

Title 17 Zoning

Chapter 17.01 INTRODUCTION

17.01.010 Title.

This title, together with the official zoning map and zoning matrix, is the official zoning code for the City of Airway Heights.

17.01.020 Purpose.

The general purpose of this title is to promote health, safety, and general welfare and to meet the prerequisites of RCW 36.70.560. The chapters in this title shall be interpreted as to carry out and implement the purpose and intent of the City of Airway Heights Comprehensive Plan as currently adopted and amended. More specifically, this title is intended to:

- A. Encourage orderly growth in the City;
- B. Promote compatible land use;
- C. Coordinate land use and transportation systems;
- D. Provide desired levels of population density and intensity of land use;
- E. Conserve and protect amenities;
- F. Facilitate the adequate provision of community services and utilities. (Ord. C-446, 2000)

17.01.030 Governing regulations.

Other official ordinances, regulations, and plans have a direct impact on the development of land in the City. These include, but are not limited to, the Comprehensive Plan; AHMC Title 14, Development Code Administration; AHMC Title 15, Building Regulations; AHMC Title 16, Subdivisions; AHMC Title 18, Environment; and other ordinances, regulations, and plans of other regulatory agencies. Wherever provisions of these or other official regulations overlap or are in conflict with provisions of this title, the more restrictive provisions, to the extent lawful, shall govern. (Ord. C-446, 2000)

Chapter 17.02 COMPREHENSIVE PLAN

17.02.010 Adopted by reference.

The City of Airway Heights Comprehensive Plan, as recommended by the City Planning Commission, by this reference is adopted as the plan for the physical and other general advantageous development of the City. Applications for rezones, conditional use permits, variances, and other actions governed by this title shall be reviewed for consistency with the City of Airway Heights Comprehensive Plan. The Comprehensive Plan is designed to satisfy the Washington State Growth Management Act, the Spokane County-wide planning policies, and Airway Heights' locally adopted goals and policies. It is the result of much public participation, and it is the expression of the popular will. The Comprehensive Plan represents decisions regarding the City's growth which are intended to guide the zoning and subdivision ordinances, as well as capital improvements, budgeting, and other development regulations shaping the physical community. This title provides a legal instrument for consistent implementation of the City's Comprehensive Plan. (Ord. C-446, 2000)

Chapter 17.03 GENERAL PROVISIONS

17.03.010 Title.

This title shall be known as the “Zoning Ordinance of the City of Airway Heights.”

17.03.020 Interpretation of provisions.

The provisions of this title shall be the minimum requirements adopted for the promotion of public health, safety, welfare and protection. No use listed in this title shall be construed to include other uses unless the language clearly indicates such interpretation. The listing of prohibited uses is for purposes of emphasis or illustration. A zoning matrix is included for referencing permitted uses and conditional uses in each zone. Not all possible uses or variations can be reasonably listed or categorized. If a use is not specifically listed, it shall be reviewed by the City Planner to determine the closest comparative use in the zoning matrix per AHMC [17.05.030](#). The City Planner looks to the Zoning Matrix first for allowed uses in coordination with the Zoning Map and the individual Zoning Code sections. Whenever the provisions the Airway Heights Municipal Code are found to be in conflict with the provisions of any other ordinance, the provisions of this title shall prevail.

17.03.030 Enforcing and administrative officers designated.

The Community Development Director or his or her designee shall be the enforcing and administrative officers for this title.

17.03.040 Intent of administrative procedures.

Certain administrative decisions for the use of land or structures may be made by the City Planner without public hearing, but such decisions will be provided an appeal process.

17.03.050 Administrative decisions.

Decisions and interpretations which apply the provisions of this title shall be held to be minimum requirements for the promotion of the public health, safety and general welfare. The City Planner may make administrative decisions regarding the following:

A. Requests for formal interpretations as to the meaning, intent or proper development and use of land or structures, or the interpretation of a zoning map boundary, shall be made in writing. The City Planner shall issue a determination in writing within one week of receiving a formal written request. Such determinations are appealable under the provisions of Chapter [14.06](#) AHMC.

B. Alterations or additions to an approved site development plan which are minor in nature may be approved administratively and include the following:

1. Additions to buildings; provided, that the increase in floor area is less than 10 percent of the total building floor area, and does not exceed minimum requirements of the zone in which it is located;

2. Minor adjustments to the site plan including building locations, parking, and landscaping, provided the minimum zoning requirements are met;

3. Changes in use for a zone from what was originally proposed; provided, that the impacts and intensity of the use are equivalent in nature and consistent with the allowed uses in the zone in which it is located.

C. Requests for temporary use permits, under this title.

17.03.060 Administrative exceptions.

A. Administrative exceptions may be granted by the City Planner when they involve any of the following circumstances:

1. Any dimensional requirement that does not exceed one foot;

2. Front, rear, and corner yard setback requirements where the deviation is for 10 percent or less of the required yard. No administrative exceptions are allowed for side yard setbacks;

3. Building height requirements where the deviation is for 10 percent or less of the maximum building height;

4. Minimum lot area requirements where the deviation is for an individual lot and is for five percent or less of the required lot area;

5. Maximum building coverage requirements where the variance is for five percent or less of the maximum building coverage;

6. Lot frontage where the deviation is 10 percent or less than the required lot frontage;

7. Yard setback exceptions are allowed for the following extensions: eaves or cornices projecting two feet; steps, terraces, porches with no roof may extend 10 feet (except in side yard); fireplaces may extend two feet.

8. A nonconforming single-family residence may expand the primary use (not the accessory use) provided there is no detriment to surrounding properties, no public health or safety issue is created, the expansion does not exceed the larger of 50 percent or 800 square feet of the existing primary use footprint, and the expansion is subject to reasonable conditions imposed by the City Planner, including a limitation on future expansions of the building, the filing of a covenant declaring the property to be a nonconforming use subject to conditions imposed by the City Planner and that the expansion does not violate any setback, height, or lot area requirements.

B. Applications for administrative exceptions must be made in writing. The City Planner shall provide a written decision within 30 days in granting or denying an administrative exception. The written decision must indicate how the administrative exception is consistent or inconsistent with the zoning. The City Planner, after reviewing a request for an administrative exception, may determine that a variance is required and direct the applicant accordingly. Any City official or the Planning Commission itself may initiate a review by the Commission of any interpretation of this title by the City Planner.

17.03.065 Temporary use permit.

It is the purpose of this section to provide a process and criteria for authorizing certain uses or activities of a nonpermanent nature for limited duration. This section will allow for the review of proposed uses which, because of considerations of traffic, noise, lighting, hazards, health and environmental issues, require a case-by-case review to determine if the temporary use is appropriate on the site and in the vicinity. The imposition of conditions on the approval of an application can occur in order to reduce impacts to adjacent properties and uses.

A. Temporary use permit shall be subject to an administrative review process and may be approved, approved with conditions or denied.

B. The provisions of this chapter shall not apply to:

1. Funeral processions;

2. Groups required by law to be so assembled;

3. Pedestrian processions along a route that is restricted to sidewalks and crossing streets only at pedestrian crosswalks in accordance with traffic regulations and controls; and

4. Activities and events deemed by the City Planner to not require a special events permit.

C. Upon submitting the temporary use permit application, the applicant shall also submit a declaration demonstrating property owners within 100 feet of the site proposed for the temporary use were notified in writing or reasonable attempts were made to notify them in writing of the use. The proposed site will be posted with 8.5-inch by 11-inch notification sheet(s), posted as approved by the City Planner. A five-day comment period will begin when the property has been posted and the notifications mailed or delivered. Written notification and posting text shall be reviewed and approved by the City Planner.

D. A transportation management/parking plan appropriate for the size and type of event may be required.

E. A temporary use permit, after consideration of comments, will be approved, in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

1. The temporary use shall occur for a maximum of 30 days during any 12-month period.

2. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

3. The proposed site is adequate in size and shape to accommodate the temporary use and the proposed layout and hours of operation ensure the temporary use will operate without detriment to the use and enjoyment of other properties in the project vicinity.

4. The project makes adequate provision for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection.

5. Adequate temporary transportation management/parking must be in place to accommodate vehicular traffic to be generated by the use. Parking will be available either on-site or at alternate locations acceptable to the review authority.

F. If the use is demonstrated to have a negative impact in excess of those presented at the time of application or the effects of the event are greater than anticipated, the permit may be revoked or the conditions may be modified to mitigate for impacts by the City Manager. The City Manager may cancel a temporary use permit for failure to comply with the terms of the permit or other City ordinances.

G. Authorization of a temporary use permit shall be valid for the time specified in the approval, but not to exceed 12 months with a maximum of 30 days of use.

H. Appeals may be made in accordance with Chapter [14.06](#) AHMC.

I. Violation. Any person violating any provision of this code will be subject to the provisions provided in Chapter [1.16](#) AHMC.

J. Hold Harmless. As a condition to the issuance of any permit under this chapter, the applicant shall agree to defend, indemnify and hold harmless the City of Airway Heights, its officers, employees and agents for any and all suits, claims or liabilities caused by or arising out of any use authorized by any such permit.

K. Additional permits may be required to meet the conditions established by the permit and other City codes.

17.03.070 Amendments to zoning title or map.

The City may amend the zoning title or map when it finds that any of the following applies:

A. Such amendment is consistent with the Comprehensive Plan and is not detrimental to the public health, safety, and welfare;

B. Change in economic, technological, or land use conditions has occurred to warrant modification of the zoning title or map;

C. An amendment is necessary to correct an error in the zoning title or map;

D. An amendment is necessary to clarify the meaning or intent of the zoning title or map;

E. An amendment is necessary to provide for a use or uses that were not previously addressed;

F. Those amendments deemed necessary by the Planning Commission and the City Council.

17.03.080 Initiation of zoning title and map amendments.

A. Amendments to the zoning map may be initiated by the Planning Commission upon its own motion, or by the City Council, provided due notice is posted and public hearing is held as prescribed by law; or amendments may be initiated by individual property owners or by a petition of property owners, which petition shall contain the signatures of 61 percent of the property owners within a radius of 300 feet of the subject property, exclusive of public rights-of-way.

B. Amendments to the zoning title may be initiated by the Planning Commission upon its own motion; by the City Council, provided due notice is posted and public hearing is held as prescribed by law; or by individual property owners and/or citizens of Airway Heights.

C. Upon receipt of an application or petition to amend the zoning title or map, the City Planner shall prepare a written report that shall be forwarded to the applicable hearing body(s).

D. Recommendations concerning proposed amendments to the zoning title or map shall be made by the Planning Commission and reported within 90 days of the City's receipt of the application or petition.

17.03.090 Variances.

A. In any case involving undue hardship and practical difficulties rendering compliance with this title extremely difficult, the Hearing Examiner shall have the power to grant a variance from any rule, regulation, or provision of this title, bearing in mind the spirit of this title, public safety, and substantial justice. However, no variance shall be granted unless the Hearing Examiner finds that all of the following conditions have been met:

1. Due to special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning title creates practical difficulties and is found to deprive the property of rights and privileges enjoyed by other properties in the vicinity and in similar zoning; and

2. The granting of the variance will neither be materially detrimental to the public welfare nor injurious to the property or improvements in the vicinity and zone in which the property is located.

B. Decision guidelines for consideration of granting a variance request include:

1. Strict application of the zoning title creates an unreasonable burden in light of the purpose to be served by the title;

2. Relaxation of the zoning title requirement will allow a more environmentally sensitive, energy-conserving, or superior design;

3. A broader public interest or community need or interest will be served by granting the variance;

4. The granting of a variance should not be based upon precedent established by illegal or nonconforming circumstances;

5. A variance should not establish a precedent or result in a de facto zone reclassification;

6. A variance should be consistent with the intent and general purpose of the Comprehensive Plan.

17.03.100 Conditional use permits.

The Hearing Examiner shall have the authority to grant a conditional use permit based upon criteria for determining the conditions that would apply for compatibility. Additional conditions may be applied for a conditional use permit to assure compatibility of the use with other uses in the zone. Before issuing a conditional use permit the following facts and conditions must exist:

A. Adequate conditions and restrictions are attached to the development of the property to ensure that the proposed use will be compatible with uses permitted outright in the location;

B. The standards as outlined in the zoning title for the zone shall be met;

C. Considerations and special conditions that may be applied to a conditional use permit include conditions to increase compatibility and provide mitigation of environmental impacts such as: noise; light and glare; increased yard setbacks; special landscaping and screening; hours of operation, and other reasonable conditions to uphold the spirit and intent of the zoning title and the Comprehensive Plan. The Hearing Examiner may apply the following conditions and requirements to a conditional use:

1. Control of use;

2. Provision for front, side, or rear setbacks greater than the minimum standards of the zone within which the property is located;

3. Special landscaping, screening, fencing, signing, off-street parking, public transit, and high occupancy vehicle facilities or any other general development standards;

4. Requiring street dedications and roadway and drainage improvements necessary as a result of the proposed use;

5. Control of points of ingress and egress;

6. Control of noise, vibration, odor, glare, and other environmental contaminants; control of operating hours; duration or time limitations for certain activities;

7. Environmental impact requirements: any other reasonable restrictions, conditions, or safeguards that will uphold the spirit and intent of this code and the Comprehensive Plan and mitigate any adverse impact upon adjacent properties by reason of use, extension, construction, or alterations allowed.

17.03.110 Applications.

A. Any person desiring to request a variance, zone change, or conditional use permit shall submit a complete application on a form provided by the City, a SEPA environmental checklist if not exempt under Chapter [18.01](#) AHMC, and appropriate application fees as provided in AHMC [17.03.120](#).

B. Applications for variances shall include proof of ownership and a site plan, if applicable, illustrating the special circumstance identified for consideration by the Planning Commission.

C. Applications for zone changes and conditional use permits shall include proof of ownership and a site plan of acceptable quality, prepared in a neat and legible manner in pencil or ink on high grade 24-by-36-inch paper and at a horizontal scale of one inch equals 50 feet or one inch equals 100 feet, or as approved by the City Planner. The site plan need not be prepared by a licensed land surveyor, but must include the following features and information:

1. Names and addresses of on-site and adjacent property owners, tract designations or subdivision names, location of site by section, township, and range, legal description certified by a registered land surveyor, notations indicating size, scale, north arrow, and date of preparation;

2. Boundary lines and dimensions of the site and bordering lines of all adjacent parcels;

3. Easements and rights-of-way on or adjacent to the site, including location width, and purpose;
4. Streets and alleys on or adjacent to the site, including name, location, and right-of-way widths;
5. Utilities on and adjacent to the site;
6. Ground elevations, with 10-foot contours if land slope is regular. More detailed mapping may be requested for uneven land or slopes exceeding 10 percent;
7. Existing zoning classifications on and adjacent to the site;
8. Approximate location of existing and proposed buildings, septic tanks, drainfields, wells or other improvements;
9. Approximate location of all natural features such as wooded areas, streams, or drainageways;
10. Minimum building setback lines;
11. Sites, if any, to be reserved or offered for sale for parks, playgrounds, or other public uses.

17.03.120 Fees.

There shall be paid to the City a fee determined by Council resolution upon the submission of any request for a variance, zone change, temporary use, or conditional use permit, and unless such fee is first paid, no request shall be considered.

17.03.130 Notice of application and public hearing.

Upon receipt of a complete application or petition for a variance, zone change, or conditional use permit, public notice shall be provided in accordance with Chapter [14.04](#) AHMC. Notice of public hearings shall also be provided in accordance with Chapter [14.04](#) AHMC. Such hearings shall be open to the public and any person may support or object to the granting of any petition.

17.03.140 Report of Planning Commission or Hearing Examiner decision.

A. Upon any decision granting or denying a petition for a zone change or a recommendation on an amendment of general applicability to the zoning title or map, the Planning Commission shall prepare a written report within 10 days which shall contain a review of the facts, the findings and opinion of the Commission, and such orders as the Commission deems necessary in such case. All parties of record shall receive a copy of the Planning Commission's decision, along with findings of fact and specific conclusions. Actions of the Planning Commission are final unless appealed to the Hearing Examiner. Recommendations of the Planning Commission regarding amendments of general applicability to the zoning title or map shall be reviewed and acted upon by the City Council, in accordance with AHMC Title 14, Development Code Administration.

B. Upon any decision granting or denying a petition for a variance, conditional use permit, or an appeal of an administrative decision, the Hearing Examiner shall prepare a written report within 10 days which shall contain a review of the facts, the findings and opinion of the Hearing Examiner, and such orders as the Examiner deems necessary in such case. All parties of record shall receive a copy of the Planning Commission's decision, along with findings of fact and specific conclusions. Actions of the Hearing Examiner are final unless appealed to the Spokane County Superior Court in accordance with AHMC Title 14, Development Code Administration.

C. A conditional use permit may be suspended or revoked if, after public hearing with notice as provided in the AHMC, the Planning Commission finds that a grantee or their successors in interest fail to comply with conditions or restrictions contained in the findings of fact and specific conclusions. Actions of the Planning Commission are final unless appealed to the Hearing Examiner.

17.03.150 Records.

The Planning Department shall keep a permanent record of all petitions, and applications on appeal, for variances, zone changes, and conditional use permits, together with a permanent record of all decisions and orders of the Commission in connection therewith. Such records shall be open to the public. The Planning Department shall prepare and transmit to the Hearing Examiner all necessary copies of such records and other necessary information.

17.03.160 Appeals.

Actions of the Hearing Examiner, Planning Commission, or Planning Department may be appealed in accordance with AHMC 14.06.

17.03.170 Nonconforming uses.

A. There are currently permitted land uses that are not consistent with the Comprehensive Plan and the zoning established to implement the land use goals and policies in the Comprehensive Plan. The City recognizes that previously permitted activities will remain allowable under the new Comprehensive Plan and the provisions of this chapter. These uses, however, will not be allowed to expand if they are not consistent with the land use plan and zoning since they will become nonconforming uses, unless specifically allowed within the zoning district. Nonconforming uses within the City are encouraged to be eventually replaced with uses that are consistent with the Comprehensive Plan and zoning.

B. The regulations contained in this chapter shall govern the continuation of nonconforming uses.

C. The use of the land or premises existing at the time of the adoption of the ordinance codified in this title can be continued, but if such nonconforming use is abandoned for a period of one year or more, any further use of such land or buildings shall be in conformity with the provisions of this title. "Abandoned" means intent by the property owner (or landlord) to no longer use the property as a nonconforming use. During the above period, a property which is offered for sale or lease and maintained in conformance with City ordinance shall be evidence that the property is not abandoned. A determination of abandonment by the Director of Community Development may be appealed to the City Council or designee within 14 days of the determination.

D. In the C-1, C-2, I-1, I-2, M and APZ 1 or 2 zones, lawfully existing and established residential uses as of January 1, 1970, shall be considered conforming and allowed to continue until abandoned. Maintenance, repair, and replacement of existing structures, improvements and buildings shall be allowed. Expansion and replacement of existing residential structures shall be permitted as long as no additional dwelling units are created. Expansion and replacement of existing residential uses shall adhere to the setbacks, building coverage and height, minimum lot area and frontage requirements. Expansion and replacement of residential structures not in a residential zone shall conform to the specifications set forth in the residential zone in which the use most closely resembles; except, replacement that does not exceed the prior footprint shall be permitted subject to the setback regulations at the time the structure was established and placed in use. Previously permitted residential uses that do not currently exist, where the use of the property has not changed, can be reestablished if the property owner can demonstrate the previous use. Adding structures to the nonconforming use is permitted and will follow the regulations of the closest zoning.

17.03.180 Restoration restrictions.

Nothing in this chapter shall be deemed to prohibit the restoration of a building within a period of six months from the date of its destruction by fire, explosion, or act of God; provided, however, that setback and yard requirements shall be adhered to and there is no increase in the square footage of the previous building. Such restoration shall begin within six months and be completed within one year. No restoration of nonconforming uses will be allowed in the AICUZ overlay crash zone or where sound level is 70 or more decibels if such use is a prohibited use in that zone.

17.03.190 Recreational vehicle residences – Restrictions.

The nonconforming use of a recreational vehicle as a residence shall be terminated upon the removal of the recreational vehicle from the lot.

17.03.200 Number of uses per lot.

There shall be no more than one residential dwelling unit per buildable lot, unless specifically permitted by the zone or approved as a conditional accessory unit. There shall be no more than one primary use per buildable lot, unless specifically permitted by the zone. Primary uses shall be generally defined as the following: residential use; business/commercial use; industrial use; public and semi-public use; and mining.

17.03.210 Vacated right-of-way.

Whenever a street right-of-way is vacated or railroad right-of-way abandoned, and such right-of-way is not zoned, the zone designation of the land abutting the right-of-way will be adopted. Where zoning is different on each side of the right-of-way, the centerline of the right-of-way shall be considered the boundary between the two zones.