

**THE CITY COUNCIL
OF THE CITY OF RIVERBANK
ORDINANCE 2022-002**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, AMENDING RIVERBANK MUNICIPAL CODE BY ADDING SECTIONS
§153.210 THROUGH §153.214 AND REPEALING IN THEIR ENTIRETY SECTIONS
§153.215, ZONING PERMITS, §153.216, USE PERMITS, §153.217, VARIANCE,
§153.218, APPEALS, AND §153.219 MOBILE HOME PERMITS, AND AMENDING
THEM WITH NEW SECTIONS §153.215 THROUGH §153.219**

WHEREAS, on March 2, 2022, notice of the Planning Commission public hearing was published in the Riverbank News in compliance with California Government Code Section 65090, and posted in public places throughout the City and on the City's website; and

WHEREAS, the Planning Commission held a public hearing on March 15, 2022 to consider an amendment to the City of Riverbank Municipal Code and with a vote of 4-0, recommended approval of this ordinance to the City Council; and

WHEREAS, the proposed amendments to the Riverbank Municipal Code implement the requirements of State law and add local policies that are within the scope of the State law; and

WHEREAS, the amendment is exempt according to the California Environmental Quality Act (CEQA) Article 5 §15061(b)(3) by the "Common Sense Exemption" that CEQA applies only to projects that have a potential for causing a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and

WHEREAS, The Riverbank Planning Commission made the following finding:

1. The proposed Zoning Ordinance Amendment is consistent with the City's General Plan Land Use Element.
2. The proposed Zoning Ordinance Amendment furthers the public interest, convenience, and general welfare of the City. The amendments would ensure consistency of the Riverbank Municipal Code with the General Plan and State law, and update application processing procedures that are relevant to the current practices in the planning profession.

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

SECTION 1: Title XV: Land Usage, Chapter 153: Zoning, Section 153.215: Zoning permits, Section 153.216: Use permits, Section 153.217: Variance, Section 153.218: Appeals, and Section 153.219: Mobile home permits, shall be repealed in its entirety and amended with new Title XV: Land Usage, Chapter 153 Zoning, Sections 153.215 through §153.219, and new Title XV: Land Usage, Chapter 153 Zoning, Sections 153.210 through 153.214 shall be added, which shall read as follows:

Administrative Procedures

Section

- 153.210 Purpose
- 153.211 Permits – General
- 153.212 Application
- 153.213 Supporting Information
- 153.214 Review Procedure
- 153.215 Public Hearing Notice
- 153.216 Use Permits
- 153.217 Architecture and Site Plan Review
- 153.218 Variance
- 153.219 Appeals

§ 153.210 PURPOSE

(A) The purpose of sections 153.210 through 153.219 is to provide administrative and legislative procedures for the review of plans, the processing and review of applications for consideration and relief under this Chapter, and for appeal procedures with respect to Community Development Director and Planning Commission determinations.

§ 153.211 PERMITS – GENERAL

(A) Application for any permit, variance, appeal, zoning ordinance amendment or other entitlement provided by this Chapter shall be prepared and submitted by the applicant, shall be processed by the city, and shall be reviewed by the appropriate body or person pursuant to this Chapter and the more specific provisions set forth in subsequent sections for the specific entitlement.

§ 153.212 APPLICATION

(A) Application for any permit, variance, appeal, or other entitlement provided by this Chapter and considered by the city, shall be made on form prescribed by the city

and signed by the applicant and the owner of the affected property or authorized agent and shall be accompanied by the fee prescribed by a separate city ordinance.

§ 153.213 SUPPORTING INFORMATION

- (A) Applications to be considered by the city shall be accompanied by the following supporting information as may be applicable:
- (1) A legal description of the property (required);
 - (2) A location map showing the project site and the general vicinity of the site (required);
 - (3) A completed environmental information form as prescribed by the city in its CEQA Guidelines (required);
 - (4) Site plans, elevations plans, floor plans, and other maps and data as may be necessary to describe the existing conditions on and surrounding the property and the proposed plans for the future development of the property. The Planning Commission shall by resolution, maintain a listing of the minimum documentation necessary for submittal in support of each type of application;
 - (5) Such other information specified in this title for the particular entitlement requested.

§ 153.214 REVIEW PROCEDURE

- (A) Upon submittal to the city, applications shall be processed in accordance with the following:
- (1) Preliminary review. Within thirty days following initial submittal of an application the following actions shall be taken by the Community Development Director or his/her designee:
 - (a) A determination shall be made as to whether the application is in order and complete pursuant to city requirements and CEQA Guidelines.
 - (b) If the application is determined to be not in order or complete the applicant shall be notified of the deficiencies in application and/or specific data necessary to make it complete.
 - (c) At such time as the application is determined to be complete, the applicant shall be notified.

(B) CEQA. Following certification that an application is complete the city shall review the proposal conducting any studies necessary for its property consideration and causing the preparation of reports for the reviewing body including any prerequisite environmental documents.

(C) Final Review and Action.

(1) If the matter is one requiring a public hearing, a public hearing date shall be set and advertised pursuant to § 153.215.

(2) If the matter is one allowing the Community Development Director or his/her designee action, the matter shall be reviewed and action shall be taken.

(3) If the matter is one requiring Planning Commission action or recommendation to the City Council, the matter will be forwarded to the Planning Commission for their review and action or recommendation.

(4) If the matter is one requiring City Council action, the matter will be forwarded to the City Council for their review and action.

§ 153.215 PUBLIC HEARING NOTICE

(A) Whenever the provisions of this title state that a public hearing shall be held, a public hearing notice shall be given pursuant to § 65091 of the Government Code.

(B) All mailing or publication shall be accomplished at least ten (10) days prior to the public hearing.

(C) The failure of any person to receive notice required by this section, shall not affect the authority of the city to act on a matter before it, provided proper notice has been found to be given.

§ 153.216 USE PERMITS

(A) *Purpose.* Use permits may be issued for any of the uses or purposes for which such permits are required and are subject to the provisions of this section.

(B) *Form.* Applications for a use permit shall be made to the Planning Commission in writing on a form prescribed by the Commission and shall be accompanied by sufficient information in writing, drawings or pictures to show the detail of the proposed use or building(s). Applications for a use permit shall provide evidence to support the approval findings pursuant to § 153.216(D). A filing fee in such amount as may be fixed by the City Council shall be paid at the time the application is filed.

(C) *Public Hearing.* The Planning Commission shall give notice and hold a public hearing on each application for a use permit in accordance with the provisions of § 153.215 of this chapter.

(D) *Approval Findings.* The Planning Commission shall make the following findings to approve a Use Permit application:

(1) The proposed use is consistent with the General Plan, any applicable Specific Plan, and all applicable provisions of this Chapter.

(2) The establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, and general welfare of the persons residing or working in the neighborhood or to the general welfare of the city.

(3) The proposed use is consistent with the purpose of the applicable zoning district or districts.

(4) The proposed use meets the minimum requirements of this title applicable to the use and complies with all other applicable laws, ordinances, and regulations of the city and state.

(E) *Conditions.* The Planning Commission may designate such conditions in connection with the use permit as it deems necessary to secure the purpose of this title and may require such guarantees and evidence that such conditions are being or will be complied with.

(F) *Denial.* In cases where any use permit is refused, the Planning Commission shall state its reasons for such refusal.

(G) *Appeal.* Appeal of the Planning Commission's action on the request for a Use Permit shall be made in accordance with the procedures specified in § 153.219 (Appeals).

(H) *Effect.* Use permit shall not become effective for ten (10) days after being granted and in the event an appeal is filed, shall not become effective until a decision is made by the Council on such appeal.

(1) No building or zoning permit shall be issued in any case where a use permit is required by the provisions of this title unless and until such use permit has been granted by the Planning Commission or Council and then only in accordance with the terms and conditions of the use permit granted.

(2) No application for a use permit which has been denied shall be resubmitted for a period of one (1) year from the date the order of denial became final, except on grounds of new evidence or proof of change of project conditions found to be valid by the Planning Commission or City Council, whichever issued the order of denial.

(3) Any use permit granted shall be null and void twenty-four (24) months from the date of final approval thereof unless prior to such expiration date, the property is being used for the purpose of which the use permit was granted or unless a valid building permit is in effect for the construction of necessary buildings or appurtenances to such use. The Planning Commission may defer expiration of the permit for a period not exceeding one (1) year upon application, in writing, by the owner of the property prior to expiration provided such use is still permitted in the district in which it is proposed to be located.

§ 153.217 ARCHITECTURE AND SITE PLAN REVIEW

(A) *Purpose.* The purpose of these regulations is to allow architecture and site plan review of all developments, buildings, structures and other facilities constructed or modified in any zone where architecture and site plan review is required in order to foster a good design character through consideration of aesthetic and functional relationships to surrounding development, and in order to further enhance the city's appearance, and the livability and usefulness of properties.

(B) *Form.* Applications for an Architecture and Site Plan Review permit shall be made to the Planning Commission on a form prescribed by the Planning Commission and shall be accompanied by sufficient information in writing, drawings, or pictures to show the detail of the proposed building(s). Applications for an Architecture and Site Plan Review permit shall provide evidence to support the approval findings pursuant to § 153.217(D). A filing fee in such amount as may be fixed by the City Council shall be paid at the time the application is filed.

(C) *Public Hearing.* The Planning Commission shall give notice and hold a public hearing on each application it receives for Architecture and Site Plan Review in accordance with the provisions of § 153.215.

(D) *Approval Findings.* The Planning Commission shall make the following findings to approve an Architecture and Site Plan Review application:

(1) The proposed project is consistent with the objectives of the General Plan, complies with applicable zoning regulations, Planned Development, Master Plan or Specific Plan provisions, improvement standards, and other applicable standards and regulations adopted by the city.

(2) The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation.

(3) The site layout (orientation and placement of buildings and parking areas), as well as the landscaping, lighting, and other development features, is compatible with and compliments the existing surrounding environment and ultimate character of the area under the General Plan.

(4) The proposed architecture, including the character, scale, and quality of the design, relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting, and similar elements, establishes a clear design concept and is compatible with the character of the buildings on adjoining and nearby properties.

(E) *Conditions.* The Planning Commission may designate such conditions in connection with the architecture and site plan review as it deems necessary to secure the purpose of this title and may require such guarantees and evidence that such conditions are being or will be complied with.

(F) *Appeal.* Appeal of the Planning Commission's action on the request for an Architecture and Site Plan Review shall be made in accordance with the procedures specified in § 153.219 (Appeals).

(G) *Effect.* The Architecture and Site Plan Review shall not become effective for ten (10) days after being granted and in the event an appeal is filed, shall not become effective until a decision is made by the Council on such appeal.

(1) No building or zoning permit shall be issued in any case where an architecture and site plan review application is required by the provisions of this title unless and until such permit has been granted by the Planning Commission, or City Council and then only in accordance with the terms and conditions of the Architecture and Site Plan Review permit granted.

(2) No application for an architecture and site plan review application which has been denied shall be resubmitted for a period of one (1) year from the date the order of denial became final, except on grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission or City Council, whichever issued the order of denial.

(3) Any architecture and site plan review granted shall be null and void twenty-four (24) months from the date of final approval thereof unless prior to such expiration date, a valid building permit is in effect for the construction of necessary buildings or appurtenances of the review. The Planning Commission may defer expiration of the permit for a period not exceeding one (1) year upon application, in writing, by the

owner of the property prior to expiration provided such use is still permitted in the district in which it is proposed to be located.

§ 153.218 VARIANCE

(A) *Purpose.* Each zoning district has specific development standards and a variance is a special request for the city to waive or alter one (1) or more of those standards. When practical difficulties, unnecessary hardship and outcomes inconsistent with the general purpose of this title result from the strict application of certain provisions thereof, a variance may be granted as provided in this section except for uses not permitted by zoning district regulations.

(B) *Form.* An application for variance shall be made in writing on a form prescribed by the city and shall be accompanied by a filing fee (that is subject to change by City Council resolution). Applications for a Variance shall provide evidence to support the approval findings pursuant to § 153.218(D).

(C) *Public Hearing.* The Planning Commission shall give notice and hold a public hearing on each application for a variance in accordance with the provisions of § 153.215.

(D) *Approval Findings.* The Planning Commission shall make the following findings to approve a Variance application:

(1) Because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives the subject property of the privileges enjoyed by other properties in the vicinity and under identical zone classifications.

(2) The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privileges.

(3) The granting of such application will not, under the circumstances of the particular case, materially adversely affect the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

(E) *Conditions.* The Planning Commission may impose such conditions in connection with a variance as it deems necessary to secure the purposes of this chapter and may require a bond guarantee or other assurances that such conditions are being or will be complied with.

(F) *Appeal.* Appeal of the Planning Commission’s action on the request for a Variance shall be made in accordance with the procedures specified in § 153.219 (Appeals).

(G) *Effect.*

(1) The Variance shall not become effective for ten (10) days after being granted and in the event an appeal is filed, shall not become effective until a decision is made by the Council on such appeal.

(2) No application for a variance which has been denied shall be resubmitted for a period of one (1) year from the date of said order of denial became final, except on grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission.

(3) Any variance granted shall be null and void twelve (12) months from the date of final approval thereof unless prior to such expiration date, the property is being used as stated in the variance, or unless a valid building permit is in effect for the construction of buildings or appurtenances to such variance. The Planning Commission may defer expiration of the variance for a period not exceeding one (1) year upon receiving an application, in writing, by the owner of the property prior to expiration provided the conditions for granting the variance have not changed.

(4) The Planning Commission may revoke or modify the approval of a variance as indicated in § 153.247 of this chapter.

§ 153.219 APPEALS

(A) *Purpose.* The purpose of these provisions is to prescribe the procedure through which an appeal may be made in case an interested person is dissatisfied with any order, requirement, permit, decision, determination, or disapproval, made in an administration, interpretation, or enforcement of this Chapter.

(B) *Approval Authority.* The following table identifies the approving authority for each entitlement:

Entitlement	Approving Authority	
	Community Development Director	Planning Commission
Use Permit		X
Architecture and Site Plan Review		X
Variance		X

Home Occupation	X	
Sign Permit	X	
Determination of Similar Use	X	

(C) *Appeal Authority.* Any person dissatisfied with a determination or action of the Community Development Director or Planning Commission made pursuant to this Chapter may appeal such action to the designated appeal authority listed in the table below, within ten (10) days from the date of the action. Actions by City Council are final, and no further administrative appeals are available.

Approving Authority for Action Being Appealed	Appeal Authority	
	Planning Commission	City Council
Community Development Director	X	
Planning Commission		X

(D) *Form.* All appeals shall be submitted in writing, identifying the determination or action being appealed and specifically stating the basis or grounds of the appeal. Appeals shall be filed within ten (10) days from, but not including, the date of the determination or action for which an appeal is made, accompanied by a filing fee established by City Council resolution, and submitted to the Community Development Director. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the city is not open for business. The filing of an appeal shall stay the issuance of any necessary subsequent permit(s) associated with any right or entitlement that will be subject to the appeal.

(1) *Appeal of the Community Development Director Decision.* The applicant or any other person aggrieved may appeal such decision by filing a written notice with the Community Development Director prior to the time the decision becomes final. The Community Development Director shall furnish forms of notice of appeal.

(2) *Appeal of Planning Commission Decision.* The applicant or any other person aggrieved may appeal such decision by filing a written notice of appeal with the Community Development Director prior to the time the decision becomes final.

(E) *Public Hearing.* Unless otherwise agreed upon by the person filing the appeal and the applicant, appeal hearings should be conducted within sixty (60) days from the date of appeal submittal. Notice of the appeal shall be provided pursuant to noticing requirements consistent with state law.

(F) *Appeal Hearing and Action.* Each appeal shall be considered a de novo (new) hearing. In taking its action on an appeal, the appeal authority shall state the basis for its action. Only such evidence and plans as were submitted to and ruled upon the

approving authority may be provided to the appeal authority for review. The appeal authority may act to confirm, modify, or reverse the action of the approving authority, in whole or in part, or add or amend such conditions as deemed necessary. The action of the appeal authority is final on the date of decision and, unless expressly provided by this title, may not be further appealed.

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 invalid or unconstitutional, such decision shall not affect the validity of the remaining portion of this chapter or any part 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 invalid or unconstitutional.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage, provided it is published pursuant to Government Code section 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 April 12, 2022. 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 26th day of April, 2022; motioned by Councilmember District 1 Luis Uribe, seconded by Vice Mayor (CM-D3) Cal Campbell moved said ordinance by a City Council vote of 3/0:

AYES: Councilmember District 1 Luis Uribe
Vice Mayor (CM-D3) Cal Campbell
Mayor Richard D. O'Brien

NAYS: None

ABSENT: Councilmember District 2 Rachel Hernandez
Councilmember District 4 Darlene Barber-Martinez

ABSTAINED: None

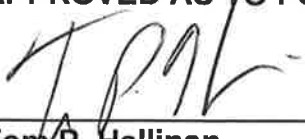
ATTEST:


Kathy L. Teixeira
Interim City Clerk

APPROVED:


Richard D. O'Brien
Mayor

APPROVED AS TO FORM:



**Tom P. Hallinan
City Attorney**