

**CITY OF AIRWAY HEIGHTS
SPOKANE COUNTY, WASHINGTON**

ORDINANCE C- 832

**AN ORDINANCE OF THE CITY OF AIRWAY HEIGHTS, WASHINGTON AMENDING
CHAPTER 17.11 OF THE AIRWAY HEIGHTS MUNICIPAL CODE, ENTITLED C-2,
GENERAL COMMERCIAL AND PROVIDING FOR OTHER MATTERS PROPERLY
RELATING THERETO.**

WHEREAS, pursuant to the provisions of the Revised Code of Washington (RCW) Chapter 35A.63, the City Council of Airway Heights, Spokane County, Washington, hereinafter referred to as the “Council,” has created a planning commission, hereinafter referred to as the “Commission”; and

WHEREAS, the Council has afforded the Commission the responsibility to assist in the preparation of development regulations, review plans and regulations related to land use management, and to hold public hearings in the exercise of duties and responsibilities; and

WHEREAS, appropriate notice was sent to the Department of Commerce (DOC) and other state agencies, as required by RCW 36.70A.106, for the start of the required 60-day review of any amendments to a jurisdiction’s development code on June 3, 2014. The required 60-day review ends on August 4; and

WHEREAS, the City of Airway Heights provided notice to the public, adjacent jurisdictions and various stakeholders, by posting in those designated locations throughout the City of Airway Heights and by advertising in the Cheney Free Press on June 12, 2014. The notice stated that the preliminary SEPA determination was a Determination of Non-Significance (DNS) and any SEPA comments are due June 27, 2014, with any appeal of the DNS being due July 2, 2014. It also notified the public that the City would be holding a public hearing before the Planning Commission July 9, 2014 and that the City will accept written comments until 5 pm, July 7, 2014; and

WHEREAS, under SEPA, a preliminary Determination of Non-Significance (DNS) was issued on June 12, 2014 for ZCA 2014-04, with the Notice of Application, SEPA determination, comment period, and public hearing being mailed to 43 various agencies and stakeholders, and posted in the Cheney Free Press on June 12, 2014; and

WHEREAS, the City permits the sales, and use on private property, of “safe and sane” fireworks within its City limits; and

WHEREAS, the siting of a fireworks stand is called out in the existing AHMC 17.11 as an example of a use that requires a conditional use permit (CUP); and

WHEREAS, a CUP process can take up to six months and can cost in excess of \$700; and

WHEREAS, as part of a CUP process, an applicant is required to perform a SEPA review; and

WHEREAS, firework stands are only permitted to sell fireworks for 3-4 days in advance of the 4th of July each year; and

WHEREAS, the environmental impact from the siting of a firework stand is minimal, with traffic issues being the primary concern; and

WHEREAS, the City's temporary use permit (TUP) process already requires as part of the application that traffic and parking plans be reviewed and approved; and

WHEREAS, a TUP permit costs \$30 and is required 45-days in advance of the proposed temporary use; and

WHEREAS, no use permitted under a TUP may be in place longer than thirty (30) days within a 365-day year; and

WHEREAS, the siting of fireworks stands requires a permit from the City of Airway Heights Fire Department, where the application is reviewed to ensure health and safety compliance; and

WHEREAS, considering the existing requirement that firework stands require a permit and review by the Fire Department, and the City can use the TUP process to adequately review the proposed siting of a fireworks stand, staff believes the requirement of a CUP is excessive; and

WHEREAS, adding a new section, AHMC 17.11.025, Temporary Use Permits will clarify for applicants in C-2, General Commercial zones whether a TUP is required; and

WHEREAS, the proposed language in AHMC 17.11.025 clearly states a TUP is required for the siting of firework stands;

WHEREAS, the proposed amendment to subsection (B) of AHMC 17.11.030, Conditional Uses, striking "and firework stands" does not create a conflict with the standards shown in AHMC 17.03, Table 1, the Zoning Matrix; and

WHEREAS, the SEPA comment period ended on June 27, 2014, and the SEPA appeal period ended on July 2, 2014; and

WHEREAS, the Planning Commission held a public hearing regarding the proposed amendments to the existing AHMC 17.11, C-2, General Commercial, ZCA 2014-04 on July 9, 2014; and

WHEREAS, at the July 9, 2014 public hearing, no public comments were submitted; and

WHEREAS, at the July 9, 2014 Planning Commission meeting, the Planning Commission recommended that the City Council adopt ZCA 2014-04, as submitted, through Ordinance C-8XX; and

WHEREAS, the public noticing and public hearing requirements of the AHMC, Chapter 14, have been met; and

NOW, THEREFORE, the City of Airway Heights City Council does ordain as follows:

Section 1. Amendment. Section 17.11.030 of the Airway Heights Municipal Code is hereby amended to read as follows:

17.11.030 Conditional uses.

In accordance with AHMC [17.03.100](#) through [17.03.140](#), the Hearing Examiner may grant approval for the following uses in the C-2 zone, when satisfied that the use will be consistent with the Comprehensive Plan and the intent of the C-2 zone, and when the conditional use will not have a material adverse effect on neighboring properties. In granting such approval, the Hearing Examiner may require special restrictions such as sight-obscuring fences, suitable landscaping, yard requirements, signs, etc., and may also require time limits for the proposed use. Any reasonable restrictions for the suppression of noise, smoke, or odors may be required.

- A. Drive-in theaters;
- B. Migratory amusements, such as circuses and carnivals;
- C. Multi-Family Residential, as part of an approved mixed-use development plan, as defined in AHMC 17.37, and only on those properties as shown on AHMC 17.16, JLUS Protections for Fairchild Air Force Base, Appendix B, “Commercial Zoned Properties Potentially Available For CUP MF Residential Development” Map, and/or Appendix A of this chapter, “Commercial Zoned Properties Potentially Available For MF Residential Development” Map.
- D. Multi-Family Residential, as defined in AHMC 17.09; with a density range of 10-20 units per acre and only on those properties as shown on Appendix A of this chapter, “Commercial Zoned Properties Potentially Available For CUP MF Residential Development” Map.
- E. Proposed uses of a commercial nature that cannot be determined to be comparable to those uses listed on AHMC 17.05, Table 1, Zoning Matrix.
- F. Custodial quarters, accessory dwelling units;
- G. Outdoor facilities for commercial kennels and pet shops;
- H. Lumberyards (new lumber and materials);
- I. Non-Residential mixed-use developments consisting of a mix of commercial, office and light industrial or light manufacturing uses, that are determined to have an impact that is similar to those of a commercial nature.
 - 1. Examples of this type of use would be software engineering, light manufacturing facilities that are completely contained within a structure and is limited in the number of employees, office space, retail, restaurants, service providers, small engine/vehicle (cars and light trucks), auto-supply stores, etc.
 - 2. Examples of use that would not be permitted would be manufacturing requiring outdoor storage of materials or products,

Section 2. Amendment. Section 17.11.025 of the Airway Heights Municipal Code is hereby added to read as follows:

17.11.025 Temporary Use Permits

The following land uses in C-2 zones require a temporary use permit, in accordance with AHMC 17.03.065:

- A. Seasonal sales stands, such as produce stands, Christmas tree lots and pumpkin patches;
- B. Fireworks sales;
- C. All other temporary sales or services;
 - 1. Excluding residential yard/garage sales, not lasting more than three (3) days;
 - 2. Excluding fundraisers, such as car washes, located on private property and not lasting more than three (3) days.

Temporary uses installing, or using, temporary structures, including, but not limited to, canopies, tents, or sheds, exceeding 120 square feet, require a building permit, through a separate application, as issued by the City of Airway Heights Building Department.

Section 9. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, section, clause or phrase of this ordinance.

Section 10. Effective Date. This ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

INTRODUCED the 21st day of July, 2014.

PASSED by the City Council of the City of Airway Heights this 4th day of August, 2014.

Patrick D. Rushing, Mayor

ATTEST:

APPROVED AS TO FORM:

Richard G. Cook, Clerk-Treasurer

Stanley M. Schwartz, City Attorney

Date of Publication: _____
Ordinance C-8XX