

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**

IN THE MATTER OF:

RESOLUTION NO. 20-139

NOTICE OF PUBLIC HEARING AND PROPOSED
ACTION TO RATIFY ORDINANCE 1317, A
MORATORIUM UPON CERTAIN BUILDING PERMITS
WITHIN THE BOUNDARIES OF WATER-SEWER
DISTRICT #5

WHEREAS, notice is hereby given that a public hearing will be held by the Lewis County Board of County Commissioners (BOCC) in the hearing room at 351 NW North Street, Chehalis, Washington on May 18, 2020 at or after 10:00am , or at such time later that day as may be necessary due to schedule changes pertaining to COVID-19; and

WHEREAS, interested parties are encouraged to check the Commissioners' hearing schedule online as May 18, 2020 approaches for updated details; and

WHEREAS, public notice of said hearing is required by law; and

WHEREAS, on said date, the BOCC will take public testimony or written comment on the Ordinance 1317 concerning the moratorium upon certain building permits within the boundaries of Water-Sewer District #5; and

WHEREAS, the BOCC considered and adopted an emergency renewal moratorium on April 27, 2020, pursuant to RCW 36.70A.390.

NOW THEREFORE BE IT RESOLVED the purpose of the public hearing is to take public testimony or written comment concerning a moratorium upon certain building permits within the boundaries of Water-Sewer District #5 with final BOCC action to take place following the public hearing; and

NOW THEREFORE BE IT FURTHER RESOLVED that a hearing is hereby scheduled for May 18, 2020 to take public testimony or written comment concerning a moratorium upon certain building permits within the boundaries of Water-Sewer District #5 with final BOCC action to take place following the public hearing.

DONE IN OPEN SESSION this 27th day of April, 2020.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

Eric Eisenberg
By: Eric Eisenberg,
Chief Civil Deputy Prosecuting Attorney

Gary Stamper
Gary Stamper, Chair

ATTEST:



Edna J. Fund
Edna J. Fund, Vice Chair

Rieva Lester
Rieva Lester,
Clerk of the Lewis County Board of County
Commissioners

Robert C. Jackson
Robert C. Jackson, Commissioner

**NOTICE OF PUBLIC HEARING BEFORE THE
LEWIS COUNTY BOARD OF COUNTY COMMISSIONERS
AND INTENT TO ADOPT**

NOTICE IS HEREBY GIVEN that the **LEWIS COUNTY, WASHINGTON, BOARD OF COUNTY COMMISSIONERS** will hold a public hearing on May 18, 2020, starting at or after 10:00 AM. This time may change due to COVID-19. For example, the hearing may start after 3PM as part of the only meeting of the day. Please look at the Commissioners' hearing schedule at <https://lewiscountywa.gov/offices/commissioners/agendas-calendar/> as May 18, 2020 approaches for updated details.

The public hearing will consider Ordinance 1317, an ordinance renewing the moratorium upon certain building permits within the boundaries of Water-Sewer District #5.

The public hearing will be at the Lewis County Courthouse, Commissioners' Hearing Room, 351 NW North Street, Chehalis, WA. At the hearing, individuals will be invited to speak and/or provide written statements regarding the proposed changes. All individuals wishing to speak are encouraged to attend. Written comments may be submitted in advance of the hearing to:

Lee Napier, 360.740.2606 or lee.napier@lewiscountywa.gov

Details about the proposals are available online at <https://lewiscountywa.gov/communitydevelopment> Hard copies are available at Lewis County Community Development, 2025 NE Kresky Ave., Chehalis WA; the Timberland Regional Libraries located in Chehalis, Centralia, Salkum, Randle, Packwood, and Winlock; and the Lewis County Senior Centers in Morton, Packwood, Toledo, Twin Cities (Chehalis), and Winlock.

The meeting site is barrier free. People needing special assistance or accommodations should contact the Community Development Department 72 hours in advance of the meeting.

ORDINANCE 1317

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

AN ORDINANCE OF LEWIS COUNTY, WASHINGTON RENEWING)
A MORATORIUM UPON CERTAIN BUILDING PERMITS WITHIN)
THE BOUNDARIES OF WATER-SEWER DISTRICT #5)

WHEREAS, Lewis County Board of County Commissioners enacted Ordinance 1294 on August 6, 2018, and renewed the moratorium with the passage of Ordinance 1300 on January 28, 2019, followed by the passage of Ordinance 1302 on June 3, 2019, and again with the passage of Ordinance 1308 on November 4, 2019 followed by a public hearing to ratify said ordinance(s); and

WHEREAS, Ordinance 1308 will expire six-months following enactment, unless extended; and

WHEREAS, on July 9, 2004, Lewis County Water District No. 2 (District 2) entered into an Interlocal Agreement for Provision of Wholesale Sewer Service to receive and treat wastewater from Lewis County Water/Sewer District No. 5 (District 5), which was proposed to serve the proposed Birchfield Fully Contained Community; and

WHEREAS, in February of 2017 the Birchfield Fully Contained Community proposal was withdrawn; and

WHEREAS, District 2 considers the Interlocal Agreement “null and void because its express and sole purpose was to govern the provision of inter-district sewer service for the Birchfield FCC [Fully Contained Community].” In the opinion of District 2, this fundamental change mandates a new interlocal agreement for any inter-district cooperation; and

WHEREAS, on July 24, 2018, the District 2 Commissioners adopted Resolution No. 7-24-2018 stating District 2 will not accept new applications for sewer service from property owners in District 5 without a new interlocal agreement between District 2 and District 5; and

WHEREAS, prior to submitting an application for a building permit, an applicant must show that they have access to an adequate wastewater treatment system. The recent action by District 2 calls the availability of sewer service in District 5 into question because District 2 challenges the legality of District 5's reliance on District 2's wastewater treatment plant; and

WHEREAS, moratoria adopted pursuant to the authority of RCW36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, the County predicts the need for an additional six-month period to allow the Districts adequate time to renegotiate and adopt a new interlocal agreement for sewer service in District 5; and

WHEREAS, the County has legitimate concerns that sewer availability, as it relates to a building permit application, cannot be properly demonstrated through the commonly accepted practice of a sewer availability form completed by District 5; and

WHEREAS, this Ordinance does not affect those properties within District 5 already connected to the public sewer system. District 2 estimates this number to be approximately seven properties; and

WHEREAS, this Ordinance is in no way intended to limit the ability of property owners to utilize septic systems to treat their wastewater; and

WHEREAS, this moratorium is authorized by RCW 36.70A.390 and Article 11, Section 11 of the Washington State Constitution.

NOW THEREFORE BE IT ORDAINED by the Lewis County Board of County Commissioners that Lewis County Board of County Commissioners hereby declares the following:

Section 1. Moratorium.

- a. The Lewis County Board of County Commissioners hereby extends the moratorium upon the submission, acceptance, processing or approval of any land-use or building permit applications for development of or on parcels within District 5 if the proposed development relies on centralized wastewater (sewer) treatment from District 2.
- b. The moratorium in section (a), above, does not apply to applications related to the maintenance of existing uses on the seven or so properties, referenced in the recitals above, which are already connected to sewer services.
- c. The moratorium in section (a), above, does not apply to applications in which the proposed development relies on on-site wastewater systems or other lawful wastewater systems, such as a LOSS system. These applications may continue to be accepted and may be reviewed as normal by Lewis County Environmental Services Division or by the appropriate state agency.

Section 2. Effective Date and Duration of Moratorium. The moratorium adopted by this Board on November 4, 2019 extends until May 4, 2020. This Ordinance renewing that moratorium shall be effective as of 12:01AM on May 4, 2020 and shall remain in effect for six (6) months thereafter until, unless subsequently extended by the Board pursuant to state law.

Section 3. Public Hearing. Pursuant to RCW 36.70A.390, a public hearing will be held on May 18, 2020.

Section 4. Ratification. Any act consistent with the authority of this Ordinance is hereby ratified and affirmed.

Section 5. Severability. The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances shall be unaffected.

Section 6. Findings. The Lewis County Board of Commissioners hereby adopts the above recitals as findings of fact in support of this Ordinance.

PASSED IN REGULAR SESSION this 27th day of April 2020, without a public hearing. Pursuant to RCW 36.70A.390, the public hearing on this matter must be held at least sixty days following adoption.

DONE IN OPEN SESSION this ____ day of ____, ____.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

By: Deputy Prosecuting Attorney

Gary Stamper, Chair

ATTEST:

Edna J Fund, Vice Chair

Rieva Lester, Clerk of the Board

Robert C. Jackson, Commissioner

BOCC AGENDA ITEM SUMMARY

Resolution: 20-139

BOCC Meeting Date: April 27, 2020

Suggested Wording for Agenda Item:

Agenda Type: Legal Notice

Notice of Public Hearing and proposed action to ratify Ordinance 1317, a moratorium upon certain building permits within the boundaries of Water-Sewer District #5

Contact: Lee Napier

Phone: 360.740.2606

Department: CD - Community Development

Description:

Notice of Public Hearing and proposed action to ratify Ordinance 1317, a moratorium upon certain building permits within the boundaries of Water-Sewer District #5.

On November 4, 2019, the Board of County Commissioners (BOCC) passed Ordinance No. 1308 extending the moratorium. Ordinance No. 1308 will expire unless extended. Ordinance No. 1317 would continue the moratorium another six months.

Approvals:

User	Status
PA's Office	Approved

Publication Requirements:

Publications:

April 28 and 29

Additional Copies:

Lee Napier, Josh Metcalf, Eric Eisenberg, and Amber Smith

Cover Letter To: