

CITY OF CHEWELAH, WASHINGTON

ORDINANCE No. 991

AN ORDINANCE ESTABLISHING A REVIEW PROCESS FOR THE LOCATION, SITING, AND OPERATION OF COMMUNITY-BASED BEHAVIORAL HEALTH FACILITIES; AMENDING THE CITY OF CHEWELAH MUNICIPAL CODE TO PROVIDE NEW DEFINITIONS LOCATED IN CMC §18.04.040; ADDING NEW USES TO THE “PERMITTED, CONDITIONALLY PERMITTED, AND PROHIBITED USES BY BASE ZONE” LOCATED IN CMC §18.08.020; AND ADDING A NEW SECTION OF CODE §18.12.160 DETAILING NEW REGULATIONS FOR “COMMUNITY-BASED BEHAVIORAL HEALTH FACILITIES.

WHEREAS, the Washington State Department of Commerce recently established a program that aims to support community providers in expanding and establishing new capacity for Behavioral Health Facilities (“BHF”) in local communities across the state.

WHEREAS, the Chewelah Zoning Ordinance, CMC 18 (“CMC 18”) does not address the potential use of a property for a BHF.

WHEREAS, the Comprehensive Plan contains goals, policies, and a future land use element which provide direction for implementation of the Comprehensive Plan;

WHEREAS, the proposed amendments for establishing a review process for the location, siting, and operation of BHF are consistent with the Chewelah Comprehensive Plan and all applicable federal and state laws and regulations;

WHEREAS, CMC 18 contemplates the potential uses of “Hospital and nursing homes”, “Housing for people with functional disabilities” and “Adult family homes,” but does not consider, contemplate, address, or differentiate a proposed use of any BHF;

WHEREAS, the operation of a BHF is substantially different from a nursing home or adult family home, necessitating further consideration and attention that is not currently incorporated into CMC 18;

WHEREAS, the operation of a BHF, is substantially different from other essential public service buildings, necessitating further consideration and attention that is not currently incorporated into CMC 18;

WHEREAS, the Council of the City of Chewelah held a duly noticed public hearing on February 21, 2024, to review and take public comment, following previous workshops and public input received; and

WHEREAS, the proposed code amendments and additions underwent SEPA Review and was issued a Determination of Non-Significance on February 1, 2024.

NOW, THEREFORE, the COUNCIL of the CITY of CHEWELAH ordains as follows:

SECTION 1. Findings of Fact. The City Council hereby adopts the above recitals as findings of fact germane to the proposal, having evaluated the proposal for consistency with the requirements of this title and other applicable laws, plans, and regulations as required by Chewelah Municipal Code.

SECTION 2. Amendments to §18.08.040. The following definitions within Chewelah Municipal Code §18.04.040 are hereby added, repealed and replaced, or stricken as follows:

"Assisted living facility" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care. "Assisted living facility" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

"Adult family home" means a dwelling in which person or persons provide personal care, special care, room and board to more than one (1) but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the care. An adult family home may provide services to up to eight (8) adults upon approval under RCW 70.128.066. Those homes or facilities serving more than (8) persons or serving persons under the jurisdiction of the criminal justice system shall be considered a "Residential Care Facility" pursuant to CMC 18.12.160, Community-based Behavioral Health Facilities.

"Group Homes for Children" means a dwelling in which a person or persons provide personal care, special care, room and board to more than one (1) but not more than eight (8) juveniles who are not related by blood or marriage to the person or persons providing the care. Those homes or facilities serving more than eight (8) juveniles or serving juveniles under the jurisdiction of the criminal justice system shall be considered a "Residential Care Facility" pursuant to CMC 18.12.160, Community-based Behavioral Health Facilities.

"Child day care - center" means a facility providing for the care of thirteen (13) or more children. A child day care center shall not be located in a private residence unless a portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation or is separate from the usual living quarters of the family.

"Child day care - home" means a person regularly providing care during part of the twenty-four-hour day to six (6) or fewer children in the family abode of the person or persons under whose direct care the children are placed.

"Child day care - mini" means a person or agency providing care during part of the twenty-four-hour day to twelve (12) or fewer children in a facility other than the family abode of the person or persons under whose direct care the children are placed, or for the care of seven (7) through twelve (12) children in the family abode of such person or persons.

"Community-Based Behavioral Health Facilities" – See CMC 18.12.160

"Essential public facility" means those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance use disorder treatment facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020.

"Family" means ~~an individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.~~

"Nursing home" means any home, place or institution which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable to properly care for themselves. Care may include administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a licensed practitioner of the healing arts. Nothing in this definition shall be construed to include general hospitals in which surgery or obstetrics or both are performed, the care of persons suffering from a mental sickness, mental disorder or ailment.

SECTION 3. Repeal and Replace of Table §18.08.020 and corresponding table notes. Chewelah Municipal Code Table 18.08.020 Permitted, Conditionally Permitted and Prohibited Uses by Base Zone is hereby repealed and replaced with the following:

P = Permitted	C = Conditionally permitted	X = Expressly prohibited
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Uses may be affected if property is also within an overlay district (see applicable overlay section)

	R-1	R-1B	R-3	R-B	C-1	APG C	C-F
Residential							
Single-family dwelling (including designated manufactured homes)	P	P	P	X	P(5)	P	X
Detached second unit	P	X	P	X	X	C	X
Duplex	P	P	P	P	P(5)	C	X
Multi-family, 3 units or more	X	X	P	P	P(5)	C	C
Renting rooms	P(4)	C	P(4)	P(4)	X	P(4)	X
Adult family home	P	P	P	C	X	P	P
Group home for children	P	P	P	C	X	P	P
Commercial							
Keeping of livestock	P	P	P	P	P	P	P

	R-1	R-1B	R-3	R-B	C-I	APG C	C-F
Beekeeping	P(12)	X	X	X	X	C	P(12)
Temporary stands for sale of agricultural products	X	X	X	C	C	C	X
Commercial nurseries and greenhouses	X	X	X	P	P	X	X
Domestic pets	P	P	P	P	P	P	P
Gardening or fruit raising (1)	P	P	P	P	X	P	P
Home occupation	P	P	P	P	X	P	P
Accessory uses and structures	P	P	P	P	P	P	P
Child day care - center	C	C	C	P	X	C	C
Child day care - mini	C	C	C	P	X	C	X
Child day care - home	P	P	P	P	X	P	X
Public garages	X	X	X	P	C	X	C
Telecommunication facilities	X	X	X	P	C	X	P
Temporary uses, including business, contractors, real estate offices	C	C	C	P	P	C	C
Manufactured home park	C(11)	C(11)	C	C	X	X	X
Medical and dental offices	X	X	X	P	P	X	C
Convalescent facilities	X	X	C	P	C	X	C
Museum, art galleries	C	C	P	C	P	P	P
Automotive showroom and supply store	X	X	X	P	P	X	X
Bakery, candy, ice cream and similar food manufacturing	X	X	X	P	P	X	X
Car or boat sales (new or used)	X	X	X	P	P	X	X
Motorcycle or motor scooter sales and repair	X	X	X	P	P	X	X
Antique stores	X	X	X	P	P	X	X
Catering services	X	X	X	P	P	X	X
Department stores, building supply outlets, floor covering and rug stores	X	X	X	P	P	X	X
Dressmaking and custom tailoring	X	X	X	P	P	X	X
Dry good stores	X	X	X	P	P	X	X
Financial institutions	X	X	X	P	P	X	X
Furniture stores including incidental repair and custom furniture upholstery	X	X	X	P	P	X	X
Restaurants, including drive ins	X	X	X	P	P	X	X
Private clubs, fraternities and lodges	X	X	X	P	P	X	X

	R-1	R-1B	R-3	R-B	C-I	APG C	C-F
Liquor stores, taverns, night clubs	X	X	X	P	P	X	X
Places of assembly, including auditorium, funeral home, art gallery, etc.	X	X	X	P	P	X	C
Tire shops, excluding tire recapping	X	X	X	P	P	X	X
Armories	X	X	X	C	P	X	X
Theaters, excluding drive-ins	X	X	X	P	P	X	X
Professional and general offices	X	X	X	P	P	X	X
Business and trade schools	X	X	X	P	P	X	X
Studios, commercial art, photography, film exchange, preprocessing	X	X	X	P	P	X	X
Printing establishments	X	X	X	P	P	X	X
Wholesale and mail order (not stocking goods on premises)	X	X	X	P	C	X	X
Service station	X	X	X	P(9)	C	X	X
Car wash	X	X	X	P(9)	C	X	X
Second hand store	X	X	X	P	P	X	X
Dry cleaning and laundry	X	X	X	P	P	X	X
Animal clinics	X	X	X	C	C	X	X
Hotel or motel	X	X	X	P	P	X	X
Mixed use (office, commercial and/or residential on a single parcel or in a single structure)	X	X	X	P	P	X	C
Recreational							
Amusement enterprises	X	X	X	P	P	X	X
Recreational vehicle park	X	X	X	C	C	P	X
Parks, playgrounds, golf course	P	P	P	X	X	P	P
Recreational camps	X	X	X	X	X	C	X
Golf course	C	C	C	X	X	P	C
Industrial							
On site hazardous waste storage and treatment (7)	X	X	X	P	P	X	X
Off site hazardous waste storage and treatment	X	X	X	X	C	X	X
Other similar retail wholesale and commercial businesses	X	X	X	P	P	X	X
Manufacture, assembly, compounding, packaging or treatment of products, similar	X	X	X	X	P	C	X

	R-1	R-1B	R-3	R-B	C-I	APG C	C-F
to scientific, business or industrial machinery or instrumentation, food products, clothes or recreational equipment							
Research, experimental or testing laboratories	X	X	X	X	P	X	X
Electrical Vehicle Charging Station - Level 1	P	P	P	P	P	P	P
Electrical Vehicle Charging Station - Level 2	P	P	P	P	P	P	P
Electrical Vehicle Charging Station - Level 3	X	X	X	P	P	C	P
Electrical Vehicle - Battery Exchange Station	X	X	X	P	P	C	C
Mini storage facilities	X	X	X	C	P	C	X
Warehouses	X	X	X	X	C(10)	X	X
Drop hammer or similar equipment	X	X	X	X	C(10)	X	X
Community Facilities							
Schools	C(3)	C(3)	C	C	X	C	C
Assisted Living Facilities	C	C	C	C	X	C	C
Churches and charitable institutions	C	C	C	C	X	C	C
Hospitals and nursing homes	C	X	C	C	X	C	C
Community-based Behavioral Health Facilities	X	X	X	C(12)	C(12)	X	C(12)
Municipal buildings	C	C	C	P	P	C	P
Public/private utilities	C	C	C	C	C	C	C
Essential Public Facilities	(13)	(13)	(13)	(13)	(13)	(13)	(13)

Notes:

1. Including sales of products, provided no retail stand, greenhouse, permanent sign or other commercial structure is erected.
2. RESERVED
3. Including specialty schools such as dance and music.
4. Not more than eight persons.
5. Occupied by a caretaker of the permitted use only.
6. RESERVED.
7. Accessory to a permitted activity generating hazardous waste, provided that the facility meets the state siting criteria adopted in RCW 70.105.210.
8. RESERVED
9. Drop hammers in areas adjoining residential zones will be permitted provided muffling equipment is installed to minimize the noise effect of such equipment if such noise would unduly interfere with the residential property.
10. Subject to a Planned Development permit.
11. Subject to site plan review and CMC 18.12.090.

12. Subject to additional standards provided in CMC 18.12.160 Community-based Behavioral Health Facilities.
13. Subject to an essential public facilities siting process pursuant to RCW 36.70A.200 and the Chewelah Comprehensive Plan.

SECTION 4. New CMC §18.12.160 Community-based Behavioral Health Facilities. A new section 18.12.160 to the Chewelah Municipal Code Chapter 18.12 is hereby added and shall include the following:

18.12.160 Community-based Behavioral Health Facilities

A. Purpose And Intent. These regulations are intended to protect public health and safety by requiring safe operations of Behavioral Health Facilities for both the residents and the broader community. Violations of these regulations are subject to §1.24.010 of Chewelah Municipal Code. The purpose of this section is to allow and establish a review process for the location, siting, and operation of community-based behavioral health facilities that:

1. Increase access to behavioral health services and community amenities for individuals living with behavioral health conditions or disabilities.
2. Allow such facilities to be sited in areas with appropriate conditions for the services being provided.
3. Apply regulatory land use frameworks in the same manner for such facilities as for other facilities with similar scale and land use impacts.
4. Apply permitting and entitlement processes appropriate to the scale of the facility and location that is efficient, predictable, and informed.
5. Ensure that the health and safety of both residents and the broader community is maintained during facility operations.

B. Facility Types and Definitions.

“Community-based Behavioral Health Facility” means a residential facility licensed and regulated by the State of Washington, staffed to provide on-site care and that is not a hospital or a group home (adult family home). For the purposes of this title, the following facilities shall be considered a Community-based Behavioral Health Facilities:

- Crisis Stabilization Facilities
- Dementia Care Facilities
- Enhanced Services Facilities
- Evaluation and Treatment Facilities
- Intensive Behavioral Health Treatment Facilities
- Residential Care Facilities
- Secure Withdrawal Management and Stabilization Facilities

“Crisis Stabilization Facility” means a short-term facility designed to assess, diagnose, and treat persons experiencing an acute crisis without the use of hospitalization that may be co-located with Evaluation and Treatment and Outpatient Treatment facilities. Peace officers may drop-off individuals if the facility chooses to provide involuntary services. Individuals are assessed to determine the need for civil commitment or other services. Facilities can offer short-term care for up to 24 hours and/or provide beds for overnight stays of approximately five days. (WAC 246-341-1140)

“Dementia Care Facility” means a facility that provides specialized long-term care services for persons with dementia. All facilities have delayed egress, an indoor wander path, and a safe, enclosed outdoor area that can be accessed independently. Stays are generally long-term, with residents aging in place and only moving if their care needs can no longer be safely met. (WAC 388-110-220 (2) (3))

“Enhanced Services Facility” means a facility that provides support and services to persons for whom acute inpatient treatment is not medically necessary. (RCW 70.97.010(5));

“Evaluation and Treatment Facility” means a short-term court-ordered treatment provided in a residential facility (can also be provided in a hospital setting). Includes 24-hour on-site care for the evaluation, stabilization, and/or treatment of residents for substance use, mental health, or co-occurring disorders. These facilities serve individuals for 5 or 14 day (short-term) and/or 90- and 180-day (long-term) civil commitments. They may also provide services to voluntary individuals. (WAC 246-341-1134)

“Intensive Behavioral Health Treatment Facility” means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings. (RCW 71.24.025 (33));

“Outpatient Treatment” means behavioral health services provided through outpatient treatment. These agencies are sometimes licensed as a Behavioral Health Agency. (WAC 246-341)

“Residential Care Facility” means an establishment operated with twenty-four (24) hour supervision for the purpose of serving persons of any age under the jurisdiction of the criminal justice system or nine (9) or more persons of any age who, by reason of their circumstances or conditions, require a transitional nonmedical treatment program for rehabilitation and social readjustment; for example, work release programs, alcoholic treatment programs, drug rehabilitation centers, mental health programs, etc. This definition does not include prisons or conventional correctional institutions involving twenty-four (24) hour locked incarceration with little or no freedom of movement.

“Secure Withdrawal Management and Stabilization facility” means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. (RCW 71.05.020 (52))

C. Licensing Requirements.

1. All Community-based Behavioral Health Facilities are required to demonstrate compliance with all licensing requirements pursuant to Chapter 70.97 RCW, or as amended by the State Legislature.
2. A written management plan shall be provided by all Crisis Stabilization Facilities, Enhanced Services Facilities, Evaluation and Treatment Facilities, Intensive Behavioral Health Facilities, Residential Care Facilities, and Secure Withdrawal Management and Stabilization facilities for the City Administrator's (or their designee's) review and approval. At a minimum, a management plan shall address the following components:
 - a. Identify potential impact(s) on nearby residential uses and proposed methods to mitigate those impacts;
 - b. Identify the project management or agency responsible for the support staff and who will be available to resolve concerns pertaining to the facility. The plan shall specify procedures for updating any changes in contact information;
 - c. Identify staffing, supervision, and security arrangements appropriate to the facility. A 24-hour on-site supervisor is required.
 - d. Identify a communications plan in the event that information to the surrounding neighborhood would be needed throughout the time the facility is in operation.

D. Conditional Use Permit Requirements.

1. New or expanded Community-based Behavioral Health Facilities shall require a Type II Conditional Use Permit.
2. In addition to the requirements for a complete application specified within CMC 18.20.030, Development Review Procedure, proposed Community-based Behavioral Health Facilities must provide a written Operations Plan that shall contain the following minimum components:
 - a. Facility point of contact (a facility email and 24-hour phone line)
 - b. Process for communicating with neighboring residents and businesses
 - c. Policies and procedures to address neighborhood concerns
 - d. Numbers of residents and expected length of stay
 - e. Facility rules and regulations
 - f. Staffing plans (number and shifts)
 - g. Onsite parking plan and anticipated response calls
 - h. Safety and discharge plan which shall include relocation and notification procedures to emergency services in the event a resident voluntarily discharges against medical advice.

E. Approval criteria. In addition to all other standards required by this title and findings specified within CMC 18.16.020 (C)(2) for the approval of Type II Conditional Use Permits, the following additional criteria shall apply for Community-based Behavioral Health Facilities:

1. 24-hour on-site supervisor shall be required.
2. The proposed location is or will be sufficiently served by public services which may be necessary for the support and operation of the facility. These may include, but shall not be limited to, the availability of utilities, access, transportation systems, education, police and fire facilities, and social and health services.
3. The proposed facility shall not be located within eight hundred and eighty feet (880 ft) of any pre-existing Community-based Behavioral Health Facility, public park, playground, recreation/community center, library, childcare center (including all types of child daycares), school, miniature golf, ice/skate rink, bowling alley, movie theater, or game arcade. The method of measurement shall be from the closest property line to the closest property line.
4. The proposed facility and improvements shall be compatible with surrounding properties, including the size, height, location, setback, and arrangements of all proposed buildings, and signage.
5. All required local, state, and federal licensing requirements applicable to the proposed facility shall be required prior to issuance of a certificate of occupancy.

SECTION 5. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon its passage.

SECTION 10. 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.

ADOPTED BY THE COUNCIL OF THE CITY OF CHEWELAH, WASHINGTON, AT A REGULAR MEETING THEREOF ON THE 30 DAY OF April, 2024.



Mayor M. Gregory McCunn



Authenticate: Julie Culverwell