

Ordinance No. 714, 2001

An Ordinance amending Sections 29.30.900, 29.19.300 and 29.19.500, of the Clallam County Land Division Code, Title 29, Clallam County Code, as they pertain to the posting of bonds in lieu of required improvements for final subdivisions. The subject provisions of the Code were originally adopted under Ordinance Number 594, 1996, on May 21, 1996. The proposed amendments will address concerns and correct difficulties currently being experienced with the administration of the subject provisions as they are currently adopted.

[NOTE: Because the proposed action is an amendment to an existing county code, text proposed for deletion is indicated by a strike-through, and text that is proposed to be added is indicated by underline. Text which is to remain unchanged has no strike or underscore.]

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

C.C.C. 29.30.900 PERFORMANCE BOND IN LIEU OF REQUIRED IMPROVEMENTS.  
~~The land divider has the option of requesting, in writing, a performance bond in lieu of the completion of any improvements required by this section prior to the approval of a final plat. For amounts less than \$100,000, a savings account assignment is required in lieu of a performance bond. The bond or savings account assignment posted shall be in an amount equal to two (2) times the cost of the required improvements, and the actual cost for improvements shall be based upon a contractor's certified bid for the required improvements, a copy which shall be included with the written request.~~

~~Review of the request for a bond or savings account assignment shall be determined by the Hearing Examiner at his/her next scheduled meeting for short subdivisions, large lot divisions, and binding site plans. The Board of Commissioners shall determine approval for bond requests that affect subdivisions. Public notice and public hearings are not required. If approved, a bond shall be prepared by a bonding company. If approved, the savings account assignment shall be prepared on a form provided by the Administrator and the applicant shall establish the security either with a financial institution or the County Treasurer's office. The decision of the Hearing Examiner is final, unless appealed within ten (10) calendar days pursuant to Section 29.14.200(6) and (7) of this Title. A written decision shall be forwarded within ten (10) days of the date of decision and shall include findings of fact and conclusions of law.~~

~~Performance bonds or savings account assignments shall have a term of 18 months from the filing of the final plat and required improvements must be constructed and installed within twelve (12) months of the filing of the final plat. Failure on the part of the land divider to satisfy the requirements of the bond or savings account assignment shall result in the County's foreclosure on the bond or savings account assignment. Upon foreclosure, the County shall construct or complete the required improvements or contract for construction or completion of said improvements.~~

1. The Board of Commissioners may approve a performance bond or escrow account in lieu of the improvements that are required prior to final plat approval. Escrow accounts may be approved only when remaining required improvements are \$5,000.00 or less, and shall be held and invested by the Clallam County Treasurer until such time as all improvements have been certified as completed and installed. Any interest from such accounts shall accrue to the County general fund. Applications for performance bonds or escrow accounts in lieu of improvements must be received at least one hundred twenty (120) days prior to the expiration of preliminary plat approval. Applications for approval of a performance bond or escrow account in lieu of improvements must contain all of the following:

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- (a) A certification by a professional engineer registered in the State of Washington that improvements totaling at least 75% of the cost of all required improvements have been installed;
  - (b) An itemized estimate of the remaining cost of improvements prepared by a professional engineer registered in the State of Washington;
  - (c) As determined in subsection (b), a performance bond for 4x the cost of the remaining improvements, or an escrow account that shall be a maximum of 2x the cost of the remaining improvements;
  - (d) Evidence that all permits and licenses necessary for the construction and installation of the remaining improvements have been obtained;
  - (e) Evidence that the applicant has met all other requirements and conditions for final plat approval; and
  - (f) All applications shall be acted on within 45 days of being accepted as a complete submittal.
2. In determining whether to accept a performance bond or escrow account in lieu of improvements, the Board of Commissioners shall consider any specific hardship preventing timely completion of improvements, the degree of risk the County would be assuming, and any other factors the Board deems relevant to the protection of the public interest. The Board of Commissioners may, at its sole discretion, reject the bond or escrow account application if it deems there is a significant risk to the County or its citizens. No performance bond or escrow account in lieu of improvements shall be allowed for any land division for which an extension of time pursuant to CCC 29.19.300 has previously been approved. The Board's decision on any request for a performance bond or escrow account shall be the final decision of the County.
3. If the Board of County Commissioners approves of an escrow account in lieu of installation of the improvements, the Zoning Administrator and the applicant shall jointly instruct the County Treasurer in writing as follows:

The Treasurer shall hold the amount of \_\_\_\_\_  
(\$ \_\_\_\_\_) in escrow and shall release the monies:

- (a) To the applicant upon the first occurring event:

The Zoning Administrator provides written certification to the Treasurer that the required improvements for which the subject escrow account was created have been timely and fully installed; or

Eighteen (18) months have elapsed since the date of filing of the final plat and no claim has been made against the escrow account by the County for installation of the required improvements.

- (b) To the Zoning Administrator upon written certification by the Zoning Administrator that twelve (12) months have elapsed since the filing of the final plat and the required improvements for which the escrow account was created have not been installed by the applicant, in whole or in part. The Zoning Administrator shall provide proof to the Treasurer of any costs associated with the installation of the required improvements by the County or its agents and the Treasurer shall release to the Zoning Administrator an amount not to exceed the County's actual costs of installation, including any administrative costs or expenses incurred by the Zoning Administrator in having the

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required improvements completed. Any monies remaining after the disbursement to the Zoning Administrator shall be released to the applicant upon written application therefore.

The escrow instructions shall be signed by the Zoning Administrator and applicant and the applicant shall further provide a mailing address and telephone number.

4. The commencement of foreclosure of any performance bond or escrow account accepted by the Board of Commissioners shall occur within 18 months from the filing of the final plat. Required improvements must be constructed and installed by the land developer within twelve (12) months of the filing of the final plat. Failure on the part of the land developer to satisfy the requirements of the bond or escrow account shall result in the County's foreclosure on the bond or escrow account. Upon foreclosure, the County shall construct or complete the improvements or contract for the construction or completion of improvements.
5. All final plats approved with a bond in lieu of improvements or escrow account, shall contain a plat note listing the improvements yet to be completed, and stating:
  - (a) The improvements yet to be completed are the obligation of the land developer. The County has approved a performance bond/escrow account for these improvements, as outlined in Auditor's File No. \_\_\_\_\_, recorded on \_\_\_\_\_.
  - (b) The Administrator shall file a Notice of Completion of Improvements regarding Auditor's File Number \_\_\_\_\_, recorded on \_\_\_\_\_, with the County Auditor's Office within seven (7) days of the County's determination of completion. A copy of such Notice of Completion shall be provided to the developer for purposes of releasing the bond/escrow account.
6. Clallam County, the citizens thereof, and the purchasers of the lots in the approved subdivision have no financial liability with regard to the installation of improvements.

C.C.C. 29.19.300 EXPIRATION LIMITS FOR ALL LAND DIVISIONS.

1. A final plat which meets all of the requirements of this Title shall be submitted to the Administrator for processing and approval within five (5) years of the date of preliminary land division approval. The final plat may be presented to the County at any time during the period of preliminary approval. The preliminary approval shall be null and void unless a plat meeting all conditions and requirements for final approval is received during the original five-year approval period.
2. The Board of Commissioners may approve a one-time twelve-month extension in time for the filing of a final plat. Requests for such extensions in time must be made no later than 90 days prior to the expiration of the preliminary plat approval. All requests for an extension of time must contain a certification by a professional engineer registered in the State of Washington that improvements totaling at least 50% of the cost of all required improvements have been installed. No bond in lieu of improvements shall be allowed for any land division for which an extension of time has been previously approved.

C.C.C. 29.19.500 FURTHER DIVISION. Recorded short subdivisions or large lot divisions may not be further divided in any manner within a period of five years, EXCEPT as follows: .

1. If the short plat contains fewer than ~~four~~ <sup>nine</sup> parcels, nothing shall prevent the owner who filed the short plat from filing a new application within the five-year period to create up to a total of ~~four~~ <sup>nine</sup> lots within the original plat boundaries.

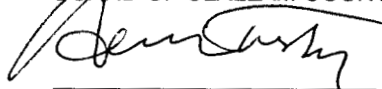
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2. Except as provided by Number 1 above, short subdivisions or large lot divisions may be re-divided as a subdivision at any time after recording, but are subject to the process and conditions set forth for subdivisions pursuant to this Title; PROVIDED that the original plat boundaries are a part of the new application for a subdivision.

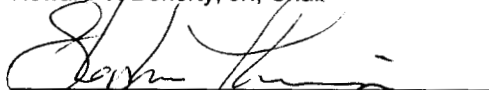
This Ordinance shall become effective ten (10) days after adoption.

PASSED AND ADOPTED THIS 2<sup>nd</sup> day of October, 2001.

BOARD OF CLALLAM COUNTY COMMISSIONERS



Howard V. Doherty, Jr., Chair



Stephen P. Tharinger

Voted no

Michael C. Chapman

ATTEST:



Trish Perrott  
Clerk of the Board