

City of Cheney, Washington
609 2nd Street
Cheney, WA 99004

**CITY OF CHENEY
ORDINANCE NO. W-38**

**AN ORDINANCE AMENDING CHAPTER 2.28 OF THE CHENEY MUNICIPAL CODE
ENTITLED "LIGHT DEPARTMENT" FOR THE PURPOSE OF CLARIFYING THE
DUTIES, RESPONSIBILITIES, AND PROVIDING FOR OTHER MATTERS RELATED
THERETO.**

WHEREAS, Chapter 2.28 of the Cheney Municipal Code establishes the Light Department and provides for the appointment of a Light Director to include payment of a utility tax;

WHEREAS, it is reasonable and necessary to modify the above ordinance in order to clarify the duties and responsibilities of the Light Department in a manner consistent with existing Washington law;

WHEREAS, RCW 35A.12.090 provides that the Mayor "shall have the power of appointment and removal of all appointed officers and employees...with confirmation by the City Council" of appointments required only when provided by ordinance of the City; and

WHEREAS, the City has and desires to continue the imposition of a utility tax upon the privilege of conducting an electrical energy business at a rate which does not exceed six percent (6%) of gross operating revenue according to RCW 35.21.870(1).

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

- 1. Section 1. Amendment.** Section 2.28.010 entitled "Created" is renamed "Establishment of Light Department" and is hereby amended as follows:

2.28.010

There is hereby ~~created~~ established a light department of the City of Cheney which shall be owned, operated, maintained and controlled by the city as a public utility pursuant to and under the provisions of State law ~~Revised Code of Washington chapter 35.92, and statutes supplementary and amendatory thereto.~~ Said department shall be under the general supervision and charge of the mayor.

2. **Section 2.** **Amendment.** Section 2.28.020 entitled "Head of department" is hereby amended as follows:

2.28.020

The chief administrative officer of the light department shall be the light department director who shall be appointed to the position by and serve at the pleasure of, the mayor. ~~The light department director may also occupy the position of planning coordinator.~~

3. **Section 3.** **Amendment.** Section 2.28.030 entitled "Duties" is hereby amended as follows:

2.28.030

The officers and employees of the light department shall perform such duties and render such services in connection with the department as may be required of them by ordinance, policy or the department director ~~or by the officials of the city in charge of the department.~~

4. **Section 4.** **Amendment.** Section 2.28.040 entitled "Earnings tax" is renamed "Electric utility tax" and is hereby amended as follows:

2.28.040

There shall be paid in the manner provided by law, by the city light department to the current expense fund of the City of Cheney ~~in lieu of the taxes which the department would pay if privately owned,~~ a gross earnings tax equal to six percent of the gross operating revenue received earnings of ~~by the~~ light department.

5. **Section 5.** **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.

6. **Section 6.** **Effective Date.** This ordinance shall become effective thirty (30) days after its passage, approval, and publication.

Introduced this 27 day of May, 2014.

Passed by the City Council this 27 day of May, 2014.

Approved by the Mayor this 27 day of May, 2014.



Tom Trulove, Mayor

ATTEST:



Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:



Stanley M. Schwartz, City Attorney