



CITY OF RIVERBANK  
**APPEALS BOARD HEARINGS**  
City Hall North • Council Chambers  
6707 Third Street • Suite B • Riverbank • CA • 95367

(The Appeals Board Hearings are not televised.)



## AGENDA

**TUESDAY, SEPTEMBER 17, 2019 – 6:30 P.M.**

(THE AGENDA PACKET IS POSTED AT THE CITY CLERK'S OFFICE AND AT [WWW.RIVERBANK.ORG](http://WWW.RIVERBANK.ORG))

**CALL TO ORDER:** Chair John Dinan

**ROLL CALL:** Chair John Dinan  
Vice Chair Robert Ball  
Appeals Board Member John Stewart  
Appeals Board Member Melissa Hughes  
Appeals Board Member Mallory Fenrich

\*Alternate Appeals Board Member Steve Link

(\*The alternate Board Member serves when needed to form a quorum of a three or five Member Board).

### **1. CONFLICT OF INTEREST**

Any Appeals Board Member or Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered is to declare their conflict at this time.

### **2. PUBLIC COMMENTS (No Action Can Be Taken)**

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Appeals Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person.

### **3. BUSINESS**

**Item 3.1:** **Administrative Citation Appeals Hearings** – It is recommended that the Appeals Board consider each appeals request and any oral or written evidence presented by the Appellant and the City to determine whether to uphold or dismiss the related Administrative Citation issued by the City for violation of the Riverbank Municipal Code.

### **ADJOURNMENT**

Any documents that are not privileged or part of a Closed Session provided to a majority of the Appeals Board after distribution of the agenda packet, regarding any item on this agenda, will be made available for public inspection at the City Clerk's Office, 6707 Third Street, Suite A, Riverbank, CA, during normal business hours.

## AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted 72 hours prior to the meeting in accordance to the California Ralph M. Brown Act.

Posted this 11<sup>th</sup> day of September, 2019

*/s/ Annabelle F. Aguilar, CMC, City Clerk, City of Riverbank*

**Notice Regarding Americans with Disabilities Act:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (209) 863-7122 or cityclerk@riverbank.org. Notification 72-hours before the meeting will enable the City to make reasonable arrangements to ensure any special needs are met. [28 CFR 35.102-35.104 ADA Title II].

**Notice Regarding Non-English Speakers:** Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Riverbank Appeals Board shall be in English and anyone wishing to address the Council is required to have a translator present who will take an oath to make an accurate translation from any language not in English into the English language.

## GENERAL INFORMATION

<b>Meeting Schedule</b>	<p><b><u>Appeals Board:</u></b> Meets on an “as needed” basis.</p> <p>The Appeals Board is a 5-member Board appointed by the Riverbank City Council and whom also serve as the Riverbank Planning Commission.</p>
<b>Appeals Board Agenda &amp; Reports</b>	<p>The Appeals Board agenda is posted pursuant to the California Brown Act, which only requires agenda title pages to be posted near the entrance of the location where the meeting is to be held and, when technologically able, on the City’s website. Additional documents, that are not privileged, may be provided by the City in its efforts of transparency to keep the public well informed. The agenda packet (agenda plus supporting documents) are posted for public review at the City Clerk’s Office, 6707 Third Street, Riverbank, CA and at <a href="http://www.riverbank.org">www.riverbank.org</a> upon distribution to a majority of the Appeals Board. A subscription to receive the agenda can be purchased for a nominal fee through the City Clerk’s Office.</p>
<b>Public Hearings</b>	<p>In general, a public hearing is an open consideration within a meeting of the Appeals Board, for which special notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present protests or offer support for the subject under consideration.</p>
<b>Televised / Video of Meetings (Meetings are not currently televised)</b>	<ul style="list-style-type: none"> <li>• Charter – Channel 2</li> <li>• AT&amp;T Uverse – Channel 99</li> </ul> <p>Visit <a href="http://www.riverbank.org">www.riverbank.org</a> to connect to meeting videos. (Note: Technical difficulty occurs on occasion preventing the televising or recording of the meeting.)</p>
<b>City Hall Hours</b>	<p>City Hall is open Monday – Thursday; 7:30 am – 5:30 pm and Fridays: 8:00 am – 5:00 pm; CLOSED alternating Fridays</p>
<b>Questions</b>	<p>Contact the City Clerk at (209) 863-7122 or cityclerk@riverbank.org</p>

# RIVERBANK APPEALS BOARD AGENDA ITEM NO. 3.1

## SECTION 3: BUSINESS

<b>Meeting Date:</b>	September 17, 2019
<b>Subject:</b>	Administrative Citation Appeals Hearings
<b>From:</b>	Sean Scully, City Manager
<b>Submitted by:</b>	Annabelle H. Aguilar, CMC, City Clerk

### **RECOMMENDATION**

It is recommended that the Appeals Board consider each appeals requests and any oral or written evidence presented by the Appellant and the City to determine whether to uphold or dismiss the related Administrative Citation issued by the City for violation of the Riverbank Municipal Code.

### **SUMMARY**

Administrative citations are issued by City staff primarily to gain compliance with State or Municipal Codes and regulations in a timely and efficient manner, as well as to protect the public health, safety and welfare of its citizens. In addition, it provides a method to hold parties responsible when they fail or refuse to comply with these provisions; it minimizes the expense and delay of pursuing compliance through the civil or criminal justice system; and allows the City to partially recover its costs to bring the responsible party into compliance.

The City Clerk has received appeal requests (Request List attached) for Notice of Violations and related administrative citation fines issued to residents, by the City, that have been determined to have violated the Riverbank Municipal Code.

In accordance with policy, a notice was emailed and mailed via U.S. Postal Service to each appellant that clearly indicated the date, time, location, and additional information of their scheduled hearing; all of whom have confirmed to appear before the Appeals Board.

### **ATTACHMENTS**

1. Appeal Hearings Request List for Consideration
2. Reference copy of RMC Zoning Sections 153.030, 153.180 – 153.185, 153.265 – 153.267, and 153.325
3. Reference copy of RMC Fireworks Sections 92.30 and 92.40 – 92.45

**ADMINISTRATIVE CITATION APPEALS HEARINGS LIST  
FOR SEPTEMBER 17, 2019**

CIT. #	NAME	DATE OF CITATION	Riverbank Municipal Code	VIOLATION NO.	FINE	VIOLATION
2019-0172	Federico and Martha Manzo	06/05/2019	Zoning Section 153.030	1st	Payment due \$100	Selling produce (boxes of cherries) from their residence.
		06/12/2019		2nd	Payment due \$200	Continued selling cherries from their residence.
2019-0280	Lourdes Chavez	07/04/2019	Fireworks Section 92.30(B)	1st	Fine paid \$1000	Illegal fireworks discharge (City Staff Report)
2019-0281	Julio Leon	07/04/2019	Fireworks Section 92.30(B)	1st	Fine paid \$1000	Illegal fireworks discharge (Ref: Sheriff's Case # R19006935)

**§ 153.030 REGULATIONS.**

The following regulations shall apply in all R-1 Districts and shall be subject to the provisions of §§ 153.180 through 153.185 and § 153.325 of this chapter.

(`67 Code, § 10-3-1) (Am. Ord. 2017-010, passed 10-24-17)

## GENERAL REGULATIONS

### § 153.180 USES.

(A) If ambiguity arises concerning the appropriate classification of a particular use with the meaning and intent of this chapter, or with respect to matters of height, yard requirements, area requirements or zone boundaries, as set forth herein and as they pertain to unforeseen circumstances, including technological changes in processing of materials, it shall be the duty of the Planning Commission to ascertain all pertinent facts and by resolution set forth its findings and its interpretations, and therefore such interpretations shall govern.

(B) The provisions of §§ 153.180 through 153.185 shall not apply to poles, lines, or other structures or facilities used or usable by any irrigation district or public utilities company, solely for the purpose of producing, transmission and/or distribution of electricity, signal or communication circuits and shall not be construed to limit or interfere with the installation, maintenance and operation of public utility pipelines, and electric or telephone transmission lines or railroads when located in accordance with the applicable rules and regulations of the Public Utilities Commission of the State of California within rights-of-way, easements, franchise, or ownership of such public utilities.

(C) Accessory buildings appurtenant to a permitted use shall be allowed only when constructed concurrent with or subsequent to the main buildings.

(`67 Code, § 10-13-1)

### § 153.181 HEIGHT LIMITS.

Chimneys, communication towers, mechanical appurtenance, monuments, spires, campaniles, public and quasi-public buildings may be permitted in excess of height limits for the various districts, provided, use permit shall first be obtained in each case. Flag poles are permitted without height limitations and conventional television antennas, not over 60 feet in height, are permitted in all districts. Trees in excess of three feet in height are permitted in any required front yard or side yard of a corner lot, provided that the branches, at maturity, are not closer than eight feet to the ground.

(`67 Code, § 10-13-2)

### § 153.182 BUILDING SITE AREA.

Lots of less than the minimum required area, width, or depth in any district which are of record at the time of adoption of the code, such lot shall be deemed to have complied with the minimum required lot area, width and depth as set forth in any such district or precise plan. On any substandard lot the minimum yard requirements of the district in which it is located still apply.

(`67 Code, § 10-13-3)

### § 153.183 YARDS.

(A) For the purpose of computing front yard dimensions the measurements shall be taken from the nearest point of the front wall of the building to the street line, provided, however, that if an official plan line has been established for the street, the measurement shall be taken from the point of building to such official plan line, except that certain architectural features hereinafter shall not be considered in making such measurements, to wit:

(1) Cornices, canopies, coves, or other architectural features may extend into any required yard a distance not to exceed three feet.

(2) Fire escapes, landing places and uncovered porches may extend into the required yard a distance not to exceed six feet but in no case may they be so located that access to the rear of the property is impaired.

(3) Solid fences, hedges and screen planting not to exceed three feet in height may extend to the property line in the

front yard.

(4) Solid fences, hedges, and screen planting may be established or permitted to grow in any side or rear yard to the height allowed in the zoning district in which the property is located.

(5) Fireplaces may extend into any required yard a distance not to exceed two feet.

(B) Notwithstanding the minimum front and side yard requirements for the various districts, as provided in this chapter, no structure (excluding, however, open wire fences, electroliers without attached advertising signs, utility poles, solid fences or screen planting not more than three feet in height, and trees in excess of three feet in height, provided that the branches at maturity are not closer than eight feet to the ground) shall be located closer to the highway center line than as indicated, on the following specified highways:

(1) Patterson Road, from the westerly city limits to its intersection with Callander Avenue: 75 feet. The right-of-way on the section of Patterson Road shall be 110 feet.

(2) Callander Avenue, from its intersection with Patterson Road to its intersection with Atchison Street: 70 feet. The right-of-way on the section of Callander Avenue shall be 100 feet.

(3) Claus Road: 70 feet. The right-of-way for Claus Road shall be 50 feet. Where a specific plan line has been established it shall be used as the ultimate right-of-way.

(4) That portion of Roselle Avenue which is presently in the city limits: 53 feet. The right-of-way for the portion of Roselle Avenue which is now in the city limits shall be 66 feet. The **HIGHWAY CENTER LINE**, as that phrase is used in this subsection, refers to the following described center line:

COMMENCING at the quarter section corner common to Section 25 and Section 26, Township 2 South, Range 11 East, Mount Diablo Meridian, thence easterly along the center line of Patterson Road, a distance of three feet to the proposed center line of Roselle Avenue, the point being the true point of beginning of this description.

Thence South 0° 12' West parallel to and 3 feet at right angles to the westerly line of Section 25 a distance of 1854.00 feet more or less to the existing city limits (1974) of the city.

(Ord. 87-11, passed 7-27-87)

(C) No mechanical equipment, including pool equipment, that is permanently fixed shall be permitted to occupy any of the required setback areas.

(Ord. 88-14, passed 11-28-88)

(D) Minimum setbacks for multi-family buildings, commercial uses and industrial uses shall be as follows:

(1) The minimum setback of a building adjacent to a public right-of-way shall be 15 feet and shall be determined by a 60° vertical angle beginning at the edge of the right-of-way and extending onto the property, as illustrated in the following table.

(2) The minimum setback of a building from a property line shall be 15 feet and shall be determined by a 60° vertical angle beginning at the property line and extending onto the property, as illustrated in the following table.

(3) The minimum setback of a building adjacent to residential districts shall be 25 feet and shall be determined by a 60° vertical angle beginning at the property line and extending onto the property, as illustrated in the following table. In determining the height of the building for the purpose of this section, the level of the ground shall be deemed to be the level of the ground of the adjacent residential district. (Please note that additional setbacks are required for the height of the building when adjacent to residential areas.)

**MINIMUM SETBACKS  
BASED ON 60-DEGREE ANGLE  
(in feet)**

**Minimum Setback**

**Minimum**

**When Adjacent**

<i><b>Building Height</b></i>	<i><b>Setback</b></i>	<i><b>to Residential Zone</b></i>
0-25	15.0	25.0
26	15.5	25.5
27	16.0	26.0
28	16.5	26.5
29	17.0	27.0
30	18.0	28.0
31	18.5	28.5
32	19.0	29.0
33	19.5	29.5
34	20.0	30.0
35	20.5	30.5
36	21.0	31.0
37	22.0	32.0
38	22.5	32.5
39	23.0	33.0
40	23.5	33.5
41	24.0	34.0
42	24.5	34.5
43	25.0	35.0
44	26.0	36.0
45	26.5	36.5
46	27.0	37.0
47	28.0	38.0
48	28.5	38.5

***MINIMUM SETBACKS  
BASED ON 60-DEGREE ANGLE  
(in feet)***

<i><b>Building Height</b></i>	<i><b>Minimum Setback</b></i>	<i><b>When Adjacent to Residential Zone</b></i>
49	29.0	39.0



50	30.0	40.0
51	30.5	40.5
52	31.0	41.0
53	31.5	41.5
54	32.0	42.0
55	33.0	43.0
56	33.5	43.5
57	34.0	44.0
58	34.5	44.5
59	35.0	45.0
60	36.0	46.0

(`67 Code, § 10-13-4) (Ord. 90-01, passed 1-22-90)

### **§ 153.184 OFF-STREET PARKING REQUIREMENTS.**

(A) *Churches, lodges, and places of public assembly.* One space for every three fixed seats, or for every three persons allowed under the maximum capacity established by the Fire Warden where there are no fixed seats, in the main place of assembly.

(Ord. 87-11, passed 7-27-87)

(B) *Dwellings.*

(1) Single-family and manufactured housing, financed by FmHA, one one-car garage of the maximum size permitted by FmHA and one additional off-street parking space which may be located adjacent to the driveway.

(2) Single-family dwelling and manufactured housing, a two-car garage, with a minimum clear width of 18 feet and a clear depth of 19 feet six inches in the direction of travel, must be provided. No appliances or other objects may intrude into the garage space area.

(3) Single-family dwelling built prior to January 1, 1990, one one-car garage may be constructed if there is inadequate area for a two-car garage. This provision would not apply to garage conversions or other requirements of this section.

(Ord. 92-17, passed 12-14-92)

(4) Two-family dwelling, duplex or multiple dwelling: may be covered or uncovered.

(a) Zero to one bedroom - one onsite parking space;

(b) Two to three bedrooms - one and one half onsite parking spaces; and

(c) Four or more bedrooms - two and one half onsite parking spaces.

(5) Rooming or boarding house: one space for every 300 square feet of ground floor area. Spaces inside a garage may be counted toward meeting the requirement.

(Ord. 2000-05, passed 4-24-00)

(C) *Garage and repair shops.* One space for every 300 square feet of gross floor area.

(Ord. 88-14, passed 11-28-88)

(D) *Hospital.* One and one-half spaces for each bed.

(E) *Manufacturing or assembly plants and wholesale warehouses.* One space for each employee on a maximum shift plus three additional spaces or, when the number of employees cannot be determined, one space for every 300 square feet of gross floor area.

(F) *Mobile home parks.* Two spaces for each mobile home space plus one visitor parking space for every five mobile home spaces. Excluding visitor parking, the spaces may be constructed in tandem.

(G) *Mortuaries.* One space for every five seats, or one space for every 35 square feet in assembly rooms where seating is not fixed.

(H) *Motels and hotels.* One space for each sleeping room or dwelling unit.

(I) *Office buildings.*

(1) *Banks and financial institutions.* One space for every 300 square feet of gross floor area.

(2) *General business and professional offices.* One space for every 300 square feet of gross floor area.

(3) *Medical-dental offices and clinics.* One space per doctor and each employee, plus one space per individual examining room or one space for every 100 square feet of gross floor area where the number of examining rooms is unknown.

(J) *Recreational uses.*

(1) *Bowling alleys.* Five spaces per lane.

(2) *Dance hall and amusement centers.* Twenty five spaces per 1,000 square feet of gross floor area.

(3) *Stadiums and theaters.* One space for every three seats.

(K) *Restaurants and bars.* One space per three seats plus any additional spaces as prescribed by the Community Development Director. This division is subject to appeal to the City Council and Planning Commission.

(L) *Rest home or nursing home.* One space for each employee on a maximum shift plus one space for every eight beds.

(M) *Retail stores and service establishments.*

(1) *Community and regional shopping center.* Eight spaces per 1,000 square feet of gross floor area and one off-street truck unloading space for each 7,500 square feet of gross floor area.

(2) *Flea markets.* Eight spaces per 1,000 square feet of indoor or outdoor sales area.

(3) *Vehicles sales establishment.* One space for each employee on a maximum shift plus one customer parking space per every 20 vehicles for sale.

(4) *All other retail store and service establishments.* One space for every 300 square feet of gross floor area and one off-street truck unloading space for each 7,500 square feet of gross floor area.

(N) *Schools.*

(1) *Elementary.* Two spaces for each classroom.

(2) *High school and trade school.* One space for every five seats.

(3) *Colleges.* One space for every three seats.

(O) *Combined uses.* The number of required spaces shall be determined by combining individual requirements for each use.

(P) *Other uses.* All other uses not set forth above shall be determined by the Planning Commission based on the intensity of use by motor vehicles.

(Q) *Location.* No required off-street parking spaces shall be located within the building setback area or any required yard space, nor shall the spaces be allowed in tandem.

(R) *Commercial spaces.* All commercial and other parking spaces shall be located within 300 feet of the use which they are to serve.

(S) *Existing buildings.* None of the off-street parking requirements shall apply to any building in existence at the time of the effective date of this chapter, provided that changes in use of the building do not increase demand for spaces and provided that any portion of the premises being used for off-street parking in connection with any such building shall not be reduced below the requirements of this section.

(T) *Paving and marking.* All required parking spaces shall be paved and, with the exception of spaces provided in a garage, all spaces shall be marked.

(U) *Recreational vehicles.* Recreational vehicles, as described in this chapter, may be parked on private property within any zoning district within the city so long as they do not create safety or sight clearance hazard for traffic on abutting streets, sidewalks or alleys and shall not be stored within the front yard area, excluding driveways.

(1) Residents may apply and be issued (no fee) permits, by officers of the Riverbank Police Services Division, for guests to stay in recreation vehicles parked on their property for a period not to exceed seven consecutive days. Written permission of the property owner of record is required prior to issuance of a temporary permit.

(2) Recreation vehicles, parked on private property, are prohibited from being used as living quarters except as provided above or when parked in approved licensed recreation vehicle parks.

(V) *Access.* All parking spaces shall be accessible by paved driveways, alleys, or streets. If parking spaces are to be entered or exited by means of an alley, the alley shall be paved the entire width of the lot and from the lot to the nearest paved, public right-of-way.

('67 Code, § 10-13-15) (Ord. 87-11, passed 7-27-87; Am. Ord. 2002-006, passed 8-26-02; Am. Res. 2003-019, passed 2-24-03; Am. Ord. 2017-010, passed 10-24-17)

### **§ 153.185 AFFORDABLE HOUSING DENSITY BONUS.**

(A) *Purpose.* The purpose of the affordable housing density bonus is to:

(1) Establish procedures and criteria for use in the consideration of density bonuses for lower income housing development as defined in Section 65915 of the California Government Code;

(2) Establish procedures for requesting developer incentives or concessions for the production of housing units and child care facilities as prescribed in Section 65915 of the California Government Code; and

(3) Provide a significant contribution to the economic feasibility of lower income housing in proposed housing developments.

(B) *General provisions.* The criteria and procedures set forth in Section 65915 of the California Government Code shall be applied to requests for density bonuses for affordable housing unless amended in this section.

(C) *Application procedures.* The application for a density bonus, incentive or concession shall be submitted with the first application for approval of a housing development and shall be processed concurrently with any other planning permit required for the housing development. The application shall be submitted on form and contain such information and support data as prescribed by the Community Development Director. The application shall contain sufficient information to make the required determinations and findings defined in Section 65915 of the California Government Code.

(D) *Fees.* The City Council shall set for the amount of the fees for the application required and authorized in this section.

(Ord. 2015-003, passed 2-24-15)

## HOME OCCUPATIONS

### § 153.265 APPLICATION.

Applications for home occupations are administered by the Planning Department and may exist in any residential district. ('67 Code, § 6-4-1) (Ord. 92-07, passed 7-13-92)

### § 153.266 CRITERIA

It is the intent of the following criteria to reduce the impact of the home occupation to the degree that its effects on the neighborhood are undetectable from normal and usual residential activity:

- (A) Only occupants of the dwelling shall be engaged in home occupation on the subject property. In the event of a partnership or corporation, at least one of the members must be a resident of the subject property.
- (B) Off-site employees or partners are permitted so long as they do not work or report for work at subject property.
- (C) The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation may be conducted in the principal dwelling or accessory structure on the subject property, provided that the area does not exceed 20% of the habitable floor area of the principal dwelling.
- (D) There shall be no mechanical equipment or operation used which creates or makes noise, dust, odor, vibration or other effects detectable at the property line. Noise level at the property line shall not exceed 65 dBA.
- (E) There shall be no display of products produced by the home occupation visible in any manner from the outside of the dwelling unit.
- (F) The use shall not generate pedestrian or vehicular traffic beyond that which is normal in a residential district nor in any case require the parking of more than two additional vehicles at any one time.
- (G) There shall be no storage of material or supplies out of doors.
- (H) There shall be no change in the outside appearance of the building premises, or any visible evidence of the conduct of such home occupation other than one sign not to exceed two square feet.
- (I) There shall be no advertising of a home occupation which uses the address of the location.
- (J) The following specific home occupation uses shall be permitted subject to further limitations as follows:
  - (1) Beauty/barber shops limited to one customer.
  - (2) Contractors' and subcontractors' offices are permitted as home occupations. However, the storage of materials, equipment, commercial vehicles of more than one ton, nor more than one vehicle of less than one ton not normally associated with residential uses shall be prohibited.
  - (3) Swimming lessons, music lessons and other similar lessons, when given to no more than three students at a time.

('67 Code, § 6-4-2) (Ord. 92-07, passed 7-13-92)

### § 153.267 PROHIBITED USES.

The following uses are expressly prohibited as home occupations:

- (A) Repair or reconditioning of motorized vehicles or equipment, on site.
- (B) Manufacturing, including cabinet shops and similar uses.

(C) Repair or reconditioning of major household appliances, including refrigerators, freezers, clothes washers/dryers, dish washers, stoves, heating and air-conditioning equipment and lawn mowers.

(D) Repair or reconditioning of boats or recreational vehicles.

(E) Medical, dental and chiropractic clinics and offices.

(F) There shall be no delivery of merchandise to customers at the premises other than that incidental to a service conducted on the premises.

('67 Code, § 6-4-3) (Ord. 92-07, passed 7-13-92)

**§ 153.325 GENERAL PROVISIONS; CONDITIONS.**

(A) *Location.* Accessory dwelling units may be permitted in any residential zone where it is demonstrated through site plan review compliance the established criteria for accessory dwelling units is met. Division (B) of this section shall be submitted by the applicant and reviewed by the Development Services Department. The Community Development Director shall approve the accessory dwelling unit site plan review where the established criteria are met within 120 days of application date.

(B) *Criteria.* The accessory dwelling unit may be established upon meeting the following criteria and approval of an accessory dwelling unit site plan application:

(1) To submit an accessory dwelling unit site plan application, the existing single-family residential unit shall be owner occupied at time of submittal.

(2) The accessory dwelling unit is not intended for sale and may be rented.

(3) The accessory dwelling unit shall be in compliance with applicable building, fire and other health and safety codes. Fire sprinklers shall not be required for an accessory dwelling unit if sprinklers are not required for the primary unit.

(4) The accessory dwelling unit shall be in compliance with underlying zoning requirements and regulations, except as may be provided in this chapter. Accessory dwelling units do not count towards density requirements.

(5) The accessory dwelling unit can be attached to the existing dwelling, located within the living area of the existing dwelling, or detached from the existing dwelling. The total living area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet. Any increase in the floor area of an attached accessory dwelling unit shall not exceed 50% of the existing living area or 1,200 square feet, whichever is less. No passageway shall be required between the primary and the detached units.

(6) Water and sewer services must be adequate to serve the accessory dwelling unit. New detached accessory dwelling units and the expansion of existing homes to accommodate a new accessory dwelling unit shall require a new and/or separate utility connection, and may be subject to a connection fee and capacity charge.

(7) The accessory dwelling unit shall not exceed two stories or 35 feet.

(8) An accessory dwelling unit may be permitted on residential lots where there exists a single-family residential unit and there shall be no more than one accessory dwelling unit per lot. An accessory unit shall not be constructed without a primary residential unit (i.e. on a vacant lot).

(9) Off-street parking requirement for the accessory dwelling unit shall not exceed one parking space per unit if an efficiency or per bedroom.

(a) Off-street parking may be enclosed, covered or uncovered.

(b) No setback shall be required to convert (not expand) an existing garage.

(c) Setbacks of no more than five feet from the rear and side lot lines shall be required for accessory dwelling units constructed above a garage. This requirement shall be in addition to the off-street parking spaces required for the existing zone district.

(10) The accessory dwelling unit shall be clearly subordinate to the principle single-family dwelling unit on the lot.

(11) Addresses for accessory dwelling units shall be shown prominently on the frontage of the unit. Frontage should be located facing a street or an alleyway and/or have a well-defined entry area.

(12) An accessory dwelling unit site plan application shall include the following:

(a) Elevation plan of the existing and proposed unit(s) on the project property;

(b) A vicinity map showing all existing structures on adjacent properties;

(c) Lot coverage - not to exceed 50%;

(d) Vehicular and pedestrian access to the accessory dwelling unit and the relationship with the existing single-

family dwelling;

(e) The accessory dwelling unit shall be of the same color, materials, and architectural design as the existing and shall avoid impacts to historical properties;

(f) Payment of a site plan approval fee as established by City Council resolution;

(g) Common open space and/private open space; and

(h) Drought tolerant landscape plans.

(C) *Definitions.* As used in this section, the following terms mean:

(1) **LIVING AREA.** The interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) **LOCAL AGENCY.** A city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, **NEIGHBORHOOD** has the same meaning as set forth in Cal. Gov't Code § 65589.5.

(4) **ACCESSORY DWELLING UNIT.** An attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. For purposes of this section, a single family home or accessory structure shall be considered "existing" if a final certificate of occupancy was issued prior to January 1, 2017. An accessory dwelling unit also includes the following:

(a) An efficiency unit, as defined in Cal. Health and Safety Code § 17958.1.

(b) A manufactured home, as defined in Cal. Health and Safety Code § 18007.

(c) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(`67 Code, § 10-21-01) (Ord. 97-03, passed 1-27-97; Am. Ord. 2003-014, passed 11-10-03; Am. Ord. 2017-010, passed 10-24-17)

**Statutory reference:**

*Second residential units, see Cal. Gov't Code § 65852.2*

**§ 92.30 PROHIBITIONS OF USE OR DISPLAY, DISCHARGE OF FIREWORKS.**

(A) It shall be unlawful to sell or offer for sale any fireworks in violation of the regulations established by the city's code.

(B) It shall be unlawful to possess, discharge, sell or offer for sale, any fireworks within the city which are classified as "dangerous fireworks" as defined by the Cal. Health & Safety Code.

(C) It shall be unlawful for any person having the care, custody or control of a person under the age of 16 years to permit such person to discharge any safe and sane fireworks unless such minor does so under the direct supervision of a person over 18 years of age, and during the hours and on the days permitted by this subchapter.

(D) It shall be unlawful to throw, toss, project or position an ignited firework of any kind in such a manner as to cause the firework or contents thereof to come in contact with another person's body, private property, or real property.

(E) It shall be unlawful for any person to discharge or permit the discharge of any safe or sane fireworks within any public property, buildings, or facilities, except by the approval of the City Council.

(F) It shall be unlawful to discharge any safe or sane fireworks during any other time except during the period beginning June 28 through July 6 between the hours of 12:00 noon and 10:00 p.m. of each year; or as amended by City Council resolution.

(Ord. 2018-007, passed 12-11-18)



**§ 92.40 DEFINITIONS.**

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

**ADMINISTRATIVE CITATION.** An administrative citation is a "ticket" issued when the Code Enforcement Officer has determined that a violation of the city's code has occurred. It is an official notification, on an appropriate form as established by the city, to include the code violation(s), and the amount of the administrative fine required to be paid by the responsible person(s) in accordance with the provisions of this chapter. Administrative citations are not part of the judicial process unlike infraction or misdemeanor citations.

**BLOCK PARTY.** A festive gathering event, only sponsored by persons such as owners, residents, or tenants of a neighborhood, which will temporarily close no more than one city block to vehicular traffic. The event shall not be for commercial or advertising purposes or profit.

**BLOCK PARTY PERMIT.** The city's permitting process in which the city will issue residents a permit to temporarily close streets, other than arterial or collector streets, and to establish appropriate and safe conditions for the purpose of conducting a block party.

**CITEE.** Any person served with an administrative citation charging him or her as a responsible person for the violation.

**CITATION.** An administrative citation issued pursuant to this section to remedy a violation.

**CODE.** The City of Riverbank Municipal Code.

**CODE ENFORCEMENT OFFICER (CEO).** Any employee or agent or public safety officer of the City of Riverbank designated by the City Council to enforce any provision of this code.

**DANGEROUS FIREWORKS.** As defined under Cal. Health & Safety Code §§ 12505 and 12561 are:

(1) Any fireworks which contain any of the following:

(a) Arsenic sulfide, arsenates, or arsenites;

(b) Boron; or

(c) Chlorates, except:

1. In colored smoke mixture in which an equal or greater amount of sodium bicarbonate is included;

2. In caps and party poppers;

3. In those small items (such as ground spinners) wherein the total powder content does not exceed four grams of which not greater than 15% (or 600 milligrams) is potassium, sodium, or barium chlorate;

4. Gallates or Gallic acid;

5. Magnesium (magnesium-aluminum alloys, called magnalium, are permitted);

6. Mercury salts;

7. Phosphorous (red or white except that red phosphorus is permissible in caps and party poppers);

8. Picrates or picric acid;

9. Thiocyanates;

10. Titanium, except in particle size greater than 100 mesh; or

11. Zirconium.

(2) Firecrackers.

(3) Skyrockets and rockets, including all devices which employ any combustible or explosive material and which rise in the air during discharge.

- (4) Roman candles, including all devices which discharge balls of fire into the air.
- (5) Chasers, including all devices which dart or travel about the surface of the ground during discharge.
- (6) Sparklers more than ten inches in length or one-fourth of one (0.25") inch in diameter.
- (7) All fireworks designed and intended by the manufacturer to create the element of surprise upon the user. These items include, but are not limited to, auto-foolers, cigarette loads, exploding golf balls, and trick matches.
- (8) Fireworks known as devil-on-the-walk, or any other firework which explodes through means of friction, unless otherwise classified by the State Fire Marshal pursuant to this section.
- (9) Torpedoes of all kinds which explode on impact.
- (10) Fireworks kits.
- (11) Such other fireworks examined and tested by the State Fire Marshal and determined by him or her, with the advice of the State Board of Fire Services, to possess characteristics of design or construction which make such fireworks unsafe for use by any person not specially qualified or trained in the use of fireworks.

**EXEMPT FIREWORKS.** As defined in Cal. Health & Safety Code § 12508 means any special item containing pyrotechnic compositions which the State Fire Marshal, with the advice of the State Fire Advisory Board, has investigated and determined to be limited to industrial, commercial, agricultural use, or religious ceremonies when authorized by a permit granted by the authority having jurisdiction.

**ISSUANCE or ISSUED.** Any of the following:

- (1) The preparation and service of an administrative fine citation to a citee in the same manner as a summons in a civil action in accordance with Cal. Code of Civil Procedures Article III (commencing with § 415.10) of Chapter 4 of Title 5 of Part 2;
- (2) Mailing of administrative fine citation to the citee by certified mail with return receipt, to the address shown on the official records of the County Assessor; or
- (3) By personally serving the responsible party by personal delivery of the administrative fine citation or by substituted service. Substituted service may be accomplished as follows:
  - (a) By leaving a copy at the recipient's dwelling or usual place of residence, in the presence of a competent member of the household, and thereafter mailing by First Class Mail a copy to the recipient at the address where the copy was left; or
  - (b) In the event the responsible party cannot be served by First Class Mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made upon the property manager or rental agency or may be affected by posting the property with the administrative fine citation and mailing a copy by First Class Mail to the responsible party in violation at the address of the property where the violation exists.

**PERSON.** A natural person or a legal entity that is also an owner, tenant, lessee and/or other person with any right to possession or control of the property where a violation of this code occurred.

**RESPONSIBLE PERSON.** A person who causes a code violation to occur or allows a violation to exist or continue, by his or her action or failure to act, or whose agent, employee or independent contractor causes a violation to occur, or allows a violation to exist or continue, or any person with an ownership interest or right of possession of the real property where unpermitted fireworks are possessed, sold, used, manufactured or discharged, including, but not limited to:

- (1) Any owner-occupant.
- (2) Any lessee, subtenant, licensee, or other person having possessory control over a property, structure, or parcel of land.
- (3) Any person that organizes, supervises, officiates, conducts, or controls the gathering or any other person accepting responsibility for such a gathering.
- (4) Every owner, occupant, lessee, tenant, or holder of any possessory interest of a residence or other private property within the city is required to maintain, manage and supervise property and all persons thereon in a manner so as not to violate the provisions of this subchapter. A responsible party need not be present at the time dangerous fireworks are possessed, manufactured, sold, used, or discharged in order for the city to issue an administrative citation under this division.

(5) Any person, irrespective of age, found in violation of any provision of this chapter may be issued a citation in accordance with the provisions of this subchapter. Every parent, guardian or other person, having the legal care, custody or control of any person under the age of 18 years, who knows or reasonably should know that a minor is in violation of this chapter, may be issued a citation in accordance with the provisions of this section, in addition to any citation that may be issued to the offending minor.

(6) For purposes of this chapter, there may be more than one responsible person for a violation.

**SAFE AND SANE FIREWORKS.** As defined in Cal. Health & Safety Code §§ 12529 and 12562 means any fireworks which do not come within the definition of "dangerous fireworks" or "exempt fireworks."

**VIOLATION or VIOLATES.** Refers to any violation of any provision of this code.

(Ord. 2018-007, passed 12-11-18)

## **§ 92.41 PURPOSE.**

(A) This section authorizes the imposition of administrative fines on any person who violates any provision of this code in order to encourage and obtain compliance with the provisions of this code for the benefit and protection of the entire community.

(B) This section governs the imposition, enforcement, collection, and administrative review of all administrative fines, related to: the possession, use, storage, sale and/or display of those fireworks classified as "dangerous fireworks" as defined in Cal. Health & Safety Code §§ 12500 *et seq.*, with the exception of a pyrotechnic licensee when operating pursuant to that license; and the use of "safe and sane fireworks" as defined in Cal. Health & Safety Code §§ 12500 *et seq.* on or at dates, times and/or locations other than those permitted by this code. Said administrative fines are imposed under authority of Cal. Gov't Code § 53069.4, Cal. Health & Safety Code § 12557, and the police power of the city.

(C) This section imposes a duty upon the owners of all real property to ensure that there are no violations of this code on such real property.

(Ord. 2018-007, passed 12-11-18)

## **§ 92.42 ISSUANCE OF ADMINISTRATIVE CITATION.**

(A) The issuance of citations imposing administrative fines may be performed at the discretion of the authorized officials of the city; and the issuance of a citation to any person constitutes but one remedy of the city to redress violations of this code by any person. By adopting this code, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this code by any person, which this city may otherwise pursue.

(B) Whenever a Code Enforcement Officer determines that a violation of the code has occurred, the officer may issue an administrative citation listing the code violation(s) and the amount of the administrative fine required to be paid by the responsible person(s) in accordance with the provisions of fines set forth.

(C) Each violation of this code, whether on the same day or different day, shall constitute a separate violation and shall be subject to a separate administrative fine.

(D) The citee shall be required to abate the violation, and immediately surrender all dangerous fireworks to the Code Enforcement Officer.

(E) The imposition of fines related to "dangerous firework" under this chapter shall be limited to persons who possess, sell, use and/or display, or the seizure of 25 pounds or less (gross weight), including packaging, of such dangerous fireworks.

(Ord. 2018-007, passed 12-11-18)

## **§ 92.43 ADMINISTRATIVE FINES.**

(A) Each person who violates any provision of this code as it relates to the possession, use, storage, sale and/or display of "dangerous fireworks" shall be subject to the imposition and payment of an administrative fine or fines as

follows:

<b><i>Number of Offense in One Year Period</i></b>	<b><i>Amount of Administrative Penalty</i></b>	<b><i>(30 Day) Late Payment Charge</i></b>	<b><i>Total Amount of Penalty plus Late Charge</i></b>
1st Offense	\$1,000	\$250	\$1,250
2nd Offense	\$2,000	\$500	\$2,500
3rd Offense	\$3,000	\$1,000	\$4,000

(B) A person who fails to obtain a "block party permit," license or approval from the city when required by § 95.01(C) of the city code shall be subject to administrative fine or fines under this chapter as follows:

<b><i>Number of Offense in One Year Period</i></b>	<b><i>Amount of Administrative Penalty</i></b>	<b><i>(30 Day) Late Payment Charge</i></b>	<b><i>Total Amount of Penalty plus Late Charge</i></b>
1st Offense	\$500	\$175	\$625
2nd Offense	\$1,000	\$250	\$1,250
3rd Offense	\$1,500	\$500	\$2,000

(C) Any person, firm, or corporation who applies for and receives an administratively issued "block party permit," or similar license or approval required by the city to close a street or otherwise reserve or use a piece of city property, shall comply with all conditions imposed upon the issuance of such permit, license, or approval, including but not limited to taking all reasonable efforts necessary to ensure that "dangerous fireworks" are not used at said event. Any person, firm, or corporation said to be in violation of the permit by virtue of the fact that there were dangerous fireworks used at said event, shall be subject to the imposition and payment of an administrative fine or fines as follows:

<b><i>Number of Offense in One Year Period</i></b>	<b><i>Amount of Administrative Penalty</i></b>	<b><i>(30 Day) Late Payment Charge</i></b>	<b><i>Total Amount of Penalty plus Late Charge</i></b>
1st Offense	\$1,500	\$375	\$1,875
2nd Offense	\$3,000	\$750	\$3,750
3rd Offense	\$5,000	\$2,000	\$7,000

(D) Any person that fails to obtain a permit from the city to sell "safe or sane fireworks" as required under this chapter, or any person who uses or discharges any safe and sane fireworks on or at dates and times or at locations other than what is allowed, are in violation of this chapter and shall be subject to the following fine or fines:

<b><i>Number of Offense in One Year Period</i></b>	<b><i>Amount of Administrative Penalty</i></b>	<b><i>(30 Day) Late Payment Charge</i></b>	<b><i>Total Amount of Penalty plus Late Charge</i></b>
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1st Offense	\$250	\$75	\$325
2nd Offense	\$500	\$150	\$650
3rd Offense	\$750	\$300	\$1,050

(E) The administrative fine(s) for violations of any of the above provisions shall be due and payable to the city within 30 calendar days from the date of issuance of the administrative fine citation. Failure to pay the penalties in full within that time, shall have a late charge imposed in the amount as set forth above and shall begin accruing interest at the prevailing established rate until fully paid.

(F) *Recovery of administrative penalties.* The city may collect the assessed administrative fine(s) and related administrative costs incurred such as attorney fees, costs to collect fine(s), late fees, and interest, in any manner allowed by law, including but not limited to recordation of a lien on any real property owned by the responsible person.

(G) Payment of the administrative fine shall not excuse or discharge a citee from the duty to immediately abate and correct a violation of the code, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of the code.

(H) On the second and each subsequent time that a person is issued a citation for the same violation in any 12-month period, the fine is increased as indicated above and the citee shall be liable for the amount of the new fine, and any incurred associated late charges and interest, until it is paid, in addition to being responsible for payment of previous fines.

(I) Nothing in this section shall be intended to limit any of the penalties provided for under the Cal. Health & Safety Code or Cal. Penal Code.

(J) Fines collected pursuant to this administrative fine process for dangerous fireworks violations:

(1) Shall not be subject to Cal. Health & Safety Code § 12706, which provides that certain fines collected by a court of the state be deposited with, and disbursed by, the County Treasurer;

(2) Shall include cost reimbursement to the State Fire Marshal pursuant to regulations to be adopted by the State Fire Marshal addressing the State Fire Marshal's cost for the transportation and disposal of dangerous fireworks seized by the city; and

(3) Unless and until said regulations have been adopted by the State of California, the city shall hold in trust \$250 or 25% of any fine collected, whichever is greater, to cover the cost reimbursement to the State Fire Marshal for said cost of transportation and disposal of the dangerous fireworks.

(Ord. 2018-007, passed 12-11-18)