

City of Cheney, Washington
609 Second Street
Cheney, WA 99004

**CITY OF CHENEY, WASHINGTON
ORDINANCE V-07**

**AN ORDINANCE TO UPDATE THE CURRENT PARK MITIGATION POLICY
BY CREATING A NEW CHAPTER 19.24 OF THE CHENEY MUNICIPAL
CODE ESTABLISHING PARK IMPACT FEES**

WHEREAS, the City of Cheney recognizes the valuable benefits of having a high quality parks system that meets the needs of our citizens; and

WHEREAS, new development within the City of Cheney creates additional usage and impact on the current park system; and

WHEREAS, in order to reduce the burden on the local tax payer the City of Cheney has historically collected park mitigation fees through the SEPA process; and

WHEREAS, the City of Cheney seeks to update the former park mitigation policy by implementing the attached Park Impact Fee Ordinance.

NOW THEREFORE the City Council of the City of Cheney, Washington, do ordain as follows:

Section 1. Adoption. A new Chapter 19.24 of the City of Cheney Municipal Code entitled Park Impact Fees is hereby adopted as follows:

Sections:

- 19.24.010 Purpose**
- 19.24.020 Authority**
- 19.24.030 Applicability**
- 19.24.040 Exemptions**
- 19.24.050 Service Areas**
- 19.24.060 Mitigation of Park and Recreation Impacts Required**
- 19.24.070 Relationship to the State Environmental Policy Act**
- 19.24.080 Amount of Impact Fee**

- 19.24.090 Credits**
- 19.24.100 Credit for Onsite Mitigation**
- 19.24.110 Credit for Dedication in Excess of Required Mitigation**
- 19.24.120 Collection of Impact Fees**
- 19.24.130 Use of Impact Fees**
- 19.24.140 Refund of Fees Paid**
- 19.24.150 Appeals**

19.24.010 Purpose

The purpose of this chapter is to help achieve the goals and objectives of the Land Use and Parks and Recreation elements of the City of Cheney's Comprehensive Plan. This title provides for an impact fee to insure that the new residential development bears a proportionate share of the cost of capital expenditures necessary to support parks that are reasonably related to the new development.

19.24.020 Authority

This chapter is adopted under the authority of the Growth Management Act, RCW Chapter 36.70A, and RCW 82.02.050 through RCW 82.02.100.

19.24.030 Applicability

This chapter applies to the issuance of all new building permits for residential development and subdivisions within the municipal limits of the City.

19.24.040 Exemptions

The following development activities shall be exempt from the payment of impact fees:

- A. Reconstruction, remodeling or construction of the following facilities:
 - 1. Shelters or dwelling units for temporary placement which provide housing to persons on a temporary basis for periods of not more than four consecutive weeks.
- B. Rebuilding or replacement of previously existing dwellings destroyed or damaged by fire, flood, act of God or other accident or catastrophe; provided that such rebuilding takes place within one year after destruction.
- C. Alteration or expansion of an existing building where no additional dwellings are created.

19.24.050 Service Areas

For the provision of parks, implementation of the Capital Facilities and Parks and Recreation elements of the Comprehensive Plan and the administration of this Chapter, a single park service area encompassing the entire City is hereby established.

19.24.060 Mitigation of Park and Recreation Impacts Required

Whenever the City has approval authority over residential development, approval will be contingent upon the developer's mitigation of the development's impacts on the park and recreation system level of service identified in the City's Comprehensive Plan through payment of an amount calculated pursuant to Section 19.24.080 or 19.24.090 of this chapter, a dedication of land pursuant to Section 19.24.100, or a partial credit pursuant to section 19.24.110.

19.24.070 Relationship to the State Environmental Policy Act (SEPA)

This chapter establishes minimum impact fees which are to be applied to all residential development. These fees are presumed to mitigate impacts of residential uses on parks. However, each development shall be reviewed and be subject to the substantive authority of SEPA for potential adverse environmental impacts on parks not mitigated by this fee.

19.24.080 Amount of Impact Fee

A. The formula below shall be used to develop mitigation fees for public park and recreation facilities.

B. Level of service. The level of service standard for parks established and documented in the comprehensive plan is ten acres of parkland per one thousand residents.

C. The formula shall be reviewed in conjunction with the annual comprehensive plan amendment process and modified to reflect changes in park development costs and population estimates.

D. Park Development costs. The average costs of a typical five acre public park have been determined to be at least \$703,793.

5 Acre Land Acquisition	\$195,009	\$39,001.84 per acre (based on 2006-08 sales)
Irrigation & Landscape	\$278,784	\$1.60 per sq. foot (4 acres)
Playground	\$65,000	equipment, freight, install, & surfacing material
Restroom	\$90,000	CXT Montrose Model
Shelter	\$75,000	16' x 24' shelter, freight, installation
Total Estimated Park Cost	\$703,793	typical 5 acre park

E. Household size. In determining the average household size various sources have been consulted including the City of Cheney Comprehensive Plan, the United States Census Bureau and the Washington State Office of Financial Management. For the purpose of implementing this chapter, the average household sizes are as follows.

1. 0-1 Bedroom Apartment or Duplex – 1.0 person per dwelling unit
2. 2 Bedroom Apartment or Duplex – 2.0 persons per dwelling unit
3. 3+ Bedroom Apartment or Duplex – 2.6 persons per dwelling unit
4. Single Family Residential – 2.6 persons per dwelling unit

F. Population estimates for the City of Cheney indicate that from 2009-2014 the City of Cheney is expected to increase by 988 (twenty year projections divided by 3.33 representing the increase in population over a six year period) residents.

G. The formula for calculating the park impact fee is as follows:

1. The City of Cheney has determined that 80% of the park development costs shall be covered by park impact fees.
2. Park impact fee per person:
80% of the costs of a typical 5 acre park / estimated six year population increase projections = per person fee

$$\$563,034 / 988 = \$570.00 \text{ per person}$$

3. Cost per person x person per household = park impact fee per household:

<u>Per Unit</u>	<u>Average Occupancy</u>	<u>Fee</u>
0-1 Bedroom Apartment or Duplex	1.0 per dwelling unit	\$570
2 Bedroom Apartment or Duplex	2.0 per dwelling unit	\$1,140
3+ Bedroom Apartment or Duplex	2.6 per dwelling unit	\$1,482
Single Family Residential	2.6 per dwelling unit	\$1,482

H. Impact fee allocation. The City shall provide a balance between impact and other sources of public funds to meet its capital project needs. Revenues from property taxes, user fees, sales tax, real estate excise taxes, grants, and other revenue sources will be used to pay the proportionate share of the growth generated capital facilities costs. For the purpose of calculating park impact fees, 80% of the cost is anticipated to be generated by the collection of impact fees. The remaining 20% is expected to originate from City, county or state sources. Thus the mitigation assessment reflects a 20% discount from the actual acquisition costs.

19.24.090 Independent Fee Calculations

If a developer elects not to have the impact fee determined pursuant to Cheney Municipal Code section 19.24.080, then:

A. The developer shall prepare and submit to the City an independent fee calculation study for determining the development's mitigation obligation. The documentation submitted shall show the basis upon which the independent fee calculation was made.

B. The Mayor and/or their designee shall consider the documentation submitted by the developer but is not required to accept such documentation if it is found to be inaccurate or not reliable. If such findings are made, the director may require the developer to submit additional documentation for consideration.

C. If an acceptable independent fee calculation study is presented, the Mayor and/or their designee may adjust the fee as may be appropriate to the particular development, in consideration of the specific characteristics of the development, and/or principles of fairness.

D. When a developer requests an independent fee calculation, the developer shall submit a nonrefundable filing fee as set forth by the City Council via resolution and be responsible for all City costs above and beyond this fee.

E. Following approval of a fee pursuant to this section, the Mayor and/or their designee shall report the facts and decision to the Parks Board of Commissioners for recommendation and final decision of the City Council.

19.24.100 Credits for Dedication of Land

A. Any claim for credit should be made by the developer at least 30 days prior to the submittal of the subdivision application so as to eliminate or minimize any delays.

B. Dedication of park land may be offered by the developer as total or partial payment of the required impact fee. If the City Council accepts such an offer, the credit shall be determined and provided in the following manner: The land shall be appraised at by the land owner and credit will be valued at 100% of the appraised value. The City reserves the right to seek an additional appraisal, at which time the City's appraisal would supersede the land owner appraisal. Credit for the dedication of park land shall occur when the property has been conveyed at no charge to, and accepted by, the City in a manner satisfactory to the City Council.

C. The City Council shall consider the following when determining whether to accept an offer for the dedication of land:

1. Any restrictions, covenants or other constraints placed on the title of the property to be transferred to the City.
2. Consistency with, and implementation of, the Comprehensive Plan.
3. Availability of adequate public access to the site. All lands to be considered for the dedication of park land shall be fronted by a public road on at least twenty-five percent of the perimeter.
4. The existence of physical constraints affecting the site such as problems with drainage, erosion, or flooding, or the presence of hazardous waste, which would increase demand on public resources for maintenance and operation.
5. The presence of safety hazards.
6. Constraints due to the presence of environmentally sensitive areas.

7. The physical capability of supporting active recreational opportunities.
8. A completed survey with the property boundaries clearly marked in the field.
9. The market value of the land is found to be commensurate with its value as a park. It is the intent of this provision to avoid accepting expensive land (and crediting the developer) for a facility when there are more affordable alternatives available.
10. If the dedication is smaller than the need identified in the park plan the City may require that the dedication be located on the perimeter of the development at a location that assures the opportunity for future dedication or acquisition by the City of additional park land to meet the need identified in the park plan.
11. The City also must evaluate how much undeveloped land is currently owned by the City of Cheney for the development a park and if it is in the best interest of the City to accept more undeveloped land.

D. The criteria for acceptance should be evaluated regularly through the annual Comprehensive Plan review process.

19.24.110 Credit for Onsite Mitigation

A. If the developer creates a park facility that is accessible and open to the general public they may receive credit for 100% of the approved development costs and value of the land towards the park impact fees imposed by this chapter.

1. The developer must have a detailed park development plan approved by the Cheney Park Board of Commissioners and City Council.
2. The plan must address current or future park facility needs as identified in the Parks and Recreation chapter of the Comprehensive Plan.
3. The developer must dedicate the land and all improvements to the City of Cheney upon full completion of the park facility development. The credit for the land shall be limited to the value of the land where the park facilities will be located and is limited to the square footage of the improvements. The amount of the credit shall be based on an appraisal of the property prepared by an MAI certified appraiser commissioned and paid for by the developer. The City retains the right to secure their own appraisal if they desire, in which case the City's appraisal would supersede the developer's appraisal.
4. The City will determine the actual amount of credit to be granted under the City's impact fees on the basis of a certified copy of the construction/material costs. The City shall not reimburse the developer for any credit in excess of the

amount payable under the City's park impact fee or other park mitigation measures; however it may be utilized for mitigation credit for future developments within the next six years.

5. Upon dedication of the land and improvements the City will take full ownership and will be responsible for maintaining the land where the approved park facilities will be located.

B. If the developer creates a park facility that is not open to the general public but is available for the residents within the development the developer may receive credit for up to 25% of the overall park impact fees owed for the development under the following conditions:

1. The developer or property owner is responsible for the operation and maintenance of the park facility.

2. The developer or property owner assumes ownership and control of the property.

3. The developer or property owner submits covenants, conditions and restrictions pursuant to Chapter 64.38 RCW evidencing the obligation of the homeowners' association to maintain and operate the park facility.

4. The City will determine the actual amount of credit to be granted under the City's impact fees on the basis of a certified copy of the construction/material costs. The City shall not reimburse the developer for any credits in excess of the minimum amount payable under the City's park mitigation measures. Credit towards future development is not provided for park facilities that are not open to the general public.

19.24.120 Credit for Dedication in Excess of Required Mitigation

A. When a developer proposes a dedication of land or park development improvements which are approved by the City, of which the value exceeds the developer's mitigation obligation, the City shall credit the developer by authorizing a park impact fee credit for future development that occurs within the City. This credit shall be valid for six years from the date of issuance and is transferrable to another party.

19.24.130 Collection of Impact Fees

A. Impact fees shall be assessed and collected prior to issuance of a building permit for any residential development. In lieu of payment of impact fees at time of building permit, an applicant may furnish the City with a performance bond or other form of security in a form acceptable to the City ensuring the payment of the park impact fees by the date of issuance of a Certificate of Occupancy.

19.24.140 Use of Impact Fees

A. All impact fees collected pursuant to this chapter shall be used to mitigate the direct impacts of residential development through the purchase and development of land, including reasonable transaction and administrative costs, in accordance with the Capital Facilities and Park and Recreation elements of the City of Cheney Comprehensive Plan.

B. Impact fees shall reasonably benefit new or enhanced development and shall not be used for maintenance or operation.

C. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which park impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments.

D. Impact fees shall be expended or encumbered by the City within six years of receipt by the City, unless there is an extraordinary or compelling reason for the fees to be held longer. The City Council shall make written findings of the extraordinary and compelling reasons for the fees to be held longer than six years.

19.24.150 Refund of Fees Paid

A. Park impact fees collected pursuant to this chapter shall be deposited into an interest bearing account established by the City solely for the purpose of collection of park impact fees.

B. If a development approval expires without commencement of construction, and then the developer shall be entitled to a refund, with interest, of the impact fee paid for that development. The developer must submit an application for such a refund to the Clerk Treasurer within 30 days prior to the expiration of the permit. By resolution, the City Council may adopt fees to offset administrative costs of collecting and refunding park impact fees.

C. Any funds not expended or encumbered by the end of six years from the date the fee was paid to the City shall be returned to such landowner with interest. The City shall notify a party eligible for a refund of its availability. A person eligible for a refund must submit a request for a refund to the City within one-year of the expiration of the six year period or the date of the notice, whichever is later.

D. Impact fees that are not expended or encumbered within these time limitations and for which no application of a refund has been made in accordance with this section, shall be retained and expended on parks facilities by the City.

E. Interest due upon the refund of impact fees shall be calculated based upon the interest rate for the separate account that the park impact fees are maintained.

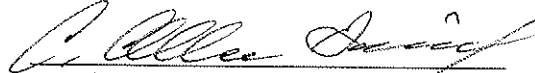
19.24.160 Appeals

Appeals of mitigation requirements imposed pursuant to this chapter shall be governed by the appeal provisions of Cheney Municipal Code Chapter 9.06.

Introduced this 24th day of February, 2009.

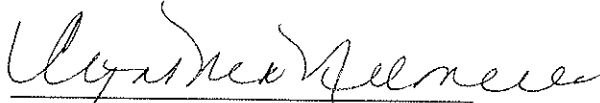
Passed this 24th day of March, 2009.

Approved this 24th day of March, 2009.


C. Allan Gainer, Mayor

Attest:

Approved as to Form:


Cynthia L. Niemeier, City Clerk


Office of the City Attorney