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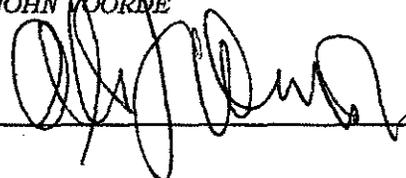
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ORDINANCE No. 10309-14

Passed by the Common Council of the City of South Bend, Indiana \_\_\_\_\_

\_\_\_\_\_ May 28, 20 14

Attest:  City Clerk  
JOHN VOORDE

Attest:  President of Common Council

Presented by me to the Mayor of the City of South Bend, Indiana \_\_\_\_\_

\_\_\_\_\_ May 29, 20 14

 City Clerk  
JOHN VOORDE

Approved and signed by me MAY 29 20 14

 Deputy Mayor

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AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 5 OF THE *SOUTH BEND MUNICIPAL CODE* IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 5 ENTITLED RESPONSIBLE ANIMAL AND PET OWNERSHIP CARE AND CONTROL REGULATIONS AND AMENDING SECTION 2-213 OF THE *SOUTH BEND MUNICIPAL CODE* ADDRESSING SCHEDULE OF ORDINANCE AND CODE VIOLATIONS.

STATEMENT OF PURPOSE AND INTENT

(a) The following regulations are enacted in the interest of setting forth comprehensive public safety regulations which, when effectively implemented, administered and enforced, promote responsible animal and pet ownership. The regulations are aimed at ensuring due process protections for owners by promoting responsible animal and pet ownership, which is essential to the protection of animals residing in the city limits.

(b) The following regulations set forth the best practices for the humane and ethical treatment of animals by requiring animal and pet owners to comply with reasonable regulations in order to be responsible owners.

*Now, therefore, be it ordained by the Common Council* of the City of South Bend, Indiana, as follows:

Section I. Chapter 5 of the *South Bend Municipal Code* is amended in its entirety and replaced in its entirety to read as follows:

**CHAPTER 5**

**RESPONSIBLE ANIMAL AND PET OWNERSHIP CARE AND CONTROL REGULATIONS**

**Article 1. General Provisions.<sup>1</sup>**

- Sec. 5-1 Legislative Findings and Intent of Regulations.
- Sec. 5-2 Definitions.
- Sec. 5-3 Regulations are Supplemental to State and County Laws.
- Sec. 5-4 Schedule of Fees for the Division of Animal Care and Control.
- Sec. 5-5 Through Sec. 5-7 Reserved for Future Use.

**Article 2. Honey Bee Keeping Regulations.**

- Sec. 5-8 Legislative Findings.

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<sup>1</sup> *Indiana Code* § 36-1-4-11, authorizes the city to pass and enforce ordinances.

- Sec. 5-9 Definitions.
- Sec. 5-10 Honey Bee Keeping Public Safety Regulations.
- Sec. 5-11 Compliance Required; Penalties.
- Sec. 5-12 Through Sec. 5-14 15 Reserved for Future Use.

**Article 3. Animal Care and Control Rules and Regulations.**

- Sec. 5-15 16 Adequate Shelter, Food and Water to be Provided.
- Sec. 5-16 17 Medical and Grooming Care Requirements.
- Sec. 5-17 18 Removal of Excrement Required.
- Sec. 5-19 Acreage Requirements for Certain Domestic Animals and Fowl.
- Sec. 5-20 Urban Chicken Regulations.
- Sec. 5-21 Restraint of Animals Required; Limited Exception for Off-Leash Dog Run Park.
- Sec. 5-22 Fastening Animals with Rope or Chain; Choker Collar.
- Sec. 5-23 Cruelty to Animals Prohibited.
- Sec. 5-24 Animal Hoarding Prohibited.
- Sec. 5-25 Animal Fights and Fighting Contests Prohibited.
- Sec. 5-26 Prohibited Animal Events.
- Sec. 5-27 Poisonous Bait Prohibited.
- Sec. 5-28 Enticement of Another Person's Animal Prohibited.
- Sec. 5-29 Interference With Another Person's Animal Prohibited.
- Sec. 5-30 Offensive Use of Animal Prohibited.
- Sec. 5-31 Abandonment of Animals Prohibited.
- Sec. 5-32 Trapping and ~~Free-Roaming-Cat~~ Wildlife Regulations.
- Sec. 5-33 Public Nuisance Animals Prohibited.
- Sec. 5-34 Animals as Prizes or Inducements
- Sec. 5-35 Dying or Staining Animals Prohibited and Selling Animals as Novelties Prohibited.
- Sec. 5-36 Notification of Injury Caused by Motor Vehicle to Animals Required.
- Sec. 5-37 Notification of Lost or Stray Animals Prohibited.
- Sec. 5-38 Potentially Dangerous Animals.
- Sec. 5-39 Biting Animals; Report; Procedure
- Sec. 5-40 Exotic Animals and Native Wildlife.
- Sec. 5-41 Training Methods.
- Sec. 5-42 Destruction of Animals.
- Sec. 5-43 Habitual Animal Offender.
- Sec. 5-44 Free Roaming Cat Trap-Neuter Return Regulations.
- Sec. 5-45 Through Sec. 5-49 Reserved for Future Use.
- Sec. 5-50 Pet Registration Required; Exception; Tags; Microchip Implant.
- Sec. 5-51 Application for Registration or Permits.

- Sec. 5-52 Fees.
- Sec. 5-53 Permit Suspension.
- Sec. 5-54 Appeals; Re-inspections; Denials or Revocation of Permit.
- Sec. 5-55 Redemption of Impounded Animals Seized for Permit Denials, Suspensions or Revocation.
- Sec. 5-56 Through Sec. 5-59 Reserved for Future Use.

**Article 5. Commercial Animal Permit Regulations.**

- Sec. 5-60 Kennel/Cattery Permit Regulations.
- Sec. 5-61 Major Breeder's Permit Regulations.
- Sec. 5-62 Minor Breeder's Permit Regulations; Sale of Underage Animals Prohibited.
- Sec. 5-63 Veterinary Hospitals/Clinics
- Sec. 5-64 Grooming Shop Permit.
- Sec. 5-65 Pet Shop Permit
- Sec. 5-66 Circuses, Animal Concessions and Animal Events.
- Sec. 5-67 Zoological Parks.
- Sec. 5-68 Exceptions for Division of Animal Care and Control and Animal Welfare Organizations.
- Sec. 5-68 69 Through Sec. 5-74 Reserved for Future Use.

**Article 6. Specific Requirements Governing Dogs and Cats.**

- Sec. 5-75 Rabies Vaccination Required.
- Sec. 5-76 Dogs or Cats in Heat.
- Sec. 5-77 Sale of Puppies and Kittens.
- Sec. 5-78 Through 5-85 Reserved for Future Use.

**Article 7. Animal Euthanasia.**

- Sec. 5-86 Euthanizing Animals.
- Sec. 5-87 Through Sec. 5-89 Reserved for Future Use.

**Article 8. Administration and Enforcement.**

Division I. Shelter Manager.

- Sec. 5-90 Duties of Shelter Manager.
- Sec. 5-91 Through Sec. 5-94 Reserved for Future Use.

Division II. Animal Control Commission.

- Sec. 5-95 Animal Control Commission Established; Membership.
- Sec. 5-96 Officers, Meetings and Meeting Minutes of the Animal Control Commission.
- Sec. 5-97 Duties and Responsibilities of the Animal Control Commission.
- Sec. 5-98 Through Sec. 5-104 Reserved for Future Use.

Division III. Implementation and Enforcement.

- Sec. 5-105 Interfering With Enforcement.
- Sec. 5-106 Impoundment.
- Sec. 5-107 Notice to Owner.
- Sec. 5-108 Redemption.
- Sec. 5-109 Inspections.
- Sec. 5-110 Disposition of Money.
- Sec. 5-111 Penalties.
- Sec. 5-112 Through Sec. 5-119 Reserved for Future Use.

**Article 9. Rental Horses.**

- Sec. 5-120 Definitions.
- Sec. 5-121 Permits and Administration.
- Sec. 5-122 Housing/Stable Premises.
- Sec. 5-123 Regulations.
- Sec. 5-124 Excepted from Coverage.
- Sec. 5-125 Through Sec. 5-129 Reserved for Future Use.

## Article 1. General Provisions.

### Sec. 5-1. Legislative Findings and Intent of Regulations.

(a) The following regulations are enacted in the interest of setting forth comprehensive public safety regulations which, when effectively implemented, administered and enforced, promote responsible animal and pet ownership. The regulations are aimed at ensuring due process protections for owners by promoting responsible animal and pet ownership, which is essential to the protection of animals residing in the city limits.

(b) The following regulations set forth the best practices for the humane and ethical treatment of animals by requiring animal and pet owners to comply with reasonable regulations in order to be responsible owners.

### Sec. 5-2. Definitions.

For the purpose of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) *Abandon*: To knowingly, intentionally, or recklessly leave unattended, without proper food, water, or shelter, for 24 hours or more, in or about a building or structure or any portion thereof on or about any property.<sup>2</sup>
- (b) *Adequate shelter*: A structure designed specifically to shelter an animal that allows an animal to maintain its body heat, with a roof, structured floor and three sides free of leaks or openings to the wind and rain, and a fourth side allowing access that is protected from the elements. The structure is physically located in a dry area allowing the animal ~~dry-keeping to stay dry~~ and access outside the structure to dry ground that is mud free. Livestock require a structure with three sides and a roof designed to protect it from the elements.
- (c) *Altered animal*: An animal that has been operated on to prevent it from procreating.
- (d) *Animal*. Any living vertebrate, domestic or wild, except a human being.<sup>3</sup>

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<sup>2</sup> *Indiana Code* § 25-38.1-4-8 sets forth regulations addressing “abandoned animals” and the role of a veterinarian. *Indiana Code* § 35-46-3-7, Version A addresses abandonment or neglect effective through July 1, 2014 and *Indiana Code* § 35-46-3-7, Version B sets forth regulations addressing abandonment and neglect which become effective July 1, 2014.

<sup>3</sup> *Indiana Code* § 25-38.1-1-5 defines an animal as including “birds, fish, mammals and reptiles wild or domestic”.

(e) *Animal Concession*: Any person, group of persons, partnership, or corporation who for compensation has any animal available for hire or on display.

(f) *Animal Control Commission*: The Animal Control Commission shall be an advisory Commission ~~as established in Division III of this Chapter, with regard to policy and fiscal decisions affecting the Division of Animal Care and Control, with the Common Council having final authority regarding fiscal matters.~~

(g) *Animal Control Officer*: Means a person authorized to carry out the provisions of this Chapter.

(h) *Animal event*: Display, activity or show of wild or domestic animals in a shopping center, retail establishment, adjacent lot, or elsewhere.

~~(i) *Animal fighting paraphernalia*: Equipment or items used to train or condition animals for participation in an animal fighting contest or materials to promote animal fighting, the breeding of animals specifically for the purpose of fighting, train animals for fighting, or to track the results of animal fights.<sup>4</sup>~~

(j) ~~(i)~~ *Animal hoarder*: Any person who:

1. Having one or more than animals and failing to provide adequate standards of nutrition, sanitation, shelter, and veterinary care, with this neglect often resulting in illness and death from starvation, spread of infectious disease, and untreated injury or medical condition, ~~or~~
2. ~~Denial of the inability to provide this minimum care and the impact of that failure on the animals, the household, and human occupants of the dwelling, or~~
3. 2. Persistence, despite this failure, in accumulating and controlling animals.

(k) ~~(i)~~ *Animal welfare organization*: Any group maintaining a 501 (c) 3 status with the primary purpose of promoting animal health, safety, or adoption or the prevention of animal cruelty. Organizations described in section 501(c) (3) commonly referred to as charitable organizations or non-profit organizations, as per Internal Revenue Service standards. ~~The animal welfare organization's IRS letter of determination must be on file with South Bend Animal Care and Control.~~

(l) ~~(k)~~ *At large animal*: Any animal not under restraint or control. This section does not apply to free-roaming and/or community cat(s).

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<sup>4</sup> ~~Indiana Code § 35-46-3-4.2 defines "animal fighting paraphernalia".~~

- ~~(m)~~ (l) *Attack*: Where the animal exhibits one or more of the following behaviors, including, but not limited to: snarling, biting, baring teeth, chasing, growling, barking, snapping, pouncing, lunging.
- ~~(n)~~ (m) *Auction*: Any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this Chapter or by Indiana state law.
- ~~(o)~~ (n) *Breeder*: Any person who intentionally or accidentally causes the breeding of an animal or makes an animal cat or dog available for breeding purposes, or any person who offers for sale, sells, trades, receives other compensation or gives away any litter of dogs or cats; or any person who has unaltered animals who habitually (two or more litters) have accidental litters.<sup>5,4</sup>
- ~~(p)~~ (o) *Bite*: To seize or cut with the teeth, breaking the skin".<sup>6</sup> 5
- ~~(q)~~ (p) *Business day*: Monday through Friday, except for federal, ~~or state,~~ or local holidays.
- ~~(r)~~ (q) *Caretaker*: A person who provides food, water and shelter for ~~free-roaming and/or~~ community cat(s) as defined by this Chapter.
- ~~(s)~~ (r) *Cattery*: Any person or group of persons, partnership or corporation engaged in keeping more than one (1) unaltered cat for the purposes of breeding.

(s)Chicken coop also referred to as chicken pen means an enclosure or enclosed structure used for housing urban chickens with provides shelter from the elements which must meet the standards set forth in Section 21-02.11 of this Code.

(t)Chicken flock means more than one (1) urban chicken which:

1. Contains no more than six (6) hens and no roosters; and
2. Is issued a permit pursuant to Section 21-02.11 of this Code.

(u)Chicken flock means more than one (1) urban chicken which:

1. Contains no more than six (6) hens and no roosters; and
2. Is issued a permit pursuant to Section 21-02.11 of this Code.

<sup>4</sup> Indiana Code 15-21 sets forth "Commercial Dog Breeder Regulations".

<sup>5</sup> Indiana Code § 15-20-1-3 sets forth the regulations address "dog bite liability". Indiana Code § 15-20-1-4 Version A sets forth the regulations addressing dog bite liability as a criminal offense through July 1, 2014 and Indiana Code § 15-20-1-3 Version B sets forth the regulations addressing dog bite liability as a criminal offense effective July 1, 2014.

(v) Chicken pen means an enclosure that must meet the standards set forth in Section 21-02.11 of this Code.

(t)(w) City: City of South Bend, Indiana.

(v) (x) Circus: Performances given by traveling companies on vacant lots with tents, or some other kind of temporary enclosure, where performances are given for a fee. Performances may include, but are not limited to trained animal acts, races, feats of horsemanship, acrobatics, strength, trapeze acting, or clowns. See also Section 4-22 of this Code.

(y) Commercial: Of, pertaining to, or characteristic of commerce.

(u)(z) Community cat: An unowned, outdoor cat that has been evaluated and sterilized by a licensed veterinarian, ear tipped and released back into the area from which it was captured and is cared for by a caretaker.

(w) Dangerous animal: Any animal that:

- ~~1. Has, off of its owner's property, attached another animal or livestock; or~~
- ~~2. Has attacked or which has attempted to attack, unprovoked, any human being, whether on or off the owner's property; or~~
- ~~3. Has bitten any human being, unprovoked, with said injury requiring stitches and the loss of blood; or~~
- ~~4. Has bitten or attacked a person, unprovoked, causing wound or injuries creating a potential danger to the health or life of the victim; or~~
- ~~5. Has a history documented with a public agency of biting or attacking humans or domestic animals; or~~
- ~~6. Has a known propensity, tendency or disposition to attack, to cause injury or otherwise threaten or endanger the safety of humans or domestic animals; or~~
- ~~7. Has been found to be at large and has been documented to be at large by an animal control officer on three (3) or more separate occasions in a twelve-month period.~~

~~However, no animal shall be considered a dangerous animal if injury or damage is inflicted by that animal upon a person or another animal if such person or other animal, at the time such injury or damage was sustained, was committing a criminal trespass upon the premises occupied by the owner or keeper of the animal, or was provoking, teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime. The definition excludes law enforcement animal, K-9 dogs, and police dogs.~~

(x)(aa) Dangerous wild or dangerous exotic animal: A wild or exotic animal, not indigenous to the State of Indiana, not commonly found as a domestic animal, that would create a potential risk to public safety including but not limited to bears, wolves, lions, tigers, jaguars, leopards, cougars, alligators, crocodiles, caimans, snakes and reptiles that are venomous, apes, baboons, macaques, or any hybrid of like animal.

(y) (bb) *Division of Animal Care and Control*: The municipally operated division established for the purpose of animal control, care and disposition, as set forth in this Chapter, operated by and under the direct supervision of the Director of the Code Enforcement Department and the Shelter Manager.

(z) (cc) *Director*: The Director of the Code Enforcement Department for the city.

(aa) (dd) *Domestic animal*:<sup>7</sup> Any animal that is a member of one (1) of the following species:

1. Dog (*Canis familiaris*)
2. Cat (*Felis catus* or *Felis domesticus*)
3. Cattle (*Bos domesticus* or *Bos Taurus* or *Bos indicus*)
4. Horse (*Equus caballus*)
5. Donkey (*Equus asinus*)
6. Pig (*Sus scroffa*) (Excluding pot-bellied pig)
7. Sheep (*Ovis aries*)
8. Goat (*Capra hircus*)
9. Bison
10. Chickens (Excluding urban chickens)
11. Pigeons
12. Rabbit (*Oryctolagus cuniculus*)
13. Mouse (*Mus musculus*)
14. Rat (*Rattus rattus*)
15. Guinea Pig (*Cavia procellus*)
16. Chinchilla (*Chinchilla langier*)
17. Hamster (*Mesocricetus auratus*)
18. Gerbil (*Gerbillus gerbillus*)
19. Mink
20. Cow or Ox (Bovine)
21. Ferret
22. Llamas
23. And all other domestic animals defined in IC 15-2.1-2-15.

(bb) (cc) *Enforcement Authority*: Law Enforcement Control Agencies and officers acting on their behalf and Animal Control and Care Officers sanctioned by the City of South Bend, St. Joseph County, or the State of Indiana.

(ff) *Enticement*: to attract or lure.

<sup>7</sup> *Indiana Code* § 35-46-3-12, Version A sets forth the state regulations addressing the killing of a domestic animal which remain in effect until July 1, 2014 and *Indiana Code* § 35-46-3-11.5, Version B set for the state regulations addressing the killing of a domestic animal which take effect July 1, 2014.

(ee) (gg) *Exotic animal*: means Any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska and Hawaii, except fish and fur-bearing animals commercially bred for the furrier trade and birds defined under federal regulations, and nonpoisonous snakes and reptiles

(dd) (hh) *Foster animal*: means Any animal placed by an animal welfare organization in temporary care at a foster home until it is adopted. For the purposes of this Chapter, it is not owned by the animal welfare organization or the foster home and is exempt from license requirements while it is a foster animal.

(ee) (ii) *Foster home*: Physical location away from an animal shelter providing temporary care to a foster animal.

(ff) (jj) *Free-roaming cat*: Any unowned, unaltered outdoor cat.

(gg) (kk) *Grooming shop*: A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

(hh) (ll) *Harboring*: means The actions of any person that permit any animal habitually to remain at large or to be fed within his/her home, store, enclosure, yard or place of business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three (3) consecutive days. This does not apply to community cats or free-roaming cats.

(ii) (mm) *Impoundment*:<sup>8</sup> To seize and place in to the Animal Shelter for the City of South Bend, any animals found in violation of this Chapter and/or Indiana law, or to temporarily house animals in protective custody due to disaster or other tragic event.<sup>9</sup>

(jj) (nn) *Intact animal permit*: The permit required by any person engaged in owning or harboring more than one dog over the age of six (6) months, which is unaltered, and/or more than one (1) cat over the age of six (6) months, which is unaltered.

(kk) (oo) *Kennel*: Any person, group of persons, partnership or corporation engaged in keeping more than one (1) unaltered dog, or the business of boarding, or training for a fee, or grooming and which is zoned for such purposes.

<sup>8</sup> Indiana Code § 35-46-3-6 addresses the impoundment of animals, probable cause hearings and bond requirements.

<sup>9</sup> Indiana Code § 15-20-1-7 authorizes a "law enforcement officer or any other person having authority to impound animals [who] has probable cause to believe that there has been a violation..." with Indiana Code § 35-46-3-6 applying. Indiana Code § 35-46-3-11, Version A sets forth cruelty to law enforcement animal regulations effective until July 1, 2014 and Indiana Code § 35-46-3-11, Version B sets forth cruelty to law enforcement animal regulations which become effective July 1, 2014.

~~(hh)~~ (pp) *Large or Exotic Birds*: Any large or exotic pet bird including but not limited to caiques, conures, lorries, lorikeets, large parakeets, parrots, poicephalus, African greys, Amazons, Cockatoos, eclectus, and macaws.

~~(mm)~~ (qq) *Law Enforcement Animal, K-9 dogs and police dogs*: Means A professionally trained ~~ged~~ dog used by law enforcement officers for law enforcement purposes and activities.<sup>10</sup>

~~(nn)~~ (rr) *Lawful trap, snare, or similar device*: A humane, box style trap of suitable size and construction appropriate for the target species.

~~(oo)~~ (ss) *Leash*: Means A cord, rope, strap or other such physical restraint.

~~(pp)~~ (tt) *Litter permit*: The permit required by any person who intentionally or unintentionally causes or allows the breeding of a litter of dogs or cats in a twelve-month period. Exception: if the parent animal(s) are altered within fourteen (14) weeks after giving birth or the parent animal(s) and the litter are relinquished to SBACC within fourteen (14) weeks after birth of the litter, all permit requirements shall be waived.

~~(rr)~~ (uu) *Medium or large reptile*: A cold-blooded vertebrate including but not limited to iguanas, monitors, snakes, and tortoises.

~~(qq)~~ (vv) *Microchip implant*: A passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification and/or the recovery of animals by their owner(s).

~~(ss)~~ (ww) *Microchip reader*: An electronic device that detects any implanted microchip.

~~(xx)~~ Non-Commercial: Not of, pertaining to, or characteristic of commerce.

~~(tt)~~ (yy) *Owner/guardian*: A person owning or harboring one (1) or more animals for a period of longer than twenty-one (21) days; however, caretakers of free-roaming and/or community cats shall not be deemed to be owners or guardians of such animals.<sup>11</sup>

~~(uu)~~ (zz) *Patron Contact*: Any person acting within the realm of a guest, customer, visitor, client, or the like to an establishment may not touch, handle, or physically interact in any way with an exotic and/or dangerous animal, unless they are acting under the scope of their legally sanctioned "enforcement authority" in each particular instance.

~~(vv)~~ (aaa) *Person*: An individual, firm, corporation or commercial establishment

<sup>10</sup> Indiana Code § 35-46-3-4.5 defines "law enforcement animal".

<sup>11</sup> Indiana Code § 15-20-1-2 defines "owner" as "...a person who possesses, keeps, or harbors a dog".

~~(www)~~ (bbb) *Pet*: Any animal owned or harbored by any person, group of persons, partnership or corporation, except service dogs, or police or canine governmental dogs.

~~(xxx)~~ (ccc) *Pet shop*: Any person, group of persons, partnership or corporation, whether operated separately or in connection with another business enterprise, except a licensed cattery, kennel or breeders, that buys, sells or offers for sale any species of animal, wholesale or retail. A permanent physical structure specifically designed and ventilated for the overnight and long-term housing and sale of animals both wholesale and retail.

~~(yy)~~ (ddd) *Potentially dangerous*: means Any of the following:

1. Any animal which, when unprovoked, on two (2) separate occasions ~~within the prior thirty six (36) twelve (12) month period,~~ engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal as documented by an enforcement authority.

2. Any animal which, when unprovoked, bites a person causing an injury that is not a severe injury, as defined below.

3. Any animal which, when unprovoked and off of property owned, lawfully occupied or controlled by the owner/guardian or keeper of the animal, on two (2) separate occasions ~~within the prior thirty six (36) twelve (12) month period,~~ has bitten or otherwise caused injury to a domestic animal that is not a severe injury, as defined below as documented by an enforcement authority.

~~(zz)~~ (eee) *Prohibited event*: Any event where the enforcement authority determines it necessary to prevent animals from being present during the event to ensure public safety.

~~(aaa)~~ (fff) *Protective Custody Impound*: To seize and place in to the Animal Shelter for the City of South Bend, any animals due to disaster or other tragic event.

~~(bbb)~~ (ggg) *Provoked*: To stimulate, arouse, incite or excite.

~~(eee)~~ (hhh) *Public nuisance*: Any animal which:

- (1) Interferes with a pedestrian(s) or a passing vehicle(s), or
- (2) Attacks another animal or a person(s), or
- (3) Is at large, or
- (4) Damages private or public property, or
- (5) Barks, whines, howls or makes other sounds common to its species in excess,

~~continuously for 15 minutes or for an aggregate 20 minutes in a one-hour period, or causes frequent or long continued noises or other sounds which disturb the comfort or repose of any person in the immediate neighborhood, or~~

- (6) Is a dangerous wild or exotic animal.

An ear-tipped altered community cat shall may not be considered a public nuisance solely by virtue of its status as a community cat.

~~(ddd)~~ (iii) Quarantining authority: The Department of Code Enforcement, Division of Animal Care and Control, its agents, employees and designees, acting under directives and regulations of the Health Department of St. Joseph County or the Indiana state board of animal health.

~~(eee)~~ (jii) Rabies vaccination: The injection administered by a licensed and accredited veterinarian, of a dog, cat or other animal with a rabies vaccine licensed by the U.S.D.A. and approved by the Indiana State Board of Animal Health.

~~(kkk)~~ Residential: Of, or pertaining to residence.

~~(fff)~~ (III) Restraint: Any animal secured by a leash or lead, or under the physical control of the animal's owner or owner's designated agent, or within the real property limits of its owner.

~~(ggg)~~ (mmm) Riding school or stable: Any place which has available for hire, boarding or riding instruction, any horse, pony, donkey, mule or burro.

~~(hhh)~~ (nnn) Rodeo. A performance featuring bronco riding, steer wrestling, calf roping, greased pig contest or bull riding.

~~(iii)~~ (ooo) SBACC: South Bend Animal Care and Control, the body that acts with authority derived from the Division of Animal Care and Control.

~~(jjj)~~ (ppp) Severe injury: Any physical injury to a human being or domestic pet or domestic livestock that results in multiple bites, broken bone(s), muscle tear(s) or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

~~(kkk)~~ (qqq) Service animal.<sup>12</sup> An animal trained and certified to assists a person who is impaired by:

1. Blindness or any other visual impairment; or
2. Deafness or any other aural impairment; or
3. A physical disability; or
4. A medical condition or any other condition governed by the Americans With Disabilities Act (ADA).

~~(HH)~~ (rrr) Shelter manager: The Shelter Manager for the Division Animal Care and Control.

<sup>12</sup> Indiana Code § 35-46-3-11.5, Version A defines "service animal" with those regulations effective through July 1, 2014 and Indiana Code § 35-46-3-11.5, Version B defines "service animal" and addresses cruelty to a service animal and become effective July 1, 2014.

~~(mmm)~~ (sss) *Small animal*: Any small domestic animal including but not limited to ferrets, gerbils, guinea pigs, hamsters, mice and rats.

~~(nnn)~~ (ttt) *Small birds*: Any small pet bird including but not limited to canaries, finches, cockatiels, lovebirds, small parakeets and parrotlets.

~~(ooo)~~ (uuu) *Small reptile*: A cold-blooded vertebrate including but not limited to bearded dragons, frogs, geckos, skinks, salamanders, and turtles.

~~(ppp)~~ (vvv) *Stray*: Any animal that is not under restraint and/or upon reasonable inquiry by an animal control officer does not appear to have an owner. This section does not apply to free-roaming and/or community cat(s) as defined in this Chapter.

~~(qqq)~~ (www) *Tether*: Attaching a domestic pet to a stationary object or pulley run by means of a chain, rope, tether, cable, or similar restraint. Tether does not include the use of a leash to walk a domestic pet.

~~(rrr)~~ (xxx) *Trap-neuter-return* is a management technique in which homeless, free-roaming cats are humanely trapped, evaluated and sterilized by a licensed veterinarian, vaccinated against rabies, and then returned to their original habitat.

(yyy) Unaltered: An animal that has not been operated on to prevent it from procreating.

(sss) (zzz) Unprovoked: An action can be labeled "unprovoked" when the action or reaction of an animal was without stimulation, arousal, excitement, incitement, triggering, or otherwise motivating factors to provide for a reasonably foreseeable animal reaction.

(aaaa) Urban Chicken: A chicken living in the city limits officially known as gallus domesticus, which is a domestic bird. It does not include other fowl, such as, but not limited to roosters, peacocks, turkeys or waterfowl. Urban chickens are governed by the zoning regulations set forth in Section 21-02.11 of this Code addressing Residential District zoning regulations.

~~(ttt)~~ (bbb) *Veterinarian*.<sup>13</sup> means Any person licensed and accredited to practice veterinary medicine in the State of Indiana.

~~(uuu)~~ (ccc) *Veterinary hospital*: Any establishment maintained and operated by a licensed veterinarian for the purpose of hospitalization of animals or the diagnosis and treatment of diseases and injuries of animals.

~~(vvv)~~ (ddd) *Vicious animal*: Includes any of the following:

<sup>13</sup> Indiana Code 25-38.1 sets forth the governing state regulations for veterinarians. Indiana Code § 25-38.1-1-10 defines "licenses veterinarian".

1. Any animal which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being or domestic pet.
2. Any animal previously determined to be and currently listed as a potentially dangerous animal which, after its owner/guardian has been notified of this determination, continues the potentially dangerous behavior, as defined herein or is maintained in violation of Chapter 5.

~~(www)~~ ~~(eeee)~~ *Wild animal*: Any living vertebrate animal normally found in the wild state.

~~(xxx)~~ ~~(ffff)~~ *Zoological park*: Any permanent facility or operation other than a pet shop, displaying or exhibiting one (1) or more species of non-domestic animals, operated by a person, partnership, corporation or government agency.

**Sec. 5-3. Regulations are Supplemental to State and County Laws.**

The regulations of this Chapter supplement all laws of the state and county ordinances covering the same subject matter.

**Sec. 5-4 Schedule of Fees for the Division of Animal Care and Control.**

(a) In addition to any other fees required to be paid by state law, the fee schedule for the Division of Animal Care and Control is as follows:

<u>Type of Fee</u>	<u>Fee Amount</u>
Return to Owner Fees:	
First redemption	\$ 15.00
Second redemption	\$ 50.00
Third redemption	\$ 75.00
Fourth redemption (and subsequent)	\$100.00
Daily boarding fee after legal hold <sup>14</sup>	\$ 10.00
Prophylactic Vaccination & Dewormer	\$ 5.00
Pain Medication/Antibiotics	\$ 2.00 per dose
Flea Treatment	\$ 10.00 per dose
Rabies vaccination reimbursement	\$ 25.00

<sup>14</sup> Any owner requesting that the Division of Animal Control hold a stray animal longer than the three (3) day stray period must be approved by the Division.

<u>Type of Fee</u>	<u>Fee Amount</u>
Pick-up of an owned animal	\$ 40.00
Euthanasia by request of owner	\$ 20.00
10 day quarantine (per day/cat)	\$ 10.00
10 day quarantine (per day/dog)	\$ 15.00
Microchip fee	\$ 20.00
<b>Adoption Fees</b>	
Dog <sup>15</sup>	\$ 85.00
Puppy	\$100.00
Cat	\$ 65.00
Small animal	\$ 5.00
Small bird	\$ 10.00
Large bird or exotic bird	\$ 75.00
Rabbit	\$ 10.00
Small reptile	\$ 10.00
Medium or Large reptile	\$ 40.00

**Protective Custody Impound Fees:**

Fire, death, accident, acts of God, etc. No charge for first three (3) days  
\$ 10.00 per day per cat  
\$ 15.00 per day per dog

Arrest, seized for abuse, cruelty, abandonment, court case holds, etc. \$ 10.00 per day per cat  
\$ 15.00 per day per dog

Replacement pet registration (all classifications) \$ 5.00

UPS shipping of biting animals for testing by state \$ 30.00

(b) Fees will be waived only at the discretion of management/supervisory personnel. The Shelter Manager has limited authority to waive or reduce fees based on:

1. Considerations of responsible ownership of the animal(s); or
2. Space available at the Shelter.

<sup>15</sup> Listed adoption fees for dogs, cats and puppies may be reduced in the event of the receipt of grants and/or special programming and prior notice to the Common Council.

Sec. 5-5 Through Sec. 5-7 Reserved for Future Use.

## Article 2. Honey Bee Keeping Regulations.<sup>16</sup>

Sec. 5-8 Legislative Findings.

(a) The Common Council finds that honey bees can be maintained within populated areas without causing a nuisance, if honey bees are properly located, managed, and maintained.

(b) Honey bees are a benefit to society by pollinating flowers, gardens and trees and thereby contributing to the local ecosystem; as well as furnishing honey, wax, and other useful products.

(c) The regulations set forth in this Article are in the best interests of the health, safety and welfare of the city. (Ord. No. 10241, § II, 07-08-2013)<sup>17</sup>

Sec. 5-9 Definitions.

As used in this Article, the following words, terms and phrases shall have the meanings set forth herein:

*Apiary*: the assembly of one (1) or more hives or colonies of honey bees at a single location.

*Beekeeper*: a person who keeps honey bees in hive(s) which meet state approved requirements.

*Beekeeping Equipment*: anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

*City*: City of South Bend, Indiana.

*Colony*: the entire honey bee family or social unit living together including the queen, workers and drones.

*Flyway barrier*: fencing, dense hedging or a combination of the two, which provides a shield or protective barrier from the direction in which the honey bees fly when approaching or leaving a hive.<sup>18</sup>

*Hive*: a frame or structure used or employed as a domicile for honey bees which meet state approved requirements.

<sup>16</sup> *Indiana Code* § 14-24-2-4 sets forth the duties for the Division Director, in the protection and development of the bee and honey industry in the State of Indiana.

<sup>17</sup> *Indiana Code* § 36-1-4-11 authorizes a city to pass, codify and enforce ordinances; and *Indiana Code* § 36-1-3-2 grants to cities "...all the powers that they need for the effective operation of government as to local affairs".

<sup>18</sup> *Flyway barriers* assist in deterring honey bees from contact with humans and domesticated animals.

*Honey Bee*: the common domestic honey bee, limited to the *Apis mellifera* species, specifically excluding the African honey bee, *Apis mellifera scutellata* or Africanized honey bee, or any hybrid thereof.

*Lot*: a piece, parcel, plot or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and may consist of:

- (1) A single lot or record; or
- (2) A combination of complete lots of record. (Ord. No. 10241, § II, 07-08-2013)<sup>19</sup>

**Sec. 5-10 Honey Bee Keeping Public Safety Regulations.**

(a) Any person desiring to raise the common domestic honey bee, limited to the *Apis mellifera* species, must comply with the following public safety regulations.

(b) No hive shall exceed seventeen (17) cubic feet in volume.

(c) Location Requirements:

1. Where a lot has a fence, hives must maintain a four foot (4') radial distance from the property line as measured from the center of the hive.
2. Where a lot does not have a fence, hives must maintain a four foot (4') radial distance from the lot line as measured from the center of the hive. The beekeeper must also install a flyway barrier no further than four feet (4') in front of the hive entrance.
3. In no event shall a hive be located closer than ten feet (10') from a public sidewalk.
4. Colonies may be kept on flat roofs without setback or flyaway barrier restrictions.
5. For a lot without a perimeter fence, a fence which surrounds the entire hive(s) shall be compliant with the zoning regulations set forth in *South Bend Municipal Code* § 21-02.11 and apiary practices.
6. A fresh supply of water shall be provided for all hives<sup>20</sup>.

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<sup>19</sup> *South Bend Municipal Code* § 21-11.02 sets forth the zoning definition for "lot"

<sup>20</sup> A fresh supply of water for honey bees deters honey bees from congregating at swimming pools, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact; so long as it does not become stagnant.

(d) The honey bees and equipment shall be maintained in accordance with the applicable provisions of the *Indiana Code* and apiary practices addressing honey bees recommended by the State of Indiana's Apiary Inspector(s) with the Indiana Department of Natural Resources Department of Entomology Division of Entomology and Plant Pathology Purdue University being recognized on the official State of Indiana website. (Ord. No. 10241, § II, 07-08-2013)<sup>21</sup>

**Sec. 5-11 Compliance Required; Penalties.**

(a) It shall be unlawful for any person to keep or maintain an apiary, hive, or colony in the City which is not in compliance with this Article.

(b) Any person violating any of the provisions of this Article shall be issued a citation by the Department of Code Enforcement which provides for a fine of seventy-five dollars (\$75.00) per violation payable through the Ordinance Violations Bureau.

(c) Each violation shall constitute a separate and distinct offense. Every day any violation of this Article shall continue shall constitute a separate offense.

(d) Any apiary, hive or colony which threatens public health or safety; or creates a public nuisance; or which has been abandoned is unlawful. The City is authorized to take all reasonable action including removal and/or destruction of any apiary, hive or colony which is deemed necessary. (Ord. No. 10241, § II, 07-08-2013)

**Sec. 5-12 through Sec. 5-14 Reserved for Future Use.**

**Article 3. Animal Care Rules and Regulations.<sup>22</sup>**

**Sec. 5-15 Adequate Shelter, Food and Water to be Provided.<sup>23</sup>**

Every owner or keeper of an animal kept in the city shall ~~see that such animal:~~

(a) See that such animal is kept in a clean, sanitary and healthy manner and is not confined so as

<sup>21</sup> A current "List of Assistance for Beekeeping in Indiana" may be accessed at [www.in.gov/dnr/entomolo/files/en-indiana\\_beekeeping\\_information.pdf](http://www.in.gov/dnr/entomolo/files/en-indiana_beekeeping_information.pdf)

<sup>22</sup> *Indiana Code* § 35-46-3-0.1 through *Indiana Code* § 35-46-3-15 set forth the State of Indiana's laws addressing "Offenses Relating to Animals".

<sup>23</sup> *Indiana Code* § 35-46-3-0.5 defines neglect of an animal.

to be forced to stand, sit or lie in its own excrement; ~~the person(s) responsible for animal(s)~~ shall regularly and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or areas of animal contact. ~~and~~

(b) See that such animal has food that is appropriate for the species in adequate amounts to maintain good health, fresh potable drinking water where appropriate, shelter and ventilation, including quarters that are protected from excessive heat and cold and are of sufficient size to permit the animal to exercise and move about freely.

(c) If the animal(s) is kept in an outdoor enclosure, see that the enclosure is at least five (5) times the length of the animal's body so that the animal(s) may exercise and move freely and includes adequate shelter as defined in this Chapter.

#### **Sec. 5-16 Medical and Grooming Care Requirements.**

(a) Every owner or keeper of an animal shall see that any animal in their control and custody receives proper veterinary care as necessary to treat illness, disease or injury to prevent the transmittal of disease, to be vaccinated as required by law in order to promote humane animal health.

(b) Any animal deemed by the SBACC staff to require medical evaluation must be evaluated by a licensed veterinarian to maintain humane care. Any treatment necessary shall be at the discretion of the veterinarian. Proof of compliance must be provided.

(c) Any owner keeping an animal requiring grooming deemed by SBACC staff to maintain humane standards of care must show proof such grooming has been completed.<sup>24</sup>

#### **Sec. 5-18 Removal of Excrement Required.**

(a) Persons responsible for an animal shall immediately remove the animal's excrement ~~from public lands or from the property of another,~~ excepting a person working with requiring a certified service dog.

#### **Sec. 5-19 Acreage Requirements for Certain Domestic Animals and Fowl.**

(a) Any person desiring to raise any of the following-named domestic animals or fowl must have a minimum of five (5) acres of land:

<sup>24</sup> Patronek GJ. Tuft's Animal Care and Condition (TACC) scales for assessing body condition, weather and environmental safety, and physical care in dogs. Can Vet J 2000; 41:634-635. (Also available at [http://www.animalshealing.org/resources/magazine/jul\\_aug\\_1998/tufts-animal-condition-body.pdf](http://www.animalshealing.org/resources/magazine/jul_aug_1998/tufts-animal-condition-body.pdf)).

- (1) ~~Cow, ox, cattle, calves~~ Cattle, ox or other livestock
- (2) Donkey, ass, burro, mule
- (3) Pig, swine, hog, pot-bellied pig
- (4) Sheep
- (5) Goats
- (6) Roosters, geese, turkeys, ducks or other fowl, not including Urban Chickens or racing/homing pigeons
- (7) Bison
- (8) Llamas
- (9) Horses
- (10) Not including rabbits.

The maximum number of such animals which may be maintained on such property shall be determined based on current animal husbandry and veterinarian standards.

(b) Any person desiring to raise rabbits as pets or racing or homing pigeons within the city limits must keep such animals and birds in safe and sanitary conditions so that a public nuisance as defined in this Chapter is not created.

(e) In no event shall the shelter and feeding area for any of the animals or fowl listed in this section be closer than fifty (50) feet from ~~the an~~ adjoining property line. (Ord. No. 7505-85, § 1; Ord. No. 8467-94, , § 6; Ord. No. 8667-96, , § III, Ord. no. 10213-13, , § I; 01-14-13; Ord. No. 10241-13, , § I, 07-08-13).

#### Sec. 5-20 Urban Chicken Regulations.

(a) ~~"Urban Chicken" means a chicken living in the city limits officially known as gallus domesticus, which is a domestic bird. It does not include other fowl, such as, but not limited to roosters, peacocks, turkeys or waterfowl. Urban chickens are governed by the zoning regulations set forth in Section 21-02.11 of this Code addressing Residential District zoning regulations.~~

~~(b) "Chicken coop" also referred to as chicken pen means an enclosure or enclosed structure used for housing urban chickens which provides shelter from the elements which must meet the standards set forth in Section 21-02.11 of this Code.~~

~~(c) "Chicken flock" means more than one (1) urban chicken which:~~

- ~~(1) — Contains no more than six (6) hens and no roosters; and~~
- ~~(2) — Is issued a permit pursuant to Section 21-02.11 of this Code.~~

~~(d) "Chicken pen" means an enclosure that must meet the standards set forth in Section 21-02.11 of this Code.~~

(e) (a) Anyone desiring to raise one (1) or more urban chickens within the city limits must file an application for an Urban Chicken Permit with the Division of Animal Care and Control in the Department of Code Enforcement and pay an annual filing fee of twenty dollars (\$20.00), if provisions for the chickens are deemed acceptable after inspection by the Division of Animal Care and Control and the application is approved. If the application is approved, the owner/harbinger of the chicken(s) will receive a durable metal tag, which must be affixed in plain view to the chicken coop. At the end of each calendar quarter, the Division of Animal Care and Control shall provide to the Office of the City Clerk an electronic report summarizing: the residential street location, number of urban chickens at each such location, size of the chicken coop and size of the chicken pen for each location which has been issued such a permit. The Division of Animal Care and Control may deny or revoke a permit to any person who has failed or refused to comply with the permit requirements, who has made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of urban chickens, who has violated a state or any provision of this Code in connection with the application or keeping of urban chickens or who has kept urban chickens or other animals in such a manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public. Upon denial or revocation of a permit, the Law Department shall provide notice to the permit applicant or holder and shall provide for a written appeal and hearing pursuant to the procedures in Section 4-16 of this Code.

(f) (b) Anyone desiring to raise one (1) or more urban chickens within the city limits must comply with the animal care regulations set forth in this Chapter 5, and the requirements applicable to chickens incorporated into Chapter 21 of this Code.

(g) (c) The Department of Code Enforcement shall be responsible for the enforcement of this section. The Department of Code Enforcement shall also comply with the duties set forth in Subsection 5-49(d) 5-\_\_\_ of this Code in carrying out the duties set forth in this Section which require the filing of a summary list of all warning notices and citations issued by the last Friday of each month with the Law Department the Chairperson of the Health and Public Safety Committee, the Chairperson of the Residential Neighborhoods Committee, the Office of the City Clerk, and the Animal Control Commission. (Ord. No. 10213-13, § II, 1-14-13)

**Sec. 5-21. Restraint of Animals Required; Limited Exception for Off-Leash Dog Run Park.**

(a) All animals that are the property of an owner/guardian shall be properly restrained as defined in Section 5-2 of this chapter.

(b) Any owner/guardian who takes his/her dog(s) to an off-leash dog run park must comply with the regulations governing that location.

**Sec. 5-22. Fastening Animals with Rope or Chain; Choker Collar.** <sup>25</sup>

(a) No animal shall be hitched, tied or fastened by any rope, chain or cord that is directly attached to the animal's neck. If animals must be tied, hitched or fastened:

- (1) The length of the rope, chain, or cord must be no less than three (3) times the length of the animal and of an appropriate length for the animal to move freely without risk of injury; and
- (2) The weight of the rope, chain or cord is light enough to permit the animal to move freely without risk of injury; and
- (3) The collar and rope, chain, or cord cannot cause the animal to choke; and
- (4) A properly fitted collar or harness made of leather or nylon, not of the choker type is worn by the animal. This is not to prohibit the proper use of choker collars in the training of animals<sup>26</sup>; and
- (5) The tying device shall be attached to the animal's leather or nylon collar or harness and must have a swivel device on both the anchor and collar end to prevent tangling; and
- (6) The location of the anchor and the length of the rope, chain, or cord, cannot cause the animal to become tangled, choke, or become injured; and
- (7) The animal must have access to water and shelter at all times.

(b) No person shall chain their dog using an agitation collar; a collar exceeding 1½ inches wide for any dog under 60 pounds. Dogs over sixty (60) pounds shall not be tethered using a collar exceeding 2 inches (2") in width.

(c) A person shall not tether an animal in a manner that permits the animal to leave the person's property.

(d) Tethering. It shall be unlawful:

- (1) For any dog to be tethered between the hours of 11:00 p.m. and 6:00 a.m.
- (2) To tether any unsterilized dog for any period of time.

<sup>25</sup> *Indiana Code* § 35-46-3-0.5 addresses the use of a rope, chain or tether.

<sup>26</sup> *See:* <http://www.humanesociety.org/animals/dogs/tips/collars.html>.

- (3) To tether or confine a dog at a ~~vacant~~ an unattended structure or premises for any purpose when it is not monitored by an adult owner or guardian who is present at the property for the duration of such tethering or confinement.
  - (4) To tether a dog under six (6) months of age.
  - (5) For more than three (3) dogs to be tethered simultaneously at the same residence.
  - (6) To have contact between tethered dogs.
  - (7.) For tethered dogs to be within three feet (3') of another person's property, public thoroughfare, and/or right-of-way.
  - (8.) To tether a dog without access to adequate shelter at all times.
- (e) Multiple tangling during tethering. If one (1) or more dogs at a residence have required a response from the Division of Animal Care and Control to untangle tethers more than two (2) times in one year, it shall be a violation of this Section.

**Sec. 5-23 Cruelty to Animals Prohibited.<sup>27</sup>**

- (a) No person shall beat, cruelly treat, neglect, torment, overload, overwork, or otherwise abuse any animal except that reasonable force may be employed to drive off vicious or trespassing animals.
- (b) No animal shall be left unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal. ~~Conditions include but are not limited to extreme temperatures (hot/cold), hazardous material, confinement, or lack of provisions which jeopardizes the safety of the animal.~~
- (c) No person shall transport any animal in an unenclosed truck bed or open portion of any vehicle unless the animal is enclosed in a cage which is securely fastened to the vehicle.

**Sec. 5-24 Animal Hoarding Prohibited.**

It shall be a violation of this section to be an Animal Hoarder as defined in Section 5-2 of this Chapter.

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<sup>27</sup> *Indiana Code* § 35-46-3-0.5 defines "abandon, beat, mutilate, neglect, and torture" of an animal. Versions A and B of *Indiana Code* § 35-46-12 addresses the torture or mutilation of a vertebrate animal. Versions A and B of *Indiana Code* § 35-46-12.5 address domestic violence animal cruelty.

**Sec. 5-25 Animal Fights and Fighting Contests Prohibited.<sup>28</sup>**

(a) No person shall permit or conduct any dogfight, cockfight, or other combat between animals  
or between animals and humans.

~~(b) No person shall possess animal fighting paraphernalia and a dog, cock, fowl, or bird bearing a scar, wound or injury consistent with animal fighting.~~

(c) ~~(b)~~ No person shall attend an animal fighting contest.

(d) ~~(c)~~ No person shall sell, purchase, own, harbor, give away, barter, breed, or possess any animal for animal fighting.

(e) ~~(d)~~ No person shall permit anyone to use any building, shed, room, yard, ground, premises, vehicle or property, whether enclosed or not for the purpose of animal fighting.

(f) ~~(e)~~ No person shall aid, abet, assist, act as judge or referee, bet or wager money or other valuable consideration on the outcome of, be at, attend, or in any way engage in the furtherance of, an exhibition of animal fighting.

**Sec. 5-26 Prohibited Animal Events.**

No person or group of persons or any organization, whether for pay or other compensation or for free promotional purpose, shall conduct or allow any event involving contests between animals or persons using animals in any form or manner that threatens public safety or the safety, well-being, and comfort of the animals involved.

**Sec. 5-27 Poisonous Bait Prohibited.**

It shall be unlawful for any person to throw or deposit any known poisonous substance, whether mixed with food or not, in any of the streets, alleys, parks, commons, yards, or other places, whether public or private, so that it shall be likely to be eaten by any animal; provided, that it shall not be unlawful for a person to expose on his own property common rat or mouse poison, unmixed or mixed only with vegetable substances, or substances for the eradication of termites or similar insects.

<sup>28</sup> *Indiana Code* § 35-46-3-8 through *Indiana Code* § 35-46-3-10 set forth the Indiana state law provisions addressing animal fighting contests which new regulations taking effect on July 1, 2014.

**Sec. 5-28 Enticement of Another Person's Animal Prohibited.**

(a) It shall be unlawful for a person, not so authorized, to enter or invade the private premises of another person in the city to capture, entice, or take any animal out of the enclosure or premises of the owner, community cat caretaker ~~or to seize an animal at any place while such animal is accompanied by its owner or keeper.~~

(b) Except as expressly authorized in this Chapter, it shall be unlawful for a person to entice any animal away from the premises of the owner or community cat caretaker, ~~person who owns or keeps such animal in the city, or to entice an animal from a street, alley or public place in the city with the intent to deprive the owner of the animal's possession.~~

(c) It shall be unlawful for a person to bring into the city an animal for the purpose of its impoundment, or the collection of any fee or reward for its return, except as provided in this Chapter.

**Sec. 5-29 Interference with Another Person's Animal Prohibited.**

It shall be unlawful for a person to feed, tease, tantalize, molest, or provoke any animal in the city without the express consent of the animal's owner, if any, while the animal is on the owner's property or under the owner's control. A person who violates this section shall be punishable as provided in Section 5-111 of this Chapter; provided, however, a fine imposed for any such violation shall not be less than fifty dollars (\$50.00).

**Sec. 5-30 Offensive Use of Animal Prohibited.**

It shall be unlawful for a person willfully to deposit a live or dead animal upon public or private premises not owned by that person, or willfully to throw a live or dead animal against any other person, or aid or abet another person in doing so.

**Sec. 5-31 Abandonment of Animal(s) Prohibited.**

It shall be unlawful for a person to abandon or cause to be abandoned any animal on public or private property and a violation of this section shall be punishable as provided in Section 5-111 of this Chapter; provided, however, a fine imposed for any such violation shall not be less than five hundred dollars (\$500.00). Actions taken by colony caretakers in accordance with this chapter shall not be considered abandonment of an animal.

**Sec. 5-32 Trapping and Free-Roaming Cat Wildlife Regulations.**

The following regulations apply to animal traps; their requirements, prohibitions, and the managed management of free-roaming cats:

(a) It shall be unlawful for a person to use, place, set or cause to be used, placed, or set any leg-hold trap or similar device upon any land or waters.

(b) It shall be unlawful for a person to use, place, set or cause to be used, placed or set any snare, net or other device which causes the trapping or capturing of any animal in any manner by which the animal is not either captured painlessly or killed instantly upon any land or waters.

(c) It shall be unlawful for a person, having placed a lawful trap, snare or similar device, to capture wildlife, to fail to inspect and empty it at least once during every twenty-four-hour period.

~~(d) It shall be unlawful for a person to fail to inspect and care for the captured free-roaming cat a minimum of every two (2) hours to ensure the safety of the cat(s), having placed a lawful trap, snare or similar device, to capture free-roaming cats for the purpose of trap, neuter, return or other medical care.~~

~~(e) It shall be unlawful for a person to remove an animal from any trap not on the person's property, unless such person has the express permission of the property's owner to do so.~~

~~(f) The Division of Animal Care and Control, in order to encourage the stabilization of the free-roaming cat population may:~~

~~(1) Trap any free-roaming cat in a humane manner;~~

~~(2) Have the cat surgically sterilized, ear tipped, and vaccinated against rabies by a licensed veterinarian; and~~

~~(3) Release the cat to the Division of Animal Care and Control for adoption or other disposition in accordance with law, or to a colony caretaker who will maintain the cat as part of a managed colony of community cats. Cat must be returned as close as possible to its location of capture unless illness or injury presents imminent danger to the animal.~~

~~(g) Traps discovered by the Division of Animal Care and Control to have been unlawfully set may be seized.~~

**Sec. 5-33 Public Nuisance Animal Prohibited.**

No person shall own or harbor a public nuisance animal as defined in this Chapter.

**Sec. 5-34 Animals as Prizes or Inducements Prohibited.**

(a) No person shall sell, offer for sale, trade, barter, or give away any live animal as a prize.

(b) No animal shall be used as an inducement to enter, a place of amusement or any business establishment other than establishments whose primary business is selling animals except for domesticated pets.

(c) Governmental agencies or registered rescue groups maintaining a 501C3 providing health, safety, or adoption promotions will be exempt from the provisions of subsection (a) as described above. Any events as listed in (a) will require necessary permits and inspection.

(d) Patron contact with exotic and/or potentially dangerous animals prohibited.

**Sec. 5-35 Dyeing or Staining Animals Prohibited and Selling Animals as Novelties Prohibited.**

(a) It shall be unlawful for a person to sell, trade, barter, or otherwise dispose of any animal whose appearance has been artificially or chemically colored, sprayed or painted.

(b) No person or establishment shall sell, offer for sale, barter, or give away animals as novelties.

**Sec. 5-36 Notification of Injury Caused by Motor Vehicle to Animals Required.**

Any person operating a motor vehicle who causes injury or death to an a domestic animal pet or large wild animal which may cause a public safety hazard shall stop at once, assess the extent of injury, and immediately notify the owner or animal control shelter of the location of animal or call the police or emergency services after hours.

**Sec. 5-37 Notification of Lost or Stray Animals Required.**

(a) Persons finding a stray animal are to notify the Division of Animal Care and Control within 24 hours (or within the next business day). At the discretion of the Division, the animal may be kept by the finder and a found report left with the department, to enable the finder an opportunity to return the animal to its rightful owner.

(b) Upon demand by the Division of Animal Care and Control, any found animal will be surrendered to the Division and held for three (3) business days, before a disposition is made.

(c) Persons finding an animal are obligated to comply with all rules and regulations of this Chapter pertaining to humane care and treatment of animals, while said animal is in their custody awaiting return to its actual owner.

(d) With the exception of the SBACC, the finder will be considered the found animal's owner for the purposes of this Chapter only after the animal is in the finder's custody for fifteen (15) continuous days and has been presented for microchip scanning.

**Sec. 5-38 Potentially Dangerous Animals.**

(a) If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the Shelter Manager of South Bend Animal Care and Control (SBACC) shall request a hearing by the Animal Control Commission for the purpose of determining whether or not the animal in question should be declared potentially dangerous or ~~dangerous~~ vicious.

- (1) Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for finding probable cause shall be sworn to and verified by the complainant and shall be provided to the Animal Control Commission.
- (2) The hearing will be held within ten (10) calendar days at a special meeting of the Animal Control Commission and shall be open to the public.<sup>29</sup>
- (3) The owner/guardian of the animal shall be served with notice of the hearing by certified mail or in person. Such notice shall include a summary of the complaint against the owner/guardian of the animal(s) involved.
- (4) The Shelter Manager of South Bend Animal Care and Control (SBACC) shall notify the owner/guardian of the animal of the date and time of such hearing, at which time he or she may present evidence as to why the animal should not be declared potentially dangerous or vicious.
- (5)
  - a. Such evidence may include eyewitness testimony of the incident; or
  - b. Evidence that the action of the animal and the damage sustained by the person or other animal could have reasonably been expected to occur given the circumstances of the event. Such circumstances may include, but are not limited to: willful trespass upon the owner/guardian's property; teasing, tormenting, abusing or assaulting the animal; and/or attempted abuse or assault upon the owner/guardian.

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<sup>29</sup> *Indiana Code* § 5-14-1.5-5 of the Indiana Open Door Law requires forty-eight (48) hour notice before a meeting.

- (5) The Animal Control Commission may consider all relevant evidence, including incident reports, affidavits of witnesses, photographs and/or video media, and whether the incident reasonably indicates whether or not the animal in question is potentially dangerous and/or vicious in ordinary circumstances where the average person could not reasonably be expected to foresee and take measures to prevent injury.
- (6) If the owner/guardian of the animal fails to appear at the hearing, the Animal Control Commission may find owner/guardian in default, and all ownership rights of the animals shall be assumed waived.
- (7) After the hearing, the owner/guardian of the animal shall be notified in writing of the determination by certified mail or in person.
  - a. If a determination is made that the animal is potentially dangerous or vicious, the owner/guardian shall comply with this section's requirements for restraint in accordance within seven (7) days after the date of the determination.
  - b. An animal determined to be vicious may shall be destroyed ethanized by the South Bend Division of Animal Care and Control when it is found by the Animal Control Commission that the release of the animal would create a significant threat to the public health, safety, and welfare.
  - c. If it is determined that an animal found to be vicious shall not be ~~destroyed~~ ethanized, the Animal Control Commission may impose reasonable conditions upon the ownership of the animal that protect the public health, safety and welfare, which are consistent with the Chapter.
  - d. Decisions of the Animal Control Commission are subject to appeal to the Circuit Court of St. Joseph County. The Owner/Guardian of the animal(s) must do so within ten (10) calendar days, or they will waive their right to the appeal, and all decisions will be considered final. The Owner/Guardian must also notify the Animal Control Commission of their decision to appeal in writing, which will then be forwarded to the ~~Legal~~ Law Department for the City of South Bend.

(b) If, upon investigation, it is determined by the animal control officer or law enforcement officer that probable cause exists to believe the animal in question poses an immediate threat to public safety, then the animal control officer or law enforcement officer may seize and impound the animal pending the hearing to be held pursuant to this section. The owner/guardian of the animal shall be liable to the City of South Bend Division of Animal Care and Control where the dog is

impounded for the costs and expenses of keeping the animal, if the animal is later declared potentially dangerous or vicious.<sup>30</sup>

(c) A potentially dangerous animal, while on the owner/guardian's property, shall, at all times, be kept indoors, or in a secured enclosure that is enclosed on all five (5) sides and is anchored to the ground from which the animal cannot escape, and into which children cannot trespass. A potentially dangerous animal may be off the owner/guardian's premises only if it is muzzled and restrained by a substantial leash, of no more than six feet (6') in length, and if it is under the control of a responsible adult. Sub-paragraphs (1) through (8) of paragraph (d) set forth below shall be required conditions, except for the length of leash.

(d) An animal that has been declared vicious may not be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition, except to a secured enclosure. When outside, all vicious animals must be confined in a secure enclosure, that is enclosed on all five (5) sides and is anchored to the ground from which the animal cannot escape, except when necessary to obtain veterinary care, or in cases of emergency where the situation would endanger and/or threaten the health and welfare of the animal.

- (1) All such enclosures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (2) The enclosure shall have secure sides and a secure top and bottom to prevent the animal from escaping over, under, or through the structure, and shall be anchored to the ground to prevent escape.
- (3) The enclosure shall be kept locked at all times to prevent unintentional opening.
- (4) The enclosure shall include suitable shelter and protection from the elements, and shall provide adequate exercise room, light, ventilation, and sanitation.
- (5) The enclosure shall be inspected and approved by the City of South Bend Division of Animal Care and Control prior to its usage for confinement.
- (6) Whenever necessity requires a vicious animal to be outside of the enclosure, the animal shall be securely muzzled and restrained by a leash not exceeding three feet(3') in length, with handgrip, and shall be under the direct control and supervision of the owner/guardian of the animal.
- (7) That the owner/guardian shall maintain a liability insurance policy of no less than \$300,000 for the animal.

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<sup>30</sup> Indiana Code § 15-20-1-7 authorizes the impoundment of animals where there is probable cause.

- (8) The animal must also be identifiable via a microchip implanted in to the skin of the animal, and such microchip number must be provided to the Division of Animal Care and Control.

(e) The owner/guardian of a potentially dangerous or vicious animal shall display clearly visible warning signs on all entry points to the premises on which the animal is maintained warning that a potentially dangerous or vicious animal is being harbored on such property. In addition, at least one sign shall be posted on the enclosure in which the animal is maintained. Signs must inform both children and adults of the presence of a potentially dangerous or vicious animal on the property and be viewable from the public way and neighboring property from a distance of at least fifty feet (50').

(f) Any animal classified as potentially dangerous or vicious shall not be used for breeding and shall be altered by a licensed veterinarian within fourteen (14) days of such classification unless:

- (1) A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or
- (2) A licensed veterinarian certifies in writing that altering the animal would be injurious to the animal's health; provided, however, that if the health condition of the animal is of a temporary nature, then the animal shall be altered immediately after the health condition has been corrected.
- (3) If the animal in question dies, or is sold or transferred, the owner/guardian shall notify the City of South Bend Division of Animal Care and Control of the changed condition and new location of the animal in writing within two (2) business days.
- (4) Any violation of the above provisions and/or restrictions placed on the owner/guardian by the Animal Control Commission will result in immediate impoundment of the animal, fines to be issued in accordance with Section 5-106 of this Chapter, and ownership rights in the animal be immediately waived. The City of South Bend Animal Care and Control may also seek injunctive relief in a court of law against the owner/guardian and seek prohibition of ownership of animals for a time period deemed necessary by the court.
- (5) An owner/guardian may submit one request for reconsideration per year to the Animal Control Commission to have the designation of potentially dangerous or vicious removed from his or her animal.
  - a. The application must be in writing.
  - b. The application must be filed ~~to~~ with the City of South Bend Division of Animal Care and Control.

c. The application shall include detailed information about how the change in circumstances or measures taken by the owner/guardian, such as obedience and/or behavior modification training of the animal, have mitigated the risk to public safety.

d. The Animal Control Commission has the authority to hear evidence, both pro and con, as to whether and why the designation should or should not be removed.

e. There shall be no complaints of a valid nature at the address of the owner/guardian regarding this animal or any other animal.

f. The Animal Control Commission may make a decision to remove or not to remove such designation.

(g) Due to the overriding public health and safety concerns of potentially dangerous animals, the provisions of this section are purposely intended to be reasonable, yet more restrictive. If a conflict arises, the provisions of this section shall prevail due to the public health and safety concerns.

**Sec. 5-39 Biting Animals; Report; Procedure.<sup>31</sup>**

(a) Owner or harbinger of any animal which has bitten a person or another animal must report the incident to the St. Joseph County Health Department and the Division of Animal Care & Control and immediately make the animal available for quarantine. Upon receiving the report of a bite, Department of Animal Care & Control will quarantine the animal for ten (10) days with the place of confinement to be in the discretion of the Division of Animal Control. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or person.

(b) During the quarantine period, the owner must provide a current rabies vaccination certificate for his or her cat or dog that is being quarantined. If proof of vaccination cannot be supplied, the animal will be vaccinated by a veterinarian at the owner's expense before after release, and the owner must provide the Animal Control Commission with name, address and phone number of the veterinarian performing the rabies vaccination, which will be verified before the animal can be released to the owner.<sup>32</sup>

(1) If the animal is quarantined at the shelter, a microchip shall be implanted in it prior to its release from quarantine. The animal shall be registered for its life with the Division of Animal Care and Control. The cost of the implant shall be at the owner's expense before release.

(2) If the animal is quarantined in a place other than the shelter, as determined by the Division of Animal Care and Control, a microchip shall be implanted in it within

<sup>31</sup> *Indiana Code* § 15-20-1-1 through *Indiana Code* § 15-20-1-7 set forth the state laws addressing "Liability for Dog Bites".

<sup>32</sup> *Indiana Code* § 15-17-6-1 through *Indiana Code* § 15-17-6-14 sets forth the state law addressing rabies, quarantine, vaccination orders, the role of the County Health Officer and Sheriff, impounding areas, emergency orders and local ordinances

thirty (30) days following the animal's release from quarantine. The animal shall be registered for its life with the Division of Animal Care and Control. The cost of the implant and registry shall be at the owner's expense.

(3) The microchip, used for these quarantine provisions, shall be numbered. This number will provide entry into a data base that contains the animal's bite history. The microchip shall be contained in a sterilized implanting device and shall be individually packaged.

(4) The microchip and its corresponding registration history shall be considered prima facie evidence for any future dangerous animal determination in accordance with Section 5-38 of this Chapter, addressing potentially dangerous animals.

(c) No person other than an Animal Control Officer or veterinarian shall ~~kill~~  euthanize or cause to

be ~~killed~~  euthanized any animal suspected of being rabid except in cases of immediate self-protection. If that occurs, the person will retain the body and immediately notify the Division of Animal Care and Control.

(d) Violations of these quarantine provisions shall constitute a Class A offense and may subject the responsible party to civil penalties under Section 5-111.

#### **Sec. 5-40 Exotic Animals and Native Wildlife.**

(a) No wild or exotic animal shall be kept within the city without the necessary state and/or federal permits.

(b) No person shall keep, shelter, harbor, buy, sell, or trade within the city a dangerous wild animal or a dangerous exotic animal as defined in this Chapter except as provided in paragraph (c) below.

(c) This section shall not apply to permitted zoological parks or zoos, educational, or medical institutions.

(d) Any animal found in violation of this Section may be seized immediately in accordance with Indiana state code and Department of Natural Resources regulations.

(e) The animal will be held in protective custody for seven (7) calendar days to allow an owner to locate a new and appropriate owner or housing for the animal outside the city limits. If no arrangements have been made in seven (7) calendar days the animal will become the property of the city and disposition may be made at that time.

(f) Costs. The owner of any animal, which is impounded and/or euthanized or relocated under this Section, shall be held responsible for payment of any expenses so incurred by the Division of Animal Care and Control. Fees will be paid prior to release or relocation of the animal.

The housing and rehabilitation of native wildlife on public or private land shall be by a state, and/or federally, permitted or sub-permitted entity or individual. The permitted housing or shelter of wildlife for the purpose of rehabilitation or rescue shall not be any less than twenty feet (20') from neighboring property. Disease vectors such as raccoons and opossums are not permitted to be rehabilitated inside city limits.

~~(g) Grandfather clause. Wolf hybrids owned or harbored under this Section, at the time of passage, must be registered with the Division of Animal Care and Control within sixty (60) days of passage and shall be exempt from this Section. Wolf hybrids must have no bite history in order to be exempt. If any wolf hybrid bites, or has previously bitten, a human or an animal, the wolf hybrid will no longer be exempt from this Section. All wolf hybrids registered under this section shall be spayed or neutered and microchipped at the owner's expense prior to registration. Wolf hybrids not registered within sixty (60) days of passage of these regulations will not be exempt from this Section.<sup>33</sup>~~

#### Sec. 5-41 Training Methods.

No animal may be induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause or is likely to cause physical injury or suffering.

#### Sec. 5-42 Destruction of Animals.<sup>34</sup>

(a) All animals impounded by South Bend Animal Care and Control, a public or private sheltering agency or rescue group shall be killed euthanized, only when necessary and consistent with the requirements of this Chapter by lethal intravenous injection of sodium pentobarbital, except as follows:

- (1) Intraperitoneal injections may be used only under the direction of a licensed veterinarian, and only when intravenous injection is not possible for infant animals, companion animals other than cats and dogs, or in comatose animals with depressed vascular function.

<sup>33</sup> *Indiana Code* § 15-20-1-5 Version A is in effect until July 1, 2014 and *Indiana Code* § 15-20-1-5 Version B takes effect July 1, 2014 which set forth "wolf hybrid and coydog liability; criminal offenses". [

<sup>34</sup> *Indiana Code* § 35-46-3-5 lists as an exception "destruction of an animal by an animal control program, including an animal control facility, an animal shelter, or a humane society".

(2) Intracardiac injections may be used only when intravenous injection is not possible for animals who are completely unconscious or comatose, and then only under the direction of a veterinarian.

(b) No person other than a duly authorized agent of the animal control shelter may ~~destroy~~  euthanize  any domestic animal within the city limits; provided, however, this provision shall not apply to the following:

- (1) A licensed veterinarian,
- (2) A veterinary staff member under the direct supervision of a veterinarian
- (3) Those persons acting in immediate self- protection.

(c) The Division of Animal Care and Control, other animal shelters, and/or public animal facilities which destroy animals in the city, shall use only sodium pentobarbital or a derivative substance for said purpose.

(d) The duly authorized animal control agent(s) must be trained in humane procedures by a licensed veterinarian or a registered veterinary technician and shall perform the destruction of animals in a humane manner as specified by the American Veterinary Medical Association AVMA's Guidelines for Euthanasia.<sup>35</sup> Said person(s) must have letter from a licensed veterinarian citing their competency in humane euthanasia procedures and must be evaluated by a licensed veterinarian on a yearly basis.

(e) No animal's body shall be disposed of until all vital signs are checked (fixed pupil, cessation of heartbeat and respiration) to assure that death has occurred.

(f) No animal shall be allowed to witness any other animal being ~~killed~~  euthanized  or being tranquilized/sedated for the purpose of being ~~killed~~  euthanized  or see the bodies of animals which have already been ~~killed~~  euthanized .

(g) Animals shall be sedated/tranquilized as necessary to minimize their stress or discomfort, or in the case of vicious animals, to ensure staff safety, except as follows:

(1) neuromuscular blocking agents shall not be used as sole agent.

(h) Following their injection, animals shall be lowered to the surface on which they are being held and shall not be permitted to drop or otherwise collapse without support.

(i) An animal may not be left unattended between the time procedures to kill the animal are commenced and the time death occurs, nor may the body be disposed of until death is verified.

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<sup>35</sup> The "AVMA Guidelines for the Euthanasia of Animals: 2013 Edition" consists of 102 pages and may be accessed at <https://www.avma.org/kb/policies/documents/euthanasia.pdf>

- (j) Verification of death shall be confirmed for each animal in all of the following ways:
- (1) By lack of heartbeat, verified by a stethoscope;
  - (2) By lack of respiration, verified by observation;
  - (3) By pale, bluish gums and tongue, verified by observation; and
  - (4) By lack of eye response, verified if lid does not blink when eye is touched and pupil remains dilated when a light is shined on it.

**Sec. 5-43 Habitual Animal Offender.**

(a) It shall be unlawful to be a habitual animal offender. For the purposes of this Section, an habitual animal offender shall mean any animal owner or harborer, who within any two- year period is cited with three (3) or more violations of animal care regulations of this Chapter. The controlling date is the date of each animal ordinance violation.

(b) If upon investigation by an Animal Control Officer it is found that an owner and/or harbor meets the definition of a Habitual Offender, the matter will be set for hearing before the Animal Control Commission.

(c) If found to be a habitual animal offender the Animal Control Commission may order a limit, restriction, or prohibition against animal ownership for a minimum of five (5) years or more as determined by the Animal Control Commission based on the totality of the circumstances of the violations observed.

**Sec. 5-44 Free Roaming Cat Trap-Neuter Return Regulations.**

~~(d)~~(a) It shall be unlawful for a person to fail to inspect and care for the captured free-roaming cat a minimum of every two (2) hours to ensure the safety of the cat(s), having placed a lawful trap, snare or similar device, to capture free-roaming cats for the purpose of trap, neuter, return or other medical care.

~~(e)~~(b) It shall be unlawful for a person to remove an animal from any trap not on the person's property, unless such person has the express permission of the property's owner to do so.

~~(f)~~(c) The Division of Animal Care and Control, or a community cat caretaker or a trap/neuter return organization, in order to encourage the stabilization of the free-roaming cat population may:

1. Trap any free-roaming cat in a humane manner; and
2. Have the cat surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian; and
3. Release the cat to the Division of Animal Care and Control for adoption or other disposition in accordance with law, or to a colony caretaker who will maintain the cat as part of a managed colony of community cats. Cat must be returned as close as possible to its location of capture unless illness or injury presents imminent danger to the animal.

(g)(d) Traps discovered by the Division of Animal Care and Control to have been unlawfully set may be seized.

**Sec. 5-44 Sec. 5-45 Through Sec. 5-49 Reserved for Future Use.**

**Article 4. Pet Registration Requirements and Commercial Animal Permits.**

**Sec. 5-50 Pet Registration Required; Exception; Tags; Microchip Implant.**

(a) Any person owning, keeping, harboring or having custody of any dog or cat over the age of six (6) months must obtain a pet registration for such animal; provided, however, that no pet registration shall be required of any animal welfare organization, municipal animal control facility or governmental agency, or guide dog.

(b) A durable tag stamped with registration number will be provided to pet registration holders the first time the dog or cat is registered. Each subsequent year, the dog or cat must be registered; however, a new tag will not be issued. The registration will be on file with SBACC and proof of payment/registration will be provided to the owner. Dogs and cats should wear their tags at all times on their collars, except when involved in any organized show, obedience demonstration, training situation or under the care of a licensed veterinarian.

(c) Any person owning any dog or cat which has been implanted with a microchip shall transfer the microchip documentation with the Division of Animal Care and Control and national registry upon sale, trade, barter, gift or transfer of an animal. Any animal received by South Bend Animal Care and Control with an untraceable tag or microchip due to an owners failure to keep contact information current for tracing with Animal Control, a national registry, or the veterinarian will be held three (3) business days prior to disposition.

(d) Annual pet registrations are non-transferable.

**Sec. 5-51 Application for Registration or Permits.**

(a) Application for registration or permits may be made at the Division of Animal Care and Control or designated facility, or by mail, and shall include the name, address of applicant, type of permit applied for, number and description of animal(s), information regarding sterilization, a list of all vaccinations administered, if known; the date and type of vaccinations and the name of the person, business, or entity who administered them, if known, a record of any known disease, illness or condition with which the animal is or has been afflicted; and record of any veterinary treatment or medication received by the animal and appropriate fee.

(b) Registration and permits are to be issued for a term of one (1) year, commencing with the date of issuance. Microchip implants may be registered for the life of the animal with the Division of Animal Care and Control. Owners must contact the Division of Animal Care and Control with changes

of address or telephone. Failure to keep contact information current may result in the inability of the Division to contact an owner. Animals will be held three (3) business days prior to disposition. The Division of Animal Care and Control will consider the registered microchip and/or tag owner to be the legal owner.

(c) Upon issuance, the Division of Animal Care and Control shall issue a registration or permit in written form, which includes the number of the registration or permit and the type of registration or permit. In addition, the Division of Animal Care and Control shall issue a durable tag stamped with registration number to pet registration holders the first time the dog or cat is registered. Additionally, a durable tag will be issued for an animal that has received a microchip implant upon national registration by the pet owner. The tag will have a corresponding number to that of the implanted microchip and will display a national, toll free, 24 hour, seven (7) days per week telephone number for the purpose of animal and owner identification.

(d) The Division of Animal Care and Control shall maintain records of the identifying registration/ permit number.

(e) It shall be unlawful for any owner of any dog or cat to fail to provide any dog or cat over the age of six (6) months with current pet registration as provided in this Section. The owner of any dog or cat, which dog or cat is over the age of three (3) months, must also have in his possession a current rabies vaccination tag showing that such animal has been vaccinated against rabies as otherwise provided in Sec. 5-75. Any owner of such animal who moves into the city for purposes of establishing a residence or residing or who becomes a resident as result of annexation shall have thirty (30) days in which to obtain the permit required by this Chapter.

#### Sec. 5-52 Fees.

Commencing on the effective date of this ordinance, and for each subsequent year thereafter, each permit issued by the City under this Chapter shall be valid from January 1 and end December 31. In addition to all other fees required by law to be paid, the following fees shall be paid to the City:

~~(a) Pet Registration. For the year 2014, and each year hereinafter, which shall commence on January 1 and end December 31:~~

~~(1) Annual - Each altered dog or cat, age 6 months or older - \$15.00~~

~~(2) Annual - Each unaltered dog or cat, age 6 months or older - \$30.00~~

~~(a) Annual Residential Pet Registration for All Altered Animal Non-Commercial Site Permits.~~<sup>36</sup>

<sup>36</sup> The Indiana State Board of Animal Health sets forth the Indiana Rabies laws and regulations. Rule 5, Section 1 of "Rabies Immunization" is codified at 345 Indiana Administrative Code 1-5-1.

Pet owners who have all of their dogs/cats altered shall be entitled to register their altered animals for a Residential pet Registration for All Altered Animal Non-Commercial Site Permit. Such permit may be issued upon the owner signing an affidavit, under pains and penalties for perjury, which verifies the altered animal status of each animal, and which requires the owner to list the rabies vaccination number assigned to each altered animal which verifies that said rabies vaccination(s) are current for each such altered animal. The fees for Residential Pet Registration for All Altered Animal Non-Commercial Site Permit shall be as follows:

<u>Number of Altered Dogs and/or Cats</u>	<u>Altered Dog and/or Cat Ten (10) month weeks or older<sup>37</sup></u> <u>Fee</u>
<u>1</u>	<u>\$ 15.00 annually</u>
<u>2-4</u>	<u>\$ 25.00 annually</u>
<u>5-8</u>	<u>\$ 50.00 annually</u>
<u>9-12</u>	<u>\$ 100.00 annually</u>
<u>13-16</u>	<u>\$125.00 annually</u>
<u>17-19</u>	<u>\$150.00 annually</u>

All pet owners have the responsibility to keep all of the information which they provide on the application for registration or permit which they provide to the Division of Animal Care and Control current, with any changes being required to be given upon the effect date of such change.

(b) Additional fees:

- (4) Replacement tags \$5.00 per tag
- (5) Late fee applied to renewal more than 30 days past expiration \$5.00

Late fee when more than thirty (30) days late \$15.00 additional

(c) Limited Exemptions:

(6) 1. Threat to Health of Animal: Upon a written statement from a licensed veterinarian setting forth that the neutering of the animal shall constitute a threat to the health of that animal, the payment of the permit fee for unaltered animal shall not be required but the animal shall be classified as an altered animal for purposes of permit registration and fees. Registration at the altered tag price under this section will constitute agreement not to breed the animal. Doing so will result in fines.

(7) 2. Service Animal Exemption: A person who is impaired by:

- a. Blindness or any other visual impairment;
- b. Deafness or any other aural impairment;
- c. A physical disability; or

<sup>37</sup> In Rule 5, Section 2 of "Required Rabies Vaccination of Dogs, Cats and Ferrets" codified at 345 Indiana Administrative Code 1-5-2, it specifically states in part that "...all dogs, cats and ferrets three (3) months of age and older must be vaccinated against rabies", with revaccination of ferrets within twelve (12) months of the prior vaccination; and dogs and cats being revaccinated based on the rabies vaccine which was used requiring annual boosters, or a booster 12 months later and tri-annually thereafter, or within thirty-six (36) months.

d. A medical condition or any other condition governed by the Americans with Disabilities Act (ADA) shall be exempt from the fees listed in this section for their service animal, however registration of such service animal is required.

(8) 3. Senior Citizen Exemption: Any cat or dog owner 62 years of age or older who owns an altered animal may receive his or her annual registration free of charge. must register his/her altered animal with the fees for such altered animal being waived in their entirety. However, if the animal of any such person has not been spayed or neutered, is not altered the person who is 62 or more years of age shall pay the same permit fee and be subject to the above pet registration fees and charges as otherwise required for any animal. shall be subject to the listed fees and charges in this section.

(b) (d) Non-Altered Residential Permits and Commercial Kennel/Cattery Permits. Any person having one (1) unaltered dog or cat shall be subject to the following fees. All of the following permits must be obtained upon proof that each unaltered animal has a rabies vaccination number assigned to each unaltered animal which verifies that said rabies vaccination(s) are current for each such unaltered animal and will be reissued annually and all tags for animals registered under any permit will be issued with the permit:

1. Residential Unaltered Animal Kennel/Cattery Permit.

- a. 0 - 1 Unaltered animal \$ 50.00 ~~will require no special permitting other than city pet registration~~
- b. 2 - 3 Unaltered animals \$300.00 ~~(All tags/individual animal registrations included.)~~

No more than three (3) unaltered animals shall be permitted in any one (1) property which is zoned residential.

2. Commercial Kennel/Cattery Permit. ~~(Based on declared capacity at business and requires zoning approval)~~

After inspection(s) by the City and upon the owner providing proof of proper zoning to operate such a business, the following fees shall be charged:

- a. 6 - 15 dogs/cats \$150.00
- b. 16 - 25 dogs/cats \$200.00
- c. 26 or more dogs/cats \$250.00

(d) Each animal owned by the permit holder will be individually registered with the city; animals owned by clients of a boarding business will be registered by the permit holder's clients.

~~(e)~~ (e) Grooming Shop Permit.

(+) Annual Fee: \$100.00 and compliance with Section 5-64.

~~(d)~~ (f) *Major Breeder's Permit.*

(1) Annual Fee: \$200 plus any applicable kennel/cattery permit fee.

~~(e)~~ (g) *Minor Breeder's Permit.*

1. Any owner or person having custody of a dog or cat which has been neutered within ten (10) weeks after giving birth to a litter or who turns the adult dog or cat over to the Division of Animal Care and Control within ten (10) weeks from the birth date of the litter, will be required to purchase a Minor Breeder Permit at the rate of \$10.00.
2. Any owner or person having custody of a dog or cat that has delivered a litter, who chooses not to relinquish the animal to the Division of Animal Care and Control and also chooses not to have the animal neutered, will be required to purchase a Minor Breeder Permit at the rate of \$100.00.
3. Plus any applicable site license, kennel/cattery permit fee.

(f) (h) *Pet Shop Permit.*

1. Fee for shop selling animals with the exception of unaltered cats and dogs of any age shall be \$250.00.
2. Fee for shop selling animals including unaltered cats and dogs of any age shall be \$500.00.

(i) Carnivals and Circus.

Must comply with the provisions of Section 4-22 of this Code.

~~(g)~~ (i) *Circus, Animal Concession, Animal Event, and Commercial Animal Exhibit Permits.*

1. Fee: \$100.00 per day
2. Permits are to be issued ~~for a term of one (1) year,~~ on a per day event basis commencing with the date of issuance the event.
3. Prior to engagements, the responsible person for the event must permit holders will furnish to the Division of Animal Care and Control with a schedule of dates and times of exhibits or and performances so the Division of Animal Care and Control can may perform periodic inspections. Compliance with Section 5-66 of this Code shall be a condition of all permits being issued.

**(h) Omnibus Permit:**

~~1. Fee \$300~~

~~2. This permit shall allow the holder to operate a kennel or cattery, grooming shop, or a pet shop.~~

~~3. The permit holder does not need to obtain individual permits in the aforementioned areas, but all requirements for each of the aforementioned permits shall be met before the Omnibus Permit may be granted. Animals owned as personal pets by the business owner or resident will not be considered registered under this permit.~~

(i)(k) All commercial permits will may be issued after completing a yearly inspection whereby approved by the Division of Animal Care and Control verifies that the person applying for such commercial permit has met all applicable Code requirements, provided all requirements of this Chapter are met.

**Sec. 5-53 Permit Suspension.**

(a) Whenever an inspection indicates fraud, material misrepresentation or false statements or that the condition of a licensee's premises creates an imminent hazard to the public health or to the health of any animal in the licensee's care, the Director may immediately suspend the license and impound any animal in the licensee's care until such time that the conditions that caused the hazard are corrected.

(b) Upon suspension of any license, all operations related to the license shall cease at once. The Director may cause a "notice of closure" sign to be conspicuously placed upon the suspended licensee's premises. It shall be unlawful for any person to remove a "notice of closure" sign placed on the licensee's premises unless authorized to do so by the Director.

**Sec. 5-54 Appeals; Re-Inspections; Denials or Revocation of Permit.**

(a) Any person who is denied a permit or whose permit is revoked may appeal the denial or revocation in accordance with this section within sixty (60) days of the date of the denial or revocation of the permit.

(b) The permit holder may request a re-inspection for permit reinstatement based on compliance or may appeal the SBACC revocation. All requests for appeals must be in writing and addressed to the Animal Control Commission; whereupon, the Commission shall set the appeal for hearing within forty-five (45) days of the receipt of the written request.

(c) Upon re-inspection by SBACC following an appeal, a permit reinstatement fee of fifty dollars (\$50.00) will be required prior to reopening.

**Sec. 5-55 Redemption of Impounded Animals Seized for Permit Denials, Suspensions or Revocation.**

(a) When the re-inspection indicates full compliance that the conditions that caused the denial, suspension or revocation have been corrected, the permit shall be restored and impounded animals that are in the care of SBACC at the time of full compliance may be redeemed.

(b) Animals seized will be impounded by SBACC for no less than five (5) business days. After five (5) business days, seized animals will be considered unredeemed unless the SBACC and the licensee whose permit was denied, suspended, or revoked reach an agreement regarding the housing and care of the seized animals for the period in which the licensee is working to correct the conditions that caused the denial, suspension or revocation.

(c) Any animal remaining unredeemed after the prescribed holding period shall at once become the property of SBACC.

(d) Upon redemption of seized animals, the licensee is responsible for fees associated with the housing and care of the seized animals.

**Sec. 5-56 through Sec. 5-59 Reserved for Future Use.**

**Article 5. Commercial Animal Permit Regulations.**

**Sec. 5-60 Kennel/Cattery Permit Regulations.**

(a) Any person owning or harboring more than one (1) unaltered dog or one (1) unaltered cat over the age of six (6) months must apply for a kennel/cattery permit.

- (1) A resident exceeding one intact animal on the property may apply for a non-altered residential kennel permit. Applications will be followed by an inspection prior to issuance of the permit. Permits are valid for one year from date of issue and are the non-altered residential kennel permit holder's responsibility to renew. Residential kennel permits require eligibility and may be refused or revoked for cause.
  - a. Initial application eligibility requires no more than three unaltered pets, no outdoor housing in the absence of the owner, suitable exercise space for the breed and number owned, no history of violations with SBACC, and all animals current on vaccinations.
  - b. Cause for revocation may include but is not limited to: animals running at large, substantiated neighborhood nuisance complaints, failure to maintain current permits, breeding without a breeders permit and failing to maintain current rabies vaccine status.

(b) Any person engaging in boarding dogs or cats for compensation must apply for a kennel/cattery permit.

(c) Grandfather Clause. Animals owned or harbored and exceeding the ownership limits of this section at the time of passage of this law may be registered with the Division of Animal Care and Control within ninety (90) days of passage to be exempted from ownership limits. Animals owned or harbored in excess of these limits and not registered within this time frame will not be considered exempt.

**Sec. 5-61 Major Breeders Permit.**

(a) A major breeder's permit shall be obtained by:

- (1) Any person who intentionally causes the breeding of more than one cat or dog or makes more than one cat or dog available for breeding purposes in a 12-month period; and
- (2) Any person who offers for sale, sells, trades, receives other compensation or gives away more than one litter of dogs or cats in a 12-month period; excepting a litter of dogs or cats taken to the Department of Animal Control.

(b) Such person shall:

- (1) Not allow the birthing of more than one (1) litter per female dog or cat in a 12-month period; and
- (2) Furnish the Department of Animal Control with information on the birth of each litter of dogs or cats as may be required by Division of Animal Care and Control to register that litter of dogs or cats with Division of Animal Care and Control, and to be assigned a litter number for each litter; and
- (3) Further be required to register with the Division of Animal Care and Control the name, address, and telephone number of each buyer or new owner of any dog or cat sold or transferred within five days after the date of such sale or transfer; and
- (4) Transmit to the new owner or buyer the litter number of the animal acquired, and the major breeder's permit number in order that the new owner has assurance and proof that the animal was legally bred; and
- (5) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the Division of Animal Care and Control) against common disease; in the case of dogs, against canine distemper, adeno-virus parainfluenza, parvovirus, coronavirus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleucopenia; and
- (6) Not offer a puppy or kitten under the age of ten weeks for sale, trade, other compensation or for free giveaway (except a puppy or kitten or litters of them taken to the Division of Animal Care and Control); and
- (7) Furnish warrant of health for a period of not less than one (1) week with recommendation to have examined by licensed veterinarian for each animal sold.

**Sec. 5-62 Minor Breeders Permit; Sale of Underage Animal Prohibited.**

(a) A minor breeder's permit shall be obtained by:

- (1) Any person who intentionally or accidentally causes the breeding of a cat or dog or makes a cat or dog available for breeding purposes;
- (2) Any person who offers for sale, sells, trades, receives other compensation or gives away any litters of dogs or cats; excepting a litter of dogs or cats taken to the Division of Animal Care and Control; or
- (3) Any owner or person having custody of a dog or cat that has delivered a litter or caused the delivery of a litter, who chooses not to relinquish the animal to the Division of Animal Care and Control and also chooses not to have the animal spayed or neutered shall cause the animal to be implanted with a microchip and to register this dog or cat within 30 days of having received notice to accomplish this procedure from the Division of Animal Care and Control.

(b) Such person shall:

- (1) Be allowed to breed only one dog or one cat which results in the birthing of a maximum of one (1) litter in a 12-month period in his or any other domestic household or establishment or any combination thereof; and
- (2) Not be allowed to offer for sale, sell, trade, receive other compensation or give away more than one (1) litter of dogs or one (1) litter of cats in a 12-month period; excepting a litter of dogs or cats taken to the Division of Animal Care and Control; and
- (3) Furnish the Division of Animal Care and Control with information on the birth of each litter of dogs or cats as may be required by the Division of Animal Care and Control to register that litter of dogs or cats with the Division of Animal Care and Control, and to be assigned a litter number for each litter; and
- (4) Further be required to register with the Division of Animal Care and Control the name, address, and telephone number of each buyer or new owner of any dog or cat sold or transferred within five days after the date of such sale or transfer; and
- (5) Transmit to the new owner or buyer the litter number of the animal acquired, and the minor breeder's permit number in order that the new owner has assurance and proof that the animal was legally bred; and prohibits the sale of underage puppy or kitten under Section 5-77.

(6) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the Division of Animal Care and Control) against common disease; in the case of dogs, against canine distemper, adeno-virus parainfluenza, parvovirus, coronavirus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleucopenia; and

(7) Not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation or free giveaway (except a puppy or kitten or litters of them taken to the Division of Animal Care and Control); and

(8) Furnish warrant of health for a period of not less than one (1) week with recommendation to have examined by licensed veterinarian for each animal sold.

(c) Any owner or person having custody of a dog or cat which has been neutered within ten (10) weeks after giving birth to a litter or who turns the adult dog or cat over to the Division of Animal Care and Control within 10 weeks from the birth date of the litter, will be required to purchase a minor breeder permit at the rate of ten dollars (\$10.00).

(d) Any owner or person having custody of a dog or cat which has delivered a litter, who chooses not to relinquish said animal to the Division of Animal Care and Control and also chooses not to have the animal neutered, will be required to purchase a minor breeder permit at the rate of one hundred dollars (\$100.00) plus any applicable kennel/cattery permit fee. The permit shall be issued provided all requirements of this Chapter are met.

#### **Sec. 5-63 Veterinary Hospitals/Clinics.**

(a) All animals shall be housed humanely and in a sanitary manner.

(b) Veterinarians shall keep records of each animal accepted for treatment, diagnosis or routine health care.

(c) Veterinarians who engage in boarding, grooming or other business in addition to the treatment and/or medical care of animals shall obtain a permit as herein provided.

#### **Sec. 5-64 Grooming Shop Permit.**

(a) Any person who has a grooming shop as defined in this chapter shall obtain a grooming shop permit.

(b) A permit holder has the right to request that any dog or cat accepted for grooming be vaccinated against common diseases, and require proof of such vaccinations be furnished to the shop operator.

**Sec. 5-65 Pet Shop Permit.**

(a) Any person operating a pet shop as defined in this Chapter shall obtain a pet shop permit.

(b) The permit holder shall furnish the purchaser a written statement at the time of sale containing the following:

- (1) Date of sale,
- (2) Name, address and telephone number of purchaser and permit holder,
- (3) Permit number of permit holder,
- (4) Breed, description, approximate age and sex of dog, cat or other animal sold. (Small mammals, parrot-type birds, and fish not included.)
- (5) Medication and prophylactic immunization and dates administered,
- (6) Internal parasite medication(s) and date(s) administered,
- (7) A guarantee of good health for a period of not less than one week with recommendation to have the animal examined by a licensed veterinarian, and
- (8) The permit holder shall retain a copy of the written statement for twelve (12) months from date of sale.

(c) The pet shop permit holder shall be further required to register with the Division of Animal Care and Control the name, address, and telephone number of each buyer or new owner of any dog or cat transferred within five (5) days after the sale or transfer.

(d) The Animal Control Officer or County Health Department of St. Joseph County may restrict the sale of any animal suspected of being diseased or otherwise unfit for sale. An examination by a licensed veterinarian may be requested at the expense of the enforcement agency. The Animal Control Officer may seize the animal to ensure and protect the health and safety of any other animals present and/or the public.

- (1) The permit holder shall reimburse the enforcing agency's veterinary fees if the inspection by the veterinarian concludes the animal to be unfit for sale at the time of inspection.
- (2) The inspection is to be made by a veterinarian within 24 hours of the enforcing agency's determination that the said animal is not fit for sale.

(e) All pet shops herein defined and stores selling animals, birds, reptiles and fish as pets shall take care to house animals in a sanitary manner. Appropriate medical services, care, and housing shall be given according to individual species needs.

(f) No puppy or kitten under the age of eight (8) weeks may be offered for sale, trade or other compensation or for free giveaway (except a puppy or kitten, or litter or litters taken to the Division of Animal Care and Control).

**Sec. 5-66 Circuses, Animal Concessions and Animal Events.**

Any person who is responsible for a circus, animal concession or animal event as defined by this Chapter must obtain a circus, animal concession or animal event permit required by Section 4-22 of the *South Bend Municipal Code*. Non-profit organizations conducting circuses, animal concessions, and events are required to obtain a permit in order to allow inspection but those permits will be issued as complimentary when non-profit status has been verified.

**Sec. 5-67 Zoological Parks.**

Zoological parks shall be issued complimentary permits at no fee.

**Sec. 5-68 Exceptions for Division of Animal Care and Control and Animal Welfare Organizations.**

No permit shall be required of the Division of Animal Care and Control or animal welfare organization; however, all other provisions of this Chapter shall apply and such organizations are subject to inspection.

**Sec. 5-68 through Sec. 5-74 Reserved for Future Use.**

**Article 6. Specific Requirements Governing Dogs and Cats.**

**Sec. 5-75 Rabies Vaccination Required.**

Cats and dogs over the age of three (3) months must be vaccinated by a licensed veterinarian for rabies. One-year and three-year rabies vaccine may be used as per *Indiana Administrative Code*. Caretakers must be able to provide proof of vaccination.<sup>38</sup>

**Sec. 5-76 Dogs or Cats in Heat.**

Every female dog or cat in heat shall be confined in a secure building or enclosure so as to prevent conception except during instances of planned breeding.

<sup>38</sup> *Indiana Code* § 15-17-3-21 authorizes the Indiana State Board of Animal Health to enact rules. Rule 5 addresses "Rabies Immunization" and is codified at 345 *Indiana Administrative Code* 1-5-1. "Required Rabies Vaccination of Dogs, Cats and Ferrets" is codified at 345 *Indiana Administrative Code* 1-5-2.

**Sec. 5-77 Sale of Puppies and Kittens.**

A puppy or kitten must be at least ten (10) weeks old and weaned before it may be offered for sale, traded, or given away for other compensation or for giveaway (except a puppy or kitten or litter or litters may be surrendered to the Division of Animal Care and Control.)

**Sec. 5-78 through Sec. 5-85 Reserved for Future Use.**

**Article 7. Animal Euthanasia.**

**Sec. 5-86 Euthanizing Animals.**

(a) All animals impounded by South Bend Animal Care and Control, a public or private sheltering agency or rescue group shall be ~~killed~~ euthanized, only when necessary and consistent with the requirements of this Article, by lethal intravenous injection of sodium pentobarbital, except as follows:

1. intraperitoneal injections may be used only under the direction of a licensed veterinarian, and only when intravenous injection is not possible for infant animals, companion animals other than cats and dogs, or in comatose animals with depressed vascular function.
2. intracardiac injections may be used only when intravenous injection is not possible for animals who are completely unconscious or comatose, and then only under the direction of a veterinarian.

(b) No person other than a duly authorized agent of the Division of Animal Care and Control may ~~destroy~~ euthanize any domestic animal within the city limits; provided, however, this provision shall not apply to the following:

- (1) A licensed veterinarian,
- (2) A veterinary staff member under the direct supervision of a veterinarian
- (3) Those persons acting in immediate self- protection,

(c) The Division of Animal Care and Control, other animal shelters, and/or public animal facilities which ~~destroy~~ euthanize animals in the city, shall use only sodium pentobarbital or a derivative substance for said purpose.

(d) The duly authorized animal control agent(s) must be trained in humane procedures by a licensed veterinarian or a registered veterinary technician and shall perform the animal euthanization in a humane manner as specified by the AVMA's Guidelines for Euthanasia. Said person(s) must have letter from a licensed veterinarian citing their competency in humane euthanasia procedures and must be evaluated by a licensed veterinarian on a yearly basis, with such required documentation being kept on file and open for public inspection.

(e) No animal's body shall be disposed of until all vital signs are checked (fixed pupil, cessation of heartbeat and respiration) to assure that death has occurred.

- (1) No animal shall be allowed to witness any other animal being ~~killed~~  euthanized or being tranquilized/sedated for the purpose of being ~~killed~~  euthanized or see the bodies of animals which have already been ~~killed~~  euthanized.
- (2) Animals shall be sedated/tranquilized as necessary to minimize their stress or discomfort, or in the case of vicious animals, to ensure staff safety, except as follows:
  - (a) neuromuscular blocking agents shall not be used as sole agent.
- (3) Following their injection, animals shall be lowered to the surface on which they are being held and shall not be permitted to drop or otherwise collapse without support.
- (4) An animal may not be left unattended between the time procedures to ~~kill~~  euthanize the animal are commenced and the time death occurs, nor may the body be disposed of until death is verified.
- (5) Verification of death shall be confirmed for each animal in all of the following ways:
  - (a) by lack of heartbeat, verified by a stethoscope;
  - (b) by lack of respiration, verified by observation;
  - (c) by pale, bluish gums and tongue, verified by observation; and
  - (d) by lack of eye response, verified if lid does not blink when eye is touched and pupil remains dilated when a light is shined on it.

Sec. 5-87 through Sec. 5-89 Reserved for Future Use.

#### Article 8. Administration and Enforcement.

##### Division I. Shelter Manager.

#### **Sec. 5-90 Duties of Shelter Manager.**

- (a) The Division of Animal Care and Control shall be operated by the Shelter Manager.
- (b) The Shelter Manager will be advised on matters of policy by the Animal Control Commission.
- (c) The duties and powers of the Director Shelter Manager are as follows:
  - (1) To cause to be enforced all city ordinances and/or state laws regarding animal care and control.
  - (2) To maintain and operate the Division of Animal Care and Control's shelter which have been designated for the humane sheltering or protection and disposition of animals into its custody.

(3)To purchase all necessary materials for the proper and efficient performances of the services and work required of the shelter consistent with the city's established purchasing procedures.

(4)To cause to be picked up and transported to SBACC all unwanted animals, all animals illegally at large, and all sick, diseased, injured, lost, strayed, stolen or abandoned animals. Those animals whose owners request be euthanized may be surrender the animal to SBACC. The Shelter Manager shall determine if the animal can be saved. In addition, any animal whose illness would pose a health hazard to other animals or is injured so that it cannot rest comfortably for a minimum of three business days may be destroyed immediately as so authorized by the Shelter Manager or his/her authorized agent. If a possible owner is identified, the agencies shall undertake reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address. Upon the owner's or caretaker's initiation of recovery procedures, the agencies shall retain custody of the animal for five (5) business days to allow for completion of the recovery process. All other animals shall be kept at said shelter or place designated by said shelter for a period of not less than three (3) business days to afford owners the opportunity to claim the animal. After such period of time, unclaimed animals shall be placed in a suitable home, retained at the shelter or released to an accepted rescue organization or euthanized. Animals released to the shelter by their owners, or impounded animals not claimed within the legal time become the property of the shelter and disposition may be made in accordance with the criteria outline in this chapter. SBACC shall not ban, bar, limit or otherwise obstruct the adoption or transfer of any animal based on breed, breed mix, age, color appearance or size.

(5)To ensure that no savable animal at South Bend Animal Care and Control shall be euthanized simply because the holding period has expired. Before an animal is ~~killed~~ euthanized, To ensure that no savable animal at South Bend Animal Care and Control shall be euthanized all of the following conditions must be met:

- (a) there are no empty cages, kennels, or other living environments in the appropriate area of the shelter, keeping in mind the overall health and wellbeing of the animals in SBACC's care;
- (b) the animal cannot share a cage or kennel with another animal;
- (c) a foster home is not available;

- (d) not-for-profit animal rescue organizations are not willing to accept the animal;
- (e) the animal is not an ear tipped community cat that has been spayed/neutered and vaccinated as described in Section 5-32 of this Chapter or the animal is not a free roaming cat subject to sterilization and release into an accepted program;
- (f) all mandates, programs and services of the Aet Chapter have been met; and
- (g) the director of the agency certifies he or she has no other alternative.

(6)SBACC shall take appropriate action to ensure that all animals are checked for all currently acceptable methods of identification, including microchips, identification tags, and licenses. SBACC shall maintain continuously updated lists of animals reported lost, and match these lost reports with animals reported found and animals in the shelter. If a possible owner is identified, the agencies shall undertake reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address. Upon the owner's or caretaker's initiation of recovery procedures, the agencies shall retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact an owner or caretaker, and communications with persons claiming to be owners or caretakers, shall be recorded and be made available for public inspection for no less than three (3) years by submitting a completed Public Records (APRA) Request.<sup>39</sup>

(7)To direct Animal Control Officers proceed upon public and private property in accordance with the above criteria, in pursuit of animals believed to be in violation of this Chapter. However, this authority does not extend to a privately owned structure or enclosure without the consent of the owner, lessee or other occupant in control of the premises or without other legal process or authority. Any animal pursued under this Section may be confiscated and held by the Division of Animal Care and Control according to its rules and regulations. If an animal is confiscated without the knowledge or consent of the owner or occupant of the premises, a notice shall promptly be affixed to said premises in an obvious location, directing the occupant to contact the Division of Animal Care and Control providing the address and telephone number of same on said notice.

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<sup>39</sup> *Indiana Code* § 5-14-3-1 through *Indiana Code* § 5-14-3-10 sets for Indiana's "Access to Public Records" state law.

(8)To cause to be investigated all reports and complaints that are significant concerning any inhumane treatment or negligent practices pertaining to animals and to submit a written report that includes the disposition of the complaint and condition of the animal to be reviewed by the Animal Control Commission. To cause to be impounded at the Division of Animal Care and Control or suitable places designated by the Division of Animal Care and Control all animals found in conditions adverse to their health and safety.

(9)To enter into contract with any municipalities or governmental units or any person, association or corporation for the collection, transportation, sheltering and disposal by said shelter for sick, diseased, injured, illegally at large, lost, strayed or abandoned animals provided that no such services be extended by said shelter outside the city, except under written contract with the unit, person, association or corporation concerned and at a charge based upon the actual cost of such services, including overhead; provided that no such contract shall be effective except upon the approval of city attorney or a duly designated associate, as to form and legality, the approval of the Mayor, and the ratification by the Common Council evidenced by adoption of a resolution.

(10)To employ all personnel necessary for the efficient performance of the duties required of said shelter. And require certification of all Animal Control Officers as per state recommendations.

(11)To prepare and submit after review and comments of the Animal Control Commission to the Common Council through the City Controller, an annual budget, for its financing of its operations and performance of its duties.

(12)To submit to the Mayor, the Board of Public Safety, and to the Common Council, no later than January 30 of each year, a report of its activities and operation for the prior year.

(13)To establish reasonable fees to be charged to persons reclaiming and adopting animals, and to collect such fees, such fees to be adopted only after approval by Director and submission to the Mayor and Common Council for approval and adoption.

(14)To prepare for the Animal Control Commission quarterly reports on performance, operation and intake/outtake metrics including adoption, rescue transfer and euthanasia and any other statistics that the Animal Control Commission may request.

(15)To provide that all dogs and/or cats released for adoption shall be spayed or neutered, implanted with an electronic microchip, and provisions made for a program to monitor said spay/neuter and microchip plan.

(16) Any violations of the animal adoption contract shall result in impoundment of the animal. Return of the animal to the adopter will be at the discretion of the Division of Animal Care and Control.

(17) Shall adopt rules and regulations as may be necessary or appropriate in its judgment to carry out the provisions of the ordinances and laws under which it exists and performs its functions, including Standard Operating Procedures (SOP) for the internal operations of the Division of Animal Care and Control.

**Sec. 5-91 Through Sec. 5-94 Reserved for Future Use.**

Division II. Animal Control Commission.

**Sec. 5-95 Animal Control Commission Established; Membership.**

(a) A five-member Animal Control Commission is established.

(b) Members shall be appointed to serve a three-year term, with terms to be staggered. No limit shall be set on number of terms a Commissioner can serve. All members to serve without compensation.

(c) Two (2) of the Commission members shall be appointed by the Mayor. The three (3) remaining members of the Commission shall be appointed by the Common Council. At the outset, the Mayor shall appoint one (1) person to serve two (2) years, and one (1) person to serve three (3) years. The Common Council shall appoint one (1) person to serve two (2) years, and one (1) person to serve three (3) years. At least one (1) member appointed by the Common Council of this Commission must be a licensed veterinarian. This selection shall not be based on political affiliations, but on interest in animal care and control and knowledge of same.

(d) The members of the Commission shall serve at the pleasure of the appointing authority and each member shall serve until a qualified successor is duly appointed.

**Sec. 5-96 Officers; Meetings and Meeting Minutes of the Animal Control Commission.**

(a) The first meeting of the Commission shall be convened by the Shelter Manager. The Commission must meet for the first time within thirty (30) days of the effective date of this Chapter. The Commission shall elect a Chair, Vice-Chair, and a Secretary from among its members.

(b) The Commission shall meet at least once each month, or upon special call by the Chair or upon the written request to the Chair by any three (3) members.<sup>40</sup>

<sup>40</sup> The Indiana Open Door Law requiring a minimum of 48-hour notice applies to all meetings of the Animal Control Commission pursuant to *Indiana Code* § 5-14-1.5-5.

(c) Three (3) members of the Animal Control Commission shall constitute a quorum to do business.

(d) Copies of all Animal Control Commission agendas shall be electronically sent to the Law Department, Division of Animal Care and Control, Office of the City Clerk, and the Chairpersons of the Council's Health and Public Safety Committee and Residential Neighborhoods Committee.

(e) Meeting minutes of all Animal Control Commission meetings shall be maintained and regularly posted on the City's website for the Division of Animal Care and Control with electronic copies being sent to the Shelter Manager, the Law Department, Office of the City Clerk, and the Chairpersons of the Council's Health and Public Safety Committee and Residential Neighborhoods Committee.

(f) In the case of vacancy in Commission membership due to death, resignation, incapacity, removal or otherwise, the appointment to fill the vacancy so occurring shall be made by the original appointing body for the unexpired term only.

**Sec. 5-97 Duties and Responsibilities of the Animal Control Commission.**

The Animal Control Commission shall have the following duties and responsibilities:

(a) To receive and review recommendations made by the Shelter Manager;

(b) To recommend proposed policies, principles, standards and regulations for the control and humane treatment of all animal regulated by this Chapter;

(c) To review and make advisory recommendations aimed at improving regulations and enforcement of the regulations codified into this Chapter to the Common Council;

(d) To submit to the Mayor and the Common Council no later than March 1<sup>st</sup> of each year a written report of its activities and recommendations;

~~(e) To receive complaints regarding alleged animal control violations;~~

~~(e)~~ To hear appeals within ten (10) working days (excluding holidays and weekends) of any appeal being filed on the determination of:

(1) An animal being deemed a "potentially dangerous animal"; and/or

(2) A person or persons alleged to have "provoked" an animal resulting in a violation of this Chapter.

~~(e)~~(f) Such determinations shall be reduced to writing with the original of the same being maintained by the City and copies being sent to the person or persons filing an appeal, with copies also being maintained in the Division of Animal Care and Control. Electronic notification of such determinations shall be sent to all Animal Control Officers and the South Bend Police Department.

**Sec. 5-98 through Sec. 5-104 Reserved for Future Use.**

**Division III. Implementation and Enforcement.**

**Sec. 5-105 Interfering With Enforcement.**

No person shall interfere with an Animal Control Officer in the pursuit of his/her duties as an officer.

**Sec. 5-106 Impoundment.**

(a) Animals found in cruel, abusive or neglectful situations, animals trained, bred or kept for the purpose of animal fighting, animals considered potentially dangerous, animals abandoned as a result of owner arrest, or animals that have been abandoned may be promptly seized, provided, however, that the Animal Control Officer shall leave written notice.

(b) Animals so removed will be impounded and held at the Division of Animal Care and Control or a designated facility, provided, however, that in no event shall this period exceed five (5) calendar days, at which time the animal shall become the property of the Department of Animal Control. An animal may be held longer if an extension is necessary for the Animal Control Officer to have ample time to prepare a court case if prosecution is warranted, or a request for a bond has been filed as provided in paragraph (e) of this Section. In the case of animals impounded for quarantine at the Division of Animal Care and Control, the animal will become the property of the Division if not claimed by closing time of the Division on the eleventh (11<sup>th</sup>) day of the quarantine. Owners requesting quarantine but failing to claim animals at the end of the quarantine period will be responsible for all medical, quarantine, and euthanasia fees.

(c) Animals impounded for reasons of tragedy beyond the control of the owner, such as but not limited to house fire or death of the owner, will be held for seven (7) calendar days during which time a reasonable effort will be made to contact the owner and/or their representative to make reclaim or alternative housing arrangements. After the seventh (7<sup>th</sup>) day of impoundment, the animals will become the property of the Division of Animal Care and Control.

(d) Animals awaiting disposition by the courts shall remain in the custody of the Division of Animal Care and Control, unless such disposition is made, or placed in a foster home until legal arrangements have been completed.

(e) Pursuant to impoundment of an animal under paragraph (a) of this Section, the Division of Animal Care and Control may file a petition with the court requesting that the owner or custodian of the animal post a bond to cover the costs of care of the animal while it is in the custody of the Division.

1. This petition shall be accompanied by an affidavit or statement of the Division that sets forth an estimate of the reasonable expenses that the department expects to incur providing for that care. Reasonable expenses include but are not limited to the estimated cost of veterinary care, food and board for the animal. The owner or custodian of the animal shall be provided written notice of the petition by personal service or certified mail. Any such mail shall be sent to the last known residence, or, if this address is not known, such notice shall be sent to the address from which the animal was seized. Refusal to accept certified mail or failure to receive mail due to other delays will not negate this Section.
2. The court or hearing body to which the petition is filed shall hold a hearing on the petition. At the hearing, the Division has the burden of proving that there is probable cause to find that the animal was the subject of a violation as listed under paragraph (a) of this Section. If the court finds that probable cause exists, the court shall order the owner or custodian of the animal to post a bond to cover the cost of the care of the animal for a minimum of thirty (30) days.
  - i. Bond must be posted within a maximum of three (3) business days following the bond hearing judgment. If bond has not been posted within the allotted three (3) business days, the animal shall immediately become the property of the Division of Animal Care and Control.
  - ii. Bond must be posted at the Division of Animal Care and Control in cash or certified funds only. The bond shall be deposited into the budget for the Division of Animal Care and Control, in a subaccount specific for each case. The ~~department~~ Division may draw on this account to cover the actual expenses incurred in the care of the animal.
  - iii. If, at the end of thirty (30) days, the matter for holding said animal(s) has not been adjudicated, another bond must be posted. The renewal bond must be paid no later than the close of business on the thirtieth (30<sup>th</sup>) day. If the thirtieth (30<sup>th</sup>) day should fall on a weekend or holiday, the bond must be posted by the close of business on the last regular business day prior to the weekend or holiday. The bond must be renewed every 30 days thereafter until the matter is adjudicated by the court or hearing body having jurisdiction. Failure to repost bond at the end of any 30-day period will be considered voluntary relinquishment of the animal(s).

- iv. Upon conviction of the accused, the court or hearing body, at its discretion may order any remaining bond money and/or the animal(s) forfeited to the Division of Animal Care and Control.
- v. In the event of the acquittal or final discharge, without conviction of the accused, the court shall direct the delivery of the animal(s) and any bond posted, less any reasonable medical, housing and administrative costs.

3. The bond is intended to cover but not be limited to housing and feeding, emergency medical care, immunizations and routine medical care. Animals displaying signs of illness or injury at the time of impound will be treated immediately at the expense of the owner or custodian. Animals that have not been inoculated for or are not current on inoculations for ailments common to its species will be inoculated at the expense of the owner or custodian. Any animal displaying symptoms of illness or injury which, in the opinion of a licensed veterinarian, would cause undue suffering to that animal or pose a substantial health risk to other animals in the shelter shall be humanely euthanized immediately.

4. This Section applies to any and all animals housed at the South Bend Division of Animal Care and Control Shelter, or under the direction of the South Bend Division of Animal Care and Control at a remote facility, irrespective of the agency that seized the animals.

5. Animals so removed may be transported to a licensed veterinarian for examination and/or treatment. If, in the opinion of said veterinarian, the animal must be destroyed, euthanasia will be performed immediately. Costs of treatment, euthanasia, and/or care shall be the responsibility of the owner/agent.

6. When a community cat is captured, such animal need not be impounded but may be returned to its owner or community cat caretaker if, in the opinion of the animal care and control officer, the return would not present a danger to the public, continued or repeat public nuisance, or otherwise result in a violation of this Chapter.

#### Sec. 5-107 Notice to Owner.

(a) Upon the impoundment of an animal, a reasonable attempt shall be made to notify and inform the owner of the animal of the requirements of this Article for regaining the custody of the animal.

(b) Such attempt shall include, but not necessarily be limited to, the following:

- (1) In the instance of an impounded dog or cat, contact with the owner identified by the microchip or other permanent means of identification, if any, borne by the dog or cat;
- (2) In the instance of an impounded dog or cat not bearing a permanent means of identification, contact with the veterinarian facility listed on the animal's vaccination tag; and

(3) Cooperation of effort with other governmental and private agencies, such as the Humane Society of St. Joseph County or other humane and/or breed rescue organizations recognized by the animal care and control division.

(c) Any ear tipped community cat that has been spayed/neutered and vaccinated as described in Section 5-32 of this Chapter will be returned to a colony caretaker who will maintain the cat as part of a managed colony of community cats. Cats must be returned as close as possible to its location of capture unless illness or injury presents imminent danger to the animal to be processed through the community cat program.

**Sec. 5-108 Redemption.**

(a) A person may reclaim an animal in the custody of the Division of Animal Care and Control upon providing the following:

- (1) Proof of ownership, and
- (2) Payment of redemption fee and any other service/medical fees, as approved by the Shelter Manager.
- (3) It shall be mandatory that any dog or cat not displaying a current city pet registration or current identification tag if not a city resident, affixed to its collar, after the effective date of this Chapter, upon its redemption by its owner, and prior to its release by the Division of Animal Care and Control, be implanted with a microchip and registered for purposes of identification and recovery. The cost for this process shall be at the owner's expense before the animal's release.
- (4) All animals shall be registered with the city prior to release, or require enforcement action to mandate registration.

(b) Stray or at-large animals will be held three (3) business days at the Division of Animal Care and Control.

(c) Unclaimed animals become the property of the Division of Animal Care and Control and may be placed for adoption, transferred to rescue or humanely euthanized, pursuant to Section 5-106.

(d) An animal that has been previously impounded stray or at-large and is now being redeemed for the second or subsequent redemption, will be required to be spayed or neutered by a licensed veterinarian at the owner's expense. Arrangements to perform the procedure must be made within 24 hours of reclaim and enforcement action pending spay/neuter completion will be issued at the time of reclaim.

(e) In cases mandating spaying or neutering of a dog, the dog may be transported directly to the veterinarian of the owner's choice at the city's discretion for completion of the surgery and pickup of the animal by the owner from the veterinarian after such completion.

**Sec. 5-109 Inspections and Entry on Property.**

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this Chapter or when there is reasonable probable cause to believe that there exists in any building or upon any premises any violation of the provisions of this Chapter or state law, the Animal Control Officer or Health Officer or police officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this Chapter or any state law; provided that:

- (1) If the property is occupied, the officer shall first present proper credentials to the occupant and request entry, explaining the reasons therefor; and
- (2) If the property is unoccupied, the officer shall make a reasonable effort to locate the owner or other persons having control of the property and request entry explaining the reasons therefor.

(b) In the event the Animal Control Officer, County Health Officer ~~of or~~ his or her designee or police officer has reasonable probable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefor. If entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after reasonable search, the officer shall have recourse to secure lawful entry and inspection of the property via a warrant issued by a judge in good standing.

**Sec. 5-110 Disposition of Fees, Donations and Bequests.**

(a) All money generated, received or collected as the result of payment of fees required by this Chapter shall be deposited into the Division of Animal Care and Control budget fund.

(b) All money received by the Division of Animal Care and Control through donations, gifts, bequests or devises shall be payable to the City Controller and deposited into the appropriate fund 217. The expenditure of funds shall be subject to all state and local appropriation and purchasing requirements.

(c) All money generated, received or collected in response to the Division's special fund-raising projects shall be payable to the Division of Animal Care and Control and shall be deposited into the appropriate fund and shall be used in a manner consistent with the announced purpose of any special fund-raising event or project. No expenditure may be made from these funds unless first approved by the Shelter Manager. The expenditure of funds from the dedicated animal control special projects fund shall be subject to all state and local appropriation and purchasing requirements.

**Sec. 5-111 Penalties.**

(a) Violators shall be issued a citation and fined by a law enforcement officer or animal control officer as follows:

<u>Section Violated</u>	<u>Type of Violation</u>	<u>Amount of Fine</u>
Sec. 5-17	Failure to Remove Animal Waste	\$50.00 to \$2,500.00
Sec. 5-21	Running at Large	\$50.00 to \$2,500.00
Sec. 5-33	Barking/Animal Noise	\$50.00 to \$2,500.00
Sec. 5-52	Failure to Register Pet	\$50.00 to \$2,500.00
Sec. 5-52	Failure to Obtain Rabies Vaccination	\$50.00 to \$2,500.00

Unless specified otherwise in this Chapter, Any person violating any of the other provisions of this chapter shall be fined for each offense, in any sum not less than \$50 nor more than \$2,500 and each day's violation shall constitute a separate offense.

(b) Upon finding of violations of this Chapter, the City may seek injunctive relief through the court which may order relinquishment of an animal(s) deemed to be a public safety risk and/or a repetitive public nuisance that has not been abated or an animal that is a victim of cruelty, neglect, or abandonment, to the Division of Animal Care and Control for disposition.

(c) In the event that an animal is retained at the Division of Animal Care and Control because its owner or harbinger has been in violation of this Chapter, the person redeeming the animal by paying the prescribed fees shall also be required to pay the costs incurred by the Division of Animal Care and Control for impoundment and caring for including but not limited to:

1. surgeries,
2. vaccines,
3. x-rays,
4. medications, exams, lab work,
5. boarding,
6. rescue equipment, and/or
7. perishable personal protection equipment.

(b) (d) Violations of this Chapter may result in immediate impoundment of animal(s).

(e) (e) Violation of any provision of this Chapter may result in revocation of any permit(s) and may require a re-inspection prior to reinstatement upon approval.

(d) (f) Upon finding an owner or harbinger guilty of violations for this Chapter, the court may order restitution including but not limited to:

- 1) human medical bills,
- 2) victim veterinary and/or medical bills,
- 3) replacement cost of animal,
- 4) property damage,
- 5) lost wages, and or
- 6) counseling or psychological treatment obtained by victim directly related to violation incident.

(g) All fines for violations of this Chapter shall be paid within ten (10) days of the issuance of a citation.

**Sec. 5-112 Through Sec. 5-119 Reserved for Future Use.**

**Article 9. Rental Horses.**

**Sec. 5-120 Definitions.**

For the purpose of this ~~subchapter~~, Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) *Carriage Horse.* Any horse or pony which is used by its owner or any other person to pull any vehicle, carriage, sled, sleigh or other device in exchange for a fee. A horse rented or leased by its owner to another for any of the foregoing purposes shall be deemed to be a carriage horse for the purposes of this ~~subchapter~~ Article.

(b) *Rental Horse Business.* A business enterprise which operates a horse drawn vehicle for hire such as a horse drawn cab, or offers the use of a horse to the public for a fee for the purpose of riding or pulling a horse drawn vehicle.

(c) *Stable.* Any place, establishment or facility where one or more rental horses are housed, boarded for a fee, or maintained.

(d) *Work.* A horse is considered to be at work when it is out of its stable and presented to the public as being available for riding, pulling carriages, vehicles or other device, or when it is saddled or in harness.

**Sec. 5-121 Permits and Administration.**

(a) It shall constitute a violation of this ~~subchapter~~ Article for any person or corporation to use or offer for use a horse in a rental horse business without a license issued pursuant to the regulations and conditions set out hereinafter. No owner or operator of a rental horse business shall permit a carriage driver to operate without a valid chauffeur or operator's permit to drive.

(b) Licenses shall be issued for a term of one (1) year and shall be renewed annually.

(c) An application for a license or renewal of a license shall be made to the ~~Department~~ Division of Animal Care and Control. Applications for renewal must be submitted no later than ten (10) business days prior to expiration of the current license. All such applications shall contain the name and address

of the owner of the horse and the rental horse business in which such horse is to be used. The horse shall be identified by breed, age, sex, color, markings, and the location of the stables where the horse is to be kept, recorded on a veterinary certificate provided by the ~~South Bend Department~~ Division of Animal Care and Control. No license shall be transferable. Upon the transfer of ownership or use of any horse to a new owner or operator shall obtain a new license for such horse within thirty (30) days of the transfer date.

(d) The annual fee per working animal license or renewal shall be one hundred dollars (\$100.00) for carriage horses and ten dollars (\$10.00) for riding horses, and shall be paid upon submission of an application to the ~~Department~~ Division of Animal Care and Control.

(e) Each horse licensed for use pursuant to these regulations shall be assigned an official identification number unique to that horse during the duration of its use by the rental horse business.

(f) An owner or operator of a rental horse business shall keep an accurate daily record of the movement of each licensed horse when in the city limits including driver's name, horse's identification number, vehicle license plate number, time of leaving stable and time of return to stable. Such records shall be kept on the premises of the stable where rental horses are kept or maintained and shall be made available to the ~~Department~~ Division of Animal Care and Control upon request.

(g) An owner or operator of a rental horse business shall make the stable (if located within the city limits) in which horses used in the rental business are kept open for inspection at all reasonable time by authorized personnel of the ~~Department~~ Division of Animal Care and Control to enforce the provisions of this ~~subchapter~~ Article.

**Sec. 5-122 Housing/Stable Premises.**

(a) Walls and ceilings. Walls and ceilings shall be kept clean, in good repair, and free of physical hazards at all times. Stall walls shall be constructed of a safe and secure material, with boarding set beginning at ground level and close enough to prevent the "casting" of a horse.

(b) Floors. Floors shall be level and free of holes or openings, and shall provide proper drainage. No horse shall be stabled on a concrete floor without adequate cushioning.

(c) Storage areas. Feed shall be kept in storage areas constructed to permit extermination treatment in order to be made rodent and insect proof. Feed storage area shall allow no harborage and be kept vermin free. Storage of feed concentrates shall be in an area inaccessible to the horses.

(d) Ventilation. Adequate ventilation shall be maintained, but rental horses shall not be unnecessarily exposed to drafts in stables during cold weather. All stable areas shall be adequately lighted by natural or artificial means so as to permit effective and safe activities through day and night.

General sanitation. All interior areas of stable and all exterior areas surrounding a stable shall be kept clean, properly drained and free of nuisances including, but not limited to, odors and accumulation

of refuse or excrement. Manure accumulations shall be removed from the premises weekly to prevent rodent and vermin activity.

(f) Stalls. Each stall shall house only one (1) horse or pony. Stalls shall be attended to daily ensuring clean and dry sufficient bedding of straw, shavings or other suitable material which shall be changed as often as necessary to maintain them. The ceiling and shortest wall of the stall shall measure three feet (3') greater than the height of the horse at the withers.

**Sec. 5-123 Regulations.**

(a) Horses shall not be left untethered or unattended except when confined in a stable or other enclosure.

(b) While at work, rental horses shall be allowed to drink. However, a rental horse shall not be allowed to drink in large quantities unless it is first rested. Water shall be offered at frequent periods throughout the day or in the case of horses not at work, water shall be available at all times. Troughs shall be cleaned daily. Sufficient nutritional foods and water shall be provided free of dust, mold, vermin and other contaminants. Rental horses shall be fed at least twice daily with the larger feeding being provided after the horse has completed work.

(c) Certified weights of all horses and horse drawn vehicles shall be registered with the Division Department of Animal Care and Control annually. At the discretion of the Division Department of Animal Care and Control, when supported by the opinion of a consulting veterinarian, a rental horse within a business may be restricted in regard to pulling/riding capacity, based on individual characteristics and abilities.

(d) No rental horse shall be at work for more than eight (8) hours a day. There shall be a rest period of 15 minutes for every two (2) working hours. During such rest periods, the person in charge of such horse shall make fresh water available to the horse.

(e) Rental horses shall not be worked in temperatures below -0 F., with wind chill factor applied. At no time shall a rental horse be at work when the sum of the relative humidity and ambient temperature exceeds 100°. For the purposes of this subdivision, temperatures shall be those measured "downtown" and broadcast by the local radio stations. An operator of a rental horse already at work at the time the temperatures reach the above described conditions shall return the passengers to the point of loading and rest the horse in sheltered conditions. Thereafter, such horses may be worked only when the weather conditions once again reach acceptable limits.

(f) Rental horses shall not work on a public highway, street or path during adverse weather or other conditions which are a threat to the health or safety of the horse or the public. Adverse weather conditions may include but shall not be restricted to snow, ice, heavy rain, slippery conditions or excessive heat.

(g) Carriage companies shall equip all carriages/horses with a manure catching device for use at all times while working.

(h) No horse-drawn carriage shall be driven at a speed faster than a trot at any time. All such carriages shall adhere to state law on slow moving vehicles. No horse drawn carriage shall be operated between the hours of 7:00 a.m. through 9:30 a.m. and 3:30 p.m. through 6:00 p.m., Monday through Friday.

(i) It shall be the responsibility of the owner/operator of a rental horse drawn carriage to ensure there is a slow moving vehicle emblem displayed on each carriage, whenever the carriage is moved, operated, or driven. The triangular slow moving vehicle emblem will be mounted as near as is practicable to the center of mass and at an approximate height of not less than three and not more than five feet from level ground or surface. The emblem shall be mounted so as to be entirely visible from the rear, day or night.

(j) It shall be the responsibility of the owner/operator of a rental horse drawn carriage to ensure there are flashing lamps mounted and in use whenever the carriage is moved, operated, or driven 1 hour before sunrise and 1 hour after sunset. A red or an amber flashing lamp will be mounted at a height as low as practicable that is visible from a distance of not less than five hundred feet to the rear. Also, a double-faced flashing lamp may be used, displaying amber light to the front and red or amber light to the rear.

(k) Every horse whose use requires a license hereunder shall be examined by a veterinarian prior to its use in a rental horse business, and thereafter at intervals of not less than once a year. The horse shall be examined and treated for internal parasites. Its general physical condition shall be evaluated, which examination shall include but not be limited to, inspection of teeth, hooves, and shoes, and for its physical ability to perform the work or duties required of it. The examination shall also include a record of any injury, disease, or deficiency observed by the veterinarian at the time, together with any prescription or professional recommendation regarding humane correction or disposition of the same. An Indiana health certificate containing the above information and signed by the examining veterinarian shall be maintained at the stable premises at which such horse is located, and shall contain the identification number, age and condition of the horse. With a copy on file with SBACC.

(l) The rental horse business shall take immediate action to obtain veterinary treatment, care and attention when any horse is or becomes sick, diseased, lame or injured. If a horse dies while at work or in the stable area, or is involved in an accident resulting in an injury to a horse, the ~~Department~~ Division of Animal Care and Control shall be notified immediately.

(m) A horse covered by this subchapter which is or becomes lame or suffers from a physical condition or illness making it unsuitable for work shall be removed from work by the rental horse business or may be ordered removed from work by the ~~Department~~ Division of Animal Care and Control. In the event of a dispute regarding such physical condition or illness, the ~~Department~~ Division may require that a rental horse be examined by a veterinarian in order to determine its ability to safely work as a rental horse. The cost of any such examination shall be borne solely by the rental horse company. A horse which has been removed from work under this division shall not be returned to work until it has

recovered from the condition which caused removal from work, or until such condition has improved sufficiently that its return to work will not aggravate the condition or otherwise endanger the health of the horse. A violation of this section shall be presumed if a horse is found at work in a sick or disabled condition within 48 hours after its removal from work for the same condition which caused such removal. Such presumption may be rebutted by offering a written statement from a veterinarian who examined the horse after the time of removal from work but prior to its return to work, which statement sets out the veterinarian's professional evaluation of the condition and his/her opinion that it was suitable for the horse to return to work prior the expiration of the 48-hour period. This statement shall be carried with the horse during the presumed 48-hour recovery period, and provided to the ~~Department~~ Division of Animal Care and Control upon request.

(n) Saddles, blankets, harnesses, bridles and bits and all other equipment shall be properly fitted to each horse, and kept in good repair, and in good operating condition.

(o) Horses shall be kept clean while at work and in the stable. Horses shall be trimmed and shod a minimum of once every six (6) weeks or sooner if necessary.

**Sec. 5-124 Excepted From Coverage.**

Rental horse business as defined in Sec. 5-120 are excepted from coverage under Sec. 5-66 and are governed solely by the licensing provisions of this subchapter Article.

**Sec. 5-125 Through Sec. 5-129 Reserved for Future Use.**

Section II. All references to Municipal Code Section, the Type of Violation and Penalty amounts set forth in the "Schedule of Ordinance and Code Violations set forth in Section 2-213 of the South Bend Municipal Code for violations of Chapter 5 are amended to read as follows, with all other listings therein remaining as is:

<del>5-9</del>	<del>Sale of fowl prohibited</del>	<del>15.00</del>
<del>5-11</del>	<del>Animals in motor vehicles</del>	<del>15.00</del>
<del>5-12</del>	<del>Poisoning of animals</del>	<del>50.00</del>
<del>5-13</del>	<del>Trapper of animals</del>	<del>15.00</del>
<del>5-14</del>	<del>Maximum number of dogs or cats</del>	<del>15.00</del>
<del>5-15</del>	<del>Acreage requirements</del>	<del>15.00</del>
<del>5-16</del>	<del>Animals in heat</del>	<del>15.00</del>
<del>5-17</del>	<del>Removal of animal waste</del>	<del>15.00</del>
<del>5-23</del>	<del>Keeping certain animals</del>	<del>25.00</del>
<del>5-26</del>	<del>Interference with humane officer</del>	<del>15.00</del>
<del>5-27</del>	<del>Potentially dangerous dog licensing</del>	<del>50.00</del>
<del>5-28</del>	<del>Potentially dangerous dog regulations</del>	<del>50.00</del>
<del>5-53</del>	<del>Honey bee keeping regulations</del>	<del>75.00</del>

Substitute Bill No. 17-14

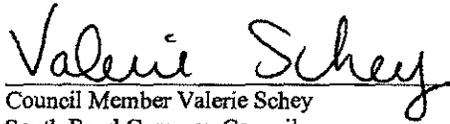
Responsible Animal and Pet Ownership Care and Control Regulation Ordinance

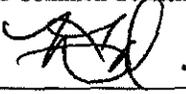
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Sec. 5-11	Honey bee keeping regulations	\$75.00
Sec. 5-17	Failure to Remove Animal Waste	\$50.00 to \$2,500.00
Sec. 5-21	Running at Large	\$50.00 to \$2,500.00
Sec. 5-33	Barking/Animal Noise	\$50.00 to \$2,500.00
Sec. 5-52	Failure to Register Pet	\$50.00 to \$2,500.00
Sec. 5-52	Failure to Obtain Rabies Vaccination	\$50.00 to \$2,500.00
Sec. 5-52	Providing false information	\$250.00
Sec. 5-111	Animal and Pet Care and Control	\$50.00 to \$2,500.00

Section III. If any Article, Division, Section, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason declared to be unconstitutional or otherwise invalid by a Court of competent jurisdiction, such decision, shall not affect the validity of the remaining portions of this ordinance.

Section IV. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and legal publication with the effective date being August 1, 2014.

  
\_\_\_\_\_  
Council Member Valerie Schey  
South Bend Common Council

  
\_\_\_\_\_  
Council Member Henry Davis, Jr.  
South Bend Common Council

1st READING 2-24-14  
PUBLIC HEARING 5-28-14 as a 3rd substitute as amended  
3rd READING 5-28-14 3rd substitute as amended  
NOT APPROVED  
REFERRED  
PASSED 5-28-14 3rd substitute as amended

