

TITLE 50
MUNICIPAL CORPORATIONS

CHAPTER 13
PLATS AND VACATIONS

50-1301. DEFINITIONS. The following definitions shall apply to terms used in this section and sections [50-1302](#) 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 two (2) monumented 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 owners;

(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 the 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 re-

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 director of the department of environmental quality 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; am. 2014, ch. 58, sec. 1, p. 139; am. 2017, ch. 86, sec. 1, p. 232.]

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 upon stable base drafting film with a minimum base thickness of 0.003 inches. The image thereon shall be by a photographic process or a process by which a copy is produced using an ink jet or digital scanning and reproduction machine with black opaque drafting film ink or fused toner that will ensure archival permanence. The copy and image thereon shall be waterproof, tear resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. If ink or toner is used, the surface shall be coated with a suitable substance, if required by the county where the plat is to be recorded, to assure permanent legibility. 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, bearing and length of lines, graphic scale of

plat and north arrow; (j) subdivision name; and (k) narrative as described in section [55-1906](#), Idaho Code.

(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; am. 2015, ch. 48, sec. 1, p. 101; am. 2019, ch. 58, sec. 1, p. 147.]

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 must petition the city council if it is located within the boundaries of a city, or the county commissioners if it is located within the unincorporated area of the county. 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) If a petition to vacate is brought before county commissioners, and the plat or part thereof which is the subject of the petition is located within one (1) mile of the boundaries of any city, the county commissioners shall cause written notice of the public hearing on the petition to be given to the mayor or chief administrative officer of the city by regular mail at least thirty (30) days prior to the date of public hearing.

(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 section 40-203, Idaho Code.

(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; am. 2014, ch. 21, sec. 1, p. 27; am. 2014, ch. 137, sec. 2, p. 374.]

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, addi-

tion 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. (1) 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 endorsed 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."

(2) 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 plat media and copy process shall be as provided in section [50-1304](#), Idaho Code. The original plat shall be stored for safekeeping 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; am. 2013, ch. 263, sec. 1, p. 648; am. 2015, ch. 48, sec. 2, p. 102.]

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 incorporated is not exercising its corporate functions may desire to vacate any lot, tract, 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 or is under the jurisdiction of a county, the respective commissioners of the highway district or board of county commissioners shall assume the authority to vacate said public street or public right-of-way pursuant to section [40-203](#), Idaho Code. 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; am. 2014, ch. 137, sec. 3, p. 375.]

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 peti-

tioner 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 the 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 written notification to the city by regular mail at least thirty (30) days prior to the vacation.

[50-1321, added 1967, ch. 429, sec. 239, p. 1249; am. 1992, ch. 262, sec. 8, p. 782; am. 2014, ch. 21, sec. 2, p. 28; am. 2015, ch. 244, sec. 31, p. 1024.]

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 profes-

sional 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.]