

City of Cheney  
609 Second Street  
Cheney, WA 99004

**CITY OF CHENEY, WASHINGTON  
ORDINANCE V-28**

**AN ORDINANCE APPROVING AMENDMENTS TO TITLES 21, 22, AND 23 OF  
THE CHENEY MUNICIPAL CODE.**

**WHEREAS**, pursuant to Chapter 35A.63 RCW and Chapter 36.70A, the City of Cheney is vested with the authority to regulate the use of land within its municipal borders; and

**WHEREAS**, the City Council adopted Title 21 of the Cheney Municipal Code to regulate the use of land; and

**WHEREAS**, the City reviewed its Municipal Code governing land use and determined that modifications are warranted; and

**WHEREAS**, pursuant to Chapter 58.17 RCW, the City of Cheney is vested with the authority to regulate the division of land within its municipal borders; and

**WHEREAS**, the City Council adopted Title 22 of the Cheney Municipal Code to regulate the subdivision of land within the City limits; and

**WHEREAS**, the City reviewed its subdivision ordinance and determined that modifications are warranted; and

**WHEREAS**, pursuant to Chapter 36.70B RCW, the City of Cheney is vested with the authority to regulate the land use application process; and

**WHEREAS**, the City Council adopted Title 23 of the Cheney Municipal Code to regulate the land use application process; and

**WHEREAS**, the City reviewed its Development Code Administration provisions of its municipal code and determined that modifications and the addition of new chapters are warranted; and

**WHEREAS**, the City has met the Growth Management Act notice to state agency requirements in RCW 36.70A.106; and

**WHEREAS**, the City conducted the required public hearing with the Planning Commission on November 9, 2009; and

**WHEREAS**, it is the intent of the City Council to ensure the development of fair and reasonable regulations.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHENEY, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1.** Cheney Municipal Code section 21.01.030, Annual amendment limitation, is amended as follows:

21.01.030 Annual amendment limitation.

The Growth Management Act allows amendments to comprehensive plans no more frequently than once per year, except under the following circumstances:

- (1) The initial adoption of a sub-area plan (i.e., downtown plan) that does not modify the comprehensive plan policies and designations applicable to the sub-area; and
- (2) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of the city budget.
- (3) Resolution of an emergency condition or situation that involves public health, safety or welfare; and when adherence to the annual amendment process would be further detrimental to public health, safety or welfare.
- (4) Resolution of decision by an administrative agency, or court of competent jurisdiction.

Petitions from the public to amend the comprehensive plan are accepted from October 1<sup>st</sup> through November 30<sup>th</sup>, to be considered the following calendar year.

**Section 2.** Cheney Municipal code section 21.01.070, Who may propose an amendment, is deleted as follows:

~~21.01.070 Who may propose an amendment.~~

~~A proposed amendment to the comprehensive plan may be submitted by any individual, organization, corporation or partnership, general or special purpose government, or entity of any kind.~~

**Section 3.** Cheney Municipal Code section 21.01.090, Applications for amendments, is deleted as follows:

~~21.01.090 Applications for amendments.~~

- ~~(a) An applicant shall complete the necessary application forms as provided by the city planning department and pay any filing fees as required. Environmental review (i.e., SEPA checklist, SEIS, or EIS) may be required pursuant to RCW 43.21C.031, State Environmental Policy~~

~~Act, unless the request is categorically exempt pursuant to RCW 43.21C.110(1)(a). All proposed amendments to the comprehensive plan shall be submitted to the city planning department in writing on a form as approved by the planning department, together with required filing fees. An environmental checklist shall also be submitted if required, as determined by the planning department.~~

- ~~(b) A proposed amendment request shall include the following information:
  - (1) Name, address and phone number of the applicant;
  - (2) The type of amendment being proposed, as determined by Section 21.01.040 of this chapter;
  - (3) The parcel number, general address, legal description, scaled drawing and vicinity map of the proposal;
  - (4) A description of the plan amendment being requested and proposed changes to any map, plan, objective, text, or standards as applicable;
  - (5) An explanation of the purpose of the proposed amendment, including specific areas within the comprehensive plan and/or development regulations requested for review;
  - (6) An explanation and brief narrative of how the proposed amendment satisfies or does not satisfy the criteria as set forth in Section 21.01.100 of this chapter.~~
- ~~(c) All proposed suggestions and changes shall be available for review at the city planning department during regular weekday business hours.~~

**Section 4.** Cheney Municipal Code section 21.01.110, Procedure for comprehensive plan amendments, is deleted as follows:

~~21.01.110 — Procedure for comprehensive plan amendments.~~

~~The following procedure is established to amend the comprehensive plan:~~

- ~~(1) Although amendment proposals shall be accepted at any time during the year, August 1st through September 15th of each year shall be the designated time frame to officially accept proposed comprehensive plan amendments. After December 31st, 2005, the designated time frame shall be March 1st through April 15th of each year.~~
- ~~(2) The planning commission shall hold at least one public hearing on the proposed amendment.~~
- ~~(3) Notice of the time, place, and purpose of such public hearing shall be published in a newspaper of general circulation within the city at least fourteen days prior to the date of the hearing.~~
- ~~(4) The hearing may be continued from time to time at the discretion of the planning commission, but this body need publish no additional notices.~~
- ~~(5) Upon completion of the hearing or hearings on the proposed amendments to the comprehensive plan, the planning commission shall transmit a copy of its recommendation for the amendments to the comprehensive plan to the city council for consideration.~~
- ~~(6) The city council shall review the recommendations of the planning commission at a public meeting within sixty days from their receipt in accordance with RCW 35A.63.072. The city council shall:
  - (A) Vote to approve;
  - (B) Vote to disapprove;
  - (C) Vote to modify and approve as modified the planning commission recommendation to the comprehensive plan; or~~

- (D) Refer it back to the planning commission for further proceedings, in which case the council shall specify the time within which the planning commission shall report back to the city council its findings and recommendations on the matters referred to it.
- (7) The final form and content of the amendments to the comprehensive plan shall be determined by the city council. The preliminary action of the city council approving the amendments shall be in the form of a resolution. Final adoption of the amendments shall be by ordinance of the city council, following the review period specified in Section 21.01.120. An affirmative vote of not less than a majority of total members of the city council shall be required for adoption of an ordinance to approve the amendment(s) to the plan.

**Section 5.** Cheney Municipal Code section 21.01.115, Appeal to the city council, is deleted as follows:

~~21.01.115 ——— Appeal to the city council.~~

- (a) ~~Filing of Notice of Appeal. Any party who wishes to appeal a recommendation of the city planning commission regarding the comprehensive plan shall pay the filing fee as established by city council and file a notice of appeal with the city clerk within fourteen days after the date of a signed written findings of fact of the city planning commission. Appeals may be delivered to the office of the city clerk by mail or personal delivery before five p.m. on the last business day of the appeal period.~~
- (b) ~~Computation of Time. For purposes of computing time for the filing of an appeal, the day the planning commission's recommendation is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050, or by the city's ordinance as a legal holiday, then it is also excluded and the filing must be completed on the next business day.~~
- (c) ~~Content of Notice of Appeal. The notice of appeal shall be in writing and shall contain a concise statement identifying:~~
- ~~(1) The appellant's name, address and phone number;~~
  - ~~(2) A statement describing the appellant's standing to appeal;~~
  - ~~(3) Identification of the decision which is the subject of the appeal;~~
  - ~~(4) A detailed statement of grounds for appeal and the facts upon which the appeal is based, including specific reasons why the appellant believes the recommendation of the plan commission is in error;~~
  - ~~(5) A statement of the relief sought including the desired changes to the recommendation;~~
  - ~~(6) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.~~
- (d) ~~Standing to Appeal. Only persons who appeared in person or by counsel before the city planning commission shall have standing to prosecute an appeal.~~

**Section 6.** Cheney Municipal Code section 21.01.116, Procedure before the city council if an appeal was filed, is deleted as follows:

~~21.01.116 ——— Procedure before the city council if an appeal was filed.~~

- (a) ~~The city council shall review the planning commission's record and recommendation, and base its decision thereon, provided that any appellant wishing to present additional evidence~~

which was not presented to the city planning commission may be permitted to do so only upon a showing that the newly discovered evidence, by due diligence, could not have been discovered in time to present to the planning commission.

(b) All other presentation of briefs or memoranda to the city council shall be in writing and unless the city council shall extend the time, each side shall be allowed thirty minutes for presentation of oral argument before the council.

**Section 7.** Cheney Municipal Code section 21.01.117, Procedure before the city council if no appeal was filed, is deleted as follows:

~~21.01.117 — Procedure before the city council if no appeal was filed.~~

~~If no appeal was filed contesting the recommendation of the city planning commission by any party who has standing, the city council shall review the recommendation of the planning commission on a closed record but may allow each side to present written memoranda or briefs and to present oral argument limited to thirty minutes to a side.~~

**Section 8.** Cheney Municipal Code section 21.01.120, Amendment transmittal and reporting to state, is deleted as follows:

~~21.01.120 — Amendment transmittal and reporting to state.~~

~~Pursuant to RCW 36.70A.106(3), the planning department shall notify and transmit copies of proposed comprehensive plan and development regulation amendments to the Washington State Department of Community, Trade and Economic Development, or successor agency at least sixty days prior to final action on recommendations of the planning commission. This review period shall not preclude the planning commission and/or the department from conducting appropriate citizen participation processes including public meetings, hearings, workshops or other similar events.~~

**Section 9.** Cheney Municipal Code section 21.01.130, Appeals to an amendment of the comprehensive plan, is deleted as follows:

~~21.01.130 — Appeals to an amendment of the comprehensive plan.~~

~~All appeals to the adoption of an amendment thereto shall be filed with and processed by the Eastern Washington Growth Management Hearing Board in accordance with the provisions of RCW, Chapter 36.70A, Growth Management Planning by Selected Counties and Cities.~~

**Section 10.** Cheney Municipal Code section 21.32.030, Permitted uses, is amended as follows:

21.32.030 Permitted uses.

The following uses are allowed in the C-2 zone if they comply with the development standards of this Title:

- (A) Any retail business which may be entirely conducted or operated within one or more buildings;
- (B) Banks, post offices, libraries, and fraternal halls;
- (C) Barbershops, and beauty parlors;

- (D) Billiard and pool parlors and cardrooms;
- (E) Theaters, auditoriums, museums, recreational centers and other places of amusements;
- (F) Restaurant, cafes, taverns;
- (G) Hotels, motels;
- (H) Small machinery rental (individual machine weighing less than five hundred pounds);
- (I) Studios;
- (J) Funeral homes;
- (K) Package liquor sales;
- (L) Bus depots;
- (M) Launderettes and coin-operated laundries; dry cleaning establishments, subject to approval of the fire chief;
- (N) Heating and plumbing equipment sales, supplies, installation and service;
- (O) Governmental, education, utility and other public services;
- (P) Business and professional offices, banks;
- (Q) Parking lots, public and commercial, for motor vehicles;
- (R) Printing and copying services;
- (S) Signs provided they conform to the sign ordinance;
- (T) Bed and breakfasts;
- (U) Boarding homes;
- (V) Single-family residences including manufactured, prefabricated, and modular homes, not located on the first floor on First or West First Street between Betz Road and Salnave Road;
- (W) Multi-Dwelling Structures, not located on the first floor on First or West First Street between Betz Road and Salnave Road;
- (X) Studio/efficiency units where they represent not more than twenty percent of the lot area, not located on the first floor on First or West First Street between Betz Road and Salnave Road;
- (Y) Congregate housing;
- (Z) Family day care providers;
- (AA) Foster family homes;
- (BB) Duplexes, not located on First or West First Street between Betz Road and Salnave Road;
- (CC) Public parks, as approved by the Parks Board for consistency with the Comprehensive Parks Plan;
- (DD) Adult family homes;
- (EE)
- (FF) Accessory uses:
  - (i) Private garage and carports,
  - (ii) Tool sheds,
  - (iii) Outdoor patios,
  - (iv) Outdoor fireplaces,
  - (v) Swimming pools,
- (GG) Secondary uses:
  - (i) Home occupations in conformance with the standards of Chapter 21.59,
  - (ii) Gardening, fruit raising, and small animals;

- (1) Lumberyards having as the essential purpose the sale of merchandise to customers;
- (2) Auto or truck sales and service; gasoline service stations;
- (3) Trailer sales and service;
- (4) Tire repair shops;
- (5) Steam laundries;
- (6) Feed and seed stores;
- (7) Manufactured home parks and trailer courts;
- (8) Drive-in restaurants;
- (9) Cabinets and furniture making;
- (10) Sign painting shops;
- (11) Migratory amusements, such as circuses and carnivals, etc.;
- (12) Large machinery rentals (machines weighing five hundred pounds or more);
- (13) Farm equipment sales and service;
- (14) Garden or nursery supplies;
- (15) Car wash;
- (16) Accessory uses relating to the essential use;
- (17) Secondary uses supporting the essential use;
- (18) On-site hazardous waste treatment and storage facilities as an accessory use to any activity generating hazardous waste and lawfully permitted in this zone, provided that such facilities meet the state siting criteria adopted pursuant to the requirements of RCW 70.105.210.

**Section 11.** Cheney Municipal Code section 21.42.020, Landscaping required, is amended as follows:

21.42.020 Landscaping required.

The standards of this chapter apply to all new construction or substantial remodels except a single-family residence.

- (1) All required landscaping shall be in place before a final certificate of occupancy is issued for any building on the site. If, due to seasonal weather conditions, it is not feasible to install required landscaping, the building(s) may be occupied only after a performance bond or another surety device acceptable to the city, has been posted in the amount of one hundred twenty-five percent of the value of the required landscaping. The landscaping must be installed within six months. Upon completion of the landscaping, the bond or surety device will be released.
- (2) Landscaping must conform to the Clear View Triangle standards of Chapter 21.46
- (3) Grass swale percolation areas required for the handling of stormwater drainage may be incorporated into the required landscape plantings so long as neither the drainage requirements nor the landscape requirements are compromised.
- (4) Property owners shall keep and maintain all required planting areas, including the installation of automatic sprinkler systems and including the landscaping on public right-of-way required in ~~Section 21.42.030(I)(A)~~. Landscaping shall be extended on adjoining public right-of-way from the property line of the subject property to the sidewalk, or curb if no sidewalk is present, and shall include landscaping in the parking strip between the curb and sidewalk if present.

- (5) In no case do these provisions require more than fifteen percent of the site or the equivalent of one-half of the building main floor area, whichever is greater, to be landscaped.
- (6) Landscaping plans for lots larger than six thousand square feet shall be prepared and stamped by a licensed landscape architect registered in the state of Washington and be submitted at the time of application for other permits. Plans shall include the location, size, and species of all proposed plants.
- (7) The portions of a site not covered by a structure, hard surfaces, or other prescribed landscaping shall be landscaped.

**Section 12.** Cheney Municipal Code section 21.56.030, Review procedure, is amended as follows:

21.56.030 Review Procedure.

Zone Map amendments reviews will follow those procedures for Land Use Reviews in Chapter ~~23.10~~ 23.030.

**Section 13.** Cheney Municipal Code section 22.27.030, Review procedure, is amended as follows:

22.27.030 Review procedure.

- (a) Binding site plans shall be reviewed according to the procedures of Chapter 23.030, Land Use Reviews.
- (b) Upon approval of the preliminary binding site plan, the applicant must apply for final plat.
- (c) Final binding site plans shall be reviewed according to the procedures of Chapter ~~23.040~~ 23.050, Final Plat Reviews.
- (d) Final binding site plans must be recorded within 5 business days of receiving written approval.

**Section 14.** Cheney Municipal Code section 23.020.030, Process, is amended as follows:

23.020.030 Process.

- (a) **Initiation.** Proposed amendments may be initiated by the following parties:
  - (1) City Council
  - (2) Planning Commission
  - (3) Community Development Director
  - (4) Any citizen of the City of Cheney or owner of property in the City of Cheney may petition the Planning Commission to initiate an amendment.
- (b) **Environmental Checklist.** An environmental checklist or environmental impact statement, as specified in Chapter 23.090, Environmental Checklist, must be completed.
- (c) **Concurrency determination.** The Public Works Director will issue a transportation facility concurrency determination no more than 14 days after receiving the notice of application.

- (d) **SEPA threshold determination.** The Community Development Director will issue a SEPA threshold determination no fewer than 15 days prior to a hearing in accordance with Title 10.
- (e) **Public notice.** A notice must be published in a newspaper of general circulation delivered in the City of Cheney fourteen (14) days prior to a public hearing.
- (f) **Public comment period.** The public may provide written comment for a period of no fewer than fourteen (14) days and no greater than thirty (30) days as specified in the public notice.
- (g) **Review.** The Community Development Director must provide a single report stating the approval criteria, findings and a recommendation to the review body seven (7) days prior to the hearing.
- (h) **Hearing.** An open record hearing will be conducted by the Planning Commission. The Planning Commission may adopt the Community Development Director's report and recommendation, modify it, or reject it based on information presented at the hearing and in the record.
- (i) **Appeal of Planning Commission Recommendation.** An appeal of the Planning Commission recommendation must be submitted in writing to the City Clerk within 14 calendar days of the written recommendation. Only persons who appeared in person or by counsel before the Planning Commission shall have standing to appeal. The written appeal must include the following information:
  - (1) Appellant's name, address, and phone number
  - (2) File number of the recommendation being appealed
  - (3) Statement of grounds for appeal and the facts upon which the appeal is based
  - (4) Statement of the desired changes
- (j) **Final Decision Authority.** The City Council has final decision authority preceded by a recommendation from the Planning Commission. If the recommendation has been appealed, the City Council must consider the appeal at the time of decision.
- (k) **Ability to Appeal.** The reviewing body's decision is final unless appealed. The appeal process is subject to Chapter 23.120, Appeals.

**Section 15.** Cheney Municipal Code section 23.030.030(v), Effective Date, is amended as follows:

- (v) **Effective Date.** For all reviews except planned unit developments and map amendments, the effective date is the day the decision is signed. For planned unit developments and map amendments, the effective date is 30 days after the ordinance notice is published in the local newspaper.

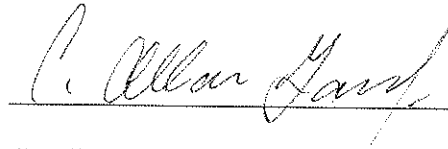
**Section 16.** Cheney Municipal Code chapter 23.40, Project Reviews, is renamed 23.040, Project reviews.

**Section 17.** Effective Date. This Ordinance shall be in full force and effect thirty (30) days after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

Introduced this 24<sup>th</sup> day of November, 2009.

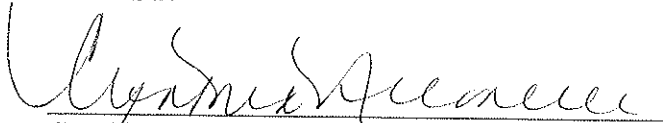
Passed by the City Council this 24<sup>th</sup> day of November, 2009.

Approved by the Mayor this 24<sup>th</sup> day of November, 2009



C. Allan Gainer, Mayor

ATTEST:



Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:



Stanley M. Schwartz, City Attorney