



City of Vermillion Council Agenda

5:00 p.m. Emergency Meeting
Tuesday, March 24, 2020
City Council Chambers
25 Center Street
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Adoption of the Agenda**
4. **Public Hearing**
 - a. First Reading of Ordinance 1413 Implementation of Certain Emergency Measures to Slow the Community Spread of COVID-19.
5. **Adjourn**

Access the City Council Agenda on the web – www.vermillion.us

Addressing the Council: Persons addressing the Council shall use the microphone at the podium. Please raise your hand to be recognized, go to the podium and state your name and address.

a. Items Not on the Agenda Members of the public may speak under Visitors to Be Heard on any topic NOT on the agenda. Remarks are limited to 5 minutes and no decision will be made at this time.

b. Agenda Items: Public testimony will be taken at the beginning of each agenda item, after the subject has been announced by the Mayor and explained by staff. Any citizen who wishes may speak one time for 5 minutes on each agenda item. Public testimony will then be closed and the topic will be given to the governing body for possible action. At this point, only City Council members and staff may discuss the current agenda item unless a Council member moves to allow another person to speak and there is unanimous consent from the Council. Questions from Council members, however, may be directed to staff or a member of the public through the presiding officer at any time.

Meeting Assistance: The City of Vermillion fully subscribes to the provisions of the Americans with Disabilities Act of 1990. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Manager's Office at 677-7050 at least 3 working days prior to the meeting so appropriate auxiliary aids and services can be made available.

Council Meetings: City Council regular meetings are held the first and third Monday of each month at 7:00 p.m. If a meeting falls on a City holiday, the meeting will be scheduled for the following Tuesday. The City Council typically has a Special Meeting on the first and third Monday of each month at Noon.

Live Broadcasts of Council Meetings on Cable Channel: Regular City Council meetings are broadcast live on Cable Channel 3

Vermillion City Council's Values and Vision

This community values its people, its services, its vitality and growth, and its quality of life and sees itself reinforcing and promoting these ideals to a consistently increasing populace.

Council Agenda Memo

From: John Prescott, City Manager

Meeting: March 24, 2020

Subject: Ordinance 1413 – Emergency ordinance to address COVID-19

Presenter: John Prescott

Background: Over the last two weeks, the impact of COVID-19 has greatly affected our community in a number of ways. Last Friday afternoon, the Mayor and I along with most of the other First class community Mayors, City Managers, or City Administrators participated in a conference call with Governor Kristi Noem and SD Department of Health Secretary Kim Malsam-Rysdon. The topic of the conference call was restrictions on public gathering places such as bars and restaurants. The Governor and Secretary explained where the State was at with the process, when related restrictions might be implemented, and items related to these type of restrictions. It was noted that some surrounding states have similar restrictions and how those restrictions came into being.

Discussion: At the end of the call, I do not believe that any community had established a governing body meeting date to implement restrictions on gatherings but all the communities were monitoring the situation. Over the weekend with some of the first community spread of COVID-19 in South Dakota, local efforts to implement restrictions on public gatherings began to take place. Rapid City and Huron had first reading of an ordinance on Sunday, March 22, 2020. The second reading of their ordinances are scheduled for Friday and Thursday, respectively, of this week. Yankton and Brookings were considering a similar ordinance on Monday evening meetings (March 23).

The two ordinances already adopted and the two ordinances being considered on Monday night are almost identical. As the first class cities are working together in this effort, we are trying to present a similar set of standards among the communities. Proposed Ordinance 1413 has one additional “Whereas” referencing the Governor’s Executive order that was issued late this afternoon. There is some variance in the last “Whereas” paragraph. Only the Rapid City ordinance and the attached proposed ordinance contain this paragraph. Another difference is 5g and 5h. The Rapid City, Brookings, and proposed ordinance 1413 contain this language. These items are included so that the City Council can consider the full context of what other cities have adopted. 5a does

specifically include a package off-sale liquor store as a retail establishment that can remain open.

When and how the restrictions would end vary among the communities. All of the four ordinances either adopted or being considered, state the ordinance is for 60 days. A City Council would have to take specific action to extend the emergency ordinance beyond 60 days. Proposed ordinance 1413 utilizes similar language. The difference is when the restrictions on closings would end. Rapid City has the restrictions set to run March 27, 2020 to April 8, 2020. Brookings has the restrictions set to run March 23, 2020 to April 8, 2020. Yankton has the restrictions set to run from March 26, 2020 to April 14, 2020. Huron has the restrictions set to begin March 23, 2020 but did not identify an end date. (Note the effective date can be impacted by a charter provision, state law or other items). Proposed ordinance 1413, if adopted and with a second reading on March 30, would become effective on March 30, 2020. Rather than have an end date, the proposed ordinance states that the City Council would consider the continuation of the restrictions at each regular meeting during the 60-day time period. The City Council may prefer to set an end date and we have sample language for that.

Financial Consideration: Without information on the sales of each business, this is difficult to determine. Sales tax receipts and the BBB fund would be impacted.

Conclusion/Recommendations: Administration recommends that the City Council thoughtfully review proposed Ordinance 1413 to implement restrictions that best fit our community and help prevent the spread of COVID-19.

Please note that if adopted, the City Council should schedule a special meeting for Monday, March 30 to accommodate the second reading of the ordinance.

PROPOSED ORDINANCE NO. 1413

AN EMERGENCY ORDINANCE TO ADDRESS A PUBLIC HEALTH CRISIS BY IMPLEMENTING CERTAIN MEASURES WHICH HAVE BEEN DEEMED NECESSARY TO SLOW THE COMMUNITY SPREAD OF COVID 19 (CORONAVIRUS).

WHEREAS, the City of Vermillion (City) has the authority pursuant to SDCL 9-29-1 and 9-32-1 to enact ordinances for the purpose of promoting the health, safety, morals, and general welfare, of the community; and

WHEREAS, an outbreak of the COVID-19 disease, which is caused by the novel coronavirus, has been confirmed in more than 100 countries, including the United States; and

WHEREAS, COVID-19 is a severe respiratory disease transmitted by person-to-person contact, or by contact with surfaces contaminated by the virus that in some cases, especially among older adults and persons with serious underlying health conditions, can result in serious illness requiring hospitalization, admission to an intensive care unit, and death; and

WHEREAS, the World Health Organization (WHO), the Centers for Disease Control and Prevention (CDC), and the Secretary of the United States Department of Health and Human Services have declared the outbreak of COVID-19 as a public health emergency; and

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency in response to the global pandemic of COVID-19; and

WHEREAS, on the same day, Governor Kristi Noem, issued Executive Order 2020-04 which declared a state of emergency to exist in the State of South Dakota in response to the spread of COVID-19; and

WHEREAS, cases of COVID-19 have been confirmed in South Dakota; and

WHEREAS, the CDC and health experts have recommended social distancing to slow the spread of COVID-19; and

WHEREAS, social distancing is a method of slowing down or stopping the spread of a contagious disease by reducing the probability of contact between infected persons and those not infected in order to minimize disease transmission; and

WHEREAS, in response to the need to implement social distancing, all schools in the state of South Dakota have been closed for at least two weeks; and

WHEREAS, on March 16, 2020, the Trump Administration (White House) issued guidance recommending that social gatherings of more than ten (10) people be avoided and that people avoid eating or drinking at bars, restaurants, and food courts; and

WHEREAS, the guidance issued by the White House further recommended that in states with evidence of community transmission, bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate should be closed; and

WHEREAS, many states and communities across the country have already implemented the White House recommendations by ordering all bars, restaurants, food courts, gyms, and other indoor and outdoor venues where people congregate be closed until the public health emergency is over; and

WHEREAS, Governor Kristi Noem on March 23, 2020 issued an Executive Order that noted that any South Dakota enclosed retail business that promotes public gatherings should suspend or modify business practices as recommended by the CDC, and continue or consider business models that do not involve public gatherings; and

WHEREAS, the failure to successfully implement social distancing will likely result in higher numbers of infected individuals and has the potential to overwhelm the capacity of the City's health care providers; and

WHEREAS, it is important that control measures be taken to reduce or slow down the spread of COVID-19 in order to protect the health and safety of the City's residents, especially for seniors and those with underlying health conditions that make them particularly vulnerable to COVID-19; and

WHEREAS, while this ordinance cannot become legally effective until after the second reading of an ordinance which must be at least five (5) days after the first reading of an ordinance due to the requirements of state law, the City strongly urges all businesses to start voluntarily complying with these regulations immediately.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the City of Vermillion that:

1. Effective at 7:00 p.m. Monday, March 30, 2020, all restaurants, food courts, coffee houses, bars, breweries, distilleries, wineries, clubs, cafes, and other similar places of public accommodation offering food and beverages for on-site consumption, including any alcohol licensees with on-sale privileges, are closed to on-site/on-sale patrons. These businesses may continue to operate in order to provide take-out, delivery, curbside service, and drive-thru service. Any business continuing to operate in order to provide lawful off-site service should implement procedures to ensure social distancing and operation in compliance with federal and state health guidance in order to prevent the spread of COVID-19.
2. Effective at 7:00 p.m. Monday, March 30, 2020, all recreational facilities, public pools, health clubs, athletic facilities, and theaters, including movie theaters, and music or entertainment venues are directed to close and cease operations.
3. Effective at 7:00 p.m. Monday, March 30, 2020, all hookah lounges, cigar bars, vaping lounges or other similar businesses that allow for on-site consumption are directed to cease

allowing on-site consumption, but may continue to offer products for sale to consume off-site under the same conditions as bars and restaurants outlined in #1 above.

4. Effective at 7:00 p.m. Monday, March 30, 2020, all arcades, bingo halls, bowling alleys, casinos, indoor climbing facilities, skating rinks, trampoline parks, and other similar recreational or entertainment facilities are directed to close and cease operations.
5. The prohibitions and closures in this order do not apply to the following businesses, activities or operations:
 - a. Places of public accommodation that offer food and beverages for off-site consumption, including grocery stores, markets, retail stores that offer food, convenience stores, liquor stores, pharmacies, drug stores, and food pantries, other than any portion of such business which offer on-site consumption which would be subject to the requirements of #1 above.
 - b. Room service in hotels.
 - c. Health care facilities, residential care facilities, congregate care facilities, and correctional facilities.
 - d. Crisis shelters, homeless shelters, soup kitchens, or other similar institutions.
 - e. Airport concessionaires.
 - f. Any emergency facilities necessary for the response to the current public health emergency or any other community emergency or disaster.
 - g. Official meetings of the city, schools, county, or state.
 - h. The operations and meetings of any state, federal, or local governments or their courts.
 - i. Educational institutions and their related services under the governance of the Board of Regents or local school boards to the extent permitted by the governing authorities.
6. This ordinance shall remain in effect for a period of sixty (60) days, at which time it shall be automatically repealed unless specifically readopted for an additional period of time by the City Council. At each regular City Council meeting during the sixty (60) day period or at a special meeting called for consideration of this ordinance, the City Council will have as an agenda item consideration of a resolution to suspend the provisions herein prior to the end of the sixty (60) day period. Any restriction contained in this ordinance may be modified at any time by a resolution of the City Council which modification may expand its scope to encompass additional businesses, activities or operations.

7. Any violation of this ordinance is subject to the general penalty provision in Section 10.99 of the City of Vermillion Municipal Code. Each day a violation of this ordinance is allowed to occur is considered a separate offense.

BE IT FURTHER ORDAINED, that, pursuant to SDCL 9-19-13, this ordinance is necessary for the immediate preservation of the public peace, health, safety, and welfare of the City and shall become effective immediately upon passage.

Dated at Vermillion, South Dakota this 30th day of March, 2020.

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

BY _____
John E. (Jack) Powell, Mayor

ATTEST:

BY _____
Michael D. Carlson, Finance Officer

First Reading: March 24, 2020
Second Reading: March 30, 2020
Effective Date: March 30, 2020