

City of Cheney
609 Second Street
Cheney, Washington 99004

CITY OF CHENEY, WASHINGTON

ORDINANCE NO. X-82

AN ORDINANCE AMENDING TITLE 21.48.027 “RESIDENTIAL OCCUPANCY” OF THE CHENEY MUNICIPAL CODE AND PROVIDING FOR OTHER MATTERS RELATED THERETO.

WHEREAS, to preserve the public health, safety, and general welfare, the City must address residential overcrowding issues within the city limits; and

WHEREAS, the City receives several “occupancy” complaints throughout the year, and is unable to enforce the provision of the current Section 41.48.027 regulating residential occupancy without asking occupants for private information; and

WHEREAS, the Cheney Planning Commission (the "Commission"), at a November 12th, 2019 regularly scheduled meeting reviewed options for residential regulation; and

WHEREAS, the Cheney City Council (the "Council") and the Commission, held a joint workshop on January 6th, 2020 to address occupancy challenges to review options for residential regulation and to provide staff with direction regarding options to further explore; and

WHEREAS, the Commission, at a February 10th 2020 regularly scheduled meeting, recommended the removal of the “functional family” provision in the existing residential occupancy regulation, the use of the International Property Maintenance Code (the "IPMC") to address overcrowding, and the strengthening of the existing enforcement provisions; and

WHEREAS, the Commission, at a March 10th, 2020 regularly scheduled meeting, held a public hearing, took public testimony and recommended approval of Ordinance X-82 including

removal of the “functional family” provision in the existing residential occupancy regulation, the use of the International Property Maintenance Code (the "IPMC") to address overcrowding, and the strengthening of the existing enforcement provisions; and

WHEREAS, the Council has determined it is in the interest of the public health and safety to follow the recommendations of the Commission and to adopt the IPMC to address residential overcrowding consistent with Comprehensive Plan goals and policies.

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

Section 1. Findings of Fact. The City Council adopts the above recitals as findings of fact in support of its action under RCW 36.70A.390.

Section 2. Comprehensive Plan. The City Council finds that:

- (1) the amendments herein conform to the requirements of Chapter 36.70A RCW;
- (2) are consistent with and implement the City of Cheney’s comprehensive plan, as amended; and
- (3) advance state and local interests.

Section 3. Amendment. Section 21.48.027 entitled “Residential rental occupancy” is hereby amended to read as follows:

~~(a) — A dwelling unit may be occupied by only one family or functional family plus a number of unrelated persons as specified in the table below.~~

~~(b) — In addition to a family or functional family, the following number of persons may reside in a dwelling unit as determined by zone.~~

Zone	Number of Unrelated Persons Allowed
SR-2	0
CALR	0
R-1	1
R-2	2
R-3	3
R-3H	3
NSC	0
C-1	0
C-2	0

~~(c) — Except as authorized in this section, it shall be presumed that more than two adult persons unrelated by blood or marriage occupying a single dwelling unit are but a group of casual acquaintances living together for a limited duration, not to function as a family as defined herein, but for convenience and economic advantage. It shall be the burden of the occupant to rebut the presumption by clear and convincing evidence.~~

~~(d) — Anyone seeking the right and privileges afforded a member of a family or functional family by this title shall have the burden of proof by clear and convincing evidence of each of the elements comprising the respective definitions of a family or functional family defined in this section.~~

~~(e) — An owner or occupant of each dwelling unit actually exceeding the occupancy limitations of this section on or before the effective date of this section shall be entitled to an exemption for a period of one year. Any person seeking the exemption shall have the burden of proof by clear and convincing evidence that the occupancy of his/her property legally exceeded the pertinent limitations for at least 12 months since January 1, 1998.~~

~~(a) Federal Fair Housing Laws. Notwithstanding any other provisions, all property owners of property located within the City shall adhere to all requirements of the Federal Fair Housing laws and the State of Washington Fair Housing laws. children with familial status within the meaning of Title 42 United States Code, Section 3602(k) as amended and persons with disabilities within the meaning of Title 42 United States Code, Section 3602(h) will not be counted as unrelated persons.~~

~~(b) Overcrowding. The City has adopted the IPMC to address overcrowding by, among other things, imposing area requirements per person residences.~~

~~(c) Violation; abatement; failure; penalty. Penalties for not complying with the IMPC, shall follow the violation process outlined in CMC 17.06.10 Penalties shall be assessed to the property owner of record.~~

Section 4. 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 5. Effective Date. This ordinance shall become effective thirty (30) days after its passage, approval, and publication.

Introduced this ____ day of _____, 2021.

Passed by the City Council this ____ day of _____, 2021.

Approved by the Mayor this _____ day of _____, 2021.

Chris Grover, Mayor

ATTEST:

Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:

Stanley M. Schwartz, City Attorney