

City of Cheney
609 Second Street
Cheney, Washington 99004

CITY OF CHENEY, WASHINGTON

ORDINANCE NO. X-53

AN ORDINANCE OF THE CITY OF CHENEY AMENDING CHAPTER 2.60 OF THE CHENEY MUNICIPAL CODE ENTITLED "HEARING EXAMINER" TO MODIFY THE DUTIES AND POWERS, APPEAL PROCEDURE, AND OTHER MATTERS PROPERLY RELATED THERETO

WHEREAS, the City Council is considering adopting a new Chapter 19.08 to the Cheney Municipal Code entitled "Real Property Identification – Street Names and Address Standards" to include providing an appeal process for an aggrieved property owner;

WHEREAS, it is necessary to amend Chapter 2.60 of the Cheney Municipal Code entitled "Hearing Examiner" in order to grant authority to the Hearing Examiner to review decisions under Chapter 19.08 entitled "Real Property Identification – Street Names and Address Standards;" and

WHEREAS, through this ordinance, the City Council authorizes the Hearing Examiner to conduct appeals as set forth herein.

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

Section 1. **Amendment.** Section 2.60.050 entitled "Duties and powers" is amended as follows:

- (a) The examiner shall exercise the authority designated in Title 10, Environment, Title 21, Zoning, Title 22 Subdivisions and Chapter 23.120 Appeals of the Cheney Municipal Code, and such other matters which may be assigned to the hearing examiner from time to time by action of the city council. Hearings held by the hearing examiner shall constitute the hearings required by state law or city ordinance. The hearing examiner's decision shall have the effect of either a recommendation or an

administrative decision appealable within a specified time to the city council in writing by an aggrieved party. The hearing examiner shall hear the following matters:

- (1) Binding site plans (five lots or more);
 - (2) Conditional use permits;
 - (3) Critical areas reviews;
 - (4) Variances;
 - (5) Appeals from a planning official decision, including but not limited to, binding site plan (four lots or less), short plat, lot line adjustment/merger, permit review decisions, administrative interpretations;
 - (6) Appeals of the Public Works Director's decision(s) under Chapter 19.08; and
 - (7) Appeals of SEPA threshold determinations;
- (b) The examiner's decision shall be in writing and include findings and conclusions, based upon the record. The findings and conclusions shall, to the extent applicable, set forth the manner in which the decision would carry out and conform to state law, the city comprehensive plan, development regulations, policies, rules or standards of the city.

Section 2. **Amendment.** Section 2.60.064 entitled "Type of hearing and appeal procedure" is amended as follows:

The examiner will conduct either an "open record hearing" or a "closed record appeal" as defined in RCW 36.70B.020, as amended. For the purpose of an enforcement hearing, there shall be an "open record hearing," which shall follow issuance of the code enforcement violation.

City ordinance or state law shall prescribe whether the examiner is conducting an open record or closed record proceeding. For an open record hearing, the appellant, the applicant, and the city, as appropriate, shall be designated parties to the proceeding. Each party may participate and present testimony through witnesses or written documents. The hearing examiner may allow testimony and the submission of information by interested persons, groups, associations or other entities. Where the hearing examiner is conducting an appeal proceeding participation by interested persons, groups, associations, or other entities is limited to presenting testimony and information through a party to the appeal.

Appeals that are a "closed record" hearing, must be upon the record, provided that new evidence which was not available at the time of the hearing may be presented in

such appeal. The term "new evidence" means evidence discovered after the hearing and shall not include evidence which was available or which could reasonably have been available.

An appeal must be submitted in writing, with the appropriate fee, to the city clerk as set forth in Chapter 23.120. Such written appeal shall state specific errors of law, fact, procedure, omissions from the record, and errors in the interpretation of the comprehensive plan or new evidence which was not available at the time of the hearing.

After a timely appeal has been filed and upon payment of fees a hearing will be held by the Hearing Examiner in accordance with adopted appeal procedures.

Further process is set forth in Chapter 23.120.

Section 3. Severability. If any provision of this Ordinance, or its application to any person, entity or property, is for any reason held invalid by a court of competent jurisdiction, the remainder of the Ordinance, by the application of its provisions to other persons, entities or property shall not be affected.

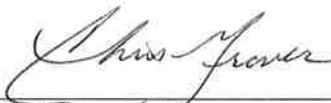
Section 4. Effective Date. This ordinance shall become effective thirty (30) days after its passage, approval, and publication.

Section 5.

Introduced this 14 day of August, 2018.

Passed by the City Council this 22 day of January, 2019.


Approved by the Mayor this 22 day of January, 2019.


Chris Grover, Mayor

ATTEST:


Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:


Stanley M. Schwartz, City Attorney