

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

**ORDINANCE C-834**

**AN ORDINANCE RELATING TO CANNABIS USE, MEDICAL CANNABIS COLLECTIVE OR CO-OPERATIVE GARDEN REGULATORY LICENSING AND STATE-LICENSED CANNABIS PRODUCERS, PROCESSORS, AND RETAILERS; ADDING NEW CHAPTERS 5.14, “MEDICAL CANNABIS COLLECTIVE GARDEN REGULATORY LICENSE” AND 5.15, “STATE-LICENSED CANNABIS PRODUCERS, PROCESSORS, AND RETAILERS” TO AHMC TITLE 5, BUSINESS TAXES, LICENSES, AND REGULATIONS; AND ADDING A NEW CHAPTER 17.14, “MEDICAL CANNABIS COLLECTIVE GARDEN, CO-OPERATIVE GARDEN, OR A RETAIL OUTLET FOR RECREATIONAL CANNABIS” TO AHMC TITLE 17, ZONING CODE, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.**

**WHEREAS**, since 1970, federal law has prohibited the manufacture and possession of Cannabis as a Schedule I drug, based on the federal government’s categorization of Cannabis as having a “high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment.” *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq; and

**WHEREAS**, Initiative Measure No. 692, approved by the voters of Washington State on November 30, 1998, and now codified as chapter 69.51A RCW, created an affirmative defense for “qualifying patients” to the charge of possession of Cannabis (cannabis); and

**WHEREAS**, the intent of Initiative 692 was that qualifying “patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of Cannabis, shall not be found guilty of a crime under state law,”(RCW 69.51A.005), but that nothing in the law “shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of Cannabis for non-medical purposes” (RCW 69.51A.020); and

**WHEREAS**, the Washington State Legislature passed ESSSB 5073 in 2011, which provides that a qualifying patient or his/her designated care provider are presumed to be in compliance, and not subject to criminal or civil sanctions/penalties/consequences, if they possess no more than 15 cannabis plants, no more than 24 ounces of usable cannabis (other qualifications apply); and

**WHEREAS**, on April 29, 2011, former governor Christine Gregoire vetoed all of the provisions of E2SSB 5073 relevant to medical Cannabis dispensaries that would have provided the legal basis for legalizing and licensing medical cannabis dispensaries, processing facilities and production facilities, thereby making these activities illegal but left the provisions relating to cultivation of Cannabis for medical use by qualified patients individually and in collective gardens; and

**WHEREAS**, RCW 69.51A.085 permitted qualifying patients “to create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use,” provided no more than ten qualifying patients participate, a collective garden does not contain more than 15 plants per patient up to a total of 45 plants per garden, and the garden does not contain more than 24 ounces of useable cannabis per patient and up to a total of 72 ounces of useable cannabis; and

**WHEREAS**, under RCW 69.51A.060(1), it is a class 3 civil infraction to display medical cannabis in a manner or place which is open to view of the general public, which would include growing plants; and

**WHEREAS**, RCW 69.51A.140 authorizes cities to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction and that nothing in chapter 181, Laws of 2011 is intended to limit the authority of cities to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction; and

**WHEREAS**, Pursuant to RCW 69.51A.130, no civil or criminal liability may be imposed by any court on cities, towns, or counties or other municipalities and their officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties.

**WHEREAS**, Initiative Measure No. 502, approved by the voters of Washington State on November 6, 2012, calls for the establishment of a regulatory system licensing producers, processors and retailers of recreational Cannabis for adults 21 years of age and older, legalizes the possession and private recreational use of Cannabis and requires the Washington State Liquor Control Board to adopt procedures and criteria by December 1, 2013 for issuing licenses to produce, process and sell Cannabis; and

**WHEREAS**, the establishment of additional medical cannabis collective gardens in light of the preclusion of licensed dispensaries created by the veto by former Governor Gregoire of portions of E2SSB 5073 and the pending implementation of Initiative Measure No. 502 by the Washington State Liquor Control Board could create inconsistent and incompatible land use activities and create unanticipated public health, safety and welfare concerns; and

**WHEREAS**, the City of Airway Heights adopted Ordinance C-795 on April 15, 2013, imposing a 6-month moratorium on the use of store fronts for the dispensing of medical cannabis because of the impact on the public health safety and welfare, terminating on October 15, 2013, or until such time as the City has adopted pertinent regulations; and

**WHEREAS**, the Washington State Liquor Control Board has announced that it will adopt its rules pertaining to the licensing of Cannabis producers, processors and retailers by August 14, 2013, with an effective date of September 14, 2013 and begin accepting applications for license types on September 14, 2013;

**WHEREAS**, the City currently has not finalized specific zoning regulations pertaining to medical cannabis collective gardens and state-licensed producers, processors and retailers of state-licensed recreational Cannabis; and

**WHEREAS**, the City Council conducted a public hearing on June 3, 2013 as required by Ordinance C-795, to take public testimony regarding the establishment of the moratorium; and

**WHEREAS**, on October 7, 2013, the City of Airway Heights City Council extended the moratorium, through Ordinance C-809, regarding the use of store fronts for dispensing medical cannabis out to April 7, 2013, or until such time as the City has adopts pertinent regulations; and

**WHEREAS**, the City Council has studied the land use impacts collective gardens and state-licensed Cannabis producers, processors and retailers and has now prepared this ordinance to address these impacts; and

**WHEREAS**, the City Council found that it was necessary to adopt an interim ordinance in order to avoid unanticipated negative impacts on the community and the public health, safety and welfare associated with medical cannabis collective gardens and state-licensed Cannabis producers, processors and retailers; and

**WHEREAS**, the City Council adopted interim ordinance C-815, and formally repealed the moratorium on the use of store fronts for the dispensing of medical cannabis, established in Ordinance C-795, and as extended through Ordinance C-809 ; and

**WHEREAS**, RCW 36.70A.390 provides that, “A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal;” and

**WHEREAS**, RCW 35.63.200 and RCW 36.70A.390 both authorize the enactment of a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing; and

**WHEREAS**, pursuant to WAC 197-11-880, the adoption of an interim ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act; and

**WHEREAS**, the City Council finds that the regulatory licensing requirements established by this ordinance are necessary for the immediate preservation of the public peace, health or safety and for the immediate support of city government and its existing public institutions.

**WHEREAS**, the City Council adopted Interim Ordinance C-815 on November 18, 2013, providing zoning and regulatory standards for the licensing, locating, and dispensing of medical and I-502 recreational cannabis within the City of Airway Heights jurisdictional boundaries; and

**WHEREAS**, the City of Airway Heights Planning Commission held a public hearing regarding the proposed final ordinance regarding the zoning and regulatory standards for the licensing, locating, and dispensing of medical and I-502 recreational cannabis within the City of Airway Heights, through Ordinance C-834, on July 9, 2014; and

**WHEREAS**, at the July 9, 2014 public hearing the City of Airway Heights Planning Commission voted unanimously to adopt the proposed amendments to Titles 5, Business Taxes, Licenses, & Regulations and 17, Zoning Code, through Ordinance C-834, as shown in PC Resolution PC 2014-02; and

**NOW, THEREFORE, BE IT ORDAINED**, that the Airway Heights City Council does hereby adopt the following changes to Title 5, Business Taxes, Licenses, & Regulations and Title 17, Zoning Code, through Ordinance C-834:

**Section 1.** New Chapter. A new chapter 5.14 entitled “Medical Cannabis Collective Garden Regulatory License”, consisting of eight (8) sections, is hereby added to the Airway Heights Municipal Code (AHMC) as follows:

**Chapter 5.14  
Medical Cannabis Collective Garden Regulatory License**

**Sections:**

- 5.14.010 Findings**
- 5.14.020 Purpose**
- 5.14.030 Definitions**
- 5.14.040 License Required**
- 5.14.050 Application, Transfer and Renewal**
- 5.14.060 Medical Cannabis Collective Garden Requirements**
- 5.14.070 Violation**
- 5.14.080 Nuisance Abatement**

**Section 2.** New Section. 5.14.010 of the AHMC is hereby added to read as follows:

- 5.14.010 Findings**

The city council adopts the preamble to this ordinance as findings to support this chapter and further finds that nothing in this AHMC chapter 5.14 shall be construed to supersede

Washington state or federal law pertaining to the acquisition, possession, manufacture, sale or use of cannabis for nonmedical purposes. Nothing in this chapter AHMC chapter 5.14 shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of cannabis for nonmedical purposes.

**Section 3.**     New Section. 5.14.020 of the AHMC is hereby added to read as follows:

**5.14.020     Purpose**

The purpose of this Medical Cannabis Collective Garden Regulatory License chapter is to mitigate potential impacts of medical cannabis collective gardens as authorized under chapter 69.51A RCW on nearby properties and to promote the public health, safety welfare through coordinated implementation of zoning and licensing regulations of medical cannabis collective gardens under chapter 69.51A RCW.

**Section 4.**     New Section. 5.14.030 of the AHMC is hereby added to read as follows:

**5.14.030     Definitions**

Definitions established in chapters 69.50, 69.51, and 69.51A RCW and chapter 314-55 WAC are incorporated by reference in this chapter, including the following definitions:

- A.     “Cannabis”, as used here, is the technical designation for “Marijuana” and is interchangeable with the term “Marijuana”.
- B.     “Collective Garden” means those gardens authorized under RCW 69.51A.085, which allows qualifying patients to assume responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use.
- C.     “Designated Provider” shall have the definition as provided in RCW 69.51A.010(1) as currently states or as may be amended.
- D.     “Marijuana” shall have the definition as provided in RCW 69.50.101(s) as currently states or as may be amended.
- E.     “Cannabis Processor” shall have the definition as provided in RCW 69.50.101(t) as currently states or as may be amended.
- F.     “Cannabis Producer” shall have the definition as provided in RCW 69.50.101(u) as currently states or as may be amended.
- G.     “Cannabis Retailer” shall have the definition as provided in RCW 69.50.101(w) as currently states or as may be amended.
- H.     “Qualified Patient” shall have the definition as provided in RCW 69.51A.010(4) as currently states or as may be amended.

**Section 5.**     New Section. 5.14.040 of the AHMC is hereby added to read as follows:

**5.14.040     License Required**

- A.     No person may operate a medical cannabis collective garden or co-operative garden without first obtaining a medical cannabis collective garden regulatory license, issued by the City of Airway Heights, under this chapter.
  
- B.     Anyone operating a medical cannabis collective garden or co-operative garden pursuant to chapter 61.59A RCW is required to have a license or permit issued under this chapter. A medical cannabis collective garden or co-operative garden lawfully existing prior to the adoption of chapter 5.14, AHMC, shall have thirty days to submit an application for the medical cannabis collective garden regulatory license as required by this chapter.
  
- C.     The requirement to obtain a medical cannabis collective garden regulatory license or a business license or to comply with the regulatory and land use zoning provisions of this chapter and chapter 17C.347 RCW shall not apply to a medical cannabis collective garden that:
  - 1.     meets the definition and provisions of RCW 69.51A.085,
  - 2.     does not operate on a commercial basis,
  - 3.     does not engage in any sales,
  - 4.     does not engage in any commercial activity, including any type of advertising and
  - 5.     does not rotate more than five members of the collective garden within a fifteen day period.
  
- D.     The provisions of this chapter do not apply to or affect the legal rights of an ultimate user as authorized under RCW 69.50.101(z)(bb).
  
- E.     The issuance of a medical cannabis collective garden regulatory license under this chapter, or the issuance of any other permit or license by the City, shall not be deemed as approval or permission from the City to engage in any activity deemed illegal under any applicable law, nor shall it constitute a determination by the City that the manufacture, production, processing, retailing possession, transportation, delivery, dispensing, application, or administration of and use of cannabis engaged in by the licensee or permittee is either legal or illegal under state or federal law.

**Section 6.**     New Section. 5.14.050 of the AHMC is hereby added to read as follows:

**5.14.050     Application, Transfer and Renewal**

- A.     A medical cannabis collective garden regulatory license issued under this chapter shall be obtained prior to operation of any business activity.
  
- B.     The fee for a medical cannabis collective garden regulatory license is two hundred and fifty (\$250) dollars to support the regulatory program.

- C. The application is filed and all applicable license fees are paid to the Airway Heights Clerk/Treasurer's office.
- D. The chief of police, or designated license officer, does not approve the license until the application has been reviewed by the building services department, the fire department and the planning department and verification has been provided that all applicable requirements have been complied with. A determination regarding the application shall be completed within thirty days from the date of the receipt by the city of the application.
- E. The applicant must provide on the application, the names, dates of birth, addresses and phone numbers for all officers and employees.
- F. The license must be on display on the premises at all times and shall be available for access by law enforcement during normal business hours.
- G. If all requirements for approval are satisfied, the license shall be issued by the chief of police prior to the start of operations.
- H. A license issued under this chapter is not transferable as to person or place.
- I. Renewal of License.
  - 1. Application for renewal must be made no later than thirty days prior to expiration of the license. A determination on the renewal application shall be completed within thirty days from the date of the receipt by the city of the application.
  - 2. The license renewal application shall only be approved by the chief of police, or designated license officer, following a site inspection and verification by the planning department, fire department and building services department that all City requirements have been met must be complied with.
- J. A medical cannabis collective garden regulatory license may be suspended, revoked or denied if:
  - 1. Any datum furnished on the application is false or is not updated in a timely fashion,
  - 2. The structure, facility or property ceases to comply with all applicable building, fire and or zoning provisions,
  - 3. Any condition of the City license or State law has been violated, or
  - 4. Any provision of this chapter is violated
- K. Any authorized city official may issue a warning order requiring the licensee to correct any condition or practice that presents a threat or hazard to public health or safety.

- L. Authorized city departments may invoke their powers granted under the Airway Heights Municipal Code to immediately close a facility or business licensed under this chapter if conditions present an imminent threat to public health and safety.
- M. Prior to the issuance of a medical cannabis collective garden regulatory license, the chief of police, or his designee, shall schedule a public hearing to take testimony regarding the issuance of the license. A notice of the hearing on a form proscribed by the City shall be delivered by the applicant to the business and residential occupants located within five hundred feet of the premises at least fourteen days prior to the hearing date.

**Section 7.**     New Section. 5.14.060 of the AHMC is hereby added to read as follows:

**5.14.060     Medical Cannabis Collective Garden Requirements**

- A. License Requirements for Operators.  
It is unlawful to conduct, operate or maintain a medical cannabis collective garden unless such premises has a current medical cannabis collective garden regulatory license obtained in the manner prescribed in this chapter. “Premises” includes all locations used by a collective garden to grow, store, process, transport, or distribute medical cannabis to its qualified patients.
- B. License Applicant Requirements.  
License applicants and all persons who receive wages, fees, donations or compensation of any kind for performing collective garden activities (“operators”) shall meet the following requirements:
  - 1. Must be a qualified patient or designated provider of a qualified patient and must submit valid documentation, or written designation by a qualified patient with that patient’s valid documentation and proof of identification deemed acceptable by the clerk.
  - 2. Must be at least eighteen years of age.
  - 3. May have no felony convictions of state or federal laws within the ten years preceding date of application.
  - 4. No one with law enforcement or regulatory authority related to medical cannabis collective gardens employed by the City of Airway Heights shall be permitted to obtain a medical cannabis collective garden regulatory license.
- C. Premises Requirements.  
Collective or co-operative garden premises must operate in compliance with the following conditions:



1. All premises or vehicles used or operated by the collective garden or co-operative shall have no greater aggregate quantities of cannabis, cannabis plants or cannabis-containing products than are allowed under RCW 69.51A.085.
2. No more than ten qualifying patients may participate in a single collective garden or co-operative garden at any time. A copy of each qualifying patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden.
3. No cannabis from the collective garden or co-operative garden may be delivered to anyone other than a qualifying patient participating in the collective garden or that patient's designated provider.
4. No cannabis, cannabis plants or representations of cannabis plants shall be used in signage or advertising or be visible to public view.
5. From a public right of way, there shall be no exterior display of medical cannabis cultivation visible outside of the premises.
6. A collective garden or co-operative garden shall be entirely within a permanent enclosed structure with a roof. The structure shall comply with all applicable code requirements.
7. Areas where cannabis is grown, stored or dispensed must be provided with ventilation/air filtration systems so that no odors are detectable off the premises.
8. All premises must comply with the noise control requirements of AHMC 8.08.050(A)(11).
9. No minors shall be permitted on any collective garden or co-operative garden premises unless accompanied by a parent or guardian.
10. Consumption of cannabis, products containing cannabis or alcohol on the premises is prohibited.
11. The premises shall be closed to any distribution of cannabis between the hours of ten p.m. and seven a.m.
12. Any transportation or delivery of cannabis from a collective garden co-operative garden shall be conducted by the garden members or designated provider so that quantities of medical cannabis allowed by RCW 69.51A.040 are never exceeded. Vehicles used to deliver cannabis may have the name of the collective garden co-operative garden printed on the vehicle along with related identifying information such as an address and phone number. There shall be no depiction of cannabis,

cannabis plants or representations of cannabis plants used as signage or advertising on the vehicle.

13. The premises of the medical cannabis collective garden or co-operative garden shall be identified on the application and subsequently on the regulatory license by its physical street address regardless of whether the product provided to the members of the collective garden or co-operative garden is delivered to the member or if the member receives the product at the collective or co-operative garden's physical location.
  14. A licensed premise must have installed on the premises a security and alarm system that is monitored twenty-four hours a day to include a video recording system that monitors production, storage and point of sale areas. All video recordings must be continuously recorded twenty-four hours a day and must be kept for a minimum of thirty days on the licensee's recording device. All videos are subject to inspection by the City police department upon request.
- D. Waste products must be disposed of in a secure manner that would prevent exposure to the public or create a nuisance.
- E. Land Use/Zoning Regulations.  
Medical cannabis collective gardens or co-operative gardens shall comply with all applicable zoning and land use regulations set forth in Title 17 AHMC.

**Section 8.** New Section. 5.14.070 of the AHMC is hereby added to read as follows:

**5.14.070 Violation**

- A. This chapter is subject to the administrative provisions of chapter AHMC 5.04.
- B. Licensees under this chapter must comply with all state laws under chapter 69.51A RCW for medical Cannabis.
- C. A violation of this chapter is a class 1 civil infraction. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

**Section 9.** New Section. 5.14.080 of the AHMC is hereby added to read as follows:

**5.14.080 Nuisance Abatement**

In addition to any other available remedy or penalty, any violation of this chapter, is declared to be a public nuisance per se, and may be abated under the applicable provisions of the Airway Heights Municipal Code and state law.

**Section 10.** New Chapter. A new chapter 5.15 entitled “State-Licensed Cannabis Producers, Processors, and Retailers”, consisting of two (2) sections, is hereby added to the Airway Heights Municipal Code (AHMC) as follows:

**Chapter 5.15  
State-Licensed Cannabis Producers, Processors and Retailers**

**Sections:**

- 5.15.010 Cannabis Producer, Processor and Retailer**
- 5.15.020 City Business License Required**

**Section 11.** New Section. 5.15.010 of the AHMC is hereby added to read as follows:

**5.15.010 Cannabis Producer, Processor and Retailer**

A cannabis producer, processor or retailer licensed by the State of Washington Liquor Control Board shall be required to comply with all applicable regulations established by the City including, but not limited to, all building and fire code regulations and zoning regulations and shall be required to provide a copy of the state-issued license to the City upon request.

**Section 12.** New Section. 5.15.020 of the AHMC is hereby added to read as follows:

**5.15.020 City Business License Required**

In addition to the state license, a cannabis producer, processor, or retailer shall obtain a City of Airway Heights business license, as required under AHMC 5.04.

**Section 13.** New Chapter. A new chapter 17.14 entitled “Medical Cannabis Collective Garden, Co-Operative Garden, or a Retail Outlet for Recreational Cannabis”, consisting of three (3) sections, is hereby added to the Airway Heights Municipal Code (AHMC) as follows:

**Chapter 17.14  
Medical Cannabis Collective Gardens, Co-Operatives, and Dispensaries & State-Licensed Cannabis Producers, Processors and Retailers**

**Sections:**

- 17.14.010 Purpose**
- 17.14.020 Description**
- 17.14.030 Regulations for a Medical Cannabis Collective Garden and State-Licensed Cannabis Producers, Processors and Retailers**

**Section 14.** New Section. 17.14.010 of the AHMC is hereby added to read as follows:

**17.14.010 Purpose**

This chapter provides zoning standards for the establishment of a medical cannabis collective or co-operative gardens established pursuant to chapter 69.51A RCW and for producer, processor and retailer of recreational cannabis licensed by the state pursuant to chapter 314-55 WAC.

**Section 15.** New Section. 17.14.020 of the AHMC is hereby added to read as follows:

**17.14.020 Description**

For the purpose of describing activities and other characteristics of a medical cannabis collective garden or a state-licensed recreational Cannabis producer, processor or retailer, the definitions of AHMC 5.14.030 are applicable. In addition to the requirements of AHMC 17.14, a medical cannabis collective or co-operative garden shall comply with the requirements of AHMC 5.14.060.

**Section 16.** New Section. 17.14.030 of the AHMC is hereby added to read as follows:

**17.14.030 Regulations for a Medical Cannabis Collective Garden and State-Licensed Cannabis Producers, Processors and Retailers**

A. City Zoning.

- a. Any site or location being used for a medical cannabis collective garden, or medical cannabis co-operative garden, is classified as an Agricultural Processing Plant, Warehouse land use as described in AHMC 17.05, Zoning Matrix. Agricultural Processing Plant, Warehouse uses are limited, as provided in Table 17.05, to I-1, Light Industrial and I-2, Heavy Industrial zoned properties.
- b. No person may conduct business within the City as a medical cannabis collective garden, or medical cannabis co-operative garden, unless the medical cannabis collective garden or medical cannabis co-operative, is located in I-1, Light-Industrial or I-2, Heavy Industrial zoned properties in accordance with Title 17, Zoning Code.
- c. No person may conduct business within the City as a facility for delivery of medical cannabis produced by a collective garden, or co-operative, unless the facility for delivery of cannabis produced by the garden is located within the C-2, General Commercial, I-1, Light-Industrial I-2, Heavy Industrial zoned properties, in accordance with Title 17, Zoning Code.
- d. A licensed medical cannabis collective garden, medical cannabis co-operative garden, or a facility for delivery of cannabis produced by the garden, shall not be permitted to front along Highway 2 (Sunset Highway). To “front” on Highway 2 means that the entrance to the facility faces Highway 2.

- e. A licensed medical cannabis collective garden, medical cannabis co-operative garden, or facility for delivery of cannabis produced by the garden, shall not be located within one thousand feet of the perimeter of the grounds of any of the following entities. The owner or operator of the medical cannabis collective garden shall have the responsibility to demonstrate that the collective garden is not within the one thousand foot perimeter of:
  - i. any other licensed medical cannabis collective garden operator or delivery site;
  - ii. any cannabis processor, producer or retailer licensed by the Washington State liquor control board;
  - iii. elementary or secondary school;
  - iv. playground;
  - v. recreational center or facility;
  - vi. child care center;
  - vii. public park;
  - viii. public transportation center;
  - ix. library;
  - x. any game arcade where admission is not restricted to persons age twenty-one or older; or
- f. Medical cannabis cultivation and sale are prohibited as a home occupation and are not considered as an accessory use in residential zones.
- g. Notwithstanding the provisions of chapter 17.14, an existing collective garden in operation as of the effective date of this chapter shall be brought into full compliance with the provisions of this chapter within one year of the effective date of the ordinance.

2. State-Licensed Cannabis Producers, Processors and Retailers.

- a. No person may conduct business within the City of Airway Heights as a state-licensed cannabis producer, processor and retailer unless they are located within the C-2, General Commercial, I-1, Light Industrial, and I-2 Heavy Industrial zoned properties in accordance with Title 17 Zoning

Code and licensed under this chapter.

- b. A state-licensed cannabis producer or processor is classified as an Agricultural Processing Plant, Warehouse land use as described in AHMC 17.05, Zoning Matrix. Agricultural Processing Plant, Warehouse uses are limited, as provided in Table 17.05, to I-1, Light Industrial and I-2, Heavy Industrial zoned properties.
  - c. A state-licensed cannabis retailer shall only locate in C-2, General Commercial, I-1, Light Industrial and I-2, Heavy Industrial zoned properties.
  - d. A state-licensed cannabis producer, processor or retailer, shall not be permitted to front along Highway 2 (Sunset Highway). To “front” on Highway 2 means that the entrance to the facility faces Highway 2.
  - e. A state-licensed cannabis producer, processor or retailer may not be located within one thousand feet of the perimeter of the grounds of any of the following entities. The owner or operator of the state-licensed cannabis producer, processor and retailer shall have the responsibility to demonstrate that the state-licensed cannabis producer, processor and retailer is not within the one thousand foot perimeter:
    - i. elementary or secondary school;
    - ii. playground;
    - iii. recreational center or facility;
    - iv. child care center;
    - v. public park;
    - vi. public transportation center;
    - vii. library; or
    - viii. any game arcade where admission is not restricted to persons age twenty-one or older.
- B. Waste products must be disposed of in a secure manner that would prevent exposure to the public or create a nuisance.
- C. Measurement.
- 1. The measurement of the separation distance in subsection (1)(c) and (2)(b) above shall be taken in a straight line from the point on the property line of the protected

uses specified in subsection (1)(c) and (2)(b) above closest to the production and processing facility, collective garden or retail outlets to the nearest physical point of the tenant space or structure housing a production or processing or retailer outlet or collective garden.

2. A protected use specified in subsection (1)(c) and (2)(b) above shall not benefit from the separation requirements of this subsection if the use chooses to locate within the required separation distance from a lawfully located production or processing facility, collective garden or retailer outlet.

**Section 8. Repealing Interim Ordinance, established pursuant to Ordinance C-833.**

The Interim Ordinance C-815, adopted on November 18, 2013, and extended through C-833 on May 26, 2014, providing interim zoning and regulatory standards for the licensing, locating, and dispensing of medical and I-502 recreational cannabis within the City of Airway Heights jurisdictional boundaries is hereby repealed.

**Section 9. No Nonconforming Uses.** No use that constitutes, or purports to be for, the dispensing of medical cannabis or cannabis infused products through an existing store front, as discussed in Sections 1-7, and that was engaged in such use prior to the enactment of Interim Ordinance C-815, shall be deemed to have been a legally established use under the provisions of the Airway Heights Municipal Code and shall not be entitled to claim legal nonconforming status.

**Section 10. Severability.** If any provision of this Ordinance, or its application to any person, entity or property, is for any reason held invalid by a court of competent jurisdiction, the remainder of the Ordinance, by the application of its provisions to other persons, entities or property shall not be affected.

**Section 11. Effective Date.** This ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

**INTRODUCED** the 4<sup>th</sup> day of August, 2014.

**PASSED** by the City Council of the City of Airway Heights this 18<sup>th</sup> day of August, 2014.

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Patrick D. Rushing, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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Richard G. Cook, Clerk-Treasurer

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Stanley M. Schwartz, City Attorney

Date of Publication: \_\_\_\_\_  
Ordinance C-834