

## **ARTICLE VIII OF CHAPTER 35 OF THE SANTA BARBARA COUNTY CODE**

**Added to Chapter 35 of the County Code by Ordinance No. 4306,  
adopted by the Santa Barbara County Board of Supervisors on May 5, 1998.**

### **Sec. 35-801. Purpose.**

The purpose of this Article is to regulate sexually oriented businesses which, unless closely regulated, have serious secondary effects on the community. These secondary effects include, but are not limited to, the following: depreciation of property values, increases in vacancy rates in residential and commercial areas, increases in incidences of criminal activity, increases in litter, noise, and vandalism and the interference with residential property owners' enjoyment of their property in the vicinity of such businesses.

### **Sec. 35-802. Findings.**

The Board of Supervisors of the County of Santa Barbara finds as follows:

- A. The County of Santa Barbara Zoning Ordinance regulates, among other things, the location and operation of commercial uses of property. The County now regulates through the County Code the display of matter harmful to minors in newsracks, "topless" entertainment and nudity in public places, but does not otherwise restrict the time, place and manner in which sexually oriented business uses may be permitted and operated.
- B. The Board is concerned with the potential proliferation of sexually oriented businesses within the County. This concern is based on citizen testimony at public hearings, the experience of cities within the County, and studies from other jurisdictions.
- C. The cities of Santa Barbara, Santa Maria and Lompoc have adopted ordinances regulating sexually oriented businesses. These cities considered studies adopted by numerous other jurisdictions. These studies show that businesses that display, sell or rent sexually oriented material, such as sexually oriented bookstores, sexually oriented video stores, and sexually oriented movie theaters, or feature live sexually oriented entertainment, result in substantial adverse secondary effects. The adverse effects include, among other things, an increase in crime, a threat to public health and a decrease in property values and retail trade.
- D. The Board of Supervisors finds, based on the experiences of cities within the County; review of studies conducted in other jurisdictions, staff reports and public testimony, that there are substantial secondary effects of sexually oriented bookstores, movie theaters, live entertainment and other sexually oriented, businesses, including, among others, an increase in crime, a threat to public health and a decrease in property values and retail trade. The Board finds that regulation of sexually oriented businesses is necessary and proper to further the quality of life in the County and to protect minors.
- E. In enacting this Article, the Board of Supervisors states the following legislative intent:

1. The purpose of regulation of sexually oriented businesses is to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses or their close proximity to incompatible uses, and to avoid the adverse secondary effects of sexually oriented businesses, while permitting their location in certain areas.
2. The Board of Supervisors does not intend to prohibit sexually oriented businesses, or to infringe upon rights of expression protected by the United States and California Constitutions, but rather to impose reasonable time, place and manner regulations on the operation of sexually oriented businesses within the County.
3. The Board of Supervisors does not intend to condone or legitimize the distribution of obscene material or material that is harmful to minors as defined by state law. The Board of Supervisors recognizes that state law prohibits the distribution of such material and encourages law enforcement officials to enforce state statutes against such illegal activities in the County of Santa Barbara.
4. Nothing in this Article is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any County ordinance or state law regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

**Sec. 35-803. Definitions.**

Unless otherwise specifically provided in this Article, words and phrases used in this Article are defined as follows:

- A. Establishment of a Sexually Oriented Business. For purposes of this Article, to "establish" a sexually oriented business (SOB) means any of the following which occur after the effective date of the ordinance codified in this Article:
  1. The conversion of an existing business to an SOB.
  2. The addition of any of the specific uses defined in subsections B or C herein to any existing SOB.
  3. The opening or commencement of any SOB as a new business.
  4. The relocation of any SOB.
  5. The physical expansion of any established SOB. "Physical expansion" means any increase of more than ten percent of the floor area of the established SOB. For purposes of determining whether an increase in floor area falls within this provision, all previous expansions in increments of less than ten percent shall be cumulated. No established SOB shall be permitted to expand to a square footage greater than that of the mean square footage of general bookstores or video stores in the County.

B. Sexually Oriented Business. For purposes of this Article, "sexually oriented business" or "SOB" includes the following:

1. Any business that sells, offers for sale, rents, exhibits, shows or displays specified anatomical areas or specified sexual activities in the form of any publication, including books, magazines, newspapers, pamphlets, films, videos, laser discs, or any other form or medium, or sexually oriented devices intended for use in the specified sexual activities, and which receives 25 percent or more of the gross revenue from, or devotes 25 percent or more of the stock on hand or 25 percent or more of the gross floor area to such activity, is presumed to be engaging in substantial or significant conduct with respect to such activity.
2. Any business, conducted for the entertainment of adults wherein an employee, patron, or any other person engages in specified sexual activities, as defined in subsection D of this Section or exhibits or engages in partial or total nudity or otherwise displays or exposes specified anatomical areas, as defined in subsection E of this Section.
3. Sexually oriented businesses do not include bona fide medical establishments operated by properly licensed and registered medical personnel with appropriate medical credentials for the treatment of patients.

C. Specific "sexually oriented businesses" includes the following specific uses, each of which is considered a separate sexually oriented business: sexually oriented bookstore; sexually oriented motion picture theater; sexually oriented motion picture or video arcade; sexually oriented live entertainment theater; or sexually oriented hotel or motel, as those terms are defined in paragraphs 1 through 6 of this subsection C.

1. "Sexually oriented bookstore" means any business which sells, rents, displays or makes available to members of the public an inventory of books, magazines, periodicals, or other printed matter, photographs, drawings, motion pictures, slides, films, tapes, video cassettes, records, laser discs or other visual or audio representations, where 25 percent or more of that inventory consists of books, magazines, periodicals, or other printed matter, photographs, drawings, motion pictures, slides, films, tapes, video cassettes, records, laser discs or other visual, digital or audio representations which describe or depict specified sexual activities or specified anatomical areas, as defined herein.
2. "Sexually oriented motion picture theater" means any business, other than a hotel or motel, where five or more persons regularly view or observe films, motion pictures, video cassettes, slides, laser discs or similar photographic or digital reproductions, in which the predominant character or theme is distinguished or characterized by its emphasis on matter depicting, or relating to, specified sexual activities or specified anatomical areas as defined herein. This includes, without limitation, showing any such motion pictures or videos by means of any video tape system that displays on a viewer screen or television set.

3. "Sexually oriented motion picture or video arcade" means any business wherein coin, paper note, or token operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to regularly show images to four or fewer persons per machine, at any one time, and where the predominant character or theme of the images so displayed is distinguished or characterized by its emphasis on matter depicting, or relating to, specified sexual activities or specified anatomical areas, as defined herein.
4. "Sexually oriented live entertainment theater" means any place, building, enclosure, or structure used for live adult entertainment performances or presentation, which building, place, enclosure or structure is used on a regular basis and has 25 percent or more of its floor area devoted to, a majority 51 percent of its gross revenues derived from, or which presents as a principal business purpose, matter characterized by an emphasis on depicting, exposing, displaying, describing, or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.
5. "Live sexually oriented entertainment" means any live nude or semi-nude performances conducted for profit which are characterized by the exposure of specified anatomical areas or specified sexual activities as defined herein and which are conducted in a sexually oriented business as defined herein.
6. "Sexually oriented hotel or motel" means a hotel, motel or similar commercial establishment which offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, laser discs or other digital or photographic reproductions 25 percent or more of the number of which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; and (a) either offers a sleeping room for rent for a period of time less than six hours, or (b) rents, leases, or lets any single room more than twice in a 24-hour period.

D. "Specified sexual activities" means and includes any of the following:

1. The fondling or touching of human genitals, pubic regions, buttocks, anus or female breasts.
2. Sex acts, normal or deviant, actual or simulated, including intercourse, oral copulation or sodomy.
3. Masturbation, actual or simulated.
4. Masochism, erotic, or sexually oriented torture, beating or the infliction of pain.

5. Erotic or lewd touching, lewd fondling or other lewd contact with an animal by a human being.
  6. Excretory functions as part of, or in connection with, any of the above activities.
- E. "Specified anatomical areas" include any of the following, whether actual or simulated:
1. Less than completely and opaquely covered human genitals, pubic region, buttock, or any portion of the female breast at or below the upper edge of the areola.
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Sec. 35-804. Development and Operational Standards.**

In addition to all applicable development standards set forth in the Article of the County Zoning Ordinance applicable to the property where the business is located, SOBs shall comply with the following:

- A. Development Standards.
1. Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the fire and building regulations and standards adopted by the County of Santa Barbara.
  2. The premises or the portion of the premises where the SOB is located, the exterior grounds including all off-street parking areas and landscaped areas, to the extent that same are under the management and control of the SOB's licensee, and entrances of the SOB shall be lighted in such a manner that all areas are clearly visible during hours of operation and one hour after closing. A lighting and lighting maintenance plan shall be submitted at the time of application for a land use permit as set forth herein.
  3. Signage shall comply with applicable County regulations and shall not contain sexually oriented photographs, silhouettes or other pictorial representations.
  4. All building entrances to an SOB shall be clearly and legibly posted with a notice indicating that: (a) the premises contains sexually oriented material or offers sexually oriented entertainment, (b) persons offended by this type of material or entertainment may not wish to enter, and (c) persons under 18 years of age are prohibited from entering the premises. The notice shall be posted so that it is visible to the public. No person under the age of 18 years shall be permitted on the premises at any time.
  5. The premises within which the SOB is located shall provide sufficient sound-absorbing insulation so that noise generated inside the premises shall not be audible anywhere on any adjacent property or public right-of-way or within any

other building or other separate unit within the same building. No loudspeakers or sound equipment shall be used by an SOB for the amplification of sound to a level audible beyond the walls of the building in which the business is located.

6. All indoor areas of an SOB within which patrons are permitted, except restrooms, shall be open to view by the management at all times.
7. Individual viewing booths for public use in SOBs may be enclosed on three sides only and the open side shall be 100 percent open. The visibility of the inside of the booths shall not be obstructed. The open side of booths in any SOB shall face a central aisle and be visible from inside the front or main entrance to the business. There shall be no hole or other opening between booths. Not more than one person shall occupy any individual booth at one time.
8. The SOB shall provide and maintain separate restroom facilities for male patrons and employees, and female patrons and employees. This paragraph shall not apply to an SOB which does not provide restroom facilities to its patrons or the general public.
9. No residential structure or any other nonconforming structure shall be converted for use as a SOB.
10. No SOB shall be located in any temporary or portable structure.
11. Any license or permit required of an owner or operator of an SOB from the Santa Barbara County Sheriff or other County official pursuant to the Santa Barbara County Code shall be obtained, kept current at all times and be posted in plain view in a conspicuous location inside the SOB premises.
12. The building shall comply with applicable setbacks and parking requirements.

B. Operational Standards.

1. No SOB shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, window, show window, exterior doorway or other opening visible to the public.
2. It shall be unlawful for any licensee, operator, or other person in charge of any SOB to employ any person who is not at least 18 years of age.
3. No alcoholic beverages shall be served, consumed or sold on the premises of an SOB.

4. An SOB shall not conduct or sponsor any special events, promotions, festivals, concerts or similar activities that would create a demand for parking spaces beyond the number of spaces required for the business.
5. No sexually oriented business shall be open nor shall any activity described in this Ordinance be conducted or carried on in the business premises between the hours of 2:00 a.m. and 6:00 a.m. of any day.
6. No licensee shall cause, allow, permit, suffer or tolerate any doors on the licensed premises to be locked or barred during business hours.
7. No license shall be transferable to another person.
8. A license shall be valid only for the location for which and to the person to which it was issued.
9. No licensee shall allow, permit, suffer or tolerate any person under the age of 18 years to enter, be in or remain in any adult entertainment business. The licensee or employee shall determine the age of persons who enter the premises by checking the driver's license or other authorized identification of said person.
10. No licensee shall sell or otherwise transfer alcoholic beverages or illegal drugs on the premises nor allow, permit, suffer or tolerate their consumption or possession on the premises of any adult entertainment business by any person.
11. Any individual viewing booths for public use in sexually oriented businesses permitted hereunder may be enclosed on three sides only and the open side shall be 100 percent open and the visibility of the inside of the booth shall not be otherwise obstructed. The open side of all individual viewing booths in any adult entertainment business shall face a central aisle and be visible from inside the front or main entrance to the business. In the event the viewing booth is used for viewing live entertainment, there shall be a barrier of plexiglass or similar substance between the entertainer and the patron which shall have no single opening larger than one-half inch in diameter. No licensee shall cause, permit or suffer to exist any opening between booths. Licensee shall inspect the booths daily for compliance with this subsection. Not more than one person shall occupy any individual booth at one time.
12. No licensee, entertainer or employee shall, whether clothed, or partially or totally nude, cause any part of his or her body, directly or through a medium, to touch, massage, rub, stroke, caress or fondle the genital or pubic area of any member of the public or allow, suffer, permit or tolerate himself or herself to be caressed or fondled by any member of the public. No licensee or employee shall cause, allow, suffer or tolerate the conduct prohibited in this subsection on the licensed premises. A ten foot separation between an entertainer and members of the public on the sexually oriented business premises shall be maintained at all times.

13. No licensee, entertainer or employee shall cause, allow, participate in, permit, suffer, tolerate, encourage or solicit specified sexual activity in or on the sexually oriented business premises.
14. No licensee, entertainer or employee shall manage the business premises of or work on the premises of any sexually oriented business as defined in this Ordinance who is required to register under Section 290 of the Penal Code or who has been convicted of violating, for any sexually oriented conduct or solicitation thereof, any of the following Penal Code sections within the preceding twelve months of applying for work at the premises or who is on probation or parole for any such conviction; 314, 315, 316, 318 (prostitution only), 266a, 266e, 266f, 266h, 266i, or subdivisions (a), (b) or (d) of Section 647.
15. No licensee or employee or entertainer of an SOB shall personally solicit, or shall permit personal solicitation of, motorists or pedestrians in the vicinity of the SOB.
16. Dumpsters used by an SOB shall be locked to prevent access thereto by the public.
17. The premises where the SOB is located, the exterior grounds surrounding the SOB, including all off-street parking areas and landscaped areas serving the SOB, to the extent that same are under the management and control of the SOB's owner, and entrances of the SOB shall be lighted in such a manner that all such areas are clearly visible during all hours of operation and one hour after closing.
18. A security guard shall be required for an SOB if it offers live adult entertainment. A security guard shall not be required for an SOB that sells only videos, books or other materials for consumption off premises unless or until the SOB is operated in such a manner described in Section 35-808C herein.

**Sec. 35-805. Location Requirements.**

Notwithstanding any provision of the Santa Barbara County Code to the contrary, the following shall apply to SOBs:

- A. Permitted Zones. No sexually oriented business, as defined in Section 35-803 of this Article, shall be established in any zone of the County of Santa Barbara, except C-3 (General Commercial), C-S (Service Commercial) and M-1 (Light Industry). No land use permit or other entitlement for use shall be issued to any SOB proposed to be established, located or operated in any zone other than C-3, C-S or M-1.
- B. Location Requirements. SOBs shall be established only within certain distances of specified land uses or zones as set forth below:
  1. For the purposes of this Ordinance, all distances shall be measured in a straight line, without regard to intervening structures or objects or jurisdictional boundaries, from the closest exterior wall of the unit or building containing the SOB to the nearest property line of any of the uses listed in paragraph 3a-d below.



2. An SOB shall not be established in the same building, structure or portion thereof containing another SOB as defined in this Ordinance.
3. An SOB is permitted only on lots in the C-3, C-S or M-1 zone, and shall not be located closer than 500 feet to:
  - a. Any public or private school, day care center or other business which primarily offers instruction to or care of minors;
  - b. Any public park, or private or public play area or recreational facility;
  - c. Any church, chapel or place of worship;
  - d. A residential use or residential zone.
4. No SOB shall be permitted to locate within 500 feet of an existing SOB. For purposes of this paragraph, distance shall be measured between the two most proximate exterior walls of the existing SOB and the premises in which an SOB is sought to be established, without regard to jurisdictional boundaries.

**Sec. 35-806. Land Use Permit Required.**

No SOB shall be established until a land use permit is obtained pursuant to the provisions of this Article.

- A. Application for Land Use Permit. An application for a land use permit shall be on a form provided by the Department of Planning and Development and contain the following information and additional documentation:
  1. Name and permanent address of the applicant.
  2. The name and business address of the applicant. If the applicant is a corporation, the name shall be exactly as set forth in its articles of incorporation, and the applicant shall show the name and residence address of each of the officers, directors and each stockholder owning 25 percent or more of the stock of the corporation. If the applicant is a partnership, the application shall show the name and residence address of each of the members, including limited partners.
  3. Name(s) and address(es) of the property owner(s).
  4. Assessor's parcel number(s).
  5. Legal description of the property.
  6. A site development plan drawn to standard specifications as required for a land use permit by Section 35-314.3 of Chapter 35, including the following information:

- a) Location of all existing buildings, structures and improvements on the property;
  - b) Location of all proposed buildings, structures and improvements on the property;
  - c) Existing and proposed streets and highways bordering and within the boundaries of the property;
  - d) Location of existing and proposed parking areas;
  - e) Proposed landscaping;
  - f) North arrow;
  - g) Exterior lighting;
  - h) Location of dumpsters and trash receptacles in relation to public parking areas;
  - i) Proposed signage;
  - j) Zoning designation.
7. Elevations and floor plans of all existing and/or proposed buildings or structures related to the adult business.
  8. A narrative description of the proposed use or development including a description of the nature of the proposed use or development.
  9. The fee prescribed for processing the application.
  10. A vicinity map showing the location(s) of any other sexually oriented business(es) and/or sensitive uses within 500 feet of the SOB as set forth in this Ordinance and the distance between said uses and the applicant's proposed business measured as set forth in this Ordinance.

**B. Review and Approval.**

1. When an application has been determined to be complete by the Zoning Administrator, the Zoning Administrator shall, without a public hearing and within 30 days, issue a land use permit if the application contains the information required by this Section, if the appropriate fees have been paid, if the location, development and operational standards of this Ordinance are met, and if a business license has been issued as set forth in Section 35-807. The Zoning Administrator shall verify the information contained on the application by making a site visit and conducting such investigations as appropriate, If the Zoning

Administrator determines an application is incomplete or erroneous, he shall notify the applicant thereof within three working days of such determination but in no event, not later than 14 days after the incomplete or erroneous application has been submitted.

2. For purposes of application processing, any application for a permit pursuant to this Article is considered to be a ministerial permit and, as such, is not subject to the time frames specified in Section 65950 *et seq.* of the California Government Code or the California Environmental Quality Act.
3. The denial or issuance of a land use permit is not subject to administrative appeal, but may be immediately challenged in the Santa Barbara Superior Court under the provisions of Code of Civil Procedure Section 1084 *et seq.*

### **Sec. 35-807. Business License Required.**

No SOB shall be established unless a business license is first obtained as provided in this Ordinance.

- A. Applications for a business license under this Article shall be on forms provided by the County Tax Collector attached hereto as Exhibit A.
- B. The requirements for obtaining a business license for a sexually oriented business shall be those applicable to Entertainment Class B Licenses set forth in Section 6-30 *et seq.* of Chapter 6 of the County Code.
- C. The Tax Collector or his designee shall forward a copy of the application to the Zoning Administrator forthwith after it is filed.
- D. The applicant is responsible for taking all steps necessary to obtain approval of the Sheriff's Department.
- E. The Sheriff or his designee shall issue a license within 20 days of receipt of the application and payment of the appropriate fees if he finds that:
  1. The application is complete and truthful;
  2. The applicant is 18 years of age or older; and
  3. The applicant has not had a license issued under this Ordinance revoked within the 12 months immediately preceding the date of the application.
- F. If the Sheriff or his designee determines that the applicant has failed to meet any of the criteria of subsection E above, the applicant shall be notified of the decision to deny the license. Notice of such decision specifying the grounds therefore shall be sent in writing to the applicant at the mailing address set forth in the application, and placed in the U.S. mail not later than the twentieth business day after the application was filed. Failure to so notify the applicant within the allotted time or failure to make the findings set forth in

subsection E above within the allotted time shall be deemed a grant of the license. After notice duly given, the applicant may correct or remedy minor problems under subsections E-1 and E-2 above and the license shall issue forthwith.

- G. The Sheriff or his designee shall notify the Tax Collector and Zoning Administrator forthwith of a decision to grant or deny a business license for an SOB.
- H. The decision of the Sheriff shall be final, and shall be subject to review in a court of law pursuant to Code of Civil Procedure Section 1084 *et seq.*
- I. The license must be renewed annually. At time of renewal, the applicant shall provide current information, including a list of the names and addresses of all current employees.

**Sec. 35-808. Suspension and Revocation.**

- A. The licensee is responsible for the sexually oriented business at all times being in compliance with this Article. He shall be responsible for the conduct of all managers, employees and entertainers while they or any of them are on the licensed premises and any act or omission of any such person constituting a violation of the provisions of this Article shall be deemed the act or omission of the licensee for purposes of determining whether the license shall be revoked, suspended or renewed.
- B. Any violation of the development standards in this Article shall be corrected within 72 hours after written notice of the violation is given the manager of the business during regular business hours. Notice of the violation shall be mailed to the applicant by overnight mail or delivered by personal service. Failure to correct the violation will result in suspension of the license until the violation is corrected. A second violation of the same provision shall result in a ten day suspension of the license. The third violation of the same provision in any twelve month period shall be cause for license revocation. If such revocation occurs, the licensee may not obtain a license for a sexually oriented business within the regulatory jurisdiction of the County for one year thereafter.
- C. Violation of any of the operational standards of this Article shall result in a five day suspension of the license. A second violation within a period of six months shall result in a ten day suspension and the requirement that a security guard be present at all times during business hours for the succeeding six month period. Three violations within any 12 month period shall be cause to revoke the license. If such revocation occurs, the licensee may not obtain a license for a sexually oriented business within the regulatory jurisdiction of the County for one year thereafter.
- D. Operation of the business when the licensee knows or should have known that the license is suspended shall cause the license to be revoked.
- E. Applicant may elect to pay a fine in the amount of 500 dollars in lieu of each day of suspension ordered. The revocation provisions of this Ordinance shall apply in the event the licensee elects to pay a fine or fines in lieu of suspension.

- F. Suspension or revocation pursuant to this Section shall become effective at the beginning of the eleventh business day following the date that written notice of the violation and the proposed action is served on the manager at the business premises and a copy of the written notice is personally served on the applicant or mailed to the applicant by overnight mail; provided, however, if an appeal is filed with the Board of Supervisors at any time before 5:00 p.m. on the tenth business day, the suspension or revocation shall not become effective, if at all, until the date specified by said Board. The notice shall contain a statement of the right to appeal under this Section. The appeal shall be in writing and shall specify all grounds and reasons in support of the appeal. The Board shall hear the appeal within 30 days of filing. Appellant and the Sheriff or his designee may present any evidence relevant to a determination of the appeal. The Board shall issue its decision by resolution containing its findings within 30 days. The resolution shall state whether the proposed action is to be taken and, if so, when the Board may reduce the proposed penalty or in lieu fine in its discretion. The Board's decision shall be final and shall be immediately appealable to the proper court within Santa Barbara County.

**Sec. 35-809. Nuisance Abatement-- Discontinuance.**

- A. Any sexually oriented business located or operated contrary to the provisions of this Article or state, federal or other local law is declared to be unlawful and a public nuisance, and the District Attorney may, in addition to or in lieu of prosecuting a criminal action under this Article, commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law, and take such other steps and apply to such other court or courts as may have jurisdiction to grant such relief as will abate or remove the sexually oriented business and restrain and enjoin any person from operating, conducting or maintaining a sexually oriented business contrary to the provisions of this Article or such other laws.
- B. To the extent permitted by law, any person substantially affected by an SOB may pursue available legal or equitable remedies.

**Sec. 35-810 Nonconforming Sexually Oriented Businesses.**

Any sexually oriented business legally operating on or before the effective date of the Ordinance codified in this Chapter which is not in compliance with the locational and/or zoning requirements herein, may continue to operate at the same location as it was on the effective date hereof but shall, in all other respects, be subject to and shall meet the development and operational requirements of this Article, within 30 days of the effective date hereof.

**Sec. 35-811. Effect of Changed Circumstances.**

Any sexually oriented business legally established after the effective date of this Article which becomes nonconforming because of a zone change or the establishment of another use regulated by this Article or a sensitive use may continue to operate in the same location if such change or new use is not caused by or is not the fault of the sexually oriented business or the licensee.

**Sec. 35-812. Violation and Penalty.**

- A. A violation of any provision of this Article is a misdemeanor, punishable by a 500 dollar fine and/or imprisonment in the County jail for a term not exceeding six months. Each and every 24 hour day, or fraction thereof, of a continuing violation of any provision of this Article shall be a separate misdemeanor offense, separately punishable by fine and/or imprisonment as aforesaid.
- B. The remedies provided in this Article shall be construed to be separate and distinct and the pursuit, imposition and enforcement of one shall not prevent or foreclose the pursuit, imposition and enforcement of any other or others.

**Sec. 35-813. Violation of State Law Prohibited.**

No SOB may sell, rent, or display "obscene matter" as that term is defined by Penal Code Section 311 or its successors, and may not exhibit "harmful matter" as that term is defined by Penal Code Section 313 or its successors to minors.

**Sec. 35-814 Existing County Code Not Affected.**

This Article is meant to supplement, not amend, any existing provision of the County Code. In the event a conflict arises between a provision of the County Code and any provision of this Article, this Article shall prevail.

**Sec. 35-815. Civil and Criminal Penalties.**

Violations of this Article shall be remediable by civil action prescribed for violations of the County Zoning Ordinance and subject to criminal prosecution as violations of the County Zoning Ordinance.

**Sec. 35-816. Persons Responsible.**

Any person who operates an SOB or premises that constitutes an SOB is responsible for compliance with this Article and subject to civil and criminal remedies for violations thereof. "Operate" means to own, lease (as lessor or lessee), rent (as landlord or tenant or as agent for purposes of representing a principal in the management, rental or operation of the property of such principal), manage, conduct, direct or be employed in an SOB.