

**CITY OF RIVERBANK**

**ORDINANCE NO. 2020-002**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,  
CALIFORNIA, AMENDING TITLE XI: BUSINESS REGULATIONS BY ADDING  
CHAPTER 126: HEMP CULTIVATION TO THE RIVERBANK MUNICIPAL CODE**

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**WHEREAS**, in 2018, the State of California approved SB 1409 (codified as Food and Agricultural Code Sections 81002, 81003, 81004, 81005, 81006, 81007, and 810011 and California Health and Safety Code § 11018.5 and entitled “The California Industrial Hemp Farming Act” or “CIHFA” or the “Act”); and

**WHEREAS**, the intent of CIHFA was to amend the state’s definition of industrial hemp, allow the production of hemp by clonal propagation, delete certain requirements and prohibitions concerning the cultivation of hemp, reduce the registration processing time for industrial hemp growers from two years to one year, authorize the county boards of supervisors to adopt fees relating to the production of hemp, require a sampling process and the laboratory testing of industrial hemp, specify the type of testing (gas chromatography with a flame ionization detector), specify the destruction process of tested hemp that exceeds permitted THC levels, and authorize the California Department of Food and Agriculture (“CDFA”) to carry out a pilot program, and

**WHEREAS**, CIHFA also authorizes a city or county, by local ordinance and upon making a specified finding, to prohibit growers or seed breeders from conducting, or otherwise limit growers’ conduct of, industrial hemp cultivation, regardless of whether growers meet, or are exempt from, the registration requirements in the above described provisions or any other law; and

**WHEREAS**, the City Council finds that (1) outdoor industrial hemp activities can adversely affect the health, safety, and well-being of City residents; (2) City-wide prohibition of outdoor hemp is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, and malodorous smells that may result from such activities; and (3) outdoor hemp cultivation in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

**WHEREAS**, while the City Council finds that outdoor hemp cultivation is prohibited under the City’s permissive zoning regulations, it desires to enact this ordinance to make clear that such uses are prohibited throughout City limits; and

**WHEREAS**, the City Council of the City of Riverbank finds that this ordinance is consistent with the City’s current ban on the outdoor cultivation of cannabis and is in the best interest of the health, welfare and safety of the public.

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

**SECTION 1:** Title XI: Business Regulations of Riverbank’s Municipal Code shall be amended by adding Chapter 126: Hemp Cultivation, which shall read as follows:

**TITLE XI: BUSINESS REGULATIONS**

Chapter

**126. HEMP CULTIVATION**

Section

126.01 Definitions

126.05 Cultivation

**§ 126.01 Definitions.**

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOARD.** The California Industrial Hemp Advisory Board.

**COMMERCIAL HEMP ACTIVITY.** This shall mean cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, delivery transport, distribution, or sale of hemp or a hemp product, and other similar activities defined under Business & Professions Code § 19300.5, as amended from time to time.

**COMMISSIONER.** The Stanislaus County Agricultural Commissioner.

**CULTIVATION.** This shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of industrial hemp.

**ESTABLISHED AGRICULTURAL RESEARCH INSTITUTION.** This shall mean any institution that is either:

- (1) A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or

(2) An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001) that grows, cultivates, or manufactures industrial hemp for the purposes research conducted under an agricultural pilot program or other agricultural or academic research.

**INDUSTRIAL HEMP (OR HEMP).** This shall have the same meaning as that term defined in Section 11018.5 of the California Health and Safety Code.

**OUTDOOR CULTIVATION.** This shall mean cultivation of plants that are not grown within a fully enclosed and secure structure, and where such plants rely primarily on the sun for photosynthesis.

**SECRETARY.** The California Secretary of Food and Agriculture.

**SEED BREEDER.** This shall mean an individual or public or private institution or organization that is registered with the Stanislaus County Agricultural Commissioner to develop seed cultivars intended for sale or research.

**SEED CULTIVAR.** This shall mean a variety of industrial hemp.

**SEED DEVELOPMENT PLAN.** This shall mean a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

#### **§ 126.05 Cultivation.**

(A) Outdoor cultivation of industrial hemp is expressly prohibited in all zones and planned development areas in the City of Riverbank, and no permit shall be issued therefore. No person shall establish, engage in, conduct, or allow industrial hemp to be cultivated outdoors anywhere within the City.

**SECTION 2: Severability.** If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this chapter, or any part thereof is for any reason held to be 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. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

**SECTION 3:** This Ordinance shall become effective thirty (30) days from and after its final passage February 11, 2020, provided it is published pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

The foregoing ordinance was given its first reading and introduced by title only at a regular meeting of the City Council of the City of Riverbank on January 28, 2020. Said ordinance was given a second reading by title only and adopted.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Riverbank at a regular meeting on the 11<sup>th</sup> day of February, 2020; motioned by Councilmember District 4 Darlene Barber-Martinez, seconded by Councilmember District 3 Cal Campbell; moved said ordinance by a City Council vote of 5-0:

**AYES:** Barber-Martinez, Campbell, Fosi, Vice Mayor Uribe, and Mayor O’Brien  
**NAYS:** None  
**ABSENT:** None  
**ABSTAINED:** None

**ATTEST:**

**APPROVED:**

**(THE ORIGINAL DOCUMENT IS ON FILE WITH THE CITY CLERK)**

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Annabelle H. Aguilar, CMC  
City Clerk

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Richard D. O’Brien  
Mayor

**APPROVED AS TO FORM:**

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Tom P. Hallinan, City Attorney