon all of the owners, whether they expressly assume the obligations of the declaration or not; (ii) if so provided in the declaration, be exercisable by less than all (but not less than fifty percent (50%)) of the voting power of the owners in the project; (iii) be exercisable only after recordation of a certificate by those who have the right to exercise such power of attorney that such power of attorney is properly exercisable under the declaration, which certificate shall be conclusive evidence of the facts recited therein in favor of any person relying thereon in good faith.

(k) Provisions for amendments of such declaration or the bylaws, if any, which amendments, if made upon the vote or consent of more than fifty percent (50%) of the voting power of the owners in the project, shall be binding upon every owner and every condominium whether the burdens thereon are increased or decreased thereby, and whether or not the owner of each and every condominium consents thereto.

(l) Provisions for independent audit of the accounts of any management body.

(m) (1) Provisions for assessments to meet authorized expenditures of any management body, and for a method for notice and levy thereof, each condominium to be

assessed separately for its share of such expenses in proportion (unless otherwise provided) to its owner's fractional interest in the common areas;

(2) For the subordination of the liens securing such assessments to other liens either generally or specifically described.

(n) Provisions for the conditions upon which partition of the project may be had pursuant to this act. Such right to partition may be conditioned upon failure of the condominium owners to elect to rebuild within a certain period, specified inadequacy of insurance proceeds, specified damage to the building, a decision of an arbitrator, or upon any other condition.

(o) Provisions for restrictions upon the severability of the component interests in the property which comprise a condominium. Such restrictions shall not be deemed conditions repugnant to the interest created nor unlawful restraints on alienation.

(p) Such document, agreement or writing pertinent to the project or its financing as may be attached to, incorporated in or made an exhibit to the declaration and/or any bylaws.

(q) Such other provisions not inconsistent with this act as the owner or owners may deem desirable in order to promote, facilitate or preserve the property or the project or the use, development or administration thereof.

(3) Subpart (2) of this section shall not be construed as a limitation upon permissible contents and provisions of a declaration. [55-1505, added 1965, ch. 225, sec. 5, p. 515; am. 2002, ch. 78, sec. 1, p. 175.]

55-1506. Administration – By-Laws – Articles of incorporation – Recordation of incorporation – Recordation required to modify or amend. Except when a domestic corporation has been formed and is designated in the declaration to serve as a management body and to administer the project, the administration of every project shall be governed by by-laws, which may either be embodied in the declaration or in a separate instrument which shall be recorded with the declaration. When a domestic corporation is so formed and designated the owner or owners shall append to and record with the declaration a certified copy of its articles of incorporation from which it must appear (a) that the purpose for which such corporation was formed and its powers are consistent with the provisions of this act and (b) that the members or stockholders of the corporation must be and remain owners of condominiums within the said project and include all owners of condominiums within the project. When a corporate organization is so utilized, the administration of the project need not be governed by by-law provisions hereinafter set forth but shall be subject to the law of corporations. No modification or amendment of the declaration, of such articles or of recorded by-laws shall be effective until the same is recorded in the county where the original document was first recorded. [55-1506, added 1965, ch. 225, sec. 6, p. 515.]

55-1507. Contents of by-laws. The by-laws referred to in section 55-1506, when required, shall provide for at least the following:

(a) The election from among the unit owners of a board of managers, the number of persons constituting such board, and that the terms of at least one third (1/3) of the members of the board shall expire annually; the powers and duties of the board; the compensation, if any, of the members of the board; the method of removal from office of members of the board; and whether or not the board may engage the services of a manager or managing agent.

(b) Method of calling meetings of the unit owners; what percentage of the unit owners, if other than a majority, shall constitute a quorum.

(c) Election of a president from among the board of managers, who shall preside over the meetings of the board of managers and of the unit owners.

(d) Election of a secretary, who shall keep the minutes of all meetings of the board of managers and of the unit owners and who shall, in general, perform all the duties incident to the office of secretary.

(e) Election of a treasurer, who shall keep the financial records and books of account.

(f) Maintenance, repair and replacement of the common elements and payments therefor, including the method of approving payment vouchers.

(g) Method of estimating the amount of the annual budget, and the manner of assessing and collecting from the unit owners their respective shares of such estimated expenses, and of any other expenses lawfully agreed upon.

(h) That upon 10 days' notice to the manager or board of managers and payment of a reasonable fee, any unit owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.

(i) Designation and removal of personnel necessary for the maintenance, repair and replacement of the common elements.

(j) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common elements by the several unit owners.

(k) Method of adopting and of amending administrative rules and regulations governing the operation and use of the common elements.

(l) The percentage of votes required to modify or amend the by-laws, but each one of the particulars set forth in this section shall always be embodied in the by-laws. [55-1507, added 1965, ch. 225, sec. 7, p. 515.]

55-1508. Recordation of instruments affecting project. The declaration, plat or plats, deeds, by-laws, administrative provisions, articles of incorporation as provided in section 55-1506[, Idaho Code], any instrument by which the provisions of this act may be waived, and every instrument affecting the project or any condominium, and any amendment or amendments to such documents, shall be entitled to be recorded by the county recorder in the county or counties where the project is located, and such official shall accept the same for recordation when requested to do so. [55-1508, added 1965, ch. 225, sec. 8, p. 515.]

55-1509. Grant – Physical boundaries of units – Incidents excluded – Common areas – Decorating rights of owner. Unless otherwise expressly provided in the declaration, deeds, plat or plats, the incidents of a condominium grant are as follows:

(a) The physical boundaries of the unit are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the unit includes both the portions of the building so described and the airspace so encompassed. The following are not part of the unit: bearing walls, columns, floors, roofs, foundations, elevator equipment and shafts, central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the unit. In interpreting the declaration, plat or plats, and deeds, the existing physical boundaries of the unit as originally constructed or as reconstructed in lieu thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed or depicted in the declaration, plat or plats, or deed, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown in the declaration, plat or plats, or deed, and the actual boundaries of units in the building.

(b) The common areas are owned by the owners of the condominiums as their interests appear and are set forth in the declaration pursuant to section 55-1505(1)(c)[, Idaho Code].

(c) A nonexclusive right of ingress, egress and support through the common areas is appurtenant to each unit and the common areas are subject to such rights.

(d) Each condominium owner shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise maintain, refinish, and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his own unit, and the interior thereof. [55-1509, added 1965, ch. 225, sec. 9, p. 515.]

55-1510. Removal of property from law – Common ownership -- Resubmission. Unless otherwise provided in the declaration, a project may be removed from the provisions of this act by a vote or written consent of the condominium owners owning at least a two-thirds (2/3) interest in the common areas as percentages of interest are allocated pursuant to section 55-1505(1)(c)[, Idaho Code], and by filing for record in the county where the project is located a written instrument signed and acknowledged by such owners wherein it is stated that such described project is so withdrawn, provided, holders of all liens affecting any of the units or the common must consent or agree thereto in writing by recorded written instrument in which event their liens shall be deemed forthwith, and without change of seniority, transferred (a) to the former condominium owner's undivided interest in the property as hereinafter provided if such lien was upon a condominium, and (b) upon the entire property if the lien was specifically upon the common areas or the project as a whole and not upon any particular condominium or condominiums; provided further, however, nothing herein contained shall be construed to restrict the right to limit, prohibit or make other provisions respecting withdrawal from this act by provision in the declaration.

Upon such removal under this section the property shall be deemed to be owned in common and each former condominium owner shall have an exclusive right to the occupancy of what formerly was his unit. Removal of a project from the provisions of this act shall in no way bar the subsequent resubmission of the property to the provisions of this act. [55-1510, added 1965, ch. 225, sec. 10, p. 515.]

55-1511. Partition -- Sale. (a) Where two (2) or more persons own condominiums in a project an action may be brought by one (1) or more of such persons for the partition of the interests comprising the project, as if the owners of all of the condominiums in such project were tenants in common in the entire project in the proportion provided for in the declaration, deeds, or plat or plats entered into with respect to such project, or, in the absence of such provision, in the same proportion as their interests in the common areas of such project; provided, however, that a partition shall be made only upon the showing that:

(1) Three (3) years after the damage to, or destruction or taking of, a material part of the project which renders the project unfit for the use to which it was put prior to such damage, destruction or taking, the project has not been rebuilt, repaired or replaced in a manner which substantially permits such use of the project, or

(2) Three-fourths (3/4) or more of the project has been destroyed, taken, or substantially damaged, and that persons entitled to cast fifty per cent (50%) of the votes to determine whether or not the project shall be repaired, restored or replaced are opposed to such repair, restoration or replacement, or

(3) More than fifty (50) years have elapsed since the first conveyance of a condominium in the project, and that the project is uneconomic or otherwise obsolete, and that persons entitled to cast fifty per cent (50%) of the votes to determine whether or not the project shall be repaired, restored or replaced are opposed to such repair, restoration or replacement, or

(4) That conditions for such a partition provided for in the deed, declaration, plat or plats entered into with respect to such project have been met, whether such conditions be more or less restrictive than the conditions set forth in this section.

(b) The entire project or a part thereof may be sold if it appears that a physical partition cannot be made without prejudice to the respective rights of the persons' interests therein.

(c) Nothing herein shall be deemed to prevent partition of a condominium as between two (2) or more persons having interests therein. [55-1511, added 1965, ch. 225, sec. 11, p. 515.]

55-1512. Actions relating to common areas – Persons designated to receive process – New designation filed – Services on auditor – Copy from auditor to management body – Application of corporate law. Except when a domestic corporation has been formed and designated in the declaration to serve as the management body to administer the project, at the time the declaration is recorded one (1) or more persons shall be designated to receive service of process in any action relating to the common areas and facilities. Such designation shall be filed with the county auditor in the county in which the project is located together with an acknowledgment in writing of acceptance of such designation by the person so designated. The person so designated shall be a resident of the state of Idaho, and service upon such person shall be the exclusive method of service in any action relating to the common areas and facilities. Upon termination of such person's capacity or authority to receive service, a new designation shall be made by the management body of the project, and such designation shall be filed with the county auditor in the county in which the project is located together with an acknowledgment in writing of acceptance of such designation by the person so designated. Upon failure to so designate a person to receive service of process and to file such designation and acceptance of such designation, service may be made upon the county auditor with like effect as though said service were made upon a person designated, and it shall be the duty of the county auditor to forward a copy of such summons served on him by registered mail to the management body of the project at the address or location last known, but no failure on the part of the county auditor to mail such copy of summons shall affect the validity of the service thereof. When a corporate organization is formed and designated as the management body, service of process on the corporation shall be as permitted by law, and the Idaho rules of civil procedure. [55-1512, added 1965, ch. 225, sec. 12, p. 515; am. 2005, ch. 110, sec. 1, p. 362.]

55-1513. Actions by management on behalf of two or more owners. Without limiting the rights of any condominium owner, actions may be brought by the management body on behalf of two (2) or more of the condominium owners with respect to any cause of action relating to the common areas or more than one (1) unit. [55-1513, added 1965, ch. 225, sec. 13, p. 515.]

55-1514. Separate taxation – Lien – Tax deed. Notwithstanding any contrary or inconsistent provision of the Idaho Code or of this act, property taxes, assessments, special assessments, and all special taxes or charges of the state of Idaho or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed against or levied upon real or personal property shall be assessed against and levied upon each condominium and not upon the group of condominiums as a whole, and such tax, assessment or charge on each such condominium shall constitute a lien solely thereon.

A person acquiring or entitled to the issuance of a tax deed conveying the interest of any condominium owner, shall acquire only an interest subject to such provisions of this act as may be applicable, and subject to all lawful terms, provisions, covenants, conditions, and limitations

which may apply thereto and appear in any recorded declaration, plat, deed or by-laws then in force and affecting such interest. [55-1514, added 1965, ch. 225, sec. 14, p. 515.]

55-1515. Owners proportionately liable for common areas – Remaining balance not prejudiced by settlement -- Indemnification. Each condominium owner's liability for claims, judgments or awards arising out of or in connection with the ownership, use, operation or management of the common areas, is limited to a proportionate sum which equals the amount of any such claim, judgment or award multiplied by the percentage interest in the common areas allocated to such ownership by the declaration as provided in section 55-1505(1)(c). In any suit to establish liability for claims, judgments or awards arising out of or in connection with the ownership, use, operation or management of the common areas there shall be introduced no evidence as to the percentage interest in the common area of any condominium owner until and unless such fact becomes material and liability is fixed by judgment or agreed upon in writing signed by all affected parties to the litigation and filed with the court. Any condominium owner may compromise or settle his portion of any such claim without prejudice to the remaining balance thereof and without the same constituting evidence or an admission for or against any such claimant.

The provisions of this section shall not alter or affect the respective rights and obligations of condominium owners to or between one another to the extent that one or more may have any legal right arising from contract, statute, or the common law to be wholly or partially indemnified by one or more other persons who are likewise owners of condominiums within the same said project. [55-1515, added 1965, ch. 225, sec. 15, p. 515.]

55-1516. Liability of unit owners, tenants, employees – Duties and powers of owners. All condominium owners, tenants of such owners, employees of owners and tenants, or any other persons that may in any manner use property or any part thereof submitted to the provisions of this act shall be subject to this act and to the declaration and by-laws of the project adopted pursuant to the provisions of this act.

All agreements, decisions and determinations lawfully made by the management body shall be deemed to be binding on all condominium owners and shall inure to the benefit of all such owners.

Each condominium owner and any group of owners shall have standing and authority, unless otherwise provided, to enforce the provisions of the declaration and any recorded by-laws of the project. [55-1516, added 1965, ch. 225, sec. 16, p. 515.]

55-1517. Insurance of individual units by management body. The management body, if required by the declaration, by-laws or otherwise, or at the request of a mortgagee or a beneficiary of a deed of trust having a first mortgage or first deed of trust of record covering a unit or any part of the project, shall have the authority and an insurable interest to insure the project or any portion thereof against loss or damage by fire or other hazard or casualty. Such insurance coverage may be written in the name of the management body, as trustee for each of the condominium owners in the percentages established in the declaration or as otherwise provided in the declaration or provided by the management body, and premiums may be treated as common expenses. Provision for such insurance shall be without prejudice to the right of each condominium owner to insure his own unit for his own benefit. This provision shall not be construed to limit the power of such body to secure and maintain other insurance coverage or to treat the cost thereof as a common expense. [55-1517, added 1965, ch. 225, sec. 17, p. 515.]

55-1518. Assessment and other charges a lien – Notice recorded – Payment and release – Priority of liens – Expiration – Extension – Enforcement by sale – Purchase by management body. An assessment upon any condominium made in accordance with the declaration, any recorded by-laws, or any duly promulgated project regulation, shall be a debt of the owner thereof at the time the assessment is made. The amount of any such assessment, together with those other charges thereon, such as interest, costs (including attorney's fees), and penalties, which may be provided for in the declaration, shall be and become a lien upon the condominium assessed when the management body causes to be recorded with the county recorder of the county in which such condominium is located a notice of assessment, which shall state the amount of such assessment and such other charges thereon as may be authorized by the declaration, a description of the condominium against which the same has been assessed, and the name of the record owner thereof. Such notice shall be signed by an authorized representative of the management body or as otherwise provided in the declaration. Upon payment of said assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the management body shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof.

Such lien shall be prior to all other liens filed or recorded subsequent to the recordation of said notice of assessment except that the declaration may provide for the subordination thereof to other liens either generally or specifically described and except further that labor or materialmen's liens arising under the law of Idaho and timely and duly filed shall have priority if the date fixed by statute for such lien to arise is prior to recording as provided in this section. Unless sooner satisfied and released or the enforcement thereof initiated as hereafter provided such lien shall expire and be of no further force or effect one (1) year from the date of recordation of said notice of assessment; provided, however, that said one-year period may be extended by the management body for not to exceed one (1) additional year by recording a written extension thereof.

Such lien may be enforced by sale by the management body, its attorney or other person authorized to make the sale, after failure of the owner to pay such an assessment in accordance with its terms, such sale to be conducted in the manner permitted by law for the exercise of powers of sale in deeds of trust or any other manner permitted by law. Unless otherwise provided in the declaration the management body shall have the power to purchase the condominium at foreclosure sale and to hold, lease, encumber and convey the same. [55-1518, added 1965, ch. 225, sec. 18, p. 515.]

55-1519. Liens for labor, services or materials – Express consent – Emergency repairs – Proportionate payment for removal of lien. No labor performed or services or materials furnished with the consent of or at the request of a condominium owner or his agent or his contractor or subcontractor shall be the basis for the filing of a lien against the condominium of any other condominium owner, or against any part thereof, or against any other property of any other condominium owner, unless such other owner has expressly consented to or requested the performance of such labor or furnishing of such materials or services. Such express consent shall be deemed to have been given by the owner of any condominium in the case of emergency repairs thereto. Labor performed or services or materials furnished for the project, if duly authorized by the management body, shall be deemed to be performed or furnished with the express consent of each condominium owner. The owner of any condominium may remove his condominium from a lien against two (2) or more condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by such lien which is attributable to his condominium. [55-1519, added 1965, ch. 225, sec. 19, p. 515.]

55-1520. Personal property acquired, held and disposed of by management body – Beneficial interest proportionate -- Transfer. Unless otherwise provided for in a declaration recorded pursuant to section 55-1505, a management body may acquire and hold, for the benefit of the condominium owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; the beneficial interest in such personal property shall be owned by the condominium owners in the same proportion as their respective interests in the common areas, and shall not be transferable by such owners except with a transfer of a condominium. A transfer of a condominium shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property. [55-1520, added 1965, ch. 225, sec. 20, p. 515.]

55-1521. Liberal construction of deeds, declarations or plans for condominium projects. Any deed, declaration or plan for a condominium project shall be liberally construed to facilitate the operation of the project, and provisions thereof shall be presumed to be independent and severable. [55-1521, added 1965, ch. 225, sec. 21, p. 515.]

55-1522. Rule against perpetuities and unreasonable restraints on alienation inapplicable. It is expressly provided that the rule of property known as the rule against perpetuities and the rule of property known as the rule restricting unreasonable restraints on alienation shall not be applied to defeat any of the provisions of this act or any condition, conveyance or inheritance consistent herewith. [55-1522, added 1965, ch. 225, sec. 22, p. 515.]

55-1523. Refusal to approve project or record plat forbidden. No city council, board of trustees, or other governing body of the county, town, village or city in which a project is created pursuant to this act shall have the right to refuse acceptance or approval of nor may any county refuse for recordation a plat or plats prepared pursuant to this act solely because a project is or condominiums are thereby created. [55-1523, added 1965, ch. 225, sec. 23, p. 515.]

55-1524. Application of local zoning ordinances. Unless a contrary intent is clearly expressed in local zoning ordinances, such ordinances shall be construed to treat like structures, lots, or parcels in like manner regardless of whether the ownership thereof is divided by sale of condominiums created in a project pursuant to this act, rather than by the lease or other disposition of such structures, lots or parcels on any part or parts thereof. [55-1524, added 1965, ch. 225, sec. 24, p. 515.]

55-1525. "Blue sky law" inapplicable. The provisions of title 26, chapter 18, Idaho Code, shall not apply to the creation, issuance, sale, offer for sale, solicitation of an offer to buy, conveyance, transfer, or other disposition, or encumbrance or other hypothecation, or management, of condominiums or projects created pursuant to this act, or of evidences of membership in or ownership of or stock in any entity created solely to manage the affairs of a project, or to the negotiation or taking of subscriptions in respect of any of the foregoing. [55-1525, added 1965, ch. 225, sec. 25, p. 515.]

55-1526. Legal description that designated on plat or in declaration. Every deed, contract of sale, lease, mortgage or other instrument may legally describe a condominium by its identifying number, symbol, name or other identification or designation as shown on the plat of record or as shown in the declaration, and every such description shall be deemed good and sufficient for all purposes. [55-1526, added 1965, ch. 225, sec. 26, p. 515.]

55-1527. Zoning laws applied where not inconsistent. Except where inconsistent with the provisions or purposes of this act, state and local laws relating to plats, recording, subdivisions or zoning shall apply to condominiums and to projects as herein defined. [55-1527, added 1965, ch. 225, sec. 27, p. 515.]

TITLE 55
PROPERTY IN GENERAL
CHAPTER 16
CORNER PERPETUATION AND FILING

55-1601. Short title. This chapter may be cited as the "Corner Perpetuation and Filing Law." [55-1601, added 1967, ch. 215, sec. 1, p. 647; am. 1993, ch. 206, sec. 1, p. 564.]

55-1602. Declaration of policy. It is the purpose of this chapter to protect and perpetuate public land survey corners and information concerning the location of such corners by requiring the systematic establishment of monuments and filing of information concerning the marking of the location of such public land survey corners and to allow the systematic location of other property corners, thereby providing for property security and a coherent system of property location and identification; and thereby eliminating the repeated necessity for reestablishment and relocations of such corners once they are established and located. [55-1602, added 1967, ch. 215, sec. 2, p. 647; am. 1993, ch. 206, sec. 2, p. 564.]

55-1603. Definitions. Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:

(1) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference points, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(2) "Benchmark" means a material object, natural or artificial, whose elevation is referenced to an adopted datum.

(3) "Board" means the board of licensure of professional engineers and professional land surveyors.

(4) "Control survey" means a survey that provides horizontal or vertical position data for the support or control of subordinate surveys or for mapping.

(5) "Corner," unless otherwise defined, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.

(6) "Establish" means to determine the position of a corner either physically or mathematically.

(7) "Monument" means a physical structure that occupies the exact position of a corner.

(8) "Professional land surveyor" means any person who is authorized by the laws of this state to practice land surveying.

(9) "Property controlling corner" for a property means a public land survey corner, property corner, reference point or witness corner that controls the location of one (1) or more of the property corners of the property in question.

(10) "Property corner" means a geographic point on the surface of the earth, and is on, a part of, and controls a property line.

(11) "Public land survey corner" means any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and

approved under authority delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management.

(12) "Reference point" means a special monumented point that does not occupy the same geographical position as the corner itself, and where the spatial relationship to the corner is recorded, and which serves to locate the corner.

(13) "Witness corner" means a monumented point on a lot line or boundary line of a survey, near a corner, and established in situations where it is impracticable to occupy or monument the corner. [55-1603, added 1967, ch. 215, sec. 3, p. 647; am. 1993, ch. 206, sec. 3, p. 565; am. 1997, ch. 190, sec. 13, p. 526; am. 2008, ch. 378, sec. 27, p. 1046; am. 2011, ch. 136, sec. 13, p. 391.]

55-1604. Filing requirements. A professional land surveyor shall complete, sign, and file with the county clerk and recorder of the county where the corner is situated, a written record of the establishment or restoration of a corner. This record shall be known as a "corner record" and such a filing shall be made for every public land survey corner and accessory to such corner which is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated or used as control in any survey. The survey information shall be filed within ninety (90) days after the survey is completed, unless the corner and its accessories are substantially as described in an existing corner record filed in accordance with the provisions of this chapter.

In lieu of filing as heretofore provided, corner records may be recorded by photographic process in those counties which have such facilities. [55-1604, added 1967, ch. 215, sec. 4, p. 647; am. 1972, ch. 162, sec. 1, p. 363; am. 1993, ch. 206, sec. 4, p. 565.]

55-1605. Filing or Recording. A professional land surveyor may file or record any corner record as to any property controlling corner or accessory to a corner. [55-1605, added 1967, ch. 215, sec. 5, p. 647; am. 1972, ch. 162, sec. 2, p. 363; am. 1993, ch. 206, sec. 5, p. 566; am. 2011, ch. 136, sec. 14, p. 392.]

55-1606. Filing or recording information. The board shall, by regulation, provide and prescribe the information which shall be necessary to be included in the corner record and the board shall prescribe the form in which such corner record shall be presented and filed or recorded. [55-1606, added 1967, ch. 215, sec. 6, p. 647; am. 1972, ch. 162, sec. 3, p. 363.]

55-1607. County clerk to keep record -- Fees. (a) The county clerk and recorder of the county containing the corner shall receive the completed corner record and preserve it in the same manner as any other recorded instruments. Proper indexes shall be kept of such corner records by section, township and range.

(b) The county clerk and recorder shall make these records available for public inspection during all usual office hours.

(c) For purposes of determining the filing fee hereunder, the corner record shall be considered as a similar service to the filing or recording of instruments as provided in section 31-3205, Idaho Code. However, all corners, monuments and their accessories established prior to the effective date of this chapter, for which a written record is completed as required herein, and which are offered for filing or recording within six (6) months of the effective date of this chapter, shall be accepted and filed by the county clerk without requiring the payment of fees therefor. [55-1607, added 1967, ch. 215, sec. 7, p. 647; am. 1972, ch. 162, sec. 4, p. 363; am. 1993, ch. 206, sec. 6, p. 566; am. 1997, ch. 190, sec. 14, p. 527.]

55-1608. Professional Land Surveyor to Reconstruct Monuments. (1) In every case where a corner record of a survey corner is required to be filed or recorded under the provisions of this chapter, the professional land surveyor must reconstruct or rehabilitate the monument of such corner, and accessories to such corner.

(2) Any monument set shall conform to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. If the monument is set by a public officer, it shall be marked by an appropriate official designation.

(3) When nonmetallic corner monuments were set in a survey conducted by an agency of the United States government, the corner location shall be remonumented with a monument conforming to the provisions of section 54-1227, Idaho Code, and shall be surmounted with a cap of such material and size that can be permanently and legibly marked as prescribed by the manual of surveying instructions issued by the United States department of the interior, bureau of land management, including the license number of the professional land surveyor responsible for placing the monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot. [55-1608, added 1967, ch. 215, sec. 8, p. 647; am. 1972, ch. 162, sec. 5, p. 363, am. 1978, ch. 107, sec. 2, p. 224; am. 1993, ch. 206, sec. 7, p. 566; am. 2008, ch. 378, sec. 28, p. 1047; am. 2011, ch. 136, sec. 15, p. 392.]

55-1609. To be signed by professional land surveyor or government agent. No corner record shall be filed or recorded unless the same is signed by a professional land surveyor as defined herein, or, in the case of an agency of the United States government, the certificate may be signed by the survey party chief making the survey. [55-1609, added 1967, ch. 215, sec. 9, p. 647; am. 1972, ch. 162, sec. 6, p. 363; am. 1993, ch. 206, sec. 8, p. 567.]

55-1611. Federal government filings without fees. All federal government surveys performed by authorized personnel of agencies of the federal government shall not be subject to the provisions of this chapter, except that federal agencies may comply with the provisions of the chapter, and shall be exempt from filing fees required in section 55-1607(c), Idaho Code. [55-1611, added 1967, ch. 215, sec. 11, p. 647; am. 1993, ch. 206, sec. 10, p. 567.]

55-1612. Penalty. Professional land surveyors failing to comply with the provisions hereof shall be deemed to be within the purview of section 54-1220, Idaho Code, and shall be subject to disciplinary action as in said section provided. [55-1612, added 1967, ch. 215, sec. 12, p. 647; am. 1989, ch. 103, sec. 1, p. 236; am. 1993, ch. 206, sec. 11, p. 567; am. 1997, ch. 190, sec. 15, p. 528; am. 2008, ch. 378, sec. 29, p. 1047.]

55-1613. Monuments Disturbed by Construction Activities -- Procedure -- Requirements. The physical existence and location of the monuments of property controlling corners and accessories to corners, as well as benchmarks established and points set in control surveys by agencies of the United States government or the state of Idaho, shall be determined by a field search and location survey conducted by or under the direction of a professional land surveyor prior to the time when project construction or related activities may disturb them. Construction documents or plans prepared by professional engineers shall show the existence and location of all such monuments, accessories to corners, benchmarks and points set in control surveys. All monuments, accessories to corners, benchmarks and points set in control surveys

that are lost or disturbed by construction shall be reestablished and remonumented, at the expense of the agency or person causing their loss or disturbance, at their original location or by the setting of a witness corner or reference point or a replacement benchmark or control point, by or under the direction of a professional land surveyor. Professional engineers who prepare construction documents or plans that do not indicate the existence and location of all such monuments, accessories to corners and benchmarks and points set in control surveys by agencies of the United States government or the state of Idaho shall be deemed to be within the purview of and subject to disciplinary action as provided in section 54-1220, Idaho Code. [55-1613, added 1978, ch. 107, sec. 3, p. 224; am. 1993, ch. 206, sec. 12, p. 567; am. 1997, ch. 190, sec. 16, p. 528; am. 2008, ch. 378, sec. 30, p. 1047; am. 2011, ch. 136, sec. 16, p. 393.]

IDAPA 10
TITLE 01
CHAPTER 03

10.01.03 - Rules for Corner Perpetuation and Filing

000. Legal Authority.
As required in Section 55-1606, Idaho Code, the Board of Licensure of Professional Engineers and Professional Land Surveyors hereby establishes these rules for land survey corner perpetuation and filing. (5-8-09)

001. Title And Scope.

01. Title. These rules shall be cited in full as Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.03, "Rules for Corner Perpetuation and Filing." (5-8-09)

02. Scope. These rules include criteria for properly completing corner perpetuation and filing forms as required in Section 55-1604, Idaho Code. (7-1-93)

002. Administrative Appeals.
Persons desiring to contest the actions taken in accordance with these rules shall seek administrative relief under the Attorney General's Rules, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-22-94)

003. Written Interpretations.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency does not have any written interpretations of the rules of this chapter. (7-1-93)

004. Definitions.
Definitions of words and terms contained in these rules shall be the same as those set forth in Section 55-1603, Idaho Code. (7-1-93)

005. Form.
The form to be used in filing corner perpetuations in the state of Idaho shall be substantially the same as that form available from the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, 1510 E. Watertower St., Suite 110, Meridian, Idaho 83642-7993. Clear spaces on the form may be provided as requested and required by County Recorders in order to place recording information in an unobstructed area. The form is not available in quantity from the Board, but one (1) copy will be furnished, upon request, and it may be duplicated or reproduced.

(5-8-09)

006. Completion Of Form.
Prior to filing of the form, the professional land surveyor performing the work shall complete the form in compliance with the requirements set forth in these rules. Additional information, for example latitude and longitude, with datum used, may be included. (5-8-09)

007. Record Of Original Corner.
Information provided in this section shall include the name of the original surveyor and the date or dates on which the original survey was performed and a description of the original monument set. (7-1-93)

008. Description Of Corner Evidence Found.
Information provided in this section shall include a description of any evidence found relating to the original corner. If no evidence is found, the same shall be indicated on the form. (7-1-93)

009. Description Of Monument And Accessories Found Or Established To Perpetuate The Location Of This Corner.
Information provided in this section shall include a description of the monument and accessories found or placed in the current survey as well as the date the work was performed and the true or assumed magnetic declination at the time of the survey of magnetic bearings are used. If magnetic bearings are not used, the professional land surveyor shall indicate the basis of bearing to accessories. (5-8-09**)**

010. Surveyor's Certificate.
The surveyor shall print his name, the license number issued by the Board of Licensure of Professional Engineers and Professional Land Surveyors, and the name of the employer for whom the surveyor is working. (5-8-09)

011. Seal, Signature, Date.
The surveyor shall place an imprint of his professional land surveyor seal, sign it and date it. (7-1-93)

012. Marks On Monument Found Or Set.
The surveyor shall provide a sketch or legible image of the marks found or placed on the monument, if applicable. (5-8-09)

013. Diagram.
The surveyor shall clearly mark on the section diagram the location of the monument found or being established or reestablished in the survey. (5-8-09)

014. Location.
The surveyor shall state the county, section, township, range and the monument location being established or reestablished or found in the survey. (5-8-09)

015. Public Records Act Compliance.
The records associated with the Board are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. (7-1-93)

016. -- 999. (Reserved).

TITLE 55
PROPERTY IN GENERAL
CHAPTER 17
COORDINATE SYSTEM OF LAND DESCRIPTION

55-1701. Establishing Coordinate System – Designating Zones. (1) The system of plane coordinates which has been established by the national ocean service/national geodetic survey, or its successors, for defining and stating the positions or locations of points within the state of Idaho is to be known and designated as the "Idaho coordinate system of 1983." On and after January 1, 1996, only the "Idaho coordinate system of 1983" shall be used.

(2) For the purpose of the use of this system the state is either divided into an "east zone," a "central zone," and a "west zone" or alternatively, a state comprehensive "single zone."

(3) The area included in the following counties shall constitute the east zone: Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton.

(4) The area included in the following counties shall constitute the central zone: Blaine, Butte, Camas, Cassia, Custer, Gooding, Jerome, Lemhi, Lincoln, Minidoka and Twin Falls.

(5) The area included in the following counties shall constitute the west zone: Ada, Adams, Benewah, Boise, Bonner, Boundary, Canyon, Clearwater, Elmore, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Owyhee, Payette, Shoshone, Valley and Washington.

(6) The area included within the boundaries of the state of Idaho shall constitute the single zone. [55-1701, added 1967, ch. 275, sec. 1, p. 771; am. 1995, ch. 70, sec. 1, p. 179; am. 2010, ch. 256, sec. 3, p. 651.]

55-1702. Zone References. (1) As established for use in the east zone, the Idaho coordinate system of 1983 shall be named, and in any document in which it is used it shall be designated the "Idaho coordinate system of 1983, east zone."

(2) As established for use in the central zone, the Idaho coordinate system of 1983 shall be named, and in any document in which it is used it shall be designated the "Idaho coordinate system of 1983, central zone."

(3) As established for use in the west zone, the Idaho coordinate system of 1983 shall be named, and in any document in which it is used it shall be designated the "Idaho coordinate system of 1983, west zone."

(4) As established for use in the single zone, the Idaho coordinate system of 1983 shall be named, and in any document in which it is used it shall be designated the "Idaho coordinate system of 1983, single zone." [55-1702, added 1967, ch. 275, sec. 2, p. 771; am. 1995, ch. 70, sec. 2, p. 179; am. 2010, ch. 256, sec. 4, p. 652.]

55-1703. Plane Coordinates. The plane coordinates to be used in expressing the position or location of a point in the appropriate zone of this system, shall consist of two (2) distances expressed in meters and decimals of a meter or in United States survey feet and decimals of a foot when using the Idaho coordinate system of 1983. For conversion purposes, one (1) United States survey foot equals one thousand two hundred (1,200) divided by three thousand nine hundred thirty-seven (3,937) meters. One (1) of these distances, to be known as "northing" or "N" shall give the position in a north-and-south direction; the other, to be known as the "easting" or "E" shall give the position in an east-and-west direction. These coordinates shall be made to depend upon and conform to the plane rectangular coordinate values of the national spatial reference system as maintained and provided by the national ocean service/national

geodetic survey or its successors. [55-1703, added 1967, ch. 275, sec. 3, p. 771; am. 1995, ch. 70, sec. 3, p. 180; am. 2010, ch. 256, sec. 5, p. 652.]

55-1704. Documents Reporting Coordinates Within Two Zones. When any document reports coordinates that lie within two (2) coordinate zones, the coordinates of all points shall refer to one (1) of the zones which shall be named in the document. [55-1704, added 1967, ch. 275, sec. 4, p. 771; am. 2010, ch. 256, sec. 6, p. 652.]

55-1705. Zone Definitions. For the purpose of more precisely defining the Idaho coordinate system of 1983, the following definitions are adopted:

(1) The Idaho coordinate system of 1983, east zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian 112°10' west of Greenwich, which meridian has a reduced scale of one (1) part in nineteen thousand (19,000). The origin of coordinates is at the intersection of the meridian 112°10' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: N=0 meters and E=200,000 meters.

(2) The Idaho coordinate system of 1983, central zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian 114°00' west of Greenwich, which meridian has a reduced scale of one (1) part in nineteen thousand (19,000). The origin of coordinates is at the intersection of the meridian 114°00' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: N=0 meters and E=500,000 meters.

(3) The Idaho coordinate system of 1983, west zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian 115°45' west of Greenwich, which meridian has a reduced scale of one (1) part in fifteen thousand (15,000). The origin of coordinates is at the intersection of the meridian 115°45' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: N=0 meters and E=800,000 meters.

(4) The Idaho coordinate system of 1983, single zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian 114°00' west of Greenwich, which meridian has a reduced scale of one (1) part in two thousand five hundred (2,500). The origin of coordinates is at the intersection of the meridian 114°00' west of Greenwich and the parallel 42°00' north latitude. This origin is given the coordinates: N=1,200,000 meters and E=2,500,000 meters. [55-1705, added 1967, ch. 275, sec. 5, p. 771; am. 1995, ch. 70, sec. 4, p. 180; am. 2010, ch. 256, sec. 7, p. 653.]

55-1708. Coordinate Descriptions Supplemental. Whenever coordinates based on the Idaho coordinate system are used to describe any tract of land which in the same document is also described by reference to any subdivision, line or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line or corner contained in the official plats and field notes of the United States public land surveys filed of record, and in the event of any conflict the description by reference to the subdivision, line or corner of the United States public land surveys shall prevail over the description by coordinates unless said coordinates are upheld by adjudication, at which time the coordinate description shall prevail. Every recorded map, survey or conveyance or other instrument affecting title to real property which delineates, describes or refers to such property or any part thereof by reference to coordinates based upon the designated Idaho coordinate system shall also describe the property by reference and tie to either section

corner or quarter corner monuments of the United States public land surveys. [55-1708, added 1967, ch. 275, sec. 8, p. 771; am. 1995, ch. 70, sec. 7, p. 182; am. 2010, ch. 256, sec. 10, p. 654.]

55-1709. Description by Coordinate Not Mandatory. Nothing contained in this chapter shall require any purchaser or mortgagee of real property to rely wholly on a land description, any part of which depends exclusively upon the designated Idaho coordinate system. [55-1709, added 1967, ch. 275, sec. 9, p. 771; am. 1995, ch. 70, sec. 8, p. 183.]

TITLE 55
PROPERTY IN GENERAL
CHAPTER 19
RECORDING OF SURVEYS

55-1901. Purpose. The purpose of this chapter is to provide a method for preserving evidence of land surveys by providing for a public record of surveys. The provisions shall be deemed supplementary to existing laws relating to surveys, subdivisions, platting and boundaries. [55-1901, added 1978, ch. 107, sec. 1, p. 221.]

55-1902. Definitions. As used in this chapter:

(1) "Basis of bearing" means the bearing in degrees, minutes and seconds, or equivalent, of a line between two (2) monuments or corners which serves as the reference bearing for all other lines on the survey.

(2) "Corner" unless otherwise defined, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.

(3) "GPS" is the abbreviation for global positioning system which is satellite surveying based on observations of the electromagnetic signals broadcast from the U.S. department of defense's NAVSTAR GPS system.

(4) "Idaho coordinate system" shall mean that system of plane coordinates as established and designated by chapter 17, title 55, Idaho Code.

(5) "Land survey" means measuring the field location of corners that:

(a) Determine the boundary or boundaries common to two (2) or more ownerships;

(b) Retrace or establish land boundaries;

(c) Retrace or establish boundary lines of public roads, streets, alleys or trails; or

(d) Plat lands and subdivisions thereof.

(6) "Monument" is a physical structure or object that occupies the exact position of a corner.

(7) "Property controlling corner" for a property is a public land survey corner, property corner, reference point or witness corner that controls the location of one (1) or more of the property corners of the property in question.

(8) "Property corner" is a geographic point on the surface of the earth, and is on, a part of, and controls a property.

(9) "Public land survey corner" is any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management.

(10) "Reference point" means a special monumented point that does not occupy the same geographical position as the corner itself, and where the spatial relationship to the corner is known and recorded, and that serves to locate the corner.

(11) "Surveyor" shall mean every person authorized by the state of Idaho to practice the profession of land surveying. [55-1902, added 1978, ch. 107, sec. 1, p. 221; am. 1997, ch. 190, sec. 17, p. 529; am. 2004, ch. 83, sec. 1, p. 311; am. 2011, ch. 136, sec. 17, p. 394.]

55-1903. Compliance with chapter required. Any surveyor legally engaged in the practice of land surveying shall comply with the provisions of this chapter. [55-1903, added 1978, ch. 107, sec. 1, p. 222.]

55-1904. Records of Survey – When Filing Required. After making a land survey in conformity with established principles of land surveying, a surveyor shall file a record of survey with the county recorder in the county or counties wherein the lands surveyed are situated. A record of survey shall be filed within ninety (90) days after completing any survey which:

(1) Discloses a material discrepancy with previous surveys of record;

(2) Establishes boundary lines and/or corners not previously existing or of record;

(3) Results in the setting of monuments at corners of record which were not previously monumented;

(4) Produces evidence or information which varies from, or is not contained in, surveys of record relating to the public land survey, lost public land corners or obliterated land survey corners; or

(5) Results in the setting of monuments that conform to the requirements of section 54-1227, Idaho Code, at the corners of an easement or lease area. [55-1904, added 1978, ch. 107, sec. 1, p. 222; am. 2006, ch. 136, sec. 1, p. 391; am. 2011, ch. 136, sec. 18, p. 394.]

55-1905. Records of survey -- Filing. The records of survey to be filed under authority of this chapter shall be processed as follows:

(1) The record of survey shall be a map, prepared in black opaque image upon stable base drafting film with a minimum base thickness of .003 inches by either a photographic process using a silver image emulsion or by use of black opaque drafting film ink, by mechanical or handwritten means. The drafting film and image thereon shall be waterproof, tear resistant, flexible and capable of withstanding repeated handling, as well as providing archival permanence. If ink is used on drafting film, the ink surface shall be coated with a suitable substance to assure permanent legibility. The drafting film must be of a type which can be reproduced by either a photographic or diazo process. The map shall be eighteen (18) inches by twenty-seven (27) inches in size, with a three and one-half (3 1/2) inch margin at the left end for binding, and a one-half (1/2) inch margin on all other edges. No part of the drawing or certificates shall encroach upon the margins. Signatures shall be in reproducible black ink. The sheet or sheets which contain the drawing or diagram representing the survey shall be drawn at a scale suitable to insure the clarity of all lines, bearings and dimensions. In the event that any survey is of such magnitude that the drawing or diagram cannot be placed on a single sheet, serially numbered sheets shall be prepared and match lines shall be indicated on the drawing or diagram with appropriate references to other sheets.

(2) The original transparency and one (1) legible print of each record of survey shall be furnished to the county recorder in the county or counties in which the survey is to be recorded. [55-1905, added 1978, ch. 107, sec. 1, p. 222; am. 1997, ch. 190, sec. 18, p. 530.]

55-1906. Records of survey -- Contents. The records of survey shall show:

(1) All monuments found or set or reset or replaced, or removed, describing their kind, size, location using bearings and distances, and giving other data relating thereto;

(2) Evidence of compliance with chapter 16, title 55, Idaho Code, including instrument numbers of any corner records which have been recorded previously and corner records of any corners which are set in conjunction with the survey being submitted; basis of bearings, bearing and length of lines, scale of map, and north arrow;

(3) Section, or part of section, township and range in which the survey is located and reference to surveys of record within or crossing or adjoining the survey;

(4) Certificate of survey;

(5) Ties to at least two (2) public land survey corner monuments of record in one (1) or more of the sections containing the record of survey, or in lieu of public land survey corners, to two (2) corners of records recognized by the county surveyor. Records of survey which are within previously platted subdivisions of record need not be tied to public land survey corner monuments. [55-1906, added 1978, ch. 107, sec. 1, p. 223; am. 1997, ch. 190, sec. 19, p. 530; am. 2004, ch. 83, sec. 2, p. 312.]

55-1907. Coordinates -- Basis. When coordinates in the Idaho coordinate system are shown on a record of survey map, subdivision plat or a highway right-of-way plat, the map or the plat must show the national spatial reference system monuments and their coordinates used as the basis of the survey; the zone; the datum and adjustment; and the combined adjustment factor and the convergence angle and the location where they were computed. [55-1907, added 1978, ch. 107, sec. 1, p. 223; am. 1997, ch. 190, sec. 20, p. 531; am. 2010, ch. 256, sec. 11, p. 654.]

55-1908. When Record of Survey Not Required. A record of survey is not required of any survey when:

(1) It is of a preliminary nature;

(2) A map is in preparation for recording or has been recorded under any other section of the Idaho Code, or pursuant to the laws of the United States;

(3) A survey is performed for a mineral claim location, amendment or relocation; or

(4) None of the conditions contained in section 55-1904, Idaho Code, exist and the principal purpose of the survey is to depict information other than the points of lines that define boundaries including, but not limited to, topographic surveys and construction surveys, staking and layout. [55-1908, added 1978, ch. 107, sec. 1, p. 223; am. 2011, ch. 136, sec. 19, p. 395.]

55-1909. Filing fee. A fee of five dollars ($5.00) per page shall be charged for filing any record of survey. [55-1909, added 1978, ch. 107, sec. 1, p. 223; am. 1979, ch. 289, sec. 1, p. 768.]

55-1910. Duties of county recorder. The record of survey filed with the county recorder of any county shall be assigned an instrument number and shall be bound or filed with other plats of like character in a book or file or through an approved electronic storage system designated as "Records of Surveys."

Proper indexes or electronic segregated searchable and retrieval files shall be kept of such record of survey by section, township and range.

The survey map transparency shall be stored for safekeeping in a reproducible condition. It shall be proper for the recorder to maintain for public reference a set of counter maps that are prints of the transparencies. The transparencies shall be produced for comparison upon demand, and full scale copies shall be made available to the public, at direct cost, by the county recorder. [55-1910, added 1978, ch. 107, sec. 1, p. 223; am. 2005, ch. 243, sec. 10, p. 761.]

55-1911. Error of Closure. Any survey of land involving property boundaries including, but not limited to, public land survey lines, shall be conducted in such a manner as to produce an unadjusted mathematical error of closure of each area bounded by property lines within the survey of not more than one (1) part in five thousand (5,000). [55-1911, added 1984, ch. 263, sec. 1, p. 637; am. 2011, ch. 136, sec. 20, p. 395.]

TITLE 40
HIGHWAYS AND BRIDGES
CHAPTER 2
GENERAL PROVISIONS

40-209.Highway Right-of-Way Plats. (1) A public highway agency may file in the office of the county recorder a highway right-of-way plat. The highway right-of-way plat shall show by outline and identify by parcel number, parcels of land to be acquired and shall be prepared in conformance with sections 55-1905 through 55-1907, Idaho Code. The recording of a highway right-of-way plat as provided in this section shall not excuse a county or highway district from the requirements of abandonment or validation of a public highway or public right-of-way as provided in sections 40-203 and 40-203A, Idaho Code. The highway right-of-way plat shall contain the following:

(a) Project name and number;

(b) The location and monumentation of the points where the right-of-way changes direction by angle point or curvature and its intersection with any public highway, street or trail right-of-way and all witness corners and reference points. All points shall be marked with magnetically detectable monuments conforming to the provisions of section 54-1227, Idaho Code, unless special circumstances preclude use of such monument. Monuments shall be marked such that measurements between them may be made to the nearest one-tenth (0.1) foot;

(c) An outline showing the boundary of each parcel of land to be acquired based on ownership records and the right-of-way location survey;

(d) An identifying parcel number and the area for each parcel of land to be acquired;

(e) Acknowledgement of authorized agent of the public highway agency filing said plat;

(f) Certificate of land surveyor under whose responsible charge the plat is prepared.

(2) The highway right-of-way plat filed with the county recorder of any county shall be assigned an instrument number and shall be bound or filed with other plats of like character in a book on file designated "Highway Right-of-Way Plats."

(3) Any amendments, alterations, rescissions or changes in a highway right-of-way plat shall comply with subsection (1) of this section and shall be filed in a like manner. The recorder may make suitable notations on the appropriate highway right-of-way plat affected by the amendment, alteration, rescission or change to direct the attention of anyone examining the record to the proper plat.

(4) Highway right-of-way plats filed under this section shall not operate to transfer title to the real property described therein but such plat shall be used for delineation purposes. Acquisition of real property for highway right-of-way by conveyance or judicial decree may refer to said highway right-of-way plat, project number and parcel identification number, together with delineation of the parcel as a valid description of the real property for all purposes.

(5) The agency making the initial filing in a county shall reimburse the county recorder the actual cost of the plat book required in subsection (2) of this section. [40-209, added 1994, ch. 364, sec. 2, p. 1140; am. 2011, ch. 136, sec. 5, p. 385.]

TITLE 31
COUNTIES AND COUNTY LAW
CHAPTER 27
COUNTY SURVEYOR

31-2709. Surveys must conform to United States manual. No surveys or resurveys hereafter made shall be considered legal evidence in any court within the state, except such surveys as are made in accordance with the United States manual of surveying instructions, the circular on restoration of lost or obliterated corners and subdivisions of sections, issued by the general land office, or by the authority of the United States, the state of Idaho, or by mutual consent of the parties. [(31-2709) 1897, p. 19, sec. 1; reen. 1899, p. 295, sec. 1; reen. R.C. & C.L., sec. 2095; C.S., sec. 3674; I.C.A., sec. 30-2209; am. 1963, ch. 90, sec. 4, p. 286.]

67-2320. Professional service contracts with design professionals, construction managers and professional land surveyors. (1) Notwithstanding any other provision of law to the contrary, it shall be the policy of this state that all public agencies and political subdivisions of the state of Idaho and their agents shall make selections for professional engineering, architectural, landscape architecture, construction management and professional land surveying services, including services by persons licensed pursuant to chapters 3, 12, 30 and 45, title 54, Idaho Code, on the basis of qualifications and demonstrated competence and shall negotiate contracts or agreements for such services on the basis of demonstrated competence and qualifications for the type of services required at fair and reasonable prices.

(2) In carrying out this policy, public agencies and political subdivisions of the state shall use the following minimum guidelines in securing contracts for engineering, architectural, landscape architecture, construction management and land surveying services on projects for which the professional service fee is anticipated to exceed the total sum of twenty-five thousand dollars ($25,000), excluding professional services contracts previously awarded for an associated or phased project, and the expenditure is otherwise exempt from the bidding process provided by law:

(a) Encourage persons or firms engaged in the services being solicited to submit statements of qualifications and performance data;

(b) Establish and make available to the public the criteria and procedures used for the selection of qualified persons or firms to perform such services;

(c) Select the persons or firms whom the public agency or political subdivision determines to be best qualified to provide the required services, ranked in order of preference, pursuant to the public agency or political subdivision's established criteria and procedures;

(d) Negotiate with the highest ranked person or firm for a contract or agreement to perform such services at a price determined by the public agency or political subdivision to be reasonable and fair to the public after considering the estimated value, the scope, the complexity and the nature of the services;

(e) When unable to negotiate a satisfactory contract or agreement, formally terminate negotiations and undertake negotiations with the next highest ranked person or firm, following the procedure prescribed in subsection (2)(d) of this section;

(f) When unable to negotiate a satisfactory contract or agreement with any of the selected persons or firms, continue with the selection and negotiation process provided in this section until a contract or agreement is reached;

(g) When public agencies or political subdivisions solicit proposals for engineering, architectural, landscape architecture, construction management or land surveying services for which the professional service fee is anticipated to exceed the total sum of twenty-five thousand dollars ($25,000), they shall publish public notice in the same manner as required for bidding of public works construction projects.

(h) In fulfilling the requirements of subsections (2)(a) through (2)(g) of this section, a public agency or political subdivision may limit its selection from a list of three (3) persons or firms selected and preapproved for consideration by the public agency or political subdivision. In establishing a preapproved list a public agency or political

subdivision shall publish notice as set forth in subsection (2)(g) of this section. When selecting from such list, no notice shall be required.

(i) In fulfilling the requirements of subsections (2)(a) through (2)(g) of this section, a public agency or political subdivision may request information concerning a person's or firm's rates, overhead and multipliers, if any, however such information shall not be used by the public agency or political subdivision for the purpose of ranking in order of preference as required in subsection (2)(c) of this section.

(3) In securing contracts for engineering, architectural, landscape architecture, construction management or land surveying services on projects for which the professional service fee is anticipated to be less than the total sum of twenty-five thousand dollars ($25,000), the public agency or political subdivision may use the guidelines set forth in paragraphs (a) through (g) of subsection (2) of this section or establish its own guidelines for selection based on demonstrated competence and qualifications to perform the type of services required, followed by negotiation of the fee at a price determined by the public agency or political subdivision to be fair and reasonable after considering the estimated value, the scope, the complexity and the nature of services.

(4) When a public agency or political subdivision of the state has previously awarded a professional services contract to a person or firm for an associated or phased project the public agency or political subdivision may, at its discretion, negotiate an extended or new professional services contract with that person or firm.

(5) (a) For the purposes of this section, "public agency" shall mean the state of Idaho and any departments, commissions, boards, authorities, bureaus, universities, colleges, educational institutions or other state agencies which have been created by or pursuant to statute other than courts and their agencies and divisions, and the judicial council and the district magistrate's commission;

(b) For the purposes of this section, "political subdivision" shall mean a county, city, airport, airport district, school district, health district, road district, cemetery district, community college district, hospital district, irrigation district, sewer district, fire protection district, or any other district or municipality of any nature whatsoever having the power to levy taxes or assessment, organized under any general or special law of this state. The enumeration of certain districts herein shall not be construed to exclude other districts or municipalities from this definition. [67-2320, added 1984, ch. 188, sec. 1, p. 438; am. 1998, ch. 410, sec. 4, p. 1273.]

IDAPA 10
TITLE 01
CHAPTER 04

10.01.04 - Rules of Continuing Professional Development

000. Legal Authority.
These rules are promulgated as authorized by Section 54-1208(1), Idaho Code. (7-1-99)

001. Title And Scope.

01. Title. These rules shall be cited in full as Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.04, "Rules of Continuing Professional Development." (5-8-09)

02. Scope. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Continuing Professional Development, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a license to practice as a Professional Engineer or a Professional Land Surveyor, or both. Each Licensee under the laws of the state of Idaho is charged with being familiar with these rules and knowledgeable in their application to the practice of engineering or land surveying or both. Every Licensee shall meet the continuing professional development requirements of these rules as one of the conditions for license renewal. If an individual is licensed to practice both engineering and land surveying the individual must comply with the requirements of these rules in regard to each profession. Some activities as defined herein may qualify as continuing professional development for both professions and may be included in the log for each profession. These rules shall not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Licensee to Board action pursuant to Chapter 12, Title 54, Idaho Code. (5-8-09)

002. Administrative Appeals.
Persons desiring to contest the actions taken in accordance with these rules shall seek administrative relief under the Attorney General's Rules, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (7-1-99)

003. Written Interpretations.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost in the main office of this agency. (7-1-99)

004. Definitions.
For the purposes of these rules, the following terms are used as defined below: (7-1-99)

01. College Semester or Quarter Credit Hour. Credit for college courses. (7-1-99)

02. Continuing Education Unit (CEU). Unit of credit customarily used for continuing education courses. One (1) continuing education unit equals ten (10) hours of class in an approved continuing education course. (7-1-99)

03. Professional Development Hour (PDH). A contact hour (minimum of fifty (50) minutes) of instruction or presentation. The common denominator for other units of credit. (7-1-99)

04. Activity. Any qualifying action with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice or practices. Routine job assignments are not considered qualified activities. (3-29-12)

05. Licensee. A person who is licensed to practice as a professional engineer or professional land surveyor or both. (5-8-09)

06. Board. The Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors. (5-8-09)

07. Documented Self-Study. Documented study of professional/technical journals, published papers, articles, books, software or other areas of training which increase knowledge of the technology above and beyond routine job assignments. (5-8-09)

08. Active Participation. Serving as an officer or committee chair at either the national, state or local (section or chapter) level. (5-8-09)

005. Requirements.

Every Licensee is required to obtain thirty (30) PDH units during the renewal period biennium (beginning on the first day of the month following the month in which the Licensee was born). Alternatively, the licensee may choose to obtain thirty (30) PDH units cumulative during the two (2) calendar years which are closest to the renewal period biennium. If a Licensee exceeds the biennial requirement in any renewal period or earns PDH's during a period in which he is exempt, a maximum of thirty (30) PDH units may be carried forward into the subsequent renewal period. If the exemption is for the "First Renewal Period" (see Rule 009.01), then at any time in the full biennium before this first license renewal the licensee may earn up to 30 PDHs to carry forward into their second renewal period following licensure. If the licensee chooses to use the calendar year basis, PDH's in excess of thirty (30) cumulative in two (2) years, or PDH's earned during a period in which he is exempt, can be carried forward to the next two (2) year calendar period, not to exceed thirty (30) PDH's carried forward to the next two (2) year calendar period. PDH units may be earned in the following activities, however, PDH units must come from two (2) or more activities. (3-29-12)

01. Successful Completion of College Credits. (7-1-99)

02. Successful Completion of Continuing Education Units. (7-1-99)

03. Successful Completion of Other Courses. Correspondence, televised, videotaped, and other short courses/tutorials for which college credits or CEU's are awarded. (7-1-99)

04. Attending Qualifying Seminars. Attending qualifying seminars, in-house courses, workshops, or technical or professional presentations made at meetings, conventions, or conferences. (7-1-99)

05. Teaching or Instructing. Teaching or instructing in Subsections 005.01 through 005.04 above, above and beyond routine job assignments. (7-1-99)

06. Authoring Published Papers, Articles, or Books. (7-1-99)

07. Membership in Technical or Professional Organizations. (7-1-99)

08. Active Participation in Technical or Professional Organizations. (7-1-99)

09. Patents. (7-1-99)

10. Presentations to Technical, Professional or Civic Organizations. (7-1-99)

11. Documented Self Study. (5-8-09)

006. Units.
The conversion of other units of credit to PDH (Professional Development Hour) units is as follows:

1 College semester credit hour equals	45 PDH
1 College quarter credit hour equals	30 PDH
1 Continuing Education Unit equals	10 PDH
1 Hour of attendance in course work, seminars, or technical or professional presentations made at meetings, conventions, or conferences equals	1 PDH
Teaching the above, above and beyond normal job assignments, apply multiple of 2 for teaching the first time only	
Each published technical or professional paper, article or book chapter not to exceed a total of 10 PDH's per year, above and beyond normal job assignments	5 PDH per paper, article or book chapter
Each peer review of a published technical or professional paper, article, or book chapter not to exceed a total of 6 PDH's per year, above and beyond normal job assignments	3 PDH per paper, article, or book chapter
Membership in technical or professional organizations (Maximum of two organizations) equals	1 PDH per year per organization
Active participation in technical or professional organizations (Maximum of two organizations) equals	1 PDH per year per organization
Each patent not to exceed per year	5 PDH
Presentations to technical, professional or civic organizations, first presentation only, equals	2 PDH per hour of presentation
Documented self-study not to exceed	3 PDH per year at the rate of ½ PDH per hour of self-study

(3-29-12)

007. Determination Of Credit.
With the exception of those seminars and courses of continuing professional development offered by an organization registered with the Registered Continuing Education Providers Program of the National Council of Examiners for Engineering and Surveying, which are preapproved, the Board will not pre-approve activities as qualifying for continuing professional development, but has final authority to judge the PDH value for all activities submitted to fulfill continuing professional development requirements. (5-8-09)

008. Record Keeping.

Maintenance of records to support credits claimed is the responsibility of the Licensee. Records required include, but are not limited to: (7-1-99)

01. Log. A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned. Time sheets or expense sheets signed by the Licensee documenting the Continuing Professional Development activity claimed (sponsoring organization, location, duration, instructor's or speaker's name), time and/or expense related thereto, and claimed PDH credits earned shall be an acceptable log; and (5-8-09)

02. Attendance Verification. Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; or (7-1-99)

03. Records. Records may be maintained by a repository for same. (5-8-09)

04. Documented Self-Study. In order to qualify in this category, the licensee must prepare and retain an abstract of the material studied, the date the activity occurred and the number of PDH's claimed, and a bibliographic reference of the material studied. A photocopy of pertinent parts of the material studied, annotated with the date the activity occurred and the number of PDH's claimed, shall be deemed to meet this requirement.

(5-8-09)

05. Record Retention. All continuing professional development records must be maintained for a period of six (6) years and copies must be provided to the Board upon request for audit purposes. (5-8-09)

009. Exemptions.

A Licensee may be exempt from the continuing professional development requirements for one (1) of the following reasons: (7-1-99)

01. First Renewal Period. New Licensees by way of examination or comity shall be exempt from compliance with these rules during the time between issuance of the license and the due date of their first renewal following the issuance of the license. (5-8-09)

02. Active Duty in the Armed Forces. A Licensee serving on active duty in the armed forces of the United States or a civilian deployed with the military, and temporarily assigned duty at a location other than their normal home station for a period of time exceeding one hundred twenty (120) consecutive days in a renewal period or the two (2) calendar year period closest to the renewal biennium shall be exempt from obtaining the professional development hours required during that renewal period or the two (2) calendar year period closest to the renewal biennium. (3-29-12)

03. Extenuating Circumstances. A Licensee experiencing physical disability, serious illness, or other extenuating circumstances accepted by the board. (7-1-99)

04. Retired and Receiving No Remuneration. A Licensee who has chosen and qualified for the "Retired" status and who further certifies that they are no longer receiving any remuneration from providing professional engineering or professional land surveying services shall be exempt from the professional development hours required. In the event such a person

elects to return to active practice of professional engineering or professional land surveying, professional development hours must be earned before returning to active practice for each biennium or the two (2) calendar year period closest to the renewal biennium exempted not to exceed the requirement for two (2) bienniums or four (4) calendar years. (5-8-09)

05. Expired License. A Licensee who has chosen to allow his license to expire shall be exempt from the professional development hours required. In the event such a person elects to reactivate the license, professional development hours must be earned and documented before reinstating the license for each biennium or two (2) calendar years exempted not to exceed the requirement for two (2) bienniums or four (4) calendar years. (5-8-09)

06. Renewal Period Following Adoption of These Rules as They Are Amended to Include Professional Engineers. All professional engineers shall be exempt from compliance with these rules during the time between the effective date of this subsection and the due date of their first renewal following the effective date of this subsection. (5-8-09)

07. Licensees Residing Outside the United States of America. Licensees employed and residing outside the United States may delay the time required for fulfilling the continuing professional development requirements for a maximum of two (2) biennia or four (4) calendar years until the end of the six (6) month period beginning upon their return to the United States. This subsection shall not apply to permanent non-residents of the United States. (4-4-13)

010. Comity/Out-Of-Jurisdiction Residents.
The CPD requirements for non-resident licensees shall be the same as that for resident licensees. (7-1-99)

011. -- 998. (Reserved).

999. Severability.
The rules governing this chapter are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (7-1-99)

IDAPA 10
TITLE 01
CHAPTER 01

IDAPA 10 - IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10.01.01 - Rules of Procedure

000. Legal Authority.
These rules are promulgated as authorized by Section 54-1208(1), Idaho Code. (7-1-93)

001. Title And Scope.

01. Title. These rules shall be cited in full as the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.01, "Rules of Procedure." (5-8-09)

02. Scope. These rules include procedures of the Board on matters relating to written interpretations, the office of the Board, filing of documents, rulemaking, contested cases, meetings, order of business, officers and committees, fees, reissuance of certificates, publications, seals, certificates, applications, examinations, reexaminations, licensees or certificate holders of other states and boards, board quorum, right to publish disciplinary actions, requirements to be considered "exceptional" under Section 54-1223(2), Idaho Code. Administrative appeals, public records act compliance, inclusive gender, and severability. (5-8-09)

002. (Reserved).

003. Written Interpretations.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost in the main office of this agency. (7-1-93)

004. Office -- Office Hours -- Mailing Address And Street Address -- Telephone Numbers.
The office of the Board shall be at 1510 E. Watertower St., Suite 110, Meridian, Idaho 83642-7993. Normal office hours shall be from 7 a.m. to 4 p.m., Monday through Friday, except holidays as recognized by the state of Idaho. The mailing address shall be the same as the street address. The telephone number shall be (208) 373-7210. The telephone number for the facsimile machine shall be (208) 373-7213. The telephone number for the TDD relay shall be 1-800-377-3529.

(4-11-06)

005. Filing Of Documents -- Number of Copies.
All documents in rulemaking or contested cases must be filed with the Executive Director of the Board. Unless otherwise specifically required, only the original document must be filed. (4-5-00)

006. Rulemaking.
All matters relating to rulemaking by the Board shall be in accordance with the Attorney General's Rules, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-22-94)

007. Contested Cases.
All matters relating to contested cases before the Board shall be in accordance with the Attorney General's Rules, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-22-94)

008. Meetings.
The annual meeting of the Board shall be held in June. Other regular meetings shall be held at such times and places as the Board may designate. The Chairman may call special meetings when deemed necessary and shall call special meetings upon the written request of three (3) members of the Board. The Executive Director shall notify members in writing, at least ten (10) days in advance of the date, time and place of each meeting, and shall also provide appropriate public notice of each meeting. (4-5-00)

009. Order Of Business.

01. Agenda Titles and Sequence. Order of Business shall be as follows: (7-1-93)

a. Reading of minutes. (7-1-93)

b. Review and approval of consent agenda. (3-30-01)

c. Unfinished business. (7-1-93)

d. New business. (7-1-93)

e. Consideration of applications. (3-30-01)

f. Consideration of disciplinary matters. (3-30-01)

g. Adjournment. (7-1-93)

02. Governing by Roberts Rules of Order. Roberts Rules of Order shall govern procedure of the Board except as otherwise provided by these rules. (7-1-93)

010. Officers And Committees.

01. Duties of Chairman. The Chairman shall be the executive head of the Board and shall: preside at meetings; appoint committees; perform all duties pertaining to the office of the Chairman. (7-1-93)

02. Duties of Vice Chairman. The Vice Chairman shall, in the absence or incapacity of the Chairman, exercise the duties and possess all the powers of the Chairman. (7-1-93)

03. Duties of Secretary. The Secretary shall, with the assistance of the Executive Director and staff, and under the direction of the Board, perform the following functions and duties: (4-5-00)

a. Keep correct minutes of the Board**;** (7-1-93)

b. Furnish a copy of all minutes to each member of the Board; (7-1-93)

c. Send written notice of regular and special meetings of the Board to each Board member not less than ten (10) days in advance thereof, as well as provide appropriate public notice; (7-1-93)

d. Review each application for licensure or certification for essential data prior to consideration thereof by the Board; (5-8-09)

e. Verify qualifications, experience and character of the applicants; (7-1-93)

f. Make arrangements for examinations, interviews and hearings; (7-1-93)

g. Report to the Board members the results of every examination and other evidence of qualifications, with recommendations to the Board; (7-1-93)

h. Assist in the investigations of complaints and charges and arrange for hearings by the Board;

(7-1-93)

i. Prepare and present the required annual report and roster as the Board may direct**;** (7-1-93)

j. Keep all records, including minutes, register of applicants for licensure and the roster of licensees and certificate holders; (5-8-09)

k. Attend to all official correspondence of the Board; (7-1-93)

l. Perform all other duties prescribed by the Act as directed by the Board; and (7-1-93)

m. Otherwise perform all the duties normally pertaining to the Office of Secretary. (7-1-93)

04. Duties and Qualifications of Executive Director. The Executive Director of the Board of Licensure of Professional Engineers and Professional Land Surveyors shall: (5-8-09)

a. Not be a member of the Board. (7-1-93)

b. Be a licensed professional engineer or professional land surveyor in the state of Idaho and possess other qualifications required for members of the Board. (5-8-09)

c. Hold office at the pleasure of the Board. (7-1-93)

d. Receive such compensation as the Board may determine. (7-1-93)

e. Perform such other duties as may from time to time be assigned by the Board. (7-1-93)

05. Surety Bond. To comply with the requirements of Section 41-3502, Idaho Code, state officials and state employees are covered by blanket bond with the premium prorated to the several departments and agencies. The portion of cost prorated to the Board of Licensure of Professional Engineers and Professional Land Surveyors shall be paid from the "Professional Engineers and Land Surveyors" Fund. (5-8-09)

06. Committees. Regular and special committees of the Board shall perform the duties assigned to them and shall present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. A special voluntary committee from the public, which may include members of the Board, may be formed to render special services as the Board may assign to them. (7-1-93)

011. Fees.

01. Applications and Renewals. All fees shall be set by the Board in the following categories and shall in no event be more than the amount specified in Sections 54-1213, 54-1214, 54-1216, 54-1219 and 54-1223, Idaho Code. Fees are not refundable. (4-5-00)

a. Licensure as a professional engineer or professional land surveyor by examination. (5-8-09)

b. Certification as an engineer intern or land surveyor intern by examination.(5-8-09)

c. Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying. (3-15-02)

d. Applications for reexamination in professional engineering, professional land surveying, engineer intern or land surveyor intern. (5-8-09)

e. Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns and business entities. (5-8-09)

f. Licensure for professional engineers or professional land surveyors by comity. (5-8-09)

02. Late or Denied Renewals. Failure on the part of any licensee or business entity to renew their license or certificate of authorization prior to their expiration shall not deprive such persons or business entity of the right of renewal, but the fees to be paid for renewal after their expiration shall be increased as prescribed in Section 54-1216, Idaho Code. (3-29-10)

03. Reexaminations. Separate fees will be assessed for each examination and such fees shall accompany all applications for examination for professional engineers, professional land surveyors, engineer interns, and land surveyor interns. (5-8-09)

04. Schedule of Fees. The schedule of fees as determined by the Board shall be furnished to applicants with application forms. (7-1-93)

012. Reissuance Of Certificates.
A new certificate of licensure or authorization, to replace any certificate lost, destroyed or mutilated, may be issued upon written certification of the loss and payment of fee of ten dollars ($10). (5-8-09)

013. Publications.

01. Annual Report. An annual report shall be submitted to the governor, the contents of which shall comply with the provisions of Section 54-1210, Idaho Code. (7-1-93)

02. Roster. A roster of professional engineers, professional land surveyors, engineer interns, land surveyor interns, and engineering and land surveying business entities in good standing and licensees and certificate holders in the retired status as provided in these rules shall be maintained in an electronic format available to the public. (5-8-09)

03. Retired Status. Those licensees who are retiring from practice may be listed in the retired section of the Roster. The biennial fee for being thus listed shall be established by the Board. Such listing does not permit a licensee to engage in the practice of engineering or land surveying. The fee for reinstatement to active practice shall be as required for delayed renewals in Section 54-1216, Idaho Code. (3-29-12)

014. Seals.

01. Official Seal of Board. The official seal of this Board shall consist of the seal of the state of Idaho, surrounded with the words "Board of Professional Engineers and Professional Land Surveyors" and "State of Idaho." (7-1-93)

02. Standard Seals for Engineers and Land Surveyors. The Board shall adopt standard seals for use by licensed professional engineers and professional land surveyors as prescribed by Section 54-1215, Idaho Code. Seals prepared and approved prior to July 1, 2008 are valid for continued use. (5-8-09)

03. Seal for Professional Engineer/Land Surveyor. Engineers obtaining licensure as land surveyors under the changes to Section 54-1217, Idaho Code, by the 1978 Legislature shall use the seal showing licensure as a Professional Engineer and Land Surveyor as adopted by the Board. Seals prepared and approved prior to July 1, 2008 are valid for continued use. (5-8-09)

015. Certificates.
Certificates of licensure or authorization issued by the Board shall be displayed in the place of business. (5-8-09)

016. Application For Licensure Or Certification.

01. Forms. Application forms for licensure as a professional engineer, or professional land surveyor, certification as an engineer intern, land surveyor intern or certificates of authorization to practice or offer to practice engineering or land surveying by a business entity may be obtained from the office of the Executive Director of the Board of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Completion of Application. Applications shall be made on such forms as may be prescribed by the Board. An application which is not fully completed by the applicant need not be considered or acted upon by the Board. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth their address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. (5-8-09)

03. Dates of Submittal. Examinations may be given in various formats and different submittal dates apply depending on the examination format. For examiations administered once or twice a year in the Spring and Fall, there is an examination assignment cutoff date that varies depending on the actual date of the examination. For examinations administered once or twice a year in the Spring and Fall, receipt of the applications after October 1 for the Spring exam or after July 1 for the Fall exam, may not provide sufficient time for required credentials to arrive at the Board office and be reviewed by the staff and/or Board prior to the exam assignment cutoff date. If this occurs, the applicant will be assigned to a later examination if all requirements are met. For examinations administered in a computer-based format during testing windows, there is no deadline for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during the current testing window, if open on the date of the letter notifying of assignment, or during the next two (2) available testing windows. Failure to test during these periods will void the assignment. For examinations administered continuously in a computer-based format, there is no deadline for submittal of the application and the applicant, if assigned to the exam, will be allowed to test during a nine (9) month period beginning on the date of the letter notifying of assignment. Failure to test during this period will void the assignment. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application will be considered as valid. Experience anticipated between the date of the application submittal and the date of the examination or issuance of license or certificate will not be considered. For students, the application filing date for the Fundamentals of Engineering and the Fundamentals of Surveying examination may be extended at the discretion of the Board. (3-29-12)

04. Residency Requirement. Except for military personnel stationed in the state of Idaho on military orders, and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for assignment to examinations for initial certification or licensure. The board will accept as proof of Idaho residency a valid Idaho issued driver's license, a utility bill issued within the last sixty (60) days with an Idaho address in the name of the applicant, a statement from a financial institution issued within the last sixty (60) days to the applicant at an Idaho address, proof of

current voter registration in Idaho, or current Idaho vehicle registration in the name of the applicant. The board will accept as proof of full-time employment in the state of Idaho an affidavit from the Idaho employer stating employment status. The Board will accept a valid student identification card as proof of enrollment at an Idaho university or college. (4-4-13)

05. Confidentiality of References. All information received from references named by the applicant shall be held in confidence by the Board except as provided by Section 9-342, Idaho Code. Neither members of the Board nor relatives of the applicant by blood or marriage shall be named or accepted as references. (5-8-09)

06. Minimum Standards -- References. An applicant may not be admitted to the examination until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors. It shall be the responsibility of each applicant to furnish their references with the forms prescribed by the Board. (3-29-12)

017. Examinations.

01. Special or Oral Examination. Examinations for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern will be held on dates and at times and places to be determined by the Board. Special oral or written examinations may be given by the Board as necessary. (3-29-10)

02. Eligibility for Examinations, Educational Requirements. The application for licensure as a professional engineer, professional land surveyor or certification as an engineer intern or land surveyor intern, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being assigned to any examination. (3-29-10)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs which are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. (3-29-10)

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer:

(i) Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in calculus and differential equations are required. Additional courses may include linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must

include courses in chemistry and calculus-based general physics with a minimum of a two semester (or equivalent) sequence in one or the other. Additional basic sciences courses may include life sciences (biology), earth sciences (geology, ecology), and advanced chemistry or physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-29-12)

(ii) Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, social responsibility. No more than 6 credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-29-12)

(iii) Forty-eight (48) college credit hours of engineering science and engineering design. Courses shall be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses can be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-29-12)

iv. Standard, regularly scheduled courses from accredited university programs, (on campus, correspondence, video, etc.) are normally acceptable without further justification other than transcript listing. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to insure that the above requirements are met. (7-1-93)

v. Graduate level engineering courses, i.e. courses which are available only to graduate students, are normally not acceptable since the Board believes graduate engineering courses may not provide the proper fundamental foundation to meet the broad requirements of professional engineering. (7-1-93)

c. Beginning July 1, 2010, an applicant who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for assignment to the examination for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for assignment to the examination for licensure as a professional land surveyor: (5-8-09)

i. Three (3) credits in Surveying Law and Boundary Descriptions; (3-30-07)

ii. Three (3) credits in Route Surveying; (3-30-07)

iii. Three (3) credits in Public Land Surveying; (3-30-07)

iv. Three (3) credits in Surveying Software Applications; (3-30-07)

v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)

vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)

vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)

viii. Three (3) credits in Geodesy; and (3-30-07)

ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. (3-30-07)

d. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree or Doctor of Philosophy degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of ABET, Inc. in the discipline of the applicant's master's degree or Doctor of Philosophy degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (3-29-10)

03. Excused Non-Attendance at Exam. In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)

04. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination shall be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (3-29-10)

07. Fundamentals of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. (5-8-09)

08. Principles and Practice of Engineering -- Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

09. Two Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying for professional land surveyor licensure. The examination shall be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. (3-29-10)

10. Oral or Unassembled Examinations. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

11. Special Examinations. A special examination, written or oral or both, may be required in certain instances where the applicant is seeking licensure through comity or reciprocity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or licensure in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (5-8-09)

12. Grading. Each land surveyor intern, engineer intern and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire examination or modules as determined by the Board, before being awarded certification or licensure. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each module of the examination. (3-29-10)

13. Use of NCEES Examinations. Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineer intern, professional land surveyors, and land surveyor intern may be used by the Board. The examination for the field of structural engineering shall be the examination as determined by the Board. (3-29-10)

14. Review of Examination by Examinee. Due to security concerns about the examinations, examinees shall not be allowed to review their examination. Examinees who fail an examination will be provided a diagnostic analysis of their performance on the examination if such an analysis is available to the Board. (3-20-04)

15. Disposal of Used Examination Pamphlets and Answer Sheets. The Executive Director of the Board is authorized by the Board to dispose of used examination solution pamphlets and answer sheets after the first anniversary date after the examination was given. (3-30-01)

16. Proctoring of Examinations. Unless otherwise approved, the Board will not proctor an examination for another jurisdiction except State-Specific examinations nor will they request another jurisdiction to proctor an examination for an Idaho applicant. (5-8-09)

018. REEXAMINATIONS.

01. Allowing Reexamination upon Failure. An applicant failing any portion of an examination, and having applied for reexamination as permitted by law, may at the discretion of the Board, be required to take only the portion of the examination for which a failing grade was received. (3-29-10)

02. Application for Reexamination. An applicant who has failed any examination may be assigned by the Board to reexamination upon written request and payment of fees. (3-29-10)

03. Failure of Reexamination. An applicant who fails on reexamination, must present evidence of having met the requirements set forth in Section 54-1214, Idaho Code in order to be reassigned to an examination. (5-8-09)

019. LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES AND BOARDS.

01. Interstate Licensure Evaluation. Each application for Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, territories or foreign countries, shall be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law. Graduates of programs accredited by organizations signatory to the "Washington Accord" and graduates from programs evaluated by ABET as being substantially equivalent to EAC/ABET programs shall be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. Individuals who have passed examinations considered by the Board to be of comparable difficulty and duration as those utilized by the Board shall be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor. (5-8-09)

a. The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against

them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (5-8-09)

b. An applicant who was originally licensed in another jurisdiction after June 30, 1996 and who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code:

(i) Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in calculus and differential equations are required. Additional courses may include linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include courses in chemistry and calculus-based general physics with a minimum of a two semester (or equivalent) sequence in one or the other. Additional basic sciences courses may include life sciences (biology), earth sciences (geology, ecology), and advanced chemistry or physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. (3-29-12)

(ii) Sixteen (16) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, social responsibility. No more than 6 credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. (3-29-12)

(iii) Forty-eight (48) college credit hours of engineering science and engineering design. Courses shall be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses can be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. (3-29-12)

c. An applicant who was originally licensed in another jurisdiction after June 30, 2010 who has completed a four (4) year bachelor degree program in a related science must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying

curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: (3-30-07)

i. Three (3) credits in Surveying Law and Boundary Descriptions; (3-30-07)

ii. Three (3) credits in Route Surveying; (3-30-07)

iii. Three (3) credits in Public Land Surveying; (3-30-07)

iv. Three (3) credits in Surveying Software Applications; (3-30-07)

v. Three (3) credits in Research and Evidence in Surveying; (3-30-07)

vi. Three (3) credits in Surveying Adjustments and Coordinate Systems; (3-30-07)

vii. Three (3) credits in Subdivision Planning and Platting; (3-30-07)

viii. Three (3) credits in Geodesy; and (3-30-07)

ix. Three (3) credits in Survey Office Practice and Business Law in Surveying. (3-30-07)

02. Denials or Special Examinations. An application from a licensee of another state, territory or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. (3-29-10)

03. Business Entity Requirements. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying or both in one (1) or more states, territories or foreign countries shall be considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. (5-8-09)

020. Board Quorum.

For the conduct of official business at any Board meeting, a quorum shall be present. A quorum is construed and defined as being at least three (3) members of the Board legally holding office at the time of the meeting. (7-1-93)

021. Right To Publish Disciplinary Actions.

The Board office may disclose the filing and the nature of a complaint, but may not disclose the details of an investigation or the adjudication except to law enforcement agencies. Details of the investigation and the adjudication may be disclosed to licensing entities in other jurisdictions following final disposition of the matter. Final, formal enforcement shall be public information.

Following a hearing or the entry of a consent agreement, the Board may publish a summary of any order issued by it, in a newsletter or newspaper of general circulation or, for a period of up to ten (10) years, may post it on the Internet. (4-7-11)

022. REQUIREMENTS TO BE CONSIDERED "EXCEPTIONAL" UNDER SECTION 54-1223(2), IDAHO CODE.

01. Waiver of the Fundamentals of Engineering Examination. In order to be considered "exceptional" under Section 54-1223(2), Idaho Code, an applicant for licensure as a professional engineer, either by examination or by comity, who seeks waiver of the fundamentals of engineering examination, must have a record of service and contributions beyond the ordinary in two (2) of the following three (3) areas: (5-8-09)

a. Professional or technical; (4-5-00)

b. Business or industry; and (4-5-00)

c. Community or cultural. (4-5-00)

02. Activities Which the Board Believes are Exceptional. Examples of activities which the Board believes are exceptional are: (4-5-00)

a. Serving as an officer or committee chair; (4-5-00)

b. Originating projects or initiatives; (4-5-00)

c. Investing time or energy into the community; (4-5-00)

d. Authoring significant publications; and (4-5-00)

e. Receiving significant awards. (4-5-00)

03. Activities Which the Board Believes Are Ordinary. Examples of activities which the Board believes are only ordinary are: (4-5-00)

a. Completing routine job assignments; (4-5-00)

b. Holding membership in professional and technical societies; (4-5-00)

c. Contributing money to causes; (4-5-00)

d. Attending community events; and (4-5-00)

e. Owning a business. (4-5-00)

04. Written Request for Exceptional Designation. An applicant who seeks waiver of the fundamentals of engineering examination shall submit a written request for the exceptional

designation accompanied by two (2) written references supporting and explaining the applicants contributions that are beyond the ordinary. (4-5-00)

023. -- 994. (Reserved).

995. Administrative Appeals.
Persons desiring to contest the actions taken in accordance with these rules shall seek administrative relief under the Attorney General's Rules, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-22-94)

996. (Reserved).

997. Public Records Act Compliance.
The records associated with the Board are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. (7-1-93)

998. Inclusive Gender.
For the purpose of this chapter, words used in the masculine gender include the feminine, or vice versa, where appropriate. (7-1-93)

999. Severability.
The rules governing this chapter are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (7-1-93)