
C O U N C I L C O M M U N I C A T I O N

TO: THE CITY COUNCIL
FROM: THE CITY MANAGERS OFFICE

COUNCIL MEETING DATE
JULY 5, 1989

SUBJECT: CONSIDERATION OF ORDINANCE DRAFT, REQUIRING THAT "BLINDERS" BE UTILIZED FOR
 THE SALE OF CERTAIN "HARMFUL MATTER" (ASSEMBLY BILL 711, PENAL CODE 5313.1).

PREPARED BY: City Attorney

RECOMMENDED ACTION: Consideration of the attached ordinance., requiring
 that certain "harmful matter" (usually sexually
 oriented magazines and videotapes) as defined by
 state law, be kept in a blinder when offered for sale
 from a location visible to the public.

BACKGROUND INFORMATION: At the Council meeting of June 21, 1989, Mr. Ken
 Owen, on behalf of a local anti-pornography
 organization, requested that the Council consider
 adoption of a "blinder" ordinance, pursuant to Penal
 Code § 313.1. This Penal Code section, enacted as
Assembly Bill 711, authorizes cities and counties to require a device known as
a "blinder" on sales of magazines and videotapes deemed to be "harmful
matter". This term is most commonly applied to sexually oriented magazines
and videotapes.

The blinder is simply a box, rack or other device which obscures the lower
two-thirds of the cover of such magazines or videotapes, leaving only the name
of the publication or videotape visible.

The attached ordinance is based on the statute enacted by the City of
Bakersfield.

Respectfully submitted,

Bob McNatt

BOB McNATT
City Attorney

BM:vc

CCBLINDR/TXTA.01V

ORDINANCE NO. 1458

AN ORDINANCE OF THE LODI CITY COUNCIL
ADDING TO CHAPTER 9.04 OF THE MUNICIPAL CODE, SECTION 9.04.030,
RELATING TO THE DISPLAY OF MATERIAL WHICH IS HARMFUL TO MINORS

WHEREAS, pursuant to Penal Code § 313.1, effective January 1, 1988, local jurisdictions have authority to implement ordinances regulating the display of certain harmful matter;

NOW, THEREFORE, BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS :

SECTION 1. Lodi Municipal Code Chapter 9.04 of the Municipal Code *is* hereby amended by adding thereto §9.04.030 (Offenses Against Public Decency) to read as follows:

§9.04.030

A. Display of **Material** Which is Harmful to Minors.

The display of material which is harmful to minors, as defined in Chapter 7.6 of Title 9 of the California Penal Code, in a public place other than a public place from which minors are excluded, is prohibited unless a device commonly known as a blinder rack is placed in front of such material, so that the lower two-thirds of the material is not exposed to view.

B. Blinder Defined.

"Blinder" shall mean an opaque box, rack, contrivance or device from which certain harmful matter, as defined above, is sold, and which obscures the lower two-thirds of the material from public view.

C. Violation--Infraction.

Any person who is convicted of a violation of any of the provisions of this section is guilty of an infraction and shall be punished accordingly.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this day of

JOHN R. SNIDER
Mayor-

Attest:

ALICE M. REIMCHE
City Clerk

14-58

State of California
County of San Joaquin, ss.

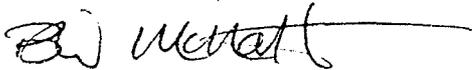
I, Alice M. Reimche City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held _____ and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____ by the following vote:

Ayes : Council Members -
Noes : Council Members -
Absent: Council Members -
Abstain: Council Members -

I further certify that Ordinance No. _____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

ALICE M. REIMCHE
City Clerk

Approved as to Form



BOBBY W. McNATT
City Attorney

ORDINANCE NO. _____, NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BAKERSFIELD ADDING CHAPTER 9.17 TO THE BAKERSFIELD MUNICIPAL CODE RELATING TO MISCELLANEOUS REGULATIONS, INCLUDING SECTION 9.17.010 RELATING TO DISPLAY OF MATERIAL WHICH IS HARMFUL TO MINORS.

WHEREAS, Assembly Bill 711 (A.B. 711) has been adopted by the state Legislature and signed by the Governor; and

WHEREAS, A.B. 711 amends California Penal Code Section 313.1 to grant to local jurisdictions the authority to implement local ordinances to regulate the display of harmful matter; and

WHEREAS, A.B. 711 will become effective January 1, 1988.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bakersfield as follows:

SECTION 1.

Chapter 9.17 is hereby added to the Bakersfield Municipal Code to read as follows:

CHAPTER 9.20

MISCELLANEOUS REGULATIONS

Section:

9.17.010 Display of material which is harmful to minors.

9.17.010 Display of material which is harmful to minors.

Display of material which is harmful to minors, as defined in Chapter 7.6 of Title 9 of the California Penal Code, in a public place, other than a public place from which minors are excluded, is prohibited unless a device commonly known as a blinder rack is placed in front of such material, so that the lower two-thirds of the material is not exposed to view.

SECTION 2.

This ordinance shall be posted in accordance with the city charter provisions and shall become effective January 1, 1988.

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I HEREBY CERTIFY that the foregoing Ordinance was passed and adopted by the Council of the City of Bakersfield at a regular meeting thereof held on _____, by the following vote:

CITY CLERK and *Ex Officio* Clerk of the
Council of the City of Bakersfield

APPROVED _____

MAYOR of the City of Bakersfield

APPROVED as to form:

CITY ATTORNEY of the City of Bakersfield

AJS/meg

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AB711.1
10/28/87

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Received telephone calls from the following urging the Council to introduce the proposed Ordinance requiring blinder racks to be placed in stores on magazine racks in front of materials which are harmful to minors:

Century Assembly Church
Emanuel Luthern Church
Faith Fellowship Church
First Baptist Church
Lodi Community Church
Lodi Victory Church
St. John's Episcopal Church
United Congregational Church
Vinewood Community Church