



CITY OF RIVERBANK
**REGULAR CITY COUNCIL AND THE
LOCAL REDEVELOPMENT AUTHORITY BOARD
MEETINGS**

(The City Council also serves as the LRA Board)
City Hall North • Council Chambers

6707 Third Street • Suite B • Riverbank • CA • 95367

AGENDA

TUESDAY, MARCH 13, 2018– 6:00 P.M.

(THE AGENDA PACKET IS POSTED AT THE CITY CLERK’S OFFICE AND AT WWW.RIVERBANK.ORG)

- CALL TO ORDER:** Mayor/Chair Richard D. O’Brien
- FLAG SALUTE:** Mayor/Chair Richard D. O’Brien
- INVOCATION:** Riverbank Ministerial Association
- ROLL CALL:** Mayor/Chair Richard D. O’Brien
Vice Mayor/Chair Darlene Barber-Martinez (CM-D4)
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member Cal Campbell
Council/Authority Member Leanne Jones Cruz

CHANGES TO THE AGENDA: Mayor/Chair Richard D. O’Brien

CONFLICT OF INTEREST

Any Council/Authority 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.

1. PRESENTATIONS There are no presentations.

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 City Council/LRA 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. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the City Council/LRA Board.

3. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council/LRA Board unless requested by an individual Council/Authority Member or member of the public for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by motion of the City Council/LRA Board.

Item 3.A: Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 3.B: Approval of the February 27, 2018, City Council and Local Redevelopment Authority Minutes.

Recommendation: It is recommended that City Council/LRA Board approve the Consent Calendar items by roll call vote.

4. UNFINISHED BUSINESS There are no items to consider.

5. PUBLIC HEARINGS

The public notice for Item 5.1 was published in the Riverbank News on 3/28/2018. The public notice for Item 5.2 was published in the Riverbank News on 2/21/2018.

Item 5.1: **The First Reading and Introduction of a Proposed Ordinance Repealing in its Entirety Chapter 94: Park Regulations of Title IX: General Regulations and Adding a New Chapter 94: Park Regulations to the City of Riverbank Code of Ordinances** – It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval as presented, which initiates the second reading by title only at the March 27, 2018, regular City Council meeting or soon thereafter to consider its adoption.

Item 5.2: **First Reading and Introduction of a Proposed Ordinance Repealing in its Entirety Chapter 122: Video Franchise of Title XI: Business Regulations and Replacing it with a New Chapter 122: Video Service Franchise to Include Reauthorization of the PEG Fee and to Automatically Reauthorize the Peg Fee upon Renewal of a State Video Franchise** – It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval as presented, which initiates the second reading by title only at the March 27, 2018, regular City Council meeting or soon thereafter to consider its adoption.

6. NEW BUSINESS

Item 6.1: **Workshop and Presentation on Sample Ordinance to Address Excessive Nuisance Service Calls within the City of Riverbank** – It is recommended that the City Council receive a presentation and conduct a workshop on a sample ordinance regarding excessive nuisance service calls.

- Item 6.2:** **Creation of Ad Hoc Committee on Illegal Fireworks** – It is recommended that the City Council consider creating and providing direction on the makeup of an ad hoc committee to examine the issues and potential solutions to illegal firework activity in Riverbank.

7. COMMENTS/REPORTS

A brief report on notable attendance of a meeting or conference or other notable topics of business shall be made. The Brown Act does not allow for discussion or action by the City Council.

- Item 7.1:** Staff
- Item 7.2:** Council/Authority Member
- Item 7.3:** Mayor/Chair

8. CLOSED SESSION

The public will have a limit of 5 minutes to comment on Closed Session item(s) as set forth on the agenda prior to the City Council/LRA Board adjourning to Closed Session.

- Item 8.1:** **CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code § 54957.6
Agency representative: Sean Scully, City Manager
Employee organizations: Miscellaneous Employees
Mid-Management Bargaining Unit
- Item 8.2:** **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (3) potential cases
- Item 8.3:** **PUBLIC EMPLOYMENT**
Pursuant to Government Code Section 54957(b)
Title: City Manager

9. REPORT FROM CLOSED SESSION

- Item 9.1:** Report from Closed Session Item 8.1: **CONFERENCE WITH LABOR NEGOTIATORS** – Miscellaneous and Mid-Management Bargaining units
- Item 9.2:** Report from Closed Session Item 8.2: **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION:** (3) potential cases
- Item 9.3:** Report from Closed Session Item 8.3: **PUBLIC EMPLOYMENT**– City Manager

ADJOURNMENT (The next regular City Council meeting – Tuesday, March 27 @ 6:pm)

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 Brown Act.

Posted this 9th day of March, 2018

/s/ Annabelle H. Aguilar, CMC, City Clerk / LRA Recorder

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 City Council/LRA 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 English into the English language.

GENERAL INFORMATION

Meeting Schedule	The City Council Members also serve as the LRA Board Members. The Riverbank City Council/LRA Board meets in the City Hall North Council Chambers. Regular City Council meetings are held on the 2nd and 4th Tuesdays of each month at 6:00 p.m. The Local Redevelopment Authority Board meets on an "as needed" basis. Meetings are held as indicated, unless otherwise noticed.
City Council / LRA Agenda & Reports	The City Council/LRA Board agenda is posted pursuant to the California Brown Act, which only requires these agenda title pages to be posted near the entrance of the location where the meeting is to be held and, when available, on the City's website. Additional documents 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 www.riverbank.org upon distribution to a majority of the City Council/LRA Board. A subscription to receive the agenda can be purchased for a nominal fee through the City Clerk's Office.
Public Hearings	In general, a public hearing is an open consideration within a regular meeting of the City Council or a meeting of the LRA, 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.
Televised / Video of Meetings	City Council/LRA meetings are televised on Charter Channel 2 and AT&T Uverse Channel 99. Video of the meeting and the schedule of replays may be seen on the City's website, under the "Action 2" Icon. (Note: Technical difficulty occurs on occasion preventing the televising or recording of the meeting.)
Questions	Contact the City Clerk at (209) 863-7122 or aaguilar@riverbank.org

RIVERBANK CITY COUNCIL / LRA AGENDA ITEM NO. 3.A

SECTION 3: CONSENT CALENDAR

Meeting Date:	March 13, 2018
Subject:	Waiver of Readings
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

It is recommended that the City Council / LRA Board approve the waiver of readings of any proposed ordinances and resolutions for consideration, except by title.

SUMMARY

In lieu of reading the entire text of a proposed ordinance or resolution that is introduced for consideration of adoption and approval, by majority vote, the City Council may waive the reading of the text and introduce the ordinance or resolution by title only for the record.

The proposed ordinances and resolutions, and any related documents that are part of the agenda packet, are available for review by the public on the City's website and in the City Clerk's office at City Hall (North) upon distribution to a majority of the City Council; typically 72 hours prior to the scheduled date and time of the meeting.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENTS

There are no attachments to this report.

**RIVERBANK CITY COUNCIL / LOCAL REDEVELOPMENT AUTHORITY
AGENDA ITEM NO. 3.B**

SECTION 3: CONSENT CALENDAR

Meeting Date:	March 13, 2018,
Subject:	Approval of the February 27, 2018, City Council and Local Redevelopment Authority Minutes
From:	Sean Scully, City Manager
Submitted by:	Annabelle Aguilar, CMC, City Clerk / LRA Recorder

RECOMMENDATION

It is recommended that the City Council / Local Redevelopment Authority Board approve the City Council /LRA Meeting Minutes as presented.

SUMMARY

The draft Minutes of the February 27, 2018, regular City Council and the Local Redevelopment Authority Board meetings have been prepared for review and approval.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. February 27, 2018, City Council and LRA Minutes



**City of Riverbank
REGULAR CITY COUNCIL AND
LOCAL REDEVELOPMENT AUTHORITY BOARD**
(The City Council also serves as the LRA Board)

**MINUTES OF
TUESDAY, FEBRUARY 27, 2018**

Verbatim proceedings of the meetings may be viewed on-line or a copy may be provided for a fee.

CALL TO ORDER:

The City Council and Local Redevelopment Authority Board of the City of Riverbank met at 6:00 p.m. on this date at the Riverbank City Council Chambers, 6707 Third Street, Suite B, Riverbank, California, with Mayor/Chair Richard D. O'Brien presiding.

FLAG SALUTE: Mayor/Chair Richard D. O'Brien

INVOCATION: Reverend Charles Neal, Riverbank Ministerial Association

ROLL CALL: Mayor/Chair Richard D. O'Brien
Present Vice Mayor/Chair Darlene Barber Martinez (CM-D4)
Council/Authority Member District 2 Cindy Fosi
Council/Authority Member Cal Campbell
Council/Authority Member Leanne Jones Cruz

AGENDA CHANGES: Mayor/Chair Richard D. O'Brien – *There were no changes made.*

CONFLICT OF INTEREST

Any Council/Authority 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.

No one declared a conflict.

1. PRESENTATIONS

Item 1.1: Crossroads West Project Update / Process Presentation.

John Anderson, Contract Planner of JB Anderson Land Use Planning, made the presentation.

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 City Council/LRA 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. Under State Law, matters presented during the public comment period cannot be

discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the City Council/LRA Board.

Riverbank residents Ramon Bermudez and Ashley Edwards, and School Board Member Jennifer Mijakawa spoke in regards to the approval of the cannabis dispensaries in Riverbank.

3. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the City Council/LRA Board unless otherwise requested by an individual Council/Authority Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 3.A: Waive Readings. All Readings of ordinances and resolutions, except by title, are waived.

Item 3.B: Approval of the February 13, 2018, City Council and Local Redevelopment Authority Minutes.

Recommendation: It is recommended that City Council/LRA Board approve the Consent Calendar items by roll call vote.

City Clerk Annabelle Aguilar, clarified for the record that Councilmember Fosi was absent at the last meeting and therefore, would be abstaining from voting on Item 3.B.

ACTION: *By motion moved and seconded (Barber-Martinez / Jones Cruz / passed 5-0) to approve Consent Calendar Item 3.A and (passed 4-0) to approve Item 3.B as presented; Motion carried by City Council and LRA Board roll call vote.*

AYES: Fosi, Campbell, Jones Cruz, Barber-Martinez, and Mayor/Chair O'Brien

NAYS: None / ABSENT: None / ABSTAINED: Fosi (Item 3.B)

4. UNFINISHED BUSINESS There were no items to consider.

5. PUBLIC HEARINGS

The public hearing notice for Item 5.1 was published in the Riverbank News on 02/14/2018.

Item 5.1: **A Resolution [No. 2018-008] Approving the Fiscal Year 2017-18 Mid-Year Budget Amendments** – It is recommended that the City Council consider approval of the Fiscal Year 2017-18 Mid-Year Budget Amendments.

Assistant City Manager/Director of Finance Marisela Garcia presented the staff report. City Council and Staff discussed the item.

Mayor O'Brien opened the public hearing at 6:50 p.m.

· Mr. Ramon Bermudez commented.

Mayor O'Brien closed the public hearing at 6:54 p.m.

ACTION: *By motion moved and seconded (Jones Cruz / Barber-Martinez / passed 5-0) to adopt Resolution No. 2018-008 approving the Fiscal Year 2017-18 Mid-Year Budget Amendments as presented.*
Motion carried by unanimous City Council roll call vote.
AYES: Fosi, Campbell, Jones Cruz, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

6. NEW BUSINESS

Item 6.1: **A Resolution [No. 2018-009] Approving the Appointments of Mallorie Fenrich and Steve Link (Alternate) to the Planning Commission** – It is recommended that the City Council consider the appointments presented by Mayor O'Brien to fill a primary and alternate seat on the Planning Commission, adopt the proposed resolution for approval of the appointments, and have the Oath of Office administered to the Commissioners.

City Manager Sean Scully presented the staff report.

ACTION: *By motion moved and seconded (Jones Cruz / Campbell / passed 5-0) to adopt Resolution No. 2018-009 approving the Appointments of Mallorie Fenrich and Steve Link (Alternate) to the Planning Commission as presented.*
Motion carried by unanimous City Council roll call vote.
AYES: Fosi, Campbell, Jones Cruz, Barber-Martinez, and Mayor O'Brien
NAYS: None / ABSENT: None / ABSTAINED: None

Mayor O'Brien proceeded to administer the Oath of Office and present the Certificates of Appointment to the Commissioners.

Item 6.2: **A Resolution [No. 2018-010] for the Approval of an Employment Agreement between the City of Riverbank and Michael Riddell as Public Works Director** – It is recommended that the Riverbank City Council ("City Council") approve the attached resolution which approves and authorized execution of the attached Employment Agreement ("Agreement") between the City of Riverbank ("City") and Michael Riddell as Public Works Director.

City Manager Sean Scully presented the staff report.
Public Comment: Mr. Ramon Bermudez commented.

ACTION: *By motion moved and seconded (Campbell / Fosi / passed 5-0) to adopt Resolution No. 2018-010 approving of an Employment Agreement between the City of Riverbank and Michael Riddell as Public Works Director as presented.*
Motion carried by unanimous City Council roll call vote.

AYES: Fosi, Barber-Martinez, Campbell, Jones Cruz, and Mayor O'Brien

NAYS: None / ABSENT: None / ABSTAINED: None

7 COMMENTS/REPORTS

A brief report on attendance of a meeting or conference or other notable topics of business shall be made. The Brown Act does not allow for discussion or action by the City Council.

Item 7.1: Staff

- *City Manager Sean Scully commented on the efforts of Assistant City Manager/Director of Finance Marisela Garcia and Community Development Administration Manager Kathleen Cleek with Senate Bill 1.*

Item 7.2: Council/Authority Member

- *Council/Authority Member Campbell announced the opportunity to volunteer to read to students at the Riverbank elementary schools.*
- *Council/Authority Member Jones Cruz announced the upcoming Citizen of the Year annual event, and commented on the decisions made in regards to the legalization of marijuana.*
- *Vice Mayor/Chair Barber-Martinez: 1) thanked BNSF for repairs done to the Patterson Road and First Street railroad crossing, and 2) announced that March was the recognition Women's Month.*

Item 7.3: Mayor/Chair

Mayor/Chair O'Brien commented on: 1) wishing all the input provided on the dispensaries would have been received during the workshops conducted, 2 the efforts of the Crossroads West Specific Plan and the implementation of the Community Facilities District, and 3) the rising cost of the California Public Employees Retirement System.

8. CLOSED SESSION

The public will have a limit of 5 minutes to comment on Closed Session item(s) as set forth on the agenda prior to the City Council/LRA Board recessing into Closed Session.

Item 8.1: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code § 54956.9: (3) potential cases

Mayor/Chair O'Brien announced the Closed Session Item and opened the Item for public comment; no one spoke. The meetings were recessed and City Council went into Closed Session at 7:22 p.m.

9. REPORT FROM CLOSED SESSION

Mayor/Chair O'Brien reconvened the meetings at 7:47 p.m.

Item 9.1: Report on Closed Session on Item 8.1: **CONFERENCE WITH LABOR NEGOTIATORS**

Mayor O'Brien announced the direction was provided to staff.

ADJOURNMENT

There being no further business, Mayor/Chair O'Brien adjourned the meetings at 7:48 p.m.

ATTEST: (*Adopted 03/13/2018*)

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk / LRA Recorder

Richard D. O'Brien
Mayor / Chair

DRAFT

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.1

SECTION 5: PUBLIC HEARING

Meeting Date:	March 13, 2018
Subject:	The First Reading and Introduction of a Proposed Ordinance Repealing in its Entirety Chapter 94: Park Regulations of Title IX: General Regulations and Adding a New Chapter 94: Park Regulations to the City of Riverbank Code of Ordinances
From:	Sean Scully, City Manager
Submitted by:	Sue Fitzpatrick, Director of Parks and Recreation Annabelle H. Aguilar, CMC, City Clerk

RECOMMENDATION

It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval as presented, which initiates the second reading by title only at the March 27, 2018, regular City Council meeting or soon thereafter to consider its adoption.

SUMMARY

To best manage the parks, maintain the health, safety, and general welfare of the park patrons and city property, the city's ordinance on park regulations must be updated from time to time to address needed policy on issues that arise. As a result, the entire Chapter 94: Park Regulations of Title IX: General Regulations, is being repealed to be replaced with a new Chapter 94: Park Regulations.

BACKGROUND

The City Parks and Recreation Director has reviewed the current park regulations ordinance and is recommending the updates outlined in this report. Once these changes are approved, the signage within the parks will be updated to provide awareness and notice to the public of the existence of rules and regulations of City Parks.

Included in the updates are policy on failure to purchase a parking permit during seasonal periods, the ability to use a water bounce house for a city event, clarification of acts prohibited, and the ability to patrol and check any potential misuse of assigned disabled person parking spaces.

STRATEGIC PLAN

This item is related to the strategic plan by providing updated ordinances within City Parks to ensure the City of Riverbank is recognized as a premier community where individuals, families and businesses thrive in a safe and beautiful environment.

FINANCIAL IMPACT

There is no financial impact to this item.

ATTACHMENT

1. Proposed Ordinance

CITY OF RIVERBANK

ORDINANCE

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, REPEALING IN ITS ENTIRETY CHAPTER 94: PARK
REGULATIONS OF TITLE IX: GENERAL REGULATIONS AND ADDING A NEW
CHAPTER 94: PARK REGULATIONS TO THE CITY OF RIVERBANK CODE OF
ORDINANCES**

WHEREAS, the City of Riverbank’s (“City”) parks and areas of recreation are a vital attribute to the City, which serves an important role in shaping community character; and

WHEREAS, to best manage the parks, maintain the health, safety, and general welfare of the park patrons and city property, the city’s ordinance on park regulations must be updated from time to time to address needed policy on issues that arise; and

WHEREAS, included in these updates are policy on failure to purchase a parking permit during seasonal periods, the ability to use a water bounce house for a city event, clarification of acts prohibited, and the ability to patrol and check any potential misuse of designated disabled person parking spaces.

SECTION 1: NOW THEREFORE, THE CITY OF RIVERBANK CITY COUNCIL DOES ORDAIN AS FOLLOWS:

The Riverbank Municipal Code, Title IX: General Regulations, Chapter 94: Park Regulations, shall be amended by repealing this chapter in its entirety and replacing it with a new Chapter 94: Park Regulations which shall read as follows:

CHAPTER 94: PARK REGULATIONS

Section

General Provisions

- 94.01 Purpose
- 94.02 Definitions
- 94.03 Rules and regulations
- 94.04 Park fees – purpose

Park Regulations

- 94.10 Acts prohibited in the parks
- 94.11 Glass containers prohibited

- 94.12 Alcoholic beverages prohibited
- 94.13 Smoking prohibited
- 94.14 Group gatherings; permit
- 94.15 Animals in city parks
- 94.16 Skate park facility
- 94.17 Bounce houses and other inflatable apparatus

Permits

- 94.40 Permit for public gathering
- 94.41 Parking permit

Enforcement, Violations

- 94.50 Park use hours
- 94.51 Order to close city parks
- 94.52 Order to leave city parks
- 94.53 Signage of rules and regulations
- 94.54 Enforcement
- 94.55 Penalty

Cross-reference:

Community Recreation Commission, see §§ 32.01 through 32.07

§ 94.01 PURPOSE.

The purpose and intent of this chapter is to provide necessary regulations for general park use and to provide permit provisions for certain activities in public parks and recreation areas and the prohibition of other certain activities, and therefore by doing so, protect the health, safety, and general welfare of the public and all city parks.

§ 94.02 DEFINITIONS.

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

AT LARGE. An animal off the premises of its owner and not under restraint by a leash.

DANGEROUS DOG. Any dog, except one assisting a peace officer engaged in law enforcement duties, which demonstrates any of the following behavior, is presumed dangerous:

(A) An attack which requires a defensive action by any person to prevent bodily injury or property damage when such person is conducting himself or herself peacefully and lawfully.

(B) An attack which results in property damage or in an injury to a person when such a person is conducting himself or herself peacefully and lawfully.

(C) An attack on another animal, livestock, or poultry which occurs on property other than that of the owner of the attacking dog.

(D) Any behavior which constitutes a threat of bodily harm to a person when such person is conducting himself or herself peacefully and lawfully.

DOG LICENSE. A license tag required to be obtained annually for each individual dog.

LIVESTOCK. Any domesticated cattle, goats, swine, sheep, and equine which are kept in captivity or under the control or ownership of any person for any purpose.

PARK. A parcel or contiguous parcels of land owned, operated and maintained by the city that provides space and/or a facility, whether indoor or outdoor, for the benefit and enjoyment of people residing or visiting the city. PARKS may be classified as community or neighborhood parks, community centers such as the Riverbank Teen Center. PARKS may include parking lots, playground equipment, sports fields, skate parks, buildings or other structures, or other amenities.

PARK ATTENDANT. Any employee of the park and recreation department, or person(s) designated by the Director of Parks and Recreation, charged with public relations, providing information to the public, oversight and general caretaking functions, or maintenance and operation of the city parks and public recreation areas.

POLICE SERVICES COMMANDING OFFICER. The city's Police Chief or authorized representative.

SMOKE OR SMOKING. This means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or marijuana or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

(`67 Code, § 3-11-1) (Am. Ord. 2015-011, passed 6-23-15)

§ 94.03 RULES AND REGULATIONS.

(A) In order to promote the comfort and convenience of persons visiting, utilizing, or working in any city park or recreation area, the City Council may, from time to time, by ordinance, adopt rules and regulations, and by resolution adopt guidelines, processes and procedures, not inconsistent with the provisions of this chapter for the protection of and preservation of the public and city property. When such rules and regulations have been adopted and signs erected within a park or recreation area or portions thereof, and thereby informing the public of the substance of such rules and regulations, it shall be unlawful for any person to fail to comply therewith.

(^67 Code, § 3-11-4) (Ord. 78-11, passed 7-24-78; Am. Ord. 2005-011, passed 6-27-05)

§ 94.04 PARK FEES - PURPOSE.

Section 50402 of the Government Code of the state of California provides that a city may charge for use or services provided in city parks as long as the charges do not exceed the cost of service. The purpose of this section is to provide for park fees to be charged by the Department of Parks and Recreation for various related park services and facilities in amounts reasonably necessary to recover the cost of operating the parks and providing the various services and facilities therein.

PARK REGULATIONS

§ 94.10 ACTS PROHIBITED IN THE PARKS.

It is unlawful for any person to do any of the following within the city's parks:

(A) To drive or operate any motor vehicle in any park at a speed in excess of 5 miles per hour.

(B) To fail to obey all traffic regulations concerning the use of vehicles in the park or posted signs for the control and safeguard of life and property.

(C) To park a vehicle in any place other than an established or designated parking area, or use a parking area in a manner not in accordance with the posted directions, or the instructions of a designated city representative or peace officer who may be present.

(D) To commit in riotous, boisterous, threatening, or indecent conduct or language or to otherwise make noises in such a manner as to disturb any picnic, meeting, sporting event, or reasonable person.

(E) To disturb or interfere with any employee of the city or designee acting within the scope of his or her employment, or to disturb or interfere with any spectator or participant in any event or activity conducted in any city park, or to enter any park for the purpose of committing any such disturbance or interference.

(F) To bring or use any glass container on park premises.

(G) To smoke tobacco, marijuana, or any plant product in any city park area designated as a "smoke-free" or "no smoking" area pursuant to the definition of "smoking" and Section 94.13 of this chapter.

(H) To consume alcoholic beverages within any city park or within 15 feet of an abutting edge of any city park or parking lot of any city park.

(I) To enter or remain in a park while under the influence of intoxicating alcohol or any drug.

(J) To litter, soil, or defile restrooms, park facilities, or any equipment.

(K) To start or fuel a fire, except for a charcoal fire for the use of barbeque fixtures provided for that purpose.

(L) To move, remove, deface, vandalize, or in any way tamper with any equipment used for park maintenance, any property of the city, or the property of the park patrons.

(M) To climb onto any building or structure in a park not designated for such activity.

(N) To dig or otherwise disturb any park area or in any way injure or impair the natural beauty or usefulness of any park area.

(O) To violate any provision of Chapter 91, Animal Control, of the code or this chapter within a city park.

(P) To offer any article of food or drink for sale; or station or place any stand, cart or vehicle for the transportation, sale or display of any such article of food or drink in the park or on public property adjacent to such park without a permit issued by the Director of Parks and Recreation.

(Q) No person shall engage in commercial activities, including advertising or solicitation for commercial purposes; except if authorized as part of a city-sponsored event.

(R) To fail to obey all posted signs, the lawful order of any peace officer, or city employee, or other individual authorized to enforce the rules and regulations as set forth herein.

(`67 Code, § 3-11-7) (Ord. 99-02, passed 3-8-99; Am. Ord. 2003-015, passed 11-24-03; Am. Ord. 2009-009, passed 10-12-09; Am. Ord. 2015-011, passed 6-23-15) Penalty, see § 94.99

§ 94.11 GLASS CONTAINERS PROHIBITED.

The use or possession of any glass container while in a city park, whether a bottle or other form of container and for any type of use, shall be unlawful.

(`67 Code, § 3-11-5) (Ord. 86-25, passed 10-27-86)

§ 94.12 ALCOHOLIC BEVERAGES PROHIBITED.

(A) The consumption or sale of wine, beer, or any type of alcoholic beverage shall be prohibited in all city parks and within 15 feet of an abutting edge of any city park or parking lot of any city park.

(⁶⁷ Code, § 3-11-6) (Ord. 91-07, passed 5-13-91; Am. Ord. 96-05, passed 6-10-96)
Cross-reference: Alcohol regulated, see §§ 111.01 and 111.02

§ 94.13 SMOKING PROHIBITED.

(A) Certain city park areas are designated “smoke-free” or “no smoking” areas for the health, safety, and welfare of persons utilizing the city parks. It shall be unlawful for any person to: (HSC § 104495)

- (1) Smoke within 25 feet of any playground or tot lot sandbox area; and
- (2) Dispose of any tobacco-related waste within 25 feet of a playground or a tot lot sandbox area; and
- (3) To use tobacco product within 250 feet of a youth sports event in a park or facility where the event is taking place; and
- (4) The aforementioned provisions shall include smoking of any marijuana or any plant product, as defined by “smoking” in this chapter.

§ 94.14 GROUP GATHERINGS; PERMIT.

(A) It shall be unlawful for a person or persons to hold, conduct, participate in, attend, or address any meeting, organized gathering, assemblage, or celebration, of fifty (50) or more persons in any city park without a permit granted by the Director of Parks and Recreation or designee in accordance with section 94.40 of this chapter; except for a city sponsored or conducted event.

§ 94.15 ANIMALS IN CITY PARKS.

(A) Animals in city parks are subject to the requirements of Chapter 91 of the Municipal Code and subject to the provisions of this chapter when animal control issues arise in a city park. The person owning, controlling or having custody of such animal shall be jointly and severally responsible for all damages caused by such animal.

(B) For purposes of this chapter, livestock or domesticated fowl, birds, and reptiles are prohibited in city parks except under the direction of the city's Director of Parks and Recreation related to community special events.

(C) For purposes of providing immediate safety and health measures to city park patrons and personnel, in addition to those authorized to enforce Chapter 91, Animal Control, of the code, any authorized city staff member or contracted security services personnel designated by the city's Director of Parks and Recreation can enforce the following provisions and issue an administrative citation for said violations within city parks.

(D) It shall be unlawful for the owner or any person having charge, care, custody, or control of any dog, whether licensed or unlicensed:

(1) To enter a city park with a dog that is not restrained with a leash of no more than six feet in length and of suitable strength.

(2) To enter a city park without a current dog license tag attached to the dog's collar, harness, or other dog restraining device and keep the license displayed at all times. A warning citation may be issued for the violation of this provision.

(3) To enter a city park with a vicious or dangerous dog which demonstrates threatening or aggressive behavior towards people or other animals or that has a known history of such behavior.

(4) To suffer, permit, or allow the dog to run at large in any city park.

(5) To allow a dog to remain upon the open bed or areas of any truck, trailer, or vehicle, without being securely and safely restrained by a substantial chain or leash that prevents the dog from expending any part of its body past the edge of the bed or open area of the truck, trailer, or vehicle, and which prevents said dog from causing any harm to itself or any park patron or personnel.

(6) To leave a dog alone and unattended in a vehicle, truck, or trailer or on the premises of a city park.

(7) To permit, either willfully or through failure to exercise due care or control, such dog to defecate and to allow the feces to remain upon a public park, and fail to immediately and securely enclose all feces deposited by such dog in a bag, wrapper, or other container, and dispose of it in a sanitary manner.

(8) This provision shall not apply to individuals with disabilities who have the charge or control of a certified guide or assistance dog.

(9) To permit, either willfully or through failure to exercise due care or control, such dog to urinate upon city playground equipment, a facility or facility equipment, or upon the property of patrons in a city park.

(10) To remain on the premises of a city park with a dog that has demonstrated threatening or aggressive behavior towards people or other animals, or that has attacked, bitten, scratched, or harassed people or other animals without provocation.

(11) To permit a dog to create a public nuisance threatening the safety and health of people or other animals or disturbing the peace in a city park.

(E) Any person violating any of these provisions may be cited and ordered to leave the park.

(F) Procedures upon a dog bite. In the event that any dog shall bite any person or shall attack another animal on the premises of a city park, the designated city personnel or contracted security services personnel shall have the authority, as appropriate:

(1) To determine whether such incident requires an emergency call to the city's animal control services, police services, and medical responders.

(2) To complete an incident report and provide a copy of the report to the City Manager for follow up with the contracted animal control services.

(3) To request the dog license information of such dog.

(4) To inform the owner or any person having charge, care, custody, or control of such dog, to deliver such dog to the Oakdale animal shelter.

(5) To issue an administrative citation for violations under this chapter.

(6) To request the owner or any person having charge, care, custody, or control of such dog to leave the city park with such dog.

(Ord. 2015-011, passed 6-23-15)

§ 94.16 SKATE PARK FACILITY.

(A) It is unlawful for any person to use or operate a skateboard, inline skates, or similar device on or in a public skate park facility located within the city, unless that person is, at all times, wearing properly fitted and fastened protective devices consisting of a helmet, knee pads, wrist guards, and elbow pads, which are commercially manufactured and designed specifically for the designated activity.

(B) The use of bicycles, coasters, scooters, or other rolling or wheeled devices are strictly prohibited.

(C) Coasting devices permitted within a public skate park facility are skateboards, roller skates, and inline skates.

(D) No person under the age of 12 years of age will use the skate park without the supervision of a parent or legal guardian

(E) The provisions as set for acts prohibited under Section 94.10 of this chapter shall apply.

(F) The parent or legal guardian having control or custody of an un-emancipated minor whose conduct violates this section shall be jointly and severally liable with the minor for any penalty imposed pursuant to this section.

(Ord. 2003-004, passed 4-14-03; Am. Ord. 2015-011, passed 6-23-15)

§ 94.17 BOUNCE HOUSES OR OTHER INFLATABLE APPARATUS; PERMIT.

(A) It is unlawful to have bounce houses or any similar inflatable apparatus on the premises of a city park or other city property without a city issued permit approved by the Parks and Recreation Department or designee pursuant to section 94.40 of this chapter.

(1) Water bounce houses and two-story bounce houses or any similar inflatable apparatus are prohibited; unless it is for a city event and staffed by city staff.

(2) The city reserves the right to impose additional terms and conditions as deemed necessary to protect the health, safety, or welfare of the public or city property.

(3) Bounce houses or any similar inflatable apparatus are prohibited at Jacob Myers Park.

(Ord. 2005-011, passed 6-27-05; Am. Ord. 2015-011, passed 6-23-15)

PERMITS

§ 94.40 PERMIT REQUIRED.

The city finds that it is necessary to implement a permit process for certain activities to preserve the quality of park operations and maintenance, and to protect the health, safety, and welfare of persons visiting, utilizing, or working in a city park.

(A) Permits shall be obtained for the following activities conducted in a city park:

- (1) Bounce houses or inflatable apparatus;
- (2) Food vendors or sale;
- (3) Group gatherings;

- (4) Professional photography activities;
- (5) Parking permit.

(B) As part of the permit process it is required that the submittal of a current certificate of liability insurance state:

(1) Coverage of bodily and property injury in the minimum amount specified by the city; and

(2) Names the city, and its officials, agents and employees as an additional insured by separate endorsement, that is part of and attached to the certificate of liability insurance policy; and

(3) States that the insurance coverage will not be modified or canceled without prior written notice to the city and that it will be valid for one year; and

(4) *Indemnification of city.* Ensure there is an agreement severally indemnifies, protects, defends, saves and holds harmless the city and its officials, agents, and employees from any and all losses, damages, injuries, death, and claims that may result from the permitted activity. If there is more than one responsible party, it shall be a joint agreement.

(C) Evidence of a current city-issued business license must be provided; lack of a current license in good standing shall be denial of a permit.

(D) The Director of Parks and Recreation or designee reserves the right to deny or revoke a permit if it finds that the granting of a permit or the violation of any provisions of this chapter or any provisions of this Code would be or are detrimental to the health, safety, or welfare of the public or city property.

(⁶⁷ Code, § 3-11-2) (Am. Ord. 2015-011, passed 6-23-15)

§ 94.41 PARKING PERMIT.

(A) Whenever the Director of Parks and Recreation or designee shall determine that the orderly, efficient conduct of a city park requires that parking in a park be prohibited, limited, or restricted, for public safety, health, or convenience of managing the parks, the Director may enforce the requirement of a parking permit.

(1) The period of a parking permit system, whether temporary, seasonal, or annual, shall be established by City Council resolution, and may be changed from time to time.

(2) Any fee charged for a parking permit shall be established by City Council resolution and may be changed from time to time.

(B) Issuance of a permit for parking:

(1) Parking permits shall be purchased from a park attendant or in the absence of an attendant, shall be purchased at the designated Iron Ranger (fee collection unit) pay station.

(2) Permits must be clearly visible from outside the front windshield area of the vehicle to be considered valid. The entire permit must be visible. Motorcycle permits must be affixed to the right or left front fork of the motorcycle, near the triple clamp.

(3) The issuance of a parking permit does not guarantee parking availability. The responsibility of finding legal parking spaces rests with the motor vehicle operator. Lack of parking spaces is not considered a valid reason for violation of this procedure. Parking is available on a first come, first served basis.

(4) *Failure to pay.* Failure to pay for a parking permit is considered an infraction and will be subject to issuance of an administrative citation and a fine of \$50.00, which may be escalated to the level of penalty as stated in Section 94.55 for continued violations.

(C) A vehicle or motorcycle parked in the park must be legally parked. Parking, stopping, or standing a vehicle contrary to the directions or provisions of signs or markings posted or indicated in the park is prohibited.

(D) *Disabled persons.* Any disabled person or disabled veteran displaying special identification license plates issued under Vehicle Code § 5007 or a placard issued under Vehicle Code § 22511.55 shall:

(1) Be allowed to park without the purchase of a parking permit.

(2) Upon the request of a peace officer or city employee, or person authorized by the city to enforce parking laws, ordinances, or park regulations, present identification and evidence of the issuance of that placard to that person.

(a) Failure to present the requested identification and evidence of the issuance of that placard shall be a rebuttable presumption that the placard is being misused and that the associated vehicle is parked in violation of the designated parking spaces for the exclusive use of authorized disabled persons, or in violation of obtaining any required parking permit.

(D) Violations of parking regulations within the city parks may be subject to a citation and being towed away at the owner's expense.

(E) The Director of Parks and Recreation or designee may reserve parking spaces or areas of parking spaces to accommodate special circumstances or events.

ENFORCEMENT, VIOLATIONS

§ 94.50 PARK USE HOURS.

(A) With the exception of Jacob Myers Park, all city parks shall be open to the public from 6:00 a.m. until one hour after dusk, except for a city-sanctioned function or event. Each park shall have the closing hours posted at the entrance or at some other prominent place in the park.

(B) Jacob Myers Park shall have the following hours:

(1) April through September the Jacob Myers Park will be open from 7:00 a.m. until 8:00 p.m., with the trail area in the park closing at 7:30 p.m.

(2) October through March the Jacob Myers Park will be open from 7:00 a.m. until 6:00 p.m., with the trail area in the park closing at 5:30 p.m.

(C) At all other times, aside from the hours designated herein, all city parks shall be closed to the public. Visiting or entering a city park at a time that it is closed to the public is a violation of this chapter.

(⁶⁷ Code, § 3-11-3) (Am. Ord. 98-06, passed 11-23-98; Am. Ord. 2015- 011, passed 6-23-15)

§ 94.51 ORDER TO CLOSE CITY PARKS.

(A) Peace officers, or the Director of Parks and Recreation or designee, or any city authorized agent, may at any time order that all or part of a city park, either temporarily or at regular intervals be closed. It shall be a misdemeanor for any person to remain in the area after such an order has been given.

(B) The individual giving the order to close the park shall, on the next regular city workday, submit to the City Manager a detailed report of the reasons for the order.

(⁶⁷ Code, § 3-11-9) (Ord. 99-02, passed 3-8-99; Am. Ord. 2015-011, passed 6-23-15) Penalty, see § 94.99

§ 94.52 ORDER TO LEAVE CITY PARKS.

As a further measure, to protect the health, safety, and welfare of persons in a city park, protect city property, or the ability to maintain safe park operations, any person violating a provision of this chapter or any provision of state or local law, while in the park, may be ordered by a peace officer, or any agent of the city authorized to enforce the provisions of this chapter, to leave all or part of a city park and not reenter such area for any period up to 24 hours. Failure to obey such order shall be an infraction, in addition to the original violation.

(⁶⁷ Code, § 3-11-10) (Ord. 99-02, passed 3-8-99; Am. Ord. 2011-003, passed 6-27-11; Am. Ord. 2015-011, passed 6-23-15) Penalty, see § 94.99

§ 94.53 SIGNAGE OF RULES AND REGULATIONS.

The city shall cause the title of this chapter, and other park rules and regulations as deemed necessary or required, to be posted at each city park to give park patrons notice of park rules and regulations.

(Ord. 2015-011, passed 6-23-15)

§ 94.54 ENFORCEMENT.

(A) Any violation of this chapter shall be enforceable pursuant to Chapter 99 of the Riverbank Municipal Code. Peace officers, the Director of Parks and Recreation, or designated contracted security services personnel, or any authorized city employee, may enforce this chapter.

(B) The Director of Parks and Recreation or designee shall have the authority at all time to regulate the activities in park areas, when necessary to prevent congestion or overcrowding, secure the safety and health of patrons, secure the appropriate park operations, and to secure maximum use of the park facilities for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(C) The City Council may from time to time by minute order or resolution adopt additional supplemental regulations relating to the conduct of persons, uses and activities permitted, regulated or prohibited on park property which are not contradictory or contrary to any of the provisions of this chapter, and may require the Director or any authorized city employee to enforce the same.

(Ord. 2015-011, passed 6-23-15)

§ 94.55 PENALTY.

(A) Unless otherwise classified as a misdemeanor in this code, the violation of any provision or failure to comply with any mandatory requirement of this chapter is an infraction.

(B) Unless otherwise noted, any person violating these provisions shall be guilty of an infraction, which shall be punishable by:

(1) A fine not exceeding \$100 for the first offense;

(2) A fine not exceeding \$200 for a second violation of the same offense within one year of the first offense; and

(3) A fine not exceeding \$500 for each additional violation of the same offense thereafter.

(C) An issued Administrative Citation under this chapter may be changed to a warning citation at the discretion of the Director of Parks and Recreation, and with the approval of the City Manager. Any further violation of the same offense shall invoke the penalties of a fine.

(^67 Code, § 3-11-10) (Ord. 99-02, passed 3-8-99; Am. Ord. 2011-003, passed 6-27-11; Am. Ord. 2015-011, passed 6-23-15)

SECTION 2: *Severability.* 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 3: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption (), 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 March 13, 2018. 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 27th day of December, 2018; motioned by Councilmember _____, seconded by Councilmember _____, moved said ordinance by a City Council roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

APPROVED:

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

Tom P. Hallinan, City Attorney

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 5.2

SECTION 5: PUBLIC HEARING

Meeting Date: March 13, 2018

Subject: First Reading and Introduction of a Proposed **Ordinance** Repealing in its Entirety Chapter 122: Video Franchise of Title XI: Business Regulations and Replacing it with a New Chapter 122: Video Service Franchise to Include Reauthorization of the PEG Fee and to Automatically Reauthorize the Peg Fee upon Renewal of a State Video Franchise

From: Sean Scully, City Manager

Submitted by: Annabelle H. Aguilar, CMC, City Clerk

RECOMMENDATION

It is recommended that the City Council conduct the public hearing for the first reading and introduction of the proposed ordinance and consider its approval as presented, which initiates the second reading by title only at the March 27, 2018, regular City Council meeting or soon thereafter to consider its adoption.

SUMMARY

The State Legislature adopted the Digital Infrastructure and Video Competition Act (“DIVCA”) of 2006, which established a state video franchising system that replaced local cable franchising.

Charter Communication, Inc. (“Charter”) and AT&T, Inc. are the City’s video service franchise holders (“Holders”) and operate within the City providing video service to the citizens of Riverbank and also providing a Public, Educational, and Governmental (PEG) channel to receive City video programming. In order to provide video service, the Holders must apply for and be issued a state video franchise by the California Public Utilities Commission. A state video franchise has a term of 10 years and must be renewed by the end of its term.

Recently, Charter informed the City that its state video franchise had expired, and had also been renewed by the Commission. In accordance with the California Public Utilities Code Section 5870(n) the City’s video franchise ordinance is required to be reauthorized by formal adoption of the City Council in order to reauthorize Charter to continue the collection and payment of the PEG fees that supports the PEG channel facilities.

The ordinance presented has been amended to refine the language, to reauthorize the continued collection and payment of PEG fees, and to allow for the automatic reauthorization of this section of the ordinance to ensure that any future expiration of a state video franchise providing service within the City, will upon its renewal by the Commission, continue the collection and payment of the PEG fees, and will further ensure the ordinance remains in full effect.

BACKGROUND

On December 22, 2008, the Riverbank City Council adopted Ordinance No. 2008-017, establishing Riverbank Municipal Code Chapter 122: Video Franchise of Title XI, providing the authority to collect franchise fees, currently 5% of gross revenues, and to collect a PEG fee equal to 1% of the gross revenues, which are payable by the state video franchise holders that operate within the City. This ordinance must be reauthorized by the City Council in order for the Holder to continue collecting and paying the PEG fees to the City.

STRATEGIC PLAN

The collection of the PEG fees has funded the recent improvement of the City's media equipment in the Council Chambers to improve the presentation and video broadcasting on the PEG channels, which is a City strategic goal of the maintenance and improvement of infrastructure.

FINANCIAL IMPACT

PEG Fees from the city's video franchises will continue to be collected and paid to the city in accordance with DIVCA.

ATTACHMENT

1. Proposed ordinance

CITY OF RIVERBANK

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, REPEALING IN ITS ENTIRETY CHAPTER 122: VIDEO FRANCHISE OF TITLE XI: BUSINESS REGULATIONS AND REPLACING IT WITH A NEW CHAPTER 122: VIDEO SERVICE FRANCHISE TO INCLUDE REAUTHORIZATION OF THE PEG FEE AND TO AUTOMATICALLY REAUTHORIZE THE PEG FEE UPON RENEWAL OF A STATE VIDEO FRANCHISE

WHEREAS, the State Legislature adopted the Digital Infrastructure and Video Competition Act of 2006, (also known as AB 2987, and "DIVCA"); and

WHEREAS, DIVCA established a state video franchising system that replaced local cable franchising; and

WHEREAS, a state video franchise, that has a term of ten (10) years, is issued by the California Public Utilities Commission ("CPUC"), who administers the California Public Utilities Code ("PUC"); and

WHEREAS, in accordance with DIVCA a local entity may establish a fee to support Public, Education, and Government access facilities ("PEG") payable by state video franchise holders, through the adoption of an ordinance; and

WHEREAS, on December 22, 2008, the Riverbank City Council adopted Ordinance No. 2008-017, establishing Riverbank Municipal Code Chapter 122: Video Franchise of Title XI providing the authority to collect franchise fees, currently 5% of gross revenues, and to collect a PEG fee equal to 1% of the gross revenues, which are payable by the state video franchise holders that operate within the City; and

WHEREAS, the City of Riverbank receives PEG fees from state video franchise holders Charter Communications, Inc. and AT&T Inc., and upon expiration of their issued state video franchise, PUC requires that a city's ordinance be reauthorized by the City Council for the continued collection and payment of the PEG fees; and

WHEREAS, to ensure the collection and remittance of the PEG fee continues, and the video franchise ordinance remains in full effect upon the renewal of a state video franchise by the CPUC, the City Council desires to expressly declare that the City's video service franchise ordinance for the PEG fee is reauthorized, and further desires to amend this ordinance to automatically reauthorize the ordinance for the PEG fee to the extent required by PUC Section 5870(n) upon the renewal of a state video franchise to a holder.

SECTION 1: NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES ORDAIN AS FOLLOWS:

The Riverbank Municipal Code, Title XI: Business Regulations, Chapter 122: Video Franchise, shall be amended by repealing in its entirety Chapter 122 and replacing it with a new Chapter 122: Video Service Franchise, which shall read as follows:

CHAPTER 122: VIDEO SERVICE FRANCHISE

Section

General Provisions

- 122.01 Purpose and authority
- 122.02 Definitions

Franchise Provisions

- 122.06 State video franchise applications
- 122.07 State video franchise holder franchise fee
- 122.08 Public, educational, and government (PEG) fee
- 122.09 Public, educational, and government channels
- 122.10 Customer service penalties; Appeal
- 122.11 Permit for public rights-of-way; Appeal
- 122.12 Environmental review
- 122.13 Authority to examine business records

GENERAL PROVISIONS

§ 122.01 PURPOSE AND AUTHORITY.

The purpose of this chapter is to implement the Digital Infrastructure and Video Competition Act of 2006, (“DIVCA”) set forth at California Public Utilities Code (“PUC”) section 5800 et seq. that became effective January 1, 2007. Consistent with DIVCA, and the implementing rules issued by the California Public Utilities Commission (“CPUC”) dated March 1, 2007, the City of Riverbank retains local city authority and implements that authority pursuant to DIVCA by implementation of this chapter. This chapter shall be applied to and interpreted consistently with any amendments to, or recodifications of DIVCA that may be made from time to time.

§ 122.02 DEFINITIONS.

VIDEO SERVICE, **VIDEO FRANCHISE**, and **HOLDER** shall have the same meaning as those terms as defined in the public utilities code section 5830.

GROSS REVENUE has the meaning set forth in California Public Utilities Code section 5860(d).

Terms not defined here shall have the same meaning as established in (in order of priority); (1) the California Public Utilities Code; (2) commission rules implementing the California Public Utilities Code; and (3) Title 47 United States Code Title VI.

FRANCHISE PROVISIONS

§ 122.06 STATE VIDEO FRANCHISE APPLICATIONS.

(A) *Copy of application to city.* An applicant for a state video franchise within the boundaries of the city must concurrently provide a complete copy of any application or amendments to an application to the city clerk that is filed with the California Public Utilities Commission (PUC § 5840 (e)(1)(D)).

(B) *City Manager comments.* Within 30-days of receipt, the city manager will provide any appropriate comments to the California Public Utilities Commission regarding an application or an amendment to an application for a state video franchise.

(C) *Notification of video service.* Prior to offering video service in the City of Riverbank, the state video franchise holder shall notify the city clerk at least 10 days, but no more than 60 days, before the video service provider begins to offer service. (PUC § 5840 (n))

§ 122.07 STATE VIDEO FRANCHISE HOLDER FRANCHISE FEE.

Any state video franchise holder operating within the city shall remit a franchise fee to the city in the amount equal to five percent (5%) of the gross revenues of the state video franchise holder derived from the operation of its franchise within the city in compliance with PUC Sections 5840(q) and 5860.

(A) A State video franchise holder shall pay the franchise fee to the City quarterly, within 45-days after the end of each calendar quarter.

(B) Each payment shall be accompanied by a summary explaining the basis for the calculation of the fee.

(C) Pursuant to PUC Section 5860(h) if the franchise holder does not pay the franchise fee when due, the franchise holder shall pay a late payment charge at a rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent (1%).

§ 122.08 PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) FEE.

Any state video franchise holder operating within the city shall remit to the city a Public, Educational, and Government (“PEG”) fee in the amount equal to one percent (1%) of the gross revenue of the state video franchise holder derived from the operation of its franchise within the city to support public, educational, and governmental channel facilities in compliance with PUC section 5870(n).

(A) A state video franchise holder shall pay the franchise fee to the City quarterly, within 45-days after the end of each calendar quarter.

(B) All revenue collected pursuant to this fee shall be deposited in a separate fund and shall only be expended for the purpose of supporting PEG channel facilities.

(C) *Automatic Reauthorization.* Notwithstanding PUC section 5870, upon the expiration of any state video franchise, without any action of the city council, this code section shall be deemed to have been automatically reauthorized upon the renewal of a state video franchise by the CPUC to a state video franchise holder operating within the city, unless the holder has given the city manager and city clerk written notice sixty (60) days prior to the expiration of its state video franchise that this section will expire pursuant to the terms of subdivision (n) of the PUC section 5870, or until such time that the city council takes formal affirmative action to cease the reauthorization.

§ 122.09 PUBLIC, EDUCATIONAL, AND GOVERNMENT CHANNELS.

(A) *PEG Channel Capacity.* A State video franchise holder that uses the public rights-of-way shall designate sufficient capacity on its network to enable the carriage of a least two (2) PEG access channels.

(1) PEG access channels shall be for the exclusive use of the City of its designees to provide public, educational, or governmental programming.

(2) Advertising, underwriting, or sponsorship recognition may be carried on the PEG access channels for the purpose of funding PEG-related activities.

(3) The PEG access channels shall be carried on the basic service tier; provided, however, that if the technology used eliminates the basic service tier, then all PEG access channels shall be placed on the cable system in a manner equivalent to local over-the-air broadcast stations.

(4) To the extent feasible, the PEG access channels shall not be separated numerically from other channels carried on the basic service tier, and the channel numbers for the PEG access channels shall be the same channel numbers used by the incumbent cable operator unless prohibited by Federal Law.

(5) After the initial designation of PEG access channel numbers, the channel numbers shall not be changed without the prior written consent of the City, unless the change is required by Federal Law.

(6) Each PEG access channel shall be capable of carrying a National Television System Committee television signal.

(B) *Emergency Alert System and Emergency Overrides.* A State video franchise holder must comply with the Emergency Alert System requirements of the Federal Communications Commission in order that the emergency messages may be distributed over the holder's network. Provisions in the city-issued franchise authorizing the city to provide local emergency notifications shall remain in effect, and shall apply to all state video franchise holders in the City for the duration of the city-issued franchise, or until the term of the franchise would have expired had it not been terminated pursuant to subdivision (m) of section 5840 of the California Public Utilities Code, or until January 1, 2009, whichever is later.

§ 122.10 CUSTOMER SERVICE PENALTIES.

(A) Any state video franchise holder shall comply with the customer service provisions set forth in PUC section 5900.

(B) The city shall monitor the compliance of state video franchise holders with respect to state and federal customer service and protection standards. The city manager will provide the state video franchise holder written notice of any material breaches of applicable customer service standards, and will allow the state video franchise holder thirty (30) days from the receipt of the notice to remedy the specified material breach.

(C) The city shall impose the following penalties against a state video franchise holder for any material breach of the customer service provisions not remedied within the 30-day time period as set forth in PUC section 5900:

(1) For the first occurrence of a material breach, a fine of five hundred dollars (\$500) shall be imposed for each day of each material breach, not to exceed one thousand five hundred dollars (\$1,500) for each occurrence of the material breach.

(2) For a second occurrence of a material breach of the same nature as the first material breach that occurs within twelve (12) months, a fine of one thousand dollars (\$1,000) shall be imposed for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach.

(3) For a third or further occurrence of a material breach of the same nature as the previous material breaches that occurs within twelve (12) months, a fine of two thousand five hundred (\$2,500) shall be imposed for each day of each material breach, not to exceed seven thousand five hundred dollars (\$7,500) for each occurrences of the material breach.

(D) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day within the jurisdiction of the city, following the expiration of the period specified in subsection C of this section, that any material breach has not been remedied by the state video franchise holder, irrespective of the number of customers affected. No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the state video franchise holder.

(E) Pursuant to PUC section 5900, any penalty remitted to the city by a state video franchise holder for a material breach of the customer service provisions set forth in PUC section 5900 shall be split in half, and the city shall submit one-half of the penalty amount to the Digital Divide Account established by PUC Section 280.5.

(F) *Appeal.* A state video franchise holder may appeal a penalty assessed by the city manager to the city council within sixty (60) days of the initial assessment by sending a letter of request for an appeal hearing, along with payment of the fee, to the city clerk. The matter for a hearing shall be set with the city council to receive all evidence and relevant testimony. The Council may uphold, modify, or vacate the penalty or decision. The city council's decision on the imposition of a penalty or decision is final.

§ 122.11 PERMIT FOR PUBLIC RIGHTS-OF-WAY.

(A) *Encroachment Permit.* To the extent allowed by law, any state video franchise holder shall apply for an encroachment permit to install, construct or maintain a network pursuant to the Riverbank Municipal Code. In addition to Riverbank Municipal Code procedures, the following shall apply to any state video franchise holder applying for an encroachment permit:

(1) Any encroachment permit application submitted by any state video franchise holder shall be approved or denied within sixty days of receipt of a completed application. An application for an encroachment permit is complete when the state video franchise holder has complied with all statutory requirements, including CEQA, pursuant to Public Resource Code section 21000 et. seq.

(2) The sixty-day time period for approval or denial of an encroachment permit application may be extended if mutually agreed to in a written agreement between the state video franchise holder and the city.

(3) Any denial of an encroachment permit application submitted to any state video franchise holder by the city shall be written and shall include a detailed explanation of the reason for the denial.

(4) *Appeal.* Any state video franchise holder may appeal a denial of an encroachment permit application or a condition placed on an approved encroachment permit to the city council by submitting a written appeal within fifteen days of the date the application was denied or condition imposed. The city clerk shall thereafter give written notice to the holder of a hearing to be held within thirty days of receipt of the appeal. The decision of the city council on the appeal shall be final.

(B) *Other Permits.* A state video franchise holder shall apply for any other permits required by the Riverbank Municipal Code to the extent allowed by law.

§ 122.12 ENVIRONMENTAL REVIEW.

The city shall serve as the lead agency for any environmental review under DIVCA. The city may impose conditions to mitigate environmental impacts of any state video franchise holder's use of the public rights-of-way that may be required pursuant to the California Environmental Quality Act, California Public Resources Code Sections 21000 et seq. ("CEQA").

§ 122.13 AUTHORITY TO EXAMINE BUSINESS RECORDS.

(A) The City may examine once per year the business records of the state video franchise holder relating to gross revenues in a manner consistent with PUC section 5860(i).

(B) All state video franchise holders shall keep and maintain all business records reflecting any gross revenues, regardless of change in ownership, for at least four years after those gross revenues are recognized by the holder on its books and records pursuant to CPUC section 5860.

SECTION 2: Reauthorization. The City of Riverbank City Council does hereby reauthorize the PEG fee imposed by section 122.08 of Chapter 122 of the Riverbank Municipal Code by adoption of this ordinance as required by PUC Section 5870(n). All state video franchise holders operating within the City of Riverbank shall continue to be subject to the PEG fee required by Section 122.08.

SECTION 3: Automatic reauthorization. PEG fees shall automatically be reauthorized pursuant to Section 122.08(C).

SECTION 4: Severability. 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 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 March 13, 2018. 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 27th day of March, 2018; motioned by Councilmember _____, seconded by Councilmember _____, moved said ordinance by a City Council roll call vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAINED:

ATTEST:

Annabelle H. Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

Tom P. Hallinan, City Attorney

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.1

SECTION 6: NEW BUSINESS

Meeting Date:	March 13, 2018
Subject:	Workshop and Presentation on Sample Ordinance to Address Excessive Nuisance Service Calls within the City of Riverbank
From:	Sean Scully, City Manager
Submitted by:	Douglas L. White, City Attorney

RECOMMENDATION

It is recommended that the City Council receive a presentation and conduct a workshop on a sample ordinance regarding excessive nuisance service calls.

SUMMARY

This item is intended to begin a discussion on a strategic plan objective to address growing public safety issues associated with specific types of commercial/residential uses within the City of Riverbank. Council has long discussed issues associated with clustered and frequent nuisance calls for Police Department services from a very small number of specific uses and properties within Riverbank. The Council directed staff to bring back potential solutions to inordinate calls for service for public safety from a few select sources that divert overall public safety resources that could be used more generally throughout the whole City. The following explanation and associated draft ordinance are not necessarily (at this stage) recommended options but rather starting points of discussion for how the City could address these issues from a policy perspective. The workshop at Council will also include additional data on police service calls that may be useful in the discussion.

The sample ordinance would add Chapter 100 to Title IX: General Regulations, of the City of Riverbank Municipal Code. Chapter 100 would fine an owner or occupant of private property if the City has rendered a nuisance service call response to the property on three (3) or more occasions within a period of sixty (60) days in response to or for the abatement of conduct, an activity, or condition that constitutes a nuisance. A nuisance service call is a call made regarding any activity, conduct, or condition that is a public nuisance under the Riverbank Municipal Code, or violates the Riverbank Municipal Code or California state law.

The third call to the property for nuisance conduct would subject the owner or occupant of the property to a fine of \$250. Each call after the third call would subject the owner or occupant to a fine of \$250 for each additional separate offense. This fine is designed to

protect the public's health, safety, and welfare, by discouraging nuisance activity, conduct, or conditions. The fine would help address the costs of providing repeated law or code enforcement services that exceed the costs associated with providing normal law or code enforcement services.

This ordinance would not penalize owners or occupants of private property for making calls to the City Police Department, other emergency assistance, or code enforcement service for a victim of abuse, domestic violence, sex offenses, human trafficking, or crime, and for individuals in an emergency, including medical emergencies. This exemption would allow such victims and individuals in emergencies to call for the police or other public safety services without penalty.

This ordinance also provides mitigation options for owners or occupants of rental properties and commercial business properties. Specifically, such owners or occupants may enter into and comply with a memorandum of understanding with the City to address the underlying causes for such nuisance conduct. Owners or occupants of rental property may also commence eviction proceedings against the tenant or tenants responsible for the nuisance conduct to avoid a fine.

BACKGROUND

The City has experienced a significant increase in nuisance calls requiring repeat, unwarranted service responses by the City Police Department, other public safety services, or City officials to the same property or location. The repeat, unwarranted service responses by the City impact the availability of the City's Police Department or other public safety services to other City residents and generate extraordinary costs to the City.

FINANCIAL IMPACT

Approving this ordinance would help offset costs the City has borne for these types of calls, resulting in a positive financial impact to the City. The City would receive additional revenue from any fines collected pursuant to the ordinance, which the City could use to offset the cost of responding to excessive nuisance calls.

ATTACHMENT

1. Sample Ordinance

**DRAFT
CITY OF RIVERBANK
ORDINANCE**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK ADDING
CHAPTER 100: NUISANCE SERVICE CALLS TO TITLE IX: GENERAL
REGULATIONS, OF THE CITY OF RIVERBANK MUNICIPAL CODE**

WHEREAS, the City of Riverbank (the “City”) has experienced a significant increase in calls requiring repeat service responses by the City Police Department, other public safety services, or City officials to the same property or location; and

WHEREAS, the repeat service responses by the City impact the availability of the City’s Police Department or other public safety services to other City residents; and

WHEREAS, the repeated calls for service generate extraordinary costs to the City when the Police Department, other public safety services, or City officials respond to the nuisance calls; and

WHEREAS, the nuisance service call penalty imposed in this ordinance is intended to cover the cost that exceed the usual cost of providing normal law or code enforcement services, City-wide; and

WHEREAS, the City intends for this ordinance to be applied in such a way as to ensure that victims of abuse, domestic violence, crime, sex offenses, human trafficking, or other nuisance activity, and individuals in an emergency, are able to contact police or emergency services without penalty; and

WHEREAS, the City Council finds that this ordinance is consistent with the City’s current goals of protecting the public’s health, safety, and welfare, by discouraging nuisance activity, conduct, or conditions.

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

Section 1: Chapter 100: Nuisance Service Calls, Section 100.01 through Section 100.08, shall be added to Title IX: General Regulations of the Riverbank Municipal Code, and shall read as follows:

CHAPTER 100: NUISANCE SERVICE CALLS

§ 100.01 Purpose

The purpose of this Chapter is to protect the public safety, health, and welfare of the City, and to abate repeat service responses by the City to the same property or location

for nuisance calls, as defined herein, which impacts the City's Police Department's or public safety services' availability to other residents of the City.

It is the intent of the City, by the adoption of this Chapter, to impose and collect service call penalties from the owner or occupant, or both, of property to which City officials must respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call penalty is intended to cover that cost over and above the cost of providing normal law or code enforcement services, and police protection City-wide. It is the City's policy that this Chapter be applied in such a way as to ensure that victims of abuse and crime, as well as individuals in an emergency, can contact police or emergency services without penalty.

§ 100.02 Scope and Application

- (A) This Chapter shall apply to all owners and occupants of private property which is the subject or location of the repeat nuisance service call by the City. This Chapter shall apply to any responses deemed by the Code Enforcement Officer or a City police officer to be repeat nuisance service calls, as set forth herein.
- (B) This Chapter shall apply only where police or emergency services respond to a residence or tenancy that does not involve assistance to a victim of abuse, domestic violence, crime, sex offenses, human trafficking, or other nuisance activity, and individuals in an emergency.

§ 100.03 Definitions

As used in this Chapter, the following terms shall have the meanings indicated:

NUISANCE SERVICE CALL. A call made regarding any activity, conduct, or condition occurring upon private property within the City which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any member of the public; or will tend to, alarm, anger, or disturb others or provoke breach of the peace, to which the City is required to respond, including, but not limited to the following:

- (A) Any activity, conduct, or condition deemed as a public nuisance under any provision of the Riverbank Municipal Code;
- (B) Any conduct, activity or condition constituting a violation of the Riverbank Municipal Code or California state laws including but not limited to: animal violations; disorderly conduct or disturbance of the peace; drug abuse; noise; gambling; health, safety or sanitation violations; littering or deposition of waste violations; obstruction of official business; alcohol violations; sex offenses including public indecency and prostitution; offenses against persons including assault and domestic violence; offenses against property such as criminal damaging; theft; weapons, including firearm or handgun violations, explosives or fireworks; and any offense that is a felony under the California Penal Code.

PENALIZE. Includes the actual or threatened assessment of fines.

§ 100.04 Nuisance Service Call Penalty

- (A) Subject to Section 100.04, subsection (B), the City may impose a repeat nuisance service call fine upon the owner or occupant of private property if the City has rendered a response to a call for service to the property on three (3) or more occasions within a period of sixty (60) days in response to or for the abatement of nuisance conduct, activity, or condition.
- (B) The third call to property for nuisance conduct within a sixty (60) day period shall subject the owner or occupant of the property to a fine of \$250. Each call after the third call to property for nuisance conduct within a sixty (60) day period shall constitute a separate offense and be subject to an additional fine of \$250 for each additional separate offense. No charge or citation may be filed until the specifics and accompanying evidence are reviewed by, as applicable, the Chief of Police or Code Enforcement Officer.

§ 100.05 Notice

No nuisance service call fine may be imposed against an owner or occupant of property without first providing the owner or occupant with written notice from the Chief of Police, Code Enforcement Officer, or other designated City official of the previous nuisance service calls prior to the latest nuisance service call rendered by the City upon which the penalty is imposed. The written notice shall:

- (A) State the name and address of the person in violation, and the street address of the property where the violation is present.
- (B) State the nuisance conduct, activity or condition that has occurred or is maintained or permitted on the property, and the dates of the nuisance conduct, activity or condition.
- (C) State which specific code section has been violated.
- (D) State that the owner or occupant may be subject to a nuisance service call fine if three or more service calls are rendered to the property, subject to this Chapter.
- (E) State that the owner or occupant may be subject to the nuisance call service fine in addition to the City's right to seek other legal remedies or actions for abatement of the nuisance or compliance with the law.
- (F) Invite the owner or occupant to make an appointment with the Chief of Police or other designated City official as applicable, to discuss reducing nuisance service calls and the consequences of continued nuisance service calls.
- (G) Be served personally by United States Mail upon the owner or occupant at the last known address.
- (H) Advise of the opportunity for appeal by any person aggrieved.

§ 100.06 Appeals

(A) Nuisance Service Call Notice

- a. Request for Appeal. Upon the receipt of a nuisance service call notice, the owner or occupant may exercise his or her right to a hearing on the notice of nuisance service calls by filing a request for an appeals hearing, in writing, with the City Clerk, no later than ten (10) days after receipt of the notice.
- b. Hearing Fee. An appeal hearing request shall be accompanied by an appeal fee in the amount of \$30, or in an amount as may be amended from time to time by resolution. The person requesting a hearing shall pay in advance of the hearing any costs of a court reporter and advertising related to the hearing.
 - (1) Reimbursable. The City will refund the appeal fee to the petitioner if it finds that a Section 100.08 exception or affirmative defense applies to the nuisance service call.
 - (2) Hardship Waiver. A hardship waiver is available pursuant to Section 98.18, subsection (A)(2).
- c. Section 98.18, subsection (B) through subsection (E) shall govern the conduct of the appeal hearing.

(B) Nuisance Service Call Fines

- a. Any nuisance service call fine issued pursuant to this chapter may be appealed pursuant to the procedures provided in Section 98.18 of the Riverbank Municipal Code.

§ 100.07 Legal Remedies Nonexclusive

Nothing in this Part shall be construed to limit the City's other available legal remedies for any violation of the law, which may constitute a nuisance service call hereunder, including criminal, civil, injunctive, or others.

§ 100.08 Exceptions and Affirmative Defenses

- (A) Victim of Abuse or Domestic Violence. No resident, tenant, or landlord shall be penalized for a call for police, emergency assistance, or code enforcement service by or on behalf of a victim of abuse or domestic violence, as defined in Cal. Penal Code § 13700 or Cal. Family Code §§ 6203 or 6211. Nuisance service call penalties shall not be imposed against the victim for a response to circumstances involving domestic assault incidents or order for protection violations.
- (B) Victim of Sex Offenses or Human Trafficking. No resident, tenant, or landlord shall be penalized for a call for police, emergency assistance, or code enforcement service by or on behalf of a victim of a sex offense or human trafficking, as defined in Cal. Penal Code § 236.1.
- (C) Victim of Crime or Nuisance Conduct. No resident, tenant, or landlord shall be penalized for police, emergency assistance, or code enforcement service by or

on behalf of a victim of a crime as defined in Cal. Penal Code § 679.01, or for nuisance conduct for which a response nuisance service call was made.

- (D) Medical Emergencies or Emergency Assistance. No resident, tenant, or landlord shall be penalized for police, emergency assistance, or code enforcement service by or on behalf of an individual in an emergency as defined in Cal. Penal Code § 653y, including medical emergencies, if the call was made based upon the reasonable belief of the person making the contact that intervention or emergency assistance was necessary to prevent the perpetration or escalation of the abuse, crime, or emergency or if the intervention for emergency assistance was actually needed in response to the abuse, crime, or emergency.
- (E) Rental Properties. At the discretion of the Code Enforcement Officers, nuisance service call penalties may be waived against an owner or occupant of rental property who has:
 - (1) Commenced eviction proceedings against the tenant or tenants responsible for the nuisance conduct, conditions, or characteristics; or
 - (2) Entered into and complied with a memorandum of understanding with the City that addresses the underlying causes for the nuisance conduct and provides a course of action to alleviate the nuisance conduct.
- (F) Commercial Business Property. At the discretion of Code Enforcement Officers, nuisance service call penalties may be waived against an owner or occupant of property upon which a commercial business is being operated who has entered into and complied with a memorandum of understanding with the City that addresses the underlying causes for the nuisance conduct and provides a course of action to alleviate the nuisance conduct.

Section 2: 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 3: This Ordinance shall become effective thirty (30) days after its passage by the City Council, and following the affirmative vote of a majority of the members of the City Council. Within fifteen (15) days of its adoption, a summary of the ordinance shall be published in a newspaper of general circulation in the City of Riverbank, State of California, which summary shall include the names of those Council Members voting for and against the ordinance. A certified copy of the full text of such adopted ordinance or amendment shall be on file in the office of the City Clerk.

Section 4: The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank held on _____, 2018. Said ordinance was given a second reading at a regular meeting of said Council on _____, 2018, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance and upon roll call was carried by the following:

AYES:

NAYS:

ABSENT:
ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

DRAFT

RIVERBANK CITY COUNCIL AGENDA ITEM NO. 6.2

SECTION 6: NEW BUSINESS

Meeting Date:	February 27, 2018
Subject:	Creation of Ad Hoc Committee on Illegal Fireworks
From:	Sean Scully, City Manager

RECOMMENDATION

It is recommended that the City Council consider creating and providing direction on the makeup of an ad hoc committee to examine the issues and potential solutions to illegal firework activity in Riverbank.

SUMMARY/BACKGROUND

In recent years citizen concerns and problems associated with illegal fireworks have increased substantially. Regional and national news coverage has consistently highlighted various close calls, injuries, deaths and property damage that has been the result of illegal fireworks. These negative impacts have resulted in the need for additional resources to be allocated toward increased police and fire coverage during the 4th of July holiday. In response to these increased illegal activities, many communities in the central valley have begun implementing various new regulations and programs designed to counteract the growing use of illegal fireworks. These programs/initiatives take many different forms from education and outreach to more punitive measures (citations etc).

During the strategic planning session Council directed staff to bring an item to Council which would create an ad hoc committee on illegal fireworks. The Ad Hoc committee would examine the problem of illegal fireworks in Riverbank and develop a set of recommendations to Council on how to deal with the problem. Ad Hoc committee typically include 1-2 Councilmembers, appropriate staff members and members of the community. The makeup of the Ad Hoc committee is up to the Council. If the committee is created during the month of March, there would (likely) be enough time to return to Council in May with a set of recommendations or proposed ordinances.

Assuming Council would like to create this committee, the direction staff would need at this time would be direction on the makeup of the committee. For example, which Council members would like to be members of the committee, which staff would Council like to be involved and how many community members.

FINANCIAL IMPACT

Minimal financial impact is expected. Some minor resources will be used to coordinate meetings, and staff time associated with research/policy development. The impact is not expected to be significant to the City budget.

STRATEGIC PLAN

This item was specifically stated as a strategic objective under the “Enhance Public Safety” section.

ATTACHMENT

None