

Unapproved Minutes  
Council Special Session  
March 30, 2020  
Monday 5:00 a.m.

The special session of the City Council, City of Vermillion, South Dakota was called to order on Monday, March 30, 2020 at 9:00 a.m. by Mayor Powell.

1. Roll Call

Present: Collier-Wise (teleconference), Hellwege (teleconference), Holland, Humphrey (teleconference), Price (teleconference), Sorensen, Ward, Willson (teleconference), Mayor Powell

2. Pledge of Allegiance

3. Adoption of the Agenda

75-20

Alderman Holland moved approval of the agenda. Alderman Sorensen seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. Mayor Powell declared the motion adopted.

4. Visitors to be Heard - None

5. Public Hearing

A. Second Reading of Ordinance 1413 Implementation of Certain Emergency Measures to Slow the Community Spread of COVID-19

John Prescott, City Manager, reported that, at a special City Council meeting on Tuesday, March 24, the City Council approved the first reading of Ordinance 1413. John stated that this ordinance places restrictions on public gathering places such as bars and restaurants and at first reading was amended to include hair and nail salons, barber shops, and massage facilities. John noted that other first class cities either have or are in the process of adopting a similar ordinance. John reported that the attached ordinance reflects the changes that the City Council made during the course of the first reading and a couple of clarifying changes that are noted by underline in the attached version. John stated that one change has to do with massage facilities as 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. John stated that this clarifying language

can be found in #2 and #5c. John stated that the second change has to do with clarification of a fine for a violation of the ordinance. John noted that the City Council has generally established a fine for the violation of an ordinance. John stated that 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. John stated that the proposed adjustment would let the City Council establish a fine to be set by resolution, in accordance with Section 10.99 of the City Code. John noted that the City Council does not have to adopt this language but by 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. John reported that the City Attorney has reviewed the proposed language and has determined that the changes are not substantial and that second reading can proceed. Discussion followed on the ordinance.

76-20

Second reading of title to Ordinance No. 1413, entitled 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) for the City of Vermillion, South Dakota

Mayor Powell read the title to the above named Ordinance, and Alderman Sorensen moved adoption of the following:

BE IT RESOLVED that the minutes of this meeting shall show that the title to the proposed Ordinance No. 1413 entitled 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) was first read and the Ordinance considered substantially in its present form and content at a special called meeting of the Governing Body on the 24th day of March, 2020 and that the title was again read at this meeting, being a special called meeting of the Governing Body on this 30th day of March, 2020 at the City Hall Council Chambers in the manner prescribed by SDCL 9-19-7 as amended.

BE IT RESOLVED and ordained that said Ordinance be adopted to read as follows:

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 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, 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

Adoption of the Ordinance was seconded by Alderman Holland. Thereafter, the question of the adoption of the Ordinance was put to a roll call vote of the Governing Body and the members voted as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y,

Willson-Y, Mayor Powell-Y. Motion carried 9 to 0. Mayor Powell declared that the Ordinance has been adopted as an emergency and as such will become effective immediately.

B. Resolution to establish a fee for a violation of Ordinance 1413

John Prescott, City Manager, reported that, with the adoption of Ordinance No. 1413, Section 7 provides for a fine to be set by resolution. John noted that most of the cities adopting this ordinance have referenced that the violation is subject to the City's fine section which in most cases is \$500 maximum fine and/or 30 days in jail with one city at a \$200 maximum. John noted that not establishing a fine by resolution requires the court or City Attorney to determine the amount of the fine levied should a violation occur. John stated that the most common fine cost for City Code violations is \$56.50 and with court costs of \$62.50, a violation would result in a total cost of \$119. Discussion followed.

Josh from Dakota Brick House, asked about the timing of violations and John Prescott reported that each day a violation is allowed to occur is considered a separate offense. Discussion followed on the fine amount, who is charged for the violation and if violators names would be published. Alderman Collier-Wise noted that violations could be considered when renewing an alcoholic beverage license.

77-20

After reading the same once, Alderman Holland moved adoption of the following:

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

By \_\_\_\_\_  
John E. (Jack) Powell, Mayor

Attest:

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

The motion was seconded by Alderman Ward. Discussion followed and the question of the adoption of the Resolution was presented for a roll call vote of the Governing Body with the roll call vote as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. Mayor Powell declared the motion adopted.

6. Adjourn

78-20

Alderman Ward moved to adjourn the Council special session at 9:34 a.m. Alderman Sorensen seconded the motion. A roll call vote of the Governing Body was as follows: Collier-Wise-Y, Hellwege-Y, Holland-Y, Humphrey-Y, Price-Y, Sorensen-Y, Ward-Y, Willson-Y, Mayor Powell-Y. Mayor Powell declared the motion adopted.

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

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