

CITY OF ATWATER
COMMUNITY DEVELOPMENT AND RESOURCES
COMMISSION
AGENDA

April 18, 2018

CALL TO ORDER: (Council Chambers)

6:00 PM



PLEDGE OF ALLEGIANCE TO THE FLAG:

INVOCATION:

ROLL CALL:

Dash____, Daugherty____, McWatters____, Murphy III____, Pinto____,

Warchol____, Brice____

SUBSEQUENT NEED ITEMS: (The City Clerk shall announce any requests for items requiring immediate action subsequent to the posting of the agenda. Subsequent need items require a two-thirds vote of the members of the City Council present at the meeting.)

APPROVAL OF AGENDA AS POSTED OR AMENDED: (This is the time for the Commission to remove items from the agenda or to change the order of the agenda.)

CEREMONIAL MATTERS:

- 1. Oath of Office for newly appointed Community Development and Resources Commission member**

Recommendation: Ceremonial Oath of Office be given to the newly appointed Community Development and Resources Commission member.

- 2. Selection of Community Development and Resources Commission Chairperson**

Recommendation: Open nomination period for the purposes of

nominating a Chairperson to serve for calendar year 2018; and

Motion to appoint Commissioner _____ to serve as Chairperson of the Community Development and Resources Commission for the calendar year 2018.

3. Selection of Community Development and Resources Commission Vice Chairperson

Recommendation: Open nomination period for the purposes of nominating a Vice Chairperson to serve for calendar year 2018; and

Motion to appoint Commissioner _____ to serve as Vice Chairperson of the Community Development and Resources Commission for the calendar year 2018.

COMMENTS FROM THE PUBLIC:

NOTICE TO THE PUBLIC

At this time any person may comment on any item which is not on the agenda, that is within the jurisdiction of the Community Development and Resources Commission. Please state your name for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda.

To comment on an item that is **on** the agenda, please wait until the item is read for consideration; please limit comments to a maximum of three (3) minutes.

Civility is expected from members of the public during the meeting. For more efficient use of time, disruptive behavior will not be tolerated. While you may not agree with what an individual is saying, please treat everyone with courtesy and respect.

APPROVAL OF MINUTES:

4. Special Meeting of February 28, 2018

Recommendation: Motion to approve minutes as listed.

PETITIONS AND COMMUNICATIONS:

5. Request from Atwater Pentecost Association (APC) for approval of annual parade to be held on June 24, 2014

Recommendation: Motion to approve request from APC

Motion to approve staff's recommendation as presented.

PUBLIC HEARINGS:

6. **Making the Environmental Determination that the project is categorically exempt under CEQA guideline section 15311(a), and adopting Resolution No. CDRC 055-18 Approving Conditional Use Permit No. 553-18 (Outdoor Advertising Freeway Billboard Sign Seventy (70) foot @ 300 Commerce Avenue)**

Recommendation: Opening the Public Hearing and taking any testimony given; and

Motion to make the Environmental Determination that the project is categorically exempt under CEQA guideline section 15311(a), and adopt Resolution No. CDRC 055-18 approving Conditional Use Permit No. 553-18 Outdoor Advertising Freeway Billboard Sign; or

Motion to approve staff's recommendation as presented.

7. **Resolution No. CDRC 056-18 recommending that the Atwater City Council adopt Ordinance No. CS 995 amending Section 17.40.030 and Section 17.42.030, and Repealing Section 17.75.120 of the Atwater Municipal Code, relating to Cannabis Regulation**

Recommendation: Opening the Public Hearing and taking any testimony given; and

Motion to adopt Resolution No. CDRC 056-18 recommending that the Atwater City Council adopt Ordinance No. CS 995 amending Section 17.40.030 and Section 17.42.030, and Repealing Section 17.75.120 of the Atwater Municipal Code, relating to Cannabis Regulation; or

Motion to approve staff's recommendation as presented.

REPORTS AND PRESENTATIONS FROM STAFF:

8. Verbal Update on Traffic Signal Camera Project located at Shaffer Road and SP

COMMISSIONER MATTERS:

9. Community Development and Resources Commissioners Comments

ADJOURNMENT:

CERTIFICATION:

I, Lori Waterman, Community Development and Resources Recording Secretary, do hereby certify that a copy of the foregoing Agenda was posted at City Hall a minimum of 72 hours prior to the meeting.



LORI WATERMAN
RECORDING SECRETARY

SB 343 NOTICE

In accordance with California Government Code Section 54957.5, any writing or document that is a public record, relates to an open session agenda item and is distributed less than 72 hours prior to a regular meeting will be made available for public inspection in the office of the City Clerk at City Hall during normal business hours at 750 Bellevue Road.

If, however, the document or writing is not distributed until the regular meeting to which it relates, then the document or writing will be made available to the public at the location of the meeting, as listed on this agenda at 750 Bellevue Road.



In compliance with the Federal Americans with Disabilities Act of 1990, upon request, the agenda can be provided in an alternative format to accommodate special needs. If you require special accommodations to participate in a City Council, Commission, or Committee meeting due to a disability, please contact the City Clerk's Office a minimum of three (3) business days in advance of the meeting at 357-6205. You may also send the request by email to lrasmussen@atwater.org.



4



COMMUNITY DEVELOPMENT AND RESOURCES COMMISSION

SPECIAL ACTION MINUTES

February 28, 2018

CALL TO ORDER:

The Community Development and Resources Commission of Atwater met in Special Session this date at 6:00 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Chair Brice presiding.

PLEDGE OF ALLEGIANCE:

The pledge of allegiance was led by Chair Brice.

INVOCATION: *The Invocation was given by Police Chaplain.*

ROLL CALL:

Present: Commissioners Dash, Daugherty, McWatters, Murphy, Vacant,
Chair Brice

Absent: Commissioner Warchol

Staff Present: Interim Public Works Director Shaw, City Contract Planner
Thompson, Interim Community Development
Director/Recording Secretary Waterman

SUBSEQUENT NEED ITEMS: *None*

APPROVAL OF AGENDA AS POSTED OR AMENDED:

MOTION: *Commissioner Dash moved to approve the agenda as presented. The motion was seconded by Commissioner Murphy III, and the vote was: Ayes: Dash, Daugherty, McWatters, Murphy III, Brice; Noes: None; Absent: Warchol. The motion passed.*

CEREMONIAL MATTERS: *None*

PUBLIC COMMENT:

Notice to the public was read.

No one came forward to speak at this time.

APPROVAL OF MINUTES:

Regular Meeting of January 17, 2018

MOTION: Commissioner Dash moved to approve the minutes as listed. The motion was seconded by Commissioner Daugherty, and the vote was: Ayes: Dash, Daugherty, Murphy III, Brice; Noes: None; Abstain: McWatters; Absent: Warchol. The motion passed.

PETITIONS AND COMMUNICATIONS: ***None.***

PUBLIC HEARINGS:

Resolution No. CDRC 053-18 Approving Conditional Use Permit No. 551-18 for Type 20 Alcohol License (316 E. Bellevue Road)

Applicant: Ravinder Singh / Randhawa, LLC

Chair Brice opened the Public Hearing.

No one came forward to speak, and Chair Brice closed the Public Hearing for this item.

Interim Community Development Director Waterman asked that the Commission amend the Resolution to include making the finding that the application and approval provides for public convenience and necessity as defined by the California Beverage Control.

MOTION: Commissioner Dash moved to adopt Resolution No. CDRC 053-18 adopting CDRC Resolution No. 053-18 approving Conditional Use Permit No. 551-18 for Type 20 Alcohol License (316 E. Bellevue Road) as amended to include making the finding of public convenience and necessity. The motion was seconded by Commissioner McWatters, and the vote was: Ayes: Dash, Daugherty, Murphy III, McWatters, Brice; Noes: None; Absent: Warchol. The motion passed.

REPORTS AND PRESENTATIONS FROM STAFF: ***None.***

COMMISSIONER MATTERS:

Comments from Community Development and Resources Commissioners

Commissioner Dash thanked Phase 1 Construction for cleaning up their construction yard, and stated it is looking better. She also questioned the sign located at Phase 1.

Commissioner Daugherty asked about no parking on Olive Avenue and the truck route in Atwater.

Commissioner McWatters had no comments.

Commissioner Murphy III, expressed concern about the speed of the vehicles exiting the freeway to Atwater Boulevard, and suggested a possible signal light, bumps or grinding the asphalt to slow the traffic. He asked about the status of the Juniper Project.

Chair Brice had no comments.

ADJOURNMENT:

The meeting adjourned at 6:18 PM.

Gary Brice, Chairperson

Lori Waterman, CMC
Recording Secretary



5

Atwater Pentecost Association

P.O. Box 331, Atwater CA 95301

April 4, 2018



Dear Atwater City Counsel,

The Atwater Pentecost Association was founded in 1911 in the city of Atwater, California. It is a non-profit organization which serves our community. Throughout the year our organization organizes several events that preserve the Portuguese culture, heritage and traditions. On June 24, 2018, we have our annual festival that includes a ceremonial parade from the APC Hall to St. Anthony's Church; and then a return parade back to the APC grounds for a public feeding of sopas for the community.

Our committee would like to request permission from the Atwater City Counsel to conduct our annual parade route on June 24, 2018 as noted below.

8:00 AM – Parade formation in front of the APC Hall – 1420 Third St. Atwater, Ca.

8:45 AM – Parade route begins to St. Anthony's Church from the APC Hall. Route to be as follows (APC 1420 Third St, to Broadway, to Winton Way, to St. Anthony's Church).

11:15 AM – Parade return route to the APC Hall from St. Anthony's Church. Route to be as follows (St. Anthony's Church, to Winton Way, to Grove, to Third St, to the APC Hall).

The Atwater Pentecost Committee thanks the Atwater City Counsel in advance for considering our annual parade request. Please contact me at 559-800-1014 or 209-358-1953 for any additional requested information.

Sincerely,

Handwritten signature of D. A. DeAlencar, dated 4-4-18.

2018 - President of Atwater Pentecost



6



**COMMUNITY DEVELOPMENT
AND RESOURCES
COMMISSION
AGENDA REPORT**

COMMISSIONERS

Gary Brice, Chair
Ron Daugherty Mary McWatters
Jim Murphy, III Manuel Pinto
Fred Warchol

MEETING DATE: April 18, 2018

TO: Chair and Commissioners

FROM: Greg Thompson, Senior Planner VVH Consulting Engineers
jhendrix@atwater.org or (209)357-6342

SUBJECT: Making the Environmental Determination and adopting Resolution No. CDRC 055-18 Approving Conditional Use Permit No. 553-18 (Outdoor Advertising Freeway Billboard Sign)

RECOMMENDED COMMISSION ACTION:

Staff recommends Commission open the public hearing and take any testimony from the public; and

Make the determination that the project is categorically exempt under the California Environmental Quality Act (CEQA) guideline section: 15311(a) "construction or replacement of minor structures accessory to existing commercial, industrial, or institutional facilities, including (a) On-premise signs"; and

Adopt Resolution No. CDRC 055-18 approving Conditional Use Permit No. 553-18 Outdoor Advertising Freeway Billboard Sign (Commerce Avenue).

I. BACKGROUND:

Staff received the application for the construction of an outdoor advertising sign. The development review process for the proposed project is subject to the issuance of a Conditional Use Permit per Section 17.69.200 of the Atwater Municipal Code.

II. ANALYSIS:

Site Location: The subject property is located on the south side of Commerce Avenue, east of the intersection of Commerce Avenue and Industry Way in the south part of Atwater. The site consists of existing structural improvements for Industrial/Commercial

uses on one legal parcel with access from Commerce Avenue. All City services are provided onsite to the existing businesses.

Description of surrounding uses: The areas immediately adjacent to the subject property are all Business Park (B-P) South, East, West, and North with State Highway 99 directly to the North of the property. All of the anticipated uses for the project are consistent with uses described within the Atwater Municipal Code and designated zoning.


III. PUBLIC PARTICIPATION:

The Public Hearing notice was adequately noticed and advertised.

This project qualifies for a categorical exemption from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15311(a).

IV. STEPS FOLLOWING APPROVAL:

Following adoption of Resolution No. CDRC 055-18 approving CUP No. 553-18 the Recording Secretary will record the CUP and Resolution.

Approved by: 
Lori Waterman, Interim City Manager

Attachments:

1. Resolution



COMMUNITY DEVELOPMENT AND RESOURCES COMMISSION OF THE CITY OF ATWATER

RESOLUTION NO. CDRC 055-18

**A RESOLUTION OF THE COMMUNITY
DEVELOPMENT AND RESOURCE COMMISSION
OF THE CITY OF ATWATER DETERMINING
THAT THE PROJECT IS CATEGORICALLY
EXEMPT UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA) AND
APPROVING CONDITIONAL USE PERMIT 553-18
(OUTDOOR ADVERTIZING FREEWAY
BILLBOARD SIGN)**

WHEREAS, the Community Development and Resource Commission of the City of Atwater reviewed Conditional Use Permit No. 553-18 as submitted by Roger's Media Company, Inc., requesting placement of an approximately seventy (70) foot high freeway outdoor advertizing sign with approximately 660 +/- square feet of advertising sign face space to be located along Commerce Avenue; and

WHEREAS, said application was reviewed by the Community Development and Resource Commission of the City of Atwater on April 18, 2018; and

WHEREAS, this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15311(a); and

WHEREAS, ___person(s) spoke in favor of the amendment, ___person(s) spoke in opposition of the amendment and ___written comment(s) have been submitted either in opposition or in favor of the project; and

WHEREAS, the site can accommodate the proposed use and not have a detrimental effect on the health, safety, and welfare of the neighborhood nor have any adverse effect on the community; and

WHEREAS, the Community Development and Resource Commission finds that the following findings can be made for this amended conditional use permit:

1. That this application placement of an approximately seventy (70) foot high outdoor advertizing sign with approximately 660+/- square feet of advertising sign face space.
2. That the site is located in a Business Park, (B-P) Zone District and the proposed use is permitted in this zone.
3. That this site is designated by the Atwater General Plan as Business Park.
4. That this use is consistent with the purpose and intent of the Business Park Zone District.
5. That all the Mandatory findings set forth in Sections 17.69.200 and 17.71.010 of the Atwater Zoning Ordinance can be made.
6. That the public hearing for this application has been adequately noticed and advertised.

NOW THEREFORE BE IT RESOLVED, that the Community Development and Resource Commission of the City of Atwater does hereby approve Conditional Use Permit No. 553-18 subject to the following conditions:

1. That the applicant shall provide _____ () sets of detailed structural plans and calculations. Said plans shall be prepared by a civil or structural engineer licensed in the State of California.
2. That the project shall comply with the most current California Code of Regulations Title 24, parts 1 through 12, the most current Health and Safety Codes and the most current Fire and Life Safety Codes, all along with the California State Amendments. All building permit applications received by the City of Atwater Building Division on or after January 1, 2008 shall comply with parts 1 through 10 and part 12 of the 2007 edition of the California Code of Regulations Title 24.
3. That all necessary utilities installed to serve the sign shall be placed underground from the source.
4. That the applicant shall obtain an encroachment permit prior to any improvements made within the public right-of-way.
5. That the applicant shall control dust during the course of construction.
6. That the sign may not be placed within any easement.
7. That the applicant is responsible for constant maintenance and immediate graffiti removal from the sign.
8. That the Community Development and Resource Commission shall retain the right to reconsider Conditional Use Permit No. 553-18 at anytime.
9. That any violation of the Atwater Municipal Code shall be grounds for revocation of the Conditional Use Permit.
10. That this CUP shall expire in six (6) months from the day of approval if construction has not started.
11. The applicant or applicant's successor in interest shall indemnify and defend and hold harmless the City of Atwater, its agents, officers and employees from any and all claims, actions or proceedings against the City of Atwater, its agents, officers and employees to attack, set aside, void or annul any approval by the City of Atwater and its advisory agency appeal board or legislative body concerning this application,

which action is brought within applicable statutes of limitation. The City of Atwater shall promptly notify the applicant or applicant's successor in interest of any claim or proceedings and shall cooperate fully in the defense. If the city fails to do so, the applicant or applicant's successor in interest shall not thereafter be responsible to defend, indemnify or hold the City harmless. This condition may be placed on any plans or other documents pertaining to this application.

The foregoing resolution is hereby adopted this 18th day of April, 2018.

**AYES:
NOES:
ABSENT:**

APPROVED:

GARY BRICE, CHAIRMAN

ATTEST:

**LORI WATERMAN, CMC
ACTING SECRETARY**



7



**COMMUNITY DEVELOPMENT
AND RESOURCES
COMMISSION
AGENDA REPORT**

COMMISSIONERS

Gary Brice, Chair
Ron Daugherty Mary McWatters
Jim Murphy, III Manuel Pinto
Fred Warchol

MEETING DATE: April 18, 2018

TO: Chair and Commissioners

FROM: Douglas L. White, Interim City Attorney

SUBJECT: Resolution No. CDRC 556-18 recommending approval of Ordinance No. CS 995-18, Relating to Cannabis Regulation

RECOMMENDED COMMISSION ACTION:

Staff recommends the Community Development and Resources Commission (the "Commission") open the public hearing and take any testimony from the public; and

Adopt Resolution No. CDRC 556-18 recommending the Atwater City Council (the "City Council") adopt an ordinance (EXHIBIT "A") amending Section 17.40.030 and Section 17.42.030, and repealing Section 17.75.120 of the Atwater Municipal Code ("A.M.C."), relating to cannabis regulation (the "Cannabis Zoning Ordinance").

I. BACKGROUND:

On October 9, 2015, Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643), collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the state's first licensing system for commercial medicinal cannabis activity by qualified patients and their primary caregivers. MCRSA also preserved local control of these businesses by requiring that a medicinal cannabis business obtain a local permit in order to operate.

In November of 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age or older and the personal cultivation of up to six cannabis plants within a private residence. AUMA preserved the zoning authority for cities to allow or prohibit and cannabis businesses within its jurisdiction.

On October 23, 2017, the City Council adopted Ordinance No. CS 982 to enact comprehensive cannabis business regulations pursuant to AUMA (the "Cannabis

Ordinance”). The Cannabis Ordinance allowed cannabis cultivation, processing, extraction, manufacturing, nursery, testing, distribution, and transportation businesses within the Light Industrial Zone, Heavy Industrial Zone, and the Business Park District Overlay.

On June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which combined MCRSA and AUMA to create a single regulatory scheme for both medicinal and adult-use cannabis businesses.

On December 7, 2017, California state cannabis licensing authorities adopted emergency regulations that apply to AUMA and MAUCRSA and further regulate businesses engaged in commercial cannabis activity (the “Emergency Regulations”). Since the City of Atwater (the “City”) adopted the Cannabis Ordinance prior to the Emergency Regulations, it does not account for the numerous changes in law since last October. For example, the Cannabis Ordinance allows for cannabis transportation businesses, which are no longer a permissible business type.

II. DISCUSSION

The proposed ordinance will amend only the zoning provisions of the Cannabis Ordinance to ensure compliance with all applicable California statutory and regulatory requirements (“Cannabis Zoning Ordinance”). The Cannabis Zoning Ordinance accomplishes this in two ways.

First, the Cannabis Zoning Ordinance will amend the zoning code to allow a cannabis business as a conditional use in the Light Industrial Zone, Heavy Industrial Zone, and the Business Park District Overlay.

Second, the Cannabis Zoning Ordinance will repeal A.M.C. section 17.75.120, as those regulatory provisions will be moved by a separate ordinance to Title 5, “Business Taxes, Licenses and Regulations”. Cannabis business regulations should be located in Title 5 because this title includes local business regulations applicable to all businesses within the City.

III. PUBLIC PARTICIPATION:

The public hearing notice for the Cannabis Zoning Ordinance was published one time in the Merced Sun Star.

IV. ENVIRONMENTAL REVIEW:

MAUCRSA provides an exemption under the California Environmental Quality Act (“CEQA”) for any ordinance, rule, or regulation by a city that requires discretionary review and approval for commercial cannabis activity.¹ Additionally, this item does not constitute a project under the CEQA because it does not establish any entitlements or authorize any projects within the City.²

¹ Bus. & Prof. Code, § 26055, subd. (h).

² Pub. Res. Code, §§ 21065 & 21080.

V. SUBSEQUENT ACTION:

Upon adoption of the resolution recommending City Council approval of the Cannabis Zoning Ordinance (the "Resolution"), the City Council will review the Cannabis Zoning Ordinance and a revised cannabis business ordinance to ensure the City has legally compliant cannabis regulation.

Approved and Prepared by: _____
Douglas L. White, Interim City Attorney

City Manager: 
Lori Waterman, Interim City Manager

Attachments:

1. The Resolution
2. The Cannabis Zoning Ordinance



**CITY COUNCIL
OF THE
CITY OF ATWATER**

ORDINANCE NO. CS 995

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AWATER AMENDING SECTION 17.40.030 AND SECTION
17.42.030, AND REPEALING SECTION 17.75.120 OF THE
ATWATER MUNICIPAL CODE, RELATING TO CANNABIS
REGULATION**

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, on October 23, 2017, the City of Atwater adopted Ordinance No. CS 982 to enact cannabis regulations for cannabis businesses pursuant to AUMA and MAUCRSA (the "Cannabis Ordinance");

WHEREAS, on December 7, 2017, the Bureau of Cannabis Control, the Department of Agriculture, and the Department of Public Health issued final emergency regulations relating to all cannabis businesses allowed under state law (collectively, the "Emergency Regulations");

WHEREAS, the City Council of the City of Atwater ("City Council") desires to amend the Cannabis Ordinance to conform with the land use requirements of the Emergency Regulations, AUMA, and MAUCRSA;

WHEREAS, the City Council finds that (1) outdoor cannabis cultivation, whether for medical or adult-use purposes, can adversely affect the health, safety, and well-being of city residents and shall be prohibited commercially; (2) city-wide regulation of indoor cannabis activities is proper and necessary to avoid the risks of criminal activity; and (3) that cannabis activity without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity; and

WHEREAS, the City Council finds that this ordinance is in the best interest of the health, welfare, and safety of the public;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATWATER DOES ORDAIN AS FOLLOWS:

SECTION 1: Section 17.40.030 of the Atwater Municipal Code is hereby amended to read as follows:

Section 17.40.030 - Conditional uses.

Subject to conditional use permit:

- A. Public utility buildings and substations.
- B. Accessory uses to a permitted use such as cafeteria, restaurant, employees' auditorium, medical center, living quarters for night watchman or guard, when located on the same lot as the permitted use, and when located entirely within an enclosed building.
- C. Machine and welding shops, carpenters, manufacturers of furniture and similar items, and other uses which in the Planning Commissions opinion are not obnoxious, do not create noise, odors, smoke, bright lights or excessive vibrations, and are similar in character to those listed in this chapter.
- D. Contractors and lumber yards, but only when conducted within a building, or when enclosed by a solid fence of seven feet minimum height, provided that no material may be stacked higher than the height of the fence.
- E. Retail sales of products manufactured on the site and/or accessory to principal use; occasional auctions.
- F. Assembly, processing and packaging plants, provided any resulting nuisance shall be effectively confined to the buildings.
- G. Communication facilities.
- H. A cannabis business, as defined in Title 5.

- I. Other uses as determined by the Planning Commission to be of the same general character as other conditional uses in this district.

(Ord. CS 576, 1984; Ord. CS 780, 2-28-2000)

SECTION 2: Section 17.42.030 of the Atwater Municipal Code is hereby amended to read as follows:

Section - 17.42.030 - Conditional uses.

Subject to obtaining a use permit all uses not otherwise prohibited by law, except residential and commercial uses which are specifically excluded from this zone by provisions of Article 6 of this chapter and except other uses which, in the opinion of the Planning Commission, are objectionable by reason of the production of noise, offensive odors, smoke, bright light, vibration or involving the handling of explosive or dangerous materials; provided, however, none of the following uses or uses similar to the general character of the following shall be established in the M-2 district:

- A. Drilling for and/or removal of oil, gas, or other hydrocarbon substances.
- B. Commercial excavation of building or construction materials.
- C. Dumping disposal, incineration or reduction of garbage, sewage, offal, dead animals or refuse.
- D. Distillation of bones.
- E. Fat rendering.
- F. Manufacture or storage of acid, cement, explosives or fireworks, fertilizer, gas, glue, gypsum, lime or plaster of Paris.
- G. Stock yards or slaughter of animals.
- H. Refining of petroleum or its products.
- I. Smelting of copper, iron, tin, zinc, or other ores.
- J. Junk yards.
- K. Hog raising.
- L. A cannabis business, as defined in Title 5.

(Prior Code § 10-3.1701; Ord. CS 445, 1980; Ord. CS 583, 1984; Ord. CS 622, 1987)

SECTION 3: Section 17.75.120 of the Atwater Municipal Code is hereby deleted in its entirety.

SECTION 4. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

This ordinance was introduced at a regular meeting of the City Council of the City of Atwater held on _____, 2018. At a regular meeting of the City Council held on _____, 2018, the foregoing Ordinance was passed and adopted by the following vote:

**ADOPTED:
AYES:
NOES:
ABSENT:**

APPROVED:

JAMES E. PRICE, MAYOR

ATTEST:

DON HYLER III, CITY CLERK

APPROVED AS TO FORM:

**DOUGLAS L. WHITE,
INTERIM CITY ATTORNEY**



COMMUNITY DEVELOPMENT AND RESOURCES COMMISSION OF THE CITY OF ATWATER

RESOLUTION NO. CDRC 055-18

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AND RESOURCE COMMISSION OF THE CITY OF ATWATER RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING SECTION 17.40.030 AND SECTION 17.42.030, AND REPEALING SECTION 17.75.120 OF TITLE 17 OF THE ATWATER MUNICIPAL CODE, RELATING TO CANNABIS REGULATION

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence. AUMA preserved the zoning authority for cities to allow or prohibit cannabis businesses within its jurisdiction; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, on October 23, 2017, the City of Atwater ("City") adopted Ordinance No. CS 982 to enact cannabis regulations for cannabis businesses pursuant to AUMA and MAUCRSA (the "Cannabis Ordinance"). The Cannabis Ordinance allowed cannabis cultivation, processing, extraction, manufacturing, nursery, testing, distribution, and transportation businesses within the Light Industrial Zone, Heavy Industrial Zone, and the Business Park District Overlay;

WHEREAS, on December 7, 2017, the Bureau of Cannabis Control, the Department of Agriculture, and the Department of Public Health issued final emergency regulations relating to all cannabis businesses allowed under state law (collectively, the "Emergency Regulations");

WHEREAS, the proposed ordinance only addresses the possible zoning restrictions for cannabis businesses ("Cannabis Zoning Ordinance"); and

WHEREAS, the Cannabis Zoning Ordinance provides that a cannabis business is a conditional use within the Light Industrial Zone, Heavy Industrial Zone, and the Business Park District Overlay; and

WHEREAS, the Atwater Community Development and Resources Commission (the "Commission") finds that the Cannabis Zoning Ordinance will give the City clear land use guidelines applicable to cannabis businesses in accordance with state law while ensuring that no cannabis business will be located in any residential zones or areas of sensitive use; and

WHEREAS, the Commission finds that the Cannabis Zoning Ordinance is in the best interest of the health, welfare and safety of the public.

NOW, THEREFORE, BE IT RESOLVED, that the Community Development and Resources Commission of the City of Atwater hereby recommends the Atwater City Council approve Ordinance No. CS 995 amending Section 17.40.030 and Section 17.42.030, and Repealing Section 17.75.120 of Title 17 of the Atwater Municipal Code, relating to cannabis regulation.

The foregoing resolution is hereby adopted this 18th day of April, 2018.

AYES:

NOES:

ABSENT:

APPROVED:

GARY BRICE, CHAIRMAN

ATTEST:

LORI WATERMAN, CMC
ACTING SECRETARY