SUBJECT: SECOND READING - ORDINANCE NO. 1661, DELETING SECTION 20-1.1 OF CHAPTER 20, OF ARTICLE 1, OF THE PORTERVILLE MUNICIPAL CODE, AND ADDING CHAPTER 18, ARTICLE IV, CONCERNING THE USE OF SKATEBOARDS

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1661 deleting Section 20-1.1 of Chapter 20, of Article 1, of the Porterville Municipal Code, and adding Chapter 18, Article IV, concerning the Use of Skateboards was given First Reading on February 15, 2005, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1661, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1661
ORDINANCE NO. 1661

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE DELETING SECTION 20-
1.1 OF CHAPTER 20, OF ARTICLE 1, OF THE
PORTERVILLE MUNICIPAL CODE, AND ADDING
CHAPTER 18, ARTICLE IV, CONCERNING THE
USE OF SKATEBOARDS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORTERVILLE, AS
FOLLOWS, TO WIT:

SECTION 1. Section 20-1.1 of Chapter 20, Article 1 is hereby deleted in its
entirety.

SECTION 2. Article 4 (Sections 18-60 through 18-70) is hereby added to
Chapter 18 of the City Code and shall read as follows:

18-60. Purpose and Intent.

The City Council finds and declares that the purpose of this chapter is to
promote the public peace, morals, safety, and general welfare of persons in the City
by regulating the activity of skateboarding on certain public property and on certain
private property which is accessible to the general public.

18-61. “Skateboard” Defined.

“Skateboard” means any vehicle, device, or contrivance with any number of
wheels, with a riding surface of any design, upon which a person may place one or
more feet, and which is designed to be, or can be propelled by human power, and
which is not defined as a bicycle by the California Vehicle Code. The term skateboard
also includes motorized skateboards.

18-63. Skateboarding Prohibited -- Public Property.

(A) The use of skateboards is prohibited on any sidewalk, walkway, crosswalk
or other area designed primarily for pedestrian travel in the area bounded by Morton
and Olive and Second and “D” Streets.

(B) The City Council may, by resolution, prohibit the riding of skateboards, as
defined in Section 18-61, on public streets, sidewalks, parking lots, and other public
property over which it has jurisdiction when it is determined to be necessary to protect
the health, safety, and welfare of pedestrians, motorists, or persons operating said
skateboards on said streets and sidewalks. The riding of skateboards shall be
prohibited upon any public property when such property is posted pursuant to this
Article.
18-64. **Skateboarding Prohibited -- Private Property.**

No person shall skateboard on any privately owned property which is posted with "No Skateboarding" signs as required by this Article, without the express consent of the property owner or property manager/agent. Private property owners and/or their managers or agents are authorized to post or erect signs, at their own expense, prohibiting the riding of skateboards in or on those premises for which such a request has been made to, and approved by, the Chief of Police or his or her designee.

18-65. **Posting of No Skateboarding Signs.**

(A) The City Manager, or his or her designee, is hereby authorized to post or erect, or cause to be posted or erected, signs prohibiting skateboarding or the use of skateboards on public streets, sidewalks, or facilities so designated by resolution of the City Council.

(B) A property owner shall post or erect, or cause to be posted or erected, at the property owner’s sole cost and expense, signs that are readily visible to the general public. Authorized signs shall be a minimum of seventeen (17) inches by twenty-two (22) inches, with one inch letters, posted adjacent to the entrances to the subject property. These signs may be erected in such a position to prevent vandalism or theft. The property owner, or manager, shall have on file with the police department a signed consent form authorizing the police to enforce said ordinance.

Example Sign: “Skateboards Prohibited on Posted Property by CPMC Section 18-64, Porterville Police Department 782-7400”

18-66. **Skateboarding -- Nuisance.**

No person shall use a skateboard in a manner that creates a danger to others or in a manner that creates a nuisance.

18-67. **Exception -- State Law.**

The provisions of this Article shall not be deemed to make punishable an act or acts which are prohibited by any statute of the State of California.

18-68. **Enforcement and Penalties.**

(A) A person over the age of 18 who violates Section 18-63(A) shall be guilty of a misdemeanor.

(B) Any violation of the provisions of this chapter shall be deemed to be an infraction, and punishable as such, notwithstanding the fact that at the discretion of the City or District Attorney, the violation of any section of this Article may be filed as a misdemeanor. The complaint charging such violation shall specify whether the violation is a misdemeanor or an infraction. Each day a violation of any provision of this Article shall continue, it shall constitute a new and separate violation.
(C) A violation of any of the provisions of this Article shall constitute a nuisance and may be abated by the City through a civil process by means of restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of such nuisances. With regard to violations committed by minors, the parent or legal guardian having control or custody of the minor whose conduct violates this section shall be jointly and severally liable with the minor for all penalties and/or costs and fees.


Notwithstanding the police department’s ability to confiscate a skateboard as an instrumentality or evidence of a violation of this Article, and in addition to the enforcement provisions of the preceding section, the City may seize and hold the skateboard at the time an individual is cited for any violation of any provisions of this Article for the second time within a one year period. Any time a violator’s property is confiscated pursuant to this section, the City shall provide the violator with a receipt and notice of a time and location for an automatic hearing in front of the City’s designated administrative hearing officer no later than ten (10) days from confiscation of the skateboard. The violator shall be entitled to the return of the skateboard either 180 days from the date of the confiscation, or at the time as determined at the conclusion of the hearing.

18-70. Severability.

It is declared to be the intention of the City Council that the subsections, paragraphs, sentences, clauses, and phrases of this Article are distinct and severable and, in the event that any subsections, paragraphs, clauses and/or phrases are declared to be unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such unconstitutionality, invalidity, or unenforceability shall not affect any of the remaining subsections, paragraphs, clauses, or phrases of this Article.

SECTION 3. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

ADOPTED, SIGNED AND APPROVED this ______ day of ____________, 2005.

__________________________________________
President of the Council and Ex-Officio
Mayor of the City of Porterville

ATTEST:

__________________________________________
Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville