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Montana Professional engineers and land surveyors Rules and Laws

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MONTANA ENGINEERS AND LAND SURVEYORS RULES AND LAWS

Part 1 General

37-67-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of professional engineers and professional landsurveyors provided for in 2-15-1763.

(2) "Branch office" means any office or location where business is conducted that is not the headquarters, main office, home office, or other primary location of a sole proprietorship, firm, partnership, or corporation for purposes of regulation under 37-67-328.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Engineer intern" means a person who complies with the requirements for education, experience, and character and has passed an examination in the fundamental engineering subjects, as provided in this chapter.

(5) (a) "Engineering survey" means all survey activities required to support the sound conception, planning, design, construction, maintenance, operation, and association of engineering projects.

(b) The term does not include the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurvey of the public land survey system.

(6) "Landsurveyor intern" means a person who has qualified for, taken, and passed an examination on the basic disciplines of land surveying, as provided in this

chapter.

(7) (a) "Practice of engineering" means:

(i) any service or creative work the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to the services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of water, teaching of advanced engineering subjects, engineering surveys, and the inspection of construction for the purpose of ensuring compliance with drawings and specifications;

(ii) any of the functions described in subsection (7)(a)(i) that embrace the services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of mechanical, electrical, hydraulic, pneumatic, or thermal nature insofar as they involve safeguarding life, health, or property.

(b) The term

includes other professional services necessary to the planning, progress, and completion of any engineering services.

(c) The term does not include the work

ordinarily performed by persons who operate or maintain machinery or equipment, communication lines, signal circuits, electric power lines, or pipelines.

(8) "Practice of land surveying" means any service or work, the performance of which requires the application of special knowledge of the principles of mathematics, physical sciences, applied sciences, and:

(a) the principles of property boundary law to the recovery and preservation of evidence pertaining to earlier land surveys;

(b) teaching of land surveying subjects;

(c) measurement and allocation of lines, angles, elevations, and coordinate systems;

(d) location of natural and constructed features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water, including work for the determination of areas and volumes;

(e) monumenting of property boundaries;

(f) platting and layout of lands and the subdivision of land, including the alignment and grades of streets and roads in subdivisions;

(g) preparation and perpetuation of maps, plats, field notes, records, and property descriptions; and

(h) locating, relocating, establishing, reestablishing, laying out, or retracing of any property line or boundary of any tract of land or road, right-of-way, easement, right-of-way easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering.

(9) "Professional engineer" means a person who, by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and

engineering experience, is qualified to practice engineering and who has been licensed as a professional engineer by the board.

(10) "Professional landsurveyor" means a person who:

(a) has been licensed as a landsurveyor by the board;

(b) is a professional specialist in the technique, analysis, and application of measuring land;

(c) is skilled and educated in the principles of mathematically related physical and applied sciences, relevant requirements of law for adequate evidence, and all requisites to the surveying of real property; and

(d) is engaged in the practice of landsurveying.

(11) "Responsible charge" means direct charge and control and personal supervision either of engineering work or of landsurveying. Only a professional engineer or a professional landsurveyor may legally assume responsible charge under this chapter.

37-67-102. Representation as practitioner to be considered as practice. (1) A person must be considered to practice or offer to practice engineering, within the meaning and intent of this chapter, who:

(a) practices any branch of the profession of engineering;

(b) by verbal claim, sign, advertisement, letterhead, card, or in any other way represents that the person is a professional engineer or through the use of some other title implies that the person is a professional engineer or is licensed under this chapter; or

(c) represents that the person is able to perform or does perform any engineering service or work or any other service designated by the practitioner that is recognized as engineering.

(2) A person must be considered to practice or offer to practice landsurveying, within the meaning and intent of this chapter, who:

(a) engages in landsurveying;

(b) by verbal claim, sign, letterhead, card, or in any other way represents that the person is a professional land surveyor or through the use of some other title implies that the person is a professional land surveyor; or

(c) represents that the person is able to perform or does perform any land surveying service or work or any other service designated by the practitioner that is recognized as land surveying.

37-67-

103.Exemptions. The following are exempt from licensure under this chapter:

- (1) the practice of any other legally recognized profession or trades;
- (2) the mere execution of work by a contractor, as distinguished from its planning or design or the supervision of the construction of work as a lead supervisor or superintendent;
- (3) the work of an employee or a subordinate of a person holding a license under this chapter or an employee of a person practicing lawfully under this chapter if the work does not include final engineering or land surveying designs or decisions and is done under the direct supervision of a person holding a license under this chapter or a person practicing lawfully under this chapter;
- (4) the practice of professional engineering by licensed architects when the practice is purely incidental to their practice of architecture.

37-67-201.Organization —meetings—

seal.(1) The board shall hold at least two regular meetings each year. Special meetings must be held at the time that the rules of the board provide. Notice of all meetings must be given in the manner that the rules provide.

(2) The board shall elect annually the following officers: a presiding officer

r, vicepresiding officer, and a secretary.

(3) The board shall adopt an official seal.

37-67-

202. Rulemaking. The board may adopt rules reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

37-67-203. Compensation of board members — expenses. Each member of the board shall receive compensation and travel expenses as provided for in 37-1-133.

37-67-204. Record of proceedings — register of applicants. (1) The department shall keep a record of its proceedings and a register of the board's proceedings.

(2) The department shall keep a register of applicants for licensure, which musts how:

- (a) the name, age, and residence of each applicant;
- (b) the date of the application;
- (c) the place of business of the applicant;
- (d) the applicant's educational and other qualifications;
- (e) the branch or branches of engineering in which the applicant qualified;
- (f) whether an examination was required;
- (g) whether the applicant was rejected;
- (h) whether a license was granted;
- (i) the date of the action of the board; and
- (j) other information considered necessary by the board.

(3) The records of the department are prima facie evidence of the proceedings of the board, and a transcript of the proceedings, certified by the department, is admissible in evidence as if the original were produced.

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37-67-301. License required to practice or offer to practice. In order to safeguard life, health, and property and to promote the public welfare, a person in either a public or private capacity practicing or offering to practice engineering or land surveying is required to submit evidence that the person is qualified to practice and is licensed as provided in this chapter. It is unlawful for a person to practice or to offer to practice in this state engineering or land surveying or to use in connection with the person's name or otherwise assume, use, or advertise any title or description tending to convey the impression that the person is a professional engineer or a professional land surveyor unless the person has been licensed under the provisions of this chapter.

37-67-304. Local government not to impose fee or examination.

A license fee or examination may not be imposed by a local government on a person licensed under this chapter to practice engineering or land surveying.

Attorney General's Opinions

Self-Government Powers — Professional Licensing — Conflict With State Statutes: The city of Helena, operating under a home rule charter, passed an ordinance requiring a license fee of all city businesses. State statutes that prohibit municipalities from imposing license fees on certain professions did not apply because the statutes were not made specifically applicable to self-government units. Home rule governments have all powers not specifically denied by the Montana Constitution, law, or charter.³⁹
A.G. Op. 60 (1982).

37-67-

312. Licensure of professional engineers without examination by comity.

A person holding a license or certificate of registration to engage in the practice of engineering in another state, territory, or possession of the United States, the District of Columbia, or any foreign country may be issued a license in this state if the person applies in the manner required by the board, meets the qualifications provided in 37-67-323, and has passed the principles and practices of engineering examination. An applicant whose initial licensure in another state does not meet the experience requirements of 37-67-323 must be required to demonstrate 2 years of postlicensure experience for each year of prelicensure deficiency.

37-67-313. Licensure of professional land surveyors by comity.

A person holding a license or certificate of registration to engage in the practice of land surveying in another state, territory, or possession of the United States, the District of Columbia, or any foreign country may be issued a license in this state if the person applies in the manner required by the board, meets the qualifications provided in 37-67-325, and has passed the principles and practices of surveying examination and the Montana state-specific lands surveyor examination. The experience requirements of 37-67-325 may be met with experience gained after initial licensure that indicates to the board that the applicant is competent to practice land surveying. An applicant whose initial licensure in another state does not meet the experience requirements of 37-67-325 must be required to demonstrate 2 years of post licensure experience for each year of prelicensure deficiency.

37-67-314. Issuance of licenses—

seal of professional engineer or professional land surveyor.

(1) The department shall issue to an applicant who, in the opinion of the board, has met the requirements of this chapter a license authorizing the applicant to engage in the practice of engineering or the practice of land surveying and to assume responsible charge of engineering or land surveying projects in this

state. The license for a professional engineer must carry the designation "professional engineer" and for a professional land surveyor "professional land surveyor" and must include the full name and license number of the licensee.

(2) Each license may, upon licensure, obtain a seal of a design authorized by the board. The licensee shall sign, date, and seal professional or technical documents created in the practice of professional engineering or professional land surveying.

(3) A license is prima facie evidence that the named person is entitled to all rights, privileges, and responsibilities of a professional engineer or professional land surveyor while the license remains valid.

(4) It is unlawful for a licensee whose license has expired to sign or seal any professional or technical document or be in responsible charge of a professional engineering or professional land surveying project.

Attorney General's Opinions

Seal Not Required for Private Buildings: "Public" in 18-2-122 refers only to the buildings of the state and its political subdivisions. Therefore, plans and specifications for construction of privately owned buildings need not bear seals of specified professional persons. 36 A.G. Op. 52 (1976).

37-67-322. Application— contents—

fees. An application must include a completed form that must be accompanied by a nonrefundable application fee prescribed by the board and all other required supplemental documents and information. The form must be approved by the department.

37-67-

323. Qualifications of applicant for examination and licensure as professional engineer.

(1) An applicant who meets any of the following set of requirements must be admitted to the principles and practices of engineering examination:

(a) a baccalaureate degree in engineering or engineering technology in a board-approved curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board;

(b) a master's degree in engineering or engineering technology in a board-approved curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board;

(c) a baccalaureate degree in an engineering, engineering technology, or other science curriculum, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 20 years of experience on engineering projects that indicate to the board that the applicant is competent to practice engineering, with at least 10 years of that experience under the supervision of a licensed professional engineer, and references as required by the board;

(d) a doctoral degree in engineering from an institution with an engineering program approved by the board, passage of the fundamentals of engineering examination, certification as an engineer intern, a specific record of at least 2 years of progressive experience on engineering projects of a grade and character that indicate to the board that the applicant is competent to practice engineering, and references as required by the board; or

(e) a doctoral degree in engineering from an institution with an engineering program approved by the board, a specific record of at least 4 years of progressive experience on engineering projects that indicate to the board that the applicant is competent to practice engineering, and references as required by the board.

(2) Upon passage of the principles and practices of engineering examination, an applicant must be granted a license to practice engineering in this state.

37-67-

324. Qualifications of applicant for certification as engineer intern.

(1) An applicant who meets any of the following sets of requirements must be granted a certificate as an engineer intern:

(a) a baccalaureate or master's degree in engineering or engineering technology in a curriculum approved by the board, passage of the fundamentals of engineering examination, and references as required by the board; or

(b) a baccalaureate degree in a science curriculum other than a board-approved engineering or engineering technology curriculum, passage of the fundamentals of engineering examination, a specific record of at least 4 years of progressive experience under the supervision of a licensed professional engineer, and references as required by the board. An applicant approved for certification pursuant to this subsection is eligible for licensure as a professional engineer only under 37-67-323(1)(c).

(2) Certification as an engineer intern does not authorize the holder to practice a

saprofessional engineer.

37-67-325. Qualifications of applicant for examination and licensure as professional land

surveyor. (1) An applicant who meets any of the following set of requirements must be admitted to the principles and practices of surveying examination and the Montana state-specific land surveyor examination:

(a) a baccalaureate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 4 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 3 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board;

(b) an associate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board;

(c) a baccalaureate degree with a minor in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board; or

(d) before October 1, 2022, passage of the fundamentals of surveying examination, at least 10

years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 6 years must be progressive experience on land surveying projects, and references and exhibits of land surveying projects as required by the board.

(2) Upon passage of both examinations, the applicant must be granted a license to practice land surveying in this state.

37-67-

326. Qualifications of applicant for examination and certification as a land surveyor intern.

(1) An applicant who meets any of the following set of requirements must be admitted to the fundamentals of surveying examination:

(a) a baccalaureate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board;

(b) an associate degree in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board;

(c) a baccalaureate degree with a minor in land surveying that meets the board-approved land surveying curriculum, passage of the fundamentals of surveying examination, and references as required by the board; or

(d) before October 1, 2022, passage of the fundamentals of surveying examination, at least 6 years of combined office and field experience in land surveying under the direct supervision of a licensed professional land surveyor of which at least 4 1/2 years must be progressive experience in charge of land surveying projects, and references and exhibits as required by the board.

(2) Upon passage of the fundamentals of surveying examination, an applicant must be granted a certificate as a Montana land surveyor intern.

(3) Certification as a land surveyor or intern does not authorize the holder to practice as a professional land surveyor.

37-67-327. Examinations — fees — third-party services. (1)

Examinations will be at times and places established by the board or by a third-party examination services provider. The board recognizes the following examinations for licensure or certification:

- (a) the fundamental of engineering examination;
- (b) the principles and practices of engineering examination;
- (c) the fundamental of surveying examination;
- (d) the principles and practices of surveying examination; and
- (e) the Montana state-specific land surveyor examination.

(2) The fees for examinations must be set by the board or by a third party contracted by the board to provide examination services. The board may charge a fee for reexamination, a rescheduling of an examination, or an additional examination not required for licensure or certification.

(3) The board may use a third party to provide examination and grading services.

(4) The board reserves the right to require applicants to meet all requirements for licensure or certification prior to being admitted to an examination but may waive this requirement as part of an agreement with a third-party examination services provider.

(5) All examination fees are nonrefundable.

37-67-328. Certificate of authorization.

(1) A business entity registered with the Montana secretary of state:

(a) shall obtain a certificate of authorization from the board before engaging in the practice of professional engineering or professional land surveying; and

(b) may engage in the practice of professional engineering or professional land surveying in this state if at least one employee of the business entity is licensed by the board and identified as being in responsible charge of professional engineering or professional land surveying work performed in this state.

(2) A business entity with one or more branch offices or business locations in Montana shall apply for a certificate of authorization for the main office and list each branch office or business location and at least one employee of the business entity who is licensed by the board and identified as being in responsible charge of professional engineering or professional land surveying work performed in this state.

(3) A sole proprietor who is not required to register with the Montana secretary of state is not required to apply for a certificate of authorization.

37-67-329. Emeritus status. On October 1, 2015, any licensee previously approved for emeritus status under this chapter becomes an inactive licensee subject to rules of the board regarding inactive licensee status.

37-67-

331. Revocation, suspension, restriction, or limitation of license — grounds. The board may reprimand a licensee or revoke, suspend, or restrict or limit the license of a licensee found responsible for:

- (1) gross negligence, incompetency, or misconduct in the practice of professional engineering or professional land surveying;
- (2) a violation of rules for professional conduct for professional engineers and professional land surveyors adopted by the board; or
- (3) failing to comply with state laws and rules pertaining to the practice of professional engineering or professional land surveying.

37-67-332. Violations — penalties —

enforcement. (1)(a) A person commits a criminal offense if the person knowingly:

- (i) practices or offers to practice engineering or land surveying in this state without being licensed under this chapter;
- (ii) presents or attempts to use the license or the seal of another person;
- (iii) gives false or forged evidence to the board or department in obtaining a license;
- (iv) impersonates another licensee;
- (v) attempts to use an expired, revoked, or meritorious license; or
- (vi) violates a provision of this chapter.

(b) A person convicted under subsection (1)(a) shall be fined an amount of not less than \$100 or more than \$500 or be incarcerated in the county jail for a period not exceeding 3 months, or both.

- (2) All officers of the law of this state or one of its political

subdivisions shall enforce this chapter and prosecute persons violating it. The attorney general shall act as legal adviser of the board and render legal assistance necessary in carrying out this chapter.

(3) The board may apply to the appropriate court for an injunction against a person found by the board to have practiced or attempted or offered to practice engineering or land surveying in this state without a valid license.

(4) If a person violates an injunction against practice without a valid license, the court may impose a fine in an amount not to exceed \$25,000.