

**AMENDMENT TO THE LEWIS COUNTY
SUBDIVISION ORDINANCE**

ORDINANCE NO. 2002- 06

AN ORDINANCE OF LEWIS COUNTY, IDAHO A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING THE LEWIS COUNTY SUBDIVISION ORDINANCE #99-1 BY ADDING ARTICLE X, SECTION 6:

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF LEWIS COUNTY, IDAHO:

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

SECTION 6-1: ASSURANCE OF CONSTRUCTION

- A. In lieu of actual construction of required improvements in a subdivision before filing of the final plat, the subdivider may provide a financial guarantee or assurance of performance. If the subdivider chooses to do this, they shall post with the County Clerk, before filing the final plat, a surety arrangement consisting of one or a combination of the following:
1. A performance or completion bond executed by a surety company;
 2. Cash, or a letter of credit or assignment of funds on deposit in a bank qualified to do business in the State of Idaho;
 3. Part of all of the property being subdivided, or other property of adequate appraised value;
 4. An appropriate agreement with a financial institution, authorized to do business in the State of Idaho, committing the required amount of funds for the installation of the required improvements.
- B. For each subdivision, or planned increment thereof, the required amount of surety to be posted shall be equal to one hundred ten percent (110%) of the entire estimated cost of installing the improvements, including the inspection and engineering costs, and the cost of repair or replacement of any existing streets or improvements damaged by the subdivider in the course of development of the subdivision, all as established or verified by the County Engineer.
- C. There shall be no lots released for sale until either:
1. Required improvements are constructed; or
 2. The required surety has been posted with and accepted by the County Clerk, and a written statement to that effect issued by the County Clerk to the title company; or
 3. A variance from the requirement for improvements has been granted in accordance with ARTICLE VII of this ordinance.

SECTION 6-2: AGREEMENT BETWEEN SUBDIVIDER AND THE COUNTY:

Prior to approval of the final plat by the Board of Commissioners, if all improvements have not been completed the subdivider shall execute an agreement with the County which shall address the following points:

- A. Planned Incrementation of Improvements: Subdivision improvements may be constructed in practical incrementations of lots, as determined by the subdivider and approved by the Commission, subject to interim provisions for satisfactory drainage, traffic movement and other essential considerations.
- B. Planned Construction Schedule: The required improvements shall be completed within a specified period as agreed upon, not to exceed one (1) year from the date of recording the plat for the first increment. Successive increments may have up to one (1) year from the date that construction is started for that increment of the completion of improvements. Extensions of time may be granted by the Board of Commissioners under conditions as set forth in the agreement, not to exceed one (1) additional year for increment(s) concerned.
- C. Adherence to Approved Plans: The required improvements shall be completed in substantial conformance with plans approved by the County Engineer. Modification or revision of the plans may be approved by the Engineer under conditions or for reasons set forth in the agreement.
- D. Progress Payments: If the subdivider has posted cash deposits as surety, or has put up property as surety, the County may return or release portions of these deposits as improvement work is completed. The agreement shall specify at what stages of improvement work completion portions of the surety deposit may be returned to the subdivider, with the approval by the County Engineer of work completed. Progress payments shall not exceed the percentage proportional to the percentage of work completed, and the total of all progress payments shall not exceed ninety percent (90%) until all improvement work has been inspected and accepted by the County Engineer. Notwithstanding the foregoing, no portion of undivided property posted as surety may be released until all improvement work secured by the same is completed and accepted.
- E. Abandoned or Uncompleted Improvements: In the event that the subdivider fails to complete the required improvements within the time period agreed upon, including time extensions granted, the Board of Commissioners shall proceed to have such work completed, either by use of County forces or by contractor as seems to the best advantage of the County and the purchasers of property in the subdivision. In order to accomplish this the Board of Commissioners shall reimburse itself for the expense thereof by appropriating the cash deposit, funds assigned or committed, or property posted as deposit; or shall take steps to require performance by the bonding or surety company; as included in the written agreement between the County and the subdivider. The Country shall have no obligation to complete work beyond the limit of funding available from the surety arrangements.

SECTION 6-3: SEVERABILITY

This ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

SECTION 6-4: REPEAL OF CONFLICTING PROVISIONS

All provisions of the current LEWIS COUNTY SUBDIVISION ORDINANCE #99-01 or any other ordinances of LEWIS COUNTY, IDAHO which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 6-5:

EFFECTIVE DATE

This ordinance shall be effective upon its passage and publication as provided by law.

PASSED UNDER SUSPENSION of all rules and regulations of this County Commission, upon which proper roll call votes were duly taken and entered as an Ordinance of this county at a regular meeting of the Commissions of the County of Lewis.

DATED this 9th day of December, 2002.

LEWIS COUNTY, IDAHO

Joe A. Leitch
Joe A. Leitch, Chairman

Charles E. Doty
Charles E. Doty, Member

LeAnn J. Trautman
LeAnn J. Trautman, Member

ATTEST:

Cathy Larson
Cathy Larson, Clerk
