

CITY OF CHEWELAH, WASHINGTON

ORDINANCE No. 984

AN ORDINANCE AMENDING CHAPTER 18.16 AND SECTION 18.20.030 OF CHEWELAH MUNICIPAL CODE TO PROVIDE A PROCESS AND TIMELINE FOR CONSIDERING REQUESTS TO CHANGE THE COMPREHENSIVE PLAN ON AN ANNUAL BASIS AND TO ELIMINATE THE REQUIREMENT FOR HEARING EXAMINER REVIEW OF CERTAIN LEGISLATIVE MATTERS.

WHEREAS, In addition to the major, periodic comprehensive plan review and updates that are required by law, local jurisdictions may consider proposed amendments on a more frequent basis to respond to a change in circumstances and stay relevant to local needs; and

WHEREAS, the City of Chewelah has determined that a process is warranted for concurrent, annual review of all proposed Comprehensive Plan amendments as required by Revised Code of Washington (RCW) 36.70A.130; and

WHEREAS, the City of Chewelah has determined that the role of a hearing examiner should be limited to quasi-judicial functions and that legislative matters, including, but not necessarily limited to code amendments to implement the comprehensive plan, housing action plan, and subarea plans may be reserved for the City Council; and

WHEREAS, the proposed text amendments are procedural in nature and therefore exempt from SEPA review pursuant to WAC 197-11-800(19); and

WHEREAS, the Hearing Examiner Pro Tem provided a recommendation to the Chewelah City Council based on findings and conclusions pursuant to Chewelah Municipal Code, Section 18.16.050(E)(2), following a duly noticed public hearing that was held on August 15, 2023.

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

SECTION 1.

Section 18.16.050, "Amendments" of Chewelah Municipal Code is hereby repealed and replaced with the following:

18.16.050 Amendments to Zoning Map and Development Regulations

- A. Purpose and Intent. The text of this title and/or applicable maps may be amended to better implement the city comprehensive plan or protect the health, safety, and welfare of city residents.
- B. Initiation of Amendment by Petition.
 - 1. An amendment or supplement to this title may be initiated by any owner of affected property (in the case of a zone change), or any citizen of Chewelah in the case of other amendments. Any proposed amendment shall be presented on forms and in the format prescribed by the city planner.

2. Attached to any proposed amendment or supplement shall be an explanation and justification for the proposed change. Additionally, a request for a zone boundary change or zone change shall be accompanied by an accurate map at a scale not larger than one inch equals two hundred feet showing the affected property and three hundred feet in all directions from the property lines. A complete list of all owners of property on the map shall also be submitted. The list shall be certified by a licensed title company within thirty days of the date of application.
 3. Review Process. Those amendments proposed by an owner of an affected property or citizen that are site-specific and quasi-judicial in nature shall be subject to a Type II review consistent with CMC 18.20.030. The hearing examiner shall make a recommendation to the City Council.
- C. Initiation of Amendment by the City. The city planner or city council may initiate an amendment to this title at any time. Before such an amendment can be passed, the merits of the proposed change and shall be evaluated and conclude the change, if adopted, will be in conformance with the comprehensive plan and promote the health, welfare, and safety of the people or constitutes good zoning practices and conforms to the laws of the state.
- D. Review Process. An amendment initiated by the city shall be subject to a Type III review consistent with CMC 18.20.030.
- E. Action of Review Authority.
1. Whenever there is a proposed rezoning being reviewed where public hearing is advertised and held, if after hearing testimony and considering the facts involved, the council finds that a more restrictive zone classification than that requested and advertised or that a rezoning of less land than that advertised would be in the public interest and constitute good zoning practice, the council may approve a more restrictive zone or smaller land area without readvertising and rehearing. For the purpose of this provision, the Single-family residential (R-1) shall be interpreted as being the most restrictive.
 2. The city council shall review the proposal and shall not approve of an amendment to any implementing ordinance or regulation unless it first makes the following findings and conclusions:
 - a. The proposed amendment is consistent with the intent and goals of the Chewelah comprehensive plan and meets the requirements and intent of the Chewelah Municipal Code.
 - b. The proposed amendment is consistent with applicable federal and state laws and regulations.
 - c. The city and other responsible agencies and special districts will be able to supply development resulting from the zone change or development regulation amendment with adequate roads and streets for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection.
 - d. The amendment adequately mitigates impacts identified through the SEPA review process, if applicable.
 - e. The amendment is beneficial to the public health, safety, and welfare, and is in the public interest.

SECTION 2.

A new section 18.16.070, "Amendments to the Comprehensive Plan" is hereby added and shall include the following:

18.16.070 Amendments to the Comprehensive Plan

- A. The Growth Management Act (GMA) requires that comprehensive plans be subject to continued review and evaluation and that any amendments or revisions to the Comprehensive Plan conform to the requirements of Chapter 36.70A RCW.
- B. Initiation. Comprehensive Plan Amendments may be initiated by any of the following:
 - 1. Property owner(s) or their representatives within the urban growth area.
 - 2. Any citizen, agency, neighborhood association or other party within the urban growth area.
 - 3. City Council or City Staff.
- C. Application Submittal.
 - 1. Required Materials
 - a. Name, address and telephone number of the person, business, agency or other organization suggesting the amendment
 - b. Citation of the specific text, map, or other illustration suggested to be amended.
 - c. The suggested amendment, including amendatory language.
 - d. If a suggested amendment is to a plan or to both a plan and a development regulation, a statement of how the amendment
 - 1) promotes public health, safety, and welfare,
 - 2) is consistent with or in conflict with other portions of the comprehensive plan or subarea plan, and
 - 3) complies with Chapter 36.70A RCW, also known as the Growth Management Act, and the Stevens County county-wide planning policies;
 - e. If a suggested amendment is only in the development regulations, a statement as to how the amendment complies with the comprehensive plan
 - f. SEPA Checklist
 - g. Applicable fees.
 - 2. Applicant Initiated. Comprehensive Plan amendments shall be subject to a Completeness Review pursuant to this chapter.
 - 3. The city administrator or his/her designee shall compile and maintain for public review a docket of suggested amendments to the comprehensive plan by appropriate classification and in the order which such suggested amendments were received.
- D. Annual Review of Docket

1. All complete applications shall be docketed and reviewed concurrently on an annual basis and in a manner consistent with RCW 36.70A.130. The deadline for submission of a complete application for the 2024 annual update cycle shall be November 19, 2023. Every year thereafter, the deadline for submission of a complete application shall be June 30 of each calendar year.
2. City Council Review of Docketed Requests. After the submission deadline, City staff will present the docketed requests to the City Council for review. The Council shall determine which specific docketed requests are processed based on the following criteria:
 - a. Timing of the requested amendment is appropriate, and Council will have sufficient information to make an informed decision;
 - b. The City will be able to conduct sufficient analysis, develop policy and any related development regulations;
 - c. The amendment will further implement the intent of the City's adopted Comprehensive Plan or the Growth Management Act;
 - d. The amendment is not better addressed through another planning process.
3. Approval Criteria: The City may approve Comprehensive Plan amendments if it finds that:
 - a. The proposed amendment bears a substantial relationship to the public health, safety, welfare, and protection of the environment;
 - b. The proposed amendment is consistent with the requirements of Chapter 36.70A RCW and with the portion of the City's adopted Comprehensive Plan not affected by the amendment; or
 - c. The proposed amendment corrects an obvious mapping error; or
 - d. The proposed amendment addresses an identified deficiency in the Comprehensive Plan.
4. Amendments may be considered more often than annually subject to circumstances specified in WAC 365-196-640(3)(b).

SECTION 3.

Section 18.20.030 is hereby repealed and replaced with the following:

18.20.030 Development Review Procedure

- A. Purpose and Intent. The purpose of this section is to provide procedures for the review of applications that will ensure that the requirements of this title are met, and the goals and policies of the city comprehensive plan are achieved. The intent is to integrate the development permit and environmental review process, as well as to consolidate the development review, wherever possible, in order to avoid duplication and delay.
- B. General Provisions.

1. Unless otherwise required, where the city must review more than one application for a given development, all applications required for the development shall be submitted for review at one time.
2. It shall be the responsibility of the applicant or petitioner to present evidence to the satisfaction of the body or person authorized by this title to hear an application that undue detriment will not result from the requested approval.

C. Preapplication Consultation.

1. Applicants for a Type I review are encouraged to contact the city planner prior to submitting an application to discuss the nature of the proposed development, applicable development standards, design alternatives, required permits and the review process.
2. Applicants for a Type II or III review shall submit a preapplication request prior to submitting an application. A preapplication meeting shall be held to discuss the nature of the proposed development, applicable development standards, design alternatives, required permits, availability of services, and the review process.

D. Application and Fee. Any property owner or representative of a property owner may make application. A completed application with applicable submittal materials and fees as established by resolution of the city council shall be submitted to the city planner.

E. Stale Applications. This Part of this Section is intended to extinguish applications that become stale due to inaction by the applicant.

1. Expiration of Stale Applications. An application shall be considered stale and shall expire whenever any action by the applicant required for further processing of that application (whether or not such action is the result of a Completeness Review pursuant to Part F of this Section) remains undone for six (6) or more months after the date that the action was requested, unless the applicant is granted an extension of time pursuant to Part E,3 of this Section.
2. Forfeiture of Fees. Upon the expiration of any such stale application, all fees already paid are subject to forfeiture at the sole discretion of the administrator.
3. Extension of Time. The time for expiration of an application may be extended by up to six (6) additional months upon written request by the applicant before the end of the period set out in Part E,1 of this Section. Multiple extensions may be requested, except that any such extensions, including the first requested, shall be granted solely at the discretion of the administrator.

F. Completeness Review.

1. Within fourteen days of receiving a date-stamped application, the city planner shall review the application for completeness, and provide the applicant with a written determination that the application is complete or incomplete. If the application is found to be incomplete, the city planner shall identify the information that must be provided or requirements that must be met to constitute a complete application.
2. An application is complete if it includes the following:
 - a. A completed original application form signed by the owner(s) of the property subject to the application or by a representative authorized to do

so by written instrument executed by the owner(s) and filed with the application.

- b. Information necessary to demonstrate compliance with the standards specified in the applicable section(s) of this title. In addition, the city planner may require such additional information as reasonably necessary to fully and properly evaluate the proposal.
- c. A completed SEPA checklist, including all back-up materials, or, in the case that the project is exempt, a statement explaining why the project should be considered exempt under WAC 197-11-800.
- d. Suggested findings of fact supporting the proposed project and relating to each required finding in this title.
- e. Payment in full of all applicable fee(s) adopted by the city council.
- f. The fee established by resolution by the council shall be charged for each certified/registered mailing of notice required by this title.

G. Notice of Application.

1. Within fourteen days after making a determination that an application is complete, the administrator shall publish a notice of application if required and in accordance with the requirements of Section 18.20.040B of this chapter.
2. The notice of application begins a public comment period of not less than fourteen days and not more than thirty days.

H. Technical Review.

1. The technical review committee shall review the development application for compliance with the provisions of this title and the city comprehensive plan, and other applicable city regulations, including the State Environmental Policy Act (SEPA). The administrator shall make a threshold determination pursuant to SEPA.
2. After review by all city agencies affected by the development (including SEPA review) the applicant shall be notified whether additional technical information is needed in order to evaluate the proposal. If not, the application will be deemed technically complete. Additional technical information may include:
 - a. A study of the potential traffic impacts of a project by a registered professional engineer.
 - b. An Environmental Impact Statement (EIS) in compliance with WAC 197-11-400.
 - c. Delineation of critical areas on the site by qualified professionals and evaluation of the impacts of the proposed development on the delineated resources.

I. Environmental Review.

1. Developments and planned actions subject to the provisions of SEPA shall be reviewed in accordance with the policies and procedures contained in Chapter 16.04 (SEPA Ordinance).
2. SEPA review shall be conducted concurrently with development project review.

3. If an appeal is received on a SEPA determination, the appeal and the subject application shall be considered at the same hearing.
4. If the SEPA determination is made after the notice of application, a separate notice may be necessary to comply with state environmental regulations.

J. Type I, Administrative Review Process.

1. The administrator may approve, approve with conditions, or deny Type I applications, subject to the notice and appeal requirements of this article.
2. Within fourteen days, a notice of decision must be published in accordance with Section 18.20.040D of this chapter. Preliminary approvals under this section shall become final if no appeal is submitted, within fourteen days of publication of the notice of decision.

K. Type II, Quasi-Judicial Review Process.

1. A Type II, quasi-judicial review shall require a public hearing before the hearing examiner.
2. The administrator shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of city departments, affected agencies and special zones, and evaluating the development's consistency with the requirements of this title, the Chewelah comprehensive plan, and other applicable city regulations. The staff report shall include findings, conclusions and proposed recommendations for the disposition of the development application.
3. The administrator shall schedule a public hearing before the hearing examiner as soon as possible after a technically complete application requiring a Type II review is submitted. Notice of the time and place of the hearing shall be published in accordance with Section 18.20.040 of this chapter.
4. At the time and in the place appointed, the hearing examiner shall conduct a public hearing for the purpose of taking testimony, hearing evidence, considering the facts pertinent to the proposal, and evaluating the proposal for consistency with the requirements of this title and other applicable plans and regulations.
5. For Type II reviews other than preliminary plats, planned developments, vacations or alterations, site-specific comprehensive plan amendments, and site-specific rezones, the hearing examiner may grant preliminary approval, approval with conditions, or may deny the project based on the testimony received and the findings made. Preliminary approvals under this section shall become final fourteen days after publication of the notice of decision. If a written notice of appeal is received within the specified time, the matter shall be referred to the Superior Court of the State of Washington for Stevens County for review and a decision.
6. For Type II reviews of preliminary plats, planned developments, vacations or alterations, site-specific zone changes or site-specific comprehensive plan amendments, the hearing examiner may recommend preliminary approval, approval with conditions, or denial of the project or proposal based on the findings made. Such recommendation shall be submitted to the city council following action by the hearing examiner.

L. Type III, Legislative Review Process.

1. A Type III, legislative review involves the creation, revision, application, or large-scale implementation of public policy and shall require a hearing before the city council.
2. The administrator shall prepare a staff report on the proposed amendment or action summarizing the comments and recommendations of city departments, affected agencies, and special zones, and evaluating the amendment's consistency with the requirements of this title, the Chewelah comprehensive plan, other applicable city regulations, and applicable state and federal laws and regulations. The staff report shall include findings, conclusions and proposed recommendations for the disposition of the development application.
3. At the time and in the place appointed, the city council shall review the request and evaluate the proposal for consistency with the requirements of this title and other applicable laws, plans and regulations.
4. Whenever a proposed ordinance or amendment to the zoning ordinance or land division ordinance or other ordinance implementing the comprehensive plan, or an amendment to the comprehensive plan is considered, findings of fact supporting a recommended action shall be prepared by staff and transmit such findings to the city council for consideration.
5. The council, before adoption, modification, or rejection of a Type III application or proposal, shall hold an open record public hearing for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, evaluating the proposal for consistency with the requirements of this title and other applicable laws, plans and regulations. Following the public hearing, the Council shall make findings of fact representing the official determination of the council and specifying the basis for the decision.
6. Action by the city council on a Type III application or proposal shall be final and conclusive, unless within twenty-one days from the date of publication of the notice of decision, a party adversely affected by the decision makes proper application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition, a writ of mandamus, or other action as may be provided and allowed by law to review the action of the city council.

M. Final Decision.

1. The review authority shall approve or deny a development proposal within the following timeframes from the date of the letter of completeness:
 - a. One hundred twenty days for development applications, such as conditional use permit, variances, site plan review;
 - b. Ninety days for preliminary subdivision plats;
 - c. Thirty days for short plats;
2. For development applications not identified in this section, the one hundred twenty-day timeframe shall apply. Exceptions to this include:
 - a. Amendments to the comprehensive plan or development code.
 - b. Any time required to correct plans, perform studies or provide additional information, provided that within fourteen days of receiving the requested additional information, the city planner shall determine whether the information is adequate to resume the project review.

- c. Substantial project revisions made or requested by an applicant, in which case the one hundred twenty days will be calculated from the time that the city determines the revised application to be complete.
 - d. All time required for the preparation and review of an environmental impact statement.
 - e. Projects involving the siting of an essential public facility.
 - f. An extension of time mutually agreed upon by the city and the applicant.
 - g. All time required to obtain a variance.
 - h. All time required for an appeal of a determination of significance.
- N. Notice of Decision. As soon as feasible after the hearing, the administrator shall prepare and distribute a notice of decision for all applications, in accordance with the requirements of Section 18.20.040D of this chapter.
- O. Reinitiation of Hearings. No application for the same or substantially same project that has been denied may be filed within twelve months, except if specifically permitted at the time of approval or denial or if reinitiated by the city planner or city council.

SECTION 4.

Chapter 18, "Appendix B" Type III Legislative and Preliminary Subdivision Review Process flowchart is hereby repealed. The Type II Quasi-Judicial Review Process flowchart within Chapter 18, "Appendix B" is hereby replaced with Exhibit 1, attached hereto.

SECTION 5.

Section 17.12.070, "Vacation And Alteration" Subsection (B)(1) is hereby amended as follows:

A vacation or alteration shall be subject to a Type III II review consistent with CMC 18.20.

SECTION 6.

Section 18.16.070, "Planned Development (PD)", Subsection (I)(2) is hereby amended as follows:

A preliminary development plan shall be submitted to the building official for approval. A Type III II review will be scheduled in accordance with CMC 18.20.030.

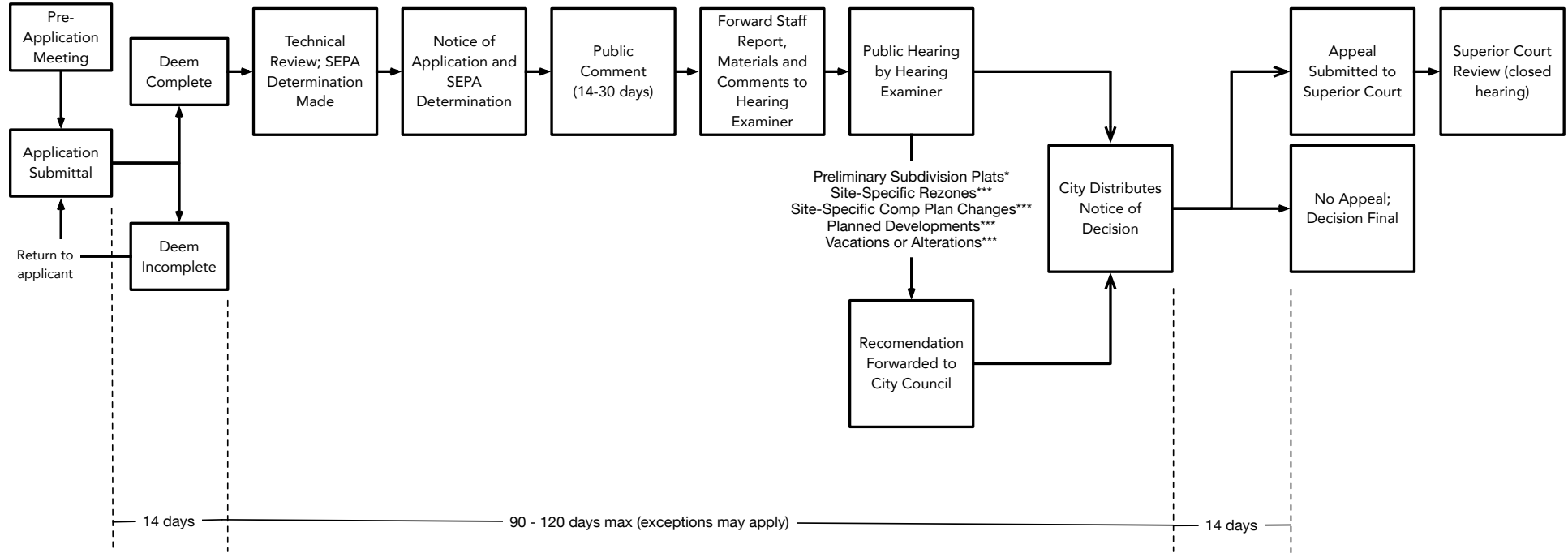
SECTION 7. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

SECTION 8. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon its passage.

TYPE II – QUASI-JUDICIAL REVIEW PROCESS

Includes: Hearing Examiner Decision:
 Conditional Use Permit**
 Major Variance**
 Site Plan Review**

Hearing Examiner Recommendation/City Council Decision:
 Preliminary Subdivision Plats*
 Site-Specific Rezones & Comp Plan Changes***
 Planned Developments***
 Vacations or Alterations***



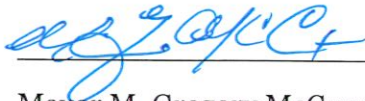
*Maximum processing time is 90 days from application completeness determination (not including SEPA reviews or appeals)

**Maximum processing time is 120 days from application completeness determination (not including SEPA reviews or appeals)

***Exempt from 120 day processing rule

**ADOPTED BY THE COUNCIL OF THE CITY OF CHEWELAH, WASHINGTON, AT A
REGULAR MEETING THEREOF ON THE 18th DAY OF October, 2023.**

(Adopted with changes from bullet numbers to bullet letters in Section 3; F.2., H.2., M.1., M.2.)



Mayor M. Gregory McCunn



Authenticate: Catherine Konzal, Deputy Clerk