

TO: Cannon Falls City Council

FROM: Neil Jensen, City Administrator

SUBJECT: Consideration of Ordinance 378, of the City of Cannon Falls, Minnesota Amending City Code Chapter 152 Relating to Sexually Oriented Uses And the Rezoning of These Uses to the I-2 General Industrial District

BACKGROUND

A Planning Commission Public Hearing was held on Monday, September 13, 2021 for Consideration of an ordinance of the City of Cannon Falls, Minnesota Amending City Code Chapter 152 Relating to Sexually Oriented Uses and the Rezoning of These Uses to the I-2 General Industrial District.

The following exhibits are enclosed to further describe the proposal:

1. An Ordinance of the City of Cannon Falls, Minnesota Amending City Code Chapter 152 Relating to Sexually Oriented Uses
2. Zoning Map indicating the I-2 General Industrial District

Review of preliminary draft of ordinance amending City Code Chapter 152 relating to sexually oriented uses being allowed in the I-2 General Industrial District.

A property owner recently requested an application to establish a sexually oriented use (strip club) at the Artisan Plaza property. Staff reviewed the City Code to determine where sexually oriented uses were permitted and discovered that while the Code includes definitions and requirements for a license it does not identify sexually oriented uses as allowed in any of the City's zoning districts.

The City is obligated, by law, to allow adult uses somewhere in the City.

Staff reviewed the Code to determine where sexually oriented uses should be allowed in the City. Staff recommends that these uses be allowed only in the I-2, General Industrial District, as a conditional use. Attached is an ordinance that makes sexually oriented uses a conditional use in the I-2 District. In addition to obtaining a conditional use permit, anyone seeking to operate a sexually oriented business must obtain a City license pursuant to City Code Chapter 120.

REQUESTED COUNCIL ACTION

Please approve the Introduction and First Reading of Ordinance 378, Amending City Code Chapter 152 Relating to Sexually Oriented Uses.

**CITY OF CANNON FALLS
GOODHUE COUNTY, MINNESOTA**

ORDINANCE NUMBER 378

**AN ORDINANCE OF THE CITY OF CANNON FALLS, MINNESOTA AMENDING
CITY CODE CHAPTER 152 RELATING TO SEXUALLY ORIENTED USES**

WHEREAS, The City of Cannon Falls has reviewed a report entitled "Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses" dated June 6, 1989, prepared by Hubert H. Humphrey III, Attorney General of the State of Minnesota; the Olmsted County Planning Department "Adult Entertainment Report" dated March 2, 1988; and "A 40-acre Study" prepared by the St. Paul Division of Planning in 1987, all of which reports are hereafter collectively referred to as "Reports". The Reports considered evidence from studies conducted in Minneapolis and St. Paul and in other cities throughout the country relating to sexually oriented businesses.

WHEREAS, The Attorney General's Report, based upon the above referenced studies and the testimony presented to it has concluded "that sexually oriented businesses are associated with high crime rates and depression of property values." In addition, the Attorney General's Working Group "...heard testimony that the character of a neighborhood can dramatically change when there is a concentration of sexually oriented businesses adjacent to residential property." The report concludes that:

- a. Adult uses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other commercial uses;
- b. Residential neighborhoods located within close proximity to adult theaters, bookstores, and other sexually oriented businesses experience increased crime rates (sex-related crimes in particular), lowered property values, increased transiency, and decreased stability of ownership;
- c. The adverse impacts which sexually oriented businesses have on surrounding areas diminish as the distance from the sexually oriented use increases;
- d. Studies of other cities have shown that among the crimes which tend to increase either within or in the near vicinity of sexually oriented uses are rapes, prostitution, child molestation, indecent exposure, and other lewd and lascivious behavior;
- e. The City of Phoenix, Arizona study confirmed that the sex crime rate was on the average 500 percent higher in areas with sexually oriented businesses.
- f. Many members of the public perceive areas within which adult uses are located as less safe than other areas which do not have such uses;

- g. Studies of other cities have shown that the values of both commercial and residential properties either are diminished or fail to appreciate at the rate of other comparable properties when located in proximity to adult uses; and
- h. The Indianapolis, Indiana, study established that professional real estate appraisers believe that a sexually oriented business would have a negative effect on the value of both residential and commercial properties within a 1 to 3 block area of the use.

WHEREAS, The Cannon Falls City Council finds that characteristics of Cannon Falls are similar to those of the cities cited by the Reports when considering the effects of sexually oriented uses. Based on these Reports, the City Council finds that adult uses can cause or are associated with adverse secondary effects upon pre-existing land uses.

- In City of Renton v. Playtime Theatres, Inc., 475 U.S. 41, 51, 106 S. Ct. 925, 931, 89 L.Ed.2d 29 (1986), the United States Supreme Court found that a city may rely on the experience of other cities to determine whether certain businesses have adverse secondary effects.
- In ILO Investments, Inc., 25 F3d 1413 (8th Cir. 1994), the Court found that it was permissible for the City of Rochester to rely on studies conducted in Indianapolis, St. Paul and Phoenix.

WHEREAS, The Cannon Falls City Council finds, based upon the Reports and studies cited therein, that sexually oriented businesses may result in secondary effects upon certain pre-existing land uses within the City.

WHEREAS, The Cannon Falls City Council finds the risk of public health and safety problems can be significantly reduced by careful regulation of sexually oriented businesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CANNON FALLS HEREBY ORDAINS AS FOLLOWS:

Section 1. City Code Section 152.688 is amended by inserting a new provision (L) to read as follows:

(L) Sexually Oriented Uses as regulated by City Code Chapter 120 provided that:

- (1) No person shall operate a sexually oriented use on property, any part of which is within the area circumscribed by a circle which has a radius of 700 feet from any of the uses listed directly below. Distances shall be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the property line of the two uses. The distance requirement applies to the following:
 - property developed or zoned for residential uses; or

- property frequented by children or designed as a family destination, such as a day care facility, school, library, park, playground, nature center, religious institution or other public recreational facility.
- (2) No person shall operate a sexually oriented use on property, any part of which is within the area circumscribed by a circle which has a radius of 1,000 feet (measured as described above) from another sexually oriented use.
- (3) No sexually oriented materials shall be offered for sale or sold except in original unopened packages.
- (4) No owner, manager or employee of a sexually oriented use shall have been convicted of a sex crime, as identified in Minnesota Statutes dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse.
- (5) No sexually oriented materials or entertainment shall be used on any sign or window display.
- (6) No owner, manager or employee of a sexually oriented use shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Cannon Falls, the laws of the State of Minnesota, or the United States of America. Nothing in this Section shall be construed to authorize or permit conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.
- (7) No person under the age of 18 shall be allowed on the premises.
- (8) No sexually oriented materials or entertainment shall be visible or perceivable in any manner, including aurally, at any time from the outside of the building.
- (9) Screening shall be installed and maintained in compliance with § 152.279
- (10) Each use shall display a sign on its main entrance door which reads: "This business sells sexually oriented material or entertainment. Persons under 18 years of age are prohibited from entering." The sign letters shall be a minimum of two (2) inches high.
- (11) No sexually oriented use shall exceed 10,000 square feet in gross floor area.
- (12) No patron, employee or other person may physically contact any specified anatomical area of himself or herself, or of any other person, except that a live performer may touch himself or herself.

- (13) Each live performer shall remain at all times a minimum distance of ten (10) feet from all members of the audience, and shall perform on a platform intended for that purpose, which shall be raised at least 2 feet from the level of the floor on which the audience is located. No performer may solicit or accept any pay, tip, or other item from any member of the audience.
- (14) No use shall have any booths, stalls or partitions which separate any area from a general public room. The restrictions of this paragraph do not apply to restrooms, storage rooms, or private offices of the owner, manager or employees of the use, if such storage rooms or offices are used solely for the running the use and no person other than the owner, manager and employees is allowed in the storage rooms or offices.
- (15) The use and the owner must be licensed as required by any federal, state or local licensing regulations.
- (16) All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare or public betterment can be served as well or better by modifying the conditions.
- (17) All exterior lighting shall be in compliance with § 152.187 of this chapter. A comprehensive lighting plan shall be submitted as part of the conditional use permit application and maximum site illumination shall not exceed four-tenths foot candle at ground level when measured at any boundary line of the property.

Section 2. This ordinance shall become effective upon its passage and publication.

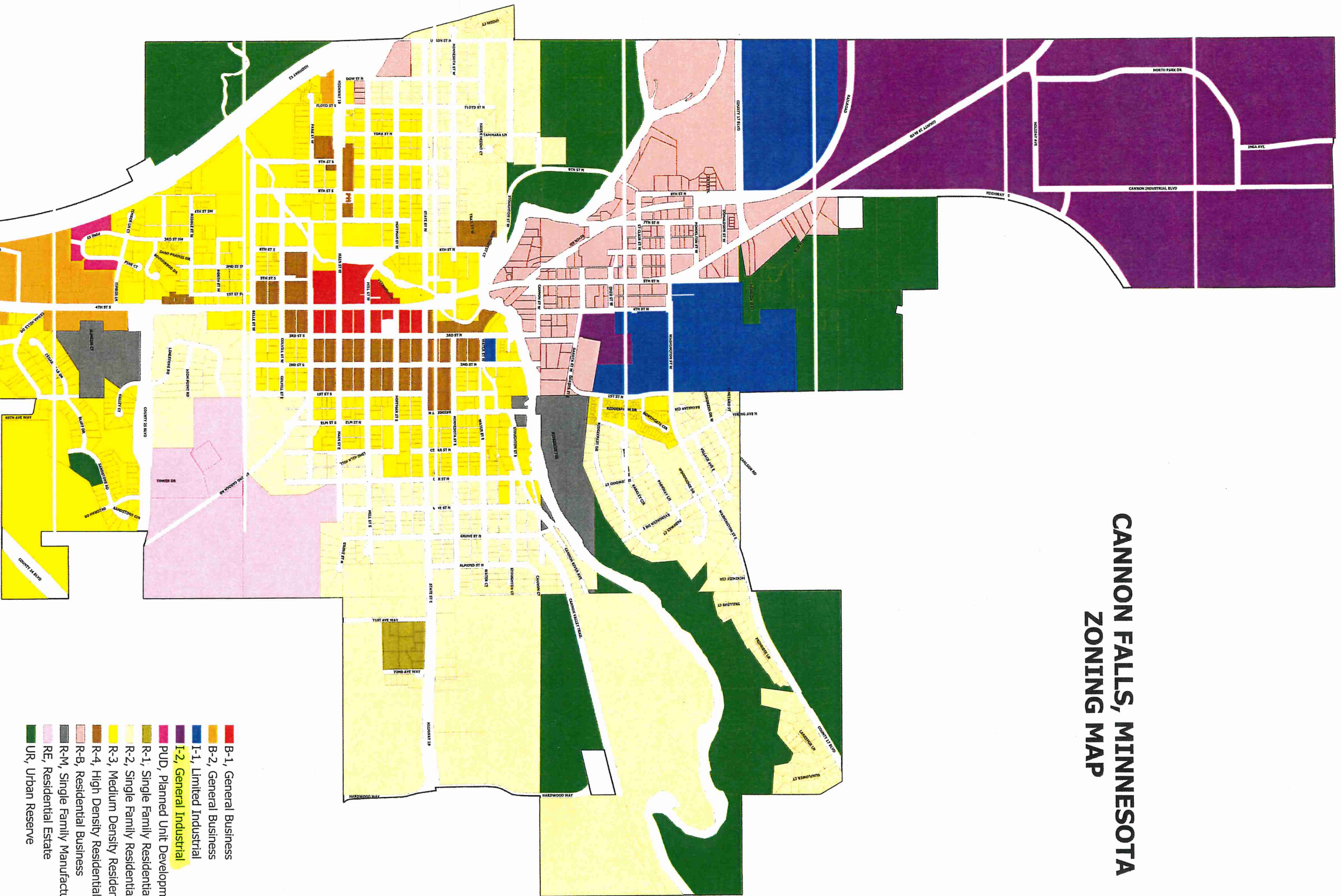
PASSED AND ADOPTED by the City Council of the City of Cannon Falls, Minnesota, this _____ day of _____, 2021.

John O. Althoff, Mayor

ATTEST:

Neil L. Jensen, City Administrator

CANNON FALLS, MINNESOTA ZONING MAP



- B-1, General Business
- B-2, General Business
- I-1, Limited Industrial
- I-2, General Industrial
- PUD, Planned Unit Development
- R-1, Single Family Residential
- R-2, Single Family Residential
- R-3, Medium Density Residential
- R-4, High Density Residential
- R-B, Residential Business
- R-M, Single Family Manufactured Home
- RE, Residential Estate
- UR, Urban Reserve



Prepared for the
City of Cannon Falls, Minnesota
GIS Office, May 2021



DATA SOURCES: Goodhue County Assessor
GIS Office
This map is a representation of the zoning map as of the date of publication. The City of Cannon Falls, Minnesota, is not responsible for any associated direct, indirect, or consequential damages that may result from its use or reliance on this map. Copyright 2021

0 1,000 2,000 4,000 Feet
Scale: 1:7,500