



City of Vermillion Council Agenda  
5:30 p.m. Special Meeting  
Monday, August 29, 2016  
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. **Public Hearings**

- a. Extend the hours for the Vermillion Area Chamber of Commerce and Development Company special daily malt beverage and wine license on or about September 1, 2016 at Ratingen Platz and portions of Market and Main Street.
- b. Extend the hours of the special permit to exceed permissible sound levels for the Vermillion Area Chamber of Commerce and Development Company on or about September 1, 2016 at Ratingen Platz and portions of Market and Main Street.

5. **New Business**

- a. Extend the closing time of Market Street from W. Main Street south to the east/west alley located between W. Main Street and Kidder Street and W. Main Street from Ratingen Platz to the corner of W. Main and Prospect Streets on Thursday, September 1, 2016 to be from 5:15 p.m. to 10 p.m. (Please note: these streets have previously been approved to be closed from 5 p.m. to 8 p.m. on September 1, 2016)

6. **Adjourn**

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**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, Finance Officer

**Meeting:** August 29, 2016

**Subject:** Extend the hours for the Vermillion Area Chamber of Commerce and Development Company special daily malt beverage and wine license on or about September 1, 2016 at Ratingen Platz and portions of Market and Main Street

**Presenter:** Mike Carlson

**Background:** On June 6, 2016 the City Council approved a special daily malt beverage and wine license for the Vermillion Chamber of Commerce and Development Company (VCDC) for the Thursdays On the Platz events that included September 1 with sales hours of 5:30 p.m. to 8:00 p.m. located on the Ratingen Platz and portions of Market and Main Streets. At the same meeting the City Council approved the permit to exceed permissible sound levels by no more than 50 percent and street closings for the Thursdays On the Platz events from 5:00 p.m. to 8:00 p.m.

City ordinance on special daily licenses reads as follows:

**112.18 SPECIAL ALCOHOLIC BEVERAGE LICENSES ISSUED IN CONJUNCTION WITH SPECIAL EVENTS.**

- (A) The City Council may grant, after public hearing, a special on-sale malt beverage and/or a special on-sale wine license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event.
- (B) The City Council may grant, after public hearing, a special off-sale package wine dealers license to a civic, charitable, educational, veterans, or fraternal organization in conjunction with a special event. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to SDCL Ch. 35-12.
- (C) Any license issued pursuant to this section shall be issued to the person and the location specified on the application. Any license issued pursuant to this section may be issued for a period of time established by the municipality. However, no period of time may exceed 15 consecutive days. The granting of the special license shall be subject to such conditions and restrictions as the City Council may deem appropriate and consistent with state law.
- (D) The fee for such special licenses shall be set by resolution of the City Council.

State Statute for the special daily licenses is as follows:

35-4-124. Special alcoholic beverage licenses issued in conjunction with special events. Any municipality or county may issue:

- (1) A special malt beverage retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (16) in addition to any other licenses held by the special events license applicant;
- (2) A special on-sale wine retailers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (12) or chapter 35-12 in addition to any other licenses held by the special events license applicant;

#### 4. Public Hearings; item a

- (3) A special on-sale license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(4) or (6) in addition to any other licenses held by the special events license applicant; or
- (4) A special off-sale package wine dealers license in conjunction with a special event within the municipality or county to any civic, charitable, educational, fraternal, or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(3), (5), (12), (17A), or (19) or chapter 35-12 in addition to any other licenses held by the special events license applicant. A special off-sale package wine dealer's licensee may only sell wine manufactured by a farm winery that is licensed pursuant to chapter 35-12.

Any license issued pursuant to this section may be issued for a period of time established by the municipality or county. However, no period of time may exceed fifteen consecutive days. No public hearing is required for the issuance of a license pursuant to this section if the person applying for the license holds an on-sale alcoholic beverage license or a retail malt beverage license in the municipality or county or holds an operating agreement for a municipal on-sale alcoholic beverage license, and the license is to be used in a publicly-owned facility. The local governing body shall establish rules to regulate and restrict the operation of the special license, including rules limiting the number of licenses that may be issued to any person within any calendar year.

**Discussion:** Since the special daily malt beverage and wine license was approved for September 1<sup>st</sup> from 5:30 p.m. to 8:00 p.m. the VCDC has requested to extend the time to 10:00 p.m. The group would like to extend this closing time in order to accommodate for the additional crowd that is expected to attend this event as a result of the USD Coyote football game being broadcast live. The notice of public hearing and Police Chief's report are attached. The Police Chief reported there were no incidents with the events held in previous years. As the event will be held on a City street and City property, ordinance allows the City to include "*such conditions and restrictions, as the governing body may deem appropriate and consistent with state law*". The request to extend the hours on the permit to exceed allowable noise levels and extend the hours for the street closure are later on the agenda. The VCDC has provided a certificate of Insurance naming the City of Vermillion as an additional insured and provided a Release and Indemnification releasing the City from liability for the event.

Below are some special conditions required by the City Council in the past for other entities that have used city property to sell alcoholic beverages. Adjustments may be appropriate for the last three conditions, but Staff recommends the City Council consider and attach most of the following conditions:

- Require the applicant identify and utilize a fenced area where alcoholic beverages may be sold and consumed, as well as a plan to monitor the entrances and exits from this area.
- Require a plan for the cleanup and disposal of the cups and other materials after the event.
- Restroom facilities. Some groups have used port-a-potties for a similar event. The duration of the event may create the need for specific restroom facilities.
- Require a list of those individuals selling alcohol and checking IDs be provided to the City Manager 24 hours before the event. All individuals on the list were required to be at least 21 years of age.
- Hours of sale may be limited. The hours were approved on June 6 to be from 5:30 p.m. to 8:00 p.m.. This request is to extend the hours to 10:00 p.m.

**Financial Consideration:** The City has received the special daily license fee for the four days previously approved along with the advertising fee.

**Conclusion/Recommendations:** Administration recommends approval of the time extension for the September 1, 2016 special daily malt beverage and wine license for the hours of 5:30 p.m. to 10:00 p.m., assuming that the City Council is comfortable that the applicant holding the license can properly distribute malt beverages and regulate the event, and there is complete understanding and agreement by the applicant with regard to any conditions and restrictions the City Council may require after further information is provided at the public hearing.

NOTICE OF PUBLIC HEARING OF APPLICATIONS  
FOR SALE OF ALCOHOLIC BEVERAGES

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 29<sup>th</sup> day of August, 2016 at the hour of 5:30 p.m. in the City Hall Council Chambers, 25 Center Street, will meet in special session to consider the following application for an alcoholic beverage license to operate within the municipality for the licensing period stated below, which has been presented to the City Council and filed in the Finance Officer's Office:

Special Daily License (On-Sale) Malt Beverage and Wine License:

Vermillion Area Chamber & Development Company, Inc. for expanded hours on or about September 1, 2016 on Ratingen Platz and portions of Market and Main Streets for expanded Thursdays on the Platz event.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application.

Dated at Vermillion, South Dakota this 15<sup>th</sup> day of August, 2016.

\_\_\_\_\_  
Michael D. Carlson, Finance Officer

Publish: August 19, 2016

Published once at the approximate cost of \_\_\_\_\_.

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)



To: Vermillion City Council

Date: 05/18/2016

From: Matthew Betzen  
Chief of Police

Subject: Special Daily License (On-Sale) Malt Beverage and Wine License-Thursday on the Platz

The Vermillion Area Chamber and Development Company, Inc is making this application for the annual summer events scheduled for July 21, August 4, August 18, September 1 with back up "rain days" on July 28, August 11, August 25 and September 8. The event involves alcohol sale on the Ratingen Platz and the ½ block of Market St from Main south.

The applicants are clear of any criminal history that would be cause for concern. This event has historically been well managed and I believe this license should be granted.

## *Council Agenda Memo*

**From:** Mike Carlson, Finance Officer

**Meeting:** August 29, 2016

**Subject:** Extend the hours of the special permit to exceed permissible sound levels for the Vermillion Area Chamber of Commerce and Development Company on or about September 1, 2016 at Ratingen Platz and portions of Market and Main Street

**Presenter:** Mike Carlson

**Background:** On June 6, 2016 the City Council approved a special permit to exceed permissible sound noise levels by no more than 50% for the Vermillion Chamber of Commerce and Development Company (VCDC) for the Thursdays On the Platz events that included September 1 with hours of 5:30 p.m. to 8:00 p.m. located on the Ratingen Platz and portions of Market and Main Streets. At the same meeting the City Council approved the special daily malt beverage and wine license and street closings for the Thursdays On the Platz events from 5:30 p.m. to 8:00 p.m.

The city noise ordinance is as follows:

Sec. 90.01. Noises prohibited.

(A)General prohibitions: In addition to the specific prohibitions outlined below, it shall be unlawful for any person to make, continue, or cause to be made or continued any loud or unusual noise so as to disturb the peace of the public, any neighborhood, any business operation, family, lawful assembly of persons, or any person by committing any act or acts of disturbance within the limits of the City of Vermillion.

(B)The following acts are declared to be in violation of this chapter.

- 1) Sound equipment prohibited: Except for emergency vehicles, it shall be unlawful for any person to operate or cause to be operated upon the streets or public places in the city a sound truck or car with sound amplification equipment in operation. "Sound truck" as used herein means any vehicle having thereon or attached thereto any sound amplification equipment. "Sound amplification equipment" as used herein means any machine or device for the amplification of the human voice, music or other sound, but shall not include radio or warning devices on vehicles used for traffic warning or control purposes.
- 2) Stereos, radios, television sets, musical instruments and similar devices:
  - a. Using, operating or permitting the use or operation of any stereo, radio, musical instrument, television, phonograph, drum or other machine or device for the production or

4. Public Hearing; item b

reproduction of sound, except as provided for in paragraph (1) above, in such a manner as to violate this section or cause a noise disturbance.

- b. The operating of any such device between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to be plainly audible at the property boundary of the source or plainly audible at fifty (50) feet from such device when operated within a vehicle parked on a public right-of-way or when operated from within a private residence.
- 3) Maximum permissible sound levels: It shall be unlawful for any person to operate or permit the operation of any stationary source of sound in such a manner as to create a sound pressure level during any ten-minute measurement period which exceeds the limits set forth for the following receiving land use districts when measured at the boundary or at any point within the property affected by the noise. Sound level measurements shall be made at a distance of fifty (50) feet from source with a sound level meter of type 2 or better, using the "A" weighting scale, in accordance with standards promulgated by the American National Standards Institute.

Use District	11:00 p.m.-6-00 a.m.	6-00 a.m.-11:00 p.m.
Residential	50 dB(A)	55dB(A)
Commercial	55 dB(A)	60dB(A)
Industrial & Agricultural	75 dB(A)	80dB(A)

- (C) It shall be a violation of this section if the sound which is measured creates a sound pressure level greater than the levels set forth for the receiving land use district for ninety (90) per cent of the time in any measurement period, such as the level exceeded for nine (9) minutes of a ten-minute period.
- (D) Special Permit - The City Council may, following a Public Hearing, issue a Special Permit to exceed allowable sound levels by not more than 50% of the allowable limit within the Use District, in a suitable location with appropriate facilities, during the allowable time. It shall be required of any applicant for a Special Permit to demonstrate that the event for which the permit is requested be of public benefit. An applicant shall submit a diagram clearly showing the sound level projections beginning at a point fifty (50) feet from the source, and continuing out through a radius of two hundred (200) feet from the source. Application for a Special Permit shall be made with the City Finance Officer, and shall be accompanied with an application fee of \$25.00. Application for a Special Permit shall be completed no later than 30 days prior to the proposed event, and it shall contain all applicable information relative to the nature and purpose of the event. (Ord. No. 1100, 10-1-01)
- (E) Semi-tractors; prohibited noises: It shall be unlawful for any person within the city limits of Vermillion, to make, or cause to be made, loud or disturbing or offensive noises with any mechanical devices operated by compressed air and used for purposes of assisting braking on any semi-tractor, except for the aversion of imminent danger. (Ord. No. 1102, 10-15-01)

**Discussion:** Since the special permit to exceed permissible sound levels by no more than 50% was approved for September 1<sup>st</sup> from 5:30 p.m. to 8:00 p.m. the VCDC has requested to extend the time to 10:00 p.m. The group would like to extend this permit time in order to accommodate for the additional crowd that is expected to attend this

event as a result of the USD Coyote football game being broadcast live. The notice of public hearing is attached. The request to extend the hours on the special daily malt beverage and wine license was earlier on the agenda and the extended hours for the street closure is later on the agenda. The VCDC has provided a certificate of Insurance naming the City of Vermillion as an additional insured and provided a Release and Indemnification releasing the City from liability for the event.

The City Council will need to determine, at the public hearing, if it is in a suitable location with appropriate facilities, during the allowable time and if the applicant can demonstrate the public benefit of the event. Relevant questions for a public gathering, when a noise permit is sought, include the availability of restroom facilities; clean up of the area, and disposal of waste. City staff is not aware of any noise related problems with Thursdays on the Platz events in previous years.

**Financial Consideration:** The VCDC has paid the fee for the special noise permit.

**Conclusion/Recommendations:** Administration recommends extending the hours of the special permit to 10:00 p.m., unless information is presented at the public hearing that indicates that there are problems related to the noise.

**REQUEST FOR SPECIAL PERMIT TO EXCEED PERMISSIBLE SOUND LEVELS BY NO MORE THAN 50% OF CITY NOISE ORDINANCE**

This application shall be completed no later than thirty (30) days prior to the proposed event and shall contain all applicable information relative to the nature and purpose of the event.

Organization Requesting Vermillion Area Chamber and Development Company

Contact Person Elijah Bonde Phone 605-624-5571

E-Mail Address elijah@vermillionchamber.com

Contact Person Address 6 W. Main St., Vermillion, SD 57069

Location of Event Ratingen Platz, Corner of Market and Main Date of Event September 1st

Duration of event: From time 6:00 pm to time 10:00 pm

The ordinance asks if this is a suitable location with appropriate facilities:

**Yes**

The ordinance asks the applicant to demonstrate that the event for which the permit is requested be of public benefit. Describe the public benefit:

Thursday on the Platz, sponsored by the University of South Dakota. Extending already approved permit to accommodate for longer timeframe.

Please attach a diagram clearly showing the sound level projections beginning at a point fifty (50) feet from the source, and continuing out through a radius of two hundred (200) feet from the source.

File this application along with the diagram with the finance officer accompanied with an application fee of \$25.00.

Signature of Applicant  Date 8/8/2016

NOTICE OF PUBLIC HEARING FOR SPECIAL PERMIT  
TO EXCEED ALLOWABLE SOUND LEVELS

NOTICE IS HEREBY GIVEN THAT the Vermillion City Council on the 29<sup>th</sup> day of August, 2016 at the hour of 5:30 P.M. at the City Hall Council Chambers, 25 Center Street, will meet in special session to consider the following application for a special permit to exceed allowable sound levels for the dates and times stated which has been filed in the Finance Officer's Office:

Vermillion Area Chamber of Commerce and Development Company request for a special permit to exceed allowable sound levels on Ratingen Platz and portions of Market and Main Streets on or about September 1, 2016 for expanded hours on Thursdays on the Platz event.

NOTICE IS FURTHER GIVEN THAT any person, persons, or their attorney may appear and be heard at said scheduled public hearing who are interested in the approval or rejection of any such application for special permit.

Dated at Vermillion, South Dakota this 18<sup>th</sup> day of August, 2016.

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Michael D. Carlson, Finance Officer

Publish: August 19, 2016

Published once at the approximate cost of \_\_\_\_\_.

## *Council Agenda Memo*

**From:** Derek Chancellor, Administrative Intern

**Meeting:** August 29, 2016

**Subject:** Extension of street closure request of Market Street from W. Main Street south to the east/west alley located between W. Main Street and Kidder Street and W. Main Street from Ratingen Platz to the corner of W. Main and Prospect Streets to be from 5:15 p.m. to 10:00 p.m.

**Presenter:** John Prescott, City Manager

**Background:** “Thursdays on the Platz” has already held several events in downtown Vermillion. The final event for this year is scheduled for September 1, 2016. This Platz event is being sponsored by USD. A watch party for the season opening USD Coyote football game will headline the final “Thursdays on the Platz” event.

The City Council previously approved the closure of Market Street from W. Main Street south to the east/west alley located between W. Main Street and Kidder Street and W. Main Street from Ratingen Platz to the corner of W. Main and Prospect Streets from 5:15 p.m. to 8:00 p.m. A noise permit and a special daily malt beverage for the same event are earlier on this agenda for consideration.

**Discussion:** Since the initial street closing plan was approved, a request to extend the street closing time to be from 5:15 p.m. to 10:00 p.m. was submitted. The VCDC and USD would like to extend the street closing time in order to accommodate the additional crowd and longer duration of this event that is expected as a result of the USD Coyote football game being broadcast live. The Police, Fire, EMS, and Street Departments have all been contacted about the closing for the “Thursdays on the Platz” events as well as this time extension. A large volunteer committee has been created for set-up and tear-down of the event.

**Financial Consideration:** None.

**Conclusion/Recommendations:** Administration recommends the City Council approve the extended closure of Market Street from W. Main Street south to the east/west alley located between W. Main Street and Kidder Street and W. Main Street from Ratingen Platz to the corner of W. Main and Prospect Streets to be from 5:15 p.m. to 10:00 p.m. on September 1, 2016 instead of the previously approved closing time for the final 2016 “Thursdays on the Platz” event.

Requests to close a public street for an event or activity are taken to the City Council for approval. The following application is requested to be submitted to the City Manager's office one week prior to the Council Meeting.

### CITY OF VERMILLION REQUEST TO CLOSE CITY STREET

This application shall be completed in time to be submitted to the City Council for consideration. City Council meetings are the first and third Mondays of each month. Requests are to be submitted to the City Manager's office one week prior to the meeting to be included on the meeting agenda. The proposal shall contain all applicable information relative to the nature and purpose of the event for which the street will be closed. If additional space is needed, please attach additional sheets with the required information.

Organization Requesting Vermillion Area Chamber and Development Company

Contact Person Elijah Bonde Phone 605-624-5571

E-Mail Address elijah@vermillionchamber.com

Contact Person Address 6 W. Main St., Vermillion, SD 57069

Event Thursday on the Platz, sponsored by USD Date(s) of Event September 1st

Street(s) requested to be closed (Include a map if needed.)

Street \*Note Map from \_\_\_\_\_ to \_\_\_\_\_

Street Closing Times ~~5:00 pm~~ 5:15 PM to 10:00 pm

If the street closing requested would affect other residents or businesses have they been notified of the request? Yes  No

If approved, the contact person will need to make arrangements with the Street Department for barricades to properly denote the street closing. Have arrangements been made for clean up after the event and other facilities? Please describe:

Yes, a large volunteer commitee has been created for set-up and tear down of the event.

Signature of Applicant  Date 8/8/2016

