

TOWN OF DUBACH

ORDINANCE NO. 432

AN ORDINANCE OF THE TOWN OF DUBACH REGULATING  
SEXUALLY ORIENTED MERCHANDISE AND BUSINESS

WHEREAS, an ordinance has been proposed to be adopted by the Board of Aldermen of the Town of Dubach;

WHEREAS based on studies performed in other cities, areas near Sexually Oriented Businesses are often associated with high crime rates, deteriorated commercial and residential neighborhoods, depreciation of property values, and dramatic changes in character of a neighborhood when more than one such business is operating in a given area;

WHEREAS retaining and growing sales tax revenues are extremely important to the economic wellbeing of the Town;

WHEREAS, the Town recognizes that the First Amendment to the United States Constitution requires that it "refrain from effectively denying" expressive adult use operations a reasonable opportunity to open and operate within the Town and the Due Process Clause of the Fourteenth Amendment and the Louisiana State Constitution prohibit the Town from completely banning the selling or distribution of such items; and

WHEREAS, it has been determined to be in the best interest of the Town of Dubach to regulate Sexually Oriented Merchandise and the regulations herein are intended as a narrow means to eliminate, or at least limit, the deleterious effects of adult uses on the health, safety and welfare of the residents, business owners and property owners in the Town;

NOW THEREFORE, BE IT ORDAINED that the following ordinance is hereby adopted by the Board of Aldermen of the Town of Dubach:

Section 1.: Regulation of Sexually Oriented Merchandise and Businesses Ordinance is hereby adopted.

**I. Definitions.**

**A. Sexually Oriented Merchandise means:**

(1) Books, magazines, periodicals, other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

**B. Specified Sexual Activities** means and includes any of the following:

- (1) The fondling or other erotic touching of human (male or female) genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
- (2) Any sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) above.

**C. Sexually Oriented Business** means any business in which 25% or more of its inventory is Sexually Oriented Merchandise.

**II. Display of Sexually Oriented Merchandise.**

- A. It shall be unlawful for an owner or operator of any business to allow Sexually Oriented Merchandise of the establishment to be visible from a point outside the establishment.
- B. It shall be unlawful for an owner or operator of any business that sells Sexually Oriented Merchandise but does not qualify as a Sexually Oriented Business to allow Sexually Oriented Merchandise to be viewed from the main entrance of the business or the check out area.
- C. Any business that sells Sexually Oriented Merchandise but does not qualify as a Sexually Oriented Business shall place signs at the front of any isle or area that contains Sexually Oriented Merchandise advising the public that there is Sexually Oriented Merchandise on that isle/area. Any sign notifying of the existence of Sexually Oriented Merchandise shall not include pictures of Specified Sexual Activities.

**III. Minors Prohibited on Sexually Oriented Business Premises.**

- A. It shall be unlawful for any person who is younger than eighteen (18) years of age to enter or be on the premises of a Sexually Oriented Business.
- B. It shall be unlawful for the owner and/or operator of a sexually oriented business to allow a person under the age of eighteen (18) years in or on the premises of the Sexually Oriented Business.

**IV. Permitted Locations.** Businesses shall not sell Sexually Oriented Merchandise within:

- (1) One thousand five hundred (1,500) feet of a church, synagogue, mosque, temple or other building that is used primarily for religious worship or related religious activities;
- (2) One thousand five hundred (1,500) feet of a public or private educational or school facility; or



(3) One thousand five hundred (1,500) feet of a public park or recreational area that has been designated for park or recreational activities by the Town, Parish, or State.

**V. Criminal Violations.**

- A. Any owner or operator of a business found guilty of a misdemeanor violation of this ordinance shall be subject to a fine of up to \$500.00 or six months in jail or both.
- B. Each day a business operates in violation of this ordinance is a separate offense or violation.

**VI. Additional Civil Consequences.**

- A. In addition to any criminal liability, any person, entity, or business found to have violated this ordinance may have their Occupational License revoked.
- B. The Town shall give the person, entity, or business whom it believes violated this ordinance ten (10) day written notice of a hearing before the Town Council setting forth the cause or causes of the hearing, and the time and place of the hearing, and may be delivered to the licensee by registered or certified mail addressed to the holder of the occupational license at the address on file with the Town or it may be personally served by any member of the Dubach Police Department.
- C. The Town may compel the attendance of witnesses, may require the production of books, papers, documents or other tangible things material to the hearing and may administer oaths. Subpoenas may be served by any member of the Dubach Police Department.
- D. The licensee may be represented by counsel and shall have the right to be confronted with witnesses and other evidence against him, to cross-examine witnesses and to produce evidence in his own behalf.
- E. The Town Attorney, if present, or the Mayor shall rule on all objections made during a hearing on revocation.
- F. At the conclusion of the hearing, the Town Council may revoke the Occupational License, suspend the license for up to six months, and/or place additional limits on the right to keep said Occupational License as it deems is necessary to ensure future compliance with this ordinance.
- G. The decision of the City Council shall be final unless the licensee appeals the decision to the Lincoln Parish District Court. Any person aggrieved by the decision of the City Council, may have the decision reviewed in the manner provided by rules relating to civil proceedings. No such review shall be granted unless a petition therefor, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality, is presented to a court of record within fifteen (15) days after the filing of the decision in the office of the governing body

H. If the licensee does not timely appeal and does not close its doors as ordered by the Council, the Town Attorney or other official designated by the Mayor is hereby vested with authority to file a petition in Lincoln Parish District Court requiring the licensee to show cause in not less than two (2) or more than ten (10) days, exclusive of holidays, why the business should not be ordered to cease from further pursuit of business. If the Town is successful in it shall be entitled to all costs and attorney fees incurred in obtaining said judgment enforcing said order.

Section 2: This ordinance shall be effective upon adoption.

Section 3: The vote on this ordinance was:

\_\_\_ YEAS \_\_\_ NAYS \_\_\_ ABSENT \_\_\_ ABSTAIN.

This ordinance was adopted on the 17<sup>th</sup> day of October, 2022 and presented to the Mayor for her signature on the 17<sup>th</sup> day of October, 2022 (which is less than 3 days from the date the ordinance was adopted).

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TOWN CLERK

Approved by the Mayor on this 17<sup>th</sup> day of October, 2022.

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MAYOR