

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) The length of time that the concurrency determination will remain effective to include requirements for development progress necessary to maintain the approval.~~
- ~~(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.~~
- (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:

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Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:

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Stanley M. Schwartz, City Attorney