

Sec. 138-429. - Location—Generally.

- (a) A person commits an offense if he operates or causes to be operated a sexually oriented business in any zoning district other than ~~in the BG general business district, C planned center district, and~~ MH heavy manufacturing district, and/or within 1,000 feet of:
- (1) A church, rectory, convent, synagogue, monastery, or other similar institution of a nonprofit, religious or philanthropic nature;
 - (2) A school;
 - (3) A child care facility;
 - (4) A public or private park or recreation area;
 - (5) Historic sites as determined by the city historic preservation officer;
 - (6) A boundary of a residential district as defined by the zoning ordinance of the city;
 - (7) A cemetery; or
 - (8) The property line of a lot devoted to residential use.
- (b) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business located within 1,000 feet of another sexually oriented business.
- (c) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- (d) For the purposes of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, child care facility, school or historic site, **residential lot**, or to the nearest boundary of an ~~affected~~ public or private park, or recreation area, cemetery, ~~or residential district, or residential lot~~.
- (e) For purposes of subsection (b) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard

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to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

| (f) Any sexually oriented business lawfully operating on August 15, 1989, that is in violation of subsection (a), (b) or (c) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business, which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

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| (g) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, school, child care facility, public or private park or recreation area, historic site, cemetery, residential district, or residential lot within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

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