TITLE: INTERIM URGENCY ORDINANCE OF THE CITY OF PORTERVILLE PROHIBITING THE ISSUANCE OF NEW AUTHORIZATIONS FOR ALCOHOL SALE OR CONSUMPTION

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: In several cases over the past three to four years, the issuance of Conditional Use Permits for the sale of alcohol (for on-site or off-site consumption) has become a matter of public controversy. There has also been some confusion regarding the language, meaning and interpretation of the applicable Zoning Ordinance provisions. At the April 1, 2003 meeting, the City Council determined that the existing alcohol related ordinances within the City of Porterville may be inadequate to protect the public health, safety, and general welfare and merit further review. The City Council further determined that a Committee should be formed to study the existing alcohol related ordinances and make recommendations for necessary changes.

Until it is clear that the City of Porterville has adequate regulations in place to protect the public health, safety and general welfare, it may be necessary to avoid facilitating/permitting any new alcohol related uses. The proposed Interim Urgency Ordinance is intended to provide time for Committee review of the current standards and for the development of new permanent standards for City Council Consideration. The draft Interim Urgency Ordinance includes the mandatory findings that there is a current, immediate threat to the public health, safety or welfare and that allowing the issuance of new authorizations for the sale and consumption of alcohol would exacerbate that threat.

The following activities, typically carried out by the City of Porterville, would be suspended during the period in which the Interim Urgency Ordinance is in effect:

1) The processing of new Conditional Use Permits for the On-Sale of Alcohol at any location within the City of Porterville.

2) The processing of new Conditional Use Permits for the Off-Sale of Alcohol within 600 feet of a school, park or church.

3) The processing of modifications to existing Conditional Use Permits for the On-Sale or Off-Sale of alcohol, where the modification relates directly to the sale or consumption of alcohol (e.g. adding distilled spirits to a permit which currently only allows the sale of beer and wine).
4) The certification of Zoning Compliance through correspondence with the California Department of Alcoholic Beverage Control of proposals for the Off-Sale of alcohol in locations that are not within 600 feet of a school, church or park.

5) The issuance of permits to allow the consumption of alcohol within any park.

6) The processing of Letters of Public Convenience or Necessity for the proposed Off-Sale of alcohol in any Census Tract defined as “overconcentrated” by relevant State Law.

Unless otherwise prohibited above, the City of Porterville would continue to carry out the following activities during the period in which the Interim Urgency Ordinance is in effect:

1) Certify Zoning Compliance, through correspondence with the California Department of Alcoholic Beverage Control, for Changes of Ownership and in other circumstances in which the circumstances of the sale or consumption of alcohol are not expected to change.

2) The processing of modifications to existing Conditional Use Permits where the modification does not relate directly to the sale or consumption of alcohol.

3) Carrying out such other actions as may be necessary or convenient to allow currently authorized sale and consumption of alcohol to continue unchanged.

The Interim Urgency Ordinance may only be affective if approved by a 4/5 majority of the City Council. The initial duration of the Ordinance would be 45 days. At least ten days prior to the expiration of the Ordinance, the City Council would be required to issue a written report describing the measures taken and to be taken to alleviate the conditions which led to the adoption of the Ordinance. At that time, the City Council will have the option to extend the Ordinance for an additional ten months and fifteen days.

The City Council has indicated its intention to appoint a Committee to review existing alcohol related Ordinances and make recommendations to the City Council. Staff has prepared the following options for the selection of such a Committee:

1) Appoint a new ad hoc Committee for this purpose only. The size and composition of such a committee would be determined by the City Council.

2) Assign the study to the Long Range Planning Committee as a “Planning Study” within their existing mandate to review matters of interest to the future development of the City of Porterville.
3) Assign the study to the Long Range Planning Committee, but add additional voting members to the Committee for this purpose only. In this instance, Staff would recommend that Porterville Area Ministerial Association and the Chamber of Commerce each be asked to select two members. The Chamber of Commerce members should be directly involved in the sale of alcohol, either as On-Sale or Off-Sale vendors.

RECOMMENDATION: That the City Council:

1) Adopt the attached Interim Urgency Ordinance prohibiting the issuance of new authorizations for the sale or consumption of alcohol.

2) Adopt option No. 3 for the establishment of a committee to review the current standards and make recommendations on proposed new standards.

ATTACHMENT: 1. Interim Urgency Ordinance
ORDINANCE NO. ______________

AN INTERIM ORDINANCE OF THE CITY OF PORTERVILLE PROHIBITING
THE ISSUANCE OF NEW AUTHORIZATIONS FOR THE SALE OR
CONSUMPTION OF ALCOHOL AND DECLARING THE URGENCY THEREOF

BE IT ORDAINED by the City Council of the City of Porterville, as follows, to wit:

SECTION 1: The City Council of the City of Porterville herewith finds that there is a
current and immediate threat to the public health, safety, or welfare, arising from the potential
lack of adequate local procedures for reviewing and determining the appropriateness of locations
and conditions for the sale and consumption of alcohol.

SECTION 2: The City Planning staff and City Attorney are presently reviewing existing
ordinances and considering recommended amendments regarding the potential and appropriate
City zoning locations, procedures and policies for the approval of the on-sale, off-sale, and
consumption of alcohol, and are developing recommendations concerning the zoning, permitting,
and regulations of alcohol related uses. An advisory committee will also be appointed by the
City Council to provide additional input in the review and recommendations.

SECTION 3: The City of Porterville does further herewith find and determine that
allowing the issuance of new authorizations for the sale and consumption of alcohol prior to the
completion of a review of existing ordinances and adoption of recommendations regarding
amendments to such ordinances concerning the zoning and regulation of alcohol related uses
would result in that threat to public health, safety or welfare being exacerbated.

SECTION 4: That the City of Porterville does further herewith find and determine that
there are significant public health, safety or welfare concerns relating to issues concerning:

(a) Appropriate locations for businesses which sell alcohol;

(b) Appropriate conditions of approval for businesses which sell alcohol;

(c) Appropriate procedures to provide for public input and comment on the location
and conditions of businesses which sell alcohol;

(d) Sufficient protections for sensitive uses such as schools, parks and churches;

(e) Appropriate opportunities for the public and the City Council to consider and
address all impacts upon the immediate neighborhood and the community at large
resulting from businesses which sell alcohol.

All of which gives rise to a need to complete the study, within a reasonable time, of the potential
and appropriate City zoning procedures and policies for approving the sale or consumption of
alcohol, where such determinations are within the jurisdiction of the City of Porterville; and in
order to protect the public safety, health or welfare, it is necessary to prohibit the issuance of new authorizations for the sale or consumption of alcohol until such time as said study is completed and the City Council has determined what new and additional procedures and policies, if any, are necessary and appropriate to put in place.

SECTION 5: This Ordinance shall remain in full force and effect for a period of forty-five (45) days from and after its passage and adoption.

SECTION 6: The City Council does herewith direct the City staff to prepare and submit to the City Council, for consideration of approval and issuance by the City Council, a written report describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report shall be submitted to the City Council at least 10 days prior to the expiration of this Ordinance.

SECTION 7: For the reasons set forth hereinabove, the City Council of the City of Porterville does herewith declare and determine that it is necessary to protect the public safety, health or welfare by adopting this Ordinance as an urgency measure to take effect immediately upon passage and adoption.

PASSED, ADOPTED AND APPROVED this 15th day of April, 2003.

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Richard M. Stadtherr, Mayor

ATTEST:

John Longley, City Clerk

By __________________________
Georgia Hawley, Deputy