

PROPOSED AGENDA
PUBLIC WORKS / FINANCE / SAFETY COMMITTEE
Monday, August 5, 2019, 4:00 pm

Call to Order

1. Approval of Consent Agenda:
 - a. Approval of minutes from the July 15, 2019 meeting.
2. Public Input
3. Approval of Agenda
4. Council Consideration of Contract Amendment No. 1 of the Professional Services Agreement for Design & Bidding Services Associated with the Wastewater Treatment Facility Administration Building Project No. 1917, with HDR, Inc., in the Not-to-Exceed Amount of \$34,985.00.
5. Presentation of Dangerous/Vicious Dog Ordinance.
6. Long Range Transportation Plan Update.
7. Old Business
8. New Business
9. Executive Session Pursuant to SDCL §1-25-2
10. Adjourn

*Note: It is expected that a **quorum** of the City Council will be in attendance at this committee meeting.*

PUBLIC WORKS / FINANCE / SAFETY COMMITTEE MEETING
Monday, July 15, 2019

Present: Mayor Caron and Council Members Albertsen, Buhler, Heuer (via phone), Lalim, Mantey, Redemske, Roby, Vilhauer & Weyh

Also Present: Heath VonEye, Colin Paulsen, Kristen Bobzien, Matt Roby, Alec Boyce, Julie Knutson & others

The meeting was called to order by Mayor Sarah Caron.

Approval of the Consent Agenda

Motion was made by Don Roby and seconded by Adam Lalim to approve the following items on the Consent Agenda: minutes from the July 1, 2019 Public Works/Finance/Safety Committee meeting. All voted in favor and motion carried.

Public Comment

None

Approval of the Agenda

Mayor Caron proposes to amend the agenda by adding an update from the Convention & Visitors Bureau as Item 6. Motion was made by Glen Vilhauer and seconded by Don Roby to approve the agenda as amended; all voted in favor and motion carried.

Council Consideration of a Bid Award for the 3rd Avenue SW Drainage Improvements Project #1910 to J&J Earthworks, Inc., in the Amount of \$133,605.60.

City Engineer Heath VonEye reviewed the proposed bid award for the 3rd Avenue SW Drainage Improvements Project. This project addresses drainage issues for 3rd Avenue SW between 3rd Street SW and 2nd Street SW. Heath displayed photos of the area and explained that the lack of positive drainage has resulted in severe ponding and icing. Three bids were received, with J&J Earthworks being the apparent low bidder in the amount of \$133,605.60, which is lower than the Engineer's Estimate of \$134,589.30, and is well within the budget of \$142,700.00. Staff recommends awarding the bid to J&J Earthworks. Heath added that this is one of the projects that we farmed out to Infrastructure Design Group under a previously approved Task Order Agreement. IDG completed the design, and will also handle the Construction Administration for this project. Motion was made by Beth Mantey and seconded by Adam Lalim to recommend awarding bid to J&J Earthworks in the amount of \$133,605.60; all voted in favor and motion carried.

Council Consideration to Authorize the Mayor to sign a Professional Services Agreement for Engineering Services for a Stormwater Utility Fee and Structure Assessment, with Short Elliott Hendrickson, Inc. (SEH), and Authorizing the City Engineer to Execute a Supplemental Letter Agreement in the Amount of up to \$27,890.

As a follow-up to the July 1, 2019 meeting, Heath reviewed the results of the Request for Proposals for the Stormwater Utility Fee and Structure Assessment. Three consultants submitted proposals, which were scored by staff using a rubric system. SEH's proposal received the highest score. A stormwater utility will help to keep the capital improvement fund sustainable for new construction and storm sewer maintenance. The service SEH will provide will assess how the stormwater fee would best be calculated to suit our needs, assess stormwater utilities and rates of other communities in the region, and provide a forecasting revenue summary. The cost of SEH's services will come partially from the 2019 engineering department's operating fund, as well as a likely budget supplement. The proposed method of calculating the stormwater utility fee was questioned. Heath answered that some communities calculate their stormwater utility based on

sump pump flows or the amount of impervious surfaces on a lot, but this makes the calculations more complex and adds cost and staff time to the maintenance of the system. It is recommended that the fee be set as a flat rate, to keep the system simple. The exact details will be fleshed out during the assessment. Alec Boyce, SEH, was in attendance at the meeting to answer questions from the council. Motion was made by Don Roby and seconded by Dan Albertsen to recommend authorization for the Mayor to sign the Professional Services Agreement for a Stormwater Utility Fee and Structure Assessment with SEH Inc., and authorizing the City Engineer to execute a Supplemental Letter of Agreement in the amount up to \$27,800.00; all voted in favor and motion carried.

Update from the Watertown Convention & Visitors Bureau.

Julie Knutson, Executive Director of the Watertown Convention & Visitors Bureau gave a presentation on the mission of the CVB, 2018 accomplishments, and future goals to host sports tourism events. Recently, Watertown won a contract with North Star Athletic Association, a two-year contract with a Division 1 college with volleyball and basketball championship games that will be held in Watertown. She reviewed other hosted events that we could pursue and bring into Watertown to be hosted at one of our many facilities. Watertown has invested in large facilities that can produce huge returns if we expand and grow into sports tourism, and she requests the council's consideration of extending the CVB's budget to pursue more of these opportunities to bring sports tourism into Watertown.

Old Business

None

New Business

Heath mentioned that a road closure permit has been issued to the contractor that is performing the roof repairs to the Goss Opera House. The closure includes half the block of Maple Street, south of Kemp. The westerly sidewalk will remain open, and traffic coming from the south will be able to access businesses on the south half of Kemp. All businesses will remain open, including businesses within the Goss building. The road closure could be for as long as three months.

Also a road closure permit has been issued for the demolition of the Burritos on Broadway building at 12 North Broadway. This closure will be for no more than one day.

Executive Session

Motion made by Josh Weyh and seconded by Bruce Buhler to adjourn to Executive Session at approximately 5:00 p.m.; all voted in favor and motion carried.

Respectfully submitted,
Lori Marscheider

Request for City Council Action

TO: Mayor and City Council
FROM: Heath VonEye, M.Sc., P.E., City Engineer
MEETING DATE: August 5, 2019

Subject:

Council Consideration of Contract Amendment No. 1 of the Professional Services Agreement for Design & Bidding Services Associated with the Wastewater Treatment Facility Administration Building, with HDR, Inc., in the Not-to-Exceed Amount of \$34,985.00.

Background:

During an on-site visit for the Wastewater Treatment Facility Administration building project No. 1917, HDR Inc. performed a preliminary structural analysis on the clarifier to gather information to provide this proposal for engineering services. This inspection determined that the concrete tank and metal equipment were in worse condition than was noted in the 2011 WWTF facility evaluation. The metal equipment is rusted thin in areas (rusted all the way through in some areas) and the concrete tank is in worse condition than anticipated.

The scope of this amendment will address the structural condition and issues with Primary Clarifier No. 2 for the Wastewater Treatment Facility. HDR Inc. will perform a condition assessment and recommend potential repairs or replacement for Primary Clarifier No. 2. Construction Administration is not included in this amendment.

Cost vs. Budget

The 2019 budget for engineering services for the primary clarifier is \$40,000 (604 432.56 43939 P.C. #2 Assessment and Design). This amendment is under-budget by \$5,015.00.

After this assessment is completed there will be a proposal for design engineering services. Staff has budgeted \$290,000 in 2020 to complete design, bidding, construction engineering and construction of this clarifier repair.

Suggested Motion:

I move for approval of Contract Amendment No. 1 of the Professional Services Agreement for Design & Bidding Services Associated with the Wastewater Treatment Facility Administration Building, with HDR, Inc., in the Not-to-Exceed Amount of \$34,985.00.

Staff Reference:

Heath VonEye, P.E., City Engineer
Colin Paulsen, Assistant City Engineer
Mike Boerger, Superintendent Wastewater & Solid Waste

Attachments:

HDR Amendment No. 1

**AGREEMENT FOR ENGINEERING SERVICES
WWTF ADMINISTRATION BUILDING PROJECT**

AMENDMENT NUMBER 1 - PRIMARY CLARIFIER NO. 2 EVALUATION

The Agreement for Engineering Services between the City of Watertown, South Dakota (OWNER) and HDR Engineering, Inc. (ENGINEER) dated January 22, 2019 for professional engineering services related to the Watertown WWTF Administration Building Design and Bidding Assistance ("Project") is hereby amended to provide the additional services as follows:

- Structural Review of Condition of Primary Clarifier No. 2

Description of services to be performed and the project schedule are listed in Exhibit C. Compensation for the services in this Amendment shall be in accordance with the existing Agreement conditions which are a "Not-to-Exceed" fee using hourly billing rates as outlined in Section IV of the January 22, 2019 agreement. The estimated staff-hours and costs for the various task series are also included in Exhibit C. The maximum amount for the services covered by this amendment shall not exceed \$34,985.00 without prior written authorization by the City of Watertown.

In accordance with the provision of the January 22, 2019 agreement, this Amendment is executed on _____, 2019.

CITY OF WATERTOWN

HDR ENGINEERING, INC.

NAME & TITLE

Jason Kjenstad; PE
VICE PRESIDENT

DATE

DATE

ATTEST (If Required):

NAME & TITLE

EXHIBIT C

SCOPE OF WORK FOR AMENDMENT NUMBER 1 TO AGREEMENT FOR ENGINEERING SERVICES FOR THE WWTF ADMINISTRATION BUILDING PROJECT

PRIMARY CLARIFIER NO. 2 EVALUATION

Watertown SD WWTP – Administration Building Design

PROJECT DESCRIPTION

This scope of work is to address structural condition issues with Primary Clarifier No. 2 for the City of Watertown, South Dakota's Wastewater Treatment Plant's (WWTP). The work includes performing a condition assessment and recommendations for repairs or replacement for Primary Clarifier Number 2. Construction Administration has not been included at this time. The project consists of the following tasks:

WORK TASKS

TASK 1.0: Structural Condition Assessment of Primary Clarifier 2

Present the review the current condition of Primary Clarifier No. 2. The tank is an 85 foot diameter cast in place concrete tank with 9'-3" side depth, with external launder and aluminum dome cover. The tank was constructed approximately 1959 and a limited condition assessment was performed in 2011. That assessment indicated the launder walls and walls supporting the dome cover were cracked, deteriorating, and would need to be replaced. The clarifier had very significant ice buildup this last winter (2018-2019) and the mechanism was lifted when water was introduced into the clarifier and the ice floated, lifting the mechanism. This resulted in further structural damage to the concrete and also the mechanism, dome and miscellaneous appurtenances. The tank was recently inspected during the 60% Contract Document review meeting for the new WWTF Administration Building to visually document the current condition of the clarifier.

A brief inspection report will be presented to describe the current condition and recommended repairs or replacements.

TASK 2.0: Evaluation of Structural Repairs or Replacement for Primary Clarifier 2

Based on the current condition assessment, the extent of concrete repairs will be presented along with the feasibility to make repairs or if a replacement is warranted. It is anticipated that, at a minimum, the existing launder and perhaps a portion of the main tank wall will need to be replaced. The concrete structural damage is much more significant than in the 2011 review due to the ice and mechanism lifting as mentioned above. Options for repair and full replacement will be evaluated.

TASK 3.0: Condition Assessment of Primary Clarifier 2 Mechanism

The condition of the clarifier mechanism will be reviewed for damage due to the ice lifting mentioned, as well as damage due to corrosion or other causes. The center column has significant damage as does the skimmer arm and other components. The results and recommendations will be included in the inspection report described in Task 1.0.

TASK 4.0: Evaluation of Mechanism Repairs or Replacement for Primary Clarifier 2

Based on the current condition assessment, repairs to the mechanism will be evaluated if feasible and compared to a full mechanism replacement.

TASK 5.0: Opinion of Probable Construction Cost & Technical Memorandum

An opinion of probable construction cost will be developed for budgeting for the repair and replacement alternatives. Options for repair and full replacement of both the structure and mechanism will be evaluated. The results of the OPCC development, general observations and recommendations will be presented in a technical memorandum.

TASK 6.0: Bid Documents and Bidding (Not Included at This Time)

The 2011 limited structural evaluation indicated structural repairs to the concrete would be required to extend the clarifier's useful life and design and bidding could have proceeded to make those structural repairs. With the significant additional damage to the entire clarifier that occurred over the winter, we recommend completing the evaluation and cost estimating comparing the feasibility of making repairs to the clarifier versus a replacement and their associated estimated costs as presented in Tasks 1.0 through 5.0. This information will then be discussed with the City and an option selected such that the design effort can be defined.

TASK 7.0 Construction Administration (Not Included at This Time)

TASK 8.0 Construction Field Services (Not Included at This Time)

TASK 9.0 Project Closeout, Final Inspection, As-Recorded Documents (Not Included at This Time)

SCHEDULE

It is anticipated that HDR will receive a notice to proceed on or before July 1, 2019. The schedule that follows shows our anticipated schedule breakdown by major milestone, assuming the aforementioned start date and that the geotechnical information is available by March 31st.

- Notice to Proceed July 16, 2019
- Inspection Report Delivery August 23, 2019

KEY UNDERSTANDINGS

1. Existing drawings for the tank are available, legible, and provide the necessary structural design information.
2. Basic structural design checks will be performed to verify the original tank design is adequate, prior to revisions. This scope and proposed fee assumes the calculations will show no deficiencies in the original design.
3. Opinion of Probable costs will be in 2019 dollars.
4. HDR will execute an internal quality control review.

Watertown WWTP Primary Clarifier 2 Evaluation

Estimated Staff-Hours and Fee

Task	Principal	Project Manager	Project Engineer	Sr Civil QC (ASME)	Sr Structural QC (ASME)	Structural Engineer (ASME)	Project Controller	Project Assistant	Total Hours	Total Labor	Travel	Miscellaneous	Printing
	Moran	Erickson	Johnson	Peters	Kirchner	Anderson	Carla	Coday					
<i>Structural Condition Assessment of Primary Clarifier #2</i>													
<i>Subtotal</i>	0	4	1	0	2	24	2	2	35	\$5,980	\$0	\$0	\$15
<i>Evaluation of Structural Repair or Replacement of Primary Clarifier #2</i>													
<i>Subtotal</i>	0	4	1	0	2	12	2	2	23	\$3,820	\$0	\$0	\$30
<i>Condition Assessment of Clarifier Mechanism</i>													
<i>Subtotal</i>	0	4	12	0	2	8	2	2	30	\$4,860	\$160	\$0	\$15
<i>Evaluation of Mechanism Repairs or Replacement</i>													
<i>Subtotal</i>	0	4	20	0	1	4	1	1	31	\$5,060	\$0	\$0	\$10
<i>Opinion of Probable Construction Cost, Technical Memorandum</i>													
<i>Subtotal</i>	1	12	36	4	8	24	1	1	87	\$13,575	\$0	\$0	\$20
<i>Total Hours</i>	1	28	70	4	15	72	8	8	206				
										Total Labor	\$34,735		
										Total Expenses	\$250		
										Total Fee	\$34,985		

ORDINANCE NO. 19-XX

AN ORDINANCE AMENDING CHAPTER 3.01 OF THE REVISED ORDINANCES OF THE CITY OF WATERTOWN REGARDING DANGEROUS AND VICIOUS DOGS

BE IT ORDAINED by the City of Watertown, South Dakota, that Chapter 3.01 of the Revised Ordinances of the City of Watertown be amended as follows:

Chapter 3.01 GENERAL PROVISIONS

Section

3.0101 Definitions

3.0102 Running At-Large Prohibited

3.0103 Dogs and Cats on School Grounds or Municipally Controlled Public Parks and Recreation Areas

3.0104 ~~Dangerous and~~ Vicious Dogs

3.0105 Dog Kennels: Animals Disturbing the Public

3.0106 Cruelty to Animals

3.0107 Stray, Abandoned or Unkept Animals

3.0108 Unlawful to Poison

3.0109 Keeping of Certain Animals

3.0110 Responsibility

3.0111 Abandoning of Animals

3.0112 Permissions and Appeals

3.0113 Police Dogs Exempt

3.0101: DEFINITIONS

For the purposes of this chapter, the following words and phrases have the meanings respectively ascribed to them.

Animal: any mammal, bird, reptile, amphibian, or fish; except humans. (E-660)

Animal Control Officer: any person employed or appointed by the City who is authorized to investigate and enforce violations relating to animal control or cruelty under the provisions of this Ordinance. ~~the person designated by the Mayor who shall work under the direction of the Police Department for the enforcement of this chapter.~~ (E-397-1) (E-420-1).

Assistance Animal: an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability, but is not individually trained or certified to provide that assistance. (Ord 17-17; Add 05-26-17)

At-Large: a dog or cat shall be deemed to be running at-large when off or away from the premises and not under the control of the owner, possessor, keeper, agent or a member of the family by means of a leash, except in areas designated as "off-leash" by the City. (Ord 10-16; Rev 10-01-10).

Dangerous Animals: skunks, foxes or raccoons or other indigenous animals with a propensity for carrying or transmitting rabies or other harmful diseases or having vicious propensities and capabilities, and unpredictability despite attempts at domestication. (Ord 16-08; Rev 07-18-16).

Dangerous Dog: A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal or killed a companion animal. A canine or canine crossbreed is not a dangerous dog if,

upon investigation, the animal control officer finds that (i) no serious physical injury, as determined by a licensed veterinarian, has occurred to the dog or cat as a result of the attack or bite; (ii) both animals are owned by the same person; or (iii) such attack occurred on the property of the attacking or biting dog's owner or custodian; or

A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, the animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

No animal shall be found to be a dangerous dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous or a vicious dog.

No dog shall be found to be a dangerous dog if the Animal Control Board or a Court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.

Domestic Fowl: ducks, geese and chickens. (Ord 16-08; Rev 07-18-16).

Exotic Animals: non-human primates, venomous reptiles and crocodilians. (Ord 16-08; Rev 07-18-16).

Kennel: any place where three (3) or more dogs over four (4) months of age are boarded, raised, bred or offered for sale. (Ord 17-17; Add 05-26-17)

Owner: any person harboring or keeping an animal, and who is the head of the household, of the residence, or the owner or manager in charge of the establishment or premises at which an animal remains or returns to, is the owner of the animal within the meaning of this ordinance. (Ord 16-08; Rev 07-18-16).

Pet Shelter: a building and facilities therein approved by the health authority for the impounding of dogs or cats (E259-2). The Board of Health shall enter into appropriate agreement with the Codington County Humane Society for use of their facilities as a pet shelter and for office space for the Animal Control Officer. (E-384-1) (E-549-1).

Serious injury: an injury having a reasonable potential to cause death or any injury other than a sprain or strain, including serious disfigurement, serious impairment of health, or serious impairment of bodily function and requiring significant medical attention.

Service Animal: an animal as defined in 28 C.F.R. §§ 35.104 and 35.136, or as otherwise defined under the authority of the Americans with Disabilities Act. (Ord 01-08; Rev 09-14-01) (Ord 17-17; Rev 05-26-17).

Vicious dog: a canine or canine crossbreed that has (i) killed a person, (ii) inflicted serious injury to a person, or (iii) continued to exhibit the behavior that resulted in a previous finding by a court, the Animal

Control Board, or the animal control officer as authorized by ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous or a vicious dog.

No dog shall be found to be a vicious dog if the Animal Control Board or a Court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not vicious or a threat to the community.

3.0102: RUNNING AT-LARGE PROHIBITED

The owner of a dog or cat shall not permit such dog or cat to run at-large within the City. Whenever a dog or cat is found running at-large, the same shall constitute prima facie evidence that the owner permitted it to run at-large. (E259-2) (E-549-1).

3.0103: DOGS AND CATS ON SCHOOL GROUNDS OR MUNICIPALLY CONTROLLED PUBLIC PARKS AND RECREATION AREAS

Owners shall not permit their dogs or cats on any school ground when school is in session. Dogs or cats shall not be permitted on any municipally controlled public parks and recreation areas where the Parks, Recreation and Forestry Board has caused signs to be posted advising that dogs or cats are not permitted. The Parks, Recreation and Forestry Board may cause signs to be posted permitting dogs or cats to be present in designated areas when not controlled by a leash. In all other municipally controlled public parks and recreation areas, dogs or cats shall not be permitted unless controlled by a leash to prevent the dog or cat from biting any person or other animal. Service animals are exempt from the provisions of this section and assistance animals are exempt from all provisions of this section except any leash requirement. (E-259-2) (E-600-2) (Ord 09-20; Rev 10-02-09) (Ord 17-17; Rev 05-26-17).

3.0104: DANGEROUS AND VICIOUS DOGS

- ~~1. A dog may be declared vicious within the meaning of this section when a propensity to attack, bite, or menace human beings such that a person has a reasonable fear that they are in imminent danger of an attack, shall exist and is known or ought reasonably to be known to the owner. Such declaration may be made by the Animal Control Officer, his deputy, or any officer of the Police Department. Such declaration shall be made on the standard form of a uniform traffic citation but shall not serve as a complaint for a criminal offense. Such declaration shall be served upon the owner of the dog in one of the following manners:
 - a. Personal service upon the owner;
 - b. Personal service upon the owner or a resident of the premises upon which the dog is located;~~

- e. ~~Posting such declaration upon the front door, above the mailbox on the residence or on a conspicuous location near the kennel of the animal. For purposes of this section should a residence consist of a multifamily unit, the posting need only be made on an entrance to the building facing a city street or common parking lot. Such posting shall include the date of first posting which shall constitute the date of service.~~
2. ~~No vicious dog shall be allowed off the premises of its owner unless muzzled, on a leash, and in charge of the owner or a member of the owner's family who is over sixteen (16) years of age.~~
3. ~~No vicious dog shall be allowed in an area on the premises which are not included within a six (6) foot solid wall in which no path of ingress or egress exists except for one gated and latched entrance which must be locked at any time the dog is in the enclosure.~~
4. ~~Any vicious dog which is found off the premises of its owner other than provided herein shall be seized by the Animal Control Officer and/or Police Officer and impounded. If the dog cannot be captured without risking injury to the Animal Control Officer and/or Police Officer, it may be destroyed. Further, if the dog has been seen running at large, or bites a person and it can be witnessed, the Animal Control Officer or a Police Officer may order the owner to deliver the dog to the pet shelter within twenty four (24) hours and the owner ordered to appear in court to show cause why this dog should not be destroyed. Such order may be served in the same manner as the declaration of vicious dog described in (1) above. (E 259 2) (E 707) (Ord 16 08; Rev 07 18 16).~~

A. Purpose and Intent. The purposes of this section are to promote the public health, safety and general welfare of both the citizens of the City of Watertown and other domestic animals. It is intended to be applicable to dangerous and vicious dogs, as defined herein, and to ensure responsible handling by their owners.

B. Procedure for Initiating an Investigation into a Dog's Dangerousness or Viciousness.

1. The Animal Control Officer may initiate an investigation into the dangerousness of an animal based on his or her own observations.
2. Any adult person may request that an animal be investigated as to its dangerousness by submitting a written complaint to the Watertown Police Department on a form to be provided for such complaints. Upon receipt of the complaint, the Animal Control Officer shall notify the owner of the animal that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted. The Animal Control Officer will initiate his or her investigation within two (2) business days after receipt of the complaint.
3. At any time during the course of an investigation, the Animal Control Officer may impound the animal being investigated if the Animal Control Officer determines that the public safety so requires.

C. Investigation.

1. The Animal Control Officer shall thoroughly investigate each complaint to determine if the dog is dangerous or vicious, as each of those terms are defined herein. The Animal Control Officer shall consider all relevant factors including, but not limited to, severity of injury to

the victim, statements from witnesses/victims, previous aggressive history of the dog, observable behavior of the dog, and circumstances of the incident.

2. At the conclusion of an investigation, the Animal Control Officer may:
 - a. Find that the dog is neither vicious nor dangerous and, if the dog is impounded and not quarantined pending a rabies evaluation, release the dog to its owner upon payment of any required impoundment or pickup fees; or
 - b. Find that the dog is dangerous and order the owner to comply with the requirements for keeping dangerous dogs set forth in subsection I. of this section, and, if the dog is impounded and not quarantined pending a rabies evaluation, release the dog to its owner after the owner has paid all required impoundment or pickup fees and complied with the relevant parts of subsection I. of this section. If all impoundment fees have not been paid and conditions met within ten (10) business days after the owner receives notice that the Animal Control Officer has found the dog to be dangerous, the Animal Control Officer may cause the dog to be humanely euthanized. The humane euthanization shall not relieve the owner of the responsibility for payment of impoundment or pickup fees.
 - c. Find that the dog is vicious and order the dog humanely euthanized in accordance with subsection J. of this section.

D. Notification of Dangerous or Vicious Dog Finding.

1. Within three (3) business days after finding a dog dangerous or vicious, the Animal Control Officer shall notify the owner by personal service of the dog's designation as a dangerous or vicious dog. In the case of a dangerous dog, the notice shall state the required restrictions and conditions for keeping the dog, as set forth in subsection I. of this section. In the case of a vicious dog, the Animal Control Officer shall notify the owner that, absent a successful appeal to the Animal Control Board, the dog will be humanely euthanized following the tenth business day after either the declaration by the Animal Control officer or the determination of the Animal Control Board, whichever is later. The Animal Control Officer also shall also forward to the City Attorney and the Assistant Chief of Police a written report describing the designation of any dog as a dangerous or vicious dog. The notification shall describe the dog and specify any requirements or conditions placed upon the dog or owner.
2. The notice shall inform the owner that he or she may request, in writing, within five (5) business days after delivery of the notice, a hearing to contest the Animal Control Officer's finding and designation and shall contain instructions on how to appeal the finding and designation.

E. Notification to complainant. In all cases, the Animal Control Officer shall notify the complainant of the Animal Control Officer's finding and designation within three (3) business days of making the finding and designation. Notice to the complainant shall be made by first class mail, and shall contain instructions on how to appeal the finding and designation.

F. Humane euthanization of unclaimed animal. If the Animal Control Officer cannot with due diligence locate the owner of a dog that has been seized pursuant to this section, the Animal Control Officer shall cause the dog to be impounded for not less than ten (10) business days. If, after ten (10) business days, the owner fails to claim the dog, the Animal Control Officer may cause the dog to be humanely euthanized.

G. Hearing on dangerous or vicious declaration.

1. If the owner or complainant disagrees with the Animal Control Officer's finding and determination, he or she may request, in writing to the Watertown Police Department, a hearing before the Animal Control Board within five (5) business days after receiving the Animal Control Officer's determination. The Animal Control Board shall hold a hearing not less than three (3) nor more than ten (10) business days after receiving the owner's or complainant's written request for such a hearing. The purpose of the hearing shall be to uphold, overturn or modify the Animal Control Officer's finding and determination. The Chair of the Animal Control Board shall provide notice of the date, time and location of the hearing to the dog's owner by personal service and to the complainant by first-class mail. Notice must be received by the owner and complainant a minimum of two (2) business days prior to the hearing.
2. At the hearing, all interested persons shall be given the opportunity to present evidence on the issue of the dog's dangerousness or viciousness. Criteria to be considered in a hearing required by this section shall include, but not be limited to, the following:
 - a. Provocation;
 - b. Severity of attack or injury to a person or domestic animal;
 - c. Previous aggressive history of the animal;
 - d. Observable behavior of the animal;
 - e. Site and circumstances of the incident; and
 - f. Statements from interested parties.
3. The Animal Control Board shall issue a decision upholding or overturning the Animal Control Officer's determination. The decision may be issued verbally at the hearing but, in any case, shall be issued in writing and personally served on the dog's owner within three (3) business days after the hearing.
4. A determination by the Animal Control Board that the dog is a dangerous dog shall subject the animal and its owner to the provisions of subsection I. of this section. A determination that the animal is a vicious dog shall result in the vicious dog being humanely euthanized not less than ten (10) business day following receipt of notice of the Animal Control Board's decision.
5. Failure of either the owner or the complainant to request a hearing within the prescribed time shall result in the Animal Control Officer's determination being final.

H. Appeal from dangerous or vicious dog declaration. If the Animal Control Board determines that a dog is dangerous or vicious after a hearing conducted under subsection G. of this section, that decision shall be final unless the owner or complainant, within 10 business days after receiving notice that the dog has been determined to be dangerous or vicious, applies to the South Dakota Circuit Court, Third Judicial Circuit, for any remedies that may be available.

I. Keeping of dangerous dogs. No person may keep within the boundaries of the city any dangerous dog unless the following conditions are met:

- 1. Leash.** No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its kennel, pen or other proper enclosure unless the dog is securely attached to a leash not more than 4 feet in length. No such person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person capable of controlling the dog is in physical control of the leash and the leash is not more than 4 feet in length.
- 2. Muzzle.** It is unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its proper enclosure, even when on a leash, unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. The muzzle shall not interfere with the dog's breathing or vision.
- 3. Confinement.** Except when leashed and muzzled as provided in this section, a dangerous dog shall be securely confined indoors or confined in a locked pen or other secure enclosure that is suitable to prevent the dog from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:
 - a. The structure must have secure sides and a secure top;
 - b. The structure must have a bottom permanently attached to the sides or the sides must be embedded not less than 1 foot into the ground; and
 - c. The structure must be of a material and closed in a manner that the animal cannot exit the enclosure on its own.

No dangerous dog shall be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the building on its own volition. In addition, no dangerous dog shall be kept in a house or structure when screen windows or doors are the only obstacle preventing the dog from exiting the structure.

- 4. Insurance.** The owner of a dangerous dog shall maintain liability insurance coverage in the amount of at least one-hundred thousand dollars (\$100,000) for death and bodily injury per person, two-hundred thousand dollars (\$200,000) for death and bodily injury per incident, and twenty-five thousand dollars (\$25,000) for property damage, which may result from actions of the dangerous dog, or from actions or inactions of the owner of the dangerous dog. Proof of the required insurance coverage shall be provided to the Animal Control Officer upon demand.
- 5. Notification of escape.** The owner or keeper of a dangerous dog shall immediately notify the Watertown Police Department if the dog escapes from its enclosure or restraint and is at large. The immediate notification shall also be required if the dog bites or attacks a person or domestic animal or livestock.

6. Failure to comply. It is unlawful and a Class II misdemeanor, subject to the punishment provisions in Section 3.9901, for any owner of a dangerous dog to fail to comply with the requirements and conditions set forth in this section. Any dog found by the Animal Control Officer to be in violation of this section, and whose owner has previously been convicted of failure to comply pursuant to this section, shall be immediately seized and humanely euthanized as soon as reasonably practicable on the second business day after seizure.

J. Humane euthanization of vicious dogs. It is unlawful and a Class II misdemeanor, subject to the punishment provisions in Section 3.9901, for any owner of a vicious dog to possess any vicious dog in the city limits. All dogs finally determined to be vicious, either by declaration of the Animal Control Officer or an unsuccessful appeal to the Animal Control Board, shall be humanely euthanized following the tenth business day after either the declaration by the Animal Control Officer or the decision of the Animal Control Board, whichever is later, unless the decision of the Animal Control Board is appealed to South Dakota Circuit Court.

K. Change of ownership.

1. Any owner of a dangerous dog who sells or otherwise transfers ownership, custody or residence of the dog shall, within 10 business days after the change of ownership or residence, provide written notification to the Watertown Police Department of the name, address and telephone number of the new owner. It also shall be the responsibility of the person transferring ownership or custody of the dog to provide written notification of the dog's classification as dangerous to the person receiving the dog. The previous owner shall furnish a copy of the notification to the Watertown Police Department along with written acknowledgment by the new owner of his or her receipt of the notification. The new owner shall notify the Watertown Police Department of any changes of ownership, custody or residence of the dog within 3 business days after receiving the required information from the previous owner.
2. Any person receiving a dog classified as dangerous must comply fully with all provisions of this section pertaining to ownership of a dangerous dog.

L. Continuation of dangerous dog declaration.

1. Any dog that has been declared dangerous by the City of Watertown, or another municipality, county or state shall be subject to the provisions of this section for the remainder of its life unless the dangerous dog designation is removed in accordance with subsection L.2. of this section. The person owning or having custody of any dog designated as dangerous by any municipality, county or state government shall notify the Watertown Police Department of the dog's address and conditions of maintenance within 10 days of moving the dog into the city. The restrictions and conditions of maintenance of any dog declared dangerous by the City of Watertown, another municipality, county or state shall remain in force while the dog remains in the city.
2. The owner of a dangerous dog may petition the Animal Control Board for a removal of the dangerous dog designation after three (3) consecutive years during which the owner has received no violations under this section. The Animal Control Board shall, upon the owner's petition, review the designation of a dog as dangerous and, if the dog is determined no longer to be dangerous, the dangerous dog designation shall be removed. The Animal Control Board may place conditions upon the removal of a dog's dangerous designation including, but not limited to, requiring the dog be neutered and requiring the dog to attend obedience classes.

M. Police and military animals. Nothing in this section shall be construed to limit, affect or apply to the use of dogs by law enforcement, military or rescue organizations.

N. Retroactivity. No dog may be declared dangerous or vicious based solely on the dog's activity prior to the effective date of the ordinance codified in this section; however, the activity, including, but not limited to substantiated reports of bites or aggressive behavior, may be considered during a current investigation.

3.0105: DOG KENNELS: ANIMALS DISTURBING THE PUBLIC

1. It shall be unlawful for any person to keep a dog or dogs in a doghouse nearer the house of a neighbor than the applicable yard setback requirements established in Section 21.1002 and Chapter 21.60 of the Revised Ordinances of the City of Watertown. It shall also be unlawful for any person to keep a kennel with an outdoor run or accessory kennel structure nearer the house of a neighbor than fifty (50) feet. Such doghouse or kennel shall be kept in a clean and sanitary condition, and not permitted to become stagnant, noxious or a nuisance. The Animal Control Officer ~~or Police Department~~ shall cause a written notice to clean such doghouse or kennel within twenty four (24) hours to be served when necessary. (Ord 17-17; Rev 05-26-17).
2. It shall be unlawful to keep within the limits of this City any animal, including a cat, which causes a disturbance by barking or by being a nuisance to the annoyance or disturbance of the public. (E-259-2) (E420-1).

3.0106: CRUELTY TO ANIMALS

No person shall willfully or negligently maltreat or abuse or neglect in a cruel or inhumane manner any animal or fowl. (E-259-2).

3.0107: STRAY, ABANDONED OR UNKEPT ANIMALS

No person shall harbor or keep any stray animals. Animals known to be stray shall be immediately reported to the Animal Control Officer. (E-259-2).

3.0108: UNLAWFUL TO POISON

Unless recommended by the Animal Control Officer ~~or Police Department~~, it shall be unlawful for any person to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any dog or cat, the property of another, with the intent to injure or destroy such dog or cat or to willfully or maliciously place any poison or poisoned food where the same is accessible to any dog or cat. (E-259-2) (E-420-I) (E-600-2).

3.0109: REGULATIONS ON THE KEEPING OF CERTAIN ANIMALS

1. Horses: It shall be unlawful for any person to maintain horses or to operate or maintain stables in any R1, R2, R2A, R3 or R4 residential district within the city limits of this City, with the exception of any service animal or any assistance animal authorized under the Fair Housing Act or Section 504 of the Rehabilitation Act of 1973, unless signatures by petition of one hundred percent (100%) of the adjoining land owners and fifty percent (50%) of the land owners within three hundred (300) feet of the same shall have signified approval thereof and provided further that said area be adequately fenced with woven wire, wood or equivalent fence at least two and one-half (2-1/2) feet high and plain strand for any higher fence.

- a. The City Council shall have authority to grant variances from the above requirements after notice and hearing.
 - b. Any area where horses are maintained shall be kept neat and orderly. (Ord 17-17; Rev 05-26-17).
2. Hooved Animals Other than Horses: Excluding horses, no hooved animals shall be kept or maintained within City limits. (Ord 17-17; Rev 05-26-17).
3. Domestic Fowl: The keeping of domestic fowl shall be by special permission of the animal control board. (Ord 16-08; Rev 07-18-16).
4. Dangerous Animals: The keeping or harboring of dangerous animals, not already declared vicious under Section 3.0104, is expressly prohibited within the city limits of Watertown. Any Dangerous Animal found within the city limits of Watertown shall be immediately impounded by proper authority and either removed from the city limits or humanely ~~destroyed~~euthanized. Dangerous Animal determinations are not subject to appeal to the animal control board. (Ord 16-08; Rev 07-18-16).
5. Exotic Animals: Any Exotic Animal found within the city limits of Watertown shall be immediately impounded by proper authority and removed from the city limits. Exotic Animal determinations may be appealed to the animal control board with the exception of non-human primates. (Ord 16-08; Rev 07-18-16).

3.0110: RESPONSIBILITY

1. No person shall create or maintain any condition, or operate any equipment or keep any animal, fowl, pet or insect under his jurisdiction in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.
2. The Bramble Park Zoo shall not be governed by this chapter but shall have an ongoing program to minimize the public's exposure to disease communicable from animal to man within its jurisdiction.
3. No owner, keeper, caretaker or attendant of a dog or cat shall allow a dog or cat to defecate on public or private property other than his own. If such a dog or cat does defecate upon public or private property, the owner, keeper, caretaker or attendant must immediately and thoroughly clean the fecal material from such property. (E-259-2) (E-600-2).
4. Any person accompanied by any animal on public or private property other than his own must carry with him visible means of cleaning up any fecal matter left by the animal. Service animals and animals used in parades are exempt from the provisions of this section. (Ord 01-08; Rev 09-14-01).
5. No person shall keep any animals on any lot on a scale or basis creating a nuisance (E-259-2) (Ord 16-08; Rev 07-18-16).

3.0111: ABANDONING OF ANIMALS

No person shall abandon an animal within the city limits of this City. (E-259-2).

3.0112: SPECIAL PERMISSIONS AND APPEALS

1. ~~As contemplated by certain provisions of Section 3.0109, an~~ owner may appeal a declaration ~~to,~~ or seek ~~the~~ permission ~~of,~~ ~~under Sections 3.0104 and 3.0109 to~~ the Animal Control Board by filing with the ~~Watertown Police Department~~ ~~Chief of Police or the Finance Officer~~ a written statement seeking special permission or objecting or appealing to the declaration of an animal. Such written statement of objection or appeal or request for special permission must be filed within ten (10) business days of the date of service of a declaration or violation.
2. Within ten (10) business days of the date of filing the appeal or request for special permission the Animal Control Board shall hear such appeal or request for special permission and determine whether it has been shown by a preponderance of the evidence that such animal is declared ~~exoticas a vicious dog~~ or should be granted special permission to remain within the city limits. Such hearing date may be extended by a written order signed by a majority of the Animal Control Board. (Ord 16-08; Rev 07-18-16).

3.0113: POLICE DOGS EXEMPT

Any dog owned by any state, county or municipal police department or any state or federal law enforcement agency which has been trained to aid law enforcement officers is exempt from the provisions of this Chapter when actually being used for law enforcement purposes.

The above and foregoing Ordinance was moved for adoption by Alderperson _____, seconded by Alderperson _____, and upon voice vote motion carried, whereupon the Mayor declared the Ordinance duly passed and adopted.

I certify that Ordinance 19-XX was published in the Watertown Public Opinion, the official newspaper of said City, on this ____ day of _____, 2019.

Kristen Bobzien, Finance Officer

First Reading: _____
 Second Reading: _____
 Published: _____
 Effective: _____

ATTEST:

CITY OF WATERTOWN

Kristen Bobzien
 Finance Officer

Sarah Caron, PE, CFM
 Mayor