

ORDINANCE NO. 92-13

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF RIDGECREST AMENDING THE RIDGECREST
MUNICIPAL CODE AS IT RELATES TO ADULT
MERCHANDISE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIDGECREST
as follows:**

Section 1. Purpose

This ordinance amends the Municipal Code by providing that adult merchandise shall be sold only in a manner that separates the merchandise from casual contact by minors.

Section 2. Findings

The Council finds, determines and declares as follows:

(a) There exists a tendency for liquor stores and other retail businesses to casually display magazines, books, videotapes and devices involving explicit sexual activity.

(b) The exposure of such material to the public in general and minors in particular establishes a tone not consistent with good order and creates a public nuisance.

(c) It is in the best interests of public health, safety and welfare to restrict the display of such material so that adverse impacts on minors will be minimized.

Section 3. Amendment

Section 6-35 is hereby added to Chapter 6 of the Ridgcrest Municipal Code to read as follows:

"Section 6-35. Display of Certain Merchandise

Section 6-35.1 General

(a) No person shall display merchandise depicting sexual activity or merchandise intended to assist or promote sexual activity in any commercial establishment except in areas set aside and clearly posted for adults only or displayed within opaque units.

(b) 'Adults only' areas shall be visible from the cash register or sales center of the store. No item

frequently purchased by minors shall be located in the vicinity of the 'adults only' area. Minors shall not be permitted to enter an 'adults only' area. Merchandise with sexually explicit depictions shall not be visible to persons outside the 'adults only' area.

Section 6-35.2 Definitions

The following terms are defined for the purposes of this section:

(a) 'Merchandise' means any book, magazine, pamphlet, video cassette or disk, newspaper, or tangible personal property offered for sale, rent, lease or loan.

(b) 'Commercial establishment' means any place of business located within the City in which minors are permitted.

(c) 'Depicting sexual activity' means any picture, photograph, drawing, decoration or other illustration depicting:

(1) Stimulation of human genitals, or otherwise emphasizing the genitals;

(2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, buggery, cunnilingus, fellatio, pederasty, homosexuality, sado-masochism or similar acts;

(3) Fondling or other erotic touching of human genitals, pubic regions or female breasts.

(d) 'Assist or promote sexual activity' means any device that is used or useful for:

(1) Stimulation of human genitals, or otherwise emphasizing the genitals;

(2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, buggery, cunnilingus, fellatio, pederasty, homosexuality, sado-masochism or similar acts;

(3) Fondling or other erotic touching of human genitals, pubic regions or female breasts.

(e) 'Opaque display units' are display units that show only the top two inches of magazine covers.

Section 6-35.3 Exemptions

Nothing contained herein shall prohibit:

(a) A minor having proprietary interests in or managerial control of the ordinary and routine operation of a commercial establishment from entering the 'adults only' areas of the commercial establishment.

(b) Employing or allowing a minor to act in a proprietary or managerial capacity with respect to the operation of a commercial establishment including 'adults only' areas of a commercial establishment.

(c) Admitting a minor to an 'adults only' area of a commercial establishment if the minor is accompanied by an adult who represents himself or herself as the minor's parent or guardian.

(d) Allowing a minor to enter the 'adults only' area of a commercial establishment, when not accompanied by parent or guardian, if the minor presents false documentation of being at least 18 years of age and the documentation appears to be legitimate to an average, prudent person.

(e) Allowing a minor to legally purchase contraceptive devices.

Section 6-35.4 Civil Enforcement

Any violation of this section is a public nuisance that may be abated as provided by law.

Section 6-35.5 Criminal Enforcement

(a) Every person who violates any provision of this section is guilty of an infraction for the first offense and is guilty of a misdemeanor for subsequent offenses that occur within twelve (12) months of the first offense.

(b) It shall be a defense in any prosecution for violation of this section that the merchandise does not depict, assist or promote sexual activity if its apparent character, outward appearance or contemporary Kern

County-wide reputation would not cause an average adult person to reasonably know or suspect that the merchandise depict sexual activity or assists or promotes sexual activity.

(c) The criminal penalties for violations of this section are separate and cumulative to the civil enforcement of this section."

Section 4. Other

Except as provided herein, the Ridgecrest Municipal Code is hereby reaffirmed and readopted.

APPROVED AND ADOPTED this 15th day of July, 1992, by the following vote:

AYES: Mayor Corlett, Councilmembers Auld, Bitney, Bryan and Parode
NOES: None
ABSTAIN: None
ABSENT: None



Kevin S. Corlett, Mayor

ATTEST:



Joyce M. Taft, City Clerk

(SEAL)