



Regular City Council Meeting Agenda
City Council Chambers
June 18, 2019 - 6:00 p.m. Continued from June 11,2019

- A. Call To Order - Pledge Of Allegiance
- B. Roll Call - Excused Absences
- C. Action Items

Ordinances

1. 19-023 - Ordinance X-60 - Final Reading - Adding Transportation Impact Fee CMC 23.117
Amending Title 23 to add a new section entitled "Transportation Impact Fees".

Documents:

[CCAR 19-023- FINAL READING ORD ADDING TRANSP IMPACT FEE CMC23.117.PDF](#)
[ORD X-60 ADDING TRANSP IMPACT FEE CMC23.117 \(S1838619X9FC0D\).PDF](#)
[DRAFT_BASETRIPFEE_CITYOFCHENEY_IMPACTFEERATE_JUNE2019.PDF](#)

2. 19-032 - Ordinance X-62 - Final Reading - Amending CMC23.10 Entitled Concurrency Determination
Amending CMC 23.10 entitled "Concurrency Determination" to add language relating to system improvements.

Documents:

[CCAR 19-032- FINAL READING ORDINANCE AMENDING CMC 23.10 RE CONCURRENCY DETERMINATION.PDF](#)
[ORDINANCE X-62 AMENDING CMC23.10 RE CONCURRENCY DETERMINATION \(S1837182X9FC0D\).PDF](#)

3. 19-033 - Ordinance X-63 - Final Reading - Amending CMC 23 To Add General Provisions Impact Fees
Amending CMC 23 to add a new section entitled "General Provisions – Impact Fees".

Documents:

[CCAR 19-033 FINAL READING ORDINANCE AMENDING CMC 23 TO ADD GENERAL PROVISIONS IMPACT FEE.PDF](#)
[ORDINANCE X-63 AMENDING CMC 23 TO ADD GENERAL PROVISIONS IMPACT FEE 6-12-19.PDF](#)

4. 19-034 - Ordinance X-64 - Final Reading - Adding A New Chapter 23.116 Entitled

Park Impact Fees

Adding a new chapter 23.116 entitled "Park Impact Fees" by relocating chapter 19.24 to include adding additional provisions.

Documents:

[CCAR 19-034 FINAL READING ORDINANCE ADDING A NEW CHAPTER 23.116 ENTITLED PARK IMPACT FEES.PDF](#)
[ORDINANCE X-64 ADDING A NEW CHAPTER 23.116 ENTITLED PARK IMPACT FEES \(S1838757X9FC0D\).PDF](#)

D. Adjournment

Cheney CITY OF CHENEY

CITY COUNCIL ACTION REQUEST

ISSUE:	Ordinance Adding Transportation Impact Fee CMC 23.117	AGENDA ITEM #:	19-023
DEPT. OF ORIGIN:	Public Works	DATE:	5/6/2019

EXHIBITS ATTACHED OR REFERENCED:	1. Ordinance X-60
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Council Committee Recommendation	Yes		No		None	
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DEPT/DEPT HEAD INITIALS	APPROVE	DO NOT APPROVE	NO COMMENT	COMMENTS
Public Works/TA	TA			

FISCAL IMPACT	EXPENDITURE REQUIRED:		AMOUNT BUDGETED	
	APPROPRIATION REQUESTED:			

SUMMARY:	Amending Title 23 to add a new section entitled "Transportation Impact Fees".
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COUNCIL ACTION REQUESTED:	Final Reading Ordinance X-60
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APPROVED FOR AGENDA

DISAPPROVED

June 18, 2019

COUNCIL MEETING DATE

MAYOR/CITY ADMINISTRATOR

City of Cheney
609 Second Street
Cheney, Washington 99004

**CITY OF CHENEY, WASHINGTON
ORDINANCE NO. X-60**

**AN ORDINANCE OF THE CITY OF CHENEY, WASHINGTON AMENDING TITLE 23
TO ADD A NEW SECTION ENTITLED "TRANSPORTATION IMPACT FEES" AND
PROVIDING FOR OTHER MATTERS RELATING THERETO**

WHEREAS, transportation impact fees will support the concurrency requirement adopted in the Growth Management Act and ensure that adequate transportation facilities are available to support new growth and development;

WHEREAS, transportation impact fees are designed to provide system improvements which relate to service areas established in the City of Cheney;

WHEREAS, the imposition and collection of transportation impact fees will allow the City to maintain its established level of service on its transportation facilities and thereby provide for the public health and safety;

WHEREAS, transportation impact fees cannot be used to correct existing deficiencies unrelated to new development;

WHEREAS, the City commissioned a traffic impact analysis to determine the present volume and conditions on streets within and adjacent to the real property located south of the railroad tracks (as generally depicted on Appendix A), as well as, anticipated future conditions if such real property is to be developed according to presently existing zoning and associated development regulations;

WHEREAS; the transportation impact analysis evaluated three different packages of traffic improvements (Tier One, Tier Two, and Tier Three) between SR 904 (1st Street) and the real property south of the railroad tracks;

WHEREAS; the Transportation Impact Analysis recommended Improvements to include a turn lane addition at 1st Street & Cheney-Plaza Road, and a turn lane addition at 1st Street & Cheney-Spangle Road, and Alki Street Improvements between Cheney Spangle Road and Cheney Plaza Road, and Cheney Plaza Road widening Improvements at a potential cost of \$ 4,236,000.

WHEREAS, on April 8, 2019, the Planning Commission made a recommendation to adopt transportation impact fees as described above.

NOW, THEREFORE, the City Council of the City Cheney does hereby ordain as follows.

Section 1. **New Chapter.** A new chapter 23.117 entitled "Transportation Impact Fees" is hereby added to the development code as set forth herein.

CHAPTER 23.117 – Transportation Impact Fees

23.117.010 – Transportation Impact Fees

23.117.020 – Service Areas

23.117.030 – Annual Review and Adjustment

Section 2. **New Section.** A new section 23.117.010 entitled "Transportation Impact Fee" is hereby added to read as follows.

The Transportation Impact Analysis (TIA) identified as City of Cheney, Draft Transportation Impact Fee Rate Base Analysis prepared by Morrison Maierle dated April 2019, is hereby adopted for the purpose of establishing the transportation impact fee set forth herein. The transportation impact fees are based upon the formula and methodology set forth in the TIA, which shall be the transportation impact fee assessed upon new developments, changes in use and other related matters as set forth in CMC Chapter 23.115. Attached as Schedule A are the City transportation fees for the service areas.

Section 3. **New Section.** A new section 23.17.020 entitled "Service areas" is hereby added to read as follows.

To properly manage and assess a reasonable transportation impact fee, the City of Cheney shall be divided into various service areas based upon the number of persons residing in the service area, the existing complete street improvements, the forecasted future complete street improvements, and other matters that relate to establishing a reasonable and necessary transportation impact fee. Service areas shall be determined by the city council and adopted through ordinance to be included in this Chapter 23.117.

A. The service area known as "South Cheney" as defined and depicted on Schedule B is hereby established.

Section 4. New Section. A new section 23.117.030 entitled "Annual Review and Adjustment" is hereby added to read as follows.

Subject to the review provisions set forth in CMC 11.70.140 below, the transportation impact fees in CMC 11.70.180 will be adjusted annually in accordance with the Washington State Department of Transportation Construction Cost Index ("CCI"), with the first such increase taking effect within two years of adoption of this chapter and with subsequent increases to coincide with the City's annual adoption of its six-year street plan, provided the impact fees shall never be reduced solely because of a decline in the CCI.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. Effective Date. This ordinance shall be in full force and effect, thirty (30) days after passage, approval and publication.

Introduced this ____ day of _____, 2019.

Passed by the City Council this ____ day of _____, 2019.

Approved by the Mayor this ____ day of _____, 2019.

Chris Grover, Mayor

ATTEST:

Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:

Stanley M. Schwartz, City Attorney

Appendix A

Schedule A

Schedule B

TO: Todd Ableman, Public Works Director
Brett Lucas, City Planner

FROM: Bill White, Senior Planner
Christopher J. Reich, P.E., Design Engineer

DATE: June 2019

JOB NO.: 5479002.001

RE: City of Cheney, Draft Transportation Impact Fee Rate Base Analysis

CC: City of Cheney City Council and Mayor

Urgent For Review Please Comment Please Reply For Your Use

This memorandum summarizes the draft traffic impact fee (TIF) analysis prepared for the City of Cheney. The analysis was established considering priority street and intersection improvements, preliminary construction cost estimates, and forecast land use development trips. Addressed are improvement needs and the TIF for properties located southeast of First Street initially, as safe and effective access to this land use area is the priority of City officials.

IMPROVEMENT DETERMINATION

Improvements were confirmed in coordination with City Public Works and Planning officials. The objective is to identify street infrastructure needed to assure the adequate and safe mobility of traffic traveling to/from developing properties within southeast Cheney, as can be programmed within the six-year capital facility window allowed within Washington State. A Comprehensive Plan amendment will have to occur to acknowledge these projects/needs.

Per State statutes (WAC and RCW), TIF projects must provide for new capacity/safety and demonstrate benefit to land use development. Improvements cannot be used to mitigate current street issues such as deteriorating facilities or pedestrian/bicycle needs, unless there is a new capacity/safety element to benefit new growth.

Improvements provide capacity needed to mitigate development-generated traffic, and also provide safer crossings of the Burlington Northern Santa Fe (BNSF) and Union Pacific (UP) tracks. The first two projects are an initial City priority, provided to promote traffic safety and maintain intersection levels-of-service (LOS) standards. The latter two projects improve queue capacity in relation to rail crossings, but are provided more to increase traffic capacities. Improvement descriptions are as follows:

1. Cheney-Plaza Road/1st Street Intersection

Installation of a signal and northbound right-turn lane to increase intersection capacity and promote queue refuge areas prior to the BNSF railroad tracks. This would provide two to three times the effective vehicle queueing area prior to the crossing plus address the issue of vehicle queues extending onto 1st Street, as noted through field observation (video). A pedestrian crossing would also be provided with improvements.

2. Cheney-Spangle Road/1st Street Intersection

Reduce on-street parking along 1st Avenue and Cheney-Spangle Road to provide vehicle queue refuge areas via striping of a northbound right turn lane and second

eastbound lane prior to BNSF railroad tracks. This would provide two to three times the effective vehicle queueing area prior to the crossing.

3. Alki Street Improvements

A completed and widened street extending between Cheney-Plaza Road and Cheney-Spangle Road. The street would be constructed to City collector standard to better promote higher volume traffic movements. This would be a complete street section with sidewalk and bike lanes to promote capacity via non-motorized mobilities.

4. Cheney-Plaza Road Widening

Construct a widened street between First Avenue (SR 904) and Alki Street. The project would include widening to four-lanes, extension of sidewalk, installation of pedestrian crossing gates (at rail crossing), and realignment of gate crossings and power poles. The project increases vehicle capacities in accessing properties in southeast Cheney.

Attached Figures 1 through 4 provide illustrations of street improvements. These are concept figures used in helping to develop construction cost estimates, as discussed subsequently. The concepts should be advanced further to support design processes.

COST ESTIMATION

Planning level construction cost estimates were developed for the improvements and strategy highlighted previously. Estimates include unit bid items as the primary cost for the improvement of roadways and intersections, but also includes estimates for surveying, engineering design, contractor mobilization, excavation, utility connections, temporary traffic control, bid documents, construction management, contingency, etc. The study does assume improvements can be developed largely within available right-of-way (ROW), but some costs were assumed to address minor property purchases or to secure rights to access property.

Several assumptions were used in estimating transportation improvement costs in terms of material, construction fees, and implementation. Assumptions were based on historical bid information from WSDOT, City Public Works, some intersection research, guidance from the Transportation Improvement Board, and engineering judgment. Some degree of error can be assumed, as quantities may change somewhat with final design and the cost of materials fluctuate over time. However, the estimates are to a level of detail that exceeds what is typically used in TIF determinations, which means they are sufficient for rate determinations.

Cost estimate worksheets are attached to this memorandum. A summary of construction costs for the recommended southeast Cheney TIF program is shown with Table 1.

Table 1. Southeast Cheney Improvement Construction Cost Estimates

Project	Description	Estimate
Cheney-Plaza/1 st St. Intersection	Install traffic signal, pedestrian crossing, & northbound right-turn lane.	\$900,000
Cheney-Spangle/1 st St. Intersection	Reduce street parking to provide NB right turn lane & second EB lane.	\$189,000
Alki Street Improvements	A widened/extended street (to City standard) with sidewalk & bike lanes.	\$712,000

Cheney-Plaza Road Widening	Widen to four lanes from 1 st to Alki with sidewalk and a pedestrian gate at rail crossing.	\$2,435,000
Planning Level Construction Cost Estimate Total		\$4,236,000

Projects cumulatively have a construction cost estimate of \$4,236,000. A 20-percent contingency was included to address costs that may be been missed (specialized drainage materials, additional studies, etc.). Tax was not included in these estimates as this is typically reflected in the cost of materials during the bidding process, and can be added, if/as needed.

LAND USE AND TRIP GENERATION

City TIFs will be assessed based on the trip generation densities associated with future land use development. As indicated, the initial emphasis is developing the TIF program to address street improvements for accessing properties southeast of First Street. Thus, land use development was predicted for this area based on known development plans of property owners and information provided by the City’s Senior Land Use planner. Following this coordination process, a total of 550 single family homes and 550 multi-family homes was assumed in southeast Cheney. This includes known development potentials plus a 10-percent development contingency is provided for surplus properties within the area.

Land use trip generation was forecast using the methodologies outlined with the Institute of Transportation Engineers (ITE) Trip Generation Manual (10th Edition, 2017), as utilized within the City Transportation Circulation Plan. Trip Generation is a nationally recognized and locally accepted method for forecasting trips for a range of commercial, retail, residential, and institutional land uses. The Manual’s forecasting methods are developed based on surveys of existing land use developments located throughout the U.S.

The Manual provides several ITE Codes that represent land uses typical of development projects. Trip generation was determined based on ITE rates that equate trip generation to the number of dwelling units for residential homes. The applicable ITE Codes used, a brief land use definition, and the trip generation determinant factors for this study are as follows:

Single Family, ITE Code 210. *“All single family detached homes on individual lots.”*

- Used to predict trip generation for single family homes on a per lot basis.

Multi-Family, ITE Code 220. *“Units located in rental buildings that have one or two levels (floors).”*

- Used to predict trip generation for multi-family on a per unit basis.

Trip generation was estimated for the weekday and commute PM peak hour; the high volume hour for the City. These trip forecasts typically provide the foundation for TIF determinations. A summary of trip generation is shown with Table 2.

Southeast Cheney Land Uses	Weekday	PM Peak
Single-family homes, 550 units		
Multi-family homes, 550 units	5,192	545
	4,026	308

Total Trip Generation	9,218	853
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As shown, the residential development forecast in southeast Cheney generates 9,218 trips during the weekday. About 853 of these trips will be generated during the PM peak hour.

TIFs are most typically founded based on comparisons of weekday or PM peak hour trips, with the PM peak hour being the most typically applied approach for cities within Washington. However, through coordination with City staff it was determine draft fees would be established based on weekday trips. The rationale is that, although the City does experience higher travel demand during traditional commute hours (to/from work), there are other peaks that occur in Cheney due to Eastern Washington University, a large Cheney School District, agricultural business activities, and other various off-peak industries. To that end, it was believed that a weekday based TIF would better address the range of travel activities that occur in Cheney.

BASE FEE RATE, EXAMPLE TIF, AND LAND USE SCHEDULE

Per State codes (WAC and RCW), land use development is responsible for “proportionately” mitigating the impact of new traffic growth upon City roadways; meaning traffic related only to new land uses. However, in the case of Cheney, most traffic growth will be related to land use development for the foreseeable future. The roads extending from regional arterials are primarily meant to access the City, low-residential County properties, agriculture, and State and local parks/amenities such as Turnbull Wildlife Refuge, Williams Lake, and Badger Lake. There are minimal land uses that would generate new or cut through traffic outside Cheney.

Currently, most City streets and intersections function within capacity and safety tolerances, but new development traffic will cause issues that precipitate the need for the improvements previously described in accessing southeast Cheney. As there is no traffic growth generated by outside influences, as asserted above, City officials have wide discretion in costs for new roadway capacity and safety improvements to private development. Despite this, City leaders have directed this study to establish TIF rates with a 60-percent agency versus 40-percent development funding split; meaning the City would take responsibility for the greater costs in new construction as compared with private development. This is consistent for the region as the City of Spokane currently uses a 40-60 split with their impact fee as well; although they are working to change this to a 50-50 split. The City of Airway Heights is working to develop fees with a comparable split as well (40-60 or 50-50).

The base TIF fee rate is determined by dividing development total construction cost obligation by the number trips generated by associated land uses.

- $TIF\ Rate = \frac{Construction\ Cost * \% \text{ Development Participation}}{Development\ Trips}$

As discussed, the highlighted improvements have a construction cost estimate of \$4,236,000. City land use developments are forecast to generate 9,218 weekday trips within southeast Cheney. A summary of the base TIF rate with a 60-40 City versus development split is shown Table 3, as determined based on a weekday trip allocation.

Table 3. Southeast Cheney Baseline TIF		
	Cost Allocation	Development TIF

City Balance	City	Development	Weekday Trips	Cost (\$)/Trip
- 60 percent	\$2,541,600	\$1,694,440	9,218	\$183.81

The base development TIF would be \$183.81 per weekday trip. A typical and convenient administration of TIFs is through a schedule of fees assigned per land use units. For instance, a cost per residential unit, commercial building area, or school student. The schedule is most defensibly developed using rates provided with the Trip Generation Manual, as it is a consistent approach based on a nationally recognized methodology.

Only residential land uses are currently programmed in southeast Cheney, but this can evolve as development plans progress based on market demands. For this reason, a broader land use schedule was developed for this memorandum. This schedule defines TIFs for the more prevalent land use types within Cheney, summarized with Table 4. Additional land uses can be added, as necessary. Or the base fee rate of \$183.81 per weekday trip can be applied directly for less common land uses that may not be readily identified below.

Table 4. Southeast Cheney TIF Land Use Schedule		
Categories & Land Use	TIF Fee	
	TIF Cost	Per Unit
Residential		
- Single Family	\$1,735	Unit
- Multifamily ²	\$495	Bedroom
- Mobile Home Park	\$919	Unit
- Senior Housing	\$680	Unit
Commercial, Industrial		Employee
- Light Industrial		Employee
- Industrial Park		Employee
- Manufacturing	\$561	Employee
- Warehousing/Storage	\$535	Employee
	\$454	Employee
	\$928	Employee
Commercial, Retail & Service ¹		
- Shopping Center		
- Supermarket	\$4,579	1,000 s.f.
- Pharmacy/Drugstore	\$12,562	1,000 s.f.
- Home Improvement Store	\$10,233	1,000 s.f.
- Fast-Food Restaurant	\$3,277	1,000 s.f.
- Sit-Down Restaurant	\$43,285	1,000 s.f.
- Marijuana Dispensary	\$11,753	1,000 s.f.
- Drive Thru Bank	\$39,483	1,000 s.f.
- Automobile Sales	\$11,952	1,000 s.f.
- Auto Part Sales	\$4,579	1,000 s.f.
- Hotel/Motel	\$8,647	1,000 s.f.
	\$1,537	Room
Professional		
- General Office	\$1,790	1,000 s.f.

- Medical/Dental Office	\$6,397	1,000 s.f.
- Business/Office Park	\$2,287	1,000 s.f.
Institutional		
- Clinic/Hospital		Employee
- Animal/Vet Clinic	\$1,700	Employee
- Elementary School	\$2,333	Student
- High School	\$347	Student
- Middle School	\$392	Student
- College/University	\$392	Student
- Day Care	\$287	Employee
- Church	\$3,930	Employee
	\$81	Seat
Recreational		
- Park	\$143	Acre
- Golf Course	\$5,584	Hole
- Camping/RV	\$496	Site
- Athletic Fields	\$13,111	Field
- Movie Theater	\$30,329	Screen
- Bowling Alley	\$2,390	Lane
- Health Club	\$6,342	1,000 s.f.
- Recreational Center	\$5,316	1,000 s.f.
1. Commercial fees adjusted to reflect pass-by rates. 2. Calculated by dividing ITE unit rate by 2.72 assumed drivers per dwelling (average ITE occupancy per dwelling), resulting in 2.691 trips per bedroom times base fee rate.		

As indicated previously, a total of 550 single family and 550 multifamily homes is programmed within southeast Cheney. For purpose of illustration, an average 3.0 bedrooms was assumed per multifamily home. If this were developed, a total TIF of \$1,771,000 would be secured within the area; exactly addressing the desired 40-percent match the City is seeking for street improvements to safely and effectively access the area.

SUMMARY

The draft traffic impact fee (TIF) analysis developed for the City of Cheney confirms 9,218 weekday trips will be generated by land use developments proposed within southeast Cheney (southeast of 1st Street), precipitating the need for \$4,236,000 of street capacity and safety improvements. State statutes allows the City to allocate a proportion of these costs to private development. City officials wish to develop a TIF that secures 40-percent of construction costs from private development programmed in the area. This calculates to a baseline fee rate of \$183.81 per weekday trip generated in southeast Cheney; the development share of roadway construction costs. Note a 40%-60% agency versus development split is consistent with the split the City of Spokane currently uses for transportation impact fees.

A broad TIF land use schedule was provided with Table 4. However, the most prevalent types of land uses proposed in southeast Cheney includes single and multifamily homes. Using ITE trip generation as a strategy for generating TIF assignments, the land uses would have fee rates of \$1,735 per single family home and \$495 per bedroom for typical multifamily. This would generate \$1,771,000 per the example given with this study for south Cheney.

It is recommended the findings of this memorandum be distributed to Planning Commission, Council, and the Mayor's office to assess whether these fee calculations are appropriate for southeast Cheney. If so, then subsequent steps would include:

- ◆ Revise Comprehensive Plan and Six Year TIP to include proposed improvements.
- ◆ Development of City Municipal Code to support TIF's.
- ◆ Preparation of development traffic standards/guidelines for use with land use projects.
- ◆ Stakeholder process in support of TIF process.

Some of these steps are already being pursued by City Public Works and Planning officials as per direction of City leadership. Of course, our office is prepared to assist the City with these actions, as needed.

Here ends the City of Cheney, Draft Base TIF Rate Base Analysis. Please contact our office with questions.

Draft

Cheney CITY OF CHENEY

CITY COUNCIL ACTION REQUEST

ISSUE:	Ordinance Amending CMC 23.10 Entitled Concurrency Determination	AGENDA ITEM #:	19-032
DEPT. OF ORIGIN:	Public Works	DATE:	5/6/2019

EXHIBITS ATTACHED OR REFERENCED:	1. Ordinance X-62
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Council Committee Recommendation	Yes		No		None	
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DEPT/DEPT HEAD INITIALS	APPROVE	DO NOT APPROVE	NO COMMENT	COMMENTS
Public Works/TA	TA			

FISCAL IMPACT	EXPENDITURE REQUIRED:		AMOUNT BUDGETED	
	APPROPRIATION REQUESTED:			

SUMMARY:	Amending CMC 23.10 entitled "Concurrency Determination" to add language relating to system improvements.
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COUNCIL ACTION REQUESTED:	Final Reading Ordinance X-62
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___ **APPROVED FOR AGENDA**

___ **DISAPPROVED**

June 18, 2019

COUNCIL MEETING DATE

MAYOR/CITY ADMINISTRATOR

City of Cheney
609 Second Street
Cheney, Washington 99004

**CITY OF CHENEY, WASHINGTON
ORDINANCE NO. X-62**

**AN ORDINANCE OF THE CITY OF CHENEY, WASHINGTON AMENDING
CHAPTER 23.10 OF THE CHENEY MUNICIPAL CODE ENTITLED
"CONCURRENCY DETERMINATION" TO ADD LANGUAGE RELATING TO
SYSTEM IMPROVEMENTS AND OTHER MATTERS RELATING THERETO**

WHEREAS, the Growth Management Act (RCW 36.70A.070) specifically requires that transportation improvements are made concurrent with development;

WHEREAS, this chapter ensures that the City maintains its adopted level of service standard for transportation facilities in order to support both existing land uses as well as new development;

WHEREAS, in order to maintain and develop transportation facilities, the City adopts its capital facility plan to include its six-year street plan; and

WHEREAS, this Ordinance is intended to comply with the concurrency requirement established under the Growth Management Act.

NOW, THEREFORE, the City Council of the City of Cheney does ordain as follows.

Section 1. Amendment. Chapter 23.110.010 of the Cheney Municipal Code entitled "Purpose" is hereby amended as follows.

The concurrency determination shall ~~To~~ ensure that the proposed ~~at~~ development does not cause the level of service on a transportation facility to decline below levels of service standards adopted in the City of Cheney's Comprehensive Plan, unless the transportation improvements or strategies to accommodate the new development are made "concurrent with the development". ~~"Concurrent" is as defined in~~ at RCW 36.70A.070(6)(b). Concurrency requires that land use development shall have supportive transportation facilities.

Section 2. Amendment. Chapter 23.110.020 of the Cheney Municipal Code is retitled "Concurrency Management System - Approval Criteria" and hereby amended as follows.

The public works director will provide ~~in writing to the planning official, a~~ written determination as follows:

- (a) The streets and local transportation facilities that are subject to concurrency, including the established level of service.
- (b) Whether the proposal causes the level of service on a transportation facility to decline below adopted levels of service.
- (c) What transportation improvements or strategies are required of the applicant in order to maintain the level of service on the transportation facility.
- ~~(d) To implement this section, the public works director may, subject to written approval by the mayor, adopt policies which provide measurement methodologies for level of service standards and concurrency regulations to govern the city's concurrency management system. The policies should set forth the procedures and process to determine whether the transportation facilities have adequate capacity to accommodate the proposed development, the response when capacity is not adequate to accommodate the proposal and capacity allocation procedures. If there is a decrease below the accepted level of service, improvements or strategies should be in place to accommodate the impacts of the development. Strategies may include increased public transportation service, ride sharing programs, and other transportation management strategies.~~
- (d) The length of time that the concurrency determination will remain effective to include requirements for development progress necessary to maintain the approval.
- (e) The concurrency management system shall include provisions that demonstrate a project has met the concurrency requirement through the ~~land use approval~~ project review process or through a separate certificate of concurrency.
 - (i) Transportation concurrency review shall be performed for the specific property, proposed uses, densities and other information provided by the applicant/property owner.
 - (ii) The director shall notify the applicant/property owner of the results of the concurrency determination within thirty days of receipt of the request for transportation concurrency review. If additional information is needed to determine concurrency, such additional information may be requested by the director.
 - (iii) The project permit may be conditioned as necessary to ensure that improvement(s) to satisfy concurrency and/or transportation system management strategy will be completed.

(iv) If the proposed project passes the concurrency test, a concurrency certificate shall be issued to the applicant/property owner. Any capacity that is not used because all or part of the development is not built shall be returned to the pool of available capacity.

(v) A concurrency certificate shall: only be issued upon payment of any concurrency fee established by city council resolution; be specific to the land uses, densities, intensities and project described in the application and project permit; not be transferable to other property, but may be transferred to new owners of the same property; remain valid so long as the accompanying project permit has not expired or been revoked; and be valid for any modification of the permits for which the certificate was issued so long as such modification does not require the applicant to obtain a new project permit.

(ef) If the established level of service (LOS) cannot be met or appropriately mitigated, then the proposed development shall not be constructed unless ~~RCW 36.70A.070(6)(b) is satisfied.~~ improvements or strategies to accommodate the impacts of the development activity are made concurrent with the development activity.

The concurrency requirement is satisfied if the required system improvements are in place prior to completion and occupancy of the development activity or a financial commitment is in place, which shall include the impact fees anticipated to be generated by the development. Any combination of the following shall constitute a "financial commitment" for the purposes of this chapter:

1. The City has received voter approval of and/or has bonding authority.

2. The City has received approval for federal, state, or other funds.

3. The City has received a secured commitment guarantying the construction of the required public facilities and/or system improvement(s) and the City has found such public facilities and/or system improvement(s) to be acceptable and consistent with its capital facilities plan; and/or

4. The City has other assured funding, including but not limited to impact fees that have been paid or that shall be payable as a result of the development approval.

(g) To implement this section, the public works director may, subject to written approval by the mayor, adopt policies which provide measurement methodologies for level of service standards to govern the city's concurrency management system. The policies should set forth the procedures and process to determine whether the transportation facilities have adequate capacity to accommodate the proposed development, the response when

capacity is not adequate to accommodate the proposal and capacity allocation procedures. If there is a decrease below the accepted level of service, improvements or strategies should be in place to accommodate the impacts of the development. Strategies may include increased public transportation service, ride sharing programs, and other transportation management strategies.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Effective Date. This ordinance shall be in full force and effect, thirty (30) days after passage, approval and publication.

Introduced this _____ day of _____, 2019.

Passed by the City Council this _____ day of _____, 2019.

Approved by the Mayor this _____ day of _____, 2019.

Chris Grover, Mayor

ATTEST:

Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:

Stanley M. Schwartz, City Attorney

Cheney CITY OF CHENEY

CITY COUNCIL ACTION REQUEST

ISSUE:	Ordinance - Amending CMC 23 to add General Provisions Impact Fees	AGENDA ITEM #:	19-033
DEPT. OF ORIGIN:	Public Works	DATE:	5/6/2019

EXHIBITS ATTACHED OR REFERENCED:	1. Ordinance X-63
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Council Committee Recommendation	Yes		No		None	
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DEPT/DEPT HEAD INITIALS	APPROVE	DO NOT APPROVE	NO COMMENT	COMMENTS
Public Works/TA	TA			

FISCAL IMPACT	EXPENDITURE REQUIRED:		AMOUNT BUDGETED	
	APPROPRIATION REQUESTED:			

SUMMARY:	Amending CMC 23 to add a new section entitled "General Provisions – Impact Fees".
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COUNCIL ACTION REQUESTED:	Final Reading Ordinance X-63
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APPROVED FOR AGENDA

DISAPPROVED

June 18, 2019

COUNCIL MEETING DATE

MAYOR/CITY ADMINISTRATOR

City of Cheney
609 Second Street
Cheney, Washington 99004

**CITY OF CHENEY, WASHINGTON
ORDINANCE NO. X-63**

**AN ORDINANCE OF THE CITY OF CHENEY, WASHINGTON AMENDING TITLE 23
TO ADD A NEW SECTION ENTITLED "GENERAL PROVISIONS – IMPACT FEES"
AND PROVIDING FOR OTHER MATTERS RELATING THERETO**

WHEREAS, on December 11, 2018, the City Council adopted Ordinance X-58 entitled "An Ordinance of the City of Cheney, Washington Imposing A Moratorium On The Development Of Property And The Acceptance And Processing Of Land Use Applications For Multi-Family Development In The Area Generally Described As South Of Alki Street, West Of Cheney-Spangle Road And Cheney Plaza Road To The Southern Edge Of The Urban Growth Area";

WHEREAS, on February 5, 2019, the City Council held a Public Hearing on the Moratorium for purposes set forth in RCW 35A.63.220 plus other matters where the City Council ultimately remanded this item to the Planning Commission for addition investigation;

WHEREAS, on February 11, 2019; March 11, 2018; and April 8, 2019; the Planning Commission held multiple Public Hearings to study and measure the impact of the potential future development on real property located south of the Railroad Tracks identified on Appendix A, including reasonable and timely access for pedestrians, bicyclists, vehicles and emergency services;

WHEREAS, RCW 82.02.050 through 82.02.090 and WAC 365-196-850 provide cities the authority to impose impact fees as a part of financing public facilities to serve new growth and development; and

WHEREAS, to provide for general provisions relating to the assessment of impact fees for park and transportation system development, the following general provisions are adopted by the City Council.

NOW, THEREFORE, the City Council of the City of Cheney does ordain as follows.

Section 1. New Chapter. A new Chapter 23.115 entitled “General Provisions – Impact Fees” is hereby added to the Development Code as set forth herein.

CHAPTER 23.115 General Provisions – Impact Fees

- 23.115.010 Findings and Authority
- 23.115.020 Definitions
- 23.115.030 Concurrency
- 23.115.040 Assessment of Impact Fees
- 23.115.050 Independent Fee Calculations
- 23.115.060 Exemptions (Reserved)
- 23.115.070 Credits
- 23.115.080 Administrative Costs
- 23.115.090 Appeals
- 23.115.100 Establishment of Impact Fee Account
- 23.115.110 Refunds
- 23.115.120 Use of Funds
- 23.115.130 Administrative Guidelines
- 23.115.140 Review
- 23.115.150 Residential Single-Family Impact Fee Deferral
- 23.115.160 Existing Authority Unimpaired

Section 2. New Section. A new Section 23.115.010 entitled “Findings and Authority” is hereby added to read as follows:

- A. New residential, commercial, retail, office, industrial and institutional development growth and development in the City of Cheney creates additional demand and need for public park (including open space) and transportation facilities such as public streets, sidewalks and related safety improvements in the City of Cheney.
- B. The new growth and development should pay a proportionate share of the cost of new public land and facilities necessary to serve the new growth and development.
- C. Impact fees are authorized and commonly used pursuant to the Growth Management Act as a means to ensure land use development has supportive public land and infrastructure.
- D. The City has conducted extensive studies documenting the procedures for measuring the impact of new growth and development that results in the need for public land and

public facilities to include preparing studies which contain formulas and methods of calculating impact fees.

E. The financing for land and public facilities must provide a balance between impact fees and other sources of public funds consistent with the comprehensive plan.

F. Whenever impact fees are imposed the following shall apply:

1. The impact fees imposed for system improvements are reasonably related to the new development.

2. The fees do not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and

3. The fees will be used for system improvements that will reasonably benefit the new development.

Section 3. New Section. A new Section 23.115.020 entitled "Definitions" is hereby added to read as follows:

As used in this chapter, the following words and terms shall have the following meanings unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

A. "Capital facilities" means the facilities or improvements included in the capital facilities plan.

B. "Complete street" means a landscaped, tree-lined street corridor designed for multiple modes of transportation. Complete streets balance the various needs of pedestrian and vehicular use. Some include bicycle and transit improvements as well. Pedestrian amenities on Complete streets may include street furniture, decorative lighting, wide sidewalks with curb extensions (bulb-outs) at street corners, decorative crosswalks, public art, outdoor restaurants, plazas, and improved sidewalk-building interfaces (e.g., awnings, street-oriented retail activity).

C. "Development activity" means any construction or expansion of a building, structure, or use, or any change in use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities.

D. "Development approval" means any written authorization from the City that authorizes the commencement of development activity.

E. "Encumbered" means to have reserved, set aside or otherwise earmarked the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

F. "Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a land development activity that creates the demand for additional public facilities, and which requires the issuance of a building permit. "Feepayer" includes an applicant for an impact fee credit.

G. "Impact fee" means a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit fee, an application fee, or the cost for reviewing independent fee calculations.

H. "Impact fee account" or "account" means the account(s) established for each service area for the system improvements for which impact fees are collected. The accounts shall be established pursuant to this chapter, and shall comply with the requirements of RCW 82.02.070.

I. "Independent fee calculation" means the impact fee calculation and or economic documentation prepared by a feepayer to support the assessment of an impact fee other than by the use of schedule set forth in CMC 23.115.180, or the calculations prepared by the Public Works Director where none of the fee categories or fee amounts are otherwise established through ordinance.

J. "Proportionate share" means that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

K. "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development and that are necessary for the use and convenience of the occupants or users of the project, which are not system improvements. No improvement or facility included in the City's capital facilities plan shall be considered a project improvement.

L. "Public facilities" means public parks, open space and related facilities and/or publicly owned streets, including sidewalk, lighting and related improvements plus stormwater control required by the City's comprehensive plan and related development regulations.

M. "Rate study" means the park or transportation impact fee rate study as updated and amended from time to time.

N. "System improvements" means public facilities included in the capital facilities plan that are designed to provide service to the community, in contrast to project improvements.

Section 4. New Section. A new Section 23.115.030 entitled "Concurrency" is hereby added to read as follows:

The concurrency determination process is set forth in CMC Chapter 23.110.

Section 5. New Section. A new Section 23.115.040 entitled "Assessment of Impact Fees" is hereby added to read as follows:

A. The City shall collect impact fees, based on the schedules in CMC Chapter 23.116. and CMC Chapter 23.117, or through an independent fee calculation as provided in CMC 23.115.050, from an applicant seeking development approval from the City. The amount of impact fees are generated from the formula set forth in the relevant rate study. Except as otherwise provided in this chapter, all new project approvals will be charged impact fees.

B. For purposes of this chapter only, the following shall not constitute development activity:

1. Replacement of a commercial structure with a new structure of the same size and use on the same site or lot. Replacement of a commercial structure with a new commercial structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than one hundred twenty square feet. It shall be the feepayer's responsibility to establish the existence of a qualifying prior use to the director's reasonable satisfaction.

2. Expansions of existing residential structures that do not add residential dwelling units.

3. Alteration of an existing nonresidential structure that does not expand the usable space, add any residential units, or result in a change in use.

4. Miscellaneous improvements that do not create additional demand and need for public facilities, including, but not limited to, fences, walls, swimming pools, and signs.

5. Demolition or moving of a structure.

6. Re-use or change in use of existing structure.

a. Re-use or change in use of an existing structure that does not create additional demand and need for public facilities (i.e., where the trip generation of the re-use is equal to or less than trip generation of prior use) shall not constitute development activity for purposes of this chapter.

b. It shall be the feepayer's responsibility to establish the existence of a qualifying prior use to the Director's reasonable satisfaction.

c. For a change in use of an existing structure that does create additional demand and need for public facilities (i.e., where the trip generation of the re-use is greater than the trip generation of the prior use), the City shall collect impact fees for the new use based on the schedules in CMC Chapters 23.116 and 23.117, less the fees that would have been payable as a result of the prior use.

B. The public works director shall be authorized to determine whether a particular development activity is subject to the payment of impact fees under this chapter. Determinations of the director shall be in writing issued within fourteen (14) days of submitting a complete project application and shall be subject to the appeal procedures set forth in CMC 23.120.020.

C. Impact fees shall be assessed prior to the issuance of a building permit for each unit in a development, using either the impact fee schedules then in effect or an independent fee calculation, at the election of the applicant and pursuant to the requirements set forth in CMC 23.115.050. For commercial development involving multiple users, impact fees shall be assessed and collected prior to issuance of building permits that authorize completion of tenant improvements for each use. Furthermore, the City shall not accept an application for a building permit unless, prior to submittal or concurrent with submittal, the feepayer submits complete applications for all other discretionary reviews needed including, but not limited to, the environmental checklist and determination.

D. Except as set forth in CMC 23.115.150, impact fees shall be collected from the feepayer at the time the building permit is issued.

E. For mixed use buildings or development, impact fees shall be imposed for the proportionate share of each land use based on the applicable unit of measurement found on the schedule in CMC Chapter 23.116 or CMC Chapter 23.117.

F. The director shall place a hold on permits for development unless and until the impact fees required by this chapter, less any permitted exemptions, credits or deductions, have been paid.

Section 6. New Section. A new Section 23.115.050 entitled "Independent Fee Calculations" is hereby added to read as follows:

A. If in the reasonable judgment of the director, a proposed development activity does not fall under one of the fee categories set forth in CMC Chapter 23.116 or CMC Chapter 23.117, the department may prepare an independent fee calculation and the director may impose an alternative fee on a specific development based on those calculations. The alternative fee and the calculation shall be delivered in writing and shall be mailed to the feepayer.

B. If an applicant believes that the applicant's proposed development activity does not fall under one of the fee categories set forth above, the applicant may, at the applicant's option, identify a development activity or refer to generally accepted publications which support a reasonable methodology to calculate an impact fee (such as the land use code in the ITE manual that most closely resembles the applicant's proposed development activity) and thereafter calculate the applicant's fees based on the development activity.

C. When the applicant elects an independent fee calculation, the applicant shall prepare and submit an independent fee calculation prior to issuance of the building permit for the development. If the applicant elects to prepare its own independent fee calculation, the applicant must submit documentation showing the basis upon which the independent fee calculation was made. Independent fee calculations shall use the same formulas and methodology used by the City or other generally accepted and relevant practices found in Washington State which for transportation shall include mutual agreement with the City on adjustments in trip generation rates used in the rate study, and shall not include travel demand forecasts, trip distribution, transportation service areas, costs of road projects, or cost allocation procedures. For the purpose of calculating park impact fee costs, the City and feepayer shall reach mutual agreement upon a reasonable estimate of land value (through an appraisal process or other methodology) and the cost incurred by the public to construct related facilities with no further adjustments allowed.

D. Any applicant electing an independent fee calculation shall be required to pay the City of Cheney a fee to cover the cost of reviewing the independent fee calculation, as follows: two hundred fifty dollars plus a deposit of two hundred fifty dollars towards the City's actual costs incurred in reviewing the independent fee calculation; no such fee shall apply to calculations performed under subsections (A) and (B) of this section. The applicant shall remit all remaining actual costs of the City's review of the independent fee calculation prior to and as a precondition of the City's issuance of the building permit. If the City's actual costs are lower than the deposit amount, the difference shall be remitted to the applicant.

F. Determinations made by the director pursuant to this section may be appealed to the Hearing Examiner subject to the procedures set forth in chapter 23.120.020 CMC.

Section 7. New Section. A new Section 23.115.070 entitled "Credits" is hereby added to read as follows:

A. A feepayer can request a credit for the total value of dedicated land or public facilities provided by the feepayer if the land and public facilities are identified as system improvements or in cases where the director, in the director's discretion, determines that such dedication of land or public facilities would serve the goals and objectives of the capital facilities plan.

B. To receive a credit for dedicated public facilities which are reasonable and necessary system improvements, the feepayer shall submit to the City a verified (under oath) declaration setting forth the incurred design and construction costs (including paid

invoices) associated with the system improvement(s). Based upon a reasonable exercise of discretion, the City may accept all or part of the system improvements constructed by the developer and determine the appropriate credit against impact fees.

C. For a land dedication (or transfer) credit, under subsection (A) above, if appropriate, the director shall select an appraiser or the feepayer may select an independent appraiser acceptable to the director. The appraiser must be a Washington State certified appraiser or must possess other equivalent certification and shall not have a financial or personal interest in the property being appraised. A description of the appraiser's certification shall be included with the appraisal, and the appraiser shall certify that he/she does not have a fiduciary or personal interest in the property being appraised.

D. The appraiser shall be directed to determine the total value of the dedicated land and/or public facilities provided by the feepayer on a case-by-case basis.

E. The feepayer shall pay for the cost of the appraisal. The feepayer may request that the cost of the appraisal be deducted from the credit which the director may be providing to the feepayer, in the event that a credit is awarded.

F. After receiving the appraisal, and where consistent with the requirements of this section, the director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within sixty (60) calendar days shall nullify the credit. The credit must be used within seventy-two months of the award of the credit.

G. Any claim for credit must be made prior to issuance of a building permit.

H. In no event shall the credit exceed the amount of the impact fees that would have been due for the proposed development activity.

I. No credit shall be given for project improvements.

J. Determinations made by the director pursuant to this section shall be subject to the appeal procedures set forth in CMC 23.120.020.

Section 8. New Section. A new Section 23.115.080 entitled "Administrative Costs" is hereby added to read as follows:

A. All development approvals subject to payment of impact fees under CMC Chapter 23.115 shall pay an administrative fee. The administrative fee shall be established by City Council resolution but no greater than two percent of the impact fees

payable under this chapter as a result of the development approval, not to exceed one thousand dollars. The administrative fee shall be deposited in an administrative fee account within the impact fee account and shall be used to defray the City's costs of processing and accounting for impact fees and other costs including updates of the rate study. Payment of the administrative fee does not constitute payment of the fees relating to independent fee calculations as provided in CMC 23.115.050.

B. The administrative fee, in addition to the actual impact fees, shall be paid by the applicant to the City at the same time as the impact fee is paid.

Section 9. New Section. A new Section 23.115.090 entitled "Appeals" is hereby added to read as follows:

A. Any feepayer may pay the impact fees imposed by this chapter under protest in order to obtain a building permit or occupancy permit. Any appeal filed prior to the payment of impact fees shall constitute a waiver and suspension of timelines established by state and/or local law for the processing of permit applications.

B. Appeals regarding the impact fees imposed on any development activity shall only be filed by the feepayer of the property where such development activity will occur.

C. The feepayer must first file a request for review regarding impact fees with the director, as provided herein.

1. The request shall be in writing.

2. The request for review by the director shall be filed no later than fourteen (14) calendar days after the feepayer pays the impact fees at issue.

3. No administrative fee will be imposed for the request for review by the director; and

4. The director shall issue a determination in writing.

D. Determinations of the Director with respect to the applicability of the impact fees to a given development activity, the availability or value of a credit, or the director's decision concerning the independent fee calculation, or any other determination which the director is authorized to make pursuant to this title, can be appealed to the hearing examiner subject to the procedures set forth in chapter CMC 23.120.020.

Section 10. New Section. A new Section 23.115.100 entitled "Establishment of Impact Fee Accounts" is hereby added to read as follows:

A. Impact fee receipts shall be earmarked specifically and deposited in an interest-bearing account. The fees received shall be invested in a manner consistent with the investment policies of the City and State of Washington.

B. There is hereby established two (2) impact fee accounts for the fees collected pursuant to this chapter known as the: (1) park impact fee account and (2) transportation impact fee account.

C. On an annual basis, the finance director shall provide a report to the council on the account showing the source and amount of all moneys collected, earned, or received, and purchases and improvements that were financed in whole or in part by impact fees.

D. Impact fees shall be expended or encumbered within six (6) years of receipt, unless the council identifies through written findings an extraordinary and compelling reason or reasons for the City to hold the fees beyond the six-year period. Under such circumstances, the council shall establish the period of time within which the impact fees shall be expended or encumbered.

Section 11. New Section. A new Section 23.115.110 entitled "Refunds" is hereby added to read as follows:

A. If the City fails to expend or encumber the impact fees within six (6) years of when the fees were paid, the current owner of the property may receive a refund of such fees, provided a refund is not required where extraordinary or compelling reasons exist for holding the fees longer than six (6) years, as identified in written findings by the City Council. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.

B. The City shall notify potential claimants by first class mail deposited with the United States postal service at the last known address of the claimants.

C. Property owners seeking a refund of impact fees must submit a written request for a refund of the fees to the director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later. Any impact fees for which no application for a refund has been made within the one- year period shall be retained by the City and expended on the appropriate public facilities.

D. Refunds of impact fees under this chapter shall include any interest earned on the impact fees by the City.

E. A feepayer may request and shall receive a refund, including interest earned on the impact fees, when the feepayer and/or the feepayer's successors and assigns do not proceed with the development activity and there has been no impact to the City's transportation system. A request for a refund pursuant to this section must be accompanied by an acknowledgement that the feepayer's underlying development approval, including any associated permits, has expired and that any application to reinstate the development approval shall be subject to the payment of impact fees pursuant to this chapter.

Section 12. New Section. A new Section 23.115.120 entitled "Use of Funds" is hereby added to read as follows:

Impact fees may be used only as allowed by RCW Chapter 82.02.

Section 13. New Section. A new Section 23.115.130 entitled "Administrative Guidelines" is hereby added to read as follows:

The director shall be authorized to adopt forms, applications, and guidelines for the implementation of this chapter as approved by the Mayor.

Section 14. New Section. A new Section 23.115.140 entitled "Review" is hereby added to read as follows:

A. The fee schedules set forth in this title shall be reviewed by the plan commission and city council as it may deem necessary and appropriate every two years in conjunction with the annual update of the capital facilities plan element of the City's comprehensive plan.

Section 15. New Section. A new section 23.115.150 entitled "Residential single-family impact fee deferral" is hereby added as follows.

A. An applicant for a new single-family detached or attached building permit may, prior to issuance of a building permit, request to defer the payment of an impact fee required under this chapter, subject to the following terms and conditions.

1. The request shall be submitted on forms provided by the city. A separate request must be submitted for each single-family residence for which an impact fee deferral is requested.
2. Each deferral request shall include an administrative processing fee by city council resolution.
3. Each deferral request shall be subject to the impact fees in effect at the time the applicant submits the deferral request.
4. The term of deferral shall expire and the impact fee shall be paid at the earliest of:
 - a. The date of final inspection by the city; or
 - b. The time of issuance of certificate of occupancy or equivalent certification.

B. Prior to issuance of a building permit, the applicant for a deferral request must grant, submit to the city a deferred impact fee lien (in a form approved by the city attorney) and record the lien with the Spokane County Auditor, against the property upon which the development activity allowed by the building permit is to occur.

The lien must: be signed by all owners of the property and persons or entities holding any interest in the property, with all signatures acknowledged as required for a deed, and recorded among the appropriate land records of Spokane County; specify that it is binding on all successors in title after the recordation; and that it is subordinate to one mortgage for the purpose of construction upon the same real property granted by the applicant for impact fee deferral.

C. The city shall not conduct, approve or issue final inspection and/or final certificate of occupancy until the deferred impact fees have been paid in full. The term of an impact fee deferral may not exceed eighteen (18) months from the date of the building permit issuance.

D. Upon receipt of final payment of the deferred impact fee, the city shall execute a release of deferred impact fee lien for the property. The applicant, or property owner at the time of release, shall be responsible for recording the lien release at his or her own expense.

E. The extinguishment of a deferred impact fee lien by the foreclosure of a lien having priority does not affect the obligation to pay the impact fee as a condition of final inspection, certificate of occupancy or equivalent certification, or at the time of closing of the first sale.

F. In the event that the deferred impact fee is not paid within the time provided in this section, the city may institute foreclosure proceedings in accordance with Chapter 61.12 RCW. The applicable school district may also institute foreclosure proceedings as set forth in RCW 82.02.050.

Section 16. New Section. A new Section 23.115.160 entitled "Existing Authority Unimpaired" is hereby added to read as follows:

Nothing in this chapter shall preclude the City from requiring the applicant for development approval to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, chapter 43.21C RCW (see RCW 82.02.100), based on the environmental documents accompanying the underlying development approval process, and/or chapter 58.17 RCW, governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of RCW 82.02.050(1)(c). Nothing in this chapter shall preclude the City from entering into a development agreement as authorized in RCW 36.70B.170 et seq. addressing, without limitation, the amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications.

Section 17. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such

invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 18. Effective Date. This ordinance shall become effective thirty (30) days after its passage, approval, and publication.

Introduced this _____ day of _____, 2019.

Passed by the City Council this _____ day of _____, 2019.

Approved by the Mayor this _____ day of _____, 2019.

Chris Grover, Mayor

ATTEST:

Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:

Stanley M. Schwartz, City Attorney

Cheney CITY OF CHENEY

CITY COUNCIL ACTION REQUEST

ISSUE:	Ordinance Adding a New Chapter 23.116 Entitled Park Impact Fees	AGENDA ITEM #:	19-034
DEPT. OF ORIGIN:	Public Works	DATE:	5/6/2019

EXHIBITS ATTACHED OR REFERENCED:	1. Ordinance X-64
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Council Committee Recommendation	Yes		No		None	
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DEPT/DEPT HEAD INITIALS	APPROVE	DO NOT APPROVE	NO COMMENT	COMMENTS
Public Works/TA	TA			

FISCAL IMPACT	EXPENDITURE REQUIRED:		AMOUNT BUDGETED	
	APPROPRIATION REQUESTED:			

SUMMARY:	Adding a new chapter 23.116 entitled "Park Impact Fees" by relocating chapter 19.24 to include adding additional provisions.
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COUNCIL ACTION REQUESTED:	Final Reading Ordinance X-64
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___ APPROVED FOR AGENDA

___ DISAPPROVED

June 18, 2019

COUNCIL MEETING DATE

MAYOR/CITY ADMINISTRATOR

City of Cheney
609 Second Street
Cheney, Washington 99004

**CITY OF CHENEY, WASHINGTON
ORDINANCE NO. X-64**

**AN ORDINANCE OF THE CITY OF CHENEY, WASHINGTON, ADDING A NEW
CHAPTER 23.116 ENTITLED "PARK IMPACT FEES" BY RELOCATING CHAPTER
19.24 TO INCLUDE ADDING ADDITIONAL PROVISIONS AND PROVIDING FOR
OTHER MATTERS RELATING THERETO**

WHEREAS, the City is authorized to impose impact fees on development activities as part of its public facilities financing program in order to provide a balance between impact fees and other sources of public funds;

WHEREAS, impact fees may only be used for "system improvements," meaning public facilities which are included in the capital facilities plan that provides services to the community at large;

WHEREAS, pursuant to WAC 365-196-850, impact fees may be used in order to provide for publically owned parks, open space and recreation facilities; and

WHEREAS, the City desires to impose and maintain a park impact fee.

NOW, THEREFORE, the City Council of the City of Cheney does ordain as follows.

Section 1. Repeal and Recodification. Chapter 19.24 of the Cheney Municipal Code entitled "Park Impact Fees" is hereby repealed and recodified as Chapter 23.116 as fully set forth herein.

Section 2. New Chapter. A new chapter 23.116 entitled "Park Impact Fees" is hereby added to the development code as set forth herein.

CHAPTER 23.116 – Park Impact Fees

23.116.010 – Purpose

23.116.020 – Service Areas

23.116.030 – Mitigation of Park and Recreation Impacts Required

23.116.040 – Amount of Impact Fee

23.116.050 – Credits for Dedication of Land

23.116.060 – Credit for On-Site Mitigation

23.116.070 – Credit for Dedication Excess of Required Mitigation.

Section 3. **New Section.** Section 23.116.010 entitled "Purpose" is added as follows:

23.116.010 - Purpose.

The purpose of this chapter is to help achieve the goals and objectives of the land use, parks and recreation and capital facilities elements of the City of Cheney's comprehensive plan. This impact fee requires new residential development bear a proportionate share of the cost of capital expenditures necessary to support park land and facilities that are reasonably related to the new development.

Section 4. **New Section.** Section 23.116.020 entitled "Service areas" is added as follows:

23.116.020 - Service areas.

To implement the capital facilities plan and parks and recreation elements of the comprehensive plan and further the administration of this chapter, a single park service area encompassing the entire city is hereby established.

Section 5. **New Section.** Section 23.116.030 entitled "Mitigation of park and recreation impacts required" is added as follows:

23.116.030 - Mitigation of park and recreation impacts required.

Approval of a residential development activity is contingent upon 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 23.116.040 or 23.115.050, a dedication of land or system improvement pursuant to section 23.116.050, or a partial credit pursuant to section 23.115.050.

Section 6. **New Section.** Section 23.116.040 entitled "Amount of impact fee" is modified as follows:

23.116.040 - Amount of impact fee.

(a) The formula used to develop mitigation fees for public park and recreation facilities allocates a proportionate amount of both the cost of land acquisition and facility development to sustain the existing level of service as a result of new development. The formula is reviewed in conjunction with the annual comprehensive plan amendment process and modified, as necessary, to reflect changes in park development costs and population estimates.

- (b) Level of service. The level of service standard for parks is established in the comprehensive plan. The Parks and Recreation Implementation Plan identifies the new capital projects to be constructed in order to maintain the established level of service.
- (c) Park development costs. The estimated costs of new capital projects from 2015 – 2020 in the 2015 – 2034 Parks and Recreation Implementation Plan have been determined to be \$525,000.
- (d) 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
- (e) Population estimates for the City of Cheney indicate that from 2018-2023 the City of Cheney is expected to increase by 877 residents (20-year projections divided by 3.33 representing the increase in population over a six-year period).
- (f) The formula for calculating the park impact fee is as follows:
 - (1) Eighty percent (80%) of the park development costs (which includes land acquisition and facility development) shall be covered by park impact fees.
 - (2) Park impact fee per person:

$$80\% \times (\text{new capital projects from 2015 – 2020}) / (\text{estimated six year population increase projections}) = \text{impact fee per person. The 2019 impact fee is:}$$

$$\underline{\$420,000 / 877 = \$479.00 \text{ per person}}$$
 - (3) Cost per person × person per household = park impact fee per household:

<u>Per Unit</u>	<u>Average Occupancy</u>	<u>Fee</u>
<u>0—1 bedroom apartment or duplex</u>	<u>1.0 per dwelling unit</u>	<u>\$479.00</u>
<u>2 bedroom apartment or duplex</u>	<u>2.0 per dwelling unit</u>	<u>\$958.00</u>
<u>3+ bedroom apartment or duplex</u>	<u>2.6 per dwelling unit</u>	<u>\$1,245.00</u>
<u>Single-family residential</u>	<u>2.6 per dwelling unit</u>	<u>\$1,245.00</u>

- (g) 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 percent of the cost is anticipated to be generated by the collection of impact fees. The remaining 20 percent is expected to originate from city.

county or state sources. Thus the mitigation assessment reflects a 20 percent discount from the actual acquisition costs.

Section 7. **New Section.** Section 23.116.050 entitled "Credits for dedication of land" is renamed "Credits for dedication of land and system improvements" and modified as follows:

23.116.050 - Credits for dedication of land and system improvements.

- (a) Any claim for credit shall be made by the developer prior to the submittal of the preliminary plat for the subdivision, building permit or other application or as otherwise agreed in writing between the City and applicant.
- (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 by the land owner and credit will be valued at 100 percent 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's 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 25 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 of 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.

Section 8. **New Section.** Section 23.116.060 entitled "Credit for on-site mitigation" is modified as follows:

23.116.060 - Credit for on-site mitigation.

(a) If the developer constructs a park facility that is accessible and open to the general public, 100 percent of the approved development costs and value of the land shall be applied against the park impact fees imposed by this chapter upon the following conditions.

(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 (or otherwise make available upon agreed terms) the land and all improvements to the City of Cheney upon 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 its own appraisal, 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 applied against the city's impact fees on the basis of a verified 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 (unless otherwise agreed) 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 percent 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 RCW chapter 64.38, 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 applied against the city's impact fees on the basis of a verified 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.

Section 9. New Section. A new section 23.116.070 entitled "Credit for dedication in excess of required mitigation" is added as follows:

23.116.070 – Credit for dedication in excess of required mitigation.

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 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 transferable to another party.

Section 10. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 11. Effective Date. This ordinance shall become effective thirty (30) days after its passage, approval, and publication.

Introduced this _____ day of _____, 2019.

Passed by the City Council this _____ day of _____, 2019.

Approved by the Mayor this _____ day of _____, 2019.

Chris Grover, Mayor

ATTEST:

Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:

Stanley M. Schwartz, City Attorney