

TITLE 50
MUNICIPAL CORPORATIONS

CHAPTER 1
MANNER OF ORIGINAL INCORPORATION -- ORGANIZATION

50-101. INCORPORATION. The residents of any unincorporated contiguous area (village) containing not less than 125 qualified electors may present a petition signed by a majority of the said electors to the board of commissioners of the county in which said petitioners reside, praying that they be incorporated as a city, designating the name they wish to assume and the metes and bounds of the proposed city.

Upon the petition to incorporate filed as herein provided, the board of county commissioners petitioned shall have no jurisdiction to take any action thereon or enter an order of incorporation, regardless of the number of petitioners thereon, where the boundaries of the proposed new city approach any point within one (1) mile of the boundary limits of any existing city of less than five thousand (5,000) population, within two (2) miles of the boundary limits of any existing city of five thousand (5,000) but less than ten thousand (10,000) population, within three (3) miles of the boundary limits of any existing city of ten thousand (10,000) but less than twenty thousand (20,000) population, or within four (4) miles of the boundary limits of any existing city of twenty thousand (20,000) or more population, all populations as determined by the last official or special United States census, unless there is first furnished said board of county commissioners either (a) a certified copy of a resolution of the city council of any existing city within the above applicable distances of the proposed city approving said petition for incorporation, or (b) appropriate evidence that the city council of any existing city within the above applicable distances of the proposed city, if contiguous or adjacent, has rejected and refused to annex the area of the proposed city to the existing city upon the petition made as hereinafter set out. Where the proposed new city area lies within the applicable distance of one or more cities, all cities must approve the petition of incorporation. An existing city shall be deemed to have rejected and refused to annex the contiguous or adjacent area when a petition for annexation is filed prior to 90 days before the end of any fiscal year, and the city council, within 60 days after receipt of said petition has not by appropriate action, declared that such area will be a part of such existing city, effective not later than the last day of the fiscal year in which said petition was filed. Such petition shall be signed by a majority of the inhabitants paying real estate taxes within said area requesting annexation, contain a certain metes and bounds description of the area set out in the petition and certify that the area so described falls within the distance limits herein set forth. The existing city, the petitioners, as herein provided, or the board of county commissioners is granted the power to petition the district court for a declaration of the right on any disputes arising between any of the parties so named hereunder.

[50-101, added 1967, ch. 429, sec. 1, p. 1249.]

50-102. MANNER OF INCORPORATING. When the provisions of section [50-101](#)[, Idaho Code,] have been satisfied and the county board or a majority of the members thereof has been satisfied that 60 per cent of the qualified electors of the proposed city have signed such petition and that qualified

electors to the number of 125 or more are actual residents of the territory described in the petition, the said board shall hold a public hearing upon said petition and fix a time and place therefor, not more than thirty (30) days from the filing of said petition, and cause notice thereof to be published twice prior to said hearing, in a newspaper of general circulation in said county and said board shall, on or before thirty (30) days following the date of said hearing, determine, by resolution, whether or not said proposed city may be incorporated and, in the event said board determines that the proposed city is to be incorporated, they shall enter the order of incorporation upon their records, and designate the metes and bounds thereof. Thereafter the said city shall be governed as other cities by the laws of the state of Idaho. The said county board shall, at the time of the incorporation: (1) proclaim that henceforth the former area shall be known as; (2) order the clerk of the board of county commissioners to certify a copy of such proclamation, which shall be filed with the office of the secretary of state; (3) appoint a mayor and either four (4) or six (6) councilmen having the qualifications provided in this act, who shall at that time subscribe to the oath, and after receiving a certificate of election, they shall assume their offices and perform all the duties required of them by law, until the next general city election succeeding their appointment and until their successors are elected and qualified.

[50-102, added 1967, ch. 429, sec. 2, p. 1249.]

50-103. CENSUS. Within 30 days following the proclamation of incorporation, the city council shall request that an official enumeration of the inhabitants of the newly incorporated city be taken by the bureau of census, U.S. department of commerce, for the purpose of ascertaining the population of said city, the results of which shall be certified to the offices of the county clerk and the secretary of state, and which shall then become the official census and be used for the purpose of apportioning any and all state collected moneys to said city until the next regular or subsequent census be taken.

[50-103, added 1967, ch. 429, sec. 3, p. 1249.]

50-104. PROOF OF CORPORATE EXISTENCE. All courts within the county in which such newly incorporated city is situated shall take judicial notice of the corporate capacity and existence of such city. In all other courts of the state the corporate capacity and existence of such city may be proved by copies of the certificate of incorporation filed with the office of the secretary of state, duly authenticated, declaring the same to be a city.

[50-104, added 1967, ch. 429, sec. 4, p. 1249.]