

City of Cheney
609 Second Street
Cheney, Washington 99004

**CITY OF CHENEY, WASHINGTON
ORDINANCE U-74**

AN ORDINANCE OF THE CITY OF CHENEY REPEALING CHAPTER 7.20 OF THE CHENEY MUNICIPAL CODE ENTITLED "ANIMAL REGULATIONS GENERALLY" ENACTING A NEW CHAPTER 7.20 ENTITLED "DOGS AND CATS" AND OTHER MATTERS RELATED THERETO AND PROVIDING FOR THE EFFECTIVE DATE THEREOF:

WHEREAS, the City of Cheney desires to comprehensively revise the regulation and control of animals;

WHEREAS, the City Council has determined that regulating animals and the facilities that contain them is an important function of government; and

WHEREAS, such regulation serves the best interests of the community, its residents and visitors.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CHENEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repeal. Chapter 7.20 of the City of Cheney Municipal Code is hereby repealed in its entirety.

Section 2. Adoption. A new Chapter 7.20 of the City of Cheney Municipal Code entitled Dogs and Cats is hereby adopted as follows:

Chapter 7.20 Dogs and Cats

- 7.20.010 Purpose.**
- 7.20.020 Definitions.**
- 7.20.030 Dog and Cat license--Required.**
- 7.20.0301 Dog/Cat Rabies Vaccination Required.**
- 7.20.032 Dangerous Dog--Hearing and Appeal.**
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- 7.20.035 Registrations of dangerous dogs-Requirements and annual fee.**
- 7.20.036 Dangerous Dogs--Identification.**
- 7.20.040 Unlawful use of tags.**
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7.20.010 Purpose.

It is the public policy of the City of Cheney to secure and maintain such levels of animal control within the City of Cheney, and within any governmental entity or incorporated area under contract that have adopted provisions of this chapter, as will protect the general public's health and safety, and to the greatest degree practicable to prevent damage to property. To this end, it is the purpose of this chapter to provide a means of licensing dogs/cats and controlling errant dog/cat behavior so that it shall not become a public nuisance.

It is also the public policy of the City of Cheney to prevent the inhumane treatment of animals. Therefore, it is also the purpose of this chapter to provide for the humane use, care, and treatment of animals to the end that cruelty to such animals will be reduced or eliminated.

7.20.020 Definitions.

In construing provisions of this chapter, except where otherwise plainly declared or clearly apparent from the context, words used in this chapter shall be given their common and ordinary meaning and in addition, the following definitions shall apply:

- (1) "Abatement" means the termination of any violation by reasonable and lawful

means determined by the animal control officer in order that a person or persons presumed to be the owner or keeper shall comply with this chapter.

(2) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(3) "Animal Control" means that department established by the City Council by resolution to administer and enforce the provisions of this chapter, and chapters 16.08, 16.52, and 16.54 RCW. Its department head shall be referred to hereinafter as the "animal control director", "animal protection director" or "Director." An "animal control officer" or "animal protection officer" is any person designated by the Director with a limited law enforcement commission and employed or appointed by the City of Cheney City Council for the purpose of administering or aiding in the enforcement of this chapter and chapters 16.08, 16.52, and 16.54 RCW.

(4) "Animal Shelter" means a facility which is used to house or contain stray, homeless, abandoned, impounded or unwanted animals, and which is owned, operated or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

(5) "At large" means a dog which is physically off the premises of the owner, handler, or

keeper of the dog, and which is not secured by a leash which is under the control of the owner, handler, or the keeper not exceeding eight feet in length; provided, "at large" does not include dogs exhibited in dog shows, field trials, obedience training or trials, or the training of dogs therefore; or the use of a dog under the supervision of a person to hunt, to chase or tree predatory animals or game birds; or the use of a dog to control or protect livestock or property or in other agricultural activities; or a dog when otherwise safely and securely confined or completely controlled within or upon any vehicle; or under control in a designated off-leash area; or dogs used by law enforcement agencies.

(6) "Cat" means a domesticated *Felis catus*, and includes both male and female cats.

(7) "Commercial kennel" means a place where five (5) or more dogs (over 6 months of age) and/or five (5) or more cats (over 6 months of age), irrespective of duration, are boarded, bred, bought, sold, exhibited or trained for compensation, but not including a pet shop, animal shelter or veterinary clinic/hospital where boarding is incidental to treatment. If more than eight (8) dogs (over 6 months of age) and/or ten (10) cats (over 6 months of age) are kept then such establishment shall be deemed a "commercial kennel," regardless of whether the owner or keeper receives compensation.

(8) "Dangerous dog" means any dog that (a) inflicts severe injury on a human being without provocation on public or private property, (b) inflicts severe injury on or kills an animal without provocation while the dog is off the owner's or keeper's property, or (c) has previously been found to be potentially dangerous, the owner or keeper having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or animals. If two or more dogs jointly engage in any conduct described in this subsection, thereby rendering proof of the individual dog that inflicted any particular injury difficult to ascertain, then regardless of the degree of participation by the individual dog(s), all such dogs shall be deemed dangerous dogs. A dog shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or was tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime.

(9) "Day" means a calendar day unless otherwise described. In computing any period of time prescribed in this chapter, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday. Legal holidays are

prescribed in RCW 1.13.050.

(10) "Dog" means a domesticated *Canis familiaris*, bred in a great many varieties, including wolf hybrids.

(11) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during such loss of consciousness.

(12) "Exhibits vicious propensities" means:

(a) The infliction of a bite, or bites, on a human being or animal, either on public or private property; or

(b) Killing or severely injuring an animal while the dog or cat is off the owner's or keeper's property; provided, the above definition of vicious propensities shall not include those situations described in RCW 16.08.100 (2) and (3).

(13) "License year" means license expires twelve (12) months from month of purchase.

(14) "Microchip implant" means a passive electronic transponder that is injected into an animal, subcutaneously, by means of a hypodermic-type syringe device. Each microchip shall contain a unique and original number that is read by an electronic scanning device for purposes of animal identification and recovery by the animal's owners. The microchip implant shall be supplied with an exterior collar-type tag for purposes of an external means of notifying others that the animal has been implanted with a microchip.

(15) "Off-Leash Area" means an area specifically designated in section 7.20.045(1) in which a owner, handler, or keeper may allow or permit their dog to run at large subject to the rules and regulations in section 7.20.045(2).

(16) "Owner, handler or keeper" means any person, firm, corporation, organization or department possessing, harboring, keeping, having an interest in or having control or custody of an animal, regardless of whether the animal is licensed pursuant to the ordinance codified in this chapter.

(17) "Pet shop" means legally permitted establishment where animals bred off the premises are offered for sale to the public.

(18) "Potentially dangerous dog" means any dog that when unprovoked: (a) inflicts bites on a human or animal either on public or private property, or (b) chases or approaches a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack or (c) any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or animals.

(19) "Premises" means the area of land surrounding a house, or dwelling unit or units, and actually or by legal construction forming an enclosure and to which the owner or keeper of a dog has legal and equitable right therein. "Premises" does not extend into areas of common ownership or use in the case of easements, trailers parks, apartment complexes, private communities, etc.

(20) "Private kennel" means a place, other than an animal shelter, where five (5) to eight (8) dogs (over 6 months of age) and/or five (5) to ten (10) cats (over six months of age) are kept for personal or noncommercial purposes. If more than eight dogs (over 6 months of age) and/or ten (10) cats (over six months of age) are kept at a private kennel, then such establishment shall be deemed a "commercial kennel," regardless of whether the owner or keeper receives compensation.

(21) "Proof of vaccination" means a health or rabies certificate issued by a licensed veterinarian.

(22) "Proper enclosure of a dangerous dog" means, while on the owner's or keeper's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and bottom enclosure, and shall also provide protection from the elements for a dog.

(23) "Senior Rate" means the special discounted rate any dog/cat owner 65 years of age or older may request for the license of one spayed/neutered animal.

(24) "Severe injury" means any physical injury which results in a broken bones, disfigurement, or lacerations requiring suture(s) or surgery.

(25) "Trip Fee", means the response fee an owner or keeper of an animal may be charged by Animal Control when an animal is impounded.

7.20.030 Dog and Cat License--Required.

(1) All dogs six months of age or older harbored, kept or maintained in the city limits of the City of Cheney, shall be licensed. The annual license fee for each dog shall be twenty dollars (\$20.00) for neutered/spayed dogs and forty dollars (\$40.00) for nonspayed/nonneutered dogs four dollars (\$4.00) of the above license fees shall be dedicated for the purposes identified in section 7.20.170. A penalty of twenty dollars (\$20.00) will be added to the above license fees for failure to timely obtain or renew a license as required by subsection (5) of this section. Senior rate, if applicable will reduce the above fee by five dollars (5.00) on one neutered/spayed license. License may be obtained from and fees may be paid either to "county" or "private" licensing outlets as designated by the Director. A service charge of two dollars (\$2.00) in addition to the regularly set fees may be collected and retained by all "private" licensing outlets appointed by the Director for each dog license issued. Upon payment of the license fee provided above, the licensing outlet shall deliver to the owner or keeper of such dog, a license and metallic tag for each dog licensed.

(2) All cats six months of age or older harbored, kept or maintained in the city limits of the City of Cheney, shall be licensed. The annual license fee for each cat shall be fifteen dollars (\$15.00) for spayed/neutered cats and twenty-five dollars (\$25.00) for non-spayed/non-neutered cats. Four dollars (\$4.00) of the above license fees shall be dedicated for the purposes identified in section 7.20.170. A penalty of twenty dollars (\$20.00) will be added to the above license fees for failure to timely obtain or renew a license as required by subsection (d) of this section. Senior rate, if applicable will reduce the above fee by five dollars (\$5.00) on one neutered/spayed license. License fees may be paid to either "county" or "private" licensing outlets as designated by the Director. A service charge of two dollars (\$2.00) in addition to the regularly set fees may be collected and retained by all "private" licensing outlets appointed by the Director for each cat license issued. Upon payment of the license fee provided above, the licensing outlet shall deliver to the owner or keeper of such cat, a license and metallic tag for each cat licensed.

(3) All licenses issued pursuant to this section shall be dated and numbered, and shall bear the name of the City of Cheney, the name and address of the owner and keeper of the dog or cat license, and a description of the dog or cat, including its color and sex. The metallic tag shall bear a serial number corresponding with the number of the license, and the county or part thereof for which it is issued. It shall be the duty of every owner or keeper of a dog or cat to keep a substantial collar on the animal and to keep firmly attached thereto the metallic tag for the current licensing year. There shall be a fee of two dollars (\$2.00) for replacement of any lost license tag.

(4) Any person who shall for the reason of securing a dog or cat license falsely represent whether the dog or cat is spayed/neutered or non-spayed/non-neutered shall be guilty of a misdemeanor.

(5) Licenses must be renewed within twelve (12) months of the date the previous license was issued. A new license must be purchased within thirty (30) days after a dog or cat was first acquired, harbored, kept, maintained, or brought into the county by a person residing in the City of Cheney.

(6) All fees and fines collected under the provisions of this chapter other than criminal fines and the portion of the license fees dedicated for the purposes identified in section 7.20.170 shall be deposited in the county current expense fund.

(7) The county shall honor the request by owner of a dog guide or trained service animal a-not to be charged a fee to license his or her dog guide or trained service animal.

(8) The owner or keeper of any dog or cat shall provide Animal Control upon request, with proof that the dog or cat is currently licensed as provided by this chapter.

(9) Any increase in current dog and cat licensing fees or penalties in this section shall become effective on May 17, 2008.

7.20.031 Dog/Cat to have current vaccination against rabies.

All dogs and cats six (6) months of age or older shall be vaccinated against rabies. The owner or keeper of such dog/cat shall provide Animal Control with proof that such dog/cat has been vaccinated against rabies as well as the expiration date of such vaccination. An owner or keeper who refuses to provide proof of such vaccination upon request by the Director or his/her designee shall be deemed to have failed to provide such proof.

7.20.032 Declaration of Dangerous Dog—Administrative Appeal Hearing and Appeal—Impounding of Dog.

(1) When the Director, or his/her designee, has sufficient information to determine that a dog is a dangerous dog as defined by section 7.20.020(8), the Director, or his/her designee, shall declare the dog a dangerous dog and shall notify the owner or keeper of the dog in writing, either in person or by regular and certified mail. Any notice or determination mailed pursuant to this section shall be deemed received by the party to which it is addressed on the third day after it is placed in the mail, as set forth by declaration of the sender. The notice shall contain the following information:

(a) That the person receiving the notice is the owner or keeper of a dangerous dog as defined in section 7.20.020(8);

(b) The breed, color, sex, and license number (if known) of the said dog;

(c) A copy of the records relied upon by the Director, or his/her designee, which form the basis for declaring said dog to be a dangerous dog; these records may be supplemented with additional material as it becomes available;

(d) That to contest the declaration of dangerous dog the owner or keeper of the dog must request an administrative appeal hearing in writing on a form provided with the notice within fifteen (15) days of the receipt of the notice.

(e) That if an administrative appeal hearing is requested, such hearing will be convened pursuant to subsection (2) of this section; that at the administrative appeal hearing, the records of the Director, or his/her designee, and any supplementary material shall be admissible to prove the dog is a dangerous dog; that the owner or keeper of the dog may require the officer compiling the record to be present at the administrative appeal hearing; that the owner or keeper of the dog may present evidence and examine witnesses present; and that the burden shall be on the Director, or his/her designee, to establish by a preponderance of the evidence that the dog is a dangerous dog;

(f) Any dog declared dangerous under this section or any comparable section by a duly authorized governmental animal control authority shall be immediately impounded until the owner registers the dog as dangerous in accordance with section 7.20.035. The dog will be euthanized at the direction of the Director or his/her designee unless the owner or keeper within fifteen (15) days from the date the dog was declared dangerous registers the dog or appeals the determination. If the owner appeals the dangerous dog declaration the dog must be registered provisionally pursuant to section 7.20.035 or it will be held at the shelter at the owner's expense pending the results of the appeal.

(2) If the owner or keeper of the dog requests an administrative appeal hearing as provided in section 7.20.032(1)(d) of this section the hearing shall be held before the City Council or its designee(s). The administrative appeal hearing shall be held within twenty (20) days after the receipt of the request for an administrative appeal hearing, unless it is continued

by the Board or its designee based upon a showing of good cause. The Director, or his/her designee, shall notify the owner or keeper of the date, time, and place for the administrative appeal hearing. The administrative appeal hearing shall be open to the public. In those instances where the Board's designee acts as a hearing officer in conjunction with a dangerous dog administrative appeal hearing, the following procedures shall apply:

- (a) All administrative appeal hearings before the hereinabove designee shall be recorded;

all testimony shall be taken under oath and witnesses may be subpoenaed by the designee;

The hearing officer shall render an oral recommendation at the conclusion of the administrative appeal hearing or within five (5) business days. This time may be extended at the discretion of the hearing officer. The oral recommendation shall be reduced to writing and in accordance with subsection (4) of this section shall include findings of fact and conclusions of law and a copy will be forwarded to the owner or keeper and to the Director.

(3) At the conclusion of the administrative appeal hearing as provided in subsection (2) of this section, the hearing officer shall have the authority to make a written recommendation to either affirm, reverse or modify the declaration by the Director, or his/her designee, that the dog is dangerous. If the recommendation is to modify the declaration, the hearing officer may make a finding that the dog is potentially dangerous. If the hearing officer affirms the declaration and finds that the dog is dangerous, then the requirements under 7.20.035 shall be imposed upon the owner or keeper of the dangerous dog as a condition of continued ownership or keeping of the animal. -

If the hearing officer modifies the declaration and finds that the dog is potentially dangerous, then the hearing officer may recommend that reasonable conditions be imposed upon the owner or keeper as a condition of continued ownership or keeping of the animal. Reasonable conditions may include but are not limited to the following:

- (a) Erection of new or additional fencing to keep the dog within the confines of the owner's or keeper's property;
- (b) Construction of a run consistent with the size of the dog within which the dog must be kept;
- (c) Keeping the dog on a leash adequate to control the dog or securely fastened to a secure object when left unattended;
- (d) Keeping the dog indoors at all times, except when on a leash adequate to control the dog and under the actual physical control of the owner or keeper or a competent person at least 15 years of age;
- (e) Keeping the dog muzzled in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal when outside a proper enclosure;
- (f) Spaying/neutering of the dog; and
- (g) Microchip implanting the dog for identification purposes.

The hearing officer(s) may, in his or her recommendation, determine to the Director or his/her designee is the authority to establish the appropriate requirements from the preceding list or to refine and clarify the aforementioned requirements to effectuate the purposes of this ordinance.

(4) The owner or keeper of the dog shall be notified in writing by the hearing officer(s) within fifteen (15) days of the administrative appeal hearing of his/her recommendation unless this time period has been extended pursuant to subsection (2)(b) of this section. In no event shall this time period be extended beyond thirty (30) days from the date of the conclusion of the administrative appeal hearing unless good cause is shown. If the hearing officer(s) issues a finding of dangerous dog, the owner or keeper of the dog may appeal the decision as provided below. If the owner or keeper does not timely appeal the decision, he or she must either register the dog as a dangerous dog in accordance with section 7.20.035 or the dog shall be confiscated as provided in RCW 16.08.100(1).

(5) An appeal of an order affirming the hearing officer(s) recommendation may be made in the manner provided under the general laws of the state. In the event the hearing officer(s)

recommendation is affirmed on appeal and no further appeal is made, the owner or keeper of the dog must register the dog as a dangerous dog in accordance with section 7.20.035 within fifteen (15) days of notification of the decision or the dog will be euthanized at the direction of the Director, or his/her designee.

(6) A finding that a dog is not a dangerous dog shall not prevent the Director, or his/her designee, from seeking to have the dog declared a dangerous dog as the result of any subsequent action by the dog.

(7) In the event the Director, or his/her designee, has sufficient information to determine a dog is dangerous and may pose a threat of serious harm to human beings or animals, the Director, or his/her designee, shall seize and impound the dog pending notice, hearings, appeals and other determinations hereunder. The owner or keeper of the dog shall be liable to Animal Control for the costs and expenses of keeping such dog, unless a finding is made that the dog is neither a dangerous dog nor a potentially dangerous dog.

(8) An owner or keeper of a dangerous dog who violates any conditions imposed under this section shall be guilty of a gross misdemeanor. An owner or keeper of a potentially dangerous dog who violates any conditions imposed under this section shall be guilty of a misdemeanor.

7.20.033 Determination of Potentially Dangerous Dog--Notice, Administrative Review, and Appeal.

(1) When the Director, or his/her designee, has sufficient information to determine that a dog is a potentially dangerous dog as defined in section 7.20.020(18), a notice either in person or by regular mail, shall be provided to the owner or keeper of the dog. The notice shall contain the following information:

(a) That the person receiving the notice is the owner or keeper of a potentially dangerous dog as defined in section 7.20.020(18);

(b) The breed, color, sex, and license number (if known) of said dog;

(c) The facts upon which the determination of potentially dangerous dog is based;

(d) That if there are future similar incidents with the dog, the dog could be declared a dangerous dog pursuant to section 7.20.032, and required to be registered as provided in section 7.20.035;

(e) That the owner or keeper must comply with restrictions set forth in the notice as a condition of continued ownership or keeping of the dog and that restrictions may include but are not limited to those which may be imposed on the owner or keeper of a potentially dangerous dog pursuant to section 7.20.032(3);

(f) That the notice constitutes a final determination that the dog is a potentially dangerous dog, unless the owner or keeper of the dog requests an administrative review meeting in writing on a form provided with the notice within fifteen (15) days of the receipt of the notice. For purposes of this section, if the notice is mailed, it shall be deemed received on the third day after the notice is placed in the mail; and

(g) That pursuant to 7.20.033(3), a failure by the dog owner or keeper to request and attend an administrative review meeting with the animal control director or designee shall constitute a failure to exhaust all administrative remedies, and that such failure to exhaust all administrative remedies shall preclude any appeal of the administrative determination to the City Council or its designee.

(2) In the event the owner or keeper of a dog requests an administrative review meeting as provided in subsection (1)(f) of this subsection, the administrative review meeting shall be held within thirty (30) days of the receipt of the request. The meeting date may be continued upon a showing of good cause. The Director or his/her designee shall notify the

owner or keeper of the date, time and place of the administrative review meeting, as well as the right to present evidence as to why the dog should not be found potentially dangerous. The administrative review meeting shall be held before the Director or his/her designee. Administrative review meetings shall be informal, open to the public; and, at the option of the Director or his/her designee, may be held telephonically.

(3) Following an administrative review meeting, the Director or his/her designee may affirm or reverse the initial determination that a dog is potentially dangerous. If a determination that a dog is potentially dangerous is upheld, the Director or his/her designee may impose the same reasonable conditions as may be imposed on the owner or keeper of a potentially dangerous dog pursuant to section 7.20.032(3).

(4) The Director or his/her designee shall notify, in writing, the owner or keeper of the dog of his/her decision within ten (10) days of the administrative review meeting. The decision of the Director or his/her designee may be appealed in the same manner as provided in section 7.20.032.

(5) The decision of the Director or his/her designee is final unless appealed.

(6) An owner or keeper of a potentially dangerous dog who violates any of the conditions imposed under this section shall be guilty of a misdemeanor.

7.20.035 Registration of Dangerous Dogs--Requirements--Annual Fee.

(1) The owner or keeper of a dangerous dog must obtain a certificate of registration for such animal from Animal Control within fifteen (15) days of declaration of dangerous dog or if appealed within fifteen (15) days of the appeal decision as provided in section 7.20.032. No dangerous dog shall be returned by Animal Control to anyone prior to the issuance of a certificate of registration under this section. The certificate of registration shall be issued only if the owner or keeper of the dangerous dog presents sufficient proof of the following:

(a) A proper enclosure, approved by Animal Control, to confine a dangerous dog and posting of the premises with a clearly visible sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog;

(b) A microchip implant injected for identifications purposes pursuant to 7.20.036;

(c) A muzzle and leash, approved by Animal Control as to strength and fit, for the dangerous dog;

(d) A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a form acceptable to the Animal Control in the sum of at least two hundred fifty thousand dollars (\$250,000.00) which provides for prior written notification to Animal Control of cancellation or material change, payable to any person for personal injuries or property damage caused by the dangerous dog regardless of whether the personal injury or property damage occurs on or off the owner or keeper's premises; or

A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least two hundred fifty thousand dollars (\$250,000) with a maximum five hundred dollar (\$500.00) deductible and which provides for prior written notification to Animal Control of cancellation or material change, insuring the owner or keeper for any personal injuries and property damage inflicted by the dangerous dog regardless of whether the personal injury or property damage occurs on or off the owner or keeper's premises; and

The owner or keeper of a dangerous dog shall furnish to Animal Control a complete copy of the surety bond or certificate of insurance specified in this subsection and shall allow the County a reasonable time to review the bond or policy to determine whether the surety bond or certificate of insurance is sufficient, prior to issuing the certificate of registration;

(e) The dangerous dog must be spayed/neutered at the owner's expense to complete the registration. Any impounded dangerous dogs will be transported by Animal Control to a veterinarian for spaying/neutering as part of the registration process; and

(f) In addition to the regular dog licensing fees set forth in section 7.20.030, the owner or keeper of a dangerous dog shall pay an annual registration fee in the amount of one hundred dollars (\$100.00). The registration will be valid for twelve (12) months.

(2) Notwithstanding the requirements set forth in subsection (1) of this section, the Director may issue a provisional registration certificate where: (a) the dangerous dog declaration has been appealed, provided all conditions of this section have been met with the exception of subsection (1)(e) requiring spay/neuter; or (b) the owner is relocating the dangerous dog outside the City of Cheney and all conditions of this section have been met with the exception of subsection (1)(d) requiring a surety bond or insurance policy. Any provisional permit issued pursuant to (2)(a) of this subsection shall expire fifteen (15) days following the appeal decision as provided in section 7.20.032; any provisional permit issued pursuant to (2)(b) of this subsection shall be valid for the sole purpose of immediate transport and relocation of the dog from the shelter to a location outside the City of Cheney.

(3) This section shall not apply to police dogs as defined in RCW 4.24.410.

(4) The owner or keeper of a dog declared a dangerous dog must notify Animal Control in writing if the dog is deceased, is to be relocated or if there is a change in ownership. In the event of a change of ownership and/or relocation of the dangerous dog, the owner or keeper must provide Animal Control with written notice ten (10) days in advance of any change that includes the complete address and phone number of the new owner or keeper prior to the change of ownership and/or relocation of the dangerous dog. The owner or keeper of the dangerous dog must also notify any subsequent owner or keeper of the dog's designation as a dangerous dog. If change of ownership and/or relocation of a dangerous dog is within the City of Cheney, all conditions imposed under this section shall be in place for the new owner and at the new location prior to such change.

(5) Dogs deemed dangerous by other jurisdictions in the State of Washington will be subject to the same regulations as if they have been deemed dangerous in the City of Cheney. Any owner or keeper of a dog deemed dangerous by jurisdictions outside of the State of Washington relocating to the City of Cheney shall present the dog to Animal Control within 30 days of their arrival in the City of Cheney to be evaluated by the Director or his/her designee on an individual basis to determine whether they meet the requirements of a dangerous dog, taking into account the criteria established by section 7.20.020(8). Dogs meeting the requirements of a dangerous dog under this subsection must be registered as such, and are subject to all other restrictions imposed under this section.

(6) An owner or keeper of a dog previously deemed dangerous by Animal Control or the City of Cheney, and subsequently relocated outside city limits, must register the dog pursuant to subsection (1) of this section prior to bringing the dangerous dog into the City of Cheney; such dogs are prohibited from re-entering the City of Cheney without prior written consent from Animal Control and/or full re-registration.

(7) Dangerous dog registration must be renewed every twelve (12) months. A re-inspection of the facility is required prior to renewal. The owner or keeper shall also provide Animal Control proof of surety bond or proper insurance certificate as specified in subsection (1) of this section prior to re-registration.

(8) An owner or keeper of a dog declared a dangerous dog shall be responsible for meeting and maintaining the requirements set forth in this section at all times. A violation of conditions imposed under this section is a gross misdemeanor.

7.20.036 Dangerous dogs--Identification.

The owner or keeper of a dog determined to be dangerous, pursuant to section 7.20.032 or section 7.20.035(5), shall have the dog identified by a microchip implant. The microchip implant shall be injected in accordance with policy established by Animal Control. A

fee of twenty-five dollars (\$25.00) for the cost of microchipping shall be charged to the owner or keeper of a dangerous dog.

7.20.040 Unlawful Use of License Tags

(1) It is unlawful for any owner to use any license tag on any dog or cat other than the one for which it was issued. If there is a change of ownership of a licensed dog or cat, the new owner must apply for and obtain a new license as required in this chapter.

(2) It is unlawful for any person to use the license tag for an unlawful purpose or to conceal the ownership of the dog or cat or remove the license tag provided for in this chapter from any dog or cat, with the intent to deprive the owner or keeper thereof

(3) A willful violation of this section is a misdemeanor.

7.20.042 Commercial Kennels

(1) Commercial kennels located in the City of Cheney shall be licensed as required by this section. Commercial kennel licenses shall be for a twelve-month (12) period and shall be renewed on or before the expiration of the twelve-month (12) period. The fee for a commercial kennel license is one hundred-fifty dollars (\$150.00), payable to Animal Control. An additional fee of twenty-five dollars (\$25.00) shall be assessed and payable if the license is not timely renewed; and, all renewal rights to existing license cease to exist 90 days after renewal date and continued operation of the kennel shall be deemed operation of an illegal kennel. Animal Control shall mail a notice of renewal of license not less than thirty (30) days prior to the expiration of said license. Individual licenses are not required for any animals legally maintained within a commercial kennel.

(2) Applications for commercial kennel licenses shall be made to Animal Control. Each application shall be in writing, and signed and sworn to by the applicant. The application shall contain the following information:

(a) The name, home address, and telephone number of the applicant;

(b) The business name, business address, and telephone number of the proposed commercial kennel.

(c) A diagram to scale or approximately to scale showing the property and structures for which the license is sought;

(d) A diagram of the kennel facility;

(e) A description of the premises where the kennel will be operated, as well as a description of the magnitude and nature of the proposed business; and

(f) A written statement from the City of Cheney Building Code Division that the contemplated business complies with applicable zoning laws.

(3) Animal Control may refuse issuance or renewal of a license, or revoke or suspend said license, upon finding after investigation or hearing as it deems necessary that:

(a) The license fee has not been paid;

(b) The application does not satisfy the requirements of subsection (2);

(c) Upon the inspection by the Director or his/her designee, the business does not meet the standards for a commercial kennel set forth in subsection (5);

(d) Such license was issued illegally, or by mistake or inadvertence, or was procured by fraud, misrepresentation, false or misleading statements, evasions or suppression of material facts, or that any of the material facts contained in the application are false;

(e) The licensee, or any agent of the licensee, in connection with the operation of the commercial kennel, has, within a two-year period:

(i) Been found guilty or committed of a violation of any provisions of this chapter, or chapters 16.08, 16.52, or 16.54 RCW; or

(ii) Been found to have engaged in any other misconduct, or improper, fraudulent, or wrongful behavior relating to the operation of a commercial kennel;

(iii) Violated any of the standards imposed for operation of a commercial

kennel by subsection (5) of this section.

(f) Any servant, agent, employee or representative of the commercial kennel has been guilty of any act or omission while on the premises of the commercial kennel, where said act constitutes a criminal violation of this chapter, or chapters 16.08, 16.52, or 16.54 RCW; or has been to have engaged in any misconduct or improper, fraudulent or wrongful behavior relating to the operation of the commercial kennel if:

(i) the circumstances surrounding any of the foregoing acts or omissions are such as to establish that such act was knowingly allowed by any person sharing in profits of said business, or, if a corporation, any officer or director thereof, or of any person acting as a proprietor, manager, or person in charge of such business; or

(ii) in any event, if two (2) or more such acts or omissions have occurred on the premises within a two-year period.

(g) Failure to observe any of the standards set forth in subsection (5) of this section.

(4) Any applicant who has duly made application for a new commercial kennel or renewal of an existing license under the provisions of this section and has been denied such license, or any person holding a license which is revoked or suspended under the provisions of this section, may file a petition with the Clerk of the City Council for a administrative appeal hearing provided that such petition must be filed within fifteen (15) days following notification of such denial, revocation or suspension. If the applicant's petition is on a current legally issued license, such denial, revocation or suspension shall be stayed upon the filing of such petition for administrative appeal with the Clerk of the City Council pending final determination of the City Council as herein provided. In the event such petition is filed, the Board of County Commissioners may elect to use designee(s) as a hearing officer; in any event, a date, no less than ten (10) days following the mailing of notice thereof shall be set for an administrative appeal hearing, of which all interested parties shall be notified. All evidence bearing on the questions of whether such denial, revocation or suspension is proper under the provisions of this section may be received at that administrative appeal hearing conducted by the City Council or its designee(s). If the City Council determines upon such administrative appeal hearing that such denial, suspension or revocation is not proper under the provisions of this chapter, they shall notify Animal Control, which shall cause the license to be issued or reinstated forthwith. If the City Council determines upon such administrative appeal hearing that such license should be denied, suspended or revoked under the provisions of this section, they shall issue such order in writing. An appeal of such an order may be made in the superior court of Spokane County in the manner provided under the general laws of the state of Washington. In those instances where the City Council's designee acts as a hearing officer in conjunction with this section, the following procedures shall apply:

(a) All hearings before the hereinabove designee shall be recorded; all testimony shall be taken under oath and witnesses may be subpoenaed by the designee;

(b) The hearing officer shall render an oral recommendation at the conclusion of the hearing or within five (5) business days. This time may be extended at the discretion of the hearing officer. The oral recommendation shall be reduced to writing and shall include findings of fact and conclusions of law; a copy will be forwarded to the applicant and the Director.

(5) The following operation standards shall be observed in connection with a commercial kennel:

(a) All animals must have an adequate supply of drinking water, sanitary sleeping quarters, adequate shelter, medical attention, grooming and exercise areas appropriate to their size, breed characteristics and climate;

(b) All animals shall be supplied with sufficient good and wholesome food as often as the feeding habits of the respective animals require, but not less than, in the case of puppies or kittens under four months of age, three times every twenty-four hours; and in the case of adults, once every twenty-four hours;

- (c) Food shall be stored in a fashion which prevents contamination or infestation;
- (d) The Facilities shall be maintained and operated in a healthful, sanitary manner, free from disease, infestation and foul odors;
- (e) All animals and animal buildings or enclosures shall be maintained in a clean and sanitary condition. Housing facilities shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entry of other animals. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.
- (f) Sick animals shall be isolated from healthy ones in quarters adequately ventilated to prevent contamination of healthy animals;
- (g) Animals shall be immunized from disease as is usual and customary for the animals' age and species.
- (h) All animal rooms, cages, shipping containers, and runs shall be of sufficient size to provide adequate and proper accommodations and protection from the weather for the animals kept therein. If individual runs are utilized, the surface shall be cement, gravel, or shavings. At a minimum, sufficient space must be provided for every animal in an enclosure to separately and together, stand up, lie down, and turn around in a natural position.
- (h) All animals shall be maintained so as to comply with section 7.20.070(7).
- (6) No commercial kennel license, or any renewal thereof, may be issued until the owner or operator thereof allows the Director or his/her designee to inspect the premises of the license applicant. Such inspections shall be made during regular business hours. The purpose of such inspection shall be to determine if the commercial kennel does or can meet the standards set forth in subsection (5). The Director, or his/her designee, may inspect the premises at any time to insure compliance with the provisions of this ordinance.
- (7) Any person owning or exercising control of an unlicensed commercial kennel is guilty of a misdemeanor.

7.20.043 Private Kennels

- (1) Private kennels located in the City of Cheney shall be licensed as required by this section. Private kennel licenses shall be for a twelve (12) month period and shall be renewed on or before the expiration of the twelve (12) month period. The fee for a private kennel license is one-hundred dollars (\$100.00), payable to the City. An additional fee of twenty-five dollars (\$25.00) shall be assessed and payable if the license is not timely renewed; and, all renewal rights to existing license cease to exist 90 days after renewal date and continued operation of the kennel shall be deemed operation of an illegal kennel. Animal Control shall mail a notice of renewal of license not less than thirty (30) days prior to the expiration of said license. Individual licenses are not required for any animals legally maintained within a private kennel.
- (2) Applications for private kennel licenses shall be made to Animal Control. Each application shall be in writing, and signed and sworn to by the applicant. The application shall contain the following information:
 - (a) The name, home address, and telephone number of the applicant;
 - (b) A diagram to scale or approximately to scale showing the property and structures for which the license is sought;
 - (c) A diagram of the kennel facility;
 - (d) A description of the premises where the kennel will be operated, as well as a description of the magnitude and nature of the proposed private kennel, including the number and breed of dogs or cats to be housed there;
 - (e) A description of the uses to which the properties surrounding the proposed private kennel are devoted;
 - (f) A written statement from the City of Cheney Building Code Division that the proposed private kennel complies with applicable zoning laws.
- (3) Animal Control may refuse issuance or renewal of a license, or revoke or

suspend said license, upon finding after investigation or hearing it deems necessary that:

- (a) The license fee has not been paid;
- (b) The application does not satisfy the requirements of subsection (2);
- (c) Such license was issued illegally, or by mistake or inadvertence, or was procured by fraud, misrepresentation, false or misleading statements, evasions or suppression of material facts, or that any of the material facts contained in the application are false;
- (d) Operation of the kennel constitutes a public nuisance;
- (e) The licensee, or any agent of the licensee, in connection with the operation of the private kennel, has, within a two-year period:
 - (i) Been found guilty or committed of a violation of any of the provisions of this chapter, or chapters 16.08, 16.52, or 16.54 Revised Code of Washington;
 - (ii) Violated any of the standards imposed for operation of private kennels by subsection (4) hereof; or
 - (iii) Kept more than the number of dogs or cats allowed by subsection (5) hereof.

(4) The following operation standards shall be observed in connection with a private kennel:

- (a) The animals must have an adequate supply of drinking water, sanitary sleeping quarters, and adequate shelter, medical attention, grooming and exercise areas appropriate to their size, breed characteristics and climate;
- (b) All animals shall be supplied with sufficient good and wholesome food as often as the feeding habits of the respective animals require, but not less than, in the case of puppies or kittens under four months of age, three times every twenty-four (24) hours; and in the case of adults, once every twenty-four (24) hours.
- (c) All animals and animal buildings or enclosures shall be maintained in a clean and sanitary condition. Housing facilities shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entry of other animals. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public;
- (d) Sick animals shall be isolated from healthy ones in quarters adequately ventilated to prevent contamination of healthy animals;
- (e) Animals shall be immunized from disease as is usual and customary for the animals' age and species;
- (f) All animal rooms, cages, shipping containers, and runs shall be of sufficient size to provide adequate and proper accommodations and protection from the weather for the animals kept therein. If individual runs are utilized, the surface shall be cement, gravel, or shavings. At a minimum, sufficient space must be provided for every animal in an enclosure to separately and together, stand up, lie down, and turn around in a natural position; and
- (g) All animals shall be maintained so as to comply with section 7.20.070(7).

(5) No private kennel shall have more than eight (8) dogs and/or ten (10) cats over six months of age without the consent of Animal Control.

(6) No private kennel license, or any renewal thereof may be issued until the owner or operator allows, the Director, or his/her designee, to inspect the premises of the license applicant at a mutually convenient time. The purpose of such inspection shall be to determine if the private kennel does or can meet the standards set forth in subsection (4). Any license or renewal thereof shall be conditioned on the owner/operator allowing the Director or his/her designee to inspect the premises at any time to insure compliance with the provisions of this ordinance.

(7) Any person owning or exercising control of an unlicensed private kennel is guilty of a misdemeanor.

7.20.044 Prohibited Sales - Rules and Regulations.

(1) No person shall display, sell, deliver, offer for sale, barter, auction, give away, dispose, or advertise the availability of an animal upon any public property or upon private property open to the public.

(2) For purposes of this section, public property shall include but not be limited to any City-owned real property, air space, or other interest in real estate, including streets, roads, alleys or other public right-of ways, owned by or controlled by the City of Cheney or any governmental entity within the unincorporated areas or incorporated areas under contract that have adopted this chapter.

(3) For purposes of this section, "private property open to the public" shall include but not be limited to any parking lot, sidewalk, and empty lot.

(4) This section shall not apply to the sale of an animal that occurs:

(a) On private property not open to the public;

(b) At legally permitted Pet Shops and Kennels;

(c) At or through any humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals and approved by the Director.

(5) Nothing in this section shall permit the sale or harboring of an inherently dangerous animal within the City of Cheney.

7.20.045 Designated Off-Leash Area(s) - Rules and Regulations.

Except as expressly allowed in this section, it shall be unlawful for any person to allow or permit their dog to run at large.

(1) Dogs may be allowed to run at large only in the following designated off-leash areas:

(2) An area designated as off-leash area in subsection (1) herein, is governed by the following rules and regulations:

(a) Any person bringing a dog into the off-leash area remains liable for damage or injury inflicted by the dog and is subject to all applicable Washington State and City of Cheney laws regulating dogs.

(b) Any dog deemed potentially dangerous or dangerous by any recognized animal control authority is not allowed in an off-leash area.

(c) Any person bringing a dog into an off-leash area must maintain control of the dog(s) at all times.

(d) No handler is allowed to have more than three (3) dogs in an off-leash area at any one time. A handler must attend his/her dog within an off-leash area at all times.

(e) Any dog exhibiting dangerous or aggressive behavior, including but not limited to biting and fighting is prohibited from an off-leash area.

(f) A female dog in heat is not allowed in an off-leash area.

(g) Any person bringing a dog to an off-leash area must leash the dog when it is outside the off-leash area; and, must carry a leash for each dog while inside the off-leash area.

(h) Pinch and choke collars are not allowed when a dog is off leash in the off-leash area.

(i) A dog must be vaccinated.

(j) Any person bringing a dog into an off-leash area must clean up feces after the dog, deposit feces in the containers at the off-leash site, and visibly carry equipment for removing feces.

(k) Any children less than 16 years of age in the off-leash area must be accompanied by a parent or guardian.

(l) No glass containers or alcohol allowed in an off leash area.

- (m) Bicycles, skateboards, and other wheeled items are prohibited inside an off-leash area.

7.20.050 Enforcement Power

(1) The Director or his/her designee are authorized to take such lawful action as may be required to enforce the provisions of this chapter and chapters 16.08, 16.52 and 16.54 of the Revised Code of Washington.

(2) The Director or his/her designee, unless authorized by the owner or person entitled to possession thereof, shall not enter private dwellings which are not licensed as either commercial or private kennels unless a proper warrant has been issued upon a showing that the Director or his/her designee has reasonable cause to believe that there is a violation of this chapter or chapters 16.08, 16.52 or 16.54, Revised Code of Washington. The Director or his/her designee, while pursuing any dog observed by the officer to be in violation of this chapter, or during investigation for unlicensed dogs, may enter upon any public or private property, except any private dwellings which are not licensed as either commercial or private kennels, for the purpose of abating the dog violation being investigated.

(3) No person shall deny, prevent, obstruct or attempt to deny, prevent or obstruct the Director or his/her designee from pursuing any animal observed to be in violation of this chapter and chapters 16.08, 16.52 or 16.54 of the Revised Code of Washington. No person shall fail or neglect, after a proper warrant has been presented, to properly permit the Director or his/her designee to enter private property or private dwelling homes to perform any duty imposed by this chapter or chapters 16.08, 16.52 or 16.54 of the Revised Code of Washington.

7.20.060 Impounding of dogs—Notice of owner or keeper—Redemption—Fee.

(1) The Director or his/her designee may impound any dog(s) doing any of the acts prohibited by the Cheney Municipal Code, or determined to be in danger of being subjected to cruel treatment as defined by this chapter and/or chapter 16.52 RCW or when the dog is found to be sick, injured or dead.

(2) The Director or his/her designee upon impounding of a dog shall record the breed, color, and sex of the and whether or not is wearing a current license tag. If currently licensed, the Director or his/her designee shall also record the name and address of the owner or keeper and the number of the license tag. If the dog is not returned to its owner or keeper, the Director or his/her designee shall notify the owner or keeper either by mail or telephone or personal notice that the dog has been impounded and where it may be redeemed. Any currently licensed dog impounded pursuant to this chapter shall be held for the owner or keeper for at least one hundred twenty (120) hours from the time of impoundment. Any unlicensed dog shall be held for the owner or keeper at least seventy- two (72) hours from the time of impoundment.

(3) Any dog not redeemed after the expiration of the holding period as provided in subsection (2) of this section may be adopted out or humanely euthanized. All adoptions shall be pursuant section 7.20.064.

(4) Notwithstanding the holding periods referenced in sub-section (2) of this section, the Director or his/her designee may, in the exercise of their discretion and in accordance with policy established by Animal Control, authorize any unlicensed impounded dog be humanely euthanized if it is determined the animal is: a) feral and/or dangerous to the safety of humans or other animals, or b) suffering from serious injury or disease.

(5) Any dog impounded pursuant to this section may be redeemed upon payment of all redemption fees as provided in section 7.20.110. In addition, any unlicensed dogs- must be licensed at the time of redemption.

(6) Any dog running at large during rabies quarantine shall be immediately impounded by Animal Control and kept at the animal shelter for the remainder of the quarantine at the owner's or keeper's expense.

7.20.064 Release for Adoption

(1) The Director may, in his or her sole discretion, decline to release an animal for adoption under any circumstances including but not limited to:

(a) The prospective adoptive owner has a history of violations of this chapter or has been convicted of an animal-related crime;

(b) The prospective adoptive owner has inadequate or inappropriate facilities for confining the animal and for providing proper care to the animal as required by this chapter and the Revised Code of Washington Title 16.

(c) The existence of other circumstances which, in the opinion of the Director, would endanger the welfare of the animal or the health, safety and welfare of the people residing in the county; or

(d) The animal is classified as a dangerous dog or a potentially dangerous dog.

(2) Any adoption shall be subject to the following:

(a) The adoptive owner shall agree in writing to furnish proper care to the animal in accordance with this chapter and the Revised Code of Washington Title 16;

(b) Payment of required fees under this chapter; and

(c) All animals must be spayed/neutered as set forth in section 7.20.065

(3) Notwithstanding the requirements set forth in subsections (1) and (2) of this section, the Director may release an animal to an approved animal shelter or rescue/adoption agency which has agreed in writing to abide by the constraints of this section in the placement of rescue animals.

7.20.065 Adoption of Animal -- Agreement to Spay or Neuter — Sterility Fee -- Forfeiture of Animal -- Animal Care And Protection Reserve Funds Account.

(1) Any dog or cat adopted from Animal Control shall, at the direction of Animal Control be spayed or neutered prior to adoption unless the Director or his/her designee determines in the exercise of his/her discretion that the sterilization procedure should be postponed, for a maximum of ninety days, due to the animal's age, health or other appropriate factors.

(2) At the time of adoption of any dog or cat, a thirty-five dollar (\$35.00) sterility fee for dogs and a twenty-five dollar (\$25.00) sterility fee for cats will be charged in addition to other fees enumerated in 7.20.030.

(3) The sterility fee collected from the adoption of any dog or cat will be deposited into the Animal Care And Protection Reserve Funds account of the City of Cheney and restricted for use to reimburse veterinarians for the spay/neuter of adopted dogs and cats; and, if excess funds are available, at the discretion of the Director, for treatment and care of injured or sick animals impounded by Animal Control and projects/programs that may benefit the people and animals in the community.

(4) All persons adopting animals from Animal Control which have not been sterilized will be provided with a sterility voucher which will contain space for the signature of a licensed veterinarian who performs the spaying or neutering of the animal. In addition, the person adopting will be provided a list of licensed veterinarians participating in the Animal Control Neutering Program. In order for the person adopting to have his or her new pet spayed or neutered for no charge, the person must have their pet sterilized within ninety (90) days of purchase by a participating veterinarian. The sterility voucher shall be presented to the participating veterinarian, who shall sign and date it and return it to Animal Control for reimbursement. If the person adopting decides to use a veterinarian who does not participate in the Animal Control Neutering Program, they will be responsible for all fees charged by the nonparticipating veterinarian. Whether a participating or nonparticipating veterinarian is used, the pet must be sterilized within ninety (90) days of purchase.

(5) The person adopting an animal shall be responsible for providing proof that the animal has been spayed or neutered to Animal Control within ninety (90) days of adoption. Proof shall

consist of the completed sterility voucher from a veterinarian participating in the Animal Control Neutering Program; or where the animal has been spayed or neutered by a nonparticipating veterinarian, the proof shall consist of a written statement from the veterinarian or clinic which spayed or neutered the animal, indicating the date the animal was spayed or neutered.

(6) Upon return of the signed and dated sterility voucher by a licensed participating veterinarian to Animal Control, the Director or his/her designee will cause the issuance of a check or warrant to the veterinarian in accordance with the then scheduled reimbursement rate.

(7) Any person adopting an animal who fails to provide proof the animal adopted has been spayed or neutered shall surrender the animal to Animal Control.

(8) Animal Control shall maintain a neutering program revolving account which will constitute a checking account set up under the control of the Director to facilitate payment to participating veterinarians after required proof of spaying/neutering or other qualified veterinarian services has been submitted. Veterinarians may also be reimbursed through the county voucher payment system.

(9) The neutering program revolving account shall be balanced and reimbursed by county warrant at least monthly; reimbursement vouchers shall have sterility voucher or other qualified veterinarian service receipts attached. The receipts will be charged to the Animal Care And Protection Reserve Funds account of the City of Cheney.

7.20.066 Impounding of Cats--Notice to Owner or Keeper—Redemption.

(1) The Director or his/her designee may impound any cat(s) doing any of the acts prohibited by Cheney Municipal Code, if the cat is in danger of being subjected to cruel treatment as defined by this chapter and/or chapter 16.52 RCW or when the cat is found to be sick, injured, or dead.

(2) The Director or his/her designee upon the impounding of a cat shall record the breed, color and sex of the cat, and whether or not the cat is wearing a current license tag. If currently licensed, the Director or his/her designee shall the name and address of the owner or keeper and number of the license tag. If the cat is not returned to its licensed owner or keeper, the Director or his/her designee shall notify the cat's owner or keeper either by mail, or telephone, or personal notice that the cat has been impounded and where it may be redeemed. Any currently licensed cat impounded pursuant to this chapter shall be held for the owner or keeper for at least one hundred twenty (120) hours from the time of impoundment. The length of time an unlicensed cat is to be held depends on the temperament of the animal, if the animal is sick or injured, space available in the animal shelter, and whether placement through adoption is available.

(3) Any cat(s) not redeemed after the expiration of the holding period may be adopted out or humanely euthanized. All cats adopted out shall be pursuant to 7.20.064.

(4) Notwithstanding the holding periods referenced in sub-section (2) of this section, the Director or his/her designee may, in the exercise of their discretion and in accordance with policy established by Animal Control, authorize any impounded cat be humanely euthanized if they determine the animal is: a) feral and/or dangerous to the safety of humans or other animals, b) suffering from serious injury or disease, or c) the designated shelter area for cats is at capacity.

(5) Any cat impounded pursuant to this section may be redeemed by the owner or keeper upon payment of all redemption fees as provided in section 7.20.110. In addition, any unlicensed cats must be licensed at the time of redemption.

(6) Any cat running at large during rabies quarantine shall be immediately impounded by Animal Control and kept at the animal shelter for the remainder of the quarantine at the owner's or keeper's expense.

7.20.067 Control of cats.

The following cat control regulations are police regulations designed to protect public health and safety. The owner or keeper of a cat is strictly liable to control his/her cat or cats as required herein. This means that the penalty for violation of these regulations is imposed without regard to any wrongful intention of the violator. It is unlawful for the owner or keeper of a cat or cats to violate any of the following regulations. The owner or keeper of a cat or cats shall prevent said cats from:

- (1) Being accessible to other cats, while in heat, for purposes other than controlled or planned breeding;
- (2) Running at large when the cat has not been neutered or spayed, and the cat is six (6) months of age or older;
- (3) Being kept, harbored or maintained and known to have a contagious disease unless under the treatment of a licensed veterinarian, and appropriately isolated to protect the public and other animals;
- (4) Being on private property without the permission of the property owner or the person entitled to possession of the property.
- (5) Exhibiting vicious propensities; and
- (6) Entering any place where food is stored, prepared, served or sold to the public or any public building or hall; provided, that this section shall not apply to any trained service cat; to veterinarian offices or hospitals; or to exhibitions or organized cat shows.

7.20.070 Control of dogs.

The following dog control regulations are police regulations designed to protect public health and safety. The owner or keeper of a dog is strictly liable to control his or her dog or dogs as required herein. This means that the penalty for violation of these regulations is imposed without regard to any wrongful intention of the violator. It is unlawful for the owner or keeper of a dog or dogs to violate any of the following regulations. The owner or keeper of a dog or dogs shall prevent said dogs from:

- (1) Running at large in the City of Cheney, whether licensed or not; provided, that this subsection shall not: a) prohibit a person from walking or exercising a dog in public when such dog is on a leash, tether or chain not to exceed eight feet in length; and, b) prohibit a person from having a dog off-leash in an area designated pursuant to section 7.20.045(1) as an off-leash area provided that the requirements of section 7.20.045(2) are met;
- (2) Entering any place where food is stored, prepared, served or sold to the public or any public building or hall; provided, that this subsection shall not apply to any dog guide or trained service animal; to veterinarian offices or hospitals; or to dog exhibitions or organized dog training classes or to dogs used by armored car services or law enforcement agencies;
- (3) Being accessible to other animals, while in heat, for purposes other than controlled or planned breeding;
- (4) Chasing, running after or jumping at vehicles using public streets and alleys;
- (5) Snapping, growling, snarling, barking in a threatening manner, jumping upon, chasing or otherwise threatening persons or animals;
- (6) Exhibiting vicious propensities;
- (7) Howling, yelling, whining or barking or making other oral noises in such a manner as to disturb any person or groups of persons to an unreasonable degree;
- (8) Being kept, harbored or maintained and known to have a contagious disease unless under the treatment of a licensed veterinarian and appropriately isolated to protect the public and other animals;
- (9) Running in packs; provided, for the purpose of this section "packs" means dogs in groups of three or more;
- (10) Running at large when the dog has not been neutered or spayed, and the dog is six months of age or older;

(11) A dog declared a potentially dangerous shall not be at running at large or off the owner or keeper's property, unless it is on a leash and under physical restraint of a responsible person.

(12) A dog declared a dangerous dog shall not be running at large or outside a proper enclosure, unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

7.20.071 Violations as Infractions--Exceptions.

Failure to perform any act required by this chapter or the performance of any act prohibited by this chapter is designated as an infraction and may not be classified as a criminal offense, except the following violations shall be classified as:

(1) MISDEMEANORS:

- (a) Section 7.20.030(4) falsely representing dog or cat as spayed/neutered or nonspayed/nonneutered;
 - (b) Sections 7.20.032(3) and 7.20.033(7), failure to abide by conditions imposed on potentially dangerous dogs;
 - (c) Section 7.20.040, theft or misuse of license tags.
 - (d) Section 7.20.042(7), operating an unlicensed commercial kennel;
 - (e) Section 7.20.043(7), operating an unlicensed private kennel;
 - (f) Section 7.20.045(2)(e), allowing a dog to exhibit dangerous or aggressive behavior in a designated off-leash area;
 - (g) Section 7.20.045(2)(f), allowing a female dog in heat in a designated off-leash area;
 - (h) Section 7.20.067(5), cats exhibiting vicious propensities which constitute a danger to persons or domestic animals;
 - (i) Section 7.20.070(6), dogs exhibiting vicious propensities which constitute a danger to persons or animals;
 - (j) Section 7.20.070(11), potentially dangerous dog at large;
 - (j) Section 7.20.079(1), failure to sign a promise to appear;
 - (k) Section 7.20.0791, failure to identify — person receiving notice;
 - (l) Section 7.20.0792, failure to obey an officer;
 - (m) Section 7.20.120(3), interference with lawful euthanasia.
 - (n) Section 7.20.150, failure to report striking domestic animal with motor vehicle; (o) Section 7.20.160, failure to report animal bites; and
 - (m) The third or subsequent violation of any provision constituting an infraction of this chapter within a twelve-month period. For purposes of this subsection, a third or subsequent violation within a twelve-month period is determined according to the date of the offense for which an infraction, citation or complaint has been issued, regardless of whether the court has deemed the violation to have been committed, *provided*, that a finding by the court that the prior infraction was not committed shall render the prior violation not countable toward the third or subsequent violation;
- (2) GROSS MISDEMEANORS:
- (a) Section 7.20.035, failure to comply with dangerous dog registration and ownership requirements;
 - (b) Section 7.20.045(2)(b), prohibited dog in dog park; and
 - (c) Section 7.20.070(12), dangerous dog at large.

7.20.072 Notice of Infraction--Issuance.

(1) The Director and Animal Protection Officer shall be specially commissioned by the Police Department to issue a notice of infraction if committed in their presence or if after

investigation they have reasonable cause to believe that the owner or keeper of an animal has committed an infraction.

(2) The court may issue a notice of infraction upon receipt of a written statement of the Director or his/her designee that there is reasonable cause to believe that an infraction was committed.

(3) The notice of infraction shall be issued pursuant to Chapter 7.80 RCW.

7.20.073 Notice of Infraction--Determination Final Unless Contested--Form.

(1) A notice of infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.

(2) The notice of infraction shall include the following:

(a) A statement that the notice represents a determination that an infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that an infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination, the county has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction, the person will be deemed to have committed the infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen (15) days;

(i) A statement which the person shall sign that the person promises to respond to the notice of infraction in one of the ways provided in this chapter; and

(j) A statement that failure to respond to the notice of infraction or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty.

7.20.074 Response to Notice of Infraction--Contesting Determination--Hearing--Failure to Respond or Appear.

(1) Any person who receives a notice of infraction shall respond to such notice as provided in this section within fifteen (15) days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records.

(3) If the person determined to have committed the infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place and date of the hearing, and that date shall not be sooner than seven (7) days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the

determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place and date of the hearing.

(5) The court shall enter a default judgment assessing the monetary penalty prescribed for the infraction and may notify the prosecuting attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of infraction:

(a) Fails to respond to the notice of infraction as provided in subsection (1) or (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section.

7.20.075 Hearings -- Infraction--Rules of Procedure--Counsel.

(1) Procedures for the conduct of all infraction hearings provided for in this chapter shall be in accordance with the Infraction Rules for Courts of Limited Jurisdiction.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

7.20.076 Hearings --Contesting Determination that Infraction Committed--Appeal.

(1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

(2) The court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.

(3) In the event the defendant contests any infraction, the burden of proof is upon the county to establish the commission of the infraction by a preponderance of the evidence.

(4) After consideration of the evidence and argument the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed, an appropriate order shall be entered in the court's records.

(5) An appeal from the court's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure.

7.20.077 Hearings—Infraction--Explanation of Mitigating Circumstances.

(1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(2) After the court has heard the explanation of the circumstances surrounding the commission of the infraction, an appropriate order shall be entered in the court's records.

(3) There may be no appeal from the court's determination or order at a hearing on mitigation.

7.20.078 Order of Court—Infraction--Civil Nature -- Waiver, Reduction Suspension of Penalty -- Restitution.

(1) An order entered after the receipt of a response which does not contest the determination or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

(2) The court may include in the order the imposition of any penalty authorized by the provisions of this chapter for the commission of an infraction. The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction.

(3) The court may order a person found to have committed a civil infraction to make restitution.

7.20.079 Failure to sign -- Failure to satisfy penalty.

(1) It is a misdemeanor for any person who has been personally served with a notice of criminal citation or a civil infraction, as provided by the Cheney Municipal Code, as it presently exists or as may be hereinafter amended, to refuse to sign a written promise to respond to the notice.

(2) A person who willfully fails to pay a monetary penalty or to perform community service as required by a court under this chapter may be found in civil contempt of court as provided for in chapter 7.21 RCW.

7.20.0791 Person receiving notice--Identification and detention.

(1) A person who is to receive a notice of infraction or a criminal citation under this chapter or chapters 16.08, 16.52 or 16.54 RCW is required to identify himself or herself to the Director, Animal Protection Officer, or a sheriff's deputy by giving his or her name, address, and date of birth and upon request shall produce reasonable identification, including a driver's license or identicard.

(2) A person who is unable or unwilling to reasonably identify himself or herself to the Director, Animal Protection Officer, or a sheriff's deputy may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing a notice of infraction or citation.

(3) Willful failure to identify, following a lawful request under this section is a misdemeanor.

7.20.0792 Failure to Obey Instructions of an Officer

A person is required to stop when requested or signaled to do so by the Director, Animal Protection Officer, or a sheriff's deputy in the enforcement of this chapter or chapters 16.08, 16.52 or 16.54 RCW. Any person who willfully violates this section is guilty of a misdemeanor.

7.20.090 Animal Control Director or Animal Protection Officer--Issuance of Criminal Citation.

The Director or his/her designee shall be specially commissioned by the county sheriff as a deputy for the purpose of enforcing any provision of this chapter or chapters 16.08, 16.52 or 16.54 RCW and shall have the authority to issue infractions, and criminal citations and make arrests where the Director or his/her designee has information to support a reasonable belief that the owner, handler, or keeper of the animal is in violation of any sections constituting a misdemeanor or gross misdemeanor.

7.20.110 Redemption Procedures.

(1) Any dog impounded pursuant to the provisions of this chapter or chapters 16.08, 16.52 or 16.54 RCW may, subsequent to the satisfaction of all conditions for release, be redeemed upon payment of any fees and penalties due and owing, any recoverable expenses

incurred by Animal Control and proof of a current license; and, proof of a current rabies vaccination or written agreement to present such proof within 30 days. The redemption fee for a dog shall be twenty-five dollars (\$25.00) for each dog plus an additional fee of ten dollars (\$10.00) for each twenty-four-hour period or portion thereof during which such dog is retained by the impounding agency. Provided, that the redemption fee for a dog redeemed a second or a third time in any twelvemonth period shall be thirty-five dollars (\$35.00) and fifty-five dollars (\$55.00) respectively, plus an additional fee of ten dollars (\$10.00) for each twenty-four-hour period or portion thereof during which such dog is retained by the impounding agency. Provided further, the Director or his/her designee for good cause at his/her discretion may waive and/or reduce the redemption fee.

(2) Any cat impounded pursuant to the provisions of this chapter or chapters 16.08, 16.52 or 16.54 RCW may, subsequent to the satisfaction of all conditions for release, be redeemed upon payment of the any fees and penalties due and owing, any recoverable expenses incurred by Animal Control and proof of current license and rabies vaccination presented. The redemption fee for a cat shall be twenty-five dollars (\$25.00) for each cat, plus an additional fee of ten dollars (\$10.00) for each twenty-four (24) hour period or portion thereof during which such cat is retained by the impounding agency. Provided, that the redemption fee for a cat redeemed a second or third time in any twelve (12) month period shall be thirty-five dollars (\$35.00) and fifty-five dollars (\$55.00) respectively; plus an additional fee of ten dollars (\$10.00) for each twenty-four (24) hour period or portion thereof during which such cat is retained by the impounding agency. Provided further, the Director or his/her designee for good cause at his/her discretion may waive and /or reduce the redemption fee.

(3) Recoverable expenses incurred include but are not limited to Trip fees of twenty-five dollars (\$25.00) for a regular response and fifty-dollars (\$50.00) for an emergency response; and, reasonable veterinary expenses incurred by Animal Control.

(4) All fees and expenses payable under this section shall be made payable to the City of Cheney.

7.20.120 Destruction of Vicious and Dangerous Dogs.

(1) The owner or keeper of any dog having vicious propensities as defined in this chapter may be ordered to turn the dog over to Animal Control for disposal by means of euthanasia by a judicial officer of the municipal court upon the owner's or keeper's conviction of any violation of section 7.20.070(6).

(2) Any dog declared a dangerous dog that has failed to receive a certificate of registration shall be euthanized as provided for in section 7.20.032(4) and (5).

(3) Any owner or keeper of a dog to be destroyed by means of euthanasia under this chapter and chapters 16.08, 16.52, and 16.54 RCW has twenty-four (24) hours from notification to turn the dog over to the Animal Control shelter for disposal by means of euthanasia; willful interference with the lawful disposal of a dog pursuant to this section is a misdemeanor.

7.20.130 Penalties

(1) The maximum penalty for the violation of any provision of this chapter constituting an infraction other than section 7.20.030 relating to failure to obtain animal licenses shall be the amount established under the Infraction Rules for Courts of Limited Jurisdiction section IRLJ 6.2(b) for unscheduled infractions as it now exists or is hereafter amended for the first infraction and the same amount plus twenty-five dollars for the second infraction committed within a twelve-month period. In addition, the court may impose any applicable statutory assessments.

(2) Any person, in addition to any other penalties provided by this chapter, found in violation of any provisions or any amendments thereto which are designated as misdemeanors shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not more than ninety (90) days or by both such fine and imprisonment; or if

designated as a gross misdemeanor shall be punished by a fine of not more than five thousand dollars (\$5,000.00) or by imprisonment in the county jail for not more than 365 days, or by both such fine and imprisonment.

(3) The penalties for violation of section 7.20.030 other than section 7.20.030(4) shall be two hundred dollars (\$200.00) per violation. Provided, however, the district court judges by local court rule or general order may allow for a reduction in said sum by way of mitigation or where a license is obtained or renewed within ten calendar days of the issuance of an infraction.

7.20.131 Violation as constituting a public nuisance.

In addition to the foregoing remedies, the repeat violation of any provisions of this chapter after official notice of the violation shall constitute a public nuisance and may be abated in any manner authorized by RCW Chapters 7.48 and 9.66.

7.20.140 Fee Setting Authority.

The director, or its designee, is granted the authority to set a schedule of fees not otherwise established reasonably related to fulfilling its responsibilities under this chapter. This shall be construed consistently with all local Spokane County district court rules and general orders on the subject involving the failure to license dogs or cats as set forth in sections 7.20.030 and 7.20.031 hereof. Fee schedules shall be posted at the Animal Control shelter.

7.20.150 Duty When Striking Domestic Animal with Motor Vehicle.

Any person who, while operating a motor vehicle, strikes a domestic animal in the City of Cheney shall stop at once, render reasonable assistance, and shall immediately report such injury or death to the animal's owner. In the event the owner of said animal cannot be ascertained and located, such person shall at once report the accident to the Animal Control or other law enforcement agency with authority in the jurisdiction. This section shall in no way be construed as requiring the person striking the animal with a motor vehicle to be financially responsible for any injury or death of the animal. A person who willfully violates this section shall be guilty of a misdemeanor.

7.20.160 Animal Bites to be Reported.

Every animal which bites a person shall be promptly reported to Animal Control and shall thereupon be securely quarantined for a period of ten days. At the discretion of Animal Control, such quarantine may be on the premises of the owner or keeper, at the Animal Shelter, or at the owner's or keeper's option and expense, in a veterinary hospital of the owner's or keeper's choice. In the cases of animals whose ownership is not known, such quarantine shall be at the Animal Shelter or a veterinary hospital. If the animal is quarantined at the Animal Shelter the owner or keeper of the animal shall be charged ten-dollars (\$10.00) for each twenty-four (24) hour period or portion thereof. Any owner or keeper of an animal who knowingly violates this section shall be guilty of a misdemeanor.

7.20.170 Spaying and neutering Services.

(1) Four dollars (\$4.00) of every dog and cat license shall be set aside each year to be used solely for the purpose of implementing a spaying and neutering program of licensed dogs and cats residing within the City of Cheney and any jurisdictions under contract for Animal Control services that have adopted this chapter by reference. The Director shall develop and maintain a spaying and neutering program which shall determine the requirements for eligibility to participate in the program.

(2) Spaying and neutering of licensed dogs and cats under this section shall be voluntary with the animal's owner or keeper.

7.20.900 Severability.

If any portion of this chapter is held invalid, it is the intent of the City Council that such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this chapter.

7.20.910 Effective Date--Preservation of Existing Cases.

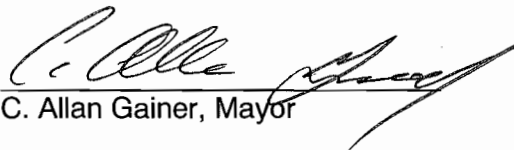
Ordinance U-74 shall take effect on May 17, 2008. All cases filed and offenses committed prior to the effective date of this resolution are deemed preserved in accordance with section 10.01.040 RCW, and shall be governed by chapter 7.20 as it existed prior to May 17, 2008.

Section 3. Effective Date. This ordinance shall be in full force and effective thirty (30) days after passage, approval and publication.


Introduced this 25th day of March, 2008.

Passed by the City Council this 8th day of April, 2008.

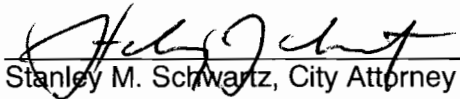
Approved by the Mayor this 8th day of April, 2008.


C. Allan Gainer, Mayor

Attest:


Cynthia L. Niemeier, City Clerk

Approved as to form:


Stanley M. Schwartz, City Attorney

CITY OF CHENEY
609 SECOND STREET
CHENEY, WASHINGTON 99004
(509) 498-9209 FAX (509) 498-9297

DATE: April 11, 2008
TO: Cheney Free Press
FROM: Debra Gaffney, Administrative Clerk

Please publish the following one time:

**City of Cheney
Ordinance No. U-74
Summary**

AN ORDINANCE OF THE CITY OF CHENEY REPEALING CHAPTER 7.20 OF THE CHENEY MUNICIPAL CODE ENTITLED "ANIMAL REGULATIONS GENERALLY" ENACTING A NEW CHAPTER 7.20 ENTITLED "DOGS AND CATS" AND OTHER MATTERS RELATED THERETO AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

The foregoing is a summary of the principal provisions of Ordinance No. U-74 of the City of Cheney, adopted on April 8, 2008. Pursuant to RCW 35A.12.160, a full text of the Ordinance will be mailed upon request to Office of the City Clerk, City of Cheney, 609 Second Street, Cheney, Washington 99004.

If you have any questions, please give me a call at 498-9211. Thank you!