

This document summarizes relevant sections of Idaho Code related to individual and subsurface sewage disposal systems. Official and complete versions of Idaho Code are available at <https://legislature.idaho.gov/statutesrules/idstat/>.

Idaho Code Title 39, Chapter 1: Environmental Quality–Health

To access the official, complete code retained at the Idaho legislature’s website go to: <https://legislature.idaho.gov/statutesrules/idstat/title39/>.

TITLE 39 Health and Safety

CHAPTER 1 Environmental Quality–Health

39-103. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

- (3) “Board” means board of environmental quality.
- (6) “Department” means the department of environmental quality.
- (7) “Director” means the director of environmental quality.
- (11) “Person” means any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties.
- (12) “Public water supply” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use in incorporated municipalities; or unincorporated communities where ten (10) or more separate premises or households are being served or intended to be served; or any other supply which serves water to the public and which the department declares to have potential health significance.
- (13) “Solid waste” means garbage, refuse, radionuclides and other discarded solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.
- (15) “State” means the state of Idaho.
- (17) “Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, esthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

- (18) “Waters” means all accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, flow through or border upon this state except for private waters as defined in section 42-212, Idaho Code.

39-108. INVESTIGATION – INSPECTION – RIGHT OF ENTRY – VIOLATION – ENFORCEMENT PENALTY – INJUNCTIONS.

- (1) The director shall cause investigations to be made upon receipt of information concerning an alleged violation of this act or of any rule, permit or order promulgated thereunder, and may cause to be made such other investigations as the director shall deem advisable.
- (2) For the purpose of enforcing any provision of this chapter or any rule authorized in this chapter, the director or the director’s designee shall have the authority to:
 - (a) Conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential environmental hazards, air contamination sources, water pollution sources and of solid waste disposal sites;
 - (b) Enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigating to ascertain possible violations of this act or of rules, permits or orders adopted and promulgated by the director or the board;
 - (c) All inspections and investigations conducted under the authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and section 17, article I, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health or environmental emergency;
 - (d) Any district court in and for the county in which the subject property is located is authorized to issue a search warrant to the director upon a showing of (i) probable cause to suspect a violation, or (ii) the existence of a reasonable program of inspection. Any search warrant issued under the authority of this chapter shall be limited in scope to the specific purposes for which it is issued and shall state with specificity the manner and the scope of the search authorized.
- (3) Whenever the director determines that any person is in violation of any provision of this act or any rule, permit or order issued or promulgated pursuant to this act, the director may commence either of the following:
 - (a) Administrative enforcement action.
 - (i) Notice. The director may commence an administrative enforcement action by issuing a written notice of violation. The notice of violation shall identify the alleged violation with specificity, shall specify each provision of the act, rule, regulation, permit or order which has been violated and shall state the amount of civil penalty claimed for each violation. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director’s designee in a compliance conference concerning the alleged violation. A written response may be required

within fifteen (15) days of receipt of the notice of violation by the person to whom it is directed.

- (ii) Scheduling compliance conference. If a recipient of a notice of violation contacts the department within fifteen (15) days of the receipt of the notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty (20) days of the date of receipt of the notice, unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in paragraph (b) of this subsection.
 - (iii) Compliance conference. The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstances of the alleged violation and, where appropriate, to present a proposal for remedying damage caused by the alleged violation and assuring future compliance.
 - (iv) Consent order. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty.
 - (v) Effect of consent order. A consent order shall be effective immediately upon signing by both parties and shall preclude any civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain, in any appropriate district court, specific performance of the consent order and such other relief as authorized in this chapter.
 - (vi) Failure to reach consent order. If the parties cannot reach agreement on a consent order within sixty (60) days after the receipt of the notice of violation or if the recipient does not request a compliance conference as per paragraph (a)(ii) of this subsection, the director may commence and prosecute a civil enforcement action in district court, in accordance with paragraph (b) of this subsection.
- (b) Civil enforcement action. The director may initiate a civil enforcement action through the attorney general as provided in section 39-109, Idaho Code. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred and may be brought against any person who is alleged to have violated any provision of this act or any rule, permit or order which has become effective pursuant to this act. Such action may be brought to compel compliance with any provision of this act or with any rule, permit or order promulgated hereunder and for any relief or remedies authorized in this act. The director shall not be required to initiate or prosecute an administrative action before initiating a civil enforcement action.
- (4) No civil or administrative proceeding may be brought to recover for a violation of any provision of this chapter or a violation of any rule, permit or order issued or promulgated pursuant to this chapter more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation.
- (5) Monetary penalties.
- (a) Any person determined in a civil enforcement action to have violated any provision of this act or any rule, permit or order promulgated pursuant to this act shall be liable for a civil penalty not to exceed the following amounts:

- (i) For any violation of any provision of this act, rule, permit or order related to air quality: ten thousand dollars (\$10,000) for each separate air violation and day of continuing air violation, whichever is greater;
- (ii) For any violation of any provision of this act, rule, permit or order related to the Idaho national pollutant elimination system program: ten thousand dollars (\$10,000) per violation or five thousand dollars (\$5,000) for each day of a continuing violation, whichever is greater; or
- (iii) For any violation of any provision of this act, rule, permit or order related to any other regulatory program authorized by this act: ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation, whichever is greater.

The method of recovery of said penalty shall be by a civil enforcement action in the district court in and for the county where the violation occurred. All civil penalties collected under this act shall be paid into the general fund of the state. Parties to an administrative enforcement action may agree to a civil penalty as provided in this subsection.

- (b) The imposition or computation of monetary penalties may take into account the seriousness of the violation, good faith efforts to comply with the law, and an enforceable commitment by the person against whom the penalty is directed to implement a supplemental environmental project. For purposes of this section, “supplemental environmental project” means a project which the person is not otherwise required to perform and which prevents pollution, reduces the amount of pollutants reaching the environment, contributes to public awareness of environmental matters or enhances the quality of the environment. In evaluating a particular supplemental environmental project proposal, preference may be given to those projects with an environmental benefit that relate to the violation or the objectives of the underlying statute that was violated or that enhances the quality of the environment in the general geographic location where the violation occurred.
- (6) In addition to such civil penalties, any person who has been determined to have violated the provisions of this act or the rules, permits or orders promulgated thereunder shall be liable for any expense incurred by the state in enforcing the act, or in enforcing or terminating any nuisance, source of environmental degradation, cause of sickness or health hazard.
- (7) No action taken pursuant to the provisions of this act or of any other environmental protection law shall relieve any person from any civil action and damages that may exist for injury or damage resulting from any violation of this act or of the rules, permits and orders promulgated thereunder.
- (8) In addition to, and notwithstanding other provisions of this act, in circumstances of emergency creating conditions of imminent and substantial danger to the public health or environment, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt any discharge, emission or other activity in violation of provisions of this act or rules, permits and orders promulgated thereunder. In such action the court may issue an ex parte restraining order.

- (9) In any administrative or civil enforcement proceeding for violation of an Idaho NPDES program rule, permit, requirement or order, the department shall comply with the public participation requirements set forth in 40 CFR 123.27 (d) (2).

39-117. CRIMINAL VIOLATION – PENALTY.

- (1) Any person who willfully or negligently violates any of the provisions of the non-air quality public health or environmental protection laws or the terms of any lawful notice, order, permit, standard, rule or regulation issued pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (\$10,000) for each separate violation or one thousand dollars (\$1,000) per day for continuing violations, whichever is greater.
- (2) Any person who knowingly violates any of the provisions of the air quality public health or environmental protection laws or the terms of any lawful notice, order, permit, standard or rule issued pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (\$10,000) per day per violation. In addition, any person who knowingly releases into the ambient air any hazardous air pollutant listed pursuant to section 112 of the federal clean air act, 42 U.S.C. 7412, or any extremely hazardous substance listed pursuant to 42 U.S.C. 11002 (a) (2) that is not listed under section 112, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine of not more than two hundred fifty thousand dollars (\$250,000) per day, or by imprisonment of not more than fifteen (15) years or both such fine and imprisonment. Any person committing such violation that is an organization shall, upon conviction under this subsection, be subject to a fine of not more than one million dollars (\$1,000,000) for each violation. For any air pollutant for which the environmental protection agency or the board of environmental quality has set an emissions standard or for any source for which a permit has been issued under title V of the clean air act amendments of 1990, a release of such pollutant in accordance with that standard or permit shall not constitute a violation of the provisions of this subsection.
- (3) Any person who willfully or negligently violates any Idaho national pollutant discharge elimination system (NPDES) standard or limitation, permit condition or filing requirement shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars (\$10,000) per violation or for each day of a continuing violation. Any person who knowingly makes any false statement, representation or certification in any Idaho NPDES form, in any notice or report required by an NPDES permit, or who knowingly renders inaccurate any monitoring device or method required to be maintained shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five thousand dollars (\$5,000) per violation or for each day of a continuing violation.

39-118. REVIEW OF PLANS.

- (1) Except as provided by subsection (2) of this section, all plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities, public water supply systems or public water treatment

systems or for material modification or expansion to existing sewage treatment plants or systems, waste treatment or disposal facilities, public water supply systems or public water treatment systems, shall be submitted to and approved by the director before construction may begin, and all construction shall be in substantial compliance therewith. Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. The director shall review plans and specifications and endeavor to resolve design issues within forty-two (42) days of submittal such that approval can be granted. If the director and applicant have not resolved design issues within forty-two (42) days or at any time thereafter, the applicant may file a written demand to the director for a decision. Upon receipt of such written demand, the director shall deliver a written decision to the applicant within no more than seven (7) days explaining any reasons for disapproval. The director shall maintain records of all written demands for decision made pursuant to this subsection with such records including the final decision rendered and the timeliness thereof. No material deviation shall be made from the approved plans and specifications without the prior approval of the director.

- (2) Plans meeting the following standards shall not require preconstruction approval by the director:
 - (a) Plans for dairy systems pursuant to section 37-401, Idaho Code.
 - (b) Plans developed to evidence compliance with storm water best management practices.
 - (c) Plans developed for routine maintenance or equipment replacement activities.
 - (d) Plans for sanitary sewer extensions, water main extensions, and storm drain extensions, when such facilities will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility where such city, county, quasi-municipal corporation or regulated public utility provides for the review of such plans and specifications by a qualified licensed professional engineer to verify compliance with facility standards and approves construction plans prior to initiation of construction. Any plans approved pursuant to this subsection shall be transmitted to the director at the time construction is authorized along with a statement that the plans comply with the facility standards and that construction has been authorized by the public agency or public utility. At the discretion of any city, county, quasi-municipal corporation or regulated public utility, the plans addressed by this subsection may be referred to the director for review and approval prior to initiation of construction.
- (3) Within thirty (30) days of the completion of construction of facilities for which plans are required to be reviewed pursuant to subsection (1) or subsection (2)(d) of this section, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed must be submitted to the director by the engineer representing the public agency or regulated public utility, if the resultant facilities will be owned and operated by a public agency or regulated public utility, or by the design engineer or owner-designated substitute engineer if the constructed facilities will not be owned and operated by a public agency or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans or disclose any material deviations therefrom. If construction does not materially deviate from the original plans and specifications previously provided to the department, the owner may have

a statement to that effect prepared by a licensed professional engineer and filed with the department in lieu of submitting a complete and accurate set of record drawings.

- (4) All plans and specifications submitted to satisfy the requirements of subsection (1) of this section and all plans approved pursuant to subsection (2) (d) of this section shall be in compliance with applicable facility and design standards and conform in style and quality to regularly accepted engineering standards. The department shall review plans to determine compliance with applicable facility standards and engineering standards of care. As long as the plans and specifications comply with applicable facility and design standards the department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with design standards. Except with respect to plans and specifications for facilities addressed in subsection (5) of this section, and confined animal feeding operations, the board may require that certain types of plans and specifications must be stamped by registered professional engineers. If the director determines that any particular facility or category of facilities will produce no significant impact on the environment or on the public health, the director shall be authorized to waive the submittal or approval requirement for that facility or category of facilities.
- (5) All plans and specifications for the construction, modification, expansion, or alteration of waste treatment or disposal facilities for aquaculture facilities licensed by the department of agriculture for both commercial fish propagation facilities as defined in section 22-4601, Idaho Code, and sport fish propagation facilities whether private or operated or licensed by the department of fish and game and other aquaculture facilities as defined in the Idaho waste management guidelines for aquaculture operations, shall be submitted to and approved by the director of the department of environmental quality before construction may begin and all construction shall be in compliance therewith. The director shall review plans and specifications within forty-five (45) days of submittal and notify the owner or responsible party of approval or disapproval. In the event of disapproval the director shall provide reasons for disapproval in writing to the owner or responsible party. Plans and specifications shall conform in style and quality to the standard industry practices and guidelines developed pursuant to this subsection. The director shall establish industry guidelines or best management practices subcommittees composed of members of the department, specific regulatory agencies for the industry, general public, and persons involved in the industry to develop and update guidelines or best management practices as needed. Within thirty (30) days of the completion of the construction, modification, expansion or alteration of facilities subject to this subsection, the owner or responsible party shall submit a statement to the director that the construction has been completed and is in substantial compliance with the plans and specifications as submitted and approved. The director shall conduct an inspection within sixty (60) days of the date of submission of the statement and shall inform the owner or responsible party of its approval of the construction or in the event of nonapproval, the reasons for nonapproval.

Idaho Code Title 39, Chapter 36: Water Quality

To access the official code retained at the Idaho legislature’s website, go to <http://legislature.idaho.gov/idstat/Title39/T39CH36.htm>.

TITLE 39 Health and Safety

CHAPTER 36 Water Quality

39-3634. COTTAGE SITE DEFINED. “Cottage site” is defined as a state owned lot containing one (1) acre or less which is or may be leased by the state of Idaho primarily for recreational or homesite use by a lessee.

39-3635. COTTAGE SITE LEASES – REQUIREMENTS – CONSTRUCTION OF SEWAGE DISPOSAL FACILITIES – CONNECTION TO WATER AND SEWER DISTRICT SYSTEMS – PAYMENT OF CHARGES – NOTIFICATION OF DEFAULTS – SATISFACTION OF REQUIREMENTS.

- (1) After the effective date of sections 39-3634 through 39-3639, Idaho Code, all cottage site leases authorized by the state of Idaho shall require that each lessee must construct, at his cost and expense, sewage disposal facilities, certified by the director of the department of environmental quality as adequate, as follows:
 - (a) For all new cottage or house construction completed after July 1, 1971 on any cottage site the certificate shall be issued prior to occupancy.
 - (b) Those cottages or houses existing on the cottage sites prior to the effective date of sections 39-3634 through 39-3639, Idaho Code, shall meet those standards required by the director of the department of environmental quality for certification within two (2) years of the effective date of sections 39-3634 through 39-3639, Idaho Code, unless a public or private sewage collection or disposal system is being planned or constructed in which case the director of the department of environmental quality may grant extensions on a year by year basis but not exceed three (3) such extensions for any one (1) cottage site.
 - (c) Isolated dwellings on sites situated on mining, grazing or other similar types of state land board leases shall not be affected unless within two hundred (200) yards of any flowing stream or a lake.
- (2) Wherever any cottage site is located within the boundaries of a district organized for water or sewer purposes, or a combination thereof, pursuant to the provisions of chapter 32, title 42, Idaho Code, as amended, the cottage site lessee shall connect his property to the sewer system of the district within sixty (60) days after written notice from the district so to do, provided, however, no cottage site lessee shall be compelled to connect his property with such sewer system unless a service line is brought by the district to a point within two hundred (200) feet of his dwelling place. All cottage site leases hereafter issued shall require,

as a condition of acceptance thereof by the lessee, that the lessee will connect his property to a district sewer system as required in this subsection (2). With respect to all cottage site leases issued subsequent to July 1, 1970, filing with the department issuing the lease of evidence of connection to the district sewer system as contemplated in this subsection (2) shall be conclusive evidence of compliance by the cottage site lessee with the requirements of subsection (1) of this section and of the provisions of the cottage site lease to provide sewage disposal facilities at the expense of the cottage site lessee. Each cottage site lessee whose cottage site is subject to connection to a district sewer system as required in this subsection (2) shall pay to the district to which the cottage site is required to be connected, in a timely manner and when due, all connection fees and charges, all monthly rates, tolls and charges, as provided by chapter 32, title 42, Idaho Code, as amended, and all special benefits payments in lieu of tax payments provided for in subsection (3) of this section.

- (3) Notwithstanding that title to a cottage site remains in the state of Idaho, each cottage site lessee shall pay to any district operating a sewer system to which the cottage site is connected as provided in subsection (2) of this section, each year in the same manner and at the same time as county taxes are paid and collected a sum of money in lieu of taxes equal to the sum which would have been paid had the cottage site been held in private ownership, hereinafter called special benefits payments. The special benefits payments shall be computed by applying the millage levy of the district to the cottage site in the ordinary course to the assessed valuation of the property as determined by the county assessor of the county in which the cottage site is located. No special benefits payments shall be imposed prior to January 1, 1980. The cottage site lessee shall have such rights of protest, hearings and appeals with respect to the valuation of the cottage site for purposes of determining the special benefits payments as if such cottage site were held in private ownership.

It shall be the duty of the county assessor to establish the value of each cottage site as compared to like property upon the request, in writing, of the district.

- (4) Each water and sewer district shall immediately notify the department issuing a cottage site lease of the failure of any cottage site lessee to connect to the district sewer system, or to pay any connection fee or charge, monthly rate, toll or charge, or any special benefits payments, all as required or provided for in subsection (3) of this section. Any such notification shall set forth the amount of any such fees, charges or payments which are delinquent.
- (5) Approval, pursuant to the provisions of section 39-118, Idaho Code, by the department of environmental quality of the plans and specifications of a sewer system to be constructed, acquired, improved or extended by a water and sewer district shall, as to all cottage sites connected to the district sewer system, satisfy the requirements of section 39-3637, Idaho Code.
- (6) The state of Idaho, its boards, agencies or departments, shall not be liable, directly or indirectly, for any connection fees and charges, monthly rates, tolls and charges, or special benefits payments charged to cottage site lessees beyond those fees or payments collected from new lessees pursuant to section 58-304A, Idaho Code, and placed in the revolving fund created by section 58-141A, Idaho Code.

39-3636. FAILURE TO PROVIDE SEWAGE DISPOSAL – PENALTIES.

Failure to provide certified sewage disposal as provided in section 39-3635(1), Idaho Code, or failure to connect to a district sewer system or to pay, when due, any connection fee or charge, any monthly rate, toll or charge, or any special benefits payment, all as required and provided for in subsections (2) and (3) of section 39-3635, Idaho Code, shall result in the following:

- (a) Forfeiture of lease to the state of Idaho after reasonable notice and hearing, as shall be prescribed in rules to be adopted by the department issuing the lease pursuant to the applicable provisions of chapter 52, title 67, Idaho Code, as now or hereafter in force.
- (b) Loss of sewage treatment facility credit on any transfer of lease or new lease of such site after notice and hearing before the department issuing such lease.

The department issuing any cottage site lease, upon its own motion or upon receiving notice from a water and sewer district pursuant to the provisions of section 39-3635(4), Idaho Code, of the failure of a cottage site lessee to connect to a district sewer system or to pay any connection fee or charge, any monthly rate, toll or charge, or any special benefits payments, when due, is authorized to invoke either or both remedies at its discretion or may take such other action allowed by law to enforce the provisions of the lease and the requirements of section 39-3635, Idaho Code, that each cottage site lessee connect to a district sewer system and pay all fees, charges and payments when due.

39-3637. STATE BOARD OF ENVIRONMENTAL QUALITY – RULES – INSPECTION.

The state board of environmental quality shall adopt reasonable rules and standards for the installation and operation of cottage site sewage treatment facilities, and shall provide adequate inspection services so as not to delay unreasonably the construction of any lessee. Duplicate originals of all certificates issued by the director of the department of environmental quality shall be filed with the director of the department issuing a cottage site lease.

The director of the department of environmental quality shall maintain a site by site inventory of such sewage disposal systems that may exist. The inventory shall ascertain:

- (1) If the existing system meets the board standards. If the system meets all standards and rules for cottage sewage disposal systems a certificate shall be issued immediately.
- (2) If the system does not meet the board standards. In such case, the lessee shall be advised in writing of the actions necessary to meet the proper standards. A copy of such report shall be filed with the state agency granting the lease. The modifications, unless specifically exempted from the time limit, as provided in sections 39-3634 through 39-3637, Idaho Code, shall be completed within two (2) years of the date of the written notice.

39-3638. FINAL DETERMINATION BY ISSUING DEPARTMENT AUTHORIZED.

In the event of dispute or unreasonable delay on the part of lessee or the department of environmental quality, the department issuing a cottage site lease may, upon notice and hearing, make a final determination consistent with control of water pollution and public health.

39-3639. CONTINUATION OF COTTAGE SITE LEASE PROGRAM.

- (1) The legislature of the state of Idaho recognizes that certain state lands are presently leased for cottage site uses and are subject to leases and contracts duly authorized by law. It is legislative intent to continue to recognize such leases. However, it is also legislative intent that no new or additional lands be platted, subdivided or leased for cottage site leases, unless and until the condition and precedents listed below have been met.
- (2) No additional state lands shall be further platted or subdivided, nor any new cottage site leases entered into, unless and until the following provisions have been met:
 - (a) The department of lands shall have completed a comprehensive planning process, as to its further participation in, and extension of, the cottage site lease program;
 - (b) The department of lands shall complete a comprehensive planning process as to the extension of cottage site leasing for that immediate geographic area;
 - (c) No new cottage site leases shall be entered into unless and until an adequate water system and an adequate sewage collection and treatment system have been installed. Both of these systems shall meet applicable state health standards and rules. (i) The costs for providing these systems shall be incorporated into the annual lease rates for the newly created serviced lots, unless other specific provisions for payment have been required by the state board of land commissioners. (ii) As an alternate means of securing the necessary funds for the construction of water and sewer systems which must meet state standards and rules, the state board of land commissioners may include as a condition of the new lease the requirement that the lessee must prepay his share of the construction costs of the water and sewer system. In all cases, however, such prepayment shall be made, and adequate water and sewer systems shall be installed and in operation before such cottage sites may be inhabited.
- (3) The provisions of subsection (1) herein shall not apply to unimproved lots within cottage subdivisions in which at least eighty per cent (80%) of the lots already have cottages upon them.

Idaho Code Title 50, Chapter 13: Plats and Vacations

Below are portions of the current Idaho Code Title 50, Chapter 13: Plats and Vacations. To access the official code retained at the Idaho legislature's website go to:

<http://legislature.idaho.gov/idstat/Title50/T50CH13.htm>.

TITLE 50 Municipal Corporations

CHAPTER 13 Plats and Vacations

50-1301. DEFINITIONS. The following definitions shall apply to terms used in sections 50-1301 through 50-1334, Idaho Code.

- (2) Easement: A right of use, falling short of ownership, and usually for a certain stated purpose;
- (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 replating of such, including certifications, descriptions and approvals;
- (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;
- (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 the above definition;

- (18) Witness corner: A monumented point usually 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.

50-1304. 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 insure 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, acknowledgements 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.

50-1306. 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.

50-1306A. 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.

50-1315. 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.

50-1324. 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.

50-1325. EASEMENTS – VACATION OF. Easements shall be vacated in the same manner as streets.

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.

50-1327. 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.

50-1328. 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.

50-1329. 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.

50-1334. 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.