TITLE: EXTENSION OF TIME FOR THE 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: On April 15, 2003, the City Council adopted an Interim Urgency Ordinance prohibiting the issuance of new authorizations for alcohol sale or consumption. The initial Interim Urgency Ordinance was approved for 45 days and will remain in effect until 5:00 P.M., May 30, 2003, unless extended. Government Code Section 65858(a), allows for the City Council to approve an extension of time of 10 months and 15 days.

Also on April 15, 2003, the City Council authorized formation of a committee to review the current alcohol regulations in the City of Porterville and make recommendations for improvements as necessary. The committee was to include all members of the Long Range Planning Committee with additional membership to be selected by the Porterville Chamber of Commerce, Downtown Porterville, Inc., and the Porterville Area Ministerial Society. The complete membership of the committee is as follows:

Donna Shamley, Chair  Member LRPC
Esther Figeuroa, Vice Chair  Member LRPC
Roberto DeLa Rosa  Member LRPC
Wayne Bohannan  Member LRPC
Michael Ebaugh  Member LRPC
Boyd Leavitt  Member LRPC
Randy Smee  Member LRPC
John Eby  PAMA Representative
Steve Walker  PAMA Representative
Don Forrester  Chamber of Commerce Representative
Michel Adams  Chamber of Commerce Representative
Paul Vanasen  Downtown Porterville, Inc., Representative

The first meeting of the Alcohol Regulation Ad Hoc Advisory Committee was held on May 8, 2003. At that meeting, the Committee reviewed existing regulations and practices. A productive round-table discussion was conducted regarding issues which have arisen in past applications of the regulations and outlining areas to explore in greater depth. The next meeting is scheduled for June 12, 2003. The Committee expects to have proposals ready for review after two or three more sessions.

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Once the Committee has completed its review and formulated recommendations, Staff will bring the matter back to City Council for further review, leading to consideration of City Code Amendments (including Zoning Ordinance Amendments) as appropriate.

On May 6, 2003, the City Council clarified its intent with regard to the Interim Urgency Ordinance. The attached draft ordinance reflects this clarification. The prohibition on new authorizations for the sale or consumption of alcohol shall include (but not necessarily be limited to) the following:

1) Conditional Use Permits for the On-Sale of Alcohol.
2) Conditional Use Permits for the Off-Sale of Alcohol Within 600 Feet of a School, Park or Church.
3) Zoning Compliance Certifications and other Staff authorizations for the Off-Sale of Alcohol More Than 600 Feet From a School, Park or Church.
4) Permits for Alcohol Sales or Consumption Within a Park.
5) Letters of Public Convenience or Necessity.

The moratorium will not apply to the following:

1) Various Discretionary Actions in Support of Currently Operating Businesses which do not Permit a Change in Alcohol Sales.

RECOMMENDATION: The City Council adopt an extension of time for the attached Interim Urgency Ordinance prohibiting the issuance of new authorizations for alcohol sale or consumption for 10 months and 15 days.

ATTACHMENT: 1. Interim Urgency Ordinance

ORDINANCE NO. _______________
AN ORDINANCE OF THE CITY OF PORTERVILLE EXTENDING
AN INTERIM ORDINANCE 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 has previously enacted
Ordinance No. 1633 as an Urgency Ordinance and said Ordinance shall expire on May 30, 2003.

SECTION 2: 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 3: The City Council has appointed an ad hoc committee to review the
existing City regulations with regard to the sale and consumption of alcohol. That Committee,
with assistance from City Planning Staff and the City Attorney, is presently 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.

SECTION 4: 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 5: 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 6: The City Council finds that pursuant to Government Code Section 65858(d), Staff prepared a written report and submitted it to the City Council for consideration describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report was submitted to the City Council on May 20, 2003, which was more than 10 days prior to the expiration of this Ordinance.

SECTION 7: The City Council herewith finds that the subject interim ordinance will allow the preparation of amendments to alcohol related ordinances, if necessary, to allow and promote public review of said ordinances, to allow City Council to take action on said ordinances, and have said ordinances in full effect prior to the expiration of the subject 10 month and 15 day interim ordinance.

SECTION 8: The City Council finds that pursuant to Section 65858(a) of the Government Code, it is necessary to extend the Interim Urgency Ordinance for a period of 10 months and 15 days, or until such time as the permanent ordinances can be adopted, if necessary, and that the extension of time will expire on the effective date of the permanent ordinances if the effective date is prior to the horizon date of the extension of time, or upon the affirmative decision of the City Council that no amendments to the existing alcohol related ordinances will be necessary at this time.

SECTION 9: The prohibition on the issuance of new authorizations for the sale and use of alcohol shall include, but shall not be limited to, the following actions and activities:

1) Conditional Use Permits for the On-Sale of Alcohol.
2) Conditional Use Permits for the Off-Sale of Alcohol Within 600 Feet of a School, Park or Church.
3) Zoning Compliance Certifications and other Staff authorizations for the Off-Sale of Alcohol More Than 600 Feet From a School, Park or Church.
4) Permits for Alcohol Sales or Consumption Within a Park.
5) Letters of Public Convenience or Necessity.

SECTION 10: The moratorium will not apply to discretionary actions in support of currently operating businesses which do not permit a change in alcohol sales.

SECTION 11: The City Council finds that the subject interim ordinance is Categorically Exempt pursuant to the California Environmental Quality Act.
SECTION 12: The City Council finds that the subject interim ordinance is in full compliance with the adopted City of Porterville General Plan.

SECTION 13: 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 extension of time to the urgency measure to take effect immediately upon passage and adoption.

PASSED, ADOPTED AND APPROVED this ____ day of ____________, 2003.

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Richard M. Stadtherr, Mayor

ATTEST:

John Longley, City Clerk

By __________________________
Georgia Hawley, Deputy