

City of Cheney  
609 Second Street  
Cheney, Washington 99004

**CITY OF CHENEY, WASHINGTON**

**ORDINANCE NO. W-50**

**AN ORDINANCE AMENDING TITLE 23 ENTITLED "DEVELOPMENT CODE ADMINISTRATION" OF THE CHENEY MUNICIPAL CODE AND PROVIDING FOR OTHER MATTERS RELATED THERETO**

**WHEREAS**, the Washington legislature, through RCW 36.70B.010, has declared that the increasing number of local and state land use permits and separate environmental review processes required by various agencies has generated the potential for conflict, overlap, and duplication between the various permit and review processes;

**WHEREAS**, this regulatory burden has significantly added to the cost and time necessary to obtain local and state land use permits and has been made it difficult for the public to know when and how to provide timely comments on land use proposals that require multiple permits and separate environmental review processes;

**WHEREAS**, through RCW 36.70B.030, the State has provided for a land use and project review process, which includes local governments planning under the Growth Management Act, RCW Chapter 36.70A; and

**WHEREAS**, the presently existing development code should be amended in order to reflect changes in state law, the city comprehensive plan, and other ordinances, regulations, and standards of the city.

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

{S0987104; 4 }

## **Chapter 23.020      Legislative Actions.**

**Section 1.      Amendment.** Section 23.020.010 entitled "Description" is hereby amended to read as follows:

Legislative actions provide for the establishment and modification of land use plans, ~~policies, and development regulations, and guidelines.~~ The legislative procedure includes a public hearing by a designated commission. ~~The hearings provide opportunities for to receive public comment and input on actions which may affect large areas of the city with final action by the City Council.~~

**Section 2.      Amendment.** Section 23.020.020 entitled "Applicability" is here by amended to read as follows:

The following actions are considered legislative actions:

- (1) Text and map amendments to Cheney Municipal Code ~~Titles~~ 10, 20, 21, 22, and 23
- (2) Text and map ~~A~~ amendments to the Cheney Comprehensive Plan.

**Section 3.      Amendment.** Section 23.020.030 entitled "Process" is hereby amended to read as follows:

- (a) *Initiation.* Proposed amendments may be initiated by the following parties:

- (1) City council.
- (2) Planning commission.
- (3) ~~Community development director~~ Planning Official.
- (4) Any citizen of the City of Cheney or owner of property in the City of Cheney may petition the planning commission to initiate an amendment. A site-specific amendment must be made by the property owner.

- (b) *Environmental checklist.* An environmental checklist or environmental impact statement, as specified in ~~Chapter CMC~~ 23.090, Environmental Checklist, ~~must be completed~~ may be required.

- (c) *Concurrency determination.* The public works director will issue a transportation facility concurrency determination ~~no more than 14 days after receiving~~ following the notice of application, as set forth in CMC Chapter 23.110.

- (d) *SEPA threshold determination.* The ~~community development director~~ planning official will issue a SEPA threshold determination no fewer than 15 days prior to a hearing in accordance with CMC Title 10, Environmental Regulations.
- (e) *Public notice.* A notice must be published in a newspaper of general circulation delivered in the City of Cheney at least 14 days prior to a public hearing.
- (f) *Public comment period.* The public may provide written comment for a period of no fewer than 14 days and no greater than 30 days as specified in the public notice.
- (g) *Review.* The ~~community development director~~ planning official must provide a single report stating the approval criteria, findings and a recommendation to the review body ~~seven days~~ prior to the hearing.
- (h) *Hearing.* An open record hearing will be conducted by the planning commission. The planning commission may adopt the ~~community development director's~~ planning official's report and recommendation, modify it, or reject it based on information presented at the hearing and in the record.
- ~~(i) *Appeal of planning commission recommendation.* An appeal of the planning commission recommendation must be submitted in writing to the city clerk within 14 calendar days of the written recommendation. Only persons who appeared in person or by counsel before the planning commission shall have standing to appeal. The written appeal must include the following information:~~
  - ~~(1) Appellant's name, address, and phone number.~~
  - ~~(2) File number of the recommendation being appealed.~~
  - ~~(3) Statement of grounds for appeal and the facts upon which the appeal is based.~~
  - ~~(4) Statement of the desired changes.~~
- (i) *Final decision authority.* The city council has final decision authority preceded by a recommendation from the planning commission. ~~If the recommendation has been appealed, the city council must consider the appeal at the time of decision.~~

- (j) *Ability to appeal.* ~~The reviewing body's decision is final unless appealed. The appeal process is set forth in subject to Chapter CMC Chapter 23.120, Review Body and Appeals.~~

## **Chapter 23.030      Land Use Reviews.**

**Section 4.      Amendment.** Section 23.030.010 entitled "Description" is hereby amended to read as follows:

Land use reviews involve judgment or discretion in determining compliance with the approval requirements. ~~The review is discretionary because not all of the approval requirements are objective. That is, they are not easily definable or measureable. Land use reviews must provide opportunities for public involvement.~~ land use goals, policies, and requirements that are set forth in the comprehensive plan and development regulations of the City. Land use reviews may be conducted by the planning official, planning commission, hearing examiner, or city council. A decision will take into consideration the request set forth in the application, to include compliance with the comprehensive plan, development regulations, standards and policies. Conditions may be imposed on the proposal to ensure conformance with the approval criteria. A land use review is based upon decision criteria that relate to the specific application.

**Section 5.      Amendment.** Section 23.030.020 entitled "Applicability" is hereby amended to read as follows:

Land use reviews include adjustments, conditional use permits, critical areas review, planned unit developments, preliminary plat of subdivisions, preliminary binding site plans, variances to CMC Title 22, zone map amendments, and land use map amendments.

**Section 6.      Amendment.** Section 23.030.030 entitled "Process" is hereby amended to read as follows:

- (a) *Consolidated reviews.* Applications for more than one project on a site may be consolidated into a single application. When more than one review is requested and the reviews have different procedures, the ~~overall~~ application is processed using the most comprehensive review process.
- (b) *Timeline.* A final decision should be made within 120 days from the date the application was deemed complete or a written notice given to the applicant specifying the reasons why the time limits will not be met and an estimated date of issuance.
- (c) *Pre-development meeting.* A pre-development meeting is required prior to submittal of any land use review application as specified in ~~chapter~~ CMC 23.070

- (d) *Application.* The applicant must submit an application on a city form, to include the minimum submittal requirements listed in ~~chapter~~ CMC 23.080, the specific information required for the review requested, and the correct fee.
- (e) *Environmental checklist.* A completed environmental checklist as specified in ~~Chapter~~ CMC 23.090, Environmental Checklist, ~~must be submitted~~ may be required with a land use application.
- (f) *Counter-complete determination.* Prior to accepting an application, the ~~Community Development Department~~ planning official shall determine whether the application is counter-complete. A counter-complete application shall contain ~~all~~ the information requested in the applicable form(s). Review for counter-complete status does not include an evaluation of the substantive adequacy of the information in the application. If the department determines that the application is counter-complete, the application will be accepted for processing. If the application is not counter-complete, the application shall be returned to the applicant and the applicant shall be advised of the required information ~~needed to complete the application~~.
- (g) *Completeness check.* Upon receipt of a counter-complete ~~A~~applications it shall be routed to other departments as ~~appropriate~~ for a determination of completeness under RCW 36.70B.070. Within twenty-eight (28) days the city shall provide written notice that: (a) the application is complete or (b) additional information is required. Once the applicant supplies the ~~missing~~ additional information, ~~the community development director~~ the planning official has fourteen (14) days to determine if the application is complete or request further information. If the ~~missing~~ requested information is not received within sixty (60) days of notice of an incomplete application, the application will be considered abandoned and the city will not refund the application fee.
- (h) *Additional governmental authority.* The ~~community development director~~ planning official must notify the applicant of any other governmental authority that may have jurisdiction over some aspect of the proposed project within 28 days of submittal.
- (i) *~~Public~~-nNotice of Application.* Following the determination of completeness, the city shall within fourteen (14) days provide the applicant and the public the notice of application. Once the applicant receives the notice ~~that the~~ of application ~~is complete~~, the applicant ~~has~~ shall within 14 days of receipt to notify the public of the proposal through one of the three methods as specified in CMC 23.100, Notice of Application.

- (j) *Public comment period.* The public may provide written comment for a period of no fewer than 14 days and no greater than 30 days as specified in the public notice, provided public comment may be accepted prior to closing the record where there is an open record hearing or the decision.
- (k) *Department responses.* City department directors notified of the application must provide a written response to the ~~community development~~ planning official ~~director~~ within 14 days of the notice.
- (l) *Concurrency determination.* The public works director will issue a transportation facility concurrency determination no more than 14 days after receiving the notice of application.
- (m) *SEPA threshold determination.* The ~~community development director~~ planning official will issue a SEPA threshold determination no fewer than 15 days prior to a hearing in accordance with CMC Title 10, Environmental Regulations. If the city issues a determination of significance, the process ~~of~~ in CMC Title 10 applies.
- (n) *Review.* The ~~community development director~~ planning official must provide a single report stating the approval criteria, findings and a recommendation to the review body ~~seven days~~ prior to the hearing.
- (o) *Hearing.* An open record hearing will be conducted by the assigned review body. See CMC Chapter 23.120, Review Body and Appeals. The review body may adopt the ~~community development director's~~ planning official's report and recommendation, modify it, or reject it based on information presented at the hearing and in the record. ~~The below chart identifies the process relating to the development application, the review body and the appellate body.~~

<b>Development Application</b>	<b>Initial Review Body/Decision Body</b>	<b>Appeal</b>
Binding Site Plan—Additional Lots/Amendment/Preliminary Approval/Vacation	Hearing Examiner	City Council/Superior Court
Conditional Use Permit	Hearing Examiner	City Council/Superior Court
Critical Area Review	Hearing Examiner	City Council/Superior Court
Final Plat—Amendment	Hearing Examiner	City Council/Superior Court
Preliminary Plat—Amendment/Approval	Hearing Examiner	City Council/Superior Court
Variance	Hearing Examiner	City Council/Superior Court
Annexation	Planning Commission/ City Council/BRB	Growth Management Hearings Board*
Comprehensive Plan—Amendment	Planning Commission/ City Council	Growth Management Hearings Board*
Land Use Map—Amendment	Planning Commission/ City Council	Growth Management Hearings Board*

Planned Unit Development	Planning Commission/ City Council	Superior Court
Zoning Map/Text Amendment	Planning Commission/ City Council	Superior Court

\*Matters subject to review pursuant to RCW 36.70A.020

- (p) *Hearing examiner decision.* For those ~~reviews~~ matters where the hearing examiner is the final decision authority (per CMC 23.120.020), the hearing examiner will issue a written decision to be distributed to the parties of record.
- (q) *Planning commission recommendation.* For those ~~reviews~~ matters where the planning commission is the initial review body, the planning commission will provide a written recommendation to the city council ~~no less than 14 calendar days~~ following the action.
- (r) *City council.* For those reviews where the hearing examiner or planning commission has made a recommendation to the city council, the ~~community development planning official director~~ shall present the ~~commission's~~ recommendation to the council and request action be taken. This request shall be done as soon as reasonably possible, at the next regularly scheduled city council meeting.
- (s) *Notice of decision.* Within seven days of the decision the ~~Community Development Director~~ planning official will mail notice of the review body's decision (pending appeal) to the applicant, the owner and all recognized organizations or persons who responded in writing to the public notice, testified at the hearing, or requested a notice of decision. For approved planned unit developments, the city clerk will publish a legal notice in the local newspaper announcing the adopted ordinance changing the official City of Cheney Zoning Map.
- (t) *Ability to appeal.* ~~The reviewing body's decision is final unless appealed. The appeal process is set forth in subject to Chapter CMC Chapter 23.120, Review Body and Appeals.~~
- (u) *Recording.* All decisions of approval, including conditions, shall be recorded with Spokane County. The applicant is responsible for the recording of the decision against the property and must provide a copy of the recorded decision to the community development department. The decision must be recorded before the approved use is permitted, permits are issued, or any changes to the zone ~~map~~ or land use map are made, but no later than 30 days from the final decision.
- (v) *Effective date.* For all reviews except planned unit developments and map amendments, the effective date is the day the decision is signed. For planned

unit developments and map amendments, the effective date is 30 days after the ordinance notice is published in the local newspaper.

- (w) *Expiration.* The date of expiration is dependent on the type of review. See following chart.

Type of Review	Date of Expiration
Conditional use permit	<del>35</del> years
Critical area	5 years
Preliminary binding site plan	<del>5 years</del> <u>CMC 22.12</u>
Preliminary subdivision plat	<del>7 years</del> (See RCW 58.17.140) <u>CMC 22.17</u>
Planned unit development without preliminary plat	<del>2 years</del> <u>CMC 22.12</u>
Planned unit development with preliminary plat	<del>7 years</del> (See RCW 58.17.140) <u>CMC 22.17</u>
Variance	<del>35</del> years
Short plat, lot line adjustment	<u>CMC 22.17</u>

- (x) *Extensions.* A land use review decision may be extended by the planning commission.
- (y) *Amendments.* A land use review decision may be amended using the process described in this chapter.

#### **Chapter 23.0404      Project Reviews.**

**Section 7.**      **Amendment.** Section 23.040.010 entitled "Description" is hereby amended to read as follows:

Project reviews ~~are projects that~~ do not require a legislative action or a ~~land use quasi-judicial review, but are subject to the State Environmental Protection Policy Act (SEPA) with decisions on the application made by the planning official.~~

**Section 8.**      **Amendment.** Section 23.040.020 entitled "Types" is hereby amended to read as follows:

Project reviews include, but are not limited to, building permits, ~~and other non-discretionary permits and matters contained in this title annexations.~~

**Section 9.**      **Amendment.** Section 23.040.030 entitled "Process" is hereby amended to read as follows:

- (a) *Concurrent reviews.* Applications for a building ~~or other~~ permit must either conform with the land use entitlement or ~~may be submitted with, or any time after the submittal for a project completion of the land use review.~~



- (b) *Timeline.* A final determination ~~should~~ must be made by the planning official within 120 days from the date the application was deemed complete or a written notice given to the applicant specifying the reasons why the time limits will not be met and an estimated date of issuance.
- (c) *Pre-development meeting.* Prior to the submittal of an application for a building permit regulated by the International Building Code, a pre-development meeting is required as specified in CMC 23.070, Pre-Development Meetings. The meeting may be waived at the discretion of the ~~community development director~~ planning official.
- (d) *Application.* The applicant must submit an application on the appropriate form, including the minimum submittal requirements listed in ~~Chapter CMC 23.080, the specific information required for the review requested,~~ and the correct fee.
- (e) *Environmental checklist.* A completed environmental checklist as specified in CMC Chapter 23.090, Environmental Checklist, ~~must be submitted~~ may be required with a project review application.
- (f) *Counter-complete determination.* Prior to accepting an application, the ~~community development department~~ planning official shall determine whether the application is counter-complete. A counter-complete application shall contain ~~all~~ the information requested in the applicable form(s). Review for counter-complete status does not include an evaluation of the substantive adequacy of the information in the application. If the ~~department~~ planning official determines that the application is not counter-complete, the application shall be rejected and the applicant advised of the information needed to complete the application. Counter-complete applications shall be accepted for review for fully complete determination.
- (g) *Completeness check.* Upon receipt of a counter-complete Applications it shall be routed to other departments as appropriate for a determination of completeness under RCW 36.70B.070. Within twenty-eight (28) days the city shall provide written notice that : (a) the application is complete or (b) additional information is required. Once the applicant supplies the missing additional information, the community development director the planning official has fourteen (14) days to determine if the application is complete or what further information is necessary. If the missing requested information is not received within sixty (60) days of notice of an incomplete application, the application will be considered abandoned and the city will not refund the application fee.
- (h) *Additional governmental authority.* The ~~community development director~~ planning official must notify the applicant of any other governmental

authority that may have jurisdiction over some aspect of the proposed project within ~~14~~28 days of submittal.

- (i) ~~*Public*~~ *Notice of Application*. Following the determination of completeness, the city shall within fourteen (14) days provide the applicant and the public the notice of application. Once the applicant receives the notice ~~that the~~ of application ~~is complete~~, the applicant ~~has~~ within 14 days of receipt may be required to notify the public of the proposal by U.S. mail ~~through one of the three methods~~ as specified in CMC 23.100, Notice of Application. For project permits exempt from SEPA the City shall not issue a notice of application.
- (j) *Public comment period*. The public may provide written comment for a period of no fewer than 14 days and no greater than 30 days as specified in the public notice, provided public comments may be accepted prior to closing the record where there is an open record hearing or the decision.
- (k) *Concurrency determination*. The public works director will issue a transportation facility concurrency determination within 14 days of the application being deemed complete.
- (l) *SEPA threshold determination*. Unless exempt, the community development director planning official will issue a SEPA threshold determination at the close of the comment period and no fewer than 15 days prior to a hearing in accordance with CMC title 10, Environment Regulations. If the city issues a determination of significance, the process ~~of~~ in CMC title 10 applies.
- (m) *Notice of decision*. Within seven days of the decision the planning official will mail notice of the review body's decision (pending appeal) to the applicant, the owner and all recognized organizations or persons who responded in writing to the public notice, testified at the hearing, or requested a notice of decision. For project permits exempt from SEPA the City shall not issue a notice of decision.
- (n) *Ability to appeal*. The reviewing body's decision is final unless appealed. The appeal process is subject to ~~Chapter~~ CMC Chapter 23.120, Review Body and Appeals.

## **Chapter 23.050      Final Plat Reviews.**

**Section 10. Amendment.** Section 23.050.010 entitled "Description" is hereby amended to read as follows:

The final plat process provides the city an opportunity to confirm that the final plat conforms with to the conditions of the preliminary approval.

**Section 11.**     **Amendment.** Section 23.050.030 entitled "Process" is hereby amended to read as follows:

- (a) *Timeline.* The ~~application~~ final plat must be approved, disapproved or returned to the applicant within thirty (30) days from the date of application.
- (b) *Application.* The applicant must submit an application on the appropriate form, with the minimum submittal requirements listed in ~~Chapter CMC~~ 23.080, Minimum Submittal Requirements, ~~the specific information required for the review requested,~~ and the correct fee.
- (c) *Review.* The application is reviewed by the ~~community development planning official,~~ public works, fire, light, ~~and parks departments directors~~ and the city engineer. ~~They review the plat for city standards, for~~ conformance with the terms of preliminary approval, ~~and conditions of that approval.~~ If the applicant has not shown conformance with the preliminary approval, the original copy of the plat, together with a list of required modifications shall be returned to the applicant. A duplicate copy shall be retained for the file.
- (d) *Approval.* When all reviewers have confirmed that the plat is ready to be approved, the ~~community development director~~ planning official shall inform the applicant. The applicant shall submit a vellum 24 inch by 36 inch copy of the plat for recording purposes. In addition, the applicant shall submit:
  - (1) A certificate from the county treasurer indicating that all taxes and assessments on said property included in the final plat, subdivision, or dedication have been paid according to the provisions of RCW 58.17.160, RCW Chapter 58.08.030 and 58.08.040 of the Revised Code of Washington, as thereafter amended.
  - (2) A check payable to the county auditor for the full amount of filing fees according to the provisions of RCW Chapter 36.18.010 of the Revised Code of Washington, as thereafter amended.
  - (3) A title report no older than 30 days, confirming that the title of the land as described and shown on the plat is in the name of the owners signing the certificate or instrument of dedication.
  - (4) The Certificate in RCW 58.17.165, dedication of streets and other areas and Protective covenants, if any, ~~in form for recording.~~
- (e) *Signatures.* Upon receipt of the vellum copy of the plat, the plat shall be routed to all appropriate directors, officials, and the city engineer for signatures.

- (f) *City council meeting.* Upon receipt of the vellum copy of the plat, a public meeting date shall be set for the next regular city council meeting, not less than seven (7) days from the submittal date. Short plats (4 lots or less) are approved by the ~~community development director~~ planning official and do not require city council approval.
- (g) *City council approval.* When the city council finds that the land division proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said land division meets the requirements of the ~~municipal code and such other development regulations adopted by the city council,~~ other applicable state laws, and any local city ordinances and other standards adopted under RCW Chapter 58.17 of the Revised Code of Washington, which were in effect at the time of application for preliminary plat approval, it shall approve the final plat, upon adoption of findings of fact.
- (h) *Recording.* After approval, the final plat shall be filed for record by the applicant with the county auditor within thirty (30) days of City Council approval the City may refuse to issue permits for development on a final plat which has not been reviewed by the county auditor.
- (i) *~~Ability to appeal.~~* The reviewing body's decision is final unless appealed. The appeal process is subject to ~~Chapter~~ CMC 23.120, Appeals.

## **Section 23.060**

## **Lot Line Reviews.**

**Section 12. Amendment.** Section 23.060 entitled "Lot Line Reviews" is renamed "Lot Line, Short Plat and Binding Site Plan Review."

**Section 13. Amendment.** Section 23.060.010 entitled "Description" is hereby amended to read as follows:

Lot line boundary lines between platted, unplatted lots or both. No additional lots, tract or parcel may be created with all divisions meeting minimum requirements for land use. A short plat or binding site plan subject to this chapter is the division of land into four or fewer lots. ~~reviews are objective in determining compliance with the approval requirements. They provide straightforward, clear, objective standards. They are categorically exempt from provisions of the State Environmental Protection Policy Act (SEPA).~~

**Section 14. Amendment.** Section 23.060.020 entitled "Applicability" is hereby amended to read as follows:

Lot line reviews include preliminary short plats, binding site plans (four lots or less), lot line adjustments, and lot mergers. ~~segregations.~~

**Section 15.**    **Amendment.** Section 23.060.030 entitled "Process" is hereby amended to read as follows:

- (a) *Timeline.* The application must be approved or returned to the applicant within ~~45~~60 days from of submittal.
- (b) *Application.* The applicant must submit an application on the appropriate form, to include the minimum submittal requirements listed in Chapter CMC 23.080, the specific information required for the review requested, and the correct fee.
- (c) *Review.* The application is reviewed by the planning official ~~community development~~, public works, fire, light, ~~and parks departments directors~~ and the city engineer. They review the plat for conformance with the municipal code. If the applicant has not shown conformance with the ~~municipal code comprehensive plan and development regulations~~, the original copy of the plat, together with a list of required modifications shall be returned to the applicant. A duplicate copy shall be retained for the file. Public Notification is not required.
- (d) *Ability to appeal.* The reviewing body's decision is final unless appealed. The appeal process is subject to ~~Chapter CMC 23.120, Appeals.~~

#### **Chapter 23.070      Pre-Development Meeting.**

**Section 16.**    **Amendment.** Section 23.070.020 entitled "Purpose" is hereby amended to read as follows:

The applicant must submit the appropriate form and a conceptual site plan prior to the pre-development meeting. ~~in order to be assigned a meeting date.~~

**Section 17.**    **Amendment.** Section 23.070.030 entitled "Participants" is hereby amended to read as follows:

The applicant meets with city staff representing the building, public works, light, fire, and planning departments. ~~community development directors.~~

**Section 18.**    **Amendment.** Section 23.070.040 entitled "Summary" is hereby amended to read as follows:

The planning official ~~community development director~~ will provide mail a summary of the pre-development meeting to the applicant ~~within seven days of at or following the meeting.~~

#### **Chapter 23.080      Minimum Submittal Requirements.**

**Section 19.** **Amendment.** Section 23.080.020 entitled "Requirement for all land use reviews" is hereby amended to read as follows:

The following must be submitted for the application to be considered complete.

- (a) Written response to the approval criteria.
- (b) Six copies of a site plan or plat.
  - (1) Drawn to a scale of not less than 100 feet to the inch.
  - (2) Drawn on paper no larger than 24 inches by 36 inches.
  - (3) North arrow.
  - (4) Boundaries of the site.
  - (5) Total acreage.
  - (6) Existing and proposed buildings structures, driveways, parking areas, other paved areas, open space, and landscaping.
  - (7) Existing and proposed lot lines with dimensions.
  - (8) Square footage computation for each lot.
  - (9) Existing and proposed tracts.
  - (10) Existing and proposed public streets, private streets, and alleys with dimensions.
  - (11) Existing and proposed utility lines (underground and overhead).
  - (12) Existing and proposed easements with dimensions and purpose noted.
  - (13) Storm water retention facilities.
  - (14) Major geographical features.
  - (15) Existing contours at five-foot intervals.
  - (16) Preliminary plats must contain datums and benchmarks and metes and bounds description
  - (17) Preliminary plats must be prepared by a land surveyor or engineer licensed in the State of Washington.

- (c) An electronic copy of the site plan or plat in .pdf form.
- (d) Trip distribution letter certified by a professional traffic engineer licensed in the State of Washington.
- (e) For projects that generate more than 1,000 vehicle trips per day, a traffic analysis report certified by a professional traffic engineer licensed in the State of Washington.
- (f) Preliminary plats must include a utility plan showing utilities and easements adjacent to the property being subdivided, existing and proposed; the vertical scale of street and sewer profiles shown shall be at ten feet or less to the inch, with a horizontal scale of 400 or less feet to the inch.
- (g) Preliminary plats must include title report no older than 30 days.

**Section 20.** **Amendment.** Section 23.080.030 entitled "Requirements for all final plat and lot line reviews" is hereby amended to read as follows:

The following must be submitted for the application to be considered complete.

- (a) Six copies of a plat certified by a land surveyor licensed in the State of Washington.
  - (1) The lines and names of all streets or other public ways, parks, playgrounds, or easements intended to be dedicated for public use or granted for use of inhabitants of the subdivision.
  - (2) The lines and names of all existing or platted streets or other public ways, parks, playgrounds, and easements adjacent to the final plat, subdivision, or dedication, including municipal boundaries, township lines, and section lines.
  - (3) Any street access locations shown on the final plat are subject to granting of a valid street access permit.
  - (4) The lengths and bearings of all straight lines, curve radii, arcs, and semi-tangents of all curves.
  - (5) All dimensions along the lines of each lot, with the true bearings and also any other data necessary for the location of any lot lines in the field.
  - (6) Suitable primary control points, approved by the city engineer or descriptions and ties to such control points, to which all dimensions, angles, bearings, and similar data given on the plat shall be referred.

- (7) The locations of all permanent monuments.
- (8) The names of all subdivisions immediately adjacent thereof.
- (9) The date, true north point, scale, datum plane, and date of survey.
- (10) The boundary of the tract, with courses and distances.
- (11) Street names.
- (12) Certification by a licensed professional land surveyor that the plat and survey are true and accurate representations of the lands surveyed.
- (13) Statement by owner dedicating streets, right-of-ways, and any sites for public use. Streets not dedicated to the public must be clearly marked on the face of the plat.
- (14) All linear dimensions shall be given in feet and decimals of a foot to the nearest hundredth.
- (15) The scale of the final plat shall be minimum of 100 feet to the inch.
- (16) If the plat constitutes a replat, the lots, blocks, streets, etc., of the original plat shall be shown by dashed lines in their proper positions in relation to the new arrangement of the plat, the new plat being so clearly shown in solid lines as to avoid any ambiguity.
- (17) A statement that the subdivision has been made with the free consent and in accordance with the desires of the owner or owners.
- (18) Lots and blocks clearly identified by numbers according to a numbering system approved by the planning official. ~~community development department~~.
- (19) House numbers assigned by the Cheney Building Official shall be shown for each lot.
- (20) If the plat is subject to a dedication, the certificate or a separate written instrument shall contain the dedication of all streets and other areas to the public, and individual or individuals, religious society or societies, or to any corporation, public or private as shown on the plat or short plat and a waiver of all claims for damage against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said road. Said certificate or instrument of dedication shall be signed and acknowledged



before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.

- (b) An electronic copy of the site plan or plat in .pdf format and .dwg format.

**Chapter 23.040      Environmental Checklist.**

**Section 21. Amendment.** Section 23.090.010 entitled "Purpose" is hereby amended to read as follows:

To meet the requirements of the State Environmental ~~Protection~~ Policy Act (SEPA).

**Section 22. Amendment.** Section 23.090.020 entitled "Requirement" is hereby amended to read as follows:

- (a) Proposals subject to the State Environmental ~~Protection~~ Policy Act (SEPA) shall be processed in conformance with CMC title 10, Environmental Regulations.
- (b) A completed environmental checklist shall be filed prior to or at the same time as an application for a permit, license, certificate, or other approval not categorically exempt. A checklist is not ~~needed~~ required if the city and the applicant agree an EIS ~~is required, SEPA compliance has been completed,~~ shall be prepared or SEPA compliance has been initiated by another agency.
- (c) For private proposals, the applicant will complete the environmental checklist. For public proposals, the department initiating the proposal shall complete the environmental checklist for that proposal. During the review of the environmental checklist, the staff will review and if necessary return the checklist to the applicant for revisions and/or additional information.

**Chapter 23.100      Notice of Application.**

**Section 23. Amendment.** Section 23.100.010 entitled "Purpose" is hereby amended to read as follows:

~~To provide the community of Cheney with an opportunity to comment on proposed projects. A notice of application provides the applicant, public, city departments, and agencies with jurisdiction information about the proposal or project. The notice of application may be combined with the (SEPA) threshold determination. The notice of application shall contain the information set forth in CMC 23.100.030(a)(1)-(14).~~

**Section 24. Amendment.** Section 23.100.020 entitled "Requirement" is hereby amended to read as follows:

~~Within 14 days of the application being complete and a~~ At least 15 days prior to the ~~a required public hearing~~, the applicant must notify the public of the proposal.

**Section 25. Amendment.** Section 23.100.030 entitled "Methods of notification" is hereby amended to read as follows:

The following three methods of notification are prerequisites for a public hearing:

**(a) U.S. mail.** The applicant must mail a notice to all owners and taxpayers of record, as shown by the most recent Spokane County assessor's record, and occupants of addresses of property located within 300 lineal feet of the subject lot(s) and those agencies that may have jurisdiction. ~~If the owner of the subject lot owns other lots adjacent to the subject lot, a notice shall be given to owners of lots located within 300 feet of any portion of those lots.~~ The following information is required on the notice:

- (1) Statement that the City of Cheney is processing the application.
- (2) File number.
- (3) Applicant name and phone number.
- (4) Date of application.
- (5) Date of notice of completeness.
- (6) Date of the notice of application.
- (7) Description of the proposed project.
- (8) Location of the proposed project.
- (9) Identification of other permits required.
- (10) Identification of existing environmental documents.
- (11) Statement of the public comment period. The public comment period may be no fewer than 14 days and no greater than 30 days.
- (12) The date, time, place, and type of hearing.
- (13) Name, address, and office telephone number of the city official from which information and the staff report on the proposal can be obtained.

(14) A statement of the preliminary determination if one has been made or the optional DNS language of WAC 197-11-355.

(b) **Newspaper.** The applicant must publish a notice in a newspaper of general circulation in the general area where the proposal is located. The information listed in (a) above shall be included in the notice.

(c) **On site.** The applicant must post one notice on the site for every 300 feet of street frontage. The posted notice sign must meet the following specifications:

(1) ~~It is~~ Measures a minimum of four feet by four feet, ~~but the~~ sign size may be increased in order to contain all of the required information.

(2) ~~It is~~ Be constructed of material of sufficient weight and strength to withstand normal weather conditions.

(3) ~~It is~~ Have a white background with black or red lettering.

(4) Posted notices must contain the following information:

The first line of text on the sign in four-inch letters reads: "NOTICE OF APPLICATION."

The second line of text on the sign in three-inch letters reads: "PROPOSED CONDITIONAL USE PERMIT, File #CU-\_\_\_\_\_-\_\_\_\_\_" or some other appropriate description of the proposed action.

The third line of text on the sign in three-inch letters reads: "PUBLIC HEARING ON/COMMENTS DUE BY (date, time and location)."

The remaining lines of text, in three-inch letters, shall include the following: Brief description of the proposal and applicant (or agent) name and phone number.

(5) The last line of text on the sign in three-inch letters reads: "FOR INFORMATION: (City contact telephone number)."

#### **Chapter 23.110      Concurrency Determination.**

**Section 26.** **Amendment.** Section 23.110.010 entitled "Purpose" is hereby amended to read as follows:

To ensure that the proposal does not cause the level of service on a transportation facility to decline below ~~adopted~~ 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 defined at RCW 36.70A.070(6)(b).

**Section 27. Amendment.** Section 23.110.020 entitled "Requirement" is hereby amended to read as follows:

The public works director will provide in writing to the planning official ~~community development director~~, a determination as follows ~~of the following~~:

- (a) The streets and local transportation facilities that are subject to concurrency, including the established level of service. ~~Classify all proposed streets in conformance with comprehensive plan. Projected traffic demands after 20 years of development shall be considered.~~
- (b) Whether ~~If~~ 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. The concurrency management system shall include provisions that demonstrate a project has met the concurrency requirement through the land use approval process or through a separate certificate of concurrency.

**Section 28. Amendment.** Section 23.110.035 entitled "Appeal" is hereby amended to read as follows:

{S0987104; 4 }

An applicant may appeal a concurrency determination by filing written notice of appeal to the city clerk. Notice of appeal must be filed within ten days of issuance of the concurrency determination. For the purpose of this section, the date on which a concurrency determination is issued is when the applicant is given a copy of the determination or three days after the written determination is mailed to the applicant by regular U.S. mail to the applicant's last known address, whichever is first. The notice of appeal must specify the grounds of the appeal. ~~The city council shall hear the appeal upon the record, supplemented by any additional competent evidence which the parties may desire to submit. The city council may appoint a hearing officer who~~ examiner shall hear the evidence and forward a recommendation to the city council for its final decision. The burden of proof shall be on the applicant to show by preponderance of evidence that the ~~service provider's~~ concurrency determination was in error. The decision of the city council shall be considered a final land use decision.

### **Chapter 23.120 Appeals.**

**Section 29.** **New Title.** Chapter 23.120 entitled "Appeals" is hereby renamed "Review Body and Appeals."

**Section 30.** **Amendment.** Section 23.120.010 is hereby amended to read as follows:

To ~~provide a~~ identify the process for review and appealing of decisions made ~~based on reviews of~~ under this title.

**Section 31.** **Amendment.** Section 23.120.020 entitled "Standing to Appeal" is renamed "Process for Review" and amended as follows:

~~The applicant or another party of record to the proceeding may file an appeal.~~

The following chart identifies the application, review body, decision body and appeal. Where an application is not identified in the below chart, the decision body shall be the planning official (unless otherwise provided by city ordinance, adopted uniform code or state law) with appeal to the hearing examiner.

<b><u>Development Application</u></b>	<b><u>Review Body</u></b>	<b><u>Decision Body</u></b>	<b><u>Appeal</u></b>
<u>Binding Site Plan</u> <u>(4 lots or less)</u>	<u>n/a</u>	<u>Planning Official</u>	<u>Hearing Examiner<sup>2</sup></u>
<u>Binding Site Plan</u> <u>(5 or more lots, Additional</u> <u>Lots, Amendment, Vacation)</u>	<u>n/a</u>	<u>Hearing</u> <u>Examiner<sup>1</sup></u>	<u>City Council</u>
<u>Concurrency Review</u>	<u>Public Works Director</u>	<u>Hearing</u> <u>Examiner<sup>2</sup></u>	<u>City Council</u>
<u>Conditional Use Permit</u>	<u>n/a</u>	<u>Hearing</u> <u>Examiner<sup>1</sup></u>	<u>City Council</u>
<u>Critical Area Review</u>	<u>n/a</u>	<u>Hearing</u>	<u>City Council</u>

		<u>Examiner<sup>1</sup></u>	
<u>Final Plat (Approval/Signature)</u>	<u>n/a</u>	<u>City Council</u>	<u>Superior Court<sup>3</sup></u>
<u>Final Plat (Amendment, Alteration)</u>	<u>n/a</u>	<u>Planning Commission</u>	<u>City Council</u>
<u>Lot Line Adjustment/Merger</u>	<u>n/a</u>	<u>Planning Official</u>	<u>Hearing Examiner<sup>2</sup></u>
<u>Preliminary Plat (Approval, Amendment or Substantial Alteration)</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Superior Court<sup>3</sup></u>
<u>Short Plat (Preliminary)</u>	<u>n/a</u>	<u>Planning Official</u>	<u>Hearing Examiner<sup>2</sup></u>
<u>SEPA Threshold Determination</u>	<u>Responsible official</u>	<u>Hearing Examiner<sup>2</sup></u>	<u>City Council</u>
<u>Variance</u>	<u>n/a</u>	<u>Hearing Examiner<sup>1</sup></u>	<u>City Council</u>
<u>Annexation</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Growth Management Hearings Board<sup>4</sup></u>
<u>Comprehensive Plan - Amendment</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Growth Management Hearings Board<sup>4</sup></u>
<u>Land Use Map - Amendment</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Growth Management Hearings Board<sup>4</sup></u>
<u>Planned Unit Development</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Superior Court<sup>3</sup></u>
<u>Zoning Map/Text - Amendment</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Superior Court<sup>3</sup></u>

<sup>1</sup> The decision of the hearing examiner is a recommendation to the city council. The city council action on the recommendation will be based upon the record.

<sup>2</sup> The hearing examiner's decision on appeal is final unless further appeal is made to the city council.

<sup>3</sup> Review is pursuant to RCW Chapter 36.70C.

<sup>4</sup> Review is pursuant to RCW 36.70A.290.

**Section 32. New Section.** A new section 23.120.035 entitled "Appeal of a planning official decision" is hereby added to read as follows:

- (a) The hearing examiner reviews appeals of decisions made by the planning official.
- (b) An appeal must be submitted in writing, with the appropriate fee, to the city clerk. The following information must be included:
  - (1) The appellant's name, address and phone number;
  - (2) The basis of the appellant's standing to appeal;
  - (3) The decision which is the subject of the appeal;

- (4) The specific grounds for the appeal and the facts upon which the appeal is based; including specific reasons why the appellant believes the project review decision is in error;
- (5) The relief sought including the desired changes to the project review decision; and
- (6) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.
- (c) Appeals of a short plat decision must have a public hearing and require public notice as specified in CMC 23.100, Notice of Application.

**Section 33. Amendment.** Section 23.120.035 entitled "Appeal of a planning commission or hearing examiner decision" is hereby renumbered as Section 23.120.040 and amended to read as follows:

- (a) ~~The city council will review~~ Appeals to ~~of~~ decisions made by the planning commission or the hearing examiner shall follow the table outlined in CMC 23.120.020.
- (b) An appeal ~~must~~ shall be submitted in writing, with the appropriate fee, to the city clerk. The following information must be included:
  - (1) The appellant's name, mailing address, and phone number and email (if available);
  - (2) The basis of the appellant's standing to appeal;
  - (3) The decision which is the subject of the appeal;
  - (4) The specific grounds for the appeal and the facts upon which the appeal is based; including specific reasons why the appellant believes the project review decision is in error;
  - (5) The relief sought including the desired changes to the project review decision; and
  - (6) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.
- (c) ~~Appeals of a short plat decision must have a public hearing and require public notice as specified in Chapter 23.100, Notice of Application.~~

**Section 34. Repeal.** Section 23.120.040 entitled "Appeal of all other decisions" is hereby repealed in its entirety.

**Section 35. New Section.** A new section 23.120.040 entitled "Action of city council on appeal" is added as follows:

- (a) Where the city council is making a quasi-judicial decision following a recommendation from the hearing examiner, an appeal may be filed by an appellant, the applicant, property owner, or the City, as appropriate. On appeal, the City Council shall conduct a closed record hearing on the appeal and prior to or in conjunction with taking final action on the recommendation decide the appeal. If an appeal is not filed, the City Council shall not hold a public hearing or take further public testimony (except as set forth in CMC 2.60.064) prior to making a decision on the recommendation.
- (b) At the appeal hearing, the appellant, applicant and the City may present written and oral argument limited to matters within the record before the hearing examiner. Oral argument is limited to twenty (20) minutes per party, unless otherwise stated by the Mayor. Time may be reserved for rebuttal. The appellant has the burden to show the hearing examiner's decision is not supported by substantial evidence in the record or is a clearly erroneous interpretation of the applicable law. Substantial weight shall be accorded the decision of the hearing examiner.
- (c) The City Council shall either make its decision on appeal and the recommendation at the appeal hearing or the following regular City Council meeting.
- (d) The City Council may affirm, reverse, modify or remand the decision of the hearing examiner. If the City Council modifies the hearing examiner's decision, it may add new or different conditions as supported by the record, city ordinance or adopted policies/standards. The city council action shall be passed by a majority vote and set forth in the resolution or ordinance that accompanies the recommendation.

**Section 36. New Section.** A new section 23.120.050 entitled "Action of city council on recommendation from hearing examiner" is added as follows:

- (a) The city council shall review the hearing examiner's decision at an open public meeting to include a presentation by the planning official identifying how the application complies with the appropriate decision criteria. No further public testimony shall be taken except as set forth in



CMC 2.60.064. Any conditions of approval shall ensure the proposal complies with the decision criteria and mitigates any potential adverse impact upon the environment as required under SEPA.

(b) The city council shall by resolution or ordinance either:

1. Approve the application, incorporating its decision on any appeal;
2. Approve the application with modifications, incorporating its decision on any appeal;
3. Remand the application to the hearing examiner for an additional hearing limited to specific issues identified by the council; or
4. Deny the application.

(c) Ordinance.

1. The City Council may, based on the record, include additional conditions in the ordinance approving or approving with modifications an application in order to ensure conformance criteria established by city ordinance.
2. The City Council shall include findings of fact and conclusions which support the decision of the Council to include adopting by reference all or some of the findings and conclusions of the hearing examiner.

#### **Chapter 23.130      Extensions.**

**Section 37. Amendment.** Section 23.130.030 entitled "Process" is hereby renumbered to 23.120.050 and amended to read as follows:

- (a) The applicant shall submit a request in writing to the ~~community development planning department~~ 60 days prior to the expiration of a land use review.
- (b) The planning commission shall consider the request at the next regular meeting ~~no less than 14 days from the submittal date.~~
- (c) The planning commission shall approve the extension if they determine that the applicant is making substantial progress towards the development of the project.

**Section 38. 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 39.** **Effective Date.** This ordinance shall become effective thirty (30) days after its passage, approval, and publication.

Introduced this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Tom Trulove, Mayor

ATTEST:

\_\_\_\_\_  
Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Stanley M. Schwartz, City Attorney