



City of Vermillion Council Agenda  
5:15 p.m. Special Meeting  
Tuesday, August 13, 2013  
2<sup>nd</sup> Floor – Large Conference Room  
25 Center St.  
Vermillion, SD 57069

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Adoption of the Agenda**
4. **Permit for consumption of alcohol in the Café Brule Furniture Zone Use permit area (Market Street sidewalk as it abuts the building at 24 W. Main).**
5. **Budget Workshop**
  - a. Introduction and Overview
  - b. Public Safety and Security
    1. Emergency Communications
    2. 911 Fund
  - c. Utility Funds
    1. Electric
    2. Wastewater
    3. Water
  - d. Equipment Replacement Fund
  - e. Maintenance and Transportation
    1. Municipal Service Center
    2. Mechanics Garage
    3. Street Department
    4. Snow Removal
    5. Sweeping and Mowing
    6. Carpentry
  - f. Public Safety and Security
    1. Ambulance
  - g. Policy and Administration
    1. Engineering
    2. Old Library Maintenance
    3. Old Landfill Maintenance
    4. Airport
    5. Stormwater Collection System
    6. Capital Projects Fund
  - h. Policy and Administration
    1. Code Compliance
  - i. Special Funds
    1. BBB
    2. 2<sup>nd</sup> Penny

- j. Outside Organizations Request
  - 1. General Fund
  - 2. BBB Fund
  - 3. Community Service
- k. Wrap-up of budget items

6. **Adjourn**

Access the City Council Agenda on the web – [www.vermillion.us](http://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. Visitors to Be Heard:** Members of the public may speak now 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:** If you require assistance, alternative formats and/or accessible locations consistent with the Americans with Disabilities Act, please contact the City Manager’s Office at 677-7050 at least 3 working days prior to the meeting.

**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.

**Live Broadcasts of Council Meetings On Cable Channel:** Regular City Council meetings are broadcasted live on Cable Channel 3.

As a courtesy to others, we ask that cellular phones and pagers be turned off during the meeting.

***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:** Mike Carlson  
**Meeting:** August 13, 2013  
**Subject:** Permit for Consumption for Café Brule Sidewalk Furniture Use Zone  
**Presenter:** Mike Carlson

**Background:** Jim Waters has completed the Furniture Zone Use permit for Café Brule. Their plan is to set up six tables parallel to the Market Street side of their restaurant. Each table would seat two people. The sidewalk permit expires on November 1, 2013. Administration can and did approve the use of the sidewalk furniture zone use permit for food consumption. The area has not been approved for the use of alcohol as the City Council has the responsibility to grant this privilege.

City Code 118.05 provides that the City Council may permit the consumption of alcoholic beverage within the Furniture Use Zone.

118.05. Any furniture zone limited lease granted by the City Council pursuant to this chapter shall convey to the adjoining business the right to use a designated portion of the sidewalk or furniture zone only for those purposes set forth in the lease. The limited lease may contain such restrictions and conditions as deemed necessary by the city and may not be assigned or sublet at any time during its term. The city shall have the right to terminate the limited lease for violation of any material term or condition thereof. Required compliance with all city ordinances and state statutes regarding the sale and service of alcoholic beverages shall be deemed to be a material condition of the limited lease. Compliance with city noise ordinances shall be deemed a material condition of the limited lease. The limited lease term shall not include those dates and times specified for special events approved by the City Council which includes the area of the furniture zone limited lease at the election of the event sponsor.

**Discussion:** Café Brule has submitted alcohol sale plan (copy attached) which has been reviewed and approved by the Police Department. The physical dimensions of the area and the number of tables limit the number of individuals who would be within the area where alcohol could be served. Café Brule would like to have alcohol available for patrons that want to have a drink with their meal.

In completing the application for a sidewalk use permit, the applicant has addressed many of the special conditions of other uses of city property for alcohol use. An insurance certificate naming the City as an additional insured, cleanup plan, etc. are part of the sidewalk use permit process. Their entire sidewalk furniture use zone application is

attached for background.

**Financial Consideration:** Cafe Brule has paid the annual \$35 permit for the furniture zone permit.

**Conclusion/Recommendations:** Administration would recommend approval of the request to use the sidewalk abutting Café Brule on Market Street for the sale and consumption of alcohol as part of their Furniture Zone Use Permit.

City Use
Date Received: 7-24-13
Approved: 8-5-13

City of Vermillion

Remit to:  
City Administration  
City Hall  
25 Center St.  
Vermillion, SD 57069

# Application for

605-677-7050

# Furniture Zone Use Permit

I, James P Waters as  Owner  Partner  Officer for and in behalf of  
(FIRST NAME, MIDDLE, AND LAST)

Cafe Brule Inc. hereby make application for use of the public sidewalks at  
(INDIVIDUAL OR BUSINESS TRADE NAME)

Market ST pursuant to Chapter 96 of the Revised Ordinances of Vermillion, SD.  
(REQUESTED LOCATION)

Business Address: <u>24 W MAIN ST</u>	Business Phone Number: <u>605-624-2945</u>	Business/Trade Name: <u>Cafe Brule</u>
	Business Email: <u>cafebrule@hotmail</u>	Legal Name of Entity: <u>Cafe Brule Inc.</u>
Owner/Partner Name/Contact Information: <u>James P Waters 605-624-2945 / 670-7877</u>		
Owner/Partner Name/Contact Information: <u>Monica L Iverson 605-624-2945 / 677-8404</u>		

Do you hold a license to serve on-sale alcohol and intend to serve it on the sidewalk?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you hold a license to serve food and intend to serve it on the sidewalk?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you acknowledge receipt of and agree to the provisions of the furniture zone? (see attached)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Do you agree that violating the provisions of the furniture zone may lead to suspension/revocation?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

What types of fixtures (furniture, etc.) do you plan to use in your furniture zone?

Item(s)	Number	Description/Shape/Size
Tables	6	Wrought Iron 28 x 28
Chairs	12	Wrought Iron Arm Chair
Planters	yes	
Rope Stanchions/Bollards		Wrought Iron removable fencing + 2 gates
Menu Sign/Stand		
Other (specify)	6	Umbrellas

Required submissions (please attach):

- A description and schematic drawing showing the dimensions of the site and the typical placement of all objects on an 8.5" x 11" sheet.
  - Show dimensions of site and adjacent building
  - Show all objects listed above
  - Show existing objects.
  - Show delineation of site.
- Proof of required insurance.
- Payment of \$35 permit/application fee.
- Crowd Management Plan (for alcohol)
- Additional submissions as required.

**Statement of Application and Hold Harmless.** I, James P Waters state that I, the above-named applicant, have filled out this application for permission to use the public right-of-way in the Vermillion Central Business District, and that the contents of the application and all other information supplied by me is true to the best of my knowledge, information, or belief. I agree to comply with all City Ordinances relevant to the proposed furniture zone used. I agree to assume all responsibility and liability for the use of the public right-of-way granted by this permit, and further agree to hold harmless the City of Vermillion, its employees or agents from any and all incidents or claims that may arise from use of the public-right-of-way. I also understand that the City of Vermillion may approve this permit conditionally and modify the conditions by giving written notice to me at any time in accordance with City Ordinances.

James P Waters James P Waters 7/24/13  
Print Name Applicant's Signature Date

## Café Brule Alcohol Sale Plan

Any lease or permit which includes the sale or consumption of alcohol shall adhere to these additional provisions which shall be deemed to be material conditions of any limited lease:

(A) Compliance with the rules, regulations, and conditions of the alcohol license including documentation that the license holder derives more than 50% of its gross receipts from the sale of prepared food for consumption on the licensed premises.

I certify that Café Brule derives more than 50% of gross receipts from the sale of prepared food for consumption on the licensed premise.

I agree to provide documentation, if requested, that Café Brule derives more than 50% of its gross receipts from the sale or prepared food for consumption on the licensed premise or forfeit the Furniture Use Permit.

(B) Containers for the dispensing of alcoholic beverages must be maintained inside the licensed facility and not in the furniture zone use area. No taps, kegs, cooler, or other alcoholic beverage storage devices are allowed on the furniture zone use area.

I agree that no containers for the dispensing of alcoholic beverages will be maintained in the furniture zone area.

(C) All alcoholic beverages served by the permitted establishment must be consumed in the furniture zone or inside the facility and disposed of on site. Patrons and staff loitering with alcohol on the designated pedestrian pathway is a prohibited activity. Exception: The transport of alcoholic beverages by patrons or staff directly from the indoor premises to the furniture zone use area or to the licensed facility is not prohibited.

I agree to have Café Brule take steps to make patrons aware that all alcoholic beverages must be consumed within the furniture zone area or inside Café Brule. Café Brule will post signs and have servers remind patrons of the appropriate area to consume alcoholic beverages.

(D) The limited lease holder shall have in place a security and crowd management plan for the designated use area approved by the Police Department.

The security and crowd management plan for the Furniture Zone area for Café Brule is:

1. Surveillance Camera's
2. Servers + Management to patrol area
3. Immediate removal of leftover beverages.

City of Vermillion  
Police Department  
15 Washington Street  
Vermillion, SD 57069  
Phone: (605)677-7070  
FAX: (605)677-7166  
[www.vermillionpd.org](http://www.vermillionpd.org)



August 1, 2013

From: Matt Betzen, Chief of Police 

To: John Prescott, City Manager

Re: Café Brule Outside Seating Proposal

Sir,

I have only two concerns regarding the proposal submitted by Café Brule regarding extending outside seating on the west side of their building. First, precautions should be taken to protect the furniture from vandalism and theft after business hours. Second, the serving of alcohol in this area would be extremely difficult to control during the D-Days weekend.

Methods of protecting the furniture could include placing the furniture inside the main structure after hours, or providing some method of securing the furniture to the building/sidewalk. My main concern here is that intoxicated persons walking through the area would use the furniture as an object to throw at a window, vehicle or into the roadway. Or, that the furniture would be seen as a type of trophies and stolen. This type of occurrence is no uncommon.

The Dakota Days weekend dramatically increased the amount of foot traffic throughout the downtown area and public alcohol consumption becomes a significant issue. It would be very difficult to control alcohol in the proposed seating area during this time frame.

Other than these two concerns, I do not see a public safety issue with the proposed plan.



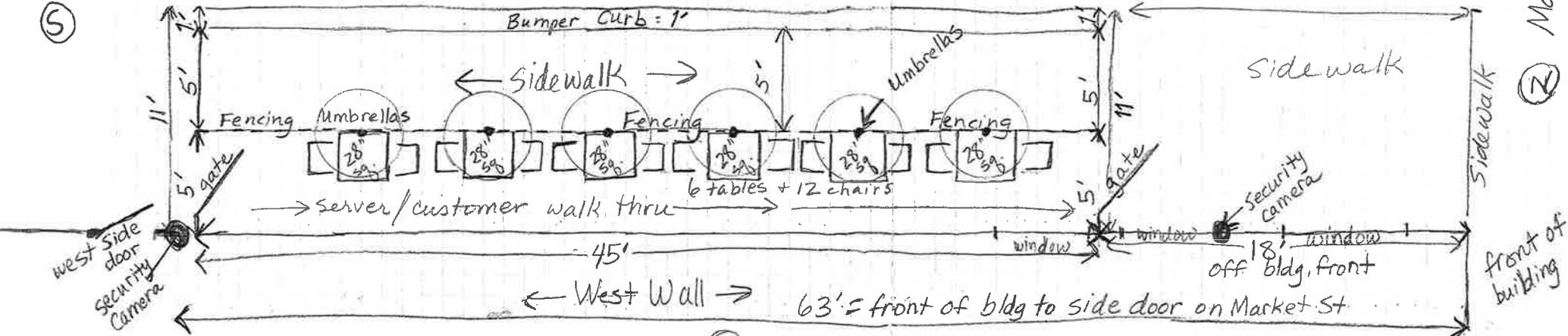
Market St.

(W)

- Fencing: Secured to Umbrellas
- Umbrellas: secured to sidewalk/concrete (capped hole for winter)
- Fencing: 30"-38" h (wrought iron=black) 1sq=1ft
- Tables: 29" h (wrought iron black) + chairs
- Umbrellas = 9' h
- 4 Topiaries (planters/portable)

Café Brulé Sidewalk Seating Proposal 624-2624

(S)



Main Street Front  
Café Brulé

Main St.

Sidewalk

Main Street

(E)

Café Brulé

18' window

63' = front of bldg to side door on Market St

West Wall

server/customer walk thru

6 tables + 12 chairs

Sidewalk

Bumper Curb = 1'

Sidewalk

Umbrellas

Fencing

Fencing

Fencing

Umbrellas

5' gate

5' gate

west side door security camera

security camera off bldg front