



City of Vermillion Council Agenda

9:00 a.m. Emergency Meeting
Monday, March 30, 2020
City Council Chambers
25 Center Street
Vermillion, South Dakota 57069

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Adoption of the Agenda**
4. **Visitors to be Heard**
5. **Public Hearing**
 - a. Second Reading of Ordinance 1413 Implementation of Certain Emergency Measures to Slow the Community Spread of COVID-19.
 - b. Resolution to establish a fine for a violation of Ordinance 1413.
6. **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 30, 2020

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

Presenter: John Prescott

Background: At an Emergency City Council meeting on Tuesday, March 24, the City Council approved the first reading of Ordinance 1413. The ordinance places restrictions on public gathering places such as bars and restaurants. The proposed ordinance was amended during the meeting to include hair and nail salons, barber shops, and massage facilities. Rapid City, Huron, Watertown, Brookings, and Yankton have or are in the process of adopting a similar ordinance.

Discussion: The attached ordinance reflects the changes that the City Council made during the course of the first reading. This version has been posted on the City's website and distributed through social media since Wednesday morning. Staff is proposing a couple of clarifying changes that are noted in the attached version. One change has to do with massage facilities. The phrase massage facilities is being suggested vs. massage parlors. It has come to staff's attention that some massage facilities have contracts with the Veteran's Administration to provide services as prescribed, required or recommended by licensed medical providers. This clarifying language can be found in #2 and #5c.

A second change has to do with clarification of a fine for a violation of the ordinance. Generally, the City Council has established a fine for the violation of an ordinance. The standard language that references Section 10.99 of the City Code which allows for a maximum fine of up to \$500 was approved in the first reading of the ordinance. The proposed adjustment would let the City Council establish a fine set by resolution in accordance with Section 10.99 of the City Code. The City Council does not have to adopt this language. Adopting it will allow the City Council to set the fine vs. the court system. This item is addressed more completely with the next agenda item. No other changes have been made to the ordinance since City Council approval of the first reading on March 24, 2020. The City Attorney has reviewed the proposed language and has determined that the changes are not substantial and that second reading can proceed.

Financial Consideration: Without information on the sales of each business or the length of time this ordinance would be in place, the financial impact is difficult to determine. Sales tax receipts and the BBB fund will be impacted.

Conclusion/Recommendations: Administration recommends that the City Council thoughtfully review the proposed clarifications to Ordinance 1413 to implement restrictions that best fit our community and help prevent the spread of COVID-19. A roll call vote is required with the second reading of any ordinance.

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 9:00 a.m. CDT 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 9:00 a.m. CDT Monday, March 30, 2020, all recreational facilities, public pools, health clubs, hair and nail salons, barber shops, spas, massage ~~parlors~~ facilities unless providing prescribed, required, or recommended services as directed by a licensed medical provider, athletic facilities, and theaters, including movie theaters, and music or entertainment venues are directed to close and cease operations.

3. Effective at 9:00 a.m. CDT 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 9:00 a.m. CDT Monday, March 30, 2020, all arcades, bingo halls, bowling alleys, video lottery casino operations, 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, and facilities providing medical, therapy, or rehabilitation services as prescribed, required or recommended by a licensed medical provider.
 - 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.
 - j. Parks, trails, hike/bike path, and the Bluffs Golf Course.
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 a fine set by resolution in compliance with 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



Council Agenda Memo

From: John Prescott, City Manager

Meeting: March 30, 2020

Subject: Resolution adopting a fine for a violation of Ordinance 1413

Presenter: John Prescott

Background: Section 7 of Ordinance 1413 provides for a fine for those found in violation of the ordinance. Each day a violation of the ordinance occurs is treated as a separate violation. If the City Council did not specify in the language with the second reading of Ordinance 1413 that the fine is set by resolution, this agenda item is not needed.

Discussion: Staff has attempted to contact the other communities that have or are in the process of adopting a similar ordinance. Most of these cities are using the general language which references that a violation is subject to the City's fine section. Most of the cities have a \$500 maximum fine and/or 30 days in jail in their City Code. The State in SDCL 9-19-3 and 22-6-2(2) establishes these parameters. One City has not updated their maximum fine language so their fine is set at \$200. Not establishing a fine by resolution requires the court or City Attorney to determine the amount of the fine levied should a violation occur. The most common fine cost for City Code violations is \$56.50. With court costs of \$62.50, a violation would result in a total cost of \$119.

Financial Consideration: Any fines collected for a violation would be added to the General Fund.

Conclusion/Recommendations: Administration recommends approval of the Resolution adopting a fine for the violation of Ordinance 1413.

**EMERGENCY RESOLUTION
ESTABLISHING A FINE FOR VIOLATION OF ORDINANCE 1413 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, 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, the City Council has adopted an emergency Ordinance No. 1413 to implement measures to slow the community spread of the COVID-19 virus; and

WHEREAS, Ordinance No. 1413 provides that a fine be set by resolution for any violation of the ordinance; and

WHEREAS, Ordinance No. 1413 was adopted as an emergency ordinance to become effective after adoption this fine resolution shall be considered an emergency to establish the fine for any violation.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the City of Vermillion, South Dakota, at an emergency meeting thereof in the Council Chambers of said City at 9:00 a.m. CDT on the 30th day of March, 2020, that the fine for each violation be \$56.50 plus court costs. (Fine \$56.50 plus court costs of \$62.50 for a total \$119.00)

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

THE GOVERNING BODY OF THE CITY
OF VERMILLION, SOUTH DAKOTA

John E. (Jack) Powell, Mayor

Attest:

Michael D. Carlson, Finance Officer

Adopted: March 30, 2020

Effective: March 30, 2020