



City Of Riverbank
Planning Commission Meeting
City Hall North Council Chambers
6707 Third Street • Riverbank • CA 95367

Agenda
Tuesday, December 16, 2014 – 6:00 P.M.

CALL TO ORDER: Chair: Stewart

ROLL CALL:

Chair:	Stewart
Vice Chair:	Hughes
Commissioner:	Villapudua
Commissioner:	Degele
Commissioner:	McKinney

CONFLICT OF INTEREST

Any Planning Commission/Authority Member and Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

1. PUBLIC COMMENTS (No action to 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 Planning Commission 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 address the entire Planning Commission Board.

2. CONSENT CALENDAR

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

Item 2.A: Posting of the Agenda. The Agenda for the December 16, 2014, Planning Commission Meeting was posted on the City Chamber bulletin board, City Hall North & South bulletin board, Post Office and sent to the Library on December 12, 2014.

Item 2.B: Approval of the Agenda. This provides an opportunity for the Planning Commission or Staff to recommend that an item be placed on the agenda for discussion or to adjust the proposed agenda to allow an item to be taken out of order.

Item 2.C: Approval of the Minutes. The Minutes of the November 18, 2014, Planning Commission Meeting having been read by the individual Commissioners and stands approved as submitted.

Recommendation: It is recommended that Planning Commission approve the Consent Calendar by roll call vote.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.

3. PUBLIC HEARING

Item 3.1: Zoning Code Amendments to the City's Zoning Code 2009-2014 Housing Element Goals and Policies. Resolution 2014-019 of the Planning Commission Recommending to City Council the approval of Ordinance 2014-XXX, to amend Sections 153.003, Section 153.077, Section 153.093, and Section 153.107 to update the definition of "Family" and Dwelling, Single Family", add the definition for Target Population and to include Emergency Shelters, Transitional Housing and Supportive Housing definitions and as a Permitted Use in the Multi Family Residential District R-3 Zone and a Permitted Use with a Use Permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and the Commercial-Industrial C-M Zone.

Item 3.2: Resolution 2014-018 of the Planning Commission Recommending to City Council the approval of Ordinance 2014-XXX, adding Chapters 125: Tattoo and Body Art Establishments to TitleXI: Business Regulations and amending Title XV: Zoning, Amending 1) Sections 153.076: Uses Permitted in the Neighborhood Commercial District C-1 Zone, 2) Section 153.092: Uses Permitted in the General Commercial District C-2 Zone and 3) Section 153.106: Uses Permitted in the Commercial-Industrial C-M Zone of the City's Municipal Code.

Recommendation: Approval by roll call vote

4. NEW BUSINESS (Information Only – No Action)

None

5. COMMISSION ITEMS (Information Only – No Action)

None

6. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)

None

7. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)

Item 7.1: Draft Downtown Specific Plan (FEIR has been previously certified by the City Council in 2013).

ADJOURNMENT – The next regular Planning Commission meeting – January 20, 2015 @ 6:00 p.m.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board 72 hours prior to the meeting.

*Dated this 12th day of December, 2014
Janet Smallen, Sr. CDS*

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 Development Services Department at (209) 863-7128. Notification 3 business days before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [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 Planning Commission shall be in English and anyone wishing to address the Planning Commission 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: The Riverbank Planning Commission meets on the third Tuesday of each month at 6:00 p.m.

COMMISSION AGENDAS: The Planning Commission agenda is posted pursuant to the California Brown Act, which only requires these agenda title pages to be posted. Additional documents that are part of this agenda and provided to a majority of the Planning Commission by the City will be made available to the public. The agenda is posted for public review at the City's website www.riverbank.org, at the Development Services Department, and on the exterior of both City Hall North & South buildings bulletin boards, 6707 & 6617 Third Street, Riverbank, CA. Subscription to receive the agenda can be purchased for a nominal fee through the Development Services Department.

PUBLIC HEARINGS: In general, a public hearing is an open consideration within a regular meeting of the Planning Commission, 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.

QUESTIONS: Contact the Developmental Services Department at (209) 863-7128.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, November 18, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Vice Chair Hughes, Commissioner Villapudua and Commissioner McKinney

Absent: Commissioner Degele (Excused)

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. 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 Planning Commission. 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 Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the November 18, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / Villapudua / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused)

Abstained: None

Item No. 2.B: The Agenda for the November 18, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / Villapudua / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused)

Abstained: None

Item No. 2.C: The Minutes of the October 21, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / Villapudua / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused)

Abstained: None

3. PUBLIC HEARINGS

Item 3.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- John B. Anderson presented item 3.1 to the Planning Commission.
- Planning Commission discussed the item.
- Public Hearing was opened at 6:17 p.m. for persons wishing to speak for or against the Item. Being no persons present to comment the public hearing was closed at 6:18 p.m.

ACTION: *By motion moved/second (Villapudua / Hughes / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes, Villapudua, and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused)

Abstained: None

Item 3.2: Zoning Ordinance Amendment – Establish the Reasonable Accommodation Ordinance; Resolution 2014-016.

- John B. Anderson introduced item 3.2 and David Niskanen presented the PowerPoint presentation.
- Planning Commission discussed item and asked some question.
- John B. Anderson answered the Planning Commissions questions.

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- Planning Commission asked some more question to both John B. Anderson and David Niskanen.
 - Both John B. Anderson and David Niskanen answered the questions they had.
 - Planning Commission asked additional questions.
 - John B. Anderson answered the additional question they had.
 - Public Hearing was opened at 6:37 p.m. for persons wishing to speak for or against the Item. Being no persons present to comment the public hearing was closed at 6:38 p.m.

ACTION: *By motion moved/second (Hughes / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused)

Abstained: None

Item 3.3: Zoning Ordinance Amendment – Amendment to Section 153.185: Density Bonus Requirements; Resolution 2014-017.

- John B. Anderson introduced item 3.3 and David Niskanen presented the PowerPoint presentation.
- Planning Commission discussed item and asked questions.
- Both John B. Anderson and David Niskanen answered the questions they had.
- Public Hearing was opened at 6:55 p.m. for persons wishing to speak for or against the Item. Being no persons present to comment the public hearing was closed at 6:56 p.m.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes, Villapudua and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused)

Abstained: None

5. NEW BUSINESS

None.

6. COMMISSION ITEMS

None.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Emergency Ordinance for Tattoo Parlors for Planning Commission's recommendation to City Council.

Item 8.2: Housing Element update on Emergency Shelters.

Item 8.3: Downtown Specific Plan will be brought to the Planning Commission for their approval and recommendation to the City Council either in December, 2014 or January, 2015, Planning Commission meeting - (FEIR has been previously certified by the CC on March 25, 2013).

9. ADJOURNMENT

There being no further business, Chair Stewart adjourned the meeting at 7:13 p.m.

ATTEST:

John B. Anderson
Recording Secretary

APPROVED:

Joan Stewart, Chair
Planning Commissioner



City of Riverbank Development Services Department

Planning Division ≈ Building Division ≈ Neighborhood Improvement Division

6707 Third Street, Riverbank, CA 95367 Office (209) 863-7128 FAX (209) 869-7126

PUBLISH DATE: December 3, 2014
DEPT: PLANNING

LEGAL

CITY OF RIVERBANK NOTICE OF PUBLIC HEARINGS

Project Descriptions:

- I. **Item 3.1: Zoning Ordinance Amendment – Five (5) Amendments to the City's Zoning Code:**
The proposed Ordinance will 1) amend Section 153.003: Definitions to include Emergency Shelters, Transitional Housing, Supportive Housing and amend the definitions for Family and Dwelling, Single-Family, 2) amend Section 153.061: Uses Permitted in the Multiple Family Residential District R-3 Zone, 3) amend Section 153.077: Uses Permitted with a Use Permit in the Neighborhood Commercial District C-1 Zone, 4) amend Section 153.093: Uses Permitted with a Use Permit in the General Commercial District C-1 Zone, and 5) amend Section 153.107: Uses Permitted with a Use Permit in the Commercial-Industrial C-M Zone, adding Emergency Shelters, Transitional Housing and Supportive Housing as a Use in these Sections to the City's Municipal Code. The proposed Zoning Ordinance Amendments implement two (2) programs of the 2009-2014 Housing Element as well as Senate Bill 2, a State law that took effect on January 1, 2008. The amendments permit Emergency Shelters, Transitional Housing and Supportive Housing to be considered a by-right use in the Multiple Family District R-3 zone and a permitted use with a use permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and Commercial-Industrial C-M Zone.
- II. **Item 3.2: Zoning Ordinance Amendment – Establish the Tattoo Establishment and Body Art Establishment Ordinance:** The proposed Zoning Ordinance Amendment will 1) add Chapter 125: Tattoo and Body Art Establishments, 2) amend Section 153.076: Uses Permitted in the Neighborhood Commercial District C-1 Zone, 3) amend Section 153.092: Uses Permitted in the General Commercial District C-2 Zone, and 4) amend Section 153.106: Uses Permitted in the Commercial-Industrial C-M Zone to include Tattoo Establishments or Body Art Establishments as a permitted Use in these Sections to the City's Municipal Code. The proposed Zoning Ordinance Amendment will establish application and operational procedures for this Use, as well as location and development standards, including the distance a Tattoo or Body Art Establishment may operate from Residential uses and other Tattoo or Body Art Establishment's.

The City of Riverbank will hold a Public Hearing as follows:
Planning Commission Meeting
December 16, 2014 at 6:00 pm
City Hall Council Chambers - 6707 Third Street -Riverbank, California

ALL INTERESTED PARTIES are invited to attend the public hearing on **December 16, 2014**, at the time and place specified above to express opinions or submit evidence for or against the subject matter being considered. Written comments via e-mail to cityclerk@riverbank.org, or by postal service, or hand delivered to **6707 Third Street, Suite A, Riverbank, California, 95367**, will be accepted by the City Clerk up to 5:00 p.m. on said date. All written comments received by said time will be distributed to the City Council for consideration. Oral comments will be received by the City Council prior to the close of the Public Hearing on the subject matter being considered. The City Council will receive all testimony prior to taking action. Testimony cannot be given over the telephone. If you challenge the City's action on these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City at, or prior to, the public hearing.

To review the proposed Urgency Ordinance go to www.riverbank.org. Meeting facilities are accessible to persons with disabilities. Any person requiring special assistance to participate in the meeting should notify the Administration Dept. at (209) 863-7122 or cityclerk@riverbank.org at least seventy-two (72) hours prior to the meeting. For questions regarding the public hearing matter contact John B. Anderson, Consulting Community Development Director, at (209) 863-7124; jbanderson@riverbank.org or the City Clerk's Office at 863-7198; cityclerk@riverbank.org.

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CITY OF RIVERBANK NOTICE OF PUBLIC HEARINGS

Project Descriptions:

I. Item 3.1: Zoning Ordinance Amendment - Five (5) Amendments to the City's Zoning Code: The proposed Ordinance will 1) amend Section 153.003: Definitions to include Emergency Shelters, Transitional Housing, Supportive Housing and amend the definitions for Family and Dwelling, Single-Family, 2) amend Section 153.061: Uses Permitted in the Multiple Family Residential District R-3 Zone, 3) amend Section 153.077: Uses Permitted with a Use Permit in the Neighborhood Commercial District C-1 Zone, 4) amend Section 153.093: Uses Permitted with a Use Permit in the General Commercial District C-1 Zone, and 5) amend Section 153.107: Uses Permitted with a Use Permit in the Commercial-Industrial C-M Zone, adding Emergency Shelters, Transitional Housing and Supportive Housing as a Use in these Sections to the City's Municipal Code. The proposed Zoning Ordinance Amendments implement two (2) programs of the 2009-2014 Housing Element as well as Senate Bill 2, a State law that took effect on January 1, 2008. The amendments permit Emergency Shelters, Transitional Housing and Supportive Housing to be considered a by-right use in the Multiple Family District R-3 zone and a permitted use with a use permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and Commercial-Industrial C-M Zone.

II. Item 3.2: Zoning Ordinance Amendment - Establish the Tattoo Establishment and Body Art Establishment Ordinance: The proposed Zoning Ordinance Amendment will 1) add Chapter 125: Tattoo and Body Art Establishments, 2) amend Section 153.076: Uses Permitted in the Neighborhood Commercial District C-1 Zone, 3) amend Section 153.092: Uses Permitted in the General Commercial District C-2 Zone, and 4) amend Section 153.106: Uses Permitted in the Commercial-Industrial C-M Zone to include Tattoo Establishments or Body Art Establishments as a permitted Use in these Sections to the City's Municipal Code. The proposed Zoning Ordinance Amendment will establish application and operational procedures for this Use, as well as location and development standards, including the distance a Tattoo or Body Art Establishment may operate from Residential uses and other Tattoo or Body Art Establishment's.

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Planning Commission Meeting

December 16, 2014 at 6:00 pm

City Hall Council Chambers - 6707 Third Street - Riverbank, California

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MOD-1438257 12/3

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO: 3.1 **December 16, 2014**

APPLICANT: City-Initiated

PROJECT: Zoning Code Amendments to the City's Zoning Code pursuant to Senate Bill ("SB 2") and the 2009-2014 Housing Element Goals and Policies.

LOCATION: City-Wide

ENVIRONMENTAL DETERMINATION: The proposed Ordinance Amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

PROJECT PLANNER: John B. Anderson, Contract Community Development Director

RECOMMENDATION: Staff recommends that the Planning Commission motion to adopt Resolution No. 2014-019, recommending the City Council of the City of Riverbank ("City") adopt Ordinance No. 2014-XXX, amending various Sections of Chapter 153 of Title XV of the City's Municipal Code.

ACRONYMS: CEQA – California Environmental Quality Act
HE – Housing Element
SB 2 – Senate Bill 2 – Local Planning for Emergency Shelters, Transitional and Supportive Housing
SB 745 – Senate Bill 745 – Transitional and Supportive Housing
CA HSC – California Health and Safety Code

ATTACHMENTS:

1. Planning Commission Resolution No. 2014-019
2. 2009-2014 Housing Element, Program 5.1b, Page IX-8
3. 2009-2014 Housing Element, Program 2.1g, Page IX-5
4. 2009-2014 Housing Element, Table D-1, Residential Types Permitted by Zone
5. Definition of "Family" - Survey of Surrounding Jurisdictions

I. EXECUTIVE SUMMARY:

The proposed amendments to the City's Zoning Code are as follows:

1. Amend the definition of "Family" and "Dwelling, Single Family" pursuant to the City's adopted 2009-2014 Housing Element Program 5.1b (Attachment 2 of this Staff Report) and to comply to Federal and State Fair Housing laws;
2. Amend the Zoning Code to add the definitions for "Emergency Shelters," "Supportive Housing," "Target Population," and "Transitional Housing" to comply with SB 2 and SB 745;
3. Amend the Zoning Code to permit Emergency Shelters as a permitted use in the Multiple-Family Residential District R-3 Zone, pursuant to Senate Bill 2 ("SB 2") enacted in 2007 and Program 2.1g in the City's adopted 2009-2014 Housing Element (Attachment 3 of this Staff Report);
4. Amend the Zoning Code to permit Emergency Shelters as a Conditional Use in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and Commercial-Industrial C-M Zone, pursuant to the City's adopted 2009-2014 Housing Element, Table D-1 (Attachment 4 of this Staff Report).

The proposed amendments are a result of the 2009-2014 Housing Element and SB 2, a bill that was enacted in 2007 and effective on January 1, 2008. The City's Housing Element was adopted in 2009, and as part of the Housing Element, the City established a set of Policies, Goals and Programs that are actions that the City must take to implement the Housing Element in the 2009-2014 Planning Period. Two (2) of these goals are included in the proposed Zoning Ordinance Amendment and are 1) to update the definition of family and single family residence and 2) update the Zoning code pursuant to SB 2.

Definitions per SB 2 and SB 745

Emergency Shelters. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Health and Safety Code 50801(e))

Supportive Housing. Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. (California Government Code Section 65582, SB 745)

Target Population. Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other

populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster cares system, individuals exiting from institutional settings, veterans, and homeless people. (California Government Code Section 65582, SB 745)

Transitional Housing. Buildings configured as rental housing developments, but operated under program requirements that require termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. (California Government Code Section 65582, SB 745)

II. BACKGROUND

Senate Bill 2. As stated previously, this bill was enacted in 2007 and became effective on January 1, 2008. The statutory requirements of the bill are summarized as follows:

At least one zone shall be identified to permit emergency shelters without a conditional use permit or other discretionary permit.

Requirements of the permitted zone:

- Must have sufficient capacity to develop at least one year-round emergency shelter (vacant or unoccupied inventory)
- Permit must be nondiscretionary
- Permit procedures, development and management standards must be objective, and encourage and facilitate the development or conversion to emergency shelters
- No public notice shall be required for nondiscretionary permits
- Emergency shelters shall only be subject to development and management standards that apply to residential or commercial within the same zone
- Transitional and supportive housing shall be considered a residential use and only subject to those restrictions that apply to other residential uses of the same type in the same zone

Senate Bill 745. This bill took effect on January 1, 2014 and amended Section 65582 of the Government Code (Housing Element Law) to replace prior Health and Safety Code definitions of "supportive housing," "target population," and "transitional housing" with definitions in the California Government Code.

III. ANALYSIS

There are two (2) programs adopted in the 2009-2014 Housing Element that the proposed Ordinance Amendment will implement:

- **Program 2.1g:** The City will update the uses permitted in the R-3 zone (Section 153.061 (A)) to include emergency shelters. Emergency shelters will only be subject to those development and management standards that apply to other residential development within the same zone.

- **Responsibility:** Community Development Department
- **Timeframe:** By June 2010, adopt updated permitted uses.

And

- **Program 5.1b:** The City will update the definition of “family” and “single-family residence” to comply with all federal and State fair housing laws. The definition should not distinguish between related and unrelated persons and should not impose limitations on the number of person that may constitute a family.
- **Responsibility:** Community Development Department
- **Timeframe:** By June 2010, adopt updated definitions.

As noted above, the timeframe for these programs to be adopted by the City is by June of 2010. Due to Staff and monetary constraints, however, the City has not implemented this program to date. The current planning cycle for the City’s Housing Element is 2014-2023. One of the areas that the California Department of Housing and Community Development (HCD) will review as part of certifying the City’s Housing Element is how the City implemented the Goals, Policies and programs of the previous Housing Element. With this program implemented, the City will be in a better position for certification when the City’s 2014-2023 Housing Element is submitted for HCD review.

It is important for the City to have a certified Housing Element because it allows the City to take advantage of State and Federal funds, such as Community Development Block Grant (CDBG) funds and Home Investments Partnership (HOME) Program to name a couple. These funds help facilitate the development and rehabilitation of homes for all income groups.

Implementation of Program 2.1g and Senate Bill 2

The proposed Ordinance identifies the Multiple Family Residential District R-3 Zone as the District where an Emergency Shelter, Transitional Housing and Supportive Housing can be developed without discretionary review. Additionally, Emergency Shelters, Transitional and Supportive Housing may be developed with a Conditional Use Permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and the Commercial-Industrial C-M Zone. The R-3 Zone has been identified in the Housing Element as having sufficient capacity to accommodate the unmet need for an emergency shelter, as required by SB 2.

This fulfills the requirements of Program 2.1g and Senate Bill 2.

Implementation of Program 5.1b

Current Definition of “Family”

An individual, or two or more persons related by blood or marriage, or a group of not more than five persons who are not related by blood or marriage, excluding servants, living together as a single

housekeeping unit in a dwelling unit as distinguished from a group occupying a hotel, club, fraternity or sorority house.

New Definition of "Family"

One or more persons occupy a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel or hotel.

The new definition does not distinguish between related and unrelated persons and does not impose limitations on the number of persons that may constitute a family. This is consistent with the General Plan Housing Element Program 5.1b and surrounding jurisdictions, as shown in Attachment 5, where Staff conducted a survey of surrounding jurisdictions to determine the most consistent and valid definition of "family".

Current Definition of Dwelling, Single-Family

A detached building designed for and/or occupied exclusively by one family. A single family dwelling shall not include mobile homes, but shall include modular homes.

New Definition of Dwelling, Single Family Residence

A residential building containing one (1) dwelling unit on one (1) lot. All rooms within the single-family attached dwelling shall be interconnected. Single-family dwelling shall include a dwelling that is constructed for the purposes of providing supportive and transitional housing.

The new definition expands to include supportive and transitional housing in that definition. Additionally, the definition further expands what constitutes a single family residence by requiring that all rooms be interconnected and not including rooms that are detached from the unit.

Consequences for Noncompliance with SB 2

Government Code 65589.5(d)(5)(C): if the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses.

In summary, if the City of Riverbank fails to permit Emergency Shelters in the proposed zone of Multiple Family Residential R-3, then any proposed emergency shelter must be

approved in any site, including sites designated industrial, commercial, or multifamily residential uses.

IV. ENVIRONMENTAL DETERMINATION

The proposed Ordinance Amendment is not a project for CEQA purposes and is exempt under State CEQA Guidelines Section 15061(b)(3), General Rule, because it can be seen with certainty that there is not a possibility that the proposal would result in a significant effect on the environment. The proposal is implementing existing State law and is considered an administrative activity and would not, itself, allow any construction or propose any projects. CEQA will be applied on a project-by-project basis if and when such projects are proposed.

V. PUBLIC NOTICE:

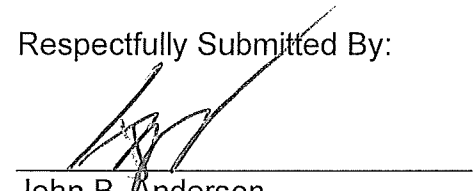
The Planning Commission hearing notice with a summary of the proposed Emergency Shelter Ordinance was published in the Riverbank News on December 3, 2014, published in the *Modesto Bee* on a 1/8 page on December 3, 2014, pursuant to California Government Code Section 65091(4) and posted at City Hall North and South on December 3, 2014.

At the time of writing this Staff Report (December 10, 2014), the City has not received any public comment. Written comments received by the City shall be supplied to the Commission at the day of the meeting and read into the public record.

VI. RECOMMENDATION:

Staff recommends that the Planning Commission motion to adopt Resolution No. 2014-019, recommending the City Council of the City of Riverbank adopt Ordinance No. 2014-XXX, amending Section 153.003: Definitions, Section 153.061: Uses Permitted in the Multiple Family Residential District R-3 Zone, Section 153.077: Uses Permitted with a Use Permit in the Neighborhood Commercial District C-1 Zone, Section 153.093: Uses Permitted with a Use Permit in the General Commercial District C-2 Zone, and Section 153.107: Uses Permitted with a Use Permit in the Commercial-Industrial C-M Zone.

Respectfully Submitted By:



John B. Anderson
Contract Community Development Director

Attachment 1 – Planning Commission Resolution No. 2014-019

**CITY OF RIVERBANK
RESOLUTION NO. 2014-019**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK, CALIFORNIA, RECOMMENDING TO CITY COUNCIL THE APPROVAL OF ORDINANCE 2014-XXX, AMENDING 1) SECTION 153.003: DEFINITIONS, 2) SECTION 153.061: USES PERMITTED IN THE MULTIPLE FAMILY RESIDENTIAL DISTRICT R-3 ZONE, 3) SECTION 153.077: USES PERMITTED WITH A USE PERMIT IN THE NEIGHBORHOOD COMMERCIAL DISTRICT C-1 ZONE, 4) SECTION 153.093: USES PERMITTED WITH A USE PERMIT IN THE GENERAL COMMERCIAL DISTRICT C-2 ZONE, AND 5) SECTION 153.107: USES PERMITTED WITH A USE PERMIT IN THE COMMERCIAL-INDUSTRIAL C-M ZONE OF THE CITY'S MUNICIPAL CODE

WHEREAS, homelessness in California is a continuing and growing crisis and this crisis demands the effective involvement of both the public and private sectors. A housing element can be an effective and powerful tool in combating homelessness; and

WHEREAS, the Housing Element of the Riverbank General Plan was updated and approved by the City Council and certified by the California State Department of Housing and Community Development (HCD) in 2009; and

WHEREAS, Senate Bill 2 (SB 2) was enacted in 2007 and became effective on January 1, 2008 and amended Sections 65582, 65583, and 65589.5 (Housing Element Law) of the California Government Code relating to local planning. This bill added emergency shelters and transitional housing to these provisions and required that the Housing Element identify zones in the City where emergency shelters are allowed as a permitted use without a Conditional Use Permit; and

WHEREAS, Program 2.1g of the City's Housing Element was added to allow Emergency Shelters as a permitted use in the Multiple Family Residential District R-3 Zone; and

WHEREAS, Program 5.1b of the City's Housing Element was added to update the definition of "Family" and "Single-Family Residence" to comply with all federal and State fair housing laws; and

WHEREAS, the City prepared Zoning Ordinance 2014-XXX to amend Section 153.003, Section 153.077, Section 153.093, and Section 153.107 to update the definition of "Family" and "Dwelling, Single Family", add the definition for Target Population and to include Emergency Shelters, Transitional Housing and Supportive Housing definitions and as a Permitted Use in the Multiple Family Residential District R-

3 Zone and a Permitted Use with a Use Permit in the Neighborhood Commercial District C-1 Zone, General Commercial District C-2 Zone and the Commercial-Industrial C-M Zone; and

WHEREAS, notice of the public hearing on the Zoning Ordinance was published in the *Riverbank News*, a newspaper of general circulation, on December 3, 2014 and the *Modesto Bee*, a newspaper of general circulation on December 3, 2014; and

WHEREAS, the Planning Commission has reviewed the Zoning Amendment and conducted a public hearing on December 16, 2014; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE 2014-____, ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HEREIN BY THIS REFERENCE, AMENDING SECTION 153.003, SECTION 153.077, SECTION 153.093, AND SECTION 153.107 IN THE CITY OF RIVERBANK MUNICIPAL CODE BASED ON THE FOLLOWING FINDINGS:

1. Pursuant to California Government Code Section 65855, the recommendation to City Council shall include the relationship to the applicable general or specific plan.
 - a. The Zoning Ordinance Amendment is compatible with the General Plan and each of its elements and all components therein because the General Plan includes a stated goal to "encourage and assist in the development of adequate housing to meet the needs of extremely low-, low- and very low-income households" and to "update the uses permitted in the R-3 zone (Section 153.061 (A)) to include emergency shelters" (Goal 2 and Program 2.1g); and
 - b. The Ordinance works to achieve the stated goal to "promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability" and to "update the definition of "family" and "single-family residence" to comply with all federal and State fair housing laws" (Goal 5 and Program 5.1b); and
 - c. The amendment is compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed

and with the regulations for each land use district; and

2. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.
3. The City finds and determines that the proposed Zoning Ordinance Amendment is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with a certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 16th day of December, 2014; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Attest:

Approved:

Secretary

Joan Stewart

Attachments:

Exhibit "A" – Proposed Draft City Council Ordinance 2014-XXX

Exhibit "A" – Proposed Draft City Council Ordinance 2014-XXX

**CITY OF RIVERBANK
ORDINANCE NO. 2014-XXX**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AMENDING TITLE XV, CHAPTER 153: ZONING, AMENDING 1) SECTION 153.003: DEFINITIONS, 2) SECTION 153.061: USES PERMITTED IN THE MULTIPLE FAMILY RESIDENTIAL DISTRICT R-3 ZONE, 3) SECTION 153.077: USES PERMITTED WITH A USE PERMIT IN THE NEIGHBORHOOD COMMERCIAL DISTRICT C-1 ZONE, 4) SECTION 153.093: USES PERMITTED WITH A USE PERMIT IN THE GENERAL COMMERCIAL DISTRICT C-2 ZONE, AND 5) SECTION 153.107: USES PERMITTED WITH A USE PERMIT IN THE COMMERCIAL-INDUSTRIAL C-M ZONE OF THE CITY'S MUNICIPAL CODE

WHEREAS, the City of Riverbank is authorized by Title 15 Chapter 153.230 to initiate a Zoning Ordinance Amendment whenever public necessity and convenience and the general welfare require such an amendment; and

WHEREAS, the City of Riverbank Planning Commission conducted a Public Hearing on Tuesday, December 16, 2014, to consider Ordinance 2014-XXX for the following amendments to the City's Zoning Code:

1. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.003: Definitions to include Emergency Shelters, Transitional Housing, Supportive Housing, Target Population and amend the definitions for Family and Dwelling, Single-Family; and
2. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.061: Uses Permitted to include Emergency Shelters, Transitional Housing and Supportive Housing uses in the Multiple Family Residential District R-3 Zone;
3. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.077: Uses Permitted with a Use Permit to include Emergency Shelters, Transitional Housing and Supportive Housing uses in the Neighborhood Commercial District C-1 Zone;
4. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.093: Uses Permitted with a Use Permit to include Emergency Shelters, Transitional Housing and Supportive Housing uses in the General Commercial District C-2 Zone;
5. Amend Title XV: Land Usage, Chapter 153: Zoning, Section 153.107: Uses Permitted with a Use Permit to include Emergency Shelters, Transitional Housing and Supportive Housing uses in the Commercial-Industrial C-M Zone; and

WHEREAS, the City Council for the City of Riverbank has made the following findings for adoption.

1. Pursuant to California Government Code section 65355, the relationship between the proposed Zoning Code Amendments and the General Plan are as follows:
 - a. The proposed Ordinance Amendments are consistent with the General Plan and each of its elements and all components therein because the General Plan Housing Element includes goals, policies and programs to implement the amendments herein;
 - b. The proposed Ordinance Amendments are compatible with the uses authorized in, and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district; and
 - c. The proposed Ordinance consistent with the General Plan Housing Element and implements Program 2.1g, where Emergency Shelters will be Permitted by right in the Multiple Family Residential District, R-3 Zone; and
 - d. The proposed Ordinance Amendment to Section 153.003 of the Riverbank Municipal Code is consistent with the General Plan Housing Element and implements Program 5.1b, where the City will update the definition of "family" and "single-family residence" to comply with all federal and State fair housing laws.
2. Senate Bill 2, taken effect in January 1, 2008, requires all cities and counties to provide at least one category in which emergency shelters can be located without discretionary approval from the government.
3. There is a State law requirement to amend the Zoning Code for Emergency Shelters and Transitional and Supportive Housing which allows the City to take local concerns into account when granting approvals for Emergency Shelters and Transitional and Supportive Housing.

WHEREAS, The Planning Commission has considered this Zoning Code Amendment at a duly advertised public hearing on December 16, 2014 and adopted Resolution 2014-019 recommending that the City Council approve the Ordinance; and

WHEREAS, notice of the public hearing on the Proposed Ordinance was published in the *Riverbank News*, a newspaper of general circulation on _____; and

WHEREAS, a public hearing was held on _____ and all comments were heard and considered by the City Council.

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

SECTION 1. Chapter 153, Zoning, Section 153.003 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include the following definitions and amendments to specific definitions, which shall read as follows:

153.003 DEFINITIONS

DWELLING, SINGLE-FAMILY RESIDENCE. ~~A detached building designed for and/or occupied exclusively by one family. A single family dwelling shall not include mobile homes, but shall include modular homes.~~ A residential building containing one (1) dwelling unit on one (1) lot. All rooms within the single-family attached dwelling shall be interconnected. Single-family dwelling shall include a dwelling that is constructed for the purposes of providing supportive and transitional housing.

[...]

EMERGENCY SHELTERS. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

FAMILY. ~~An individual, or two or more persons related by blood or marriage, or a group of not more than five persons who are not related by blood or marriage, excluding servants, living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a hotel, club, fraternity or sorority house.~~ One or more persons occupying a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel or hotel.

[...]

SUPPORTIVE HOUSING. Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

[...]

TARGET POPULATION. Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of

the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

[...]

TRANSITIONAL HOUSING. Buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

SECTION 2. *Chapter 153, Zoning, Section 153.061 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include Emergency Shelters, Transitional Housing and Supportive Housing as a Permitted Use in the Multiple Family Residential District R-3 Zone, which shall read as follows:*

[...]

(P) Emergency Shelters as defined in § 153.003.

(Q) Transitional Housing as defined in § 153.003.

(R) Supportive Housing as defined in § 153.003

SECTION 3. *Chapter 153, Zoning, Section 153.077 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include Emergency Shelters, Transitional Housing and Supportive Housing as a Permitted Use with a Use Permit in the Neighborhood Commercial District C-1 Zone, which shall read as follows:*

[...]

(N) Emergency Shelters as defined in § 153.003.

(O) Transitional Housing as defined in § 153.003.

(P) Supportive Housing as defined in § 153.003.

SECTION 4. *Chapter 153, Zoning, Section 153.093 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include Emergency Shelters, Transitional Housing and Supportive Housing as a Permitted Use with a Use Permit in the General Commercial District C-2 Zone, which shall read as follows:*

[...]

(R) Emergency Shelters as defined in § 153.003.

(S) Transitional Housing as defined in § 153.003.

(T) Supportive Housing as defined in § 153.003.

SECTION 5. *Chapter 153, Zoning, Section 153.093 of Title XV: Land Usage of the Riverbank Municipal Code is amended to include Emergency Shelters, Transitional Housing and Supportive Housing as a Permitted Use with a Use Permit in the Commercial-Industrial C-M Zone, which shall read as follows:*

[...]

(S) Emergency Shelters as defined in § 153.003.

(T) Transitional Housing as defined in § 153.003.

(U) Supportive Housing as defined in § 153.003.

SECTION 6. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing was introduced at a regular meeting of the City Council of the City of Riverbank held on the _____ day of _____, 2014; motioned by Councilmember _____, seconded by Council Member _____, and upon roll call was carried by the following vote ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment 2 – 2009-2014 Housing Element, Program 5.1b, Page IX-8

Timeframe: Ongoing

GOAL 5: PROMOTE HOUSING OPPORTUNITIES FOR ALL PERSONS REGARDLESS OF RACE, RELIGION, SEX, MARITAL STATUS, ANCESTRY, NATIONAL ORIGIN, COLOR, FAMILIAL STATUS, OR DISABILITY

Policy 5.1 Make programs and information available to all persons.

Program 5.1a: The City will continue to promote equal housing opportunity for all persons regardless of race, religion, sex, marital status, ancestry, nation origin, or color by supporting efforts of community groups that provide counseling, investigatory, legal, or referral services to victims of discrimination. Specifically, the City will:

- Disseminate information in a variety of ways (including brochures, mailings, websites, newspaper ads, etc in both English and Spanish) regarding rehabilitation and first-time homebuyer programs.
- Maintain information on State and federal fair housing laws at the Community Development Department and other public places for public distribution (such as the Riverbank branch of the Stanislaus County Public Library, the Riverbank Community Center, and City Hall);
- Train City staff at the public counter to refer victims of housing discrimination to the appropriate agency (local legal services organization, the Stanislaus County District Attorney's Office, the State Fair Employment and Housing Commission, or the U.S. Department of Housing and Urban Development);
- Seek the cooperation of the local homebuilders association, Realtor association and lenders in disseminating fair housing information; and,
- Identify an annual community event such as a fair housing day or as part of another community event at which fair housing information can be distributed.

Responsibility: Housing & Economic Development Department
Timeframe: Ongoing

Program 5.1b: The City will update the definition of "family" and "single-family residence" to comply with all federal and State fair housing laws. The definition should not distinguish between related and unrelated persons and should not impose limitations on the number of persons that may constitute a family.

Responsibility: Community Development Department

Timeframe: By June 2010, adopt updated definitions.

Policy 5.2 Adopt Universal Design Ordinance

Program 5.2a: The City will adopt a universal design ordinance governing construction or modification of homes using design principles that allow individuals to remain in those homes as their physical needs and capabilities change. The City will refer to the HCD website to develop guidelines and a model ordinance consistent with the principles of universal design.

Responsibility: Community Development Department

Timeframe: By June 2010, develop draft Universal Design Ordinance. By June 2011, adopt and implement Universal Design Ordinance.

Policy 5.3 Adopt Reasonable Accommodation Ordinance

Program 5.3a: The City will adopt written reasonable accommodation ordinance to provide exception in zoning and land-use for housing for persons with disabilities. This procedure will be a ministerial process, with minimal or no processing fee, subject to approval by the Community Development Director applying following decision-making criteria:

- The request for reasonable accommodation will be used by an individual with a disability protected under fair housing laws.
- The requested accommodation is necessary to make housing available to an individual with a disability protected under fair housing laws.
- The requested accommodation would not impose an undue financial or administrative burden on the City.
- The requested accommodation would not require a fundamental alteration in the nature of the City's land-use and zoning program.

Responsibility: Community Development Department

Timing: Adopt Zoning Ordinance Amendments by December 2012

GOAL 6: PROMOTE ENERGY CONSERVATION

Policy 6.1: Continue to implement state energy-efficient standards.

Program 6.1a: Continue to implement state energy-efficient standards, including the addition of energy-efficient conditions to planned development approvals.

Responsibility: Community Development Department

Timeframe: Ongoing

Attachment 3 – 2009-2014 Housing Element, Program 2.1g, Page IX-5

Program 2.1d:	Continue to distribute information on second units at the permit counter and post information on the City's website.
Responsibility:	Community Development Department
Timeframe:	Ongoing
Program 2.1e:	Adopt a density bonus ordinance in compliance with statutory amendments (Chapter 1928, Statutes 2004) to State density bonus law (Government Code Section 65915).
Responsibility:	Community Development Department
Timeframe:	Adopt density bonus ordinance by December 2010
Program 2.1f:	Assist in the development of housing for farmworkers. Actions will include assistance with site identification and support of applications for funding. The City will identify a partner and development opportunity by June 2010 and apply for grant funding through HCD.
Responsibility:	Economic Development and Housing Department
Timeframe:	By June 2010, development opportunity will be identified and grant applications will be submitted.
Program 2.1g:	The City will update the uses permitted in the R-3 zone (Section 153.061 (A)) to include emergency shelters. Emergency shelters will only be subject to those development and management standards that apply to other residential development within the same zone.
Responsibility:	Community Development Department
Timeframe:	By June 2010, adopt updated permitted uses.

Policy 2.2: Adopt an Inclusionary Zoning Ordinance

Program 2.2a:	An Inclusionary Zoning Ordinance will propose to have the City of Riverbank establish a regulatory and incentive framework which provides opportunities for the development of a supply and mix of new housing to meet the future housing needs of all residents. Through this framework it is expected that new residential development will provide housing opportunities to households of all incomes and achieve a diverse and balanced community with housing available for households of all income levels. Inclusionary unit regulations will apply to projects that propose (1) the creation of five or more dwelling units through new construction, or (2) the creation of ten or more dwelling units through adaptive reuse or conversion of a nonresidential use to
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Attachment 4 – 2009-2014 Housing Element, Table D-1, Residential Types Permitted by Zone

TABLE D-1
Residential Types Permitted by Zone

TYPE OF RESIDENTIAL	R-1 SINGLE-FAMILY ZONE DISTRICT		R-2 DUPLEX RESIDENTIAL ZONE DISTRICT		R-3 MULTIPLE-FAMILY ZONE DISTRICT		C-1 NEIGHBORHOOD COMMERCIAL ZONE DISTRICT		C-2 GENERAL COMMERCIAL ZONE DISTRICT		CM COMMERCIAL INDUSTRIAL ZONE DISTRICT		M-1 INDUSTRIAL ZONE DISTRICT		M-2 HEAVY INDUSTRIAL ZONE DISTRICT	
	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT	BY RIGHT	USE PERMIT
SINGLE FAMILY	X		X		X		X					X				X
MOBILE HOME	X		X		X											
CORNER LOT DUPLEX		X	X		X		X		X							
SECOND UNIT	X									X						
MULTI-FAMILY					X		X			X						
MOBILE HOME PARK		X				X	X				X					
FAMILY DAY CARE (6)	X		X		X											
FAMILY DAY CARE (7-12)	X		X		X											
RESIDENTIAL CARE HOME (7)	X		X		X		X									
HOTELS						X	X	X			X					
ROOMING/BOARDING HOMES						X		X	X			X				
LABOR CAMPS						X		X	X				X			
EMERGENCY SHELTERS					X			X	X			X				
TRANSITIONAL HOUSING					X			X	X			X				
SUPPORTIVE HOUSING					X			X	X			X				

000033

Attachment 5 – Definition of “Family” – Survey of Surrounding Jurisdictions

SURVEY ATTACHMENT 5

MODESTO

- ☐ 10-2.129 - Family.

An individual or two (2) or more persons living together as a single household unit in a dwelling unit. Family does not include larger institutional group living situations including, but not limited to, fraternities and sororities nor does it include commercial group living arrangements including, but not limited to, boarding houses and lodging houses.

- ☐ 10-2.123 - Dwelling, Single-Family.

A detached building designed for and/or occupied by one (1) family.

TURLOCK

"Family" shall be defined by the maximum number of individuals permitted in a given residential space per the standards of the Uniform Housing Code and/or the Uniform Building Code as applicable.

Dwelling.

(c) "Single-family" shall mean a residential building containing one (1) dwelling unit on one (1) lot. All rooms within the single-family attached dwelling shall be interconnected. "Single-family dwelling" shall include a dwelling that is constructed for the purposes of providing supportive and transitional housing.

MERCED

(Family not in Definitions)

- ☐ 20.04.200 - Household.

"Household" means one (1) or more persons, whether or not related by blood, marriage or adoption, sharing a dwelling unit and using a single common cooking facility in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs and utilities, as well as maintaining a single lease or rental agreement for all members of the household.

(Ord. 2220 § 2 (part), 2005: Ord. 824 Part Five (part), 1964).

- ☐ 20.04.180 - Dwelling, single-family.

"Single-family dwelling" means a building designed for or used exclusively for residence purposes by one (1) household.

(Ord. 2220 § 2 (part), 2005: Ord. 824 Part Five (part), 1964).

SURVEY ATTACHMENT 5

MANTECA

(Family not in Definitions)

Household. One or more persons, whether or not related by blood, marriage, or adoption, sharing a dwelling unit in a living arrangement usually characterized by sharing living expenses, such as rent or mortgage payments, food costs, and utilities, as well as maintaining a single lease or rental agreement for all members of the household and other similar characteristics indicative of a single household.

Dwelling, Primary Unit. In the context of second dwelling unit regulations, an existing single-family residential structure on a single parcel with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities occupied and intended for one household.

FRESNO

1. FAM ILY shall mean one of the following:

- a. An individual or two or more persons related by blood, marriage or adoption.
- b. Six (6) or fewer persons living together within the meaning of California Health and Safety Code Sections 1267.8, 1530.5, 1566.3, 1569.85 or any other statute or regulation which expressly requires that six (6) or fewer persons living together shall be considered a family for the purposes of any law or zoning ordinance which is related to the residential use of property.
- c. Two or more unrelated persons living together as a single housekeeping unit. Unless otherwise defined by Federal or State laws, a single housekeeping unit shall mean a non-transitory group of persons jointly occupying a single dwelling unit, including the joint use of common areas, for the purpose of sharing household activities and responsibilities such as meals, chores and expenses. The existence of individuals to facilitate the functions of a single housekeeping unit does not disqualify the group from being a single housekeeping unit.

DWELLING, ONE-FAMILY shall mean a detached building designed or used exclusively for the occupancy of one family, and having kitchen and toilet facilities for only one family.

STANISLAUS COUNTY

“Family” means one or more persons occupying a premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. (Ord. CS 106 §1, 1984)

RIPON

Family. An individual, or two (2) or more persons related by blood, marriage or legal adoption, or a group of not more than five (5) persons, who are not so related, living together as a single housekeeping unit.

**SURVEY
ATTACHMENT 5**

SAN JOAQUIN COUNTY

N/A

OAKDALE

Family: One (1) or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel, as herein defined.

WATERFORD

“**Family**” means one or more persons occupying a premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants.

PATTERSON

“Family” means an individual or two or more persons living together in a dwelling unit as a single housekeeping unit.

LOS BANOS

“Family” means one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, or fraternity or sorority house.

LIVINGSTON

FAMILY: One or more persons occupying a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel or hotel.

STOCKTON

N/A

HUGHSON

N/A

LODI

"Family" means one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a lodging house or hotel. A family includes the necessary servants.

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO: 3.2 **December 16, 2014**

APPLICANT: City-Initiated

PROJECT: A proposed amendment to the Riverbank Municipal Code to establish regulations for tattoo establishments and body art establishments and to amend the zoning code. The matter affects land uses City-Wide

LOCATION: City-Wide

ENVIRONMENTAL DETERMINATION: The proposed ordinance ("Ordinance") regarding tattoo and body art establishments is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately. Therefore, no CEQA analysis of the Ordinance is required.

PROJECT PLANNER: John B. Anderson, Contract Community Development Director

RECOMMENDATION: Staff recommends that the Planning Commission ("Commission") motion to adopt Resolution No. 2014-018, recommending the City Council of the City of Riverbank ("City") adopt Ordinance No. 2014-XX, establishing regulations for tattoo and body art establishments and amending the zoning code to include tattoo and body art establishments.

ACRONYMS: CEQA – California Environmental Quality Act
R.M.C. – Riverbank Municipal Code
CUP – Conditional Use Permit

ATTACHMENTS: 1. Planning Commission Resolution No. 2014-018
2. Survey of Fourteen (14) Surrounding Cities Tattoo Regulations

I. EXECUTIVE SUMMARY

Planning Commission Resolution No. 2014-018 (the "Resolution") recommends that the City Council adopt an ordinance to establish tattoo establishment and body art establishment regulations and to amend the zoning code to allow tattoo and body art establishments in all commercial zones subject to the requirements of the proposed licensing procedure. The City of Riverbank's Municipal Code does not currently regulate the operation or location of tattoo or body art establishments. The proposed regulations ensure that the City may review these types of businesses to determine whether they will be in the interest of the general welfare of the City. The regulations create a number of requirements regarding the location and operation of tattoo and body art establishments to ensure that they are not unduly influencing minors who may not engage in such uses.

II. BACKGROUND

The City passed Ordinance No. 2014-008 on September 23, 2014 establishing a forty-five (45) day moratorium on the establishment or expansion of new tattoo establishments in the City. That moratorium was extended for an additional six (6) months on October 28, 2014 through Ordinance No. 2014-009. The City established the moratorium after it became clear that the City lacked any regulation or any criteria for evaluating business license applications for such uses in the R.M.C. when the City received two (2) business license applications from tattoo establishment owners.

During the time the moratorium has been in place, City staff has been in discussion with the individuals who currently operate tattoo establishments in the City as well as individuals who are interested in opening a new tattoo establishment in the City. Through these discussions, the City has created a regulatory system that addresses the City's concerns about the any possibly related negative secondary effects of tattoo establishments while allowing tattoo establishments to be productive participants in the City's business community.

III. ANALYSIS

The City does not currently regulate the operation or location of tattoo establishments. This is in part because the health impacts that are often associated with tattoo and body art establishments are largely regulated at a county level through the Stanislaus County Department of Environmental Health's Safe Body Art Program that is instituted under Assembly Bill 300,¹ known as the Safe Body Art Act. Therefore, the proposed

¹ Commencing with Health & Safety Code § 119300.

ordinance ("Ordinance") does not focus on the health impacts associated with tattoo establishments.

Instead, the Ordinance seeks to address negative secondary effects that are sometimes associated with tattoo and body art establishments. The Ordinance establishes an application and license procedure that allows the City to review the individuals seeking to establish or operate a tattoo or body art establishment in the City to ensure that the business operates in the interest of the general welfare of the City. Before a permit is issued, the Tattoo and Body Art Application is reviewed by the planning, building, fire and police departments and approved or denied by the Community Development Director. The permit is valid for one (1) year and must be renewed when the tattoo establishment's business license with the City must be renewed. Thus, the City remains informed of the staff at the tattoo establishment on an annual basis.

The Ordinance establishes a number of requirements regarding the location of tattoo establishments in relation to one another and in relation to other land uses, such as residential areas and schools or parks. Tattoo and body art activities are an adult only use. Locating tattoo and body art establishments away from areas where children are more frequently present ensures that children are not influenced to participate in these activities illegally. The zoning code amendment provides that tattoo establishments are a permitted use in all commercial zones in the City, subject to the requirements of the tattoo establishment permit. This includes Neighborhood Commercial C-1 zone, General Commercial C-2 zone, and the Commercial-Industrial C-M zone. Tattoo and body art establishments will also be allowed in the City's Light Industrial M-1 zone and Heavy Industrial M-2 zone as the R.M.C. provides that uses permitted in commercial zones are also permitted in industrial zones.

Site Location and Development Standards

As noted above, the Ordinance establishes a number of requirements regarding the location of tattoo establishments. These requirements are as follows:

- The tattoo establishment or body art establishment shall not be located within **1,000 feet** of any other tattoo establishment or body art establishment.
- The tattoo establishment or body art establishment shall not be located within **500 feet** of any adult entertainment business.
- The tattoo establishment or body art establishment shall not be located within **500 feet** of any business selling alcoholic beverages.
- The tattoo establishment or body art establishment shall not be located within **100 feet** of any existing residential zone
- The tattoo establishment or body art establishment shall not be located within **500 feet** of a school, park, day care center or family day care home.
- All business activities of the tattoo establishment or body art establishment shall take place entirely within the building and in compliance with the requirements

under the Stanislaus County Body Art Program established under the requirements of Health and Safety Code.

Hours of Operation

The Community Development Director shall annually establish hours of operation for all tattoo establishments or body art establishments that operated in the City.

The hours for tattoo and body art establishments are established each year by the Community Development Director to ensure that the sometimes related negative secondary effects of tattoo and body art establishments such as illegal drug activity and excessive loitering are mitigated.

Prohibited Conduct

In addition to establishing site location and development standards, the Ordinance establishes prohibited conduct, where a license issued under the added Chapter can be revoked if any of the provisions or requirements is violated:

- All offering of services and merchandise shall take place only within the building.
- All tattooing and other body art activities shall take place in a room or space that conceals the activity from the view of individuals outside the business.
- The tattoo establishment or body art establishment must not jeopardize or endanger the public health and safety of persons residing or working in the surrounding area.
- The tattoo establishment or body art establishment shall not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbing the peace, gambling, prostitution, sale of stolen goods, public urination, theft, assault, battery, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially late at night or in the early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.
- The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall be in full compliance with the provision of AB 300, the Safe Body Act.
- The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall meet all the requirements, health and safety standards, and proper handling and disposal of medical waste as required by the Stanislaus County Environmental Health Division under the Safe Body Art Program.
- The tattoo establishment or body art establishment shall not violate any other applicable local, state, or federal regulation.
- The tattoo establishment or body art establishment shall not allow the sale of drug paraphernalia at the tattoo establishment.

Survey of 14 Surrounding Cities

A. Survey Surrounding Jurisdictions

As part of the research done to develop the Ordinance, a survey was conducted to determine how other jurisdictions regulate tattoo and body art establishments. The results of the survey are attached to this Staff Report as Attachment 2. The following summarizes the findings of the survey:

B. Site Location and Development Regulations

Of the fourteen (14) Cities surveyed, two (2) have established restrictions pertaining to the location of the tattoo establishment or body art establishment in relation to other uses.

The city of Menifee, for example, establishes that tattoo establishments cannot be located within:

- **500 feet** of any other tattoo establishment or within the same center;
- **500 feet** of any business selling alcohol; and
- **500 feet** of any school, church, or playground.

The city of Banning establishes that tattoo establishments cannot be located within:

- **1,000 feet** of another tattoo establishment;
- **500 feet** of an adult-oriented business;
- **500 feet** of any business selling alcoholic beverages;
- **100 feet** of residential properties; and
- **600 feet** of a school, park, or daycare center.

C. Hours of Operation

Of the fourteen (14) Cities surveyed, two (2) establish hours of operations for tattoo establishments. The City of Menifee, for example, establishes that tattoo establishments may operation between **7:00 am and 9:00 pm**. The City of Banning establishes that tattoo establishments may operate between **7:00 am and 10:00 am**.

D. Prohibited Conduct

In summary, most of the Cities reviewed in the survey require a Conditional Use Permit in order for a tattoo establishment to open and operate in the City. Through this Conditional Use Permit process, the City will set restrictions and requirements that may include prohibited conduct. The following is a summary of what was found as a result of the survey:

- **Merced.** Requires a CUP for a tattoo establishment to open and operate in the City. In a recent CUP (May 23, 2012), the City's Planning Commission conditionally approved the application with requirements such as no exterior graphics and a periodic review of the business operation.
 - **Hayward.** Requires a CUP for a tattoo establishment to open and operate in the City. In a recent CUP (July 25, 2013), the City's Planning Commission conditionally approved the application with requirements such as the proposed use will not be detrimental to the public health, safety, or general welfare, a limitation on the hours of operation and restrictions on loitering.
 - **Huntington Beach.** Requires a CUP for a tattoo establishment to open and operate in the City. In a recent CUP (June 12, 2012), the City's Planning Commission conditionally approved the application with requirements such as requiring the operation of the tattoo use wholly within the interior of the business and the business shall not prove hazardous to the general welfare of the residents in the City.
 - **Chula Vista.** Requires applicants wishing to open a tattoo establishment to obtain a police regulated business license, which includes a background check.
 - **Culver City.** Has a special permit for certain types of businesses, including tattoo parlors, which requires a background check.
-

IV. ENVIRONMENTAL DETERMINATION

The Ordinance regarding tattoo and body art establishments is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately. Therefore, no CEQA analysis of the Ordinance is required.

V. FISCAL IMPACT

The tattoo establishment or body art establishment application process will require additional staff time to review and grant these licenses. However, the City is authorized to charge a fee associated with this application that can help offset these costs.

VI. PUBLIC NOTICE

The Planning Commission hearing notice with a summary of the proposed Tattoo and Body Art Establishments Ordinance was published in the Riverbank news on December 3, 2014 and posted at City Hall North and South on December 3, 2014. Written comments received by the City shall be supplied to the Commission at the day of the meeting and read into the public record.

Additionally, the Planning Commission hearing notice was published in the Modesto Bee on December 3, 2014 on a 1/8th page, pursuant to California Government Code Section 65091(4).

In order to properly adopt an amendment to the City's zoning code, both the Planning Commission ("Commission") and the City Council must hold public hearings on the proposed amendment.² Both hearings must be noticed through publication in a newspaper of general circulation at least ten (10) days prior to the public hearing.³

VII. ALTERNATIVE ACTIONS

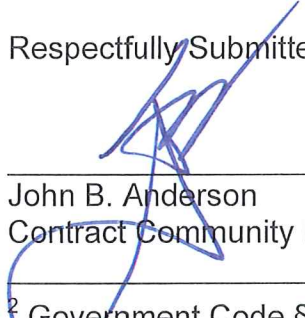
The Planning Commission's options regarding Resolution 2014-018 include:

1. Motion to adopt Resolution No. 2014-018, recommending the City Council of the City of Riverbank adopt Ordinance No. 2014-XX establishing regulations for tattoo establishments and amending the zoning code to include tattoo and body art establishments;
2. Motion to adopt Resolution No. 2014-018 as amended by the Commission, recommending the City Council of the City of Riverbank adopt Ordinance No. 2014-XX establishing regulations for tattoo establishments and amending the zoning code to include tattoo and body art establishments.;
3. Reject the Resolution No. 2014-018, not recommending the City Council of the City of Riverbank adopt Ordinance No. 2014-XX establishing regulations for tattoo establishments and amending the zoning code to include tattoo and body art establishments.

VIII. RECOMMENDATION

Staff recommends that the Commission motion to adopt Resolution No. 2014-018, recommending the City Council of the City of Riverbank adopt Ordinance No. 2014-XX establishing regulations for tattoo establishments and amending the zoning code to include tattoo and body art establishments.

Respectfully Submitted By:



John B. Anderson
Contract Community Development Director

² Government Code § 65854.

³ Government Code § 65090.

Attachment 1: Planning Commission Resolution No. 2014-018

CITY OF RIVERBANK
RESOLUTION NO. 2014-018

A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF RIVERBANK, CALIFORNIA,
RECOMMENDING TO CITY COUNCIL THE APPROVAL
OF ORDINANCE 2014-XXX, ADDING CHAPTER 125:
TATTOO AND BODY ART ESTABLISHMENTS TO TITLE
XI: BUSINESS REGULATIONS AND AMENDING TITLE
XV: ZONING, AMENDING 1) SECTION 153.076: USES
PERMITTED IN THE NEIGHBORHOOD COMMERCIAL
DISTRICT C-1 ZONE, 2) SECTION 153.092: USES
PERMITTED IN THE GENERAL COMMERCIAL DISTRICT
C-2 ZONE AND 3) SECTION 153.106: USES PERMITTED
IN THE COMMERCIAL-INDUSTRIAL C-M ZONE OF THE
CITY'S MUNICIPAL CODE

WHEREAS, the City of Riverbank's ("City") Municipal Code is silent with regard to the regulation and location of tattoo establishments; and

WHEREAS, Assembly Bill 300, the Safe Body Art Act, Health and Safety Code section 119300 *et seq.* ("Safe Body Art Act") was enacted in 2012 to govern the public health impacts of tattooing and other related body art activities, largely empowering counties to regulate those impacts; and

WHEREAS, the Safe Body Art Act allows a city to adopt regulations that are more stringent than the regulations contained in the Safe Body Art Act so long as those regulations do not conflict with the Safe Body Art Act;

WHEREAS, notice of the public hearing on the proposed Ordinance was published in the *Riverbank News*, a newspaper of general circulation, on December 3, 2014 and the *Modesto Bee*, a newspaper of general circulation, on December 3, 2014;

WHEREAS, the Planning Commission has reviewed the proposed Ordinance and conducted a public hearing on December 16, 2014; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF RIVERBANK HEREBY RECOMMENDS CITY COUNCIL APPROVAL OF ORDINANCE NO. XXXX, ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HEREIN BY THIS REFERENCE, ADDING CHAPTER 125: TATTOO AND BODY ART ESTABLISHMENTS AND AMENDING CHAPTER 153: ZONING IN THE CITY OF RIVERBANK MUNICIPAL CODE BASED ON THE FOLLOWING FINDINGS:

1. There is a threat to the general welfare of the community if tattoo and body art establishments locate in the City without proper regulations and planning in place; and
2. Tattooing and related body modification techniques are activities that can result in secondary negative impacts, such as an increase in crime and the sale of illegal drugs immediately surrounding tattoo establishments and the impairment of the market values and aesthetic and visual qualities of the properties adjacent to tattoo establishments; and
3. The proliferation of tattoo establishments may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality.
4. Pursuant to California Government Code Section 65855, the relationship between the proposed Zoning Code Amendments and the General Plan are as follows:
 - a. The proposed Ordinance is consistent with the General Plan and each of its elements and all components therein because the proposed Ordinance is consistent with the Goals and Policies of the Land Use and Economic Development Elements of the City of Riverbank General Plan:
 - 1) Policy LAND-4.3 – The City will encourage and assist small, locally-owned businesses that wish to locate, expand, or simply continue to do business in Riverbank through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement process, public-private partnerships, and other means.
 - 2) Policy ED-5.1 – The City will work with the business community to continually identify areas for improvement and/or streamlining in the building and development permit approval process, City operations, public input, and other processes.
 - 3) Policy ED-5.2 – The City will proactively maintain responsiveness to addressing any business climate

shortcomings identified through outreach and communication through local businesses.

- b. The proposed Ordinance is compatible with the uses authorized in and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district.
5. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The Planning Commission of the City of Riverbank hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), clause(s), phrase(s), or word(s) be declared invalid.
6. The City finds and determines that the amendments prescribed in Ordinance 2014-XXX are not considered a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately. Therefore, no CEQA analysis of the Ordinance is required.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 16th day of December, 2014; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

John B. Anderson, Secretary
Contract Community Development Director

APPROVED:

Joan Stewart
Planning Commission Chair

Attachments:

Exhibit A: Proposed City Council Ordinance 2014-XXX

EXHIBIT "A" – Proposed Draft City Council Ordinance 2014-XXX

**CITY OF RIVERBANK
ORDINANCE NO. 2014-XX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
RIVERBANK, CALIFORNIA, ADDING CHAPTER 125:
TATTOO AND BODY ART ESTABLISHMENTS TO TITLE XI:
BUSINESS REGULATIONS AND AMENDING TITLE XV:
ZONING, AMENDING 1) SECTION 153.076: USES
PERMITTED IN THE NEIGHBORHOOD COMMERCIAL
DISTRICT C-1 ZONE, 2) SECTION 153.092: USES
PERMITTED IN THE GENERAL COMMERCIAL DISTRICT C-2
ZONE AND 3) SECTION 153.106: USES PERMITTED IN THE
COMMERCIAL-INDUSTRIAL C-M ZONE OF THE CITY'S
MUNICIPAL CODE**

WHEREAS, Assembly Bill 300, the Safe Body Art Act, Health and Safety Code section 119300 *et seq.* ("Safe Body Art Act") was enacted in 2012 to govern the public health impacts of tattooing and other related body art activities, largely empowering counties to regulate those impacts; and

WHEREAS, the Safe Body Art Act allows a city to adopt regulations that are more stringent than the regulations contained in the Safe Body Art Act so long as those regulations do not conflict with the Safe Body Art Act; and

WHEREAS, unregulated tattoo establishments and body art establishments may have related negative secondary effects on the community such as gang related activity where tattoo establishments and body art establishments are not properly regulated; and

WHEREAS, the City of Riverbank ("City") seeks to provide regulations that will ensure tattoo establishments and body art establishments are productive participants in the City's business community; and

WHEREAS, the City Council finds it is in the interest of the public health, safety and welfare to establish guidelines and regulations that ensure the often related secondary effects of tattoo establishments and body art establishments are adequately addressed in the City.

WHEREAS, the City Council for the City of Riverbank has the made the following findings for adoption.

1. There is a threat to the general welfare of the community if tattoo and body art establishments locate in the City without proper regulations and planning in place; and

2. Tattooing and related body modification techniques are activities that can result in secondary negative impacts, such as an increase in crime and the sale of illegal drugs immediately surrounding tattoo establishments and the impairment of the market values and aesthetic and visual qualities of the properties adjacent to tattoo establishments; and
3. The proliferation of tattoo establishments may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality.
4. Pursuant to California Government Code Section 65355, the relationship between the proposed Zoning Code Amendments and the General Plan are as follows:
 - a. The proposed Ordinance is consistent with the General Plan and each of its elements and all components therein because the proposed Ordinance is consistent with the Goals and Policies of the Land Use and Economic Development Elements of the City of Riverbank General Plan:
 - 1) Policy LAND-4.3 – The City will encourage and assist small, locally-owned businesses that wish to locate, expand, or simply continue to do business in Riverbank through flexible development standards, public investment, property assemblage, incentives, streamlined entitlement process, public-private partnerships, and other means.
 - 2) Policy ED-5.1 – The City will work with the business community to continually identify areas for improvement and/or streamlining in the building and development permit approval process, City operations, public input, and other processes.
 - 3) Policy ED-5.2 – The City will proactively maintain responsiveness to addressing any business climate shortcomings identified through outreach and communication through local businesses.
 - b. The proposed Ordinance is compatible with the uses authorized in and the regulations prescribed for, the land use districts for which it is proposed and with the regulations for each land use district.

WHEREAS, The Planning Commission has considered this Zoning Code Amendment at a duly advertised public hearing on December 16, 2014 and adopted Resolution 2014-018 recommending that the City Council approve the Ordinance; and

WHEREAS, notice of the public hearing on the Proposed Ordinance was published in the *Riverbank News*, a newspaper of general circulation on _____; and

WHEREAS, a public hearing was held on _____ and all comments were heard and considered by the City Council.

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

SECTION 1: Title XI of Riverbank's Municipal Code shall be amended to read as follows:

Title XI, Business Regulations, is amended to add Chapter 125, Tattoo and Body Art Establishments which shall read:

TATTOO AND BODY ART ESTABLISHMENTS

Section 125.01 Definitions.

For the purposes of this chapter, the following terms have the following meanings:

A. "Tattoo establishment" or "body art establishment" shall mean any premises or establishment and facilities incidental thereto which engages in the business of marking or coloring skin, which is the method of placing designs, letters, scrolls, figures, symbols, or other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to penetrate the skin. "Tattoo establishment" or "body art establishment" shall include any premises or establishment and facilities incidental thereto that engages in any form of permanent alteration to one's skin or body parts including, but not limited to, body piercing, scarification, and branding. "Tattoo establishment" or "body art establishment" shall not include a permanent cosmetic facility.

B. "Body art" shall mean any act of body piercing, tattooing, branding or scarification.

C. "Body piercing" shall mean the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but it not limited to piercing of an ear, lip, tongue, nose, or eyebrow. "Body piercing" does not, for the purpose of this chapter, include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

D. "Branding" shall mean the use super-heated metal object, chemical, or electricity to burn an image into the human body.

E. "Drug paraphernalia" means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, or harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing,

injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as further defined in Health and Safety Code section 11014.5.

F. "Permanent cosmetic facility" shall mean any premise or establishment and facilities incidental thereto which involves the application of pigments to or under human skin for the purpose of permanently changing the color or other appearance of the skin. This includes but is not limited to permanent eyeliner, eye shadow, or lip color.

G. "Scarification" shall mean the use of methods or techniques to produce scars on the human body for decorative purposes, including but not limited to cutting and skin peeling.

H. "Tattoo" and "tattooing" shall mean the process of marking or coloring skin using the method of placing designs, letters, scrolls, figures, symbols, or other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to penetrate the skin.

Section 125.02 License Application.

A. Any person, firm, corporation or partnership desiring to obtain a license to operate a tattoo establishment or body art establishment shall file a complete application with all required documentation under penalty of perjury of the laws of the state. The application shall be in a form prescribed by the city and shall be accompanied by a copy of the current and complete health permit issued by the local enforcement agency and a copy of the certificate of registration for all practitioners performing tattooing or other body art.

B. The tattoo establishment or body art establishment license shall be renewed each year at the same time that the tattoo establishment or body art establishment renews its business license with the city.

C. The license is valid only for the location of the facility and the time period indicated on the license and may not be transferred to another owner or facility.

D. The city shall promptly reject as incomplete any application which does not meet all the requirements of this chapter. Upon written request of the applicant, the city shall notify the applicant in writing, by first class mail, postage prepaid, to the address supplied to the city by the application, of the deficiencies in the application.

Section 125.03 Investigation by the City.

A. Upon receipt of a complete application, all supplemental required information, and payment of all required fees, the city's community development director shall refer the application to all appropriate city agencies including building, planning, police and fire departments. The departments shall review the application, and where necessary, the proposed location of the tattoo establishment or body art establishment may be

inspected. The community development director may request any further information which is reasonably related to the licensing requirement of this chapter. Based on this review, the community development director shall grant or deny the tattoo establishment or body art establishment license.

B. The community development director shall grant a tattoo establishment or body art establishment license where it finds that the establishment, maintenance or operation of the tattoo establishment or body art establishment, under the circumstances of the particular case, will not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or area of the tattoo establishment or body art establishment or will not be detrimental or injurious to property and improvements in the neighborhood or area or to the general welfare of the city.

C. If the community development director, following investigation of the applicant, determines that the applicant does not fulfill the requirements set forth in this chapter, the community development director shall deny the application by written notice sent via U.S. mail. Following the denial or revocation of a tattoo establishment or body art establishment license, no application for a tattoo establishment or body art establishment may be filed by such applicant, at the same or substantially the same location for at least one year following the date of such denial or revocation.

Section 125.04 License Procedures.

A. Upon payment of all fees and successful verification of all requirements of this chapter, a tattoo establishment or body art establishment shall be issued a tattoo establishment or body art establishment license by the city.

B. Any person, firm, corporation or partnership denied a license pursuant to this Chapter may appeal the denial in writing pursuant to the procedures specified in Section 153.218: Appeal.

Section 125.05 Site Location and Development Standards.

A. Tattoo establishments and body art establishments shall not be located within 1,000 feet of any other tattoo establishment or body art establishment as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing tattoo establishment or body art establishment.

B. The tattoo establishment or body art establishment shall not be located within 500 feet of any adult entertainment business, as defined in Riverbank Municipal Code Section 118, as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing adult entertainment business.

C. The tattoo establishment or body art establishment shall not be located within 500 feet of any business selling alcoholic beverages as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of the site containing the existing business selling alcoholic beverages.

D. The tattoo establishment or body art establishment shall not be located within 100 feet of any existing residential zone as measured from any point from the outer boundaries of the building lease space containing the tattoo establishment or body art establishment to the nearest property line of a residentially zoned property.

E. The tattoo establishment or body art establishment shall not be located within 500 feet of a school, park, day care center or family day care home as measured from any point between the outer boundaries of the lease space containing the tattoo establishment or body art establishment to the nearest property line of the school, park, day care center, or family day care home.

F. All business activities of the tattoo establishment or body art establishment shall take place entirely within the building and in compliance with the requirements under the Stanislaus County Body Art Program established under the requirements of Health and Safety Code, Chapter 7, commencing with Section 119300.

Section 125.06 Hours of Operation.

The Community Development Director shall annually establish hours of operation for all tattoo establishments or body art establishments that operated in the City.

Section 125.07 Prohibited Conduct.

In addition to any other procedures regarding the enforcement of this code, or other local, state or federal law, a license issued under this chapter may be revoked if any of the following provisions or requirements is violated:

A. All offering of services and merchandise shall take place only within the building. Should other retailers within a commercial center in which the tattoo establishment or body art establishment is located complain about harassment of customers, this is prima facie evidence of non-compliance with this requirement to contain body art business activities.

B. All tattooing and other body art activities shall take place in a room or space that conceals the activity from the view of individuals outside the business.

C. The tattoo establishment or body art establishment must not jeopardize or endanger the public health and safety of persons residing or working in the surrounding area.

D. The tattoo establishment or body art establishment shall not result in repeated nuisance activities within the premises or in close proximity of the premises. Nuisance activities include but are not limited to disturbing the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assault, battery, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially late at night or in the early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests.

E. The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall be in full compliance with the provision of AB 300, the Safe Body Art Act, Health and Safety Code §§ 119300 *et seq.*

F. The tattoo establishment or body art establishment and each tattoo artist or body art practitioner shall meet all the requirements, health and safety standards, and proper handling and disposal of medical waste as required by the Stanislaus County Environmental Health Division under the Safe Body Art Program.

F. The tattoo establishment or body art establishment shall not violate any other applicable local, state, or federal regulation.

G. The tattoo establishment or body art establishment shall not allow the sale of drug paraphernalia at the tattoo establishment.

SECTION 2: Chapter 153: Zoning of Riverbank's Municipal Code shall be amended as follows:

Subsections (21) through (23) of Chapter 153: Zoning, Section 153.076: Uses Permitted of Riverbank's Municipal Code shall be amended and a subsection (24) shall be added to include Tattoo Establishments or Body Art Establishments in the Neighborhood Commercial District C-1 Zone and as follows:

[...]

(21) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125;

(22)(24) Television (sales and service);

(23)(22) Variety; and

(24)(23) Other uses which are determined by the Community Development Director to be similar.

Section 153.092 of Chapter 153: Zoning, Section 153.092: Uses Permitted, Commercial shall be amended to add a subsection (R) to include Tattoo

Establishments or Body Art Establishments in the General Commercial District C-2 Zone as follows:

[...]

(R) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125.

Subsections (KK) through (QQ) of Section 153.106 of Chapter 153: Zoning, Section 153.106: Uses Permitted shall be amended and a subsection (RR) shall be added to include Tattoo Establishments or Body Art Establishments in the Commercial-Industrial C-M Zone as follows:

[...]

(KK) Tattoo establishments or body art establishments, subject to the requirements of Chapter 125;

(LL)(KK) Television or radio transmitter.

(MM)(LL) Temporary uses such as a circus, carnival, fair, or festival, provided that they meet the following requirements:

(1) The use shall be temporary in nature and shall not last more than four days.

(2) The organizers of the event shall notify the Riverbank Police Services Division of their intentions at least 30 days prior to the scheduled beginning of the event.

(3) A business license shall be obtained as required by § 110.18 of the city code.

(4) Licenses will only be issued to local businesses or shopping centers when conducted on the same property as the business/shopping center or to local nonprofit organizations.

(5) The use need not be in an enclosed building or fence.

(NN)(MM) Temporary construction building to house tools and equipment or containing supervisory offices in connection with construction projects during active construction on the same property.

(OO)(NN) Theater, indoor.

(PP)(OO) Tin smith.

(QQ)(PP) Utilities.

(RR)(QQ) Veterinary hospital.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Riverbank held on the _____ day of _____, 2015; motioned by Councilmember _____, seconded by Councilmember _____, and upon roll call was carried by the following vote ____:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Annabelle Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

Attachment 2: Survey of Fourteen (14) Surrounding Cities Tattoo Regulations

SURVEY
ATTACHMENT 2

HESPERIA

The city of Hesperia includes in Chapter 5.22 of its Municipal Code a license provision for body art facilities. These provisions are similar to the proposed amendments to the City of Riverbank's Municipal Code ("R.M.C.") included in the ordinance.

MODESTO

Body art establishments are a permitted use defined as a personal service in all commercial and industrial zones under Modesto Municipal Code section 10-3.101.

BANNING

The city of Banning requires a conditional use permit ("CUP") and prohibits a tattoo establishment from being located: (1) within 1,000 feet of another tattoo establishment; (2) within 500 feet of an adult-oriented business; (3) within 500 feet of any business selling alcoholic beverages; (4) within 100 feet of residential properties; (5) within 600 feet of a school, park, or daycare center. The city of Banning also declares that the hours of operation for a tattoo establishment will be from 7:00 am and 10:00 pm.

MERCED

Tattoo Parlors are listed as conditional uses in all commercial zones in the Merced Municipal Code. On May 23, 2012 that city's planning commission considered a CUP for a tattoo parlor. That permit was conditioned on requirements such as no exterior graphics on windows for the business and the city's periodic review of the business should problems occur as a result of the business's operation.

HAYWARD

The city of Hayward requires that tattoo establishments secure a CUP in order to open and operate in that city. On July 25, 2013, the planning commission of that city approved a CUP for a tattoo establishment. The CUP included conditions such as a requirement that the proposed use not be detrimental to the public health, safety, or general welfare, a limitation on the hours of operation of the establishment, and restrictions on loitering.

HUNTINGTON BEACH

The city of Huntington Beach requires that tattoo establishment secure a CUP in order to open and operate in that city. On June 12, 2012, the planning commission of that city approved a CUP for a tattoo establishment. The CUP included conditions requiring the operation of the tattoo use

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wholly within the interior of the business and the business shall not prove hazardous to the general welfare of the residents of that city.

CHULA VISTA

The city of Chula Vista requires applicants wishing to open a tattoo establishment to obtain a police regulated business license, which includes a background check.

CULVER CITY

Culver City has a special permit requirement for certain types of businesses, including tattoo parlors, which requires a background check.

MENIFEE

The city of Menifee require a CUP to open a tattoo establishment. Menifee also sets hours of operation for tattoo establishments between 7:00 am and 9:00 pm. Additionally, Menifee states that tattoo establishments cannot be located within: (1) 500 feet of any other tattoo establishment or within the same center; (2) 500 feet of any business selling alcohol; (3) 500 feet of a school, church, or playground.

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SUMMARY TABLE

The table below summarizes how other cities in California address tattoo establishments.

Tattoo Establishment Regulation	
City	Requirement
Menifee	CUP
Chino Hills	CUP
Diamond Bar	CUP
West Covina	CUP
Covina	Business License Only
Pomona	CUP
Yorba Linda	CUP
Oceanside	Police Permit
Riverside	Permitted with some restrictions
Patterson	CUP
Newman	CUP and Permitted (depending on zone)
Santa Rosa	Minor CUP
Rohnert park	CUP
San Luis Obispo	Director's Use Permit Required