

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS****NOTICE OF FINAL RULEMAKING**

The Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority set forth in D.C. Official Code §§ 47-2853.08, 47-2853.10 (a) (12), and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of final rulemaking for amendment to 17 DCMR, Chapter 33 (General Rules), and a new Title 17 DCMR, Chapter 15 (Professional Engineers and Land Surveyors). The new 17 DCMR, Chapter 15 contains the regulations governing the licensing and practice of Professional Engineers and Land Surveyors within the District of Columbia.

This rulemaking is necessary to implement the Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D. C. Official Code § 47-2853.01 *et seq.*), which created the Land Surveyor license and dissolved the District of Columbia Board of Registration for Professional Engineers and transferred all personnel, records, property, and unexpended balances of appropriations and other funds to the Board of Professional Engineering established by D.C. Official Code § 47-2853.06(e).

A Notice of Proposed Rulemaking was published for comment in the *D.C. Register* on July 13, 2007. No comments were received in response to that notice. These final rules will be effective upon publication in the *D.C. Register*.

Title 17 DCMR, Chapter 33, section 3300.1, is amended by adding a new subsection (g) as follows:

(g) The Board of Professional Engineering established by the Second Omnibus Regulatory Reform Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code §47-2853.6 (c)) (2001).

A new Title 17 DCMR, Chapter 15 is added to read as follows:

**CHAPTER 15 PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

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## **1500 INTRODUCTION AND GENERAL PROVISIONS**

- 1500.1 In order to safeguard life, health, and property, and promote the public welfare, the practice of engineering and/or land surveying in the District of Columbia is hereby declared to be subject to regulation in the public interest. It is further declared to be a matter of public interest and concern that the professions of engineering and land surveying merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of engineering and land surveying. All provisions of this chapter relating to the practice of engineering and land surveying shall be construed in accordance with this declaration of policy.
- 1500.2 The adopted rules of procedure shall be consistent with District of Columbia law.
- 1500.3 Rules of procedure adopted by the Board of Professional Engineering (the Board) shall be binding upon persons licensed as Professional Engineers or Land Surveyors pursuant to the Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999, (D.C. Law 12-261; D.C. Official Code § 47-2853.01 *et seq.*) (“the Act”).
- 1500.4 17 DCMR Chapter 33 shall supplement this Chapter. In the event of a conflict between 17 DCMR Chapter 33 and this Chapter or the Act, this Chapter and the Act shall control.

1501 [RESERVED]

1502 ORGANIZATION OF THE BOARD

- 1502.1 Pursuant to D.C. Official Code § 47-2853.06(e), the Board shall consist of seven (7) members. Four (4) members shall be Professional Engineers licensed in various disciplines, two (2) members shall be Professional Land Surveyors, and one (1) member shall be a public member.
- 1502.2 The Mayor appoints the members of the Board, with the consent of the Council of the District of Columbia, to three-year terms. Members may serve on the Board for no more than three (3) consecutive three-year terms as long as the requirements set forth in D.C. Official Code § 47-2853.07 are met.
- 1502.3 At the first regularly scheduled meeting of each calendar year, the Board shall elect a chairperson. The Board may also choose to elect a vice chair and a treasurer. The vice chair shall preside at meetings or portions thereof when the chairperson is absent. The treasurer shall be responsible for budgeting, tracking, and controlling all Board expenditures.
- 1502.4 The Board shall hold at least four (4) meetings each year at times and places determined by the Board by resolution. The Board shall publish notice of all regular meetings at least one (1) week in advance in the *D.C. Register*. All meetings are open to the public, except meetings or portions of meetings which the Board closes for executive session.
- 1502.5 The Board may meet in committees smaller than the full Board, but of not less than three (3) members, for carrying out specific functions of the Board, provided that the full Board votes to approve any actions of such smaller committees.
- 1502.6 A quorum of the Board shall equal a majority of the number of legislated positions on the Board.
- 1502.7 After a quorum is established, a majority vote of those Board members present and voting is necessary for the Board to take any official action.
- 1502.8 The current edition of Roberts Rules of Order shall govern the normal proceedings of the Board. Exceptions include hearings that may be disciplinary in nature.
- 1502.9 Pursuant to D.C. Official Code § 47-2853.09(b), each member of the Board shall be entitled to receive compensation in accordance with D.C. Official Code § 1-611.08, and in addition shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties, subject to appropriations.

- 1502.10 All applications and requests for which the Board has prescribed a form shall be presented to the Board on the forms.
- 1502.11 Pursuant to the procedures and limitations set forth within Title 2, Chapter 5, subchapter II (Freedom of Information), of the D.C. Official Code, the public may request and receive copies of public records generated by the Board. The public shall direct all requests for copies of the Board's public records, as defined in D.C. Official Code § 2-502, to the Department of Consumer and Regulatory Affairs' Freedom of Information Officer.

### 1503 APPLICATIONS

- 1503.1 A person applying for licensure as a Professional Engineer or Professional Land Surveyor shall present his/her qualifications to the Board on forms provided by the Board.

Professional Engineers are licensed by discipline and applicants shall select the discipline in which he or she seeks licensure from the choices available on the application.

- 1503.2 A person who believes that he or she has the necessary qualifications for licensure according to the laws of the District of Columbia as a Professional Engineer or a Professional Land Surveyor, except for that of experience, may submit an application for licensure as an Engineer Intern or a Land Surveyor Intern.

Engineer Interns are licensed by discipline and applicants shall select the discipline in which he or she seeks licensure from the choices available on the application.

- 1503.3 A person who is within one (1) semester of completing a baccalaureate degree in engineering at an educational institution approved by the Board may submit an application to the Board for licensure as an Engineer Intern and, at the Board's discretion, may be permitted to take the fundamentals examination prior to graduation.

- 1503.4 A person applying for licensure by examination shall not register for the examination unless approved by the Board.

- 1503.5 All applications shall be completed as follows:

- (a) All applications for licensure shall be made on the forms provided by the Board, but when the space provided on a Board form is inadequate, supplementary sheets provided by the Board (or if not provided by the Board, sheets of white printer or photocopy paper 8.5 x 11 inches) are to be used;

- (b) In order to allow sufficient time for processing and for scheduling examinations, all applications that require examinations shall be filed with the Board at least ninety (90) days before the date set for the appropriate examinations;
- (c) Withholding information, providing statements that are untrue, or misrepresenting facts may be cause for denial of an application, or if discovered after a license has been issued by the Board, suspension, reprimand, or revocation of the license;
- (d) An applicant shall supply correct addresses for all references. In the event that a reference fails to respond to a Board inquiry, the Board may delay processing an application until either the reference replies to the Board or the applicant provides another reference that replies to the Board; and
- (e) In relating experience, the applicant must account for all employment or work experience for the period of time that has elapsed since the beginning of the experience record. If the applicant is not employed, or is employed in other kinds of work, this should be indicated in the experience record.

1503.6 Applications for licensure by reciprocity or endorsement pursuant to D.C. Official Code § 47-2853.12(b), properly executed and submitted with verification by the National Council of Examiners for Engineering and Surveying (NCEES), shall be accepted in lieu of the same information that is required to appear on the application form provided by the Board.

**1504 APPLICATIONS FROM FOREIGN APPLICANTS AND PERSONS WITH DEGREES FROM FOREIGN SCHOOLS**

1504.1 All foreign language documentation submitted with the completed application shall be accompanied by certified translations of each individual document. The translator shall send the translation report directly to the Board for review.

1504.2 An applicant shall be able to speak and write in English. The Board may require the applicant prove his or her English proficiency by providing a certified copy of his or her score on the Test of English as a Foreign Language (TOEFL) examination showing a score of 500 or greater.

1504.3 An applicant who, for political or other reasons deemed valid by the Board, is unable to obtain his or her college transcript shall be required to complete a supplementary application form approved by the Board.

1504.4 NCEES standards and recommendations on foreign engineering curricula shall serve as the Board's guide for evaluation.

1504.5 An applicant possessing a current Professional Engineer license or Professional Land Surveyor license issued by an appropriate licensing authority in a state, province, or territory of Canada or Mexico may be permitted to obtain a license in the District of Columbia if the applicant proves to the satisfaction of the Board that he or she otherwise qualifies for licensure under this chapter, has passed an examination acceptable to the Board, and has completed education and training requirements for licensure in the foreign jurisdiction that were substantially equivalent, at the time they were received by the applicant, to the Board's current education and experience requirements.

## 1505 APPROVAL OR DENIAL OF APPLICATIONS

1505.1 Applications may be approved or denied.

- (a) When the Board approves an application showing that the applicant has met all the requirements for licensure required by District of Columbia law, the applicant shall be granted licensure or admitted to examination with notification by the Board. The Board may ask an applicant for additional information prior to approving or denying an application.
- (b) When the Board intends to deny an application for a license, the Board shall give the applicant notice and opportunity for a hearing unless the Board intends to deny the application for one or more of the following reasons:
  - 1. The applicant failed to pay the required fees;
  - 2. The applicant failed to complete the application;
  - 3. The applicant failed to pass the required written examination;
  - 4. The applicant failed to meet the minimum age, education, or experience requirements; or
  - 5. For any other reason set forth in law or regulation and there are no material facts at issue.
- (c) The Board may hold the hearing referred to in section 1505.1(b) and section 1506 or the Board may, by majority vote, refer the matter to the Office of Administrative Hearings (OAH).

**1506 RECONSIDERATION OF APPLICATIONS**

- 1506.1 A request for a hearing shall be made within twenty (20) days after the applicant has been notified that the Board intends to deny the original application.
- 1506.2 The Board shall send notice of the hearing to the applicant by certified mail to the last known address of the applicant no less than fifteen (15) days before the hearing.
- 1506.3 The hearing shall be held by at least a quorum of the Board.
- 1506.4 Evidence, including oral testimony, shall be freely admitted. The applicant shall be allowed to have counsel present.
- 1506.5 The Board shall issue a final decision within ninety (90) days of the hearing date. The applicant shall be notified of the decision.

**1507 FEES**

- 1507.1 The Director may change the fee schedule by regulation in accordance with the Act and Mayor's Order 2000-70.
- 1507.2 The licensure fee, the application fee, and, if applicable, the examination fee(s), for Professional Engineers, Professional Land Surveyors, Engineer Interns, or Land Surveyor Interns shall accompany the application.
- 1507.3 An application received without the proper fee shall be returned to the applicant.
- 1507.4 Application and examination fees are non-refundable.
- 1507.5 Renewal fees are payable pursuant to § 1513 of this Chapter.
- 1507.6 Each licensee will be notified by the Board of the expiration date of his/her license and the amount of the renewal fee at least one (1) month before the expiration date.
- 1507.7 Pursuant to 17 DCMR 3305, a person failing to renew a license prior to the license expiration date shall be required to pay a late fee or, when appropriate, apply for reinstatement and pay a reinstatement fee.
- 1507.8 The Department may assess a fee for the issuance of a duplicate license certificate to a licensee.

**1508 EDUCATION REQUIREMENTS**

1508.1 Applicants for a Professional Engineer license must have obtained a four-year baccalaureate engineering degree from an engineering program approved by the Board. The Board will approve baccalaureate degree programs that meet the following standards:

- (a) The baccalaureate engineering degree program held accreditation from the Engineering Accreditation Commission of the Accreditation Board for Engineering Technology (EAC/ABET) at the time the applicant received the degree;
- (b) The baccalaureate engineering degree program received accreditation from EAC/ABET within three years after the date that the applicant received the degree; or
- (c) The baccalaureate engineering degree program was not accredited by EAC/ABET but, within two years of the date that the applicant received the degree from the unaccredited institution, the Board has determined, in accordance with EAC/ABET standards, that the program is substantially equivalent to programs that are accredited by EAC/ABET.

1508.2 Applicants for a Professional Land Surveyor license using a four-year baccalaureate land surveying degree to satisfy the Board's education requirements must have obtained their degree from a land surveying program approved by the Board. The Board shall approve land surveying programs that meet the following standards:

- (a) The college or university awarding the degree must be accredited by the accrediting agency or state approval agency recognized by the U.S. Secretary of Education as a "reliable authority as to the quality of postsecondary education" within the meaning of the Higher Education Act of 1965, as amended (HEA), located in the state or territory where the main campus of the college or university is located;
- (b) The land surveying program was accredited by EAC/ABET, the Applied Science Accreditation Commission of ABET (ASAC/ABET), the Technology Accreditation Commission of ABET (TAC/ABET);
- (c) The land surveying program was evaluated and approved by the Board as being substantially equivalent to those curricula that are accredited by ABET prior to the date that the applicant received the degree; or
- (d) The land surveying program received accreditation from one of the ABET Commissions within three years after the date that the applicant received the degree.

- 1508.3 A non-degreed applicant for a Professional Land Surveyor license by examination must demonstrate the attainment of a minimum of 12 years of education and experience, having taken at least one course of land surveying at an institution accredited, at the time the course was taken, by an accrediting agency or state approval agency recognized by the U.S. Secretary of Education as a "reliable authority as to the quality of postsecondary education" within the meaning of the Higher Education Act of 1965, as amended (HEA). Acceptable courses are those courses in the various kinds and facets of land surveying that have been evaluated and approved by this Board as being substantially equivalent to those curricula that are accredited by ABET. Acceptable experience must meet the requirements of section 1509 of this Chapter.
- 1508.4 A non-degreed applicant for a Land Surveyor Intern license by examination must demonstrate the attainment of a minimum of 8 years of education and experience, having taken at least one course of surveying at an institution accredited, at the time the course was taken, by an accrediting agency or state approval agency recognized by the U.S. Secretary of Education as a "reliable authority as to the quality of postsecondary education" within the meaning of the Higher Education Act of 1965, as amended (HEA). Acceptable courses are those courses in the various kinds and facets of land surveying that have been evaluated and approved by this Board as being substantially equivalent to those curricula that are accredited by ABET. Acceptable experience must meet the requirements of section 1509 of this Chapter.
- 1508.5 Applicants are responsible for verifying the approval status of degree programs used to satisfy the Board's education requirements and may do so by contacting the Board.

## **1509 EXPERIENCE REQUIREMENTS**

- 1509.1 A person applying for licensure as a Professional Engineer shall prove to the satisfaction of the Board that he or she has obtained four (4) or more years of experience indicating that he or she may be competent to practice engineering. In evaluating an applicant's experience, the Board shall consider the following:
- (a) Experience must be progressive on engineering projects to indicate that it is of increasing quality and requiring greater responsibility.
  - (b) Only work of an engineering nature, which follows graduation from a Board approved curriculum, is creditable.
  - (c) Experience shall not have been obtained in violation of the Act.

- (d) Experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. The Board expects that the applicant, while in the armed services, served in an engineering or engineering-related group.
- (e) Experience should be gained under the supervision of a licensed professional engineer or, if the experience was gained without supervision, an explanation should be provided showing why the experience should be considered acceptable.
- (f) For sales experience to be creditable, it must be demonstrated that engineering principles were required and used in gaining the experience.
- (g) Teaching experience, to be creditable, must be in engineering or engineering-related courses at an advanced level in a college or university offering an engineering curriculum of four (4) years or more that is approved by the Board.
- (h) Experience gained in engineering research and design projects by members of an engineering faculty where the Board approves the curriculum is creditable.
- (i) Successful completion of graduate study leading to the master's degree in engineering that has followed a baccalaureate degree in engineering may be used for credit for one (1) year's experience. If the Ph.D. in engineering is completed under the same conditions, two (2) years' total experience may be credited. The two (2) years' credit includes the one (1) year for the master's degree. If the Ph.D. is obtained without the master's degree, the credit for experience may be two (2) years.
- (j) Experience may not be anticipated. The experience must have been gained by the time of the application.
- (k) Experience in construction, to be creditable, must demonstrate the application of engineering principles.
- (l) Experience should include demonstration of knowledge of engineering mathematics, physical and applied science, properties of materials, and the fundamental principles of engineering design.
- (m) Experience should include demonstration of the application of engineering principles to the practical solution of engineering problems.

1509.2

A person applying for licensure as a Professional Land Surveyor shall prove to the satisfaction of the Board that he or she has obtained experience indicating that he

or she may be competent to practice land surveying. In evaluating an applicant's experience, the Board shall consider the following:

- (a) Experience on land surveying projects shall be progressive to indicate that it is of increasing quality and requiring greater responsibility on the part of the applicant.
- (b) Experience shall not be obtained in violation of the Act.
- (c) Experience gained in the armed services, to be creditable, must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. The Board expects that the applicant, while in the armed services, served in a land surveying group.
- (d) Experience should be gained under the supervision of a licensed Professional Land Surveyor or if the experience was gained without supervision, an explanation should be provided showing why the experience should be considered acceptable.
- (e) Teaching experience, to be creditable, must be at an advanced level in a land surveying curriculum approved by the Board.
- (f) A substantial portion of the experience must be spent in charge of work related to property conveyance and/or boundary line determination.
- (g) The applicant must demonstrate adequate experience in the technical field aspects of the profession.

## 1510 REFERENCES

1510.1 Each applicant shall provide the Board with the names and current addresses for the required number of references. References are individuals who should have personal knowledge of an applicant and who are able to issue judgments concerning an applicant's experience, ability, character, or reputation.

1510.2 For licensure as a Professional Engineer or Professional Land Surveyor, an applicant must submit five (5) references, three (3) of whom shall be professional engineers or professional land surveyors having personal knowledge of the applicant's engineering or land surveying experience. In addition, for each employment period, persons familiar with the applicant's experience for that period shall be given as references. Professional Engineer applicants shall have Professional Engineer references, and Professional Land Surveyor applicants shall have Professional Land Surveyor references.

- 1510.3 A person applying for licensure as an Engineer Intern or Land Surveyor Intern shall provide at least three (3) character references.
- 1510.4 Each reference shall be verified.
- 1510.5 Relatives shall not be used as references.
- 1510.6 No current Board member shall be used as a reference.
- 1510.7 Each applicant should inform the persons being used as references that the applicant has submitted their name as a reference.
- 1510.8 It is the responsibility of the applicant to assure his or her references return the completed reference form to the Board within a reasonable time. This includes educational transcripts and verification of licensure in other jurisdictions. All reference materials shall be submitted before the Board will take action on an application.
- 1510.9 Replies received from references regarding the qualifications of an applicant shall be placed in files that are considered non-public records. The source and character of the information will not be divulged except when required by law.

## **1511 EXAMINATIONS**

- 1511.1 Each applicant for licensure by examination must pass the applicable written examination to be eligible for licensure by the Board.
- 1511.2 The following engineering examinations prepared and furnished by the National Council of Examiners for Engineering and Surveying meet the requirements of the District of Columbia for licensure as an engineer:
- (a) Examination in the fundamentals of engineering, known as the Fundamentals of Engineering (FE) examination, of eight (8) hours duration;
  - (b) Examination in the principles and practice of engineering, known as the Principles and Practice of Engineering (PE) examination in the appropriate engineering discipline, of eight (8) hours duration.
- 1511.3 An applicant for licensure as a Professional Engineer or as an Engineer Intern shall be eligible for the appropriate examination as follows:
- (a) An applicant for licensure as a Professional Engineer will be permitted to sit for the PE examination upon satisfactorily fulfilling all application requirements.

- (b) No applicant may sit for the eight (8) hour FE examination or the eight (8) hour PE examination until the Board has established that the applicant is eligible for the examination.
- (c) An applicant for licensure as an Engineer Intern becomes eligible to sit for the FE examination during the senior year of enrollment in an engineering program leading to a baccalaureate degree in engineering which program has been approved by the Board. The enrollment of the applicant must be verified by the school being attended.
- (d) Professional Engineers are examined by discipline and shall select the discipline for examination on the application. Engineering specialties are listed in section 1512 of this chapter.

1511.4 The following examinations prepared and furnished by the National Council of Examiners for Engineering and Surveying, meet the requirements of the District of Columbia for licensure as a Professional Land Surveyor:

- (a) Examination in the fundamentals of land surveying, known as the Fundamentals of Land Surveying (FLS) examination, of eight (8) hours duration, and
- (b) Examination in the principles and practice of land surveying, known as the Principles and Practice of Land Surveying (PLS) examination, of eight (8) hours duration of which four (4) hours is on District of Columbia laws and procedures for the practice of land surveying.

1511.5 An applicant for licensure as a Professional Land Surveyor shall be eligible for the appropriate examination as follows:

- (a) An applicant for licensure as a Professional Land Surveyor will not be permitted to sit for the PLS examination until the FLS examination has been passed.
- (b) An applicant may be permitted to sit for the eight (8) hour FLS examination or the eight (8) hour PLS examination after the Board has established that the applicant is eligible for the examination.

1511.6 Examinations are offered on dates and times set by the National Council of Examiners for Engineering and Surveying and at locations designated by the Board.

1511.7 Examinations will be given in English.

1511.8 The Board will not distribute copies of questions used on prior examinations.

- 1511.9 The Board may publish specifications for all written examinations, which may be obtained from the Board upon request by persons who have been approved by the Board to take the national and/or District examination.
- 1511.10 Instructions provided prior to each examination will declare an examination open or closed book. When an applicant sits for an open-book examination, any books, bound materials of any sort, and Board-approved calculators or computers that are self-powered and non-printing may be used. Examinees shall not loan or exchange materials with any other person.
- 1511.11 If an applicant fails to attend an examination for which he or she has been scheduled, the examination fee will be forfeited. In the case of illness, death in the family, or other unavoidable causes for absence the fee will be applied to the next test administration.
- 1511.12 Failure of an applicant to attend an examination for which he or she has been scheduled to attend does not count as a failure of the examination.
- 1511.13 An applicant who fails to pass the first or second PE, PLS, FE, or FLS examination will be granted a request to sit for a third offering of the examination. In the event the applicant fails to pass a third examination and wishes to retake the examination, the Board may require the applicant to wait a prescribed period of time before taking the examination again and/or appear before the Board with evidence to show that he or she has acquired additional knowledge.
- 1511.14 An applicant for the PE or PLS examinations will be notified by the Board at least twenty-one (21) days before the examination date of approval to take the examination. The applicant must notify the Board if he/she is unable to sit for the examination.
- 1511.15 An initial applicant for the PE, FE, PLS, or FLS examinations must submit an application at least ninety (90) days before the examination date in order to sit for the examination. An applicant for re-examination must apply to take the examination at least sixty (60) days before the examination date in order to sit for the examination.
- 1511.16 Examination results, after review and approval of the passing score, will be supplied in writing to each examinee showing the applicant's score and the passing score. No results will be given in any other manner.

**1512 CLASSIFICATIONS AND DISCIPLINES OF ENGINEERING AND LAND SURVEYING**

1512.1 An engineering applicant shall be licensed under one of the following classifications:

- (a) Engineer Intern - by graduation and examination; or
- (b) Professional Engineer - by graduation, experience, and examination after having been licensed as an Engineer Intern, or by reciprocity or endorsement.
- (c) Professional Engineers may be licensed in one or more of the following engineering disciplines;
  - 1. Aeronautical/Aerospace;
  - 2. Agricultural;
  - 3. Architectural;
  - 4. Ceramic;
  - 5. Chemical;
  - 6. Civil;
  - 7. Civil/Structural/Sanitary;
  - 8. Control Systems;
  - 9. Electrical;
  - 10. Environmental;
  - 11. Fire Protection;
  - 12. Industrial;
  - 13. Manufacturing;
  - 14. Mining/Mineral;
  - 15. Marine;
  - 16. Mechanical;
  - 17. Metallurgical;
  - 18. Nuclear;
  - 19. Petroleum;
  - 20. Sanitary; and
  - 21. Structural;
- (d) Professional Engineers may be licensed in a discipline not listed in (c) above if an engineering examination for that discipline has been prepared and furnished by the National Council of Examiners for Engineering and Surveying, and the applicant meets the requirements of the District of Columbia for licensure as an engineer.

1512.2 A land surveying applicant shall be licensed under one of the following classifications:

- (a) Land Surveyor Intern - by education and experience; or
- (b) Professional Land Surveyor - by experience and examination after having been licensed as a Land Surveyor Intern or by reciprocity or endorsement and examination.

### **1513 LICENSE EXPIRATION AND RENEWAL**

1513.1 Licenses are valid for two (2) years and expire on the 31st day of August of each even numbered year. The Board shall follow the following procedure when mailing renewal notices to licensees:

- (a) The Board shall mail, or send via electronic means, a renewal notice to the last known physical address or email address of every person licensed by the Board at least thirty (30) days prior to the end of the license cycle.
- (b) Subject to subparagraph (c) of this section, the renewal application and fees must be received by the Board prior to the expiration date of the license.
- (c) A holder of a license who fails to renew before the expiration date may renew the license within sixty (60) days after expiration upon paying the required late fee. Upon renewal, the holder shall be deemed to have possessed a valid license during the period between the expiration of the license and its renewal.

1513.2 If a holder of a license fails to renew the license within sixty (60) days after its expiration, the license shall be deemed to have lapsed on the date of expiration and the holder shall be required to apply for reinstatement of the expired license and pay the required reinstatement fee.

1513.3 The responsibility for the timely renewal of a licensee's license rests solely with the individual licensee.

### **1514 INACTIVE LICENSURE STATUS**

1514.1 A licensee may apply for inactive status by submitting a completed inactive status application and paying the appropriate inactive status fee.

1514.2 A person who is on inactive status shall not be required to pay the biennial renewal fee and shall not practice, offer to practice, or attempt to practice as a Professional Engineer or Professional Land Surveyor in the District.

1514.3 A person may remain on inactive status for up to five (5) years.

- 1514.4 A person on inactive status may reactivate his or her license at any time within five (5) years by notifying the Board and by paying appropriate fees and by meeting all requirements of the Board for license renewal including the demonstration of continuing professional competency as a condition of reinstatement.
- 1514.5 If a person seeking to return to active status has been on inactive status for five (5) years or more, that person shall be considered a new applicant and shall be required to meet all current requirements for licensure, unless the Board in its discretion determines that the failure to renew within the five (5) year inactive period was due to reasonable cause or excusable neglect.
- 1514.6 In the event an inactive licensee does not maintain a current license in any jurisdiction for the five (5) years prior to requesting reinstatement, that person will be required to take the Principles and Practice of Engineering (PE) examination or the Principles and Practice of Land Surveying (PLS) and the District of Columbia specific examination.

## **1515 REINSTATEMENT OF AN EXPIRED LICENSE**

- 1515.1 A person may apply for reinstatement of an expired license any time within five (5) years of the date that the license expired by submitting a completed reinstatement application and paying the appropriate fees.
- 1515.2 The Board shall approve an application for reinstatement of an expired license if the applicant complies with current requirements for license renewal and submits satisfactory evidence of compliance with any continuing education requirements established by the Board in this chapter.
- 1515.3 The Board shall not reinstate the license of a person who fails to apply for reinstatement within five (5) years after the last valid license held by the person has expired. A person who is ineligible to apply for reinstatement of an expired license may become licensed only by meeting the requirements for obtaining an initial license.
- 1515.4 The applicant for reinstatement may be required to demonstrate to the Board that he or she has maintained the required minimum level of professional competence in a manner acceptable to the Board.

## **1516 SEALS**

- 1516.1 The Board shall adopt and have an official seal, which shall be affixed to each certificate of licensure.

- 1516.2 When an applicant is granted licensure, he or she may obtain an engineer's or land surveyor's seal, as appropriate.
- 1516.3 The seal and signature of the licensee shall be placed on all final engineering specifications, reports, drawings, plans, design information, and calculations or land surveys, reports, plats, drawings, plans, and calculations whenever presented to a client or any public agency to certify that the work thereon was done by the licensee or under control of the licensee.
- 1516.4 All seals shall contain the following information:
- (a) Jurisdiction of the licensee;
  - (b) Licensee's name;
  - (c) License/certificate/registration number;
  - (d) The words "Professional Engineer" and discipline (if licensed by) or "Professional Surveyor"; and
  - (e) Any other information requested by the Board.
- 1516.5 Working drawings or documents that are unfinished, in-progress drawings or other documents may or may not have a seal and signature. A working drawing or document must, however, contain a statement to the effect "PRELIMINARY, NOT FOR CONSTRUCTION, RECORDING PURPOSES, OR IMPLEMENTATION."
- 1516.6 The seal and signature shall be placed on all original copy, tracings or other reproducible documents so that the seal and signature will be reproduced when copies are made.
- 1516.7 When the document contains more than one (1) sheet, the first or title page shall be sealed and signed by all involved in the work or those who controlled the work and are responsible for it. In addition, each drawing shall be sealed and signed by the licensee or licensees responsible for each sheet.
- 1516.8 The seal and signature shall be placed on work only when it was under the licensee's complete direction and control.
- 1516.9 Computer-generated seals not signed with a digital signature may be used on final original drawings provided a handwritten signature is placed adjacent to or across the seal and the date is written below the stamp. Drawings, specifications, plans, reports, or documents which do not require certification may be transmitted

electronically but shall have the generated seal, if any, removed before transmitting and shall have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of licensee), P.E.#\_\_\_\_\_/P.L.S.#\_\_\_\_ on (date of sealing). This document should not be considered a certified document."

1516.10 Drawings, reports, or documents that are signed using a digital signature, as defined in these Rules, shall contain the following:

- (a) An authentication procedure that includes the following elements:
  - 1. A unique signature;
  - 2. Capability to verify the source;
  - 3. Sole control by the person using it; and
  - 4. A link to the document in such a manner that the digital signature is invalidated if any data in the document is changed; and
- (b) A list of the hardware, software, and parameters used to prepare the document(s).

## 1517 PROFESSIONAL CONDUCT

1517.1 In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the following rules of professional conduct shall be binding upon every person holding a certificate of licensure as a Professional Engineer or Professional Land Surveyor (licensee), and on all business entities authorized to offer or perform engineering or land surveying services in the District of Columbia.

1517.2 All persons licensed under the provisions of this Chapter are charged with having knowledge of the existence of the rules of professional conduct, and shall be deemed to be familiar with their several provisions and to understand them.

1517.3 The licensee shall conduct the practice in order to protect the public health, safety, and welfare.

1517.4 The licensee shall, at all times, recognize the primary obligation to protect the public in the performance of his or her professional duties. If the licensee's engineering or land surveying judgment is overruled under circumstances where

the safety, health, and welfare of the public are endangered, the licensee shall inform the employer, the contractor, and the appropriate regulatory agency of the possible consequences of the situation.

1517.5 The licensee shall perform services only in areas of the licensee's competence and:

- (a) Shall undertake to perform engineering and land surveying assignments only when qualified by education and experience in the specific technical field of professional engineering or land surveying involved.
- (b) May accept an assignment or project requiring education or experience outside of the licensee's own field of competence, but only to the extent that the services are restricted to those portions or disciplines of the project in which the licensee is qualified. All other portions or disciplines of such project shall be performed by associates, consultants, or employees who are licensed and competent in those portions or disciplines.
- (c) Shall not affix the signature or seal to any engineering or land surveying plan or document dealing with subject matter for which the licensee lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the licensee's direct supervisory control.
  1. Direct supervisory control (responsible charge) requires a licensee or employee to carry out client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review.
    - i. A licensee shall not contract with a non-licensed individual to provide these professional services.
    - ii. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided that individual is qualified or licensed to provide such service and provided the licensee reviews the work.
  2. The licensee may affix the seal and signature to drawings and documents depicting the work of two or more professionals provided it is designated by a note under the seal the specific subject matter for which each is responsible.

1517.6 The licensee shall issue public statements only in an objective and truthful manner and:

- (a) Shall be objective and truthful in all professional reports, statements, or testimony. The licensee shall include all relevant and pertinent information in such reports, statements, or testimony.
- (b) When serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony.
- (c) Shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of the party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the instant matters.
- (d) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. Indiscriminate criticism includes statements without valid basis or cause; statements that are not objective and truthful; or statements that fail to include all relevant and pertinent information. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such information shall be presented to the Board.

1517.7

The licensee shall avoid conflicts of interest and:

- (a) Shall promptly inform the employer or client and any reviewing agency of any business association, interests, or circumstances that could influence judgment or the quality of services.
- (b) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.
- (c) Shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (d) Shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the client or employer in connection with work for which the licensee is responsible.

- (e) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or the licensee's organization in private engineering and land surveying practices.
- (f) Shall not solicit or accept an engineering or land surveying contract from a governmental body on which a principal or officer of the licensee's organization serves as a member.
- (g) Shall not attempt to supplant another engineer or land surveyor in a particular employment after becoming aware that the other has been selected for the employment.

1517.8 The licensee shall solicit or accept work only based on qualifications and:

- (a) Shall not offer, either directly or indirectly, to pay a commission, political contribution, gift, or any other consideration in order to secure work. Notwithstanding the foregoing, licensees are permitted to pay employment agencies fees for services rendered in securing salaried positions.
- (b) Shall compete for employment based on professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive, or unfair statement or claim regarding the cost, quality, or extent of services to be rendered.
- (c) Shall, with regard to fee bidding on public projects for the District of Columbia, comply with the provisions of 27 DCMR Chapter 26, "Construction And Architect-Engineer Contracts" and for federal projects, 40 U.S. Code 541 *et seq.* (the Brooks Act); and shall not knowingly cooperate in a violation of any provision of 27 DCMR Chapter 26 or of the Brooks Act.
- (d) Shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded, unless it is clearly stated that no degree or certificate was awarded. The licensee shall not misrepresent degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.

1517.9 The Licensee shall perform services in an ethical and lawful manner and:

- (a) Shall not knowingly associate with or permit the use of the licensee's name or firm name in a business venture by any person or firm which the licensee knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not properly licensed.
- (b) If the licensee has knowledge or reason to believe that another person or firm may be in violation of any of these provisions or of D.C. Law 12-261, shall present such information to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board. The licensee shall timely respond to all inquiries and correspondence from the Board and shall timely claim correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee from the Board.

1517.10 A Professional Engineer or Professional Land Surveyor who has received a reprimand or civil penalty or whose professional license is revoked, suspended, denied, or surrendered because of disciplinary action by another jurisdiction shall be subject to discipline by the Board if the licensee's action constitutes a violation of D.C. Law 12-261 or the rules adopted by the Board.

## 1518 CONDUCT OF ADVERTISING

1518.1 The Professional Engineer or Professional Land Surveyor shall not make exaggerated, misleading, deceptive, or false statements or claims about professional qualifications, experience, or performance in brochures, correspondence, listings, or other public communications.

1518.2 The prohibitions listed in subsection 1518.1 include, but are not limited to, the use of statements containing a material misrepresentation of fact or omitting a material fact necessary to keep the statement from being misleading; statements intended or likely to create an unjustified expectation; and statements containing a prediction of future success.

1518.3 Consistent with the prohibitions set out in subsection 1518.2, the Professional Engineer or Professional Land Surveyor may advertise for recruitment of personnel.

1518.4 Consistent with the prohibitions set out in subsection 1518.2, the Professional Engineer or Professional Land Surveyor may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

**1519 COMPLIANCE**

- 1519.1 A person must be licensed pursuant to this chapter and the Act to practice or offer to practice engineering or land surveying in the District of Columbia, except as exempted by D.C. Official Code §47-2886.10.
- 1519.2 No person shall use the words "engineer," "engineering," "land surveyor," "land surveying" or any modification or derivative thereof in any form indicating or tending to indicate that he or she is licensed by the Board unless he or she possesses a valid license as a Professional Engineer or Land Surveyor issued by the Board.
- 1519.3 Any person presenting or attempting to use the certificate of licensure or the seal of another, or any person who shall give any false or forged evidence of any kind to the Board or any member thereof in obtaining or attempting to obtain a certificate of licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall attempt to use an expired or revoked or non-existent certificate of licensure, or who shall practice or offer to practice when not qualified, or any person who falsely claims that he/she is licensed under these Rules, or any person who shall violate any of the provisions of these Rules shall be in violation of these Rules.
- 1519.4 Any individual licensed with this Board to perform land surveying services shall comply with the minimum standards codified for land surveys in the District of Columbia.

**1520 DISCIPLINARY ACTIONS, NOTICE, AND HEARING**

- 1520.1 A person may make a complaint to the Board regarding a licensee's conduct by contacting the Department in writing.
- 1520.2 The Department shall forward the written complaint to the Board and the Board shall review the complaint and decide whether to direct the Department to investigate the matter.
- 1520.3 The Board, after receiving an investigation report from the Department regarding a complaint alleging that a licensee violated any provision of this chapter or the Act, may vote to initiate disciplinary proceedings against a licensee. A hearing is required when the Board intends to pursue one of the following penalties:
- (a) A civil fine;
  - (b) A written reprimand;
  - (c) A license suspension;

- (d) A refusal to renew a license;
- (e) A license revocation; or
- (f) Deny a license application pursuant to the reasons set forth in section 1505.1(b) of this chapter.

1520.4 If, by majority vote, the full Board elects to refer the matter to the Office of the Attorney General to initiate disciplinary proceedings, the Board may, instead of conducting the disciplinary hearing before the full Board, elect to convene a small committee of three (3) or more Board members for the purposes of holding the disciplinary hearing and rendering a recommended decision.

1520.5 When a small committee conducts a disciplinary hearing in lieu of the full Board, the full Board must ratify the committee's recommended decision for that decision to have legal effect against the applicant or licensee.

1520.6 Notwithstanding subsections 1520.3 and 1520.4, and pursuant to D.C. Official Code § 2-1831.03(i), the Board may, by majority vote, elect to refer a disciplinary hearing to the Office of Administrative Hearings (OAH) for adjudication. If the Board elects to refer a hearing to OAH for adjudication, the Board shall abide by the applicable law and regulations governing OAH hearings, decisions, and orders, and shall only assume jurisdiction over the matter in an appellate capacity.

1520.7 When the Board elects to refer the matter to the Office of the Attorney General to initiate disciplinary proceedings, the Office of the Attorney General shall prepare a notice of hearing and shall serve the document upon the applicant or licensee personally or by certified mail no less than thirty (30) days before the hearing. If the Board has elected to have OAH conduct the hearing, the Office of the Attorney General shall comply with the notice procedures implemented by OAH as set forth in 1 DCMR Chapter 28 and 1 DCMR Chapter 29, whichever is applicable, and not the notice procedures set forth in this chapter unless otherwise required by OAH.

1520.8 The notice of hearing shall state that the Board intends to hold a hearing on the matter not less than thirty (30) days after service of the notice is made upon the licensee. The notice shall contain the following:

- (a) The time, place, and nature of the hearing;
- (b) A statement of legal authority and jurisdiction under which the hearing is to be held;
- (c) A reference to the particular section of the statutes and rules involved; and

(d) A short and plain statement of the matters asserted.

1520.9 The notice of hearing shall indicate that the applicant or licensee shall have the right to appear with or without counsel, shall have the right to cross-examine witnesses in his or her defense, and shall have the right to produce evidence and witnesses.

1520.10 If the applicant or licensee fails or refuses to appear for the scheduled hearing and the Board has not granted a continuance, the Board may proceed with the hearing and render a decision and order.

## 1521 CONDUCT OF HEARINGS

1521.1 The chairperson of the Board shall preside over hearings and shall rule on all questions of evidence and procedure with the advice of the attorney advisor for the Board.

1521.2 The Board shall apply the rules of evidence governing civil matters in the Superior Court of the District of Columbia and, pursuant to D.C. Official Code § 2-509, shall exclude irrelevant, immaterial, or unduly repetitious evidence.

1521.3 Objection to evidentiary offers may be made by any party to the proceeding and objections shall be noted in the record.

1521.4 When a hearing will be expedited and the interest of the parties involved will not be prejudiced substantially, any part of the evidence may be received in written form.

1521.5 Documentary evidence may be received in the form of copies or excerpts if the original is not readily available.

1521.6 The Assistant Attorney General litigating the matter may elect to address the Board with an opening statement that may be followed by a statement from the licensee. After opening statements are made, the Assistant Attorney General litigating the matter shall present evidence to the Board. Upon the conclusion of the government's case, the licensee may present evidence to the Board. Parties may cross-examine and re-direct witnesses, and may re-examine their own witnesses if permitted to do so by the Board. Closing statements by both parties are permitted.

1521.7 The Board may take judicial notice of cognizable facts or generally recognized technical or scientific facts within the Board's specialized knowledge.

1521.8 Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff

memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.

- 1521.9 The Board may utilize its experience, technical competence, and specialized knowledge in evaluating evidence.
- 1521.10 The record of hearing shall include:
- (a) All motions, intermediate rulings, and depositions;
  - (b) All documentary evidence received or reviewed;
  - (c) A statement of matters officially noted;
  - (d) Offers of proof, objections, and rulings thereon;
  - (e) Proposed findings and exceptions;
  - (f) Any decision, opinion, or report by the chairperson presiding at the hearing; and
  - (g) All testimony and oral argument presented at the hearing that is recorded for transcription purposes.
- 1521.11 The Board shall issue an order within ninety (90) days of the date of the close of the hearing or the record. It shall include and shall state separately:
- (a) Findings of fact that are based exclusively on the evidence and on matters officially noticed, supported by concise and explicit statements of the underlying facts supporting the findings; and
  - (b) Conclusions of law.
- 1521.12 The licensee shall be delivered a copy of the decision by hand delivery or by first class mail, postage prepaid, with return receipt requested. The attorneys of record for both parties shall be mailed a copy of the order.
- 1521.13 Upon an order by the Board in which the licensee is found in violation of the charges proffered, the Board may levy a civil fine not to exceed \$5000.00, and/or reprimand, suspend, refuse to renew, or revoke the licensee's license.
- 1521.14 At its discretion, the Board may stay, permanently or temporarily, the execution of its order conditioned on any provision the Board believes appropriate under the circumstances for the case.

**1522 REINSTATEMENT OF LICENSURE OR CERTIFICATION AFTER REVOCATION**

- 1522.1 Upon petition of a former licensee, the Board may reissue a certificate of licensure or authorization if a majority of the members of the Board vote in favor of such issuance.
- 1522.2 The Board, for reasons it may deem sufficient, may reissue a certificate of licensure to any person whose certificate has been revoked.

**1523 CONFLICT AND BIAS**

- 1523.1 No Board member shall participate in any disciplinary proceeding where there is the appearance of a conflict of interest.

**1524 PUBLIC INQUIRIES AND COMMENTS**

- 1524.1 Members of the public may attend all public meetings of the Board and may address the Board on matters within the Board's jurisdiction.
- 1524.2 Members of the public that wish to speak at a public meeting shall submit a request to speak at the beginning of the meeting and indicate the topic that he or she wishes to address. The Chairperson may designate the time(s) during the meeting when members of the public may speak.

**1525 DECLARATORY ORDERS**

- 1525.1 A declaratory order is a District of Columbia agency response to a request by a member of the public who has inquired about the applicability of the Act, these rules, or any other statute enforceable by the Board, to terminate a controversy other than a contested case or to remove uncertainty regarding the application of a rule or statute to a specific factual situation.
- 1525.2 The Board may issue a declaratory order to a person who is affected by a statutory provision or rule and who makes a written inquiry regarding the Board's interpretation of any statutory provision or of any regulation or order of the Board.
- 1525.3 Sufficient facts must be supplied to the Board in the request to provide the Board with a basis for the issuance of a declaratory order and must include in detail the reasons for uncertainty as to the applicability of the Act, these rules, or other statutes enforceable by the Board or state in detail why a controversy exists

- 1525.4 A request for declaratory ruling must specifically state that it is a request for a declaratory order.
- 1525.5 A declaratory order will be provided in accordance with the laws of the District of Columbia.
- 1525.6 The Board may decline to issue a declaratory order for any reason permitted by law and any decision by the Board not to issue such an order shall not be subject to review by the Mayor or any court in the District of Columbia.
- 1525.7 All facts set out in a request for a declaratory order shall be supported by sworn affidavit of the requestor. If the Board determines that further facts are necessary, it shall request the writer to provide those facts by written affidavit or may receive those facts by stipulation at a non-contested case fact-finding hearing.
- 1525.8 Any declaratory order issued by the Board shall be binding on the requestor as regards the state of facts established pursuant to subsection 1525.3. If the requestor is a licensee, failure to adhere to the decision of the Board, as set out in the declaratory order, shall subject the requestor to the issuance of a notice to show cause why he or she should not be disciplined pursuant to D.C. Official Code § 47-2853.17. If the requestor is an applicant for a license and fails to adhere to the decision of the Board, the Board shall take such steps as are necessary and authorized by law to enforce the provisions of its declaratory order.
- 1525.9 Any requestor who is aggrieved by a declaratory order or who disagrees with the declaratory order in any respect may appeal the order by petitioning the Board, in writing, within twenty (20) calendar days after issuance of the declaratory order, to reconsider its order, and by setting forth in detail newly discovered facts or by setting forth legal argument which shows one (1) or more errors of law in the Board's order or seeking judicial review of the Board's order as permitted under D.C. Official Code § 2-508.
- 1525.10 All declaratory orders of the Board determined to be in the public interest in accordance with D.C. Official Code § 2-552, shall be published in the *D.C. Register* and shall be available for public inspection and copying at a reasonable charge at the offices of the Board.
- 1525.11 Any declaratory order issued by the Board shall set out with particularity the Board's findings of fact and conclusions of law as regards the matter at issue. If the circumstances so warrant, the declaratory order may include an order by the Board to the requestor to cease and desist any practice or activity that violates applicable statutes or this subtitle.

**1599 DEFINITIONS**

1599.1 As used in this chapter, the following terms have the meaning ascribed:

**Board** - The District of Columbia Board of Professional Engineering.

**Department** – Unless otherwise defined, the Department of Consumer and Regulatory Affairs.

**Digital Signature** - An electronic authentication process attached to or logically associated with an electronic document utilizing technology that meets the National Institute of Standards and Technology (NIST) standards for security and privacy to provide the same degree of assurance and certainty as the traditional “paper and ink” method of signatures.

**Director** – The Director of the Department of Consumer and Regulatory Affairs.

**Engineering:**

- (a) **Engineer** - A person who is qualified to practice engineering 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.
- (b) **Professional Engineer** - A person who has been duly licensed as a professional engineer by the Board. The Board may designate a professional engineer, based on education, experience, and examination, as being licensed in a specific discipline or branch of engineering signifying the area in which the engineer has demonstrated competence.
- (c) **Engineer Intern** - A person who has qualified for, taken, and passed an examination in the fundamental engineering subjects, as provided in these Rules.
- (d) **Practice of Engineering** - 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 such services or creative work as consultation, investigation, expert technical testimony, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land, air, and water, teaching of advanced engineering subjects, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects,

communication systems, transportation systems, and industrial or consumer products, or equipment of control systems, communications, mechanical, electrical, hydraulic, pneumatic, chemical, environmental, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of any engineering services. Said practice includes the doing of such architectural work, as is incidental to the practice of engineering.

- (e) **Design coordination-** The review and coordination of those technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, surveyors or land surveyors, and other professionals working under the direction of the engineer.
- (f) **Engineering surveys-** All survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, configuration or contours of the Earth's surface, and the dependent or independent surveys or resurveys of the public land survey system.
- (g) **Consulting Engineer** - A professional engineer whose principal occupation is the independent practice of engineering; whose livelihood is obtained by offering engineering services to the public; who is devoid of public, commercial, and product affiliation that might tend to imply a conflict of interest; and who is cognizant of his or her public and legal responsibilities, and is capable of discharging them.
- (h) **A graduate of an engineering curriculum** - An individual who has been awarded a baccalaureate degree in engineering from an engineering program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering Technology (EAC/ABET), or a program that has been approved by the Board.

**Inactive Licensee** – A licensee who is not engaged in engineering or land surveying practice that requires licensure in this jurisdiction may be granted inactive status. No inactive licensee may practice in this jurisdiction unless otherwise exempted in this chapter.

#### **Land Surveying:**

**Professional Surveyor or Land Surveyor** - A person who has been duly licensed as a professional surveyor or land surveyor by the Board, and engaged in the practice of land surveying.

- (a) **Land Surveyor Intern** - A person who has qualified for, taken, and has passed an examination in the fundamental surveyor intern subjects, as provided by these Rules.
- (b) **Practice of Surveying or Land Surveying** - Providing professional services such as consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, existing or proposed improvements on the earth, the space above the earth, or any part of the earth, and utilization and development of these facts and interpretation into an orderly survey map, plan, report, description, or project. The practice of surveying or land surveying includes, but is not limited to, any one or more of the following:
1. Determining the configuration or contour of the earth's surface or the position of fixed objects thereon by measuring lines and angles and applying the principles of mathematics or photogrammetry.
  2. Performing geodetic surveying which includes surveying for determination of the size and shape of the earth utilizing angular and linear measurements through spatially oriented spherical geometry.
  3. Determining, by the use of principles of surveying, the position for any survey control (non-boundary) monument or reference point; or setting, resetting, or replacing any such monument or reference point.
  4. Creating, preparing, or modifying electronic or computerized data, including land information systems, and geographic information systems, relative to the performance of the activities in the above described items (1) through (3).
  5. Locating, relocating, establishing, reestablishing, laying out, or retracing any property line or boundary of any tract of land or any road, right of way, easement, alignment, or elevation of any of the fixed works embraced within the practice of engineering.
  6. Making any survey for the subdivision of any tract of land.
  7. Determining, by the use of principles of land surveying, the position for any survey monument or reference point; or setting, resetting, or replacing any such monument or reference point.

8. Creating, preparing, or modifying electronic or computerized data, including land information systems, and geographic information systems, relative to the performance of the activities in the above described items (5) through (7).
- (d) **A Graduate of a Land Surveying Curriculum** – An individual who has been awarded a baccalaureate degree in land surveying from a program approved by the Board.
  - (e) **A Graduate of a Related Curriculum** – An individual who has been awarded a baccalaureate degree in areas in which land surveying courses may be taught along with mathematics and the physical sciences from a program approved by the Board.

**Responsible Charge** - Direct control and personal supervision of engineering work or surveying or land surveying.

**Rules of Professional Responsibility for Professional Engineers and Professional Surveyors or Land Surveyors** - These Rules.

**Seal** - A symbol, image, or list of information that may be found in the form of a rubber stamp, embossed seal, computer-generated data, or other form.

**Signature** – A handwritten message identification containing the name of the person who applied it.

**State** – Any jurisdiction, territory, or possession of the United States and the District of Columbia.

**Written Examination** – An examination administered in any format, including paper-and-pencil or on computer.

**DISTRICT OF COLUMBIA  
METROPOLITAN POLICE DEPARTMENT**

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**NOTICE OF FINAL RULEMAKING**

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The Chief of Police, pursuant to the authority set forth in § 101 of the Metropolitan Police Department Amendment Act of 2006 (the "Act"), effective March 6, 2007, D.C. Law 16-223, 53 DCR 10221, hereby gives notice of the adoption of the following rules governing the procedures to be followed for service of process upon sworn members of the Metropolitan Police Department.

A Notice of Proposed Rulemaking was published in the *D.C. Register*, on May 18, 2007, at 54 D.C. Reg. 5039. Comments were received and considered during the 30-day comment period. No changes were made to the text of the proposed rules. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 6A "Police Personnel" District of Columbia Municipal Regulations (DCMR) is amended as follows:

Section 208 and both of its subsections in Chapter 2 are repealed.

A new Chapter 20 is added to read as follows:

**CHAPTER 20            SERVICE OF PROCESS**

Secs.	
2000	Purpose
2001	General Provisions
2002	Appointment of Agent for Service
2003	Substitute Service of Process
2004	Personal Service of Process
2005	Scheduling Personal Service of Process
2006	Rescheduling Personal Service of Process
2007	Failure to Appear as Scheduled for Personal Service of Process
2008	Appearing for Personal Service of Process
2009	Avoidance of Service

**2000            PURPOSE**

2000.1            This chapter prescribes policies and procedures to be followed by any person seeking service of process upon members of the Metropolitan Police Department in connection with a legal matter arising out of the performance of their official duties for the Department.

2000.2 These policies and procedures shall not apply to service of process for legal matters which do not arise out of a member's performance of his/her official duties for the Department.

**2001 GENERAL PROVISIONS**

2001.1 Members shall not accept service of legal documents for any other member, unless authorized to do so below.

2001.2 The willful making of a false statement in any certification required by this chapter is punishable by criminal penalties under D.C. Official Code § 22-2405.

2001.3 Within 48 hours of being served, either through substitute or personal service, a member shall inform his/her immediate supervisor and the Office of the General Counsel that service has been effectuated and the date and time of such service.

2001.4 The home addresses and telephone numbers of members shall not be released for the purposes of effectuating service of process unless so ordered by a Court of competent jurisdiction.

2001.5 Any person seeking service upon a member in connection with a legal matter arising out of the performance of his/her official duties for the Department may contact the Human Services Division of the Metropolitan Police Department to request:

- (a) the name and address of the organizational unit to which the member is assigned;
- (b) the name, office telephone number, and office address of the member's Commander/Director;
- (c) the name, office telephone number, and office address of the Assistant Chief responsible for overseeing the member's organizational unit.

**2002 APPOINTMENT OF AGENT FOR SERVICE**

2002.1 An employee assigned to the Office of the General Counsel shall accept service on behalf of the Chief of Police, if requested by the Chief.

2002.2 A member may appoint his/her Assistant Chief and/or his/her designee(s) as the member's agents for service by signing and submitting the following statement to his/her Assistant Chief:

"I hereby appoint the Assistant Chief of \_\_\_\_\_ for the Metropolitan Police Department and/or his/her designee(s) as my agents to accept

service of process for all legal matters arising out of the performance of my official duties for the Department.”

- 2002.3 A member may revoke his/her appointment of his/her Assistant Chief and/or his/her designee(s) as the member’s agents for service at any time by signing and submitting the following statement to his/her Assistant Chief:

“I hereby revoke my appointment of the Assistant Chief of \_\_\_\_\_  
\_\_\_\_\_ for the Metropolitan Police Department and/or his/her designee(s) as my agents for service of process for legal matters arising out of the performance of my official duties for the Department.”

- 2002.4 The Assistant Chief and/or his/her designee(s) shall maintain a list of all members who have appointed the Assistant Chief and/or his/her designee(s) as their agents for service for legal matters arising out of the performance of their official duties for the Department.

- 2002.5 A person seeking service may contact the member’s Assistant Chief or his/her designee(s) to ascertain whether the member has appointed the Assistant Chief and/or his/her designee(s) as the member’s agents for service.

### **2003 SUBSTITUTE SERVICE OF PROCESS**

- 2003.1 If the Assistant Chief and/or his/her designee(s) have been appointed as the member’s agents for service, the party to the legal action or his/her attorney, who is seeking to serve process upon a member, shall provide to the Assistant Chief or his/her designee(s) written certification that the legal document(s) to be served arise out of the member’s performance of his/her official duties for the Department.

- 2003.2 If the legal document(s) to be served are emergency in nature or require the member to act in an expedited fashion (five (5) calendar days or less), the party to the legal action or his/her attorney, who is seeking to serve process upon a member, shall provide to the Assistant Chief or his/her designee(s) written certification that emergency or expedited service of process is necessary because the circumstances giving rise to the need for such emergency/expedited process were not reasonably foreseeable.

- 2003.3 If the Assistant Chief and/or his/her designee(s) have been appointed as the member’s agents for service, the Assistant Chief or his/her designee(s) shall accept service on behalf of the member upon receipt of the required written certification(s).

- 2003.4 The Assistant Chief and/or his/her designee(s) shall not accept service on behalf of a member without:

- (a) the member appointing in writing the Assistant Chief and/or his/her designee(s) as his/her agents for service, and
- (b) the party to the legal action or his/her attorney providing the written certification(s) required under §§ 2003.1 and 2003.2.

2003.5 If the Assistant Chief and/or his/her designee(s) have been appointed as the member's agents for service and accept service of process upon behalf of a member, the Assistant Chief or his/her designee(s) shall date-stamp the document(s) and record:

- (a) the name and number of the case;
- (b) the title of the legal document(s) served;
- (c) the time and date of service;
- (d) the member served;
- (e) the name of the person accepting service; and
- (f) the name of the person effecting service.

2003.6 If the Assistant Chief and/or his/her designee(s) accept service of process upon behalf of a member and the legal document(s) served are emergency in nature or require the member to act in an expedited fashion (five (5) calendar days or less), the Assistant Chief or his/her designee shall immediately contact the member to inform him/her of service and arrange delivery of the document(s) to the member.

2003.7 If the legal document(s) served are not emergency in nature or do not require the member to act in an expedited fashion (five (5) calendar days or less), the Assistant Chief or his/her designee(s) shall forward the legal document(s) within 48 hours of service to the member's Commander/ Director and/or his/her designees, who then shall date-stamp the document(s) and deliver them to the member within 48 hours of receipt.

2003.8 Acceptance of service of process by an Assistant Chief or his/her designee(s) on behalf of a member does not automatically entitle the member to legal representation by the Office of the Attorney General, unless the Office is otherwise required to provide legal assistance.

#### **2004 PERSONAL SERVICE OF PROCESS**

2004.1 If a member does not appoint his/her Assistant Chief and/or his/her designee(s) as his/her agent for service, the Assistant Chief or his/her designee(s) shall inform a person seeking service that he/she cannot accept service on behalf of the member

and direct him/her to the member's Commander/Director or his/her designee(s) to schedule service of process pursuant to § 2005.

- 2004.2 Except with respect to a member of the force engaged in undercover duties, a member shall generously make himself or herself available to receive and shall not refuse to receive personal service of process in any legal matter arising out of the performance of his/her official duties.
- 2004.3 All attempts to personally serve process upon a member in connection with a legal matter arising out of the performance of his/her official duties for the Department shall be conducted within the first 15 minutes of roll call, unless otherwise arranged by the member or his/her supervisor.
- 2004.4 No member shall be summoned from roll call to make himself/herself available for personal service of process unless the person seeking service registers and provides the written certification(s) as required under §§ 2008.1, 2008.2, and 2008.3.
- 2004.5 A Roll Call Official need not excuse a member from roll call for personal service of process and/or a member need not make himself/herself available for service if the person seeking service has not made a prior appointment pursuant to § 2005.3 or does not have a rescheduled appointment pursuant to §§ 2006.1, 2006.2, or 2007.5; unless the matter is an emergency or requires the member to act in an expedited fashion (five (5) calendar days or less).
- 2004.6 At no time shall a member be ordered to return from the field to his/her organizational unit to make himself/herself available for personal service of process.

## **2005 SCHEDULING PERSONAL SERVICE OF PROCESS**

- 2005.1 To schedule personal service of process upon a member, the person seeking service shall contact the member's Commander/Director or his/her designee(s) and inform them of:
- (a) his/her name and contact information;
  - (b) the name of the member whom he/she is seeking to serve;
  - (c) the name and number of the case;
  - (d) whether the matter is civil, criminal, or administrative in nature; and
  - (e) whether the matter is an emergency or requires the member to act in an expedited fashion (five (5) calendar days or less).

- 2005.2 The Commander/Director or his/her designee(s) shall disclose the hours of duty of a member of the force to any person seeking service upon a member in connection with a legal matter arising out of the performance of his/her official duties and shall ensure that the member is available for service of process during the member's hours of duty; provided, that it shall be sufficient for the Commander/Director to make such member available at the first 15 minutes of roll call.
- 2005.3 To personally serve process upon a member, the person seeking service shall schedule with the Commander/Director or his/her designee two dates on which the member is designated to work to attempt service on the member, the first of which shall not be less than five (5) business days from the date that the appointment is made.
- 2005.4 If the legal document(s) to be personally served upon a member are emergency in nature or require the member to act in an expedited fashion (five (5) calendar days or less), the Commander/Director or his/her designee(s) shall immediately contact the member to inform him/her that service is being attempted and to ascertain whether the member is available for service. The Commander/Director or his/her designee(s) shall inform the person seeking service of the member's availability.
- (a) If the member is available, the Commander/Director or his/her designee(s) shall inform the person seeking expedited service that the member is available and direct him/her to the appropriate personnel with whom he/she must register and provide the necessary certifications.
  - (b) If the member is not available, the Commander/Director or his/her designee(s) shall inform the person seeking expedited service of the time and location at which roll call takes place for the member's next tour of duty for which the member will be present. The Commander/Director or his/her designee(s) shall also request that the person seeking expedited service to attempt service at another time. If the person seeking expedited service specifies a time and date when service will again be attempted, the Commander/Director or his/her designee(s) shall notify the member of the new date and time when service will again be attempted.
- 2005.5 If the legal document(s) to be personally served upon a member are not emergency in nature or do not require the member to act in an expedited fashion (five (5) calendar days or less), the Commander/Director or his/her designee(s) shall:
- (a) direct the person seeking service to the appropriate personnel with whom he/she must register and provide the necessary certifications on the scheduled appointment dates; and

- (b) inform the member upon whom service is being sought and the member's immediate supervisor within 48 hours of the selected appointment dates.

**2006 RESCHEDULING APPOINTMENTS FOR PERSONAL SERVICE OF PROCESS**

- 2006.1 If a member knows in advance that he/she will be unable to make the two selected appointment dates, then the member shall contact the person seeking service before the selected appointment dates to arrange two substitute appointment dates.
- 2006.2 If a member is unable to attend the two selected appointment dates because of a sudden illness, an unexpected emergency, or other extenuating circumstances, then the member shall contact the person seeking service to arrange two substitute appointment dates as soon as practicable after the extenuating circumstances arise.
- 2006.3 A member shall inform his/her Commander/Director and his/her immediate supervisor of any new appointment dates.
- 2006.4 A member shall not miss more than two appointment dates with a person seeking service without good cause.
- 2006.5 A member shall not reschedule appointments with a person seeking service more than once unless there is good cause to do so.

**2007 FAILURE TO APPEAR AS SCHEDULED FOR PERSONAL SERVICE OF PROCESS**

- 2007.1 If a member fails to attend both scheduled appointments without contacting the person seeking service to reschedule, then the person seeking service may contact the member's Commander/Director or his/her designee(s) for assistance.
- 2007.2 If a person seeking service has informed a member's Commander/Director or his/her designee(s) that the member has failed to attend both scheduled appointments without rescheduling them, he/she shall determine whether the member had good cause to excuse his/her failure to attend the appointments.
- 2007.3 If a member's Commander/Director or his/her designee(s) determines that good cause exists to excuse the member's failure to attend both scheduled appointments, he/she shall inform the person seeking service of his/her determination and arrange for two additional appointment dates.
- 2007.4 The member's Commander/Director or his/her designee(s) shall also inform the member of any new appointment dates arranged by the Commander/Director or his/her designee(s).

2007.5 If a member's Commander/Director or his/her designee(s) believes that the member failed to attend both scheduled appointments without good cause, he/she shall initiate an administrative investigation of the failure to attend, and shall direct the member to contact the person seeking service to make an immediate appointment to attempt service.

## 2008 APPEARING FOR PERSONAL SERVICE OF PROCESS

2008.1 All persons seeking to personally serve process upon a member at his/her organizational unit must register with the appropriate personnel as designated by the Commander/Director. To register, a person seeking personal service must present for inspection a government-issued identification and provide the designated personnel with:

- (a) his/her name and contact information;
- (b) the name of the member to be served;
- (c) the name and number of the case;
- (d) the title of the legal document(s) served;
- (e) whether the matter is civil, criminal, or administrative in nature; and
- (f) the date and time of his/her appointments with the member, unless the matter is an emergency or requires the member to act in an expedited fashion (five (5) calendar days or less).

2008.2 When personal service of process is sought at a member's organizational unit, the party to the legal action or his/her attorney, who is seeking to serve process upon a member, shall certify in writing that the legal document(s) to be served arise out of the member's performance of his/her official duties for the Department and present such certification to the designated personnel.

2008.3 If the legal document(s) to be personally served upon a member at his/her organizational unit are emergency in nature or require the member to act in an expedited fashion (five (5) calendar days or less), the party to the legal action or his/her attorney, who is seeking to serve process upon a member, shall provide to the Assistant Chief or his/her designee(s) written certification that emergency or expedited service of process is necessary because the circumstances giving rise to the need for such emergency/expedited process were not reasonably foreseeable.

2008.4 Personnel designated by the Commander/Director to register persons seeking to personally serve process upon a member, shall record and maintain all required registration and certification information.

2008.5 After a person seeking personal service of process upon a member has registered and has provided the written certification(s) required under § 2008.2 and 2008.3, the personnel recording the registration and certification information shall contact the Roll Call Official and request that the member report to the area designated by the Commander/Director for service of process.

2008.6 Upon being informed that personal service of process is being attempted upon a member, the Roll Call Official shall excuse the member from roll call and have him/her report to the appropriate area to make himself/herself available for service of process.

2008.7 Upon being excused from roll call by the Roll Call Official for personal service of process, the member shall report to the appropriate area to make himself/herself available for service.

**2009 AVOIDANCE OF SERVICE**

2009.1 If an administrative investigation establishes that a member failed to make himself/herself available for service at an appointed time and place without good cause, he/she shall be subject to discipline.