



CITY OF SOUTH BEND

DEPARTMENT OF COMMUNITY INVESTMENT

July 7, 2026

Filed in Clerk's Office

President Canneth Lee
South Bend Common Council
3rd Floor – South Bend City Hall
South Bend, IN 46601

Jul 7, 2026

Bianca Tirado
City Clerk, South Bend, IN

Re: Chapter 5 - Responsible Animal and Pet Ownership Care and Control Regulations

Dear President Lee:

Attached for consideration by the South Bend Common Council ("Council") is an ordinance to repeal and replace the existing Chapter 5 of the South Bend Municipal Code - Responsible Animal and Pet Ownership Care and Control Regulations.

The proposed ordinance updates South Bend's animal care and welfare regulations to improve clarity, align the ordinance with current best practices and South Bend Animal Resource Center (SBARC) practices, and strengthen the City's ability to protect public safety and animal welfare.

I request that this proposed amendment be included on the full Council agenda for first reading and assignment to the Health and Public Safety Standing Committee on July 13, 2026.

Thank you for your consideration.

Sincerely,

Liz Maradik
Chief Neighborhoods Officer

Executive Summary: Proposed Revisions to the SBARC Ordinance

The proposed ordinance introduces key updates to South Bend's animal care and welfare regulations to improve clarity, align the ordinance with current Animal Resource Center (SBARC) practices, and strengthen the City's ability to protect public safety and animal welfare. The revisions address structural reorganization, enhanced regulatory tools, and expanded permitting and enforcement mechanisms to address gaps in clarity, consistency, and effectiveness.

Key Changes:

1. **Comprehensive Reorganization of Chapter 5** – The ordinance fully restructures Chapter 5 and organizing it into clear articles addressing general provisions, animal care standards, species-specific regulations, permitting, enforcement, and administration. This reorganization improves usability for staff and residents and ensures that related requirements are grouped logically, reducing confusion and increasing enforceability.
2. **Expanded Animal Care Standards** - Minimum care requirements are significantly expanded and clarified, including standards for shelter, space, veterinary care, and protection from extreme weather conditions. These provisions provide clearer benchmarks for determining neglect or mistreatment and improve the City's ability to take timely and appropriate enforcement action where necessary. These standards are defined for common domestic animals, as well as for less common animals subject to permits such as horses, honey bees, chickens, and pigeons.
3. **Expanded Permitting and Licensing Framework** - The revisions broaden and standardize permitting requirements for a range of activities, including breeders, pet shops, kennels, grooming facilities, animal events, and specialty animal activities. The updated framework incorporates inspection authority, health and recordkeeping requirements, and clearer criteria for compliance, strengthening oversight of both commercial and non-commercial animal-related activities. It also ensures consistency among permitted and licensed uses, with similar enforcement frameworks applied throughout the ordinance.
4. **Formal Animal Designation System** – The ordinance establishes a clear, tiered classification system for animals, including Public Nuisance, Dangerous, and Vicious designations. Each classification includes defined criteria, procedural requirements, and corresponding restrictions or outcomes. This framework promotes consistency in enforcement decisions and provides clear expectations for residents.
5. **Regulated Animal Possession Permit (New Enforcement Tool)** – A new regulatory mechanism authorizes the City to require individuals with repeated or high-risk violations to obtain a Regulated Animal Possession Permit in order to continue owning animals. This permit may include individualized conditions, such as limits on the number of animals, required training, or inspections. The approach provides a graduated enforcement option that focuses on improving compliance while reducing the need for more severe enforcement measures. It is intended to replace the existing Habitual Animal Offender designation to focus more on the need to ensure safe and responsible possession

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of animals based on demonstrated past noncompliance, rather than on designating a person as an “offender.”

6. **Strengthened Enforcement Authority and Due Process** – The ordinance clarifies SBARC’s authority related to investigations, inspections, impoundment, and enforcement actions. It also establishes detailed procedures for hearings before the Animal Welfare Commission, including notice requirements, appeal rights, and evidentiary standards. These updates enhance transparency and reduce legal risk by ensuring consistent due process protections.
7. **Alignment with Current Practices** – The revised Chapter aligns ordinance language with the City’s current operational practices, including standardizing references to SBARC and codifying existing procedures such as impoundment and licensing processes. This alignment reduces inconsistencies between policy and practice and improves clarity for both staff and the public.
8. **Improved Readability and Definitions** – Definitions have been streamlined and reorganized, with outdated or redundant terms removed and key concepts clarified. The ordinance also incorporates more plain-language drafting to ensure residents can better understand their responsibilities and the City’s processes.

Conclusion

These revisions modernize the City’s animal care ordinance by providing clearer standards, stronger enforcement tools, and improved administrative processes. The updated Chapter is designed to enhance public safety, promote humane treatment of animals, and ensure more consistent and effective implementation of City regulations.

Jul 7, 2026

BILL NO. 39-26

Bianca Tirado
City Clerk, South Bend, IN

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, REPEALING CHAPTER 5 OF THE SOUTH BEND MUNICIPAL CODE
ENTITLED RESPONSIBLE ANIMAL AND PET OWNERSHIP CARE AND CONTROL
REGULATIONS, AND REPLACING IT WITH A NEW CHAPTER 5 ENTITLED
ANIMAL CARE REGULATIONS AND WELFARE ENFORCEMENT**

STATEMENT OF PURPOSE AND INTENT

Chapter 5 of the South Bend Municipal Code provides the regulations governing the operations of the South Bend Animal Resource Center (SBARC), as well as animal care and welfare throughout the City.

The proposed ordinance makes several key changes to the existing language of Chapter 5, including improvements to readability and definitions, clarifications to processes and requirements, improvements to cohesion between ordinance language and standard practice, and emphasizes focus on animal welfare and public safety.

Improvements to readability were made throughout the Chapter, ensuring clarity for residents as to City requirements and processes. The definitions contained in Chapter 5 were also streamlined to eliminate definitions no longer used in the Chapter, include definitions in-line where terms were used only once, and improve readability of remaining definitions.

In connection with the improvements to readability mentioned above, this ordinance also includes more detail in some areas to clarify processes and requirements where needed. For example, this ordinance clearly explains the due process provided to residents when they are involved with a matter heard by the Animal Welfare Commission (AWC).

Additionally, this ordinance ensures that ordinance language matches the current practices to avoid confusion for residents. It also standardizes language to refer to the City or to SBARC, rather than to particular divisions, individuals, or positions.

Finally, this ordinance emphasizes SBARC's continued focus on animal welfare and public safety. While ensuring that enforcement remains strong for existing ordinance violations, this ordinance also refines the existing animal and owner designations to more clearly fit the challenges facing each category.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of South Bend, as follows:

SECTION I. Chapter 5, Articles 1 through 9, Sections 5-1 through 5-125 are each and all hereby repealed.

SECTION II. A new Chapter 5, Articles 1 through 11, Sections 5-1 through 5-157 are hereby approved and adopted to read in the entirety as follows:

CHAPTER 5. ANIMAL CARE REGULATIONS AND WELFARE ENFORCEMENT

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.
- (c) The provisions of this Chapter supplement all state laws covering the same subject matter.
- (d) The provisions of this Chapter shall take effect thirty days following adoption.

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(ed), as to an animal*, means to desert or to leave an animal, without making provisions for minimum care of the animal.
- (b) *Abandon(ed), as to a property*, means that a reasonable and prudent person in the SBARC employee's position would believe a property to be vacant and/or deserted.
- (c) *Altered animal* means an animal that has been operated on to prevent it from procreating.
- (d) *Animal* means any living vertebrate, domestic or wild, except a human being.
- (e) *Animal bite classification* means the numeric designation indicating the levels of severity with one (1) the least severe and five (5) the most severe, pursuant to Section IV of the Animal Bite Classification System within the Official Indiana Bites Report form from Indiana State Department of Health, as amended. These classifications are currently set forth as follows: Level 1 = minor scratch(s); Level 2 = minor, punctures 4 or less; Level 3 = moderate, punctures; Level 4 = severe, punctures (4 or more) deep may include crushing or tears from shaking; and Level 5 = death.
- (f) *Animal event or exhibit* means display, activity or show of wild or domestic animals in a shopping center, retail establishment, adjacent lot, or elsewhere.
- (g) *Animal rescue organization* means a group or person maintaining a non-profit or business entity established pursuant to state law with the primary purpose of promoting animal adoption.
- (h) *Animal Welfare Alert (AWA)* means notice and communication given as a warning to animal owners concerning witnessed or reported animal ordinance violations.

- (i) *Animal welfare organization* means any entity organized and existing for the express actions of ensuring the health, safety, and welfare of animals.
- (j) *Breeder* means any person who intentionally or accidentally causes the breeding of an animal or makes any animal available for breeding purposes, or any person who offers for sale, sells, trades, receives other compensation or gives away any offspring of any animals.
- (k) *Cattery* means any person or group of persons, partnership or corporation or facility operated commercially engaged in keeping more than one cat for the purposes of boarding.
- (l) *Coop* means an enclosed structure used for housing chickens that provides shelter from the elements.
- (m) *Community cat* means 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.
- (n) *Cruelty* means the mistreatment or neglect of an animal that causes unintentional or intentional pain and suffering.
- (o) *Dangerous wild* or *dangerous exotic animal* means a wild or exotic animal that would create a potential risk to public safety.
- (p) *Dog park* means a designated area for dogs to exercise and play off leash in a controlled environment under the direct supervision of their owner.
- (q) *Domestic animal* means an animal that is not wild. The term is limited to:
 - (1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, emus, or other birds;
 - (2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, avian, camelid, cervidae, or bison species; or
 - (3) an aquatic animal that may be the subject of aquaculture (as defined in IC 15-11-7-1).
- (r) *Euthanasia* means to humanely end the life of an animal.
- (s) *Exotic animal* means any animal whose native habitat is not indigenous to the continental United States. This does not include fish, fur-bearing animals commercially bred for the furrier trade and birds defined under federal regulations, and nonpoisonous snakes and reptiles.
- (t) *Food* means nourishment that is appropriate for the species in adequate amounts to maintain good health.
- (u) *Foster animal* means any animal placed by an animal welfare organization or animal rescue organization in temporary care at a foster home until it is adopted.
- (v) *Foster home* means the physical location, away from an animal welfare organization, animal rescue organization, or SBARC, providing temporary care to a foster animal.
- (w) *Free-roaming cat* means any unowned, unaltered outdoor cat.
- (x) *Impoundment* means to seize and place into the custody of SBARC, any animals found in violation of this Chapter and/or Indiana law, to temporarily house animals in protective custody as defined in this Chapter, or for the health and safety of the animal.
- (y) *Kennel* means any person, group of persons, partnership or corporation or facility operated commercially for the purpose of boarding, housing, breeding or training dogs or cats, or both.

- (z) *Neglect* means to fail to comply with the Animal Care Regulations set out in Article 2 of this Chapter in a manner that endangers the animal's life, safety, and/or health.
- (aa) *Owner* means one of the following:
- (1) A person who owns an animal,
 - (2) A person who has ownership or custody rights for an animal on behalf of an owner, or
 - (3) A person that permits any animal to remain and/or to be fed within any premises on which such person resides or controls for at least (3) consecutive days.
- (bb) *Person* means any individual, firm, corporation, limited liability company, partnership, organization, or commercial establishment.
- (cc) *Provoked* means that an animal's behavior occurred because the animal:
- (1) Was being teased, taunted, abused, assaulted or physically threatened;
 - (2) Was acting in defense of itself, its offspring, its owner, another person, or another animal;
 - (3) Was reacting to pain, injury, fear, or the protection of food, shelter, or young;
 - (4) Was responding to a person committing or attempting to commit a criminal act, trespass, or other tort against the owner or the property where the animal was located; or
 - (5) Was bit accidentally during ordinary play with another animal.
- To be considered provoked, the animal's behavior must occur contemporaneously with or immediately following the provoking conduct and be proportionate to the provoking conduct.
- (dd) *SBARC (South Bend Animal Resource Center)* means the Animal Resource Center and the Division of Animal Welfare.
- (ee) *Stray* means any animal that is not under restraint and upon reasonable inquiry by SBARC, does not appear to have an owner.
- (ff) *Tether* means attaching an animal to a stationary object or pulley run system so as to restrict the range of movement. Tether does not include the use of a leash to walk a domestic animal.
- (gg) *Unaltered* means an animal that has not been operated on to prevent it from procreating.
- (hh) *Unprovoked* means an animal's behavior that is not provoked and includes behavior that occurs during ordinary, non-threatening interactions such as walking past an animal, standing near an animal, initiating casual interaction, or performing routine care, where no provoking conduct is present.
- (ii) *Wild animal* means an animal whose species usually lives in the wild or is not domesticated.

Secs. 5-3 - 5-7. Reserved.

ARTICLE 2. - ANIMAL CARE REGULATIONS

Sec. 5-8. Minimum care requirements

Every owner or handler of an animal kept in the city shall:

- (1) See that such animal is kept in a clean, sanitary and healthy manner and not confine it so as to be forced to stand, sit or lie in its own excrement or urine; and shall, regularly and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or areas of animal contact clean;
- (2) Provide such animal with food that is appropriate for the species, with consideration for its age and condition, in adequate amounts to maintain good health; fresh potable, unfrozen drinking water at all times; and adequate housing 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;
- (3) Protect such animal against abuse, cruelty, neglect, torment, overload, or any other mistreatment;
- (4) Provide the animal with the reasonably necessary medical care according to commonly accepted veterinary standards. In addition to the required rabies vaccination, such care may include recommended vaccinations by accepted veterinary standards. If the animal is diseased, injured, or exhibiting symptoms of disease, assure that the animal receives proper care and is segregated from other animals so as to prevent transmittal of the disease;
- (5) Maintain the animal in compliance with all applicable federal, state, and local laws and all regulations respecting animal welfare enforcement as are adopted by the City; and
- (6) Provide that such animal when confined outside:
 - (i) Has access to a shelter constructed of weather resistant material, consisting of a structure with solid walls on all sides, a dry floor raised above the ground, just large enough for the animal to stand up and turn around, and a solid roof sloped away from the entrance to protect the animal from weather and extreme cold.
 - (ii) During any day when the temperature is at or below 40°F, the shelter entrance must be covered by a flexible wind-proofing material or self-closing door, and the shelter must contain clean, dry bedding, which must consist of an insulating material that does not retain moisture, such as straw, of sufficient depth for the animal to burrow.
 - (iii) On any day when the temperature is at or above 70°F, the shelter must be shaded by trees, a tarp, or a tarp-like device.
 - (iv) When the temperature is at or below 32°F, or at or above 85°F, or when a heat advisory, wind chill warning/advisory, or tornado watch/warning has been issued by local, state, or national authority:
 1. The animal must be brought into a temperature-controlled structure that maintains adequate temperature for the animal.
 2. The animal may not be outside for more than 20 minutes within the period of an hour and must remain in visual range of a competent adult.

- (v) Has adequate space for exercise when confined in an enclosure or pen, which shall consist of no less than one hundred (100) square feet. An animal over eighty (80) pounds must be provided with an additional fifty (50) square feet. For each additional animal inside the enclosure, fifty square feet of space for exercise must be added per animal.
- (vi) Is treated so that there are no open lesions on the animal's skin due to insect bites or other parasitic infections.

Sec. 5-9. Medical and grooming care requirements.

- (a) Every owner 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, and to be vaccinated as required by law in order to promote humane animal health.
- (b) Any animal deemed by SBARC 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 within the time frame given on the AWA.
- (c) Any owner keeping an animal requiring grooming, as deemed necessary by SBARC to maintain humane standards of care, must show proof such grooming has been completed within the time frame given on the AWA.

Sec. 5-10. Training methods.

No animal may be trained in a manner that will cause or is likely to cause a physical injury or suffering.

Sec. 5-11. Restraint of animals required; limited exception for off-leash dog run-park.

- (a) All animals that are off the property of an owner, or with a handler, shall have proper restraint as set forth in this section.
- (b) No animal shall be restrained by any leash, rope, chain, cable or cord that is directly attached to the animal's neck.
- (c) A properly fitted collar or harness made of leather or nylon is to be worn by the animal.
- (d) Any owner, or handler, who takes their dog(s) to a City of South Bend off-leash dog run-park must comply with the rules and regulations set forth by the City.

Sec. 5-12. Tethering; fastening animals with rope or chain, cable; choker collar

- (a) It shall be unlawful:

- (1) To tether an animal at an unattended structure or premises for any purpose when it is not monitored by an owner who is present at the property for the duration of such tethering.
- (2) To tether any animal between the hours of 10:00 p.m. and 6:00 a.m. However, if tethering is necessary for a person to complete a task during those hours, such tethering shall be strictly limited to the time needed for the task and not more than one (1) hour.
- (3) To tether any animal that has the ability to gain access to any type of raised platform or porch that may endanger the animal to hang itself.
- (4) To tether any animal in a manner that provides the opportunity for it to jump or scale a fence and endanger the animal to hang itself.
- (5) To tether any unsterilized animal for any period of time.

- (6) To tether an animal that is under six (6) months of age or is sick or injured.
 - (7) To tether multiple animals simultaneously at the same property, unless there is adequate and appropriate space to ensure the health and safety of the animals tethered.
 - (8) To tether an animal without access to adequate housing and water at all times.
 - (9) To tether an animal longer than 10 minutes when the temperature is over 85 degrees or under 32 degrees, or when a heat advisory, wind chill warning/advisory, thunderstorm warning/advisory, or tornado watch/warning has been issued by local, state, or national authority, except when the animal is in visual range of a competent adult who is outside with the animal.
 - (10) To tether an animal to a motorized vehicle, such as an automobile, truck, trailer, or motorcycle.
 - (11) To tether an animal so that it allows the animal to trespass on public or private property or in such a manner as to cause harm or danger to persons or other animals.
- (b) If the animal is attached to a pulley run system, the running line must be at least twelve (12) feet in length and the tether length must be greater than the height of the running line.
- (c) No animal shall be tethered by any rope, chain, cable or cord that is directly attached to the animal's neck. If any animal must be tied, hitched or fastened:
- (1) The length of the rope, chain, cable or cord must be no less than twelve feet in length for the animal to move freely without risk of injury or entanglement;
 - (2) The weight of the rope, chain, cable or cord is no more than one eighth (1/8th) of the animal's total body weight;
 - (3) The collar and rope, chain, cable or cord cannot cause the animal to choke;
 - (4) A properly fitted collar or harness made of leather or nylon, not of the choker type, is to be worn by the animal. This provision should not be construed to prohibit the proper use of choker collars in the training of animals;
 - (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;
 - (6) The location of the anchor and the length of the rope, chain, cable or cord, cannot cause the animal to become tangled, choke, or become injured; and
 - (7) The animal must have access to shelter and water at all times.
- (d) No person shall tether their animal using an agitation, pinch, prong, or choke collar. Animals under sixty (60) pounds shall not be tethered using a collar exceeding 1½ inches in width. Animals over sixty (60) pounds shall not be tethered using a collar exceeding two (2) inches in width.

Sec. 5-13. Muzzling.

- (a) No animal shall be muzzled in a way that would cause any type of irritation, sore(s), lesion(s) or laceration(s) to the animal.
- (b) No animal should be muzzled that has any existing irritations, sores, lesions or lacerations that the muzzle would come in direct contact with. The only exception is if the animal is being transported to a veterinarian, other emergency service, or any authorized animal welfare organization.

- (c) All muzzles must be of proper size and style for the animal.
- (d) All muzzles must allow panting and the drinking of water.
- (e) Mesh, cloth, grooming muzzles or muzzles designed to hold the animals mouth shut, shall not be used except for extremely short time periods of no longer than 30 minutes and for emergencies. The animal shall never be left unattended, as muzzles prevent panting and may cause the animal to overheat in a stressful situation.
- (f) Muzzle taping shall only be done by a licensed veterinarian.

Sec. 5-14. Duty to keep animal contained while on property.

- (a) It shall be the duty of every owner of any animal to ensure that the animal is contained by way of a fence, restraint, tether, or other enclosure including an activated invisible fence or in some other physical manner so that it cannot wander off the real property limits of the owner.

Secs. 5-15 – 5-20. Reserved.

**ARTICLE 3 - SPECIFIC REQUIREMENTS GOVERNING
DOGS, CATS AND FERRETS**

Sec. 5-21. Identification of dogs, cats, and ferrets required.

- (a) A person who owns a dog, cat, or ferret shall ensure that each dog, cat, or ferret owned by that person always bears a form of identification when outside their home, such that the animal's owner can be ascertained accurately, quickly, and easily.
- (b) The form of identification pursuant to this Section shall be in addition to any tags required to be worn by dogs, cats, or ferrets by state law or other provision of the South Bend Municipal Code for purposes other than identification.
- (c) The form of identification can include a microchip implanted in the dog, cat, or ferret that bears a registered identification number, and that can be read by a standard microchip scanner.
- (d) It shall be unlawful for a person to own a dog, cat, or ferret three (3) months of age or older that is kept in the City, and that does not bear a form of identification as provided in this section.

Sec. 5-22. Dog and cat curbing requirements.

- (a) All animal owners are required to immediately and properly dispose of their animal's waste deposited on any property, public or private, not owned or possessed by the person. On any property owned or possessed by that person, all animal owners are required to dispose of their animal's waste at a frequency of at least weekly or more frequently if necessary, to prevent a public health risk.
- (b) As an exception to the provisions of subsection (a) of this section, an owner with a physical impairment as defined by the Americans with Disabilities Act may permit their dog to relieve itself on the ground situated outside of pedestrian or vehicular traffic ways and is not required to remove any feces to the extent such requirement is impractical for a person of such impairment. However, owner must maintain or cause property to be maintained in a way that prevents public health risk.

- (c) No person shall knowingly disperse waste material upon any public street, or byway or right-of-way, or any municipally owned or public land or building, or upon private property without the prior permission of the owner of such property.

Sec. 5-23. Rabies vaccinations required for certain animals.

(a) It shall be unlawful to keep a dog, cat, or ferret or to provide food, water, or shelter to a cat over the age of three (3) months in the City unless each dog, cat, or ferret is immunized against rabies by a vaccination performed by a veterinarian in accordance with 345 IAC 1-5-2.

(b) Rabies vaccinations as required in this Section are not required if a licensed veterinarian determines in writing that such rabies vaccination could adversely affect the animal.

(c) Community cat caretakers are not required to renew the immunization of community cats.

(d) One-year and three-year rabies vaccine may be used as per Indiana Administrative Code.

(e) A veterinarian who administers a rabies vaccination in the City shall, at the time a dog, cat (including free-roaming), or ferret is vaccinated, issue to the animal's owner a rabies vaccination certificate upon which includes the name, address and telephone number of the veterinarian's facility, the date in which the vaccination was administered, its expiration date and the unique identification number of the vaccination.

(f) Any owner of any animal(s) is required to submit proof of rabies vaccinations to SBARC as part of licensing requirements in Section 5-60 and 5-61.

Sec. 5-24. Transfer of ownership of puppies and kittens.

(a) A puppy or kitten must be at least ten (10) weeks old and weaned before it may be purchased or offered for sale, traded, or given away for other compensation or for a giveaway. Said provisions notwithstanding, the advertisement of puppies or kittens available for reservation, to be sold upon reaching the age set forth in this subsection, shall not be construed as "offering for sale," so long as neither ownership nor possession of the animal is transferred until it reaches ten (10) weeks of age.

(b) Animals of any age may be surrendered to SBARC. However, if under ten (10) weeks old the mother must also be surrendered if present.

(c) Nothing in this section shall be construed to conflict with the provisions of I.C. 15-21-6-2.

Sec. 5-25. Containment of female dogs or cats in heat.

The owner of any female animal in heat kept in the City shall contain the animal within a secure enclosure or building and in such a manner as to prevent conception except during instances of planned breeding.

Sec. 5-26. Community cat program.

(a) A community cat program is established in order to encourage the stabilization of the free-roaming cat population in the City by utilizing a trap-neuter-return (TNR) methodology.

- (b) Trapping of free-roaming or community cats is permitted only for the purpose of TNR unless the community cat is injured, and veterinary care is required. A person may trap any free-roaming cat in a humane manner, utilizing a humane live release trap of an appropriate size that does not injure the animal, and in accordance with the requirements of Sec. 5-28, in order to have the free-roaming cat evaluated, surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian and released to the location from where it was trapped or released to a community cat caretaker.
- (c) A community cat, impounded by SBARC, shall be returned to the location from which it was trapped, unless the circumstances present a detriment to the cat or to the public health or welfare, in which case other live placement outcomes will be sought. An ear tipped cat received by SBARC will be scanned for a microchip. If a microchip is detected, efforts will be made to reunite the cat with the owner. If that does not occur, the cat will be evaluated for suitability for adoption. If a microchip is not detected, the cat shall be returned to the location where it was trapped with no hold period, unless veterinary care is required.

Sec. 5-27. Community cat caretaker responsibilities.

- (a) A community cat caretaker or any person providing care for a community cat shall abide by guidelines in accordance with current American Veterinary Medical Association ("AVMA") standards regarding the provision of food, water, shelter and veterinary care for a community cat.
- (b) Community cat caretakers shall take a seriously ill or injured community cat to SBARC or seek licensed veterinarian care for the community cat.
- (c) Community cat caretakers are responsible for communicating with SBARC or other TNR organizations about the location and scope of their community cat colony as well as veterinary care and TNR plans.

Sec. 5-28. Free-roaming cat trap-neuter-return (TNR) regulations.

- (a) SBARC, a community cat caretaker, or a TNR organization, in order to encourage the stabilization of the free-roaming cat population may:
 - (1) Trap any free-roaming cat in a humane manner following guidelines established by regional or national community cat/TNR organizations for nonlethal trapping, to minimize the stress and danger to the animal; and
 - (2) Have the cat surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian; and
 - (3) Release the cat to SBARC 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.

- (b) It shall be unlawful for a person to fail to inspect and provide care for the trapped free-roaming cat a minimum of every two (2) hours to ensure the safety of the cat(s). A person shall place a lawful humane live release trap of an appropriate size to capture free-roaming cats for the purpose of TNR or other medical care. Humane traps shall be removed to an area where the cat is provided with shelter from the elements once trapped (in accordance with minimum standard care requirements in this ordinance). No cat shall remain in a live release trap without food or water, except for veterinary requirements for pre-surgical fasting periods. All captured animals must receive appropriate care.
- (c) No cat will remain in a live release trap for longer than 24 hours prior to surgical sterilization, or longer than 48 hours after surgical sterilization.
- (d) 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, or unless there is imminent danger to the animal's health, or the trap appears to be abandoned.
- (e) Traps discovered by SBARC to have been unlawfully set may be seized.

Sec. 5-29. Off-Leash Dog Park regulations.

- (a) Owners and handlers shall comply with all rules and regulations of this Chapter when patronizing any off-leash dog park within the City. For purposes of this Section, the term handler shall refer to a person who has temporary physical custody and immediate control of an animal at a given time, including while the animal is present in a dog park or other designated off-leash area, without regard to ownership or long-term responsibility for the animal.
- (b) The owner/operator of the off-leash dog-park is responsible for posting rules and regulations related to the use of its facility and is responsible for their enforcement. The rules and regulations must at a minimum comply with this Section.
- (c) In instances where there is a threat to public health or a public nuisance exists at an off-leash dog park, SBARC has authority to issue citations for non-compliance with Chapter 5.
- (d) Each owner or handler is allowed to bring up to three (3) dogs into the dog park.
- (e) The dog(s) must remain in the same run area with the owner. Owners cannot leave dogs in run areas without owner supervision. Owners must keep leash in hands and remain in voice control of their dogs at all times
- (f) Dogs must be leashed until inside run area.
- (g) Children under the age of 16 must be accompanied by an adult and are not to be left unattended in run areas.
- (h) All dogs must be current with rabies vaccination. Owner must be able to provide proof of vaccination upon request, within a reasonable timeframe.

- (i) Sick, injured, or unhealthy dogs or female dogs in heat are not allowed in the dog park.
- (j) Dogs under four (4) months of age are not permitted in the dog park.
- (k) Dogs that exhibit aggressive behavior must be removed from the dog park immediately.
- (l) Dogs determined to be dangerous, pursuant to Article 10 of this Chapter, are not permitted inside any dog park.
- (m) Dog curbing requirements shall apply as cited in Sec. 5-22.
- (n) Owners shall lose their dog park privileges and/or be subject to citation for violation of the Municipal Code if found in violation of this section.
- (o) Three violations of this Section within a six (6) month timeframe may result in nuisance dog park citations issued to the owner/operator of the off-leash dog park.

Secs. 5-30 – 5-35. Reserved.

ARTICLE 4. SPECIFIC REQUIREMENTS GOVERNING FOWL AND LIVESTOCK

Sec. 5-36. 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:

- (1) Cattle, ox, bison
- (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, rolling and fancy pigeons
- (7) Llamas and alpacas
- (8) Horses
- (9) Other livestock

- (b) The maximum number of such animals which may be maintained on such property shall be determined based on current applicable animal husbandry and veterinarian standards.
- (c) Standards of care and housing for all horses shall meet the requirements set forth in Section 5-44 of this Chapter.
- (d) Any person desiring to raise rabbits, urban chickens, or pigeons within the City must keep such animals and birds in safe and sanitary conditions so that a public health risk 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, with the exception of Urban Chickens or racing, homing, rolling and fancy pigeons, be closer than fifty (50) feet from an adjoining property line.

Sec. 5-37. Urban chicken regulations.

(a) Any person owning or harboring chickens in a residentially zoned district must comply with the following:

- (1) No more than six (6) hens are allowed.
- (2) Only laying chickens are allowed. Roosters are prohibited.
- (3) The person shall have a current Urban Chicken Permit on file with SBARC.
- (4) The person shall register with the Board of Animal Health (BOAH). Forms are available at the website www.in.gov/boah.
- (5) The property shall have a one unit or two-unit dwelling.
- (6) The coop shall be constructed with solid sides, doors and a roof and be kept dry and free of moisture.
- (7) The doors shall shut securely and be secured with a lock.
- (8) The coop shall have vents that are covered with wire.
- (9) The coop shall be impermeable to predators and rodents.
- (10) The coop shall provide at least eighteen inches (18") of height and two (2) square feet of space per chicken.
- (11) The pen shall be impermeable to predators and rodents.
- (12) The pen shall provide a minimum of two (2) square feet per chicken and the fence height must not exceed six feet (6').
- (13) The pen shall be covered with wire, aviary net or a solid roof.
- (14) Both the coop and pen location shall be situated behind the residential structure and be a minimum of fifteen feet (15') from any property line and twenty feet (20') from any residential dwelling.

(a) Anyone desiring to raise urban chickens within the City must comply with the animal care regulations set forth in this Chapter, and the requirements in Chapter 21 of the South Bend Municipal Code, including but not limited to those regarding chickens, chicken coops, and chicken pens.

Sec. 5-38. Pigeon regulations.

(a) Any person owning or harboring racing, homing, rolling or fancy pigeons in a residentially zoned district must:

- (1) Have a shelter in which the pigeons are kept, known as a Pigeon loft,
- (2) Have a current Pigeon Permit on file with SBARC, and
- (3) Use a pigeon loft meeting the following qualifications:
 - i. constructed with solid sides, doors and roof,
 - ii. doors that shut securely and be secured with a lock,
 - iii. vents that are covered with wire,
 - iv. impermeable to predators and rodents,
 - v. provide at least eighteen inches (18") of height and two (2) square feet of space per pigeon,
 - vi. access to a pen covered with wire, aviary net or a solid roof,
 - vii. dry and free of moisture, and
 - viii. situated behind the residential structure and be a minimum of ten feet (10') from any property line and fifteen feet (15') from any residential dwelling.

- (b) Anyone desiring to raise racing, homing, rolling or fancy pigeons within the City must comply with the animal care regulations set forth in this Chapter, and requirements in Chapter 21 of the South Bend Municipal Code.

Secs. 5-39 – 5-42. Reserved.

ARTICLE 5. SPECIFIC REQUIREMENTS GOVERNING RENTAL HORSES

Sec. 5-43. Definitions.

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

- (a) *Rental horse* means any equine which is used by its owner or any other person to pull any vehicle, carriage, sled, sleigh, or other device as part of a business enterprise. A rental horse also means any equine rented out for riding purposes. A horse rented or leased by its owner to another for any of the foregoing purposes shall be deemed to be a rental horse for the purposes of this article.
- (b) *Rental horse business* means 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 the purpose of riding or pulling a horse drawn vehicle.
- (c) *Stable* means any place, establishment or facility where one (1) or more rental horses are housed, boarded for a fee, or maintained.
- (d) *Work* means 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 devices, or when it is saddled or in harness.

Sec. 5-44. Housing/stable requirements.

The following criteria are required for proper housing of rental horses:

- (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 of an adequate size to allow the ability for a horse to maneuver, including laying down, standing, and rolling safely in its stall.
- (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 in a manner to permit extermination treatment. Feed storage area shall allow no harborage and be kept vermin and insect free. Storage of feed concentrates shall be in an area inaccessible to the horses.
- (d) Ventilation and lighting. Adequate ventilation shall be maintained but should not cause exposure to drafts in stables during cold weather. All stable areas shall be adequately lit by natural or artificial means so as to permit effective and safe activities through day and night.
- (e) 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 vermin and insect activity.

- (f) Stalls. Each stall shall house only one (1) equine, except for a stall housing a mare and her foal until the foal can safely be housed separately. Stalls shall be attended to daily ensuring clean, dry and 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 (3) feet greater than the height of the horse at the withers.

Sec. 5-45. Rental horse regulations.

- (a) Rental 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 always be available. 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 SBARC annually. At the discretion of SBARC, 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 fifteen (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 20°F, with wind chill factor applied. Using the Horse Heat Index as the guide, at no time shall a rental horse be at work when the sum of the relative humidity and ambient temperature is at or above 120°F. 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 shelter 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 always equip all carriages/horses with a manure catching device for use 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 (3) and not more than five (5) 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 before sunrise or 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 (500) 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 and properly vaccinated. 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. The Indiana health certificate shall be made available to SBARC upon demand.
- (l) The rental horse business or owner 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, SBARC 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 owner or may be ordered removed from work by SBARC. In the event of a dispute regarding such physical condition or illness, SBARC 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 or owner. A horse which has been removed from work under this section 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.
 - (1) A violation of this section shall be presumed if a horse is found at work in a sick or disabled condition within forty-eight (48) hours after its removal from work for the same condition which caused such removal.
 - (2) 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 forty-eight (48) hour period. This statement shall be carried with the horse during the presumed forty-eight (48) hour recovery period and provided to SBARC upon request.
- (n) Saddles, blankets, harnesses, bridles and bits and all other equipment shall be properly fitted to each horse, kept in good repair, and in good operating condition.

- (o) Horses shall be kept clean while at work and in the stable. Horses' hooves shall be trimmed and shod at regular intervals to ensure the health and proper development of hoof material. The frequency will be determined by a trained farrier.

Secs. 5-46 – 5-50. Reserved.

ARTICLE 6. SPECIFIC REQUIREMENTS GOVERNING HONEY BEE KEEPING

Sec. 5-51. 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.

Sec. 5-52. Definitions.

- (a) As used in this Article, the following words, terms and phrases shall have the meanings set forth herein:
 - (1) *Apiary* means the assembly of one (1) or more hives or colonies of honey bees at a single location.
 - (2) *Beekeeper* means a person who keeps honey bees in hive(s) which meet state approved requirements.
 - (3) *Beekeeping equipment* means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.
 - (4) *Colony* means the entire honey bee family or social unit living together including the queen, workers and drones.
 - (5) *Flyway barrier* means fencing, dense hedging or a combination of the two (2), which provides a shield or protective barrier from the direction in which the honey bees fly when approaching or leaving a hive.
 - (6) *Hive* means a frame or structure used or employed as a domicile for honey bees which meet state approved requirements.
 - (7) *Honey bee* means 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.
 - (8) *Lot* means 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:
 - i. A single lot or record; or
 - ii. A combination of complete lots of record.

Sec. 5-53. 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 and have a current Honey Bee Permit on file with SBARC.
- (b) No hive shall exceed seventeen (17) cubic feet in volume.
- (c) Location requirements.
 - (1) Hives must maintain a four (4) foot radial distance from the lot line as measured from the center of the hive and fly away barrier must be present at least six (6) feet in height and no further than four (4) feet in front of the hive entrance.
 - (2) In no event shall a hive be located closer than twenty-five (25) feet from a public sidewalk or occupied structure.
 - (3) Colonies may be kept on flat roofs without setback or flyway barrier restrictions.
 - (4) 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 and apiary practices per the U.S. Department of Agriculture.
 - (5) Colonies must be faced away from high traffic areas or faced south if not in a highly trafficked area.
- (d) A fresh supply of water shall be provided for all hives.
- (e) A sign stating "Bees on Premises" must be displayed to provide reasonable notice to persons entering the area.
- (f) No more than two (2) active hives are allowed per parcel.
- (g) 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 Indiana Department of Natural Resources Department of Entomology, Division of Entomology & Plant Pathology and the Purdue Extension - Entomology.
- (h) Proper destruction of hives must be in accordance with federal and state apiary guidelines and requirements.

Sec. 5-54. 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) No person shall move, tamper with, handle, or otherwise disturb or molest or cause to be moved, tampered with, handled, or otherwise disturbed or molested any colonies, materials, or appliances without a written permit from SBARC or their duly authorized representatives.
- (c) Any person violating any of the provisions of this Article may be issued a citation by SBARC.
- (d) Each violation shall constitute a separate and distinct offense. Every day any violation of this Article continues shall constitute a separate offense.
- (e) 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.

Secs. 5-55 – 5-59. Reserved.

ARTICLE 7. PERMITS AND LICENSING

Sec. 5-60. Licensing required; limited fee exemptions to licensing.

- (a) Any person owning, keeping, harboring or having custody of any dog or cat over the age of three (3) months must obtain a license for such animal; provided, however, that no licensing shall be required of any foster animal placement, animal rescue organization, municipal animal control facility, governmental agency, or service animal agency.
- (b) The license will be on file with SBARC and proof of payment/license will be provided to the owner.
- (c) SBARC will consider the microchip and its corresponding registration history as prima facie evidence of ownership. If no registered microchip is found or present, then SBARC will consider tags, or other identifiers to determine the legal owner.
- (d) Any person owning any dog or cat which has been implanted with a microchip shall update the microchip documentation with SBARC and national registry upon sale, trade, barter, gift or transfer of an animal.
- (e) No individual or household may own more than three (3) unaltered animals over the age of six (6) months, with the exception of commercial dog breeders who shall follow the requirements of Indiana Code 15-21 et seq.
- (f) Annual licenses are non-transferable.
- (g) Limited fee exemptions to licensing requirements:
 - (1) Threat to the health of animal.
 - (i) Upon a written statement from a licensed veterinarian setting forth that the sterilization of the animal shall constitute a threat to the health of that animal, the payment of the license fee for unaltered animal shall not be required but the animal shall be classified as an altered animal for purposes of licenses and fees. Licensing at the altered tag price under this section will constitute agreement not to breed the animal, and breeding of such animal may result in fines and revocation of said license.
 - (ii) Upon a written statement from a licensed veterinarian setting forth that the rabies vaccination of the animal shall constitute a threat to the health of that animal, the animal shall be issued a license without meeting the rabies vaccination requirement of this ordinance.
 - (2) Service Animal Exemption. A person who is impaired by:
 - (i) Blindness or any other visual impairment;
 - (ii) Deafness or any other aural impairment;
 - (iii) A condition governed by the Americans with Disabilities Act (ADA)
 shall be exempt from the fees listed in this Chapter for the licensing of their service animal.

Sec. 5-61. Application for license or permits.

- (a) Application for licenses or permits may be made at SBARC, a SBARC designated facility, SBARC website, or by mail, and shall include:
 - (1) the name and address of applicant,
 - (2) type of license or permit applied for,
 - (3) number and description of animal(s),
 - (4) information regarding animal(s) sterilization,
 - (5) rabies vaccination certificate(s),
 - (6) microchip information;
 - (7) appropriate fee

and upon request:

- (8) a record of any known disease, illness or condition with which the animal is or has been afflicted; and
 - (9) record of any veterinary treatment or medication received by the animal.
- (b) Licenses are to be issued for a term of one (1) year to three (3) years, commencing and concluding with the date of the most recent rabies vaccination. Owner must contact SBARC with changes of address, telephone or ownership. Failure to keep contact information current may result in the inability of SBARC to contact an owner.
- (c) All Permits are to be issued for a term of one (1) year, commencing with the date of issuance, and required to be renewed annually.
- (d) Upon approval, SBARC shall issue a license or permit in written or electronic form, which includes the number of the license or permit and the type of license or permit.
- (e) SBARC shall maintain records of the identifying license/permit number.
- (f) All dogs or cats over the age of three (3) months must be licensed with a current license. The owner of any dog or cat, which dog or cat is over the age of three (3) months, must also have in his or her possession a current rabies vaccination certificate showing that such animal has been vaccinated against rabies as provided in Secs. 5-23 . 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 license or permit required by this Article.
- (g) All owners have the responsibility to keep all license or permit information current with SBARC.
- (h) No person shall harbor, hold for sale, sell, keep or maintain in the City any dangerous animal, unless they have been issued a current license and all provisions of Sec 5-123 in Article 10 are satisfied.
- (i) Engaging in an activity described in this Article without obtaining the relevant permit may be considered a violation of the applicable permit regulations.

Sec. 5-62. Microchips

- (a) SBARC recommends that all dogs, cats, and small animals be microchipped for reunification should the animal become lost or stolen. It is strongly encouraged that the owner information is kept up to date.
- (b) If a dog, cat, or small animal does not have a microchip, SBARC can register and implant one (1) permanent microchip with a corresponding discrete number.
- (c) Microchip implants may be registered for the animal's life span with SBARC.
- (d) All animals that leave SBARC shall be microchipped .

Sec. 5-63. Kennel/cattery permit regulations.

- (a) All kennels/catteries in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) provide an isolation ward for boarded animals that are sick or diseased, that is sufficiently removed so as not to endanger the health of other animals;

- (3) keep all boarded animals caged or under the control of the owner or operator of the kennel/cattery;
- (4) with respect to all animals in the kennel/cattery, comply with all the requirements of this Chapter for the minimum care of animals;
- (5) comply with all applicable federal, state and local laws, and all applicable regulations adopted by the Department of Community Investment;
- (6) be subject to regular unannounced inspection at the discretion of SBARC; and
- (7) have a valid permit issued by SBARC as set forth below.
 - (i) It shall be unlawful for any person to own or operate a kennel/cattery as they are defined in Sec. 5-2, within the City, unless the kennel/cattery, first has a permit issued by SBARC and is compliant with the zoning ordinance.
 - (ii) Each kennel/cattery shall require only one (1) kennel/cattery permit, although it may operate as a kennel and cattery.
 - (iii) When a kennel/cattery meets the requirements of this Chapter, SBARC will issue it a permit.
 - (iv) Each animal owned by the permit holder will be individually licensed with the City; animals owned by clients of a boarding business will be licensed by the permit holder's clients.
- (b) Annual inspection; permit term; renewal.
 - (1) Prior to the issuance or renewal of permit, SBARC may inspect the kennel/cattery to determine whether the applicant is qualified under this Chapter.
 - (2) The permit term shall be valid for one (1) year from the date of issuance.
 - (3) The kennel/cattery owner/operator must contact SBARC for renewal before its permit expires.
- (c) The kennel/cattery permit shall always be displayed prominently in the business office of the kennel/cattery.

Sec. 5-64. Veterinary hospitals and clinics permit regulations.

- (a) No permit is required for veterinary hospitals and clinics but must meet minimum state and national standards for veterinary licensure.
- (b) All animals shall be housed humanely, in a sanitary manner, and meet minimum standard care requirements.
- (c) Veterinarians shall keep records of each animal accepted for treatment, diagnosis or routine health care.
- (d) Veterinarians who engage in boarding, grooming or other business in addition to the treatment and/or medical care of animals are not required to obtain a permit as herein provided.

Sec. 5-65. Grooming shop permit regulations.

- (a) All grooming shops in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) shall not provide services to animals that are sick or diseased so as not to endanger the health of other animals;
 - (3) keep all boarded animals caged or under the control of the owner or operator of the grooming shop;
 - (4) with respect to all animals in the grooming shop, comply with all the requirements of this Chapter for the minimum care of animals;

- (5) comply with all applicable federal, state and local laws, and all applicable regulations adopted by the Department of Community Investment;
- (6) be subject to regular unannounced inspection at the discretion of SBARC; and
- (7) any person who owns or operates a grooming shop as defined in this Chapter shall obtain a grooming shop permit.
 - (i) It shall be unlawful for any person to own or operate a grooming shop within the City, unless the grooming shop first has a permit issued by SBARC and is compliant with the zoning ordinance.
 - (ii) A permit holder shall request that any dog or cat accepted for grooming be vaccinated against rabies and require proof of such vaccination be furnished to the shop operator.
- (b) Annual inspection; permit term; renewal.
 - (1) Prior to the issuance or renewal of permit, SBARC inspect the grooming shop to determine whether the applicant is qualified under this Chapter.
 - (2) The permit term shall be valid for one (1) year from the date of issuance.
 - (3) The grooming shop owner/operator must contact SBARC for renewal before its permit expires.
- (c) Display. The grooming shop permit shall always be displayed prominently in the business office of the grooming shop.

Sec. 5-66. Pet shop permit regulations.

- (a) A pet shop is defined as 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.
- (b) In the event of a sale of an animal from a pet shop, the pet shop as primary owner shall furnish to 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. (Birds and fish not included.)
 - (5) Medication and prophylactic immunization and dates administered,
 - (6) Internal parasite medication(s) and date(s) administered,
 - (7) Microchip information as applicable,
 - (8) A guarantee of good health for a period of not less than one (1) week with recommendation to have the animal examined by a licensed veterinarian, and
 - (9) The permit holder shall retain a copy of the written statement for twelve (12) months from date of sale.
 - (10) A retail pet store, as defined in I.C. 15-21-1-6.5, shall provide such customer disclosures as required by I.C. 15-21-5-5.
- (c) SBARC or other health official with jurisdiction 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. SBARC may seize the animal to ensure and protect the health and safety of any animals present and/or the public.

- (1) The permit holder shall reimburse the enforcing agency's veterinary fees if the examination by the veterinarian determines the animal to be unfit for sale at the time of examination.
 - (2) The examination is to be made by a veterinarian within twenty-four (24) hours of the enforcing agency's determination that the said animal is not fit for sale.
- (d) All pet shops herein defined and stores selling animals, birds, reptiles and fish as pets shall house animals in a sanitary manner. Appropriate medical services, care, and housing shall be provided according to individual species' needs.
- (e) No puppy or kitten under the age of ten (10) 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 Animal Welfare Organizations).
- (f) Retail pet stores, as defined in I.C. 15-21-1-6.5, must comply with the provisions of I.C. 15-21-6-2. All other pet shops as defined in this Chapter that buy, sell or offer for sale cats shall acquire such cats only through adoption agencies. Cat inventory displayed at pet shops for compensation must only originate from SBARC or a 501(c)(3) animal rescue organization. The intent of this section is to prohibit the purchase from high volume or hobby breeders.
- (g) In addition to the requirements of this Article, all pet shops in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) provide an isolation ward for boarded animals that are sick or diseased that is sufficiently removed so as not to endanger the health of other animals;
 - (3) keep all boarded animals caged or under the control of the owner or operator of the pet shop;
 - (4) with respect to all animals in the pet shop, comply with all the requirements of this Chapter for the minimum care of animals;
 - (5) comply with all applicable federal, state and local laws, and all applicable regulations adopted by the Department of Community Investment; and
 - (6) be subject to regular unannounced inspection at the discretion of SBARC.
- (h) Annual inspection; permit term; renewal.
 - (1) Prior to the issuance of a permit or renewal of permit, SBARC may inspect the pet shop to determine whether the applicant is qualified under this Chapter.
 - (2) The permit term shall commence for one (1) year from the date of issuance.
- (i) Display. The pet shop permit shall always be displayed prominently in the business office.
- (j) Consistency with Indiana law. Nothing in this Section shall be construed to conflict with the provisions of I.C. 15-21-6-2.

Sec. 5-67. Rental horse permit regulations.

- (a) It shall constitute a violation of this Article for any person or corporation to use or offer for use a horse in a rental horse business without a permit issued pursuant to the regulations and conditions set out hereinafter.
- (b) Permits shall be issued for a term of one (1) year and shall be renewed annually.
- (c) An application for a permit or renewal of a permit shall be made to SBARC. Applications for renewal must be submitted no later than ten (10) business days prior to expiration of the current permit. All such applications shall contain:
 - (1) the name and address of the owner of the horse(s);
 - (2) the rental horse business in which such horse(s) is to be used; and

- (3) breed, age, sex, color, markings, and the location of the stables where the horse(s) is/are to be kept, recorded on a veterinary health certificate (such as a Coggins report).

No permit shall be transferable. Upon the transfer of ownership or use of any horse by a new owner or operator, such new owner or operator shall obtain a new permit for such horse within thirty (30) days of the transfer date.

- (d) 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.
- (e) The annual fee per working animal permit or renewal and shall be paid upon submission of an application to SBARC.
- (f) Each horse registered 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.
- (g) An owner or operator of a rental horse business shall keep an accurate daily record of the movement of each registered horse when in the City 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 SBARC upon request.
- (h) An owner or operator of a rental horse business shall make the stable (if located within the City) in which horses used in the rental business kept open for inspection at all reasonable time by authorized personnel of SBARC to enforce the provisions of this Article.

Sec. 5-68. Minor breeders permit; regulations.

- (a) A minor breeder permit shall be obtained by:
 - (1) Any person who intentionally or unintentionally causes the breeding of one (1) cat or dog or makes one (1) cat or dog available for breeding purposes in a 12-month period; and/or
 - (2) Any person who offers for sale, sells, trades, receives other compensation or gives away any offspring of one (1) litter of dogs or cats; and/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.
- (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) Be subject to regular unannounced inspection at the discretion of SBARC.
- (c) Permit Holders shall:
 - (1) perform DNA-based Disease and Trait Testing for each animal used for breeding and submit test results to SBARC as a part of the permit application;
 - (i) If determined by SBARC, shall make an appointment with a licensed veterinarian and provide written documentation of whether the animal(s) are fit for breeding. If the animal(s) is unfit for breeding and are bred,

they are in violation of this Chapter and may require mandatory spay / neuter;

- (2) Be allowed to breed only one (1) dog or one (1) cat which results in the birthing of a maximum of one (1) litter in a 12-month period in their or any other domestic household or establishment or any combination thereof;
 - (3) furnish SBARC with information on the birth of each litter of dogs or cats and shall be required to register that litter of dogs or cats with SBARC, and will be assigned a litter number for each litter;
 - (4) turn over to SBARC any dogs or cats that die within ten (10) weeks of their birth within 24 hours of confirmation from a licensed veterinarian ;
 - (5) Immunize all cats and dogs offered for sale, trade or other compensation, or for free giveaway (except an animal taken to SBARC) against common disease. In the case of dogs, they shall be immunized against canine distemper, adeno-virus parainfluenza, and parvovirus. In the case of cats, they shall be immunized against feline rhinotracheitis, panleukopenia, and feline calicivirus;
 - (6) Not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation, or free giveaway. Said provisions notwithstanding, the advertisement of puppies or kittens available for reservation, to be sold upon reaching the age set forth in this subsection, shall not be construed as "offering for sale," so long as neither ownership nor possession of the animal is transferred until it reaches ten (10) weeks of age;
 - (7) No person holding a minor breeder's permit shall engage in the sale or transfer of any dog or cat that is unfit for purchase due to illness, disease, or symptoms of a contagious or infectious condition that materially affect the animal's health, excluding external parasites such as fleas or ticks. If an animal dies from a disease present on or before delivery, the breeder shall be presumed to be in violation of this section. Internal parasitic infections shall be considered a disease for purposes of this section;
 - (8) Register with SBARC the name, address, and contact information of each buyer or new owner of any dog or cat sold or transferred within five (5) days after the date of such sale or transfer;
 - (9) Transmit to the new owner or buyer the litter number of the animal acquired and the breeder's permit number to confirm that the animal was legally bred and complies with the prohibition on the sale of an underage puppy or kitten as required under this Article; and
 - (10) furnish a guarantee of health for a period of not less than one (1) week with recommendation to have examined by licensed veterinarian for each animal sold;
- (d) Revocation. Cause for revocation may include but is not limited to: animals running at large, substantiated neighborhood nuisance complaints, failure to maintain current

permits, failing to provide minimum standard care requirements, failing to maintain current rabies vaccine status, or failing to provide adequate food, water and shelter.

(e) Penalties for violation of this section shall be as set forth in Section 5-149:

Sec. 5-69. Breeder permit regulations.

- (a). Commercial dog breeders shall comply with Ind. Code §15-21 (“Commercial Dog Breeder Regulation”) and any other applicable state and federal laws. All other breeders are subject to the regulations under this section and those under Chapter 5.
- (b) A breeder permit shall be obtained by:
 - (1) Any person who intentionally or unintentionally causes the breeding of more than one (1) cat and/or dog and/or makes more than one (1) cat and/or dog available for breeding purposes in a 12-month period; and/or
 - (2) Any person who offers for sale, sells, trades, receives other compensation or gives away any offspring of more than one (1) litter of dogs or cats; and/or
 - (3) Any owner or person having custody of more than one dog and/or cat that has delivered a litter or caused the delivery of a litter.
- (c) 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) Be subject to regular unannounced inspection at the discretion of SBARC.
- (d) Permit holders shall:
 - (1) If applicable, furnish at the time of permit application proof of registration of the breeder as a business with the State of Indiana or Indiana Department of Revenue or valid proof of exemption from such registration;
 - (2) furnish at the time of permit application a current criminal background check clearing the person from being convicted of a felony involving violence, weapons, drugs, animal cruelty or animal fighting. No person shall be issued a breeder permit if he or she has been convicted of a felony involving violence, drugs, animal cruelty or animal fighting;
 - (3) certify in writing that he or she does not reside with a person who has been denied a breeder’s permit;
 - (4) certify in writing that he or she does not reside with a person who has been convicted of a felony involving violence, drugs, animal cruelty or animal fighting;
 - (5) perform DNA-based Disease and Trait Testing for each animal used for breeding and submit test results to SBARC as a part of the permit application;
 - (i) If determined by SBARC, shall make an appointment with a licensed veterinarian and provide written documentation of whether the animal(s) are fit for breeding. If the animal(s) is unfit for breeding and are bred, they are in violation of this Chapter and may require mandatory spay / neuter;

- (6) furnish SBARC with information on the birth of each litter of dogs or cats and shall be required to register that litter of dogs or cats with SBARC, and will be assigned a litter number for each litter;
- (7) turn over to SBARC any dogs or cats that die within ten (10) weeks of their birth, within 24 hours of confirmation from a licensed veterinarian;
- (8) Immunize all cats and dogs offered for sale, trade or other compensation, or for free giveaway (except an animal taken to SBARC) against common disease. In the case of dogs, they shall be immunized against canine distemper, adeno-virus parainfluenza, and parvovirus. In the case of cats, they shall be immunized against feline rhinotracheitis, panleukopenia, and feline calicivirus;
- (9) not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation or rehoming without fees (except a puppy or kitten or litters of them taken to SBARC). Said provisions notwithstanding, the advertisement of puppies or kittens available for reservation, to be sold upon reaching the age set forth in this subsection, shall not be construed as "offering for sale," so long as neither ownership nor possession of the animal is transferred until it reaches ten (10) weeks of age;
- (10) No person holding a breeder's permit shall engage in the sale or transfer of any dog or cat that is unfit for purchase due to illness, disease, or symptoms of a contagious or infectious condition that materially affect the animal's health, excluding external parasites such as fleas or ticks. If an animal dies from a disease present on or before delivery, the breeder shall be presumed to be in violation of this section. Internal parasitic infections shall be considered a disease for purposes of this section;
- (11) register with SBARC the name, address, and telephone number of each buyer or new owner of any dog or cat sold or transferred within five (5) days after the date of such sale or transfer;
- (12) Transmit to the new owner or buyer the litter number of the animal acquired and the breeder's permit number to confirm that the animal was legally bred and complies with the prohibition on the sale of an underage puppy or kitten as required under this Article; and
- (13) furnish a guarantee of health for a period of not less than one (1) week with recommendation to have examined by licensed veterinarian for each animal sold.
- (e) Revocation. Cause for revocation may include but is not limited to: animals running at large, substantiated neighborhood nuisance complaints, failure to maintain current permits, failing to provide minimum standard care requirements, failing to maintain current rabies vaccine status, or failing to provide adequate food, water and shelter.
- (f) Penalties for violation of this section shall be as set forth in Section 5-149:

Sec. 5-70. Urban Chicken Permit.

- (a) Anyone desiring to raise no more than six (6) hens within the City must:

- (1) file and have approved an application for an urban chicken permit with SBARC,
 - (2) pay the annual filing fee,
 - (3) have the conditions for the chickens pass inspection by SBARC, and
 - (4) satisfy the requirements of Sec. 5-37.
- (b) An urban chicken permit may be denied or revoked to any person who has:
- (1) failed or refused to comply with the permit requirements,
 - (2) made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of urban chickens,
 - (3) violated a state law or any provision of the South Bend Municipal Code in connection with the application or keeping of urban chickens, or
 - (4) 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.

Sec. 5-71 Honey Bee permit.

- (a) Anyone desiring to raise honey bees within the City must:
- (1) file and have approved an application for an Honey Bee Permit with SBARC,
 - (2) pay the annual filing fee,
 - (3) have the conditions for the honey bees pass inspection by SBARC, and
 - (4) satisfy the requirements of Sec. 5-53.
- (b) A honey bee permit may be denied or revoked to any person who has:
- (1) failed or refused to comply with the permit requirements,
 - (2) made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of honey bees,
 - (3) violated a state law or any provision of the South Bend Municipal Code in connection with the application or keeping of honey bees, or
 - (4) kept honey bees 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.

Sec. 5-72. Pigeon permit.

- (a) Anyone desiring to raise racing, homing, rolling or fancy pigeons within the City must:
- (1) file and have approved an application for a Pigeon Permit with SBARC,
 - (2) pay the annual filing fee,
 - (2) have the conditions for the pigeons pass inspection by SBARC, and
 - (3) meet the requirements of Sec. 5-38.
- (b) A pigeon permit may be denied or revoked to any person who has:
- (1) failed or refused to comply with the permit requirements,
 - (2) made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of racing, homing, rolling or fancy pigeons,

- (3) violated a state law or any provision of the South Bend Municipal Code in connection with the application or keeping of the pigeons, or
- (4) kept the pigeons 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.

Sec. 5-73. Animal event and animal exhibit permit.

- (a) No person or entity shall operate or maintain for profit an animal event or exhibit without first having obtained a permit from SBARC.
- (b) The application for the permit shall describe the proposed location, the purposes for which it is maintained and the dates and hours of the performances or exhibitions. The application shall also include details about the type of event or exhibit and the animals that will be present. The proposed event must comply with local, state, and federal laws regarding the humane care and treatment of animals, and a copy of the application shall be filed with SBARC no later than ten (10) days prior to the first date of the proposed performance or exhibition.
- (c) The applicant shall provide written proof of insurance. Insurance shall be in the minimum amount of seven hundred thousand dollars (\$700,000.00) for each person, and five million dollars (\$5,000,000.00) for each occurrence.
- (d) The permit fees required under this Chapter may be waived at the discretion of SBARC.
- (e) SBARC may perform periodic inspections at any time before, during, or after the event or exhibit with or without notice.
- (f) Any permit issued under the provisions of this section may be revoked by SBARC by reasonable notice or hearing.

Sec. 5-74. Carnival and circus licenses.

- (a) All carnivals and circuses must comply with the provisions of Sec. 4-22 of the South Bend Municipal Code.

Sec. 5-75. Zoological park permits.

- (a) Zoological parks, defined as any permanent facility or operation other than a pet shop, displaying or exhibiting one (1) or more species of animals, which is accredited and operated by a person, partnership, corporation or government agency for the purpose of promoting conservation, shall be issued permits at no fee.
- (b) In addition, all zoological parks in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) provide an isolation ward for animals that are sick or diseased, and any sick or diseased animal be sufficiently quarantined so as not to endanger the health of other animals;
 - (3) keep all animals caged or under the control of the owner or operator of the zoological park;
 - (4) with respect to all animals in the zoological park, comply with all the requirements of this Chapter for the minimum care of animals;
 - (5) comply with all applicable federal, state, and local laws, and all applicable regulations adopted by the Department of Community Investment; and
 - (6) be subject to regular unannounced inspection(s) at the discretion of SBARC.

- (c) Annual inspection; permit term; renewal.
 - (1) Prior to the issuance of a permit or renewal of permit, SBARC may inspect the zoological park to determine whether the applicant is qualified under this Chapter.
 - (2) The permit term shall commence for (1) year from the date of issuance.
- (d) Display. The zoological park permit shall always be displayed prominently in the business office of the zoological park.

Sec. 5-76. Animal attraction permits.

- (a) Animal attractions, defined as any permanent facility or operation other than a pet shop or zoological park, displaying or exhibiting one (1) or more species of animals, shall be required to obtain a permit as set forth in this Chapter.
- (b) In addition, all animal attractions in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) provide an isolation ward for animals that are sick or diseased, and any sick or diseased animal be sufficiently quarantined so as not to endanger the health of other animals;
 - (3) keep all animals caged or under the control of the owner or operator of the animal attraction;
 - (4) with respect to all animals in the animal attraction, comply with all the requirements of this Chapter for the minimum care of animals;
 - (5) comply with all applicable federal, state, and local laws, and all applicable regulations adopted by the Department of Community Investment; and
 - (6) be subject to regular unannounced inspection(s) at the discretion of SBARC.
- (c) Annual inspection; permit term; renewal.
 - (1) Prior to the issuance of a permit or renewal of permit, SBARC may inspect the animal attraction to determine whether the applicant is qualified under this Chapter.
 - (2) The permit term shall commence for (1) year from the date of issuance.
- (d) Display. The animal attraction permit shall always be displayed prominently in the business office of the animal attraction.

Sec. 5-77. Animal rescue organizations and animal welfare organizations.

- (a) No permit shall be required of animal rescue organizations or animal welfare organizations as defined in Sec. 5-2; however, all other provisions of this Chapter shall apply, and such organizations are subject further to the following regulations:
 - (1) Record keeping. Records of animals, including placements, medical treatments, and microchip information must be kept and be furnished to SBARC and/or to adoptive owners upon request.
 - (2) Animal Placements. The animal rescue organization and animal welfare organization are responsible for ensuring the foster placement of animals under its care meet the provisions of this Chapter before and during the duration of placement.
 - (3) Location. Foster homes within the City must comply with all applicable provisions of this Chapter regardless of the location and jurisdiction of its related animal rescue organization's or animal welfare organization's primary business address.

- (4) Violations. Animal rescue organizations, animal welfare organizations, and foster homes may each be held liable for violations of this Chapter and fined per offense, with further penalty provisions detailed in Article 11 of this Chapter.

Sec. 5-78. Denial, suspension, or revocation of permit; notice; appeals; re-inspections.

- (a) SBARC may deny a permit application, and any permit may be suspended or revoked for any violations of the Animal Care Regulations provided in Article 2 of this Chapter, or for any following reasons:
 - (1) Any fraud, material misrepresentation or false statement contained in the application;
 - (2) Any fraud, material misrepresentation or false statement made in connection with the selling of animals, goods, wares, merchandise and services;
 - (3) Any violation of a term or condition of a permit;
 - (4) Any activity in violation of a statute or provision of this Code related to the licensed business;
 - (5) Conducting the activity in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, welfare of the public or the health of any animal at the premises;
 - (6) Failure to obtain any required permit as outlined in this Chapter.
- (b) Upon denial, suspension, or revocation:
 - (1) All operations related to the permit shall cease at once.
 - (2) SBARC may cause a “notice of closure” sign to be conspicuously placed at the location(s) of the operations. It shall be a violation of this Chapter for any person to remove a “notice of closure” sign unless authorized to do so by SBARC.
 - (3) SBARC may immediately impound all animals in such person’s care, possession or control.
- (c) SBARC shall provide notice of permit denial, suspension, revocation and appeal, re-inspection and redemption provisions under this Article by first class mail to the address on record of the person who is denied a permit or whose permit is suspended or revoked.
- (d) Any person who is denied a permit or whose permit is suspended or revoked may appeal the denial, suspension or revocation in accordance with this section within ten (10) days of the date of the denial, suspension or revocation of the permit.
 - (1) All requests for appeals must be in writing and state the reasons for the appeal.
 - (2) The request for appeal must be filed with SBARC. Upon receipt of the written request of appeal, SBARC will forward it to the Department of Law for review.
 - (3) If the request meets the requirements of this section, then the Animal Welfare Commission shall set the location, date and time for the hearing to be held within 30 days of acceptance and provide for the service of notification of the hearing to the party requesting the appeal.
 - (4) The Animal Welfare Commission must serve notice of hearing at least 10 days before the hearing to the last known address of the person requesting the appeal and the notice must contain the following:
 - (a) The name and contact information of the Animal Welfare Commission.
 - (b) Hearing date, time and location.

(c) A statement referencing and summarizing the hearing process under this section.

- (5) The Animal Welfare Commission has the authority to hear evidence, both pro and con, as to whether the denial, suspension or revocation should or should not be removed.
- (6) The Animal Welfare Commission shall promptly decide to affirm or vacate the denial, suspension or revocation and may issue such determination at the end of the hearing or within a reasonable amount of time thereafter.
- (7) Decisions must be based on a preponderance of the evidence and applicable provisions of the Municipal Code.
- (8) Determinations of the Animal Welfare Commission may be appealed to the Circuit or Superior Courts of St. Joseph County, Indiana.
- (e) Any person who is denied a permit or whose permit is suspended or revoked may seek a re-inspection agreement with SBARC for the granting or reinstatement of a permit based on compliance.
- (f) Upon any re-inspection by SBARC, a permit reinstatement fee of fifty dollars (\$50.00) will be required before the permit reinstatement is approved.

Sec. 5-79. Redemption of impounded animals seized for permit denials, suspensions or revocation.

- (a) Animals impounded by SBARC will be held:
 - (1) for no less than the ten (10) days to request an appeal, or
 - (2) for an agreed upon timeframe, as determined by SBARC, to correct the conditions that caused the denial, suspension, or revocation.

If no appeal is filed within ten (10) days, if no agreement is reached, or if the conditions are not corrected as stated in the agreement, the seized animals will be the legal property of SBARC.

- (b) Upon the redemption of seized animals, the person who is denied a permit or whose permit is suspended or revoked is responsible for fees associated with the housing, care, and medical treatment of the seized animals.

Sec. 5-80. Reserved.

ARTICLE 8. NOTIFICATION REQUIRED

Sec. 5-81. Notification of vehicular collision with animal.

- (a) A person whose vehicle causes accidental injury or death to an animal in the City shall:
 - (1) stop at once,
 - (2) assess the injury to the extent that it is safe to do so, and
 - (3) immediately notify:
 - (i) the animal's owner, if known, and
 - (ii) SBARC, either directly or through a local law enforcement agency, with:

- (A) a description of the animal struck,
 - (B) the location of the collision, and
 - (C) an assessment as to the condition of the animal after being struck.
- (b) Such person shall not be required to report his or her name, as the only purpose of this requirement is to aid the stricken animal and notify its owner, if any.

Sec. 5-82. Notification of lost or stray animals required; microchip scanning regulations.

A finder, defined as a person who finds or locates a lost or stray animal, shall comply with the following:

- (a) Notification. A finder must notify SBARC within twenty-four (24) hours or the next business day and file a found report which shall include: pictures, description of animal, gender (if known), alter status (if known), location/time/date found, distinguishing features (i.e. injuries, collar, specific markings, rabies tag information, etc.).
- (b) Microchip Scan. A finder must have the animal scanned for a microchip by SBARC or a licensed veterinary clinic within twenty-four (24) hours or the next business day.
- (c) Finder custody. At the discretion of SBARC, the animal may be kept by the finder while attempts to discover the owner are made.
 - (1) If the finder chooses to house and care for the animal, the animal shall be held for fifteen (15) consecutive days to allow the owner time to reclaim their animal.
 - (2) If the finder places the animal with any other person for the duration of the fifteen (15) day hold, the finder shall notify SBARC within twenty-four (24) hours (or within the following business day) of placement of said animal.
 - (3) Anyone housing and caring for an animal during the fifteen (15) day hold is 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. Said persons should refrain from providing any veterinary or medical care to the found animal in their custody without prior approval of SBARC.
 - (4) The person housing and caring for the animal during the fifteen (15) day hold period will be considered the found animal's temporary owner for the purposes of this Chapter only, while the animal is in that person's custody. For purposes of this Section, a temporary owner shall only be required to provide minimum care, as defined in this Chapter.
 - (5) At any time during the fifteen (15) day hold period, SBARC may require the animal to be held at its facility.
 - (6) When SBARC takes custody of a found animal, regardless of whether the temporary owner held the animal for a portion of the fifteen (15) day hold, SBARC may arrange for the disposition of the animal pursuant to Sec. 5-147.
- (d) Resolution.
 - (1) If the temporary owner determines the animal's owner any time while the animal is in their custody during the fifteen (15) day hold period, then the temporary owner, within twenty-four (24) hours thereof, must return the animal to the owner or SBARC.

- (2) If the temporary owner chooses to keep the animal after proper completion of the fifteen (15) day hold period, then they shall be required to follow all applicable requirements of this Chapter within thirty (30) days of the fifteen (15) day hold period expiration.
- (3) If the temporary owner chooses to rehome the animal after proper completion of the fifteen (15) day hold period, then the temporary owner shall be required to provide SBARC the name and address of the person taking ownership of the animal.

Sec. 5-83. Notification of biting animals; report; procedure; violation.

(a) An owner of any animal which has bitten a person, or another animal, within the jurisdictional limits of the City, must report the incident to the St. Joseph County Department of Health and SBARC and immediately make the animal available for quarantine. Upon receiving the report of a bite, SBARC, as the quarantining authority, will quarantine the animal for ten (10) days with the place of confinement at its discretion. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or person. Said provision notwithstanding, the animal will not be required to be kept from contact with animals or persons residing in the same dwelling unit as the animal.

(b) On the day following the end of the quarantine or as otherwise required by SBARC, the owner shall present the biting animal to SBARC or their veterinarian to verify the animal is still alive and in good health.

(c) During the quarantine period, the owner must provide a current rabies vaccination certificate for the animal that is being quarantined. If proof of vaccination cannot be supplied, the animal must be vaccinated at the owner's expense by a veterinarian after the expiration of the quarantine period and within 30 days of the bite occurrence. All vaccination, microchip, and licensing must be completed within the 20-day post-quarantine period. If arrangements are made for a scheduled, prepaid rabies vaccination, the owner must provide SBARC with the 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.

- (1) If the animal is quarantined at SBARC, a microchip shall be implanted in it prior to its release from quarantine. 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 SBARC, a microchip shall be implanted in it within twenty (20) days following the animal's release from quarantine. If a microchip is implanted by anyone other than SBARC, Microchip number and registration must be supplied to SBARC within three (3) business days of the implantation. The cost of the implant and registry shall be at the owner's expense.
- (3) The microchip and its corresponding registration history shall be considered prima facie evidence of ownership and enforcement history for any additional enforcement action under this Chapter.

(d) No person other than an authorized SBARC staff member or veterinarian shall euthanize or cause to be euthanized any animal suspected of being rabid except in cases of immediate self-protection. If that occurs, the person will retain the body of the suspected rabid animal and immediately notify SBARC.

(e) Violations of these quarantine provisions may subject the responsible party to civil penalties under this Chapter, City ordinances or other applicable law.

(f) It is a violation of this Chapter for an animal to bite another human or animal unprovoked. Such bites may result in civil penalties depending on severity of the bite and consideration of the totality of circumstances.

Sec. 5-84. Mandatory notification – veterinarian professional.

Consistent with I.C. 25-38.1-4-8.5, any veterinarian or registered veterinary technician who is presented with any animal that resides within the City under circumstances giving rise to a suspicion of animal cruelty under I.C. 35-46-3 shall file a report with SBARC. Said report shall contain the owner's name, address, contact information, dates, description of animal(s) involved and medical information regarding the incident.

Sec. 5-85 – 5-89. Reserved

ARTICLE 9. – CONDUCT PROHIBITED

Sec. 5-90. - Referral of prohibited animal conduct.

Animal-related criminal conduct prohibited under applicable state law, including but not limited to those under IC 35-46-3 Offenses Relating to Animals, may be referred to the appropriate law enforcement agency or county prosecutor.

Sec. 5-91. - Offensive use of animals prohibited.

The following Offensive use of animals shall be prohibited:

- (a) It shall be unlawful for a person to willfully deposit a dead or live animal upon public or private premises not owned by that person
- (b) It shall be unlawful to willfully use a live or dead animal in the commission of an assault or battery.
- (c) It shall be unlawful for a person to willfully deposit a dead or live animal upon personal property of another.
- (d) It shall be unlawful for a person to aid and abet another in committing any of the foregoing offenses.

Sec. 5-92. - Improper disposal of dead animals prohibited.

The owner of an animal shall be responsible for the disposal of such animal's remains upon its death in compliance with IC 15-17-11-20, as amended.

Sec. 5-93. – Antagonization of any animal prohibited.

It shall be unlawful for a person to tease, molest, or provoke any animal in the City.

Sec. 5-94. - Animals as prizes, novelties, or inducements prohibited.

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

- (b) No person shall sell, offer for sale, trade, barter, or give away any live animal as a novelty.
- (c) No animal shall be used as an inducement to enter a business transaction other than with establishments who are licensed and/or permitted under Chapter 5 consistent with requirements in this ordinance.
- (d) Governmental agencies, or registered rescue groups maintaining an IRC 501(c)(3) status providing health, safety, or adoption promotions will be exempt from the provisions of subsection (a) and (c) as described above. This exemption is subject to necessary permits and inspection.

Sec. 5-95. - Poisonous bait prohibited.

- (a) 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, common areas, yards, or other places, whether public or private, so that it is likely to be eaten by an animal.
- (b) Said provision notwithstanding, it shall not be unlawful for a person to, on their own property:
 1. Deposit common rat or mouse poison, unmixed or mixed only with vegetable substances, for the eradication of rats or mice, or
 2. Deposit commercially available substances for the eradication of termites or similar insects.

Sec. 5-96. – Dyeing, staining or tattooing animals prohibited.

It shall be unlawful for a person to artificially or chemically color, spray, stain, paint or tattoo any animal, except

- (a) Tattoo marks tattooed by a veterinarian to indicate completed sterilization.
- (b) An owner or licensed groomer dyeing an animal's fur with non-toxic pet-safe dye using reasonable care.

Sec. 5-97. - Prohibited animal events.

No person, group of persons or any organization, whether for pay, 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. 5-98. - Animal fights and fighting contests prohibited.

Animal fights and fighting contests are prohibited under applicable state law, as in IC 35-46-3 ("Offenses Relating to Animals"), as amended, and may be referred to the appropriate law enforcement agency and/or county prosecutor.

Sec. 5-99. – Inappropriate animal collection prohibited.

- (a) It shall be unlawful for any person to:
 - (1) collect dead animals that are not properly disposed of and within the time frame as defined by this Chapter and state law, or
 - (2) collect, house, or harbor animals in unsanitary conditions that constitute a health hazard to the residents of the premises, and/or to the animals or residents of adjacent property.

- (b) It shall be a violation of this section to inappropriately collect an animal(s) as defined in this Chapter.

Sec. 5-100. - Enticement of another person's animal prohibited.

It shall be a violation of this Chapter to capture, lure, entice, or take any animal out of the enclosure, premises, or custody of the owner or community cat caretaker without authorization.

Sec. 5-101. - Animal mistreatment or abandonment prohibited.

- (a) Mistreatment of animals, such as abuse, neglect, mutilation, torture, and abandonment as defined in IC 35-46-3, may be referred to the appropriate law enforcement agency and/or county prosecutor.
- (b) Mistreatment of an animal, such as cruelty, neglect as defined in this Chapter, resulting in harm or death shall be a violation of this Chapter and cited as provided herein.
- (c) Abandonment of an animal shall be a violation of this Chapter and cited as provided herein.
- (d) Devocalization of any animal is strictly prohibited and may be cited as provided under this chapter. Devocalization is defined as: the knowing or intentional removal of the vocal cords of an animal for purposes of removing the animal's ability to make any vocalization.

Sec. 5-102. - Running at large prohibited; duty of owner to keep dog under control.

- (a) It shall always be the duty of the owner of any animal(s) or anyone having an animal in their possession to keep the animal under control while the animal is off the real property limits of the owner. For the purposes of this section, an animal is deemed under control when:
 - (1) it is confined within a vehicle;
 - (2) is secured by a leash or other device held by a competent person;
 - (3) is under demonstrated voice control or
 - (4) is properly confined within an enclosure with permission of the owner/occupant of the property where the enclosure is located.
- (b) It shall be unlawful for any animal to be:
 - (1) out of control,
 - (2) unattended off the premises of the owner,
 - (3) upon the property of another person without permission, or
 - (4) within a public space in violation of the rules of this chapter.
- (c) Animals on the property of the owner must be supervised by a responsible person when invitees are present.
- (d) Every animal shall be restrained or controlled so as to prevent it from chasing vehicles or attacking persons or other domestic animals.
- (e) The owner of any animal that is proven to be at large shall be in violation of this section, regardless of the precautions taken to prevent the escape of the animal and regardless of lack of knowledge of the offense at the time it occurs.

Sec. 5-103. - Confinement in a motor vehicle prohibited.

- (a) Confinement of any animal in any unattended motor vehicle is prohibited under conditions that endanger the health or well-being of an animal due to temperatures, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

- (b) It shall be unlawful for any living animal to ride in the bed of a pickup truck unless the animal is securely caged and protected from the environment or unless the bed of the pickup truck is enclosed with a camper shell or other device and there is appropriate and sufficient ventilation.

Sec. 5-104. - Exotic animals and native wildlife prohibitions.

- (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 (d) below.
- (c) The touching, handling, or physical interaction by a person, guest, customer, visitor, or client of an exotic and/or dangerous wild or exotic animal is prohibited, unless the person is acting within the scope of their legal authority.
- (d) This section shall not apply to zoological parks or zoos with permits, colleges or universities, or medical institutions.

Sec. 5-105. - Trapping and wild animals prohibitions.

- (a) Trapping of wild animals is regulated by the State under IC 14-22 et seq. Violations of these provisions may be referred to the appropriate State authorities.
- (b) The following regulations are set forth for trapping on the land, buildings, or other real property owned by the City:
 - (1) 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.
 - (2) 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 upon any land or waters which causes the trapping or capturing of any animal in any manner by which the animal is not either
 - (a) captured painlessly or
 - (b) killed instantly.
 - (3) It shall be unlawful for a person, having placed a trap, snare or similar device, to capture wildlife, to fail to inspect and empty it at least once during every twenty-four-hour period.
 - (4) No person may trap any animals without City authorization on the land, buildings, or other real property owned by the City.
- (c) The following regulations are set forth for the trapping of domestic animals:
 - (1) 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.
 - (2) 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 upon any land or waters which causes the trapping or capturing of any animal in any manner by which the animal is not captured painlessly
 - (3) It shall be unlawful for a person, having placed a 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) Notwithstanding anything to the contrary herein, incidental or unintended capture of a domestic animal in a trap lawfully set for wildlife purposes under applicable state law shall not, by itself, constitute a violation of this Section.

Sec. 5-106. - Care of a free-roaming cat.

- A) It shall be unlawful for a person to provide food, water or shelter to a free-roaming cat for a period of more than three (3) days unless in compliance with Secs. 5-26, 5-27 and 5-28 of this Chapter.
- B) A person will be presumed to be a harbinger of a free-roaming cat if they provide food, water, or shelter to a free-roaming cat for more than three (3) days.
- C) SBARC may impound free-roaming cats in violation of this Chapter and dispose of the cats in accordance with the criteria set forth in this Chapter.

Sec. 5-107. – Excessive Barking

It shall be a violation of this Chapter for an animal to bark, whine, howl, or make other sounds common to its species in excess, continuously for fifteen (15) minutes or for an aggregate twenty (20) minutes in a one-hour period

Secs. 5-108 – 5-115. - Reserved.

ARTICLE 10. ANIMAL WELFARE ENFORCEMENT

DIVISION 1. GENERAL PROVISIONS

Sec. 5-116. - Investigation.

- (a) SBARC may investigate animals, persons, and property believed to be in violation of this Chapter.
- (b) All SBARC staff and volunteers shall cooperate with all City, county, state and federal law enforcement in investigations.
- (c) SBARC staff will report all suspected Criminal or inhumane treatment to the South Bend Police Department.

Sec. 5-117. - Inspections and entry on property.

- (a) When it is necessary to inspect or investigate any premises within the jurisdiction of SBARC in order to enforce any of the provisions of this Chapter, perform any duty imposed by this Chapter or upon probable cause of a violation of this Chapter or State law, SBARC is authorized at all reasonable times to inspect the suspect premises, provided the following:
 - (1) If the property is occupied, the inspector shall first present proper credentials to the occupant and request entry, explaining the reasons therefor;
 - (2) If the property is unoccupied, the inspector shall make a reasonable effort to locate the owner or other person(s) having control of the property and request entry, explaining the reasons therefor;

- (3) If entry is refused or cannot be obtained because the owner or other person(s) having charge or control of the property cannot be found after reasonable search or refuses to permit entry, the inspector shall have recourse to secure lawful entry and inspection of the property via a warrant issued by a judge in good standing;
- (4) Under exigent circumstances, to the extent permissible by state and federal law.

Sec. 5-118. Pursuit of stray animals, animals at large, or dangers or threats to public safety.

SBARC may, with reasonable care, pursue, capture, and impound animals believed to be stray, at large, or a danger or threat to public safety.

- (a) SBARC staff may proceed upon public property in pursuit of animals.
- (b) SBARC staff may proceed upon private property in plain view. This authority does not extend to privately-owned structures or enclosures without the consent of the owner, lessee, or other occupant in control of the premises, unless
 - (1) There are exigent circumstances to enter an enclosure, such as an immediate danger to the public or animal; or
 - (2) SBARC staff obtains a warrant.
- (c) SBARC staff may proceed upon vacant and/or abandoned properties,
- (d) If an animal is captured without the knowledge or consent of the known owner or occupant of the premises, then a notice may promptly be affixed to the premises from which capture took place and where the owner is known to reside, if different, in an obvious location, directing the known owner or occupant to contact SBARC and providing sufficient information as to the reason for the capture and disposition process.

Sec. 5-119. – Impoundment

- (a) Animals may be impounded and held at SBARC or a designated facility when there is probable cause that any of the following apply:
 - (1) animal mistreatment as described in Section 5-101,
 - (2) animals trained, bred or kept for the purpose of animal fighting,
 - (3) animals considered public nuisance, dangerous, or vicious,
 - (4) animals unable to be cared for as a result of owner arrest, eviction, hospitalization, or force majeure event,
 - (5) animals that have been abandoned,
 - (6) animals considered to be stray or at large,
 - (7) for any other reason determined to be in the interest of the animal's safety or welfare, or
 - (8) animals that for any other reason are considered to be a danger or threat to public safety.
- (b) When an animal is believed abandoned, SBARC shall place on a conspicuous location on the premises two Animal Welfare Alert notices approximately 24 hours apart that such animal appears abandoned and subject to impoundment. Each notice requires the owner to contact SBARC within 24 hours to explain the condition and welfare of the animal. If the owner fails to contact SBARC, then 24 hours after the second notice the animal may be impounded.

- (c) Any animal found in violation of Sec. 5-105 may be seized immediately in accordance with Indiana State Code and Department of Natural Resources Regulations.
- (d) Upon impoundment, the following process will apply:
 - (1) 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. 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. For purposes of this subsection, "protective custody" shall mean to seize and place into the custody of SBARC for the animal's health, safety and protection, or due to the animal's involvement in active investigation, or when the owner is deemed incapable of providing for the animal's "minimum care" as defined in Sec. 5-8.
 - (2) Notice of the protective custody, holding period, responsibility of costs and possible disposition must be served by hand delivery to the owner or posting at the premises of the last known address of the owner. Notice may be served by first class mail, as appropriate.
 - (3) The owner of any animal, which is impounded or relocated under this section, shall be held responsible for payment of any expenses so incurred by SBARC. Fees will be paid prior to release or relocation of the animal.
 - (4) Impounded animals may be transported to a licensed veterinarian for examination and/or treatment.
 - (5) If, in the opinion of a veterinarian, the animal must be euthanized, euthanasia will be performed immediately. Costs of treatment, euthanasia, and/or care shall be the responsibility of the owner.
 - (6) 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 shall not be any less than twenty (20) feet from neighboring property. Disease vectors such as raccoons and opossums are not permitted to be rehabilitated inside City limits.
- (e) Any animal may be impounded pursuant to an order of the Animal Welfare Commission which
 - 1) provides for immediate impoundment, or
 - 2) following a violation of an Order which permits impoundment for violations.

Sec. 5-120. - Entering motor vehicle to remove domestic animal; partial liability for damage; conditions for partial immunity; persons not liable.

Pursuant to IC 34-30-30-3, an Animal Welfare Officer that is acting within the course and scope of the person's employment is not liable for the cost of repairing damage to the motor vehicle caused by the person's forceable entry.

Sec. 5-121. - Interference with SBARC staff

- (a) No person shall release or attempt to release an animal from the custody of SBARC staff or release or attempt to release an animal from a humane trap which belongs to SBARC.
- (b) It shall be unlawful for any person to knowingly provide false information, a false statement or false representation to SBARC staff or hinder the investigation of any SBARC staff discharging or attempting to discharge any legal duty imposed by this Chapter.
- (c) The following shall be violations of this Chapter:

- (1) Any person, who by word or act, resists, abuses, molests, obstructs or impedes an SBARC staff member, or
- (2) who uses threatening language, uses force in order to intimidate, threatens to or attempts to do bodily harm toward such staff

while engaged in the enforcement of this Chapter or while engaging in the performance of any duty or in the exercise of such authority.

- (d) Nothing in this Section shall be construed as prohibiting conduct already prohibited by Indiana Code 35-45 et seq.
- (e) Any activity described in this Section not defined elsewhere in this Chapter as an ordinance violation, may be subject to an ordinance violation citation and fine for violation of this Section.

Sec. 5-122. - Determination of Public Nuisance Animal.

a. Definition:

1. A Public Nuisance Animal is defined as any animal which:

- (i). Has three (3) or more citations for any of the following behavior, as defined in this Chapter:
 - A. Running at large; or
 - B. Barking, whining, howling, or making other sounds common to its species in excess, continuously for fifteen (15) minutes or for an aggregate twenty (20) minutes in a one-hour period.
- (ii). Damages or disturbs private or public property in a manner that is disruptive or detrimental to resident quality of life or the community;
- (iii). Has an apparent isolated incident of biting a domestic animal or person causing injury rated on Section IV of the Animal Bite Classification System within the Official Indiana Bites Report form from Indiana State Department of Health, of no greater than a Level 2 ; or
- (iv). Exhibits other behaviors or characteristics that are disruptive or detrimental to resident quality of life or the community and requires measures beyond ordinary care to mitigate behaviors or risks.
- (v). Any public nuisance activity described in this Section not defined elsewhere in this Chapter as an ordinance violation, may be subject to an ordinance violation citation and fine for violation of this Section.

b. Determination:

1. If the City has investigated and determined that there exists reasonable grounds to believe that an animal meets the definition of a public nuisance animal, then SBARC may;
 - i. request a hearing by the Animal Welfare Commission for the purpose of determining whether or not the animal in question should be declared a public nuisance animal.

- ii. take appropriate steps to impound or seize the animal in question if it presents a danger to the public and further restrictions are required to protect the health or safety of the animal or the public.
 - iii. following impoundment, serve notice of the impoundment as provided in this chapter.
- 2. An animal determined to be a public nuisance animal by the Animal Welfare Commission will be subject to appropriate restrictions for the lifetime of the animal, which may include, but are not limited to:
 - (i). Any or all restrictions listed under Regulated Animal Possession Permit issuance;
 - (ii). Requiring an owner to complete a course of animal obedience training approved by SBARC;
 - (iii). Keeping the animal indoors or in a secured enclosure;
 - (iv). Requiring the use of a leash whenever off the owner's premises;
 - (v). Identification via a microchip implanted into the skin of the animal, and such microchip number must be provided to SBARC;
 - (vi). Require periodic inspections of the location where the animal resides to ensure it meets Inspection Standards; and/or
 - (vii). Restrictions may include any other measures deemed appropriate by the Animal Welfare Commission based on the totality of the circumstances;
- 3. If the animal in question dies, or is sold or transferred, the owner shall notify SBARC of the changed condition and new location of the animal in writing within five (5) business days.
- c. Violations of Order and Restrictions:
 - (1) Any violation of restrictions placed by the Animal Welfare Commission may result in modification of the applicable Order to require more detailed or enhanced restrictions, and/or may result in the immediate impoundment or seizure of the animal and waiver of possession rights in the seized animal is authorized if provided in the order.
 - (2) A violation of the Animal Welfare Commission Order which also is a violation of this Chapter may result in citations and/or fines.
 - (3) Every owner of a public nuisance animal shall allow inspection by SBARC employees of any enclosures or physical safety measures required pursuant to an applicable Order.
 - (4) SBARC may also consider any violation of applicable orders and restrictions as a basis for a Regulated Animal Possession Permit issuance.

Sec. 5-123. – Determination of Dangerous Animal.

- (a) Definition:

(1) A Dangerous Animal is defined as any animal which:

- i. Has at least one instance of a bite to a domestic animal or person causing injury rated on Section IV of the Animal Bite Classification System within the Official Indiana Bites Report form from Indiana State Department of Health, of a Level 3 (moderate punctures); or
- ii. Demonstrates a propensity, tendency, or disposition to chase and/or attack unprovoked or to cause injury or to threaten the safety of persons or domesticated animals with or without a bite.. Such a propensity, tendency, and/or disposition may be demonstrated by the animal's behavior towards wildlife.

(b) Determination:

(1) If the City has investigated and determined that there exists reasonable grounds to believe that an animal meets the definition of a dangerous animal, then SBARC may;

- (i). request a hearing by the Animal Welfare Commission for the purpose of determining whether or not the animal in question should be declared a dangerous animal.
- (ii). take appropriate steps to impound or seize the animal in question if it presents a danger to the public and further restrictions are required to protect the health or safety of the animal or the public.
- (iii). following impoundment, serve notice of the impoundment as provided in this chapter.

(2) At a hearing the Animal Welfare Commission may determine that an animal should instead be classified as a Public Nuisance Animal as defined in this Chapter.

(3) An animal determined to be a dangerous animal by the Animal Welfare Commission will be subject to appropriate restrictions for the lifetime of the animal, which may include, but are not limited to:

- (i). Any or all restrictions listed under Regulated Animal Possession Permit issuance and/or Public Nuisance designations;
- (ii). Requiring the use of a muzzle whenever off the owner's premises;
- (iii). Requiring the use of a muzzle when visitors are on the owner's premises;
- (iv). Requiring the use of a leash, of no more than three (3) feet in length, and under the control of a responsible adult, whenever off the owner's premises;
- (v). While on the owner'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. At least one (1) warning sign shall be posted on the enclosure in which the animal is maintained and must be visible from at least twenty (20) feet away.
- (vi). Warning signs on all entry points to the premises on which the animal is maintained and must be visible from at least twenty (20) feet away.
- (vii). Shall not be used for breeding;
- (viii). Alteration by a licensed veterinarian, unless:

- A. A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or
 - B. 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.
- (ix). the owner shall maintain a liability insurance policy of no less than three hundred thousand dollars (\$300,000.00) for the animal;
- (x). Warning signs on all entry points to the premises on which the animal is maintained; and/or
- (xi). Any other measures deemed appropriate by the Animal Welfare Commission based on the totality of the circumstances.
- (4) If the animal in question dies or is euthanized, the owner shall provide notice to SBARC.
- (5) No later than two (2) business days prior to selling or transferring the animal, the owner shall notify SBARC of the intent to sell/transfer in writing and provide the contact information for the buyer/recipient. The owner shall notify the buyer/recipient of the animal's designation as a dangerous animal in writing, together with any restrictions imposed by the Animal Welfare Commission.
- (c) Violations of Order and Restrictions:
 - (1) Any violation of restrictions placed by the Animal Welfare Commission may result in: modification of the applicable Order to require more detailed or enhanced restrictions; the immediate impoundment or seizure of the animal; and waiver of ownership rights in the seized animal is authorized if provided in the order.
 - (2) A violation of the Animal Welfare Commission Order which also is a violation of this Chapter may result in citations and/or fines.
 - (3) Every owner of a dangerous animal shall allow inspection by SBARC employees of any enclosures or other physical safety measures required pursuant to an applicable Order.
 - (4) SBARC may also consider any violation of applicable orders and restrictions as a basis for a dangerous animal determination.

Sec. 5-124. - Determination of Vicious animal.

(a) Definition:

- (1) A Vicious Animal is defined as any animal which:
 - (i). Constitutes a physical threat to persons or animals because of an attack of such severity or intensity that caused severe property or physical bodily damage;
 - (ii). Has at least one instance of a bite to a domestic animal or person causing injury rated on Section IV of the Animal Bite Classification System within the Official Indiana Bites Report form from the Indiana State Department of Health, of at least Level 4;

- (iii). Was previously designated as a dangerous animal and makes an unprovoked attack on an animal or person; or
 - (iv). Has a prior bite history demonstrating a propensity, tendency, or disposition to attack unprovoked or to cause injury or to threaten the safety of persons or animals and makes an unprovoked attack on an animal or person.
- (2) An animal shall not be a Vicious Animal within the meaning of this article if:
- (i). It inflicts an injury upon a person when the animal is being used by a law enforcement officer carrying out official duties; or
 - (ii). The injury inflicted by the animal was sustained by a person who was committing a willful trespass or other tort; was tormenting, abusing or assaulting the animal; had in the past been reported to have tormented, abused or assaulted the animal; or was committing or attempting to commit a crime.
- (b) Determination:
- (1) If the City or a law enforcement officer has reasonable grounds to believe that an animal meets the definition of a vicious animal, then SBARC may:
 - (i). take immediate steps to impound or seize the animal in question,
 - (ii). following impoundment, serve notice of the impoundment as provided in this chapter, and/or
 - (iii). request a hearing by the Animal Welfare Commission for the purpose of determining whether or not the animal in question should be declared a vicious animal.
 - (2) The Animal Welfare Commission may find in a hearing that a Vicious Animal determination is applicable. Upon making a vicious animal finding, the animal in question shall be euthanized. SBARC may obtain a warrant to seize or impound the animal.
 - (3) If the Animal Welfare Commission determines that a Vicious Animal determination is not applicable, the Animal Welfare Commission may determine that the animal is a Dangerous or Public Nuisance Animal, and order applicable specific restrictions.
 - (4) After the determination, if the owner submits an appeal during the applicable period, euthanasia shall be placed on hold and the animal will remain in custody of SBARC, with the owner liable for all costs of keeping the animal, until a final order for the disposition of the animal.

Sec. 5-125. – Violations of Animal Welfare Commission Orders

- a. General Applicability: This section applies to any restrictions or orders imposed by the Animal Welfare Commission pursuant to determinations under this Article, including but not limited to Regulated Animal Possession Permit issuance, Public Nuisance Animal, and Dangerous Animal designations.

b. Consequences of Violation:

1. Any violation of restrictions or orders imposed by the Animal Welfare Commission shall be a violation of this Chapter and may result in:
 - (i). Modification of the applicable order to require more detailed or enhanced restrictions;
 - (ii). Immediate impoundment or seizure of the animal, with waiver of ownership rights in the seized animal if provided in the order;
 - (iii). Citations and/or fines as set forth in this Chapter.
2. Every owner subject to an Animal Welfare Commission order shall allow inspection by SBARC employees of any enclosures or physical safety measures required pursuant to the order.

c. Escalation: SBARC may consider any violation of applicable orders and restrictions as a basis for a new or escalated determination under this Article.

Sec. 5-126. - Reconsideration of Determination.

An owner may submit one (1) request for reconsideration per year to the Animal Welfare Commission to have a determination ordered by the Animal Welfare Commission modified or removed, no earlier than three hundred and sixty-five (365) days from the date of the determination or a prior request, subject to the following:

- (a) The request must be in writing.
 1. The request must be filed with SBARC and will only be submitted for a hearing before the Animal Welfare Commission if there have been no valid complaints within the last three hundred and sixty-five (365) days at the address of the owner, against the owner, and/or against the animal;
 2. The request shall include detailed information about how the change in circumstances or measures implemented have mitigated the risk to animal welfare and/or public safety as related to the determination;
 3. The Animal Welfare Commission has the authority to hear evidence, both for and against removal of the determination; and
 4. The Animal Welfare Commission or hearing officer may make a decision to remove, modify, or retain such determination based on the preponderance of the evidence.
- (b) Said provisions notwithstanding, in the event of an appeal with an outcome favorable to the owner, the owner may file for reconsideration under this Section prior to the expiration of three hundred sixty-five (365) days. A reconsideration under this provision shall be filed within fourteen (14) days of the favorable appeal outcome.
- (c) Upon the discovery or receipt of new information or evidence SBARC may by its own petition request a reconsideration at any time.

Sec. 5-127. - Recognition of animal welfare designations or citations by outside agencies.

- (a) SBARC may consider animal welfare designations or citations by other agencies as evidence in an administrative determination under this Chapter or a proceeding before the Animal Welfare Commission.
- (b) Nothing in this section prohibits or limits SBARC from acting under this Chapter, or the application of this Chapter, to address an animal or animal owner that moves into the City.

Sec. 5-128. - Penalties; Costs, and Fees.

- (a) Any person violating any of the provisions of this Chapter may be fined for each offense, in any sum not less than fifty dollars (\$50.00) and not more than two thousand five hundred (\$2,500.00) as set forth in Section 5-149, and each day's violation shall constitute a separate offense.
- (b) If an animal is retained at SBARC because its owner has been in violation of this Chapter, then the person redeeming the animal by paying the prescribed fees shall also be required to pay the costs incurred by SBARC for impoundment and caring for including, but not limited to:
 - (1) Surgeries,
 - (2) Vaccines,
 - (3) X-rays,
 - (4) Medications,
 - (5) Exams, including Veterinarian visits,
 - (6) Lab work,
 - (7) Boarding,
 - (8) Rescue equipment,
 - (9) Perishable personal protection equipment, and
 - (10) Grooming.
- (c) Violation of any provision of this Chapter may result in revocation of any permit(s) issued by SBARC and may require a re-inspection prior to reinstatement of the permit.
- (d) Upon finding of violations of this Chapter, the City may choose at any time to seek enforcement through a court of competent jurisdiction which may order relinquishment of an animal(s) deemed to be a public safety risk or a repetitive public nuisance that has not been abated or an animal that is a victim of cruelty, neglect, or abandonment, to SBARC for disposition. The owner of such animal(s) shall be liable to the City for all court costs, litigation costs and legal fees if the City prevails and as approved by the court, and the City may ask the court to require the issuance of a bond from owner to cover the costs of keeping any animal in custody of SBARC.

DIVISION 2. CHRONIC ANIMAL ORDINANCE VIOLATIONS – REGULATED ANIMAL POSSESSION PERMIT REQUIRED

Sec. 5-129. Purpose and intent.

- (a). The purpose of this Division is to protect the public health, safety, and welfare, and to prevent harm to animals, by regulating the future possession and care of animals by persons whose documented history of animal ordinance violation citations reasonably indicates an inability to comply with the requirements of this Chapter.

(b). This Division shall be interpreted and applied consistently with Indiana and Federal law governing animal care and welfare. If any provision is found to require action inconsistent with such state or federal regulations, it shall be deemed preempted to the extent of the inconsistency.

Sec. 5-130. Definitions.

Regulated Animal Possession Permit means a permit issued by SBARC with or without conditions, authorizing a person to possess or harbor one or more animals subject to the requirements of this Chapter.

Sec. 5-131. Permit required for continued animal possession.

(a) A person who meets the criteria in subsection (b) or (c) is not eligible to possess or harbor animals within the City unless that person qualifies for and holds a valid Regulated Animal Possession Permit issued pursuant to this Division.

(b) A person is subject to this Division if, within a rolling twenty-four (24) month period, the person has received three (3) or more citations for violations of this Chapter, and SBARC determines that such history reasonably indicates an inability to comply with the requirements of this Chapter in the future, demonstrating the need for added regulations.

(c) A person is subject to this Division if the person has received at least one (1) citation for violation of this Chapter indicating a heightened risk to:

1. animal welfare, to other persons or animals based upon the likelihood to sustain injuries or contract diseases, or
2. the public health, safety, and welfare

and SBARC determines the citation poses so great a risk to the considerations in subsections 1 and 2 above that added regulations are necessary before the accumulation of three citations.

Sec. 5-132. SBARC review of citation history.

(a) SBARC may review all relevant records regarding a person's prior citations, history of compliance, corrective actions undertaken, and any other information reasonably related to future compliance with this Chapter.

(b) After a review pursuant to subsection (a), SBARC may conclude one of the following:

1. A person's citation history indicates added regulations are needed for future compliance;
2. A person's citation poses so great a risk to animal, human, and/or public health, safety, and welfare that added regulations are necessary before the accumulation of three citations;
3. A person's citation history does not warrant a Regulated Animal Possession Permit at this time; or

4. A person's citation history demonstrates they are not qualified for a Regulated Animal Possession Permit at this time. A determination under this subsection means that possession of an animal shall constitute a violation of this Chapter.

Sec. 5-133. Issuance of Regulated Animal Possession Permit.

(a) If SBARC determines a person is qualified for a Regulated Animal Possession Permit and that added regulations are needed for future compliance, then SBARC may issue a Regulated Animal Possession Permit to the person, with or without conditions, authorizing the person to possess or harbor one or more animals subject to the requirements of this Chapter.

(b) SBARC must provide written notice to the affected person with sufficient information about the Regulated Animal Possession Permit requirements and a copy of the permit.

(c) SBARC may impose conditions as added regulations to the Regulated Animal Possession Permit reasonably related to the violation history, which may include, but are not limited to:

1. Requiring an owner to complete a course of animal obedience training approved by SBARC;
2. Keeping the animal indoors or secure on premises;
3. Providing suitable shelter and protection from the elements that shall provide adequate exercise room, light, ventilation, and sanitation;
4. Limiting the number of animal licenses;
5. Requiring periodic inspections of the location where the animal resides to ensure it meets Inspection Standards;
6. Any other measures deemed appropriate based on the totality of the circumstances of the animals licensed.

(d) If the person issued the Regulated Animal Possession Permit disputes the permit or the added regulations, then the person may file an appeal within ten (10) days of the date of issuance by following the process in Sec. 5-78 of this Chapter. Pursuant to Sec. 5-78 of this Chapter, upon timely request, the AWC shall conduct a hearing and may affirm, modify, or reverse SBARC's determination for the issued Regulated Animal Possession Permit.

(e) If SBARC has determined that there are reasonable grounds that animal welfare is at risk, or an animal presents a danger to the public health or safety while in the custody of the person awaiting the appeal, SBARC may take appropriate steps to impound or seize said animal.

Sec. 5-134. Animal Welfare Commission determination of Regulated Animal Possession Permit.

(a) If SBARC determines that a person's citation poses so great a risk to animal, human, and/or public health, safety, and welfare that added regulations are necessary before the accumulation of

three citations, then SBARC may request a hearing before the Animal Welfare Commission for a review and determination whether an Regulated Animal Possession Permit should be issued or denied. If a Regulated Animal Possession Permit is denied based upon a failure to qualify for the permit, possession of an animal constitutes a violation of this Chapter.

(b) If SBARC has determined that there are reasonable grounds that animal welfare is at risk, or an animal presents a danger to the public health or safety while in the custody of the person awaiting the AWC's determination, SBARC may take appropriate steps to impound or seize said animal.

(c) If AWC approves the issuance of an Regulated Animal Possession Permit, then AWC may impose conditions as added regulations to the Regulated Animal Possession Permit reasonably related to the violation history as set forth in Section 5-133(c).

Sec. 5-135. Regulated Animal Possession Permit post-issuance review.

(a) Regulated Animal Possession Permits shall be valid commencing with the date of issuance, are not transferrable, and subject to annual review.

(b) Upon review, SBARC may:

1. re-inspect the premises;
2. examine all animals in the person's possession; and
3. review all relevant records regarding a person's prior citations, history of compliance, corrective actions undertaken, and any other information reasonably related to future compliance with this Chapter

to determine whether the permit should be continued, modified, or denied. SBARC may require additional information or documentation from the applicant to decide the permit continuation.

(c) Following permit review, if it is determined the permit is denied due to the person no longer qualifying for a Regulated Animal Possession Permit, review of the decision shall follow the provisions in Sec. 5-78 of this Chapter.

(d) Following permit review, if it is determined the permit is continued, the person may continue to hold a Regulated Animal Possession Permit, with or without conditions, authorizing the person to possess or harbor one or more animals subject to the requirements of this Chapter.

(e) SBARC may impose conditions as added regulations to the reissuance of an Regulated Animal Possession Permit reasonably related to the violation history and current conditions, as set forth in Section 5-133(c).

(f) SBARC may rescind the requirement for Regulated Animal Possession Permit upon a showing of verified changed circumstances or demonstrated compliance.

Sec. 5-136. Reconsideration of determination.

- (a) An owner may submit one (1) request for reconsideration per year to SBARC to have a denial or issuance of a Regulated Animal Possession Permit with added regulations be reconsidered, no earlier than three hundred and sixty-five (365) days following the expiration of a full year from the date of the determination or a prior request, subject to the following:
 - 1. The request must be in writing.
 - 2. The request must be filed with SBARC and will only be reconsidered if there have been no valid complaints within the last three hundred and sixty-five (365) days at the address of the owner, against the owner, and/or against the animal.
 - 5. The request shall include detailed information about how the change in circumstances or measures implemented, such as obedience and/or behavior modification training of the animal, have mitigated the risk to animal welfare and/or public safety as related to the determination.
- (b) SBARC has the authority to review documentation both for and against removal of the determination.
- (c) SBARC may make a decision to remove, modify, or retain such determination based on the preponderance of the evidence.
- (d) Said provisions notwithstanding, in the event of an appeal with an outcome favorable to the owner, the owner may file for reconsideration under this Section prior to the expiration of three hundred sixty-five (365) days. A reconsideration under this provision shall be filed within fourteen (14) days of the favorable appeal outcome.
- (e) Upon the discovery or receipt of new information or evidence SBARC may by its own petition initiate a reconsideration at any time.
- (f) If a person receiving an unfavorable outcome on reconsideration on a Regulated Animal Possession Permit disputes the outcome, then the person may file an appeal within ten (10) days of the date of issuance by following the process in Sec. 5-78 of this Chapter. Pursuant to Sec. 5-78 of this Chapter, upon timely request, the AWC shall conduct a hearing and may affirm, modify, or reverse SBARC's determination for the issued Regulated Animal Possession Permit.

Sec. 5-137. Enforcement.

- (a) Possession of animals without a Regulated Animal Possession Permit, if required under this Division, constitutes a violation of this Chapter.

- (b) Non-compliance with the Regulated Animal Possession Permit or the conditions imposed as added regulations constitutes a violation of this Chapter.
- (c) Following the provisions of Sec. 5-78 of this Chapter, SBARC may deny an Regulated Animal Possession Permit for failure to comply with the Regulated Animal Possession Permit or the conditions imposed as added regulations.
- (d) In addition to any remedies authorized in this Chapter, the City may seek injunctive relief and/or impoundment pursuant to Indiana law.

DIVISION 3. HEARING PROCEDURES

Sec. 5-138. – Animal Welfare Commission Hearings

- (a) This section establishes the hearing procedures when the Animal Welfare Commission receives a request for a hearing from SBARC. Upon receipt of the request for hearing, a hearing may be scheduled, in coordination with the Hearing Officer and/or Animal Welfare Commission (collectively referred to as the “Hearing Authority” for the purposes of this section). The hearing shall be scheduled within a reasonable timeframe.
- (b) When the hearing date is scheduled, SBARC shall receive a copy of the Hearing Authority’s issued notice to the owner.
- (c) Notice of the hearing must be served to the owner, and must contain the following:
 - (1) Hearing date, time, and location;
 - (2) A statement referencing the hearing process under this section;
 - (3) A statement concerning the basis for the hearing, including the applicable ordinance violation(s) and what decisions may result from the hearing; and
 - (4) A statement describing the consequence for failure to appear for the hearing.
- (d) Manner of Serving Notice.
 - (1) Initial notice of hearing must be served upon the owner of the animal by any of the following methods:
 - (1) Mailing the notice by certified mail to the residence or place of business or employment, with return receipt requested;
 - (2) Personal service;
 - (3) Posting at the residence of the owner followed by sending notice by First Class mail;
 - (4) Publication; or
 - (5) Any manner of service allowable by Indiana Trial Rules.
 - (2) The notice must be served at least ten (10) days before the hearing date. In computing the days for service, the day of service shall not be included.
 - (3) Subsequent communication by the City, including any decisions by the Animal Welfare Commission, may be served by first-class mail.
- (e) Owner Request for Continuance.

- (1) A request for a continuance of the scheduled hearing date and time shall be made in writing no later than forty-eight (48) hours in advance, and provide the following:
 - i. The reason for the continuance, and
 - ii. An approximate date or timeframe which is requested for the rescheduled hearing, which shall be no later than 10 business days from the original hearing.
 - (2) A continuance may be granted prior to the hearing at the discretion of the Hearing Officer or Animal Welfare Commission's Counsel. The safety of the public, the safety of any affected animals, and the burden on SBARC of any delay shall be given consideration when evaluating the request for a continuance.
 - (3) A continuance request made less than forty-eight (48) hours in advance, or made at the hearing, may be granted at the discretion of the Commissioners upon holding a vote.
 - (4) If any animals are impounded pending hearing, then the owner may be responsible for the additional costs of boarding and care due to the continuance.
- (f) Hearings.
- (1) The Hearing Authority is permitted to hold a hearing presided by:
 - (i). Hearing Officer or
 - (ii). Legal representative assisting the Commissioners in making findings, approving an order, and preparing a final order.
 - (2) Hearings shall be held on a business day and conducted by the Hearing Authority in an orderly and structured manner, similar to proceedings under the Indiana Rules of Court for Small Claims. The owner may appear at the hearing and may be represented by an attorney. SBARC and the owner shall have the opportunity to present their case and hear the argument against them.
 - (3) The Commissioners shall consider the evidence introduced at the hearing and decide whether the evidence supports the determination. The Animal Welfare Commissioners are permitted to ask questions, deliberate, and make final determinations. Decisions on the findings, as well as on the specific restrictions or other terms of the final order, are determined by a majority vote.
 - (4) An order shall be issued following any determination. If the owner fails to appear at the hearing, the Hearing Authority may find the owner in default and may issue an order with applicable prohibitions, restrictions, and/or limitations.
- (g) Hearing Determinations and Order
- (1) The Hearing Authority shall consider the evidence presented and make a determination based upon the preponderance of the evidence.
 - (2) Following the hearing, the Animal Welfare Commission shall submit a written determination to the Respondent.
 - (3) The written determination shall include findings of fact, determination of legal status, and include any orders, restrictions, or requirements.

- (4) When an order is issued following a hearing that requires the owner to surrender animal(s) that are not presently in the custody of SBARC, such animal(s) must be surrendered to SBARC within twenty-four (24) hours of receipt of the written determination.
- (5) All animals that are impounded shall be held at SBARC or its authorized agent continuously during the ten (10) day appeal period following the determination. During that ten (10) day period, the owner will be responsible for all boarding costs and fees associated during that period and not covered by any bond posted pursuant to an appeal.
- (6) If the owner files an appeal of the written determination, the animal will be held at SBARC or its authorized agent during the appeal process. The owner shall be responsible for all boarding costs and fees associated during the appeal process.
- (7) The written determination may be served on the owner by first class mail or any method described in Subsection (d)(1) of this Section.
- (8) Any written determination that orders the impoundment and/or surrender of an animal may include a statement giving notice to the owner that a cash bond to cover the boarding fees and cost of care may be requested upon the filing of a petition for judicial review.

Sec. 5-139. - Appeal of the hearing determination.

- (a) Hearing determinations may be appealed by filing a request for judicial review with a court of competent jurisdiction within St. Joseph County, as may be applicable under I.C 4-21.5-5.
- (b) The request for judicial review under this section must be filed by a verified petition. The verified petition must include a copy of the written determination and adhere to the Indiana Rules of Trial Procedure. The petition must be filed within ten (10) calendar days of service of the written determination on the owner.
- (c) In computing the time frame to file the verified petition under this section, the day the written determination is served shall not be included. The last day of the ten (10) day period is to be included unless it is a Saturday, a Sunday, or a day the court is closed and in those situations the period runs until the end of the next day that is not a Saturday, a Sunday or a day on which the court is closed.
- (d) The City may petition the court for a bond as necessary, pursuant to IC 34-49 or other applicable law, from owner to cover the costs of care of the animal while it is in the custody of SBARC during the appeal process.
- (e) If the animal is returned to the owner after final adjudication the bond will be processed in accordance with the court's decision.

ARTICLE 11. – ADMINISTRATION

DIVISION 1. ANIMAL RESOURCE CENTER (“SBARC”)

Sec. 5-140. - Duties of SBARC.

SBARC shall have those duties and responsibilities set forth by this Chapter together with those set forth in policies and procedures duly adopted by the City. SBARC enforces all City ordinances and Indiana state laws regarding animal care and control.

DIVISION 2. ANIMAL WELFARE COMMISSION

Sec. 5-141. - Animal Welfare Commission.

- (a) The Animal Welfare Commission shall consist of five members who shall each be appointed to serve a three-year term, with terms to be staggered such that no more than two (2) members finish their term in a given year. No limit shall be set on the number of terms a member can serve. All members shall serve without compensation.
- (b) Two (2) of the Animal Welfare Commission members shall be appointed by the Mayor.
- (c) The three (3) remaining members shall be appointed by the South Bend Common Council.

At least one (1) member appointed by the South Bend Common Council must be a licensed veterinarian or a registered veterinary technician. In the event of a vacancy in the seat held by the veterinary professional member, the Animal Welfare Commission may continue to meet and conduct business.

- (d) Selections shall not be based on political affiliations, but on the member's interest in and knowledge of animal welfare and enforcement.
- (e) Subject to applicable sections of the South Bend Municipal Code for citizen members, the members of the Animal Welfare Commission shall serve at the pleasure of the appointing authority and each member shall serve until a qualified successor is duly appointed.
- (f) In the case of vacancy in Animal Welfare Commission membership due to death, resignation, incapacity, removal, or other cause, the appointment to fill the vacancy so occurring shall be made by the original appointing body for the unexpired term only.

Sec. 5-142. - Officers; agenda, meetings and meeting minutes of the Animal Welfare Commission.

- (a) At the first meeting of each year the Animal Welfare Commission shall elect a Chair, Vice-Chair, and Secretary from its membership.
- (b) The Animal Welfare Commission meets as follows:
 - (1) At a reasonable cadence as agreed upon between the Animal Welfare Commission and the City,
 - (2) Upon special call by the Chair upon the written request to the Chair by any three (3) members, and
 - (3) Upon written request to the Chair by the Department of Community Investment and/or SBARC.
- (c) Three (3) members of the Animal Welfare Commission shall constitute a quorum to conduct business. Official action may be taken by a majority vote of those in attendance.

Sec. 5-143. - Duties and responsibilities of the Animal Welfare Commission.

- (a) The Animal Welfare Commission shall have the following duties and responsibilities:
- (1) To recommend proposed policies, principles, standards and regulations for the control and humane treatment of all animals regulated by this Chapter;
 - (2) To review and make advisory recommendations aimed at improving regulations and enforcement of the regulations codified into this Chapter to the South Bend Common Council;
 - (3) To review and determine appeals on denials, suspensions and revocations of licenses and permits in Article 7 of this Chapter;
 - (4) Hold hearings to review evidence of non-compliance with this Chapter as brought forward by SBARC, and make hearing determinations, and receive recommendations from SBARC concerning applicable orders.
 - (5) Commissioners shall make recommendations and determinations in a fair and impartial manner based on facts and evidence presented.
- (b) The Animal Welfare Commission may adopt rules and procedures to govern all hearings it must conduct under Chapter 5. If there are any rules or procedures that are not covered by this Chapter or adopted by the Animal Welfare Commission, the Commission will follow the Indiana Administrative Procedure Act, Title 4, Articles 21.5 and 22 of the Indiana Code.

Secs. 5-144-5-145. - Reserved.

DIVISION 3 – SBARC OPERATIONS

Sec. 5-146. - Management of the animals.

- (a) SBARC shall have those duties and responsibilities set forth by this Chapter together with those set forth in policies and procedures duly adopted by the City. Any owner who surrenders an animal to SBARC immediately relinquishes all ownership or legal rights to the animal and the animal becomes property of SBARC. SBARC 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.
- (b) Any animal in the custody of SBARC may be transported or housed at a remote facility, under the direction of SBARC, irrespective of the agency that seized the animal:
- (1) Animals may be transported to a licensed veterinarian for examination and/or treatment. If in the opinion of said veterinarian, the animal must be euthanized, euthanasia will be performed immediately. Costs of treatment, euthanasia, and/or care shall be the responsibility of the owner.
 - (2) When a community cat is captured, SBARC may impound the cat or may return it to its harbinger or community cat caretaker if, in the opinion of SBARC, the return would not present a danger to the public, a continued or repeated public nuisance, or otherwise result in a violation of this Chapter.

Sec. 5-147. – Reclaim of Animal in SBARC Custody.

- (a) SBARC reserves the right to refuse reclamation if the animal is being held by the City pending further investigation and/or enforcement if such refusal is in the best interests of the health and/or safety of the animal or the public.
- (b) A person may reclaim or redeem an animal in the custody of SBARC upon meeting all of the following requirements:
 - (1) The person must submit valid proof of ownership to SBARC.
 - (2) The person must pay all redemption fees and any other service, boarding, or medical fees, and pay all other outstanding penalties due for ordinance violations under this Chapter.
 - (3) Any dog or cat, prior to its release by SBARC, shall be implanted with a microchip and registered for purposes of identification and reclaiming. The cost for this process shall be at the owner's expense before the animal's release.
 - (4) All animals shall be registered/licensed with the City prior to release.
 - (5) The owner must demonstrate the ability to provide minimum care and, when applicable, show a treatment plan is in place.
- (c) The owner will automatically relinquish ownership rights in the animal to SBARC if the owner fails to complete all the conditions for reclaiming their animal by the following established timeframes:
 - (1) Stray animal with a form of identification (such as a microchip, rabies tag, pet tag with owner information): 7 calendar days
 - (2) Stray animal with no form of identification: 3 calendar days
 - (3) Animal completing bite quarantine: 1 calendar day following the end of the quarantine period
 - (4) Safe harbor for reasons of tragedy beyond the control of the owner (such as house fire or death of owner): 7 calendar days
 - (5) Owner arrest: 7 calendar days
- (d) If the reclaim timeframe does not end on a business day, the last day to reclaim the animal is the next business day SBARC is open.
- (e) SBARC may require an animal that has previously been impounded as a stray or running at-large to be altered by a licensed veterinarian at the owner's expense upon a second or subsequent redemption.
 - (1) If the alteration appointment is made by the owner, the appointment must be scheduled within thirty (30) days of reclaim and evidence of the scheduled appointment shall be provided to SBARC.
 - (2) If SBARC has a reasonable belief that the owner will not comply with this requirement, SBARC may transport the animal directly to the veterinarian of the owner's choice for completion of the procedure, and the owner may pick up the animal from the veterinarian following the procedure.
 - (3) Failure to comply with the requirements of subsection (e)(1) constitutes a violation of this Chapter.

- (f) Upon failure to reclaim the animal within the timeframe, the animal becomes the property of SBARC.
- (g) In addition to the relinquishment of ownership rights set forth herein, the registered owner of a microchipped animal may be subject to a fine for failure to reclaim the animal in an amount not to exceed \$750 per animal.

Sec. 5-148. - Animal euthanasia.

- (a) Animals in the custody of SBARC may be euthanized only when necessary and consistent with SBARC policies and the requirements of this Article.
- (b) No person other than the following may euthanize any domestic animal within the City:
 - (1) Authorized agent of SBARC,
 - (2) A licensed veterinarian,
 - (3) A veterinary staff member under the direct supervision of a veterinarian, or
 - (4) Other animal shelters and/or public animal facilities which euthanize animals in the City.
- (c) Individuals authorized to perform euthanasia must be trained in humane procedures by a licensed veterinarian or a registered veterinary technician prior to being authorized to conduct animal euthanasia and shall perform the animal euthanasia in a humane manner as specified by the American Veterinary Medical Association's Guidelines for Euthanasia of Animals and/or The Humane Society of the United States's Euthanasia Reference Manual.

Sec. 5-149. – SBARC fees and penalties.

- (a) In addition to any other fees required to be paid under federal and state law, SBARC has the following fee schedule:

Puppy (6 months and under)	\$200
Cat (older than 6 months)	\$75
Kitten (6 months and under)	\$100
Small Mammal	\$50
Bird	\$75
Reptile	\$75
Invertebrate	\$50
Amphibians	\$50
Fish	\$25

Surrender	\$50
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Altered Animal– 1 year rabies	\$20
Altered Animal –3 year rabies	\$40
Unaltered Animal– 1 year rabies	\$50
Unaltered Animal –3 year rabies	\$100
Rental Horse	\$20

Urban Chicken Permit	20
Honey Beekeeping Permit	20
Pigeon Permit	20
Pet Shop Permit (selling altered dogs/cats and/or other animals)	\$ 250
Pet Shop Permit (selling unaltered cats and/or dogs, including any additional animals)	\$1,000
Groomers Permit	\$100
Minor Breeders Permit	\$50
Breeders Permit	\$500
Kennel/Cattery Permit (per 25 animals)	\$150
Rental Horse Permit	\$100
Zoological Park Permit	\$0
Attraction Animal Permit	\$500
Reinspection Fee	\$50

First redemption	\$25
Second redemption	\$50
Third redemption	\$100
Fourth redemption (and subsequent)	\$200

- (b) SBARC service charges or user or permit fees may include reasonable costs incurred for the care of the animals and operations. Such costs will be accurately assessed by SBARC according to a schedule of costs it maintains.
- (c) Violation of any provision of this Chapter may be subject to penalties in an amount not less than those set out below.

Citation	1st	2nd	3rd	4th + subsequent	Section
Failure to Provide Minimum Care	\$250	\$500	\$1,500	\$2,500	Sec. 5-08
Grooming Offense	\$100	\$200	\$300	\$500	Sec. 5-09
Medical Offense	\$250	\$500	\$1,000	\$1,500	Sec. 5-09
Inappropriate Training Methods	\$250	\$500	\$1,000	\$2,000	Sec. 5-10
Improper Restraint	\$75	\$150	\$250	\$500	Sec. 5-11
Improper Fastening/Tethering	\$75	\$300	\$1,000	\$2,500	Sec. 5-12
Improper Muzzling	\$75	\$250	\$750	\$1,500	Sec. 5-13
Failure to Contain Animal on Property	\$75	\$150	\$300	\$500	Sec. 5-14
Failure to Identify	\$50	\$75	\$100	\$250	Sec. 5-21
Removal of Excrement	\$50	\$100	\$250	\$500	Sec. 5-22
Failure to Vaccinate Against Rabies	\$150				Sec. 5-23
Underage Sale or Transfer of Kittens/Puppies	\$250	\$500	\$1,000	\$1,500	Sec. 5-24
Failure to Contain Animal in Heat	\$75	\$250	\$500	\$1,500	Sec. 5-25
Community Cat Caretaker Violation	\$75	\$250	\$500	\$1,500	Sec. 5-27
Improper Trapping	\$250	\$500	\$1,000	\$1,500	Sec. 5-28 ; Sec. 5-105
Dog Park Violation	\$50	\$100	\$250	\$500	Sec. 5-29
Nuisance Dog Park Citation	\$75	\$300	\$1,000	\$2,500	Sec. 5-29(o)
Acreage Violation	\$250	\$500	\$750	\$1,000	Sec. 5-36
Failure to Provide Adequate Housing/Stable Requirements - Horses	\$250	\$500	\$1,500	\$2,500	Sec. 5-44
Rental Horse Regulation Violation	\$250	\$750	\$1,500	\$2,500	Sec. 5-45
Above the Unaltered Animal Limit	\$250	\$500	\$1,000	\$1,500	Sec. 5-60
Failure to License	\$150				Sec. 5-60
Kennel/Cattery Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-63
Grooming Shop Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-65
Pet Shop Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-66
Rental Horse Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-67
Minor Breeder Permit Violation	\$250	\$500	\$750	\$1,500	Sec. 5-68
Breeder Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-69
Chicken Permit Violation	\$50	\$150	\$250	\$500	Sec. 5-70
Honey Bee Permit Violation	\$100	\$250	\$750	\$1,500	Sec. 5-71
Pigeon Permit Violation	\$50	\$150	\$250	\$500	Sec. 5-72
Animal Event Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-73
Zoological Park Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-75
Animal Attraction Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-76

Animal Rescue Organization / Animal Welfare Organization Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-77
Failure to Notify - Vehicular Collision	\$50	\$100	\$250	\$500	Sec. 5-81
Failure to Notify - Lost/ Stray Animals	\$50	\$100	\$250	\$500	Sec. 5-82
Bite Class I or II	\$100	\$250	\$500	\$750	Sec. 5-83
Bite Class III or IV	\$500	\$750	\$1,000	\$1,500	Sec. 5-83
Bite Class V	\$2,500				Sec. 5-83
Violation of Bite Quarantine Procedure	\$250	\$750	\$1,000	\$1,500	Sec. 5-83
Failure to Notify - Veterinary Professional	\$50	\$100	\$250	\$500	Sec. 5-84
Offensive Use of Animal	\$250	\$750	\$1,500	\$2,500	Sec. 5-91
Improper Disposal of Dead Animals	\$100	\$250	\$500	\$750	Sec. 5-92
Antagonization of Animals	\$75	\$250	\$500	\$1,500	Sec. 5-93
Animals as Prizes	\$75	\$150	\$250	\$500	Sec. 5-94
Poisonous Bait	\$500	\$1,500	\$2,500	\$2,500	Sec. 5-95
Dying, Staining, or Tattooing	\$100	\$200	\$300	\$500	Sec. 5-96
Animal Fighting	\$1,000	\$2,500	\$2,500	\$2,500	Sec. 5-98
Inappropriate Animal Collection	\$250	\$750	\$1,500	\$2,500	Sec. 5-99
Enticement of Animals	\$75	\$250	\$500	\$750	Sec. 5-100
Abandonment	\$500	\$1,500	\$2,500	\$2,500	Sec. 5-101
Animal Mistreatment	\$1,000	\$2,000	\$2,500	\$2,500	Sec. 5-101
Running at Large	\$75	\$300	\$1,000	\$2,500	Sec. 5-102
Confinement in Motor Vehicle	\$500	\$1,500	\$2,500	\$2,500	Sec. 5-103
Exotic Animals/Native Wildlife	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-104
Barking/Public Nuisance	\$50	\$150	\$300	\$500	Sec. 5-107 ; Sec. 5-122
Interference with SBARC Staff	\$100	\$250	\$500	\$1,500	Sec. 5-121
Violation of AWC Determination	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-125
Regulated Animal Possession Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-137
Failure to Comply w/ Mandatory Spay/Neuter	\$250	\$500	\$750	\$1,000	Sec. 5-147
Failure to Reclaim	\$150	\$250	\$500	\$750	Sec. 5-147
Prohibited Euthanasia of Animals	\$2,500				Sec. 5-148

- (d) SBARC has authority to waive or reduce fees based on responsible animal ownership, operational needs, and/or administrative considerations.

Sec. 5-150. - Disposition of fees, donations, and bequests.

- (a) All money generated, received or collected as the result of payment of fees required shall be deposited into SBARC's revenue fund.

- (b) All money received by SBARC through donations, gifts, bequests or devises shall be payable to SBARC and deposited into Fund 217.
- (c) Any person or organization desiring to assist SBARC by raising funds on its behalf shall not act until they have received written approval of their fundraising proposal from SBARC.
- (d) All money generated, received or collected in response to SBARC's special fundraising projects shall be payable to SBARC and shall be deposited into the appropriate City Fund and used in a manner consistent with the announced purpose of any special fundraising event or project.

Secs. 5-151-5-157. - Reserved.

SECTION III. This Ordinance shall take effect thirty (30) days after adoption by the Common Council and approval by the Mayor and any publication required by law.

Canneth Lee, Council President
South Bend Common Council

Attest:

Bianca Tirado City Clerk
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana, on the _____ day of _____, 2026, at _____ o'clock _____.m.

Bianca Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2026, at ____ o'clock _____.m.

James Mueller, Mayor
City of South Bend



CITY OF SOUTH BEND

DEPARTMENT OF COMMUNITY INVESTMENT

July 23, 2026

Filed in Clerk's Office

President Canneth Lee
South Bend Common Council
3rd Floor – South Bend City Hall
South Bend, IN 46601

Jul 24, 2026

Bianca Tirado
City Clerk, South Bend, IN

Re: Chapter 5 - Responsible Animal and Pet Ownership Care and Control Regulations

Dear President Lee:

Attached for consideration by the South Bend Common Council ("Council") is a substitute for the previously submitted amendment to Chapter 5 of the South Bend Municipal Code.

The updated amendment addresses feedback received at the July 9, 2026 Animal Welfare Commission meeting and clarifies a few miscellaneous items.

I request that this substitute be filed for Bill No. 39-26 and replace this bill at all subsequent Committee and Council discussions and hearings.

Thank you for your consideration.

Sincerely,

Liz Maradik
Chief Neighborhoods Officer

Jul 24, 2026

SUBSTITUTE BILL NO. 39-26

Bianca Tirado
City Clerk, South Bend, IN

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, REPEALING CHAPTER 5 OF THE SOUTH BEND MUNICIPAL CODE
ENTITLED RESPONSIBLE ANIMAL AND PET OWNERSHIP CARE AND CONTROL
REGULATIONS, AND REPLACING IT WITH A NEW CHAPTER 5 ENTITLED
ANIMAL CARE REGULATIONS AND WELFARE ENFORCEMENT**

STATEMENT OF PURPOSE AND INTENT

Chapter 5 of the South Bend Municipal Code provides the regulations governing the operations of the South Bend Animal Resource Center (SBARC), as well as animal care and welfare throughout the City.

The proposed ordinance makes several key changes to the existing language of Chapter 5, including improvements to readability and definitions, clarifications to processes and requirements, improvements to cohesion between ordinance language and standard practice, and emphasizes focus on animal welfare and public safety.

Improvements to readability were made throughout the Chapter, ensuring clarity for residents as to City requirements and processes. The definitions contained in Chapter 5 were also streamlined to eliminate definitions no longer used in the Chapter, include definitions in-line where terms were used only once, and improve readability of remaining definitions.

In connection with the improvements to readability mentioned above, this ordinance also includes more detail in some areas to clarify processes and requirements where needed. For example, this ordinance clearly explains the due process provided to residents when they are involved with a matter heard by the Animal Welfare Commission (AWC):

Additionally, this ordinance ensures that ordinance language matches the current practices to avoid confusion for residents. It also standardizes language to refer to the City or to SBARC, rather than to particular divisions, individuals, or positions.

Finally, this ordinance emphasizes SBARC's continued focus on animal welfare and public safety. While ensuring that enforcement remains strong for existing ordinance violations, this ordinance also refines the existing animal and owner designations to more clearly fit the challenges facing each category.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of South Bend, as follows:

SECTION I. Chapter 5, Articles 1 through 9, Sections 5-1 through 5-125 are each and all hereby repealed.

SECTION II. A new Chapter 5, Articles 1 through 11, Sections 5-1 through 5-157 are hereby approved and adopted to read in the entirety as follows:

CHAPTER 5. ANIMAL CARE REGULATIONS AND WELFARE ENFORCEMENT

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.
- (c) The provisions of this Chapter supplement all state laws covering the same subject matter.
- (d) The provisions of this Chapter shall take effect thirty days following adoption.

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(ed), as to an animal*, means to desert or to leave an animal, without making provisions for minimum care of the animal.
- (b) *Abandon(ed), as to a property*, means that a reasonable and prudent person in the SBARC employee's position would believe a property to be vacant and/or deserted.
- (c) *Altered animal* means an animal that has been operated on to prevent it from procreating.
- (d) *Animal* means any living vertebrate, domestic or wild, except a human being.
- (e) *Animal bite classification* means the numeric designation indicating the levels of severity with one (1) the least severe and five (5) the most severe, pursuant to Section IV of the Animal Bite Classification System within the Official Indiana Bites Report form from Indiana State Department of Health, as amended. These classifications are currently set forth as follows: Level 1 = minor scratch(s); Level 2 = minor, punctures 4 or less; Level 3 = moderate, punctures; Level 4 = severe, punctures (4 or more) deep may include crushing or tears from shaking; and Level 5 = death.
- (f) *Animal event or exhibit* means display, activity or show of wild or domestic animals in a shopping center, retail establishment, adjacent lot, or elsewhere.
- (g) *Animal rescue organization* means a group or person maintaining a non-profit or business entity established pursuant to state law with the primary purpose of promoting animal adoption.
- (h) *Animal Welfare Alert (AWA)* means notice and communication given as a warning to animal owners concerning witnessed or reported animal ordinance violations.

- (i) *Animal welfare organization* means any entity organized and existing for the express actions of ensuring the health, safety, and welfare of animals.
- (j) *Breeder* means any person who intentionally or accidentally causes the breeding of an animal or makes any animal available for breeding purposes, or any person who offers for sale, sells, trades, receives other compensation or gives away any offspring of any animals.
- (k) *Cattery* means any person or group of persons, partnership or corporation or facility operated commercially engaged in keeping more than one cat for the purposes of boarding.
- (l) *Coop* means an enclosed structure used for housing chickens that provides shelter from the elements.
- (m) *Community cat* means 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.
- (n) *Cruelty* means the mistreatment or neglect of an animal that causes unintentional or intentional pain and suffering.
- (o) *Dangerous wild* or *dangerous exotic animal* means a wild or exotic animal that would create a potential risk to public safety.
- (p) *Dog park* means a designated area for dogs to exercise and play off leash in a controlled environment under the direct supervision of their owner.
- (q) *Domestic animal* means an animal that is not wild. The term is limited to:
 - (1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, emus, or other birds;
 - (2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, avian, camelid, cervidae, or bison species; or
 - (3) an aquatic animal that may be the subject of aquaculture (as defined in IC 15-11-7-1).
- (r) *Euthanasia* means to humanely end the life of an animal.
- (s) *Exotic animal* means any animal whose native habitat is not indigenous to the continental United States. This does not include fish, fur-bearing animals commercially bred for the furrier trade and birds defined under federal regulations, and nonpoisonous snakes and reptiles.
- (t) *Food* means nourishment that is appropriate for the species in adequate amounts to maintain good health.
- (u) *Foster animal* means any animal placed by an animal welfare organization or animal rescue organization in temporary care at a foster home until it is adopted.
- (v) *Foster home* means the physical location, away from an animal welfare organization, animal rescue organization, or SBARC, providing temporary care to a foster animal.
- (w) *Free-roaming cat* means any unowned, unaltered outdoor cat.
- (x) *Impoundment* means to seize and place into the custody of SBARC, any animals found in violation of this Chapter and/or Indiana law, to temporarily house animals in protective custody as defined in this Chapter, or for the health and safety of the animal.
- (y) *Kennel* means any person, group of persons, partnership or corporation or facility operated commercially for the purpose of boarding, housing, breeding or training dogs or cats, or both.

- (z) *Neglect* means to fail to comply with the Animal Care Regulations set out in Article 2 of this Chapter in a manner that endangers the animal's life, safety, and/or health.
- (aa) *Owner* means one of the following:
- (1) A person who owns an animal,
 - (2) A person who has ownership or custody rights for an animal on behalf of an owner, or
 - (3) A person that permits any animal to remain and/or to be fed within any premises on which such person resides or controls for at least (3) consecutive days.
- (bb) *Person* means any individual, firm, corporation, limited liability company, partnership, organization, or commercial establishment.
- (cc) *Provoked* means that an animal's behavior occurred because the animal:
- (1) Was being teased, taunted, abused, assaulted or physically threatened;
 - (2) Was acting in defense of itself, its offspring, its owner, another person, or another animal;
 - (3) Was reacting to pain, injury, fear, or the protection of food, shelter, or young;
 - (4) Was responding to a person committing or attempting to commit a criminal act, trespass, or other tort against the owner or the property where the animal was located; or
 - (5) Was bit accidentally during ordinary play with another animal.
- To be considered provoked, the animal's behavior must occur contemporaneously with or immediately following the provoking conduct and be proportionate to the provoking conduct.
- (dd) *SBARC (South Bend Animal Resource Center)* means the Animal Resource Center and the Division of Animal Welfare.
- (ee) *Stray* means any animal that is not under restraint and upon reasonable inquiry by SBARC, does not appear to have an owner.
- (ff) *Tether* means attaching an animal to a stationary object or pulley run system so as to restrict the range of movement. Tether does not include the use of a leash to walk a domestic animal.
- (gg) *Unaltered* means an animal that has not been operated on to prevent it from procreating.
- (hh) *Unprovoked* means an animal's behavior that is not provoked and includes behavior that occurs during ordinary, non-threatening interactions such as walking past an animal, standing near an animal, initiating casual interaction, or performing routine care, where no provoking conduct is present.
- (ii) *Wild animal* means an animal whose species usually lives in the wild or is not domesticated.

Secs. 5-3 - 5-7. Reserved.

ARTICLE 2. - ANIMAL CARE REGULATIONS

Sec. 5-8. Minimum care requirements

Every owner or handler of an animal kept in the city shall:

- (1) See that such animal is kept in a clean, sanitary and healthy manner and not confine it so as to be forced to stand, sit or lie in its own excrement or urine; and shall, regularly and as often as necessary to prevent odor or health and sanitation problems, maintain all animal areas or areas of animal contact clean;
- (2) Provide such animal with food that is appropriate for the species, with consideration for its age and condition, in adequate amounts to maintain good health; fresh potable, unfrozen drinking water at all times; and adequate housing 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;
- (3) Protect such animal against abuse, cruelty, neglect, torment, overload, or any other mistreatment;
- (4) Provide the animal with the reasonably necessary medical care according to commonly accepted veterinary standards. In addition to the required rabies vaccination, such care may include recommended vaccinations by accepted veterinary standards. If the animal is diseased, injured, or exhibiting symptoms of disease, assure that the animal receives proper care and is segregated from other animals so as to prevent transmittal of the disease;
- (5) Maintain the animal in compliance with all applicable federal, state, and local laws and all regulations respecting animal welfare enforcement as are adopted by the City; and
- (6) Provide that such animal when confined outside:
 - (i) Has access to a shelter constructed of weather resistant material, consisting of a structure with solid walls on all sides, a dry floor raised above the ground, just large enough for the animal to stand up and turn around, and a solid roof sloped away from the entrance to protect the animal from weather and extreme cold.
 - (ii) During any day when the temperature is at or below 40°F, the shelter entrance must be covered by a flexible wind-proofing material or self-closing door, and the shelter must contain clean, dry bedding, which must consist of an insulating material that does not retain moisture, such as straw, of sufficient depth for the animal to burrow.
 - (iii) On any day when the temperature is at or above 70°F, the shelter must be shaded by trees, a tarp, or a tarp-like device.
 - (iv) When the temperature is at or below 32°F, or at or above 85°F, or when a heat advisory, wind chill warning/advisory, or tornado watch/warning has been issued by local, state, or national authority:
 1. The animal must be brought into a temperature-controlled structure that maintains adequate temperature for the animal.
 2. The animal may not be outside for more than 20 minutes within the period of an hour and must remain in visual range of a competent adult.

- (v) Has adequate space for exercise when confined in an enclosure or pen, which shall consist of no less than one hundred (100) square feet. An animal over eighty (80) pounds must be provided with an additional fifty (50) square feet. For each additional animal inside the enclosure, fifty square feet of space for exercise must be added per animal.
- (vi) Is treated so that there are no open lesions on the animal's skin due to insect bites or other parasitic infections.

Sec. 5-9. Medical and grooming care requirements.

- (a) Every owner 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, and to be vaccinated as required by law in order to promote humane animal health.
- (b) Any animal deemed by SBARC 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 within the time frame given on the AWA.
- (c) Any owner keeping an animal requiring grooming, as deemed necessary by SBARC to maintain humane standards of care, must show proof such grooming has been completed within the time frame given on the AWA.

Sec. 5-10. Training methods.

No animal may be trained in a manner that will cause or is likely to cause a physical injury or suffering.

Sec. 5-11. Restraint of animals required; limited exception for off-leash dog run-park.

- (a) All animals that are off the property of an owner, or with a handler, shall have proper restraint as set forth in this section.
- (b) No animal shall be restrained by any leash, rope, chain, cable or cord that is directly attached to the animal's neck.
- (c) A properly fitted collar or harness made of leather or nylon is to be worn by the animal.
- (d) Any owner, or handler, who takes their dog(s) to a City of South Bend off-leash dog run-park must comply with the rules and regulations set forth by the City.

Sec. 5-12. Tethering; fastening animals with rope or chain, cable; choker collar

- (a) It shall be unlawful:

- (1) To tether an animal at an unattended structure or premises for any purpose when it is not monitored by an owner who is present at the property for the duration of such tethering.
- (2) To tether any animal between the hours of 10:00 p.m. and 6:00 a.m. However, if tethering is necessary for a person to complete a task during those hours, such tethering shall be strictly limited to the time needed for the task and not more than one (1) hour.
- (3) To tether any animal that has the ability to gain access to any type of raised platform or porch that may endanger the animal to hang itself.
- (4) To tether any animal in a manner that provides the opportunity for it to jump or scale a fence and endanger the animal to hang itself.
- (5) To tether any unsterilized animal for any period of time.

- (6) To tether an animal that is under six (6) months of age or is sick or injured.
 - (7) To tether multiple animals simultaneously at the same property, unless there is adequate and appropriate space to ensure the health and safety of the animals tethered.
 - (8) To tether an animal without access to adequate housing and water at all times.
 - (9) To tether an animal longer than 10 minutes when the temperature is over 85 degrees or under 32 degrees, or when a heat advisory, wind chill warning/advisory, thunderstorm warning/advisory, or tornado watch/warning has been issued by local, state, or national authority, except when the animal is in visual range of a competent adult who is outside with the animal.
 - (10) To tether an animal to a motorized vehicle, such as an automobile, truck, trailer, or motorcycle.
 - (11) To tether an animal so that it allows the animal to trespass on public or private property or in such a manner as to cause harm or danger to persons or other animals.
- (b) If the animal is attached to a pulley run system, the running line must be at least twelve (12) feet in length and the tether length must be greater than the height of the running line.
- (c) No animal shall be tethered by any rope, chain, cable or cord that is directly attached to the animal's neck. If any animal must be tied, hitched or fastened:
- (1) The length of the rope, chain, cable or cord must be no less than twelve feet in length for the animal to move freely without risk of injury or entanglement;
 - (2) The weight of the rope, chain, cable or cord is no more than one eighth (1/8th) of the animal's total body weight;
 - (3) The collar and rope, chain, cable or cord cannot cause the animal to choke;
 - (4) A properly fitted collar or harness made of leather or nylon, not of the choker type, is to be worn by the animal. This provision should not be construed to prohibit the proper use of choker collars in the training of animals;
 - (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;
 - (6) The location of the anchor and the length of the rope, chain, cable or cord, cannot cause the animal to become tangled, choke, or become injured; and
 - (7) The animal must have access to shelter and water at all times.
- (d) No person shall tether their animal using an agitation, pinch, prong, or choke collar. Animals under sixty (60) pounds shall not be tethered using a collar exceeding 1½ inches in width. Animals over sixty (60) pounds shall not be tethered using a collar exceeding two (2) inches in width.

Sec. 5-13. Muzzling.

- (a) No animal shall be muzzled in a way that would cause any type of irritation, sore(s), lesion(s) or laceration(s) to the animal.
- (b) No animal should be muzzled that has any existing irritations, sores, lesions or lacerations that the muzzle would come in direct contact with. The only exception is if the animal is being transported to a veterinarian, other emergency service, or any authorized animal welfare organization.

- (c) All muzzles must be of proper size and style for the animal.
- (d) All muzzles must allow panting and the drinking of water.
- (e) Mesh, cloth, grooming muzzles or muzzles designed to hold the animals mouth shut, shall not be used except for extremely short time periods of no longer than 30 minutes and for emergencies. The animal shall never be left unattended, as muzzles prevent panting and may cause the animal to overheat in a stressful situation.
- (f) Muzzle taping shall only be done by a licensed veterinarian.

Sec. 5-14. Duty to keep animal contained while on property.

- (a) It shall be the duty of every owner of any animal to ensure that the animal is contained by way of a fence, restraint, tether, or other enclosure including an activated invisible fence or in some other physical manner so that it cannot wander off the real property limits of the owner.

Secs. 5-15 – 5-20. Reserved.

**ARTICLE 3 - SPECIFIC REQUIREMENTS GOVERNING
DOGS, CATS AND FERRETS**

Sec. 5-21. Identification of dogs, cats, and ferrets required.

- (a) A person who owns a dog, cat, or ferret shall ensure that each dog, cat, or ferret owned by that person always bears a form of identification when outside their home, such that the animal's owner can be ascertained accurately, quickly, and easily.
- (b) The form of identification pursuant to this Section shall be in addition to any tags required to be worn by dogs, cats, or ferrets by state law or other provision of the South Bend Municipal Code for purposes other than identification.
- (c) The form of identification can include a microchip implanted in the dog, cat, or ferret that bears a registered identification number, and that can be read by a standard microchip scanner.
- (d) It shall be unlawful for a person to own a dog, cat, or ferret three (3) months of age or older that is kept in the City, and that does not bear a form of identification as provided in this section.

Sec. 5-22. Dog and cat curbing requirements.

- (a) All animal owners are required to immediately and properly dispose of their animal's waste deposited on any property, public or private, not owned or possessed by the person. On any property owned or possessed by that person, all animal owners are required to dispose of their animal's waste at a frequency of at least weekly or more frequently if necessary, to prevent a public health risk.
- (b) As an exception to the provisions of subsection (a) of this section, an owner with a physical impairment as defined by the Americans with Disabilities Act may permit their dog to relieve itself on the ground situated outside of pedestrian or vehicular traffic ways and is not required to remove any feces to the extent such requirement is impractical for a person of such impairment. However, owner must maintain or cause property to be maintained in a way that prevents public health risk.

- (c) No person shall knowingly disperse waste material upon any public street, or byway or right-of-way, or any municipally owned or public land or building, or upon private property without the prior permission of the owner of such property.

Sec. 5-23. Rabies vaccinations required for certain animals.

(a) It shall be unlawful to keep a dog, cat, or ferret or to provide food, water, or shelter to a cat over the age of three (3) months in the City unless each dog, cat, or ferret is immunized against rabies by a vaccination performed by a veterinarian in accordance with 345 IAC 1-5-2.

(b) Rabies vaccinations as required in this Section are not required if a licensed veterinarian determines in writing that such rabies vaccination could adversely affect the animal.

(c) Community cat caretakers are not required to renew the immunization of community cats.

(d) One-year and three-year rabies vaccine may be used as per Indiana Administrative Code.

(e) A veterinarian who administers a rabies vaccination in the City shall, at the time a dog, cat (including free-roaming), or ferret is vaccinated, issue to the animal's owner a rabies vaccination certificate upon which includes the name, address and telephone number of the veterinarian's facility, the date in which the vaccination was administered, its expiration date and the unique identification number of the vaccination.

(f) Any owner of any animal(s) is required to submit proof of rabies vaccinations to SBARC as part of licensing requirements in Section 5-60 and 5-61.

Sec. 5-24. Transfer of ownership of puppies and kittens.

- (a) A puppy or kitten must be at least ten (10) weeks old and weaned before it may be purchased or offered for sale, traded, or given away for other compensation or for a giveaway. Said provisions notwithstanding, the advertisement of puppies or kittens available for reservation, to be sold upon reaching the age set forth in this subsection, shall not be construed as "offering for sale," so long as neither ownership nor possession of the animal is transferred until it reaches ten (10) weeks of age.
- (b) Animals of any age may be surrendered to SBARC. However, if under ten (10) weeks old the mother must also be surrendered if present.
- (c) Nothing in this section shall be construed to conflict with the provisions of I.C. 15-21-6-2.

Sec. 5-25. Containment of female dogs or cats in heat.

The owner of any female animal in heat kept in the City shall contain the animal within a secure enclosure or building and in such a manner as to prevent conception except during instances of planned breeding.

Sec. 5-26. Community cat program.

- (a) A community cat program is established in order to encourage the stabilization of the free-roaming cat population in the City by utilizing a trap-neuter-return (TNR) methodology.

- (b) Trapping of free-roaming or community cats is permitted only for the purpose of TNR unless the community cat is injured, and veterinary care is required. A person may trap any free-roaming cat in a humane manner, utilizing a humane live release trap of an appropriate size that does not injure the animal, and in accordance with the requirements of Sec. 5-28, in order to have the free-roaming cat evaluated, surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian and released to the location from where it was trapped or released to a community cat caretaker.
- (c) A community cat, impounded by SBARC, shall be returned to the location from which it was trapped, unless the circumstances present a detriment to the cat or to the public health or welfare, in which case other live placement outcomes will be sought. An ear tipped cat received by SBARC will be scanned for a microchip. If a microchip is detected, efforts will be made to reunite the cat with the owner. If that does not occur, the cat will be evaluated for suitability for adoption. If a microchip is not detected, the cat shall be returned to the location where it was trapped with no hold period, unless veterinary care is required.

Sec. 5-27. Community cat caretaker responsibilities.

- (a) A community cat caretaker or any person providing care for a community cat shall abide by guidelines in accordance with current American Veterinary Medical Association (“AVMA”) standards regarding the provision of food, water, shelter and veterinary care for a community cat.
- (b) Community cat caretakers shall take a seriously ill or injured community cat to SBARC or seek licensed veterinarian care for the community cat.
- (c) Community cat caretakers are responsible for communicating with SBARC or other TNR organizations about the location and scope of their community cat colony as well as veterinary care and TNR plans.

Sec. 5-28. Free-roaming cat trap-neuter-return (TNR) regulations.

- (a) SBARC, a community cat caretaker, or a TNR organization, in order to encourage the stabilization of the free-roaming cat population may:
 - (1) Trap any free-roaming cat in a humane manner following guidelines established by regional or national community cat/TNR organizations for nonlethal trapping, to minimize the stress and danger to the animal; and
 - (2) Have the cat surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian; and
 - (3) Release the cat to SBARC 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.

- (b) It shall be unlawful for a person to fail to inspect and provide care for the trapped free-roaming cat a minimum of every two (2) hours to ensure the safety of the cat(s). A person shall place a lawful humane live release trap of an appropriate size to capture free-roaming cats for the purpose of TNR or other medical care. Humane traps shall be removed to an area where the cat is provided with shelter from the elements once trapped (in accordance with minimum standard care requirements in this ordinance). No cat shall remain in a live release trap without food or water, except for veterinary requirements for pre-surgical fasting periods. All captured animals must receive appropriate care.
- (c) No cat will remain in a live release trap for longer than 24 hours prior to surgical sterilization, or longer than 48 hours after surgical sterilization.
- (d) 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, or unless there is imminent danger to the animal's health, or the trap appears to be abandoned.
- (e) Traps discovered by SBARC to have been unlawfully set may be seized.

Sec. 5-29. Off-Leash Dog Park regulations.

- (a) Owners and handlers shall comply with all rules and regulations of this Chapter when patronizing any off-leash dog park within the City. For purposes of this Section, the term handler shall refer to a person who has temporary physical custody and immediate control of an animal at a given time, including while the animal is present in a dog park or other designated off-leash area, without regard to ownership or long-term responsibility for the animal.
- (b) The owner/operator of the off-leash dog-park is responsible for posting rules and regulations related to the use of its facility and is responsible for their enforcement. The rules and regulations must at a minimum comply with this Section.
- (c) In instances where there is a threat to public health or a public nuisance exists at an off-leash dog park, SBARC has authority to issue citations for non-compliance with Chapter 5.
- (d) Each owner or handler is allowed to bring up to three (3) dogs into the dog park.
- (e) The dog(s) must remain in the same run area with the owner. Owners cannot leave dogs in run areas without owner supervision. Owners must keep leash in hands and remain in voice control of their dogs at all times
- (f) Dogs must be leashed until inside run area.
- (g) Children under the age of 16 must be accompanied by an adult and are not to be left unattended in run areas.
- (h) All dogs must be current with rabies vaccination. Owner must be able to provide proof of vaccination upon request, within a reasonable timeframe.

- (i) Sick, injured, or unhealthy dogs or female dogs in heat are not allowed in the dog park.
- (j) Dogs under four (4) months of age are not permitted in the dog park.
- (k) Dogs that exhibit aggressive behavior must be removed from the dog park immediately.
- (l) Dogs determined to be dangerous, pursuant to Article 10 of this Chapter, are not permitted inside any dog park.
- (m) Dog curbing requirements shall apply as cited in Sec. 5-22.
- (n) Owners shall lose their dog park privileges and/or be subject to citation for violation of the Municipal Code if found in violation of this section.
- (o) Three violations of this Section within a six (6) month timeframe may result in nuisance dog park citations issued to the owner/operator of the off-leash dog park.

Secs. 5-30 – 5-35. Reserved.

ARTICLE 4. SPECIFIC REQUIREMENTS GOVERNING FOWL AND LIVESTOCK

Sec. 5-36. 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:

- (1) Cattle, ox, bison
- (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, rolling and fancy pigeons
- (7) Llamas and alpacas
- (8) Horses
- (9) Other livestock

- (b) The maximum number of such animals which may be maintained on such property shall be determined based on current applicable animal husbandry and veterinarian standards.
- (c) Standards of care and housing for all horses shall meet the requirements set forth in Section 5-44 of this Chapter.
- (d) Any person desiring to raise rabbits, urban chickens, or pigeons within the City must keep such animals and birds in safe and sanitary conditions so that a public health risk 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, with the exception of Urban Chickens or racing, homing, rolling and fancy pigeons, be closer than fifty (50) feet from an adjoining property line.

Sec. 5-37. Urban chicken regulations.

(a) Any person owning or harboring chickens in a residentially zoned district must comply with the following:

- (1) No more than six (6) hens are allowed.
- (2) Only laying chickens are allowed. Roosters are prohibited.
- (3) The person shall have a current Urban Chicken Permit on file with SBARC.
- (4) The person shall register with the Board of Animal Health (BOAH). Forms are available at the website www.in.gov/boah.
- (5) The property shall have a one unit or two-unit dwelling.
- (6) The coop shall be constructed with solid sides, doors and a roof and be kept dry and free of moisture.
- (7) The doors shall shut securely and be secured with a lock.
- (8) The coop shall have vents that are covered with wire.
- (9) The coop shall be impermeable to predators and rodents
- (10) The coop shall provide at least eighteen inches (18") of height and two (2) square feet of space per chicken.
- (11) The pen shall be impermeable to predators and rodents.
- (12) The pen shall provide a minimum of two (2) square feet per chicken and the fence height must not exceed six feet (6').
- (13) The pen shall be covered with wire, aviary net or a solid roof.
- (14) Both the coop and pen location shall be situated behind the residential structure and be a minimum of fifteen feet (15') from any property line and twenty feet (20') from any residential dwelling.

(a) Anyone desiring to raise urban chickens within the City must comply with the animal care regulations set forth in this Chapter, and the requirements in Chapter 21 of the South Bend Municipal Code, including but not limited to those regarding chickens, chicken coops, and chicken pens.

Sec. 5-38. Pigeon regulations.

(a) Any person owning or harboring racing, homing, rolling or fancy pigeons in a residentially zoned district must:

- (1) Have a shelter in which the pigeons are kept, known as a Pigeon loft,
- (2) Have a current Pigeon Permit on file with SBARC, and
- (3) Use a pigeon loft meeting the following qualifications:
 - i. constructed with solid sides, doors and roof,
 - ii. doors that shut securely and be secured with a lock,
 - iii. vents that are covered with wire,
 - iv. impermeable to predators and rodents,
 - v. provide at least eighteen inches (18") of height and two (2) square feet of space per pigeon,
 - vi. access to a pen covered with wire, aviary net or a solid roof,
 - vii. dry and free of moisture, and
 - viii. situated behind the residential structure and be a minimum of ten feet (10') from any property line and fifteen feet (15') from any residential dwelling.

- (b) Anyone desiring to raise racing, homing, rolling or fancy pigeons within the City must comply with the animal care regulations set forth in this Chapter, and requirements in Chapter 21 of the South Bend Municipal Code.

Secs. 5-39 – 5-42. Reserved.

ARTICLE 5. SPECIFIC REQUIREMENTS GOVERNING RENTAL HORSES

Sec. 5-43. Definitions.

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

- (a) *Rental horse* means any equine which is used by its owner or any other person to pull any vehicle, carriage, sled, sleigh, or other device as part of a business enterprise. A rental horse also means any equine rented out for riding purposes. A horse rented or leased by its owner to another for any of the foregoing purposes shall be deemed to be a rental horse for the purposes of this article.
- (b) *Rental horse business* means 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 the purpose of riding or pulling a horse drawn vehicle.
- (c) *Stable* means any place, establishment or facility where one (1) or more rental horses are housed, boarded for a fee, or maintained.
- (d) *Work* means 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 devices, or when it is saddled or in harness.

Sec. 5-44. Housing/stable requirements.

The following criteria are required for proper housing of rental horses:

- (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 of an adequate size to allow the ability for a horse to maneuver, including laying down, standing, and rolling safely in its stall.
- (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 in a manner to permit extermination treatment. Feed storage area shall allow no harborage and be kept vermin and insect free. Storage of feed concentrates shall be in an area inaccessible to the horses.
- (d) **Ventilation and lighting.** Adequate ventilation shall be maintained but should not cause exposure to drafts in stables during cold weather. All stable areas shall be adequately lit by natural or artificial means so as to permit effective and safe activities through day and night.
- (e) **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 vermin and insect activity.

- (f) Stalls. Each stall shall house only one (1) equine, except for a stall housing a mare and her foal until the foal can safely be housed separately. Stalls shall be attended to daily ensuring clean, dry and 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 (3) feet greater than the height of the horse at the withers.

Sec. 5-45. Rental horse regulations.

- (a) Rental 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 always be available. 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 SBARC annually. At the discretion of SBARC, 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 fifteen (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 20°F, with wind chill factor applied. Using the Horse Heat Index as the guide, at no time shall a rental horse be at work when the sum of the relative humidity and ambient temperature is at or above 120°F. 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 shelter 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 always equip all carriages/horses with a manure catching device for use 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 (3) and not more than five (5) 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 before sunrise or 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 (500) 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 and properly vaccinated. 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. The Indiana health certificate shall be made available to SBARC upon demand.
- (l) The rental horse business or owner 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, SBARC 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 owner or may be ordered removed from work by SBARC. In the event of a dispute regarding such physical condition or illness, SBARC 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 or owner. A horse which has been removed from work under this section 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.
 - (1) A violation of this section shall be presumed if a horse is found at work in a sick or disabled condition within forty-eight (48) hours after its removal from work for the same condition which caused such removal.
 - (2) 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 forty-eight (48) hour period. This statement shall be carried with the horse during the presumed forty-eight (48) hour recovery period and provided to SBARC upon request.
- (n) Saddles, blankets, harnesses, bridles and bits and all other equipment shall be properly fitted to each horse, kept in good repair, and in good operating condition.

- (o) Horses shall be kept clean while at work and in the stable. Horses' hooves shall be trimmed and shod at regular intervals to ensure the health and proper development of hoof material. The frequency will be determined by a trained farrier.

Secs. 5-46 – 5-50. Reserved.

ARTICLE 6. SPECIFIC REQUIREMENTS GOVERNING HONEY BEE KEEPING

Sec. 5-51. 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.

Sec. 5-52. Definitions.

- (a) As used in this Article, the following words, terms and phrases shall have the meanings set forth herein:
 - (1) *Apiary* means the assembly of one (1) or more hives or colonies of honey bees at a single location.
 - (2) *Beekeeper* means a person who keeps honey bees in hive(s) which meet state approved requirements.
 - (3) *Beekeeping equipment* means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.
 - (4) *Colony* means the entire honey bee family or social unit living together including the queen, workers and drones.
 - (5) *Flyway barrier* means fencing, dense hedging or a combination of the two (2), which provides a shield or protective barrier from the direction in which the honey bees fly when approaching or leaving a hive.
 - (6) *Hive* means a frame or structure used or employed as a domicile for honey bees which meet state approved requirements.
 - (7) *Honey bee* means 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.
 - (8) *Lot* means 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:
 - i. A single lot or record; or
 - ii. A combination of complete lots of record.

Sec. 5-53. 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 and have a current Honey Bee Permit on file with SBARC.
- (b) No hive shall exceed seventeen (17) cubic feet in volume.
- (c) Location requirements.
 - (1) Hives must maintain a four (4) foot radial distance from the lot line as measured from the center of the hive and fly away barrier must be present at least six (6) feet in height and no further than four (4) feet in front of the hive entrance.
 - (2) In no event shall a hive be located closer than twenty-five (25) feet from a public sidewalk or occupied structure.
 - (3) Colonies may be kept on flat roofs without setback or flyway barrier restrictions.
 - (4) 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 and apiary practices per the U.S. Department of Agriculture.
 - (5) Colonies must be faced away from high traffic areas or faced south if not in a highly trafficked area.
- (d) A fresh supply of water shall be provided for all hives.
- (e) A sign stating "Bees on Premises" must be displayed to provide reasonable notice to persons entering the area.
- (f) No more than two (2) active hives are allowed per parcel.
- (g) 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 Indiana Department of Natural Resources Department of Entomology, Division of Entomology & Plant Pathology and the Purdue Extension - Entomology.
- (h) Proper destruction of hives must be in accordance with federal and state apiary guidelines and requirements.

Sec. 5-54. 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) No person shall move, tamper with, handle, or otherwise disturb or molest or cause to be moved, tampered with, handled, or otherwise disturbed or molested any colonies, materials, or appliances without a written permit from SBARC or their duly authorized representatives.
- (c) Any person violating any of the provisions of this Article may be issued a citation by SBARC.
- (d) Each violation shall constitute a separate and distinct offense. Every day any violation of this Article continues shall constitute a separate offense.
- (e) 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.

Secs. 5-55 – 5-59. Reserved.

ARTICLE 7. PERMITS AND LICENSING

Sec. 5-60. Licensing required; limited fee exemptions to licensing.

- (a) Any person owning, keeping, harboring or having custody of any dog or cat over the age of three (3) months must obtain a license for such animal; provided, however, that no licensing shall be required of any foster animal placement, animal rescue organization, municipal animal control facility, governmental agency, or service animal agency.
- (b) The license will be on file with SBARC and proof of payment/license will be provided to the owner.
- (c) SBARC will consider the microchip and its corresponding registration history as prima facie evidence of ownership. If no registered microchip is found or present, then SBARC will consider tags, or other identifiers to determine the legal owner.
- (d) Any person owning any dog or cat which has been implanted with a microchip shall update the microchip documentation with SBARC and national registry upon sale, trade, barter, gift or transfer of an animal.
- (e) No individual or household may own more than three (3) unaltered animals over the age of six (6) months, with the exception of commercial dog breeders who shall follow the requirements of Indiana Code 15-21 et seq.
- (f) Annual licenses are non-transferable.
- (g) Limited fee exemptions to licensing requirements:
 - (1) Threat to the health of animal.
 - (i) Upon a written statement from a licensed veterinarian setting forth that the sterilization of the animal shall constitute a threat to the health of that animal, the payment of the license fee for unaltered animal shall not be required but the animal shall be classified as an altered animal for purposes of licenses and fees. Licensing at the altered tag price under this section will constitute agreement not to breed the animal, and breeding of such animal may result in fines and revocation of said license.
 - (ii) Upon a written statement from a licensed veterinarian setting forth that the rabies vaccination of the animal shall constitute a threat to the health of that animal, the animal shall be issued a license without meeting the rabies vaccination requirement of this ordinance.
 - (2) Service Animal Exemption. A person who is impaired by:
 - (i) Blindness or any other visual impairment;
 - (ii) Deafness or any other aural impairment;
 - (iii) A condition governed by the Americans with Disabilities Act (ADA)
 shall be exempt from the fees listed in this Chapter for the licensing of their service animal.

Sec. 5-61. Application for license or permits.

- (a) Application for licenses or permits may be made at SBARC, a SBARC designated facility, SBARC website, or by mail, and shall include:
 - (1) the name and address of applicant,
 - (2) type of license or permit applied for,
 - (3) number and description of animal(s),
 - (4) information regarding animal(s) sterilization,
 - (5) rabies vaccination certificate(s),
 - (6) microchip information;
 - (7) appropriate fee

and upon request:

- (8) a record of any known disease, illness or condition with which the animal is or has been afflicted; and
- (9) record of any veterinary treatment or medication received by the animal.
- (b) Licenses are to be issued for a term of one (1) year to three (3) years, commencing and concluding with the date of the most recent rabies vaccination. Owner must contact SBARC with changes of address, telephone or ownership. Failure to keep contact information current may result in the inability of SBARC to contact an owner.
- (c) All Permits are to be issued for a term of one (1) year, commencing with the date of issuance, and required to be renewed annually.
- (d) Upon approval, SBARC shall issue a license or permit in written or electronic form, which includes the number of the license or permit and the type of license or permit.
- (e) SBARC shall maintain records of the identifying license/permit number.
- (f) All dogs or cats over the age of three (3) months must be licensed with a current license. The owner of any dog or cat, which dog or cat is over the age of three (3) months, must also have in his or her possession a current rabies vaccination certificate showing that such animal has been vaccinated against rabies as provided in Secs. 5-23 . 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 license or permit required by this Article.
- (g) All owners have the responsibility to keep all license or permit information current with SBARC.
- (h) No person shall harbor, hold for sale, sell, keep or maintain in the City any dangerous animal, unless they have been issued a current license and all provisions of Sec 5-123 in Article 10 are satisfied.
- (i) Engaging in an activity described in this Article without obtaining the relevant permit may be considered a violation of the applicable permit regulations.

Sec. 5-62. Microchips

- (a) SBARC recommends that all dogs, cats, and small animals be microchipped for reunification should the animal become lost or stolen. It is strongly encouraged that the owner information is kept up to date.
- (b) If a dog, cat, or small animal does not have a microchip, SBARC can register and implant one (1) permanent microchip with a corresponding discrete number.
- (c) Microchip implants may be registered for the animal's life span with SBARC.
- (d) All animals that leave SBARC shall be microchipped .

Sec. 5-63. Kennel/cattery permit regulations.

- (a) All kennels/catteries in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) provide an isolation ward for boarded animals that are sick or diseased, that is sufficiently removed so as not to endanger the health of other animals;

- (3) keep all boarded animals caged or under the control of the owner or operator of the kennel/cattery;
- (4) with respect to all animals in the kennel/cattery, comply with all the requirements of this Chapter for the minimum care of animals;
- (5) comply with all applicable federal, state and local laws, and all applicable regulations adopted by the Department of Community Investment;
- (6) be subject to regular unannounced inspection at the discretion of SBARC; and
- (7) have a valid permit issued by SBARC as set forth below.
 - (i) It shall be unlawful for any person to own or operate a kennel/cattery as they are defined in Sec. 5-2, within the City, unless the kennel/cattery, first has a permit issued by SBARC and is compliant with the zoning ordinance.
 - (ii) Each kennel/cattery shall require only one (1) kennel/cattery permit, although it may operate as a kennel and cattery.
 - (iii) When a kennel/cattery meets the requirements of this Chapter, SBARC will issue it a permit.
 - (iv) Each animal owned by the permit holder will be individually licensed with the City; animals owned by clients of a boarding business will be licensed by the permit holder's clients.
- (b) Annual inspection; permit term; renewal.
 - (1) Prior to the issuance or renewal of permit, SBARC may inspect the kennel/cattery to determine whether the applicant is qualified under this Chapter.
 - (2) The permit term shall be valid for one (1) year from the date of issuance.
 - (3) The kennel/cattery owner/operator must contact SBARC for renewal before its permit expires.
- (c) The kennel/cattery permit shall always be displayed prominently in the business office of the kennel/cattery.

Sec. 5-64. Veterinary hospitals and clinics permit regulations.

- (a) No permit is required for veterinary hospitals and clinics but must meet minimum state and national standards for veterinary licensure.
- (b) All animals shall be housed humanely, in a sanitary manner, and meet minimum standard care requirements.
- (c) Veterinarians shall keep records of each animal accepted for treatment, diagnosis or routine health care.
- (d) Veterinarians who engage in boarding, grooming or other business in addition to the treatment and/or medical care of animals are not required to obtain a permit as herein provided.

Sec. 5-65. Grooming shop permit regulations.

- (a) All grooming shops in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) shall not provide services to animals that are sick or diseased so as not to endanger the health of other animals;
 - (3) keep all boarded animals caged or under the control of the owner or operator of the grooming shop;
 - (4) with respect to all animals in the grooming shop, comply with all the requirements of this Chapter for the minimum care of animals;

- (5) comply with all applicable federal, state and local laws, and all applicable regulations adopted by the Department of Community Investment;
- (6) be subject to regular unannounced inspection at the discretion of SBARC; and
- (7) any person who owns or operates a grooming shop as defined in this Chapter shall obtain a grooming shop permit.
 - (i) It shall be unlawful for any person to own or operate a grooming shop within the City, unless the grooming shop first has a permit issued by SBARC and is compliant with the zoning ordinance.
 - (ii) A permit holder shall request that any dog or cat accepted for grooming be vaccinated against rabies and require proof of such vaccination be furnished to the shop operator.
- (b) Annual inspection; permit term; renewal.
 - (1) Prior to the issuance or renewal of permit, SBARC inspect the grooming shop to determine whether the applicant is qualified under this Chapter.
 - (2) The permit term shall be valid for one (1) year from the date of issuance.
 - (3) The grooming shop owner/operator must contact SBARC for renewal before its permit expires.
- (c) Display. The grooming shop permit shall always be displayed prominently in the business office of the grooming shop.

Sec. 5-66. Pet shop permit regulations.

- (a) A pet shop is defined as 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.
- (b) In the event of a sale of an animal from a pet shop, the pet shop as primary owner shall furnish to 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. (Birds and fish not included.)
 - (5) Medication and prophylactic immunization and dates administered,
 - (6) Internal parasite medication(s) and date(s) administered,
 - (7) Microchip information as applicable,
 - (8) A guarantee of good health for a period of not less than one (1) week with recommendation to have the animal examined by a licensed veterinarian, and
 - (9) The permit holder shall retain a copy of the written statement for twelve (12) months from date of sale.
 - (10) A retail pet store, as defined in I.C. 15-21-1-6.5, shall provide such customer disclosures as required by I.C. 15-21-5-5.
- (c) SBARC or other health official with jurisdiction 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. SBARC may seize the animal to ensure and protect the health and safety of any animals present and/or the public.

- (1) The permit holder shall reimburse the enforcing agency's veterinary fees if the examination by the veterinarian determines the animal to be unfit for sale at the time of examination.
- (2) The examination is to be made by a veterinarian within twenty-four (24) hours of the enforcing agency's determination that the said animal is not fit for sale.
- (d) All pet shops herein defined and stores selling animals, birds, reptiles and fish as pets shall house animals in a sanitary manner. Appropriate medical services, care, and housing shall be provided according to individual species' needs.
- (e) No puppy or kitten under the age of ten (10) 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 Animal Welfare Organizations).
- (f) Retail pet stores, as defined in I.C. 15-21-1-6.5, must comply with the provisions of I.C. 15-21-6-2. All other pet shops as defined in this Chapter that buy, sell or offer for sale cats shall acquire such cats only through adoption agencies. Cat inventory displayed at pet shops for compensation must only originate from SBARC or a 501(c)(3) animal rescue organization. The intent of this section is to prohibit the purchase from high volume or hobby breeders.
- (g) In addition to the requirements of this Article, all pet shops in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) provide an isolation ward for boarded animals that are sick or diseased that is sufficiently removed so as not to endanger the health of other animals;
 - (3) keep all boarded animals caged or under the control of the owner or operator of the pet shop;
 - (4) with respect to all animals in the pet shop, comply with all the requirements of this Chapter for the minimum care of animals;
 - (5) comply with all applicable federal, state and local laws, and all applicable regulations adopted by the Department of Community Investment; and
 - (6) be subject to regular unannounced inspection at the discretion of SBARC.
- (h) Annual inspection; permit term; renewal.
 - (1) Prior to the issuance of a permit or renewal of permit, SBARC may inspect the pet shop to determine whether the applicant is qualified under this Chapter.
 - (2) The permit term shall commence for one (1) year from the date of issuance.
- (i) Display. The pet shop permit shall always be displayed prominently in the business office.
- (j) Consistency with Indiana law. Nothing in this Section shall be construed to conflict with the provisions of I.C. 15-21-6-2.

Sec. 5-67. Rental horse permit regulations.

- (a) It shall constitute a violation of this Article for any person or corporation to use or offer for use a horse in a rental horse business without a permit issued pursuant to the regulations and conditions set out hereinafter.
- (b) Permits shall be issued for a term of one (1) year and shall be renewed annually.
- (c) An application for a permit or renewal of a permit shall be made to SBARC. Applications for renewal must be submitted no later than ten (10) business days prior to expiration of the current permit. All such applications shall contain:
 - (1) the name and address of the owner of the horse(s);
 - (2) the rental horse business in which such horse(s) is to be used; and

- (3) breed, age, sex, color, markings, and the location of the stables where the horse(s) is/are to be kept, recorded on a veterinary health certificate (such as a Coggins report).

No permit shall be transferable. Upon the transfer of ownership or use of any horse by a new owner or operator, such new owner or operator shall obtain a new permit for such horse within thirty (30) days of the transfer date.

- (d) 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.
- (e) The annual fee per working animal permit or renewal and shall be paid upon submission of an application to SBARC.
- (f) Each horse registered 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.
- (g) An owner or operator of a rental horse business shall keep an accurate daily record of the movement of each registered horse when in the City 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 SBARC upon request.
- (h) An owner or operator of a rental horse business shall make the stable (if located within the City) in which horses used in the rental business kept open for inspection at all reasonable time by authorized personnel of SBARC to enforce the provisions of this Article.

Sec. 5-68. Minor breeders permit; regulations.

- (a) A minor breeder permit shall be obtained by:
 - (1) Any person who intentionally or unintentionally causes the breeding of one (1) cat or dog or makes one (1) cat or dog available for breeding purposes in a 12-month period; and/or
 - (2) Any person who offers for sale, sells, trades, receives other compensation or gives away any offspring of one (1) litter of dogs or cats; and/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.
- (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) Be subject to regular unannounced inspection at the discretion of SBARC.
- (c) Permit Holders shall:
 - (1) perform DNA-based Disease and Trait Testing for each animal used for breeding and submit test results to SBARC as a part of the permit application;
 - (i) If determined by SBARC, shall make an appointment with a licensed veterinarian and provide written documentation of whether the animal(s) are fit for breeding. If the animal(s) is unfit for breeding and are bred,

they are in violation of this Chapter and may require mandatory spay / neuter;

- (2) Be allowed to breed only one (1) dog or one (1) cat which results in the birthing of a maximum of one (1) litter in a 12-month period in their or any other domestic household or establishment or any combination thereof;
 - (3) furnish SBARC with information on the birth of each litter of dogs or cats and shall be required to register that litter of dogs or cats with SBARC, and will be assigned a litter number for each litter;
 - (4) turn over to SBARC any dogs or cats that die within ten (10) weeks of their birth within 24 hours of confirmation from a licensed veterinarian ;
 - (5) Immunize all cats and dogs offered for sale, trade or other compensation, or for free giveaway (except an animal taken to SBARC) against common disease. In the case of dogs, they shall be immunized against canine distemper, adeno-virus parainfluenza, and parvovirus. In the case of cats, they shall be immunized against feline rhinotracheitis, panleukopenia, and feline calicivirus;
 - (6) Not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation, or free giveaway. Said provisions notwithstanding, the advertisement of puppies or kittens available for reservation, to be sold upon reaching the age set forth in this subsection, shall not be construed as "offering for sale," so long as neither ownership nor possession of the animal is transferred until it reaches ten (10) weeks of age;
 - (7) No person holding a minor breeder's permit shall engage in the sale or transfer of any dog or cat that is unfit for purchase due to illness, disease, or symptoms of a contagious or infectious condition that materially affect the animal's health, excluding external parasites such as fleas or ticks. If an animal dies from a disease present on or before delivery, the breeder shall be presumed to be in violation of this section. Internal parasitic infections shall be considered a disease for purposes of this section;
 - (8) Register with SBARC the name, address, and contact information of each buyer or new owner of any dog or cat sold or transferred within five (5) days after the date of such sale or transfer;
 - (9) Transmit to the new owner or buyer the litter number of the animal acquired and the breeder's permit number to confirm that the animal was legally bred and complies with the prohibition on the sale of an underage puppy or kitten as required under this Article; and
 - (10) furnish a guarantee of health for a period of not less than one (1) week with recommendation to have examined by licensed veterinarian for each animal sold;
- (d) Revocation. Cause for revocation may include but is not limited to: animals running at large, substantiated neighborhood nuisance complaints, failure to maintain current

permits, failing to provide minimum standard care requirements, failing to maintain current rabies vaccine status, or failing to provide adequate food, water and shelter.

(e) Penalties for violation of this section shall be as set forth in Section 5-149:

Sec. 5-69. Breeder permit regulations.

- (a). Commercial dog breeders shall comply with Ind. Code §15-21 (“Commercial Dog Breeder Regulation”) and any other applicable state and federal laws. All other breeders are subject to the regulations under this section and those under Chapter 5.
- (b) A breeder permit shall be obtained by:
 - (1) Any person who intentionally or unintentionally causes the breeding of more than one (1) cat and/or dog and/or makes more than one (1) cat and/or dog available for breeding purposes in a 12-month period; and/or
 - (2) Any person who offers for sale, sells, trades, receives other compensation or gives away any offspring of more than one (1) litter of dogs or cats; and/or
 - (3) Any owner or person having custody of more than one dog and/or cat that has delivered a litter or caused the delivery of a litter.
- (c) 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) Be subject to regular unannounced inspection at the discretion of SBARC.
- (d) Permit holders shall:
 - (1) If applicable, furnish at the time of permit application proof of registration of the breeder as a business with the State of Indiana or Indiana Department of Revenue or valid proof of exemption from such registration;
 - (2) furnish at the time of permit application a current criminal background check clearing the person from being convicted of a felony involving violence, weapons, drugs, animal cruelty or animal fighting. No person shall be issued a breeder permit if he or she has been convicted of a felony involving violence, drugs, animal cruelty or animal fighting;
 - (3) certify in writing that he or she does not reside with a person who has been denied a breeder’s permit;
 - (4) certify in writing that he or she does not reside with a person who has been convicted of a felony involving violence, drugs, animal cruelty or animal fighting;
 - (5) perform DNA-based Disease and Trait Testing for each animal used for breeding and submit test results to SBARC as a part of the permit application;
 - (i) If determined by SBARC, shall make an appointment with a licensed veterinarian and provide written documentation of whether the animal(s) are fit for breeding. If the animal(s) is unfit for breeding and are bred, they are in violation of this Chapter and may require mandatory spay / neuter;

- (6) furnish SBARC with information on the birth of each litter of dogs or cats and shall be required to register that litter of dogs or cats with SBARC, and will be assigned a litter number for each litter;
- (7) turn over to SBARC any dogs or cats that die within ten (10) weeks of their birth, within 24 hours of confirmation from a licensed veterinarian;
- (8) Immunize all cats and dogs offered for sale, trade or other compensation, or for free giveaway (except an animal taken to SBARC) against common disease. In the case of dogs, they shall be immunized against canine distemper, adeno-virus parainfluenza, and parvovirus. In the case of cats, they shall be immunized against feline rhinotracheitis, panleukopenia, and feline calicivirus;
- (9) not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation or rehoming without fees (except a puppy or kitten or litters of them taken to SBARC). Said provisions notwithstanding, the advertisement of puppies or kittens available for reservation, to be sold upon reaching the age set forth in this subsection, shall not be construed as "offering for sale," so long as neither ownership nor possession of the animal is transferred until it reaches ten (10) weeks of age;
- (10) No person holding a breeder's permit shall engage in the sale or transfer of any dog or cat that is unfit for purchase due to illness, disease, or symptoms of a contagious or infectious condition that materially affect the animal's health, excluding external parasites such as fleas or ticks. If an animal dies from a disease present on or before delivery, the breeder shall be presumed to be in violation of this section. Internal parasitic infections shall be considered a disease for purposes of this section;
- (11) register with SBARC the name, address, and telephone number of each buyer or new owner of any dog or cat sold or transferred within five (5) days after the date of such sale or transfer;
- (12) Transmit to the new owner or buyer the litter number of the animal acquired and the breeder's permit number to confirm that the animal was legally bred and complies with the prohibition on the sale of an underage puppy or kitten as required under this Article; and
- (13) furnish a guarantee of health for a period of not less than one (1) week with recommendation to have examined by licensed veterinarian for each animal sold.
- (e) Revocation. Cause for revocation may include but is not limited to: animals running at large, substantiated neighborhood nuisance complaints, failure to maintain current permits, failing to provide minimum standard care requirements, failing to maintain current rabies vaccine status, or failing to provide adequate food, water and shelter.
- (f) Penalties for violation of this section shall be as set forth in Section 5-149:

Sec. 5-70. Urban Chicken Permit.

- (a) Anyone desiring to raise no more than six (6) hens within the City must:

- (1) file and have approved an application for an urban chicken permit with SBARC,
- (2) pay the annual filing fee,
- (3) have the conditions for the chickens pass inspection by SBARC, and
- (4) satisfy the requirements of Sec. 5-37.

(b) An urban chicken permit may be denied or revoked to any person who has:

- (1) failed or refused to comply with the permit requirements,
 - (2) made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of urban chickens,
 - (3) violated a state law or any provision of the South Bend Municipal Code in connection with the application or keeping of urban chickens, or
- (4) 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.

Sec. 5-71 Honey Bee permit.

(a) Anyone desiring to raise honey bees within the City must:

- (1) file and have approved an application for an Honey Bee Permit with SBARC,
- (2) pay the annual filing fee,
- (3) have the conditions for the honey bees pass inspection by SBARC, and
- (4) satisfy the requirements of Sec. 5-53.

(b) A honey bee permit may be denied or revoked to any person who has:

- (1) failed or refused to comply with the permit requirements,
- (2) made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of honey bees,
- (3) violated a state law or any provision of the South Bend Municipal Code in connection with the application or keeping of honey bees, or
- (4) kept honey bees 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.

Sec. 5-72. Pigeon permit.

(a) Anyone desiring to raise racing, homing, rolling or fancy pigeons within the City must:

- (1) file and have approved an application for a Pigeon Permit with SBARC,
- (2) pay the annual filing fee,
- (2) have the conditions for the pigeons pass inspection by SBARC, and
- (3) meet the requirements of Sec. 5-38.

(b) A pigeon permit may be denied or revoked to any person who has:

- (1) failed or refused to comply with the permit requirements,
- (2) made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of racing, homing, rolling or fancy pigeons,

- (3) violated a state law or any provision of the South Bend Municipal Code in connection with the application or keeping of the pigeons, or
- (4) kept the pigeons 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.

Sec. 5-73. Animal event and animal exhibit permit.

- (a) No person or entity shall operate or maintain for profit an animal event or exhibit without first having obtained a permit from SBARC.
- (b) The application for the permit shall describe the proposed location, the purposes for which it is maintained and the dates and hours of the performances or exhibitions. The application shall also include details about the type of event or exhibit and the animals that will be present. The proposed event must comply with local, state, and federal laws regarding the humane care and treatment of animals, and a copy of the application shall be filed with SBARC no later than ten (10) days prior to the first date of the proposed performance or exhibition.
- (c) The applicant shall provide written proof of insurance. Insurance shall be in the minimum amount of seven hundred thousand dollars (\$700,000.00) for each person, and five million dollars (\$5,000,000.00) for each occurrence.
- (d) The permit fees required under this Chapter may be waived at the discretion of SBARC.
- (e) SBARC may perform periodic inspections at any time before, during, or after the event or exhibit with or without notice.
- (f) Any permit issued under the provisions of this section may be revoked by SBARC by reasonable notice or hearing.

Sec. 5-74. Carnival and circus licenses.

- (a) All carnivals and circuses must comply with the provisions of Sec. 4-22 of the South Bend Municipal Code.

Sec. 5-75. Zoological park permits.

- (a) Zoological parks, defined as any permanent facility or operation other than a pet shop, displaying or exhibiting one (1) or more species of animals, which is accredited and operated by a person, partnership, corporation or government agency for the purpose of promoting conservation, shall be issued permits at no fee.
- (b) In addition, all zoological parks in the City shall:
 - (1) be operated in such a manner as not to constitute a nuisance;
 - (2) provide an isolation ward for animals that are sick or diseased, and any sick or diseased animal be sufficiently quarantined so as not to endanger the health of other animals;
 - (3) keep all animals caged or under the control of the owner or operator of the zoological park;
 - (4) with respect to all animals in the zoological park, comply with all the requirements of this Chapter for the minimum care of animals;
 - (5) comply with all applicable federal, state, and local laws, and all applicable regulations adopted by the Department of Community Investment; and
 - (6) be subject to regular unannounced inspection(s) at the discretion of SBARC.

(c) Annual inspection; permit term; renewal.

(1) Prior to the issuance of a permit or renewal of permit, SBARC may inspect the zoological park to determine whether the applicant is qualified under this Chapter.

(2) The permit term shall commence for (1) year from the date of issuance.

(d) Display. The zoological park permit shall always be displayed prominently in the business office of the zoological park.

Sec. 5-76. Animal attraction permits.

(a) Animal attractions, defined as any permanent facility or operation other than a pet shop or zoological park, displaying or exhibiting one (1) or more species of animals, shall be required to obtain a permit as set forth in this Chapter.

(b) In addition, all animal attractions in the City shall:

(1) be operated in such a manner as not to constitute a nuisance;

(2) provide an isolation ward for animals that are sick or diseased, and any sick or diseased animal be sufficiently quarantined so as not to endanger the health of other animals;

(3) keep all animals caged or under the control of the owner or operator of the animal attraction;

(4) with respect to all animals in the animal attraction, comply with all the requirements of this Chapter for the minimum care of animals;

(5) comply with all applicable federal, state, and local laws, and all applicable regulations adopted by the Department of Community Investment; and

(6) be subject to regular unannounced inspection(s) at the discretion of SBARC.

(c) Annual inspection; permit term; renewal.

(1) Prior to the issuance of a permit or renewal of permit, SBARC may inspect the animal attraction to determine whether the applicant is qualified under this Chapter.

(2) The permit term shall commence for (1) year from the date of issuance.

(d) Display. The animal attraction permit shall always be displayed prominently in the business office of the animal attraction.

Sec. 5-77. Animal rescue organizations and animal welfare organizations.

(a) No permit shall be required of animal rescue organizations or animal welfare organizations as defined in Sec. 5-2; however, all other provisions of this Chapter shall apply, and such organizations are subject further to the following regulations:

(1) Record keeping. Records of animals, including placements, medical treatments, and microchip information must be kept and be furnished to SBARC and/or to adoptive owners upon request.

(2) Animal Placements. The animal rescue organization and animal welfare organization are responsible for ensuring the foster placement of animals under its care meet the provisions of this Chapter before and during the duration of placement.

(3) Location. Foster homes within the City must comply with all applicable provisions of this Chapter regardless of the location and jurisdiction of its related animal rescue organization's or animal welfare organization's primary business address.

- (4) Violations. Animal rescue organizations, animal welfare organizations, and foster homes may each be held liable for violations of this Chapter and fined per offense, with further penalty provisions detailed in Article 11 of this Chapter.

Sec. 5-78. Denial, suspension, or revocation of permit; notice; appeals; re-inspections.

- (a) SBARC may deny a permit application, and any permit may be suspended or revoked for any violations of the Animal Care Regulations provided in Article 2 of this Chapter, or for any following reasons:
- (1) Any fraud, material misrepresentation or false statement contained in the application;
 - (2) Any fraud, material misrepresentation or false statement made in connection with the selling of animals, goods, wares, merchandise and services;
 - (3) Any violation of a term or condition of a permit;
 - (4) Any activity in violation of a statute or provision of this Code related to the licensed business;
 - (5) Conducting the activity in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, welfare of the public or the health of any animal at the premises;
 - (6) Failure to obtain any required permit as outlined in this Chapter.
- (b) Upon denial, suspension, or revocation:
- (1) All operations related to the permit shall cease at once.
 - (2) SBARC may cause a “notice of closure” sign to be conspicuously placed at the location(s) of the operations. It shall be a violation of this Chapter for any person to remove a “notice of closure” sign unless authorized to do so by SBARC.
 - (3) SBARC may immediately impound all animals in such person’s care, possession or control.
- (c) SBARC shall provide notice of permit denial, suspension, revocation and appeal, re-inspection and redemption provisions under this Article by first class mail to the address on record of the person who is denied a permit or whose permit is suspended or revoked.
- (d) Any person who is denied a permit or whose permit is suspended or revoked may appeal the denial, suspension or revocation in accordance with this section within ten (10) days of the date of the denial, suspension or revocation of the permit.
- (1) All requests for appeals must be in writing and state the reasons for the appeal.
 - (2) The request for appeal must be filed with SBARC. Upon receipt of the written request of appeal, SBARC will forward it to the Department of Law for review.
 - (3) If the request meets the requirements of this section, then the Animal Welfare Commission shall set the location, date and time for the hearing to be held within 30 days of acceptance and provide for the service of notification of the hearing to the party requesting the appeal.
 - (4) The Animal Welfare Commission must serve notice of hearing at least 10 days before the hearing to the last known address of the person requesting the appeal and the notice must contain the following:
 - (a) The name and contact information of the Animal Welfare Commission.
 - (b) Hearing date, time and location.

(c) A statement referencing and summarizing the hearing process under this section.

- (5) The Animal Welfare Commission has the authority to hear evidence, both pro and con, as to whether the denial, suspension or revocation should or should not be removed.
- (6) The Animal Welfare Commission shall promptly decide to affirm or vacate the denial, suspension or revocation and may issue such determination at the end of the hearing or within a reasonable amount of time thereafter.
- (7) Decisions must be based on a preponderance of the evidence and applicable provisions of the Municipal Code.
- (8) Determinations of the Animal Welfare Commission may be appealed to the Circuit or Superior Courts of St. Joseph County, Indiana.
- (e) Any person who is denied a permit or whose permit is suspended or revoked may seek a re-inspection agreement with SBARC for the granting or reinstatement of a permit based on compliance.
- (f) Upon any re-inspection by SBARC, a permit reinstatement fee of fifty dollars (\$50.00) will be required before the permit reinstatement is approved.

Sec. 5-79. Redemption of impounded animals seized for permit denials, suspensions or revocation.

- (a) Animals impounded by SBARC will be held:
 - (1) for no less than the ten (10) days to request an appeal, or
 - (2) for an agreed upon timeframe, as determined by SBARC, to correct the conditions that caused the denial, suspension, or revocation.

If no appeal is filed within ten (10) days, if no agreement is reached, or if the conditions are not corrected as stated in the agreement, the seized animals will be the legal property of SBARC.

- (b) Upon the redemption of seized animals, the person who is denied a permit or whose permit is suspended or revoked is responsible for fees associated with the housing, care, and medical treatment of the seized animals.

Sec. 5-80. Reserved.

ARTICLE 8. NOTIFICATION REQUIRED

Sec. 5-81. Notification of vehicular collision with animal.

- (a) A person whose vehicle causes accidental injury or death to an animal in the City shall:
 - (1) stop at once,
 - (2) assess the injury to the extent that it is safe to do so, and
 - (3) immediately notify:
 - (i) the animal's owner, if known, and
 - (ii) SBARC, either directly or through a local law enforcement agency, with:

- (A) a description of the animal struck,
 - (B) the location of the collision, and
 - (C) an assessment as to the condition of the animal after being struck.
- (b) Such person shall not be required to report his or her name, as the only purpose of this requirement is to aid the stricken animal and notify its owner, if any.

Sec. 5-82. Notification of lost or stray animals required; microchip scanning regulations.

A finder, defined as a person who finds or locates a lost or stray animal, shall comply with the following:

- (a) Notification. A finder must notify SBARC within twenty-four (24) hours or the next business day and file a found report which shall include: pictures, description of animal, gender (if known), alter status (if known), location/time/date found, distinguishing features (i.e. injuries, collar, specific markings, rabies tag information, etc.).
- (b) Microchip Scan. A finder must have the animal scanned for a microchip by SBARC or a licensed veterinary clinic within twenty-four (24) hours or the next business day.
- (c) Finder custody. At the discretion of SBARC, the animal may be kept by the finder while attempts to discover the owner are made.
 - (1) If the finder chooses to house and care for the animal, the animal shall be held for fifteen (15) consecutive days to allow the owner time to reclaim their animal.
 - (2) If the finder places the animal with any other person for the duration of the fifteen (15) day hold, the finder shall notify SBARC within twenty-four (24) hours (or within the following business day) of placement of said animal.
 - (3) Anyone housing and caring for an animal during the fifteen (15) day hold is 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. Said persons should refrain from providing any veterinary or medical care to the found animal in their custody without prior approval of SBARC.
 - (4) The person housing and caring for the animal during the fifteen (15) day hold period will be considered the found animal's temporary owner for the purposes of this Chapter only, while the animal is in that person's custody. For purposes of this Section, a temporary owner shall only be required to provide minimum care, as defined in this Chapter.
 - (5) At any time during the fifteen (15) day hold period, SBARC may require the animal to be held at its facility.
 - (6) When SBARC takes custody of a found animal, regardless of whether the temporary owner held the animal for a portion of the fifteen (15) day hold, SBARC may arrange for the disposition of the animal pursuant to Sec. 5-147.
- (d) Resolution.
 - (1) If the temporary owner determines the animal's owner any time while the animal is in their custody during the fifteen (15) day hold period, then the temporary owner, within twenty-four (24) hours thereof, must return the animal to the owner or SBARC.

- (2) If the temporary owner chooses to keep the animal after proper completion of the fifteen (15) day hold period, then they shall be required to follow all applicable requirements of this Chapter within thirty (30) days of the fifteen (15) day hold period expiration.
- (3) If the temporary owner chooses to rehome the animal after proper completion of the fifteen (15) day hold period, then the temporary owner shall be required to provide SBARC the name and address of the person taking ownership of the animal.

Sec. 5-83. Notification of biting animals; report; procedure; violation.

(a) An owner of any animal which has bitten a person, or another animal, within the jurisdictional limits of the City, must report the incident to the St. Joseph County Department of Health and SBARC and immediately make the animal available for quarantine. Upon receiving the report of a bite, SBARC, as the quarantining authority, will quarantine the animal for ten (10) days with the place of confinement at its discretion. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or person. Said provision notwithstanding, the animal will not be required to be kept from contact with animals or persons residing in the same dwelling unit as the animal.

(b) On the day following the end of the quarantine or as otherwise required by SBARC, the owner shall present the biting animal to SBARC or their veterinarian to verify the animal is still alive and in good health.

(c) During the quarantine period, the owner must provide a current rabies vaccination certificate for the animal that is being quarantined. If proof of vaccination cannot be supplied, the animal must be vaccinated at the owner's expense by a veterinarian after the expiration of the quarantine period and within 30 days of the bite occurrence. All vaccination, microchip, and licensing must be completed within the 20-day post-quarantine period. If arrangements are made for a scheduled, prepaid rabies vaccination, the owner must provide SBARC with the 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.

- (1) If the animal is quarantined at SBARC, a microchip shall be implanted in it prior to its release from quarantine. 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 SBARC, a microchip shall be implanted in it within twenty (20) days following the animal's release from quarantine. If a microchip is implanted by anyone other than SBARC, Microchip number and registration must be supplied to SBARC within three (3) business days of the implantation. The cost of the implant and registry shall be at the owner's expense.
- (3) The microchip and its corresponding registration history shall be considered prima facie evidence of ownership and enforcement history for any additional enforcement action under this Chapter.

(d) No person other than an authorized SBARC staff member or veterinarian shall euthanize or cause to be euthanized any animal suspected of being rabid except in cases of immediate self-protection. If that occurs, the person will retain the body of the suspected rabid animal and immediately notify SBARC.

(e) Violations of these quarantine provisions may subject the responsible party to civil penalties under this Chapter, City ordinances or other applicable law.

(f) It is a violation of this Chapter for an animal to bite another human or animal unprovoked. Such bites may result in civil penalties depending on severity of the bite and consideration of the totality of circumstances.

Sec. 5-84. Mandatory notification – veterinarian professional.

Consistent with I.C. 25-38.1-4-8.5, any veterinarian or registered veterinary technician who is presented with any animal that resides within the City under circumstances giving rise to a suspicion of animal cruelty under I.C. 35-46-3 shall file a report with SBARC. Said report shall contain the owner's name, address, contact information, dates, description of animal(s) involved and medical information regarding the incident.

Sec. 5-85 – 5-89. Reserved

ARTICLE 9. – CONDUCT PROHIBITED

Sec. 5-90. - Referral of prohibited animal conduct.

Animal-related criminal conduct prohibited under applicable state law, including but not limited to those under IC 35-46-3 Offenses Relating to Animals, may be referred to the appropriate law enforcement agency or county prosecutor.

Sec. 5-91. - Offensive use of animals prohibited.

The following Offensive use of animals shall be prohibited:

- (a) It shall be unlawful for a person to willfully deposit a dead or live animal upon public or private premises not owned by that person
- (b) It shall be unlawful to willfully use a live or dead animal in the commission of an assault or battery.
- (c) It shall be unlawful for a person to willfully deposit a dead or live animal upon personal property of another.
- (d) It shall be unlawful for a person to aid and abet another in committing any of the foregoing offenses.

Sec. 5-92. - Improper disposal of dead animals prohibited.

The owner of an animal shall be responsible for the disposal of such animal's remains upon its death in compliance with IC 15-17-11-20, as amended.

Sec. 5-93. – Antagonization of any animal prohibited.

It shall be unlawful for a person to tease, molest, or provoke any animal in the City.

Sec. 5-94. - Animals as prizes, novelties, or inducements prohibited.

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

- (b) No person shall sell, offer for sale, trade, barter, or give away any live animal as a novelty.
- (c) No animal shall be used as an inducement to enter a business transaction other than with establishments who are licensed and/or permitted under Chapter 5 consistent with requirements in this ordinance.
- (d) Governmental agencies, or registered rescue groups maintaining an IRC 501(c)(3) status providing health, safety, or adoption promotions will be exempt from the provisions of subsection (a) and (c) as described above. This exemption is subject to necessary permits and inspection.

Sec. 5-95. - Poisonous bait prohibited.

- (a) 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, common areas, yards, or other places, whether public or private, so that it is likely to be eaten by an animal.
- (b) Said provision notwithstanding, it shall not be unlawful for a person to, on their own property:
 1. Deposit common rat or mouse poison, unmixed or mixed only with vegetable substances, for the eradication of rats or mice, or
 2. Deposit commercially available substances for the eradication of termites or similar insects.

Sec. 5-96. - Dyeing, staining or tattooing animals prohibited.

It shall be unlawful for a person to artificially or chemically color, spray, stain, paint or tattoo any animal, except

- (a) Tattoo marks tattooed by a veterinarian to indicate completed sterilization.
- (b) An owner or licensed groomer dyeing an animal's fur with non-toxic pet-safe dye using reasonable care.

Sec. 5-97. - Prohibited animal events.

No person, group of persons or any organization, whether for pay, 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. 5-98. - Animal fights and fighting contests prohibited.

Animal fights and fighting contests are prohibited under applicable state law, as in IC 35-46-3 ("Offenses Relating to Animals"), as amended, and may be referred to the appropriate law enforcement agency and/or county prosecutor.

Sec. 5-99. - Inappropriate animal collection prohibited.

- (a) It shall be unlawful for any person to:
 - (1) collect dead animals that are not properly disposed of and within the time frame as defined by this Chapter and state law, or
 - (2) collect, house, or harbor animals in unsanitary conditions that constitute a health hazard to the residents of the premises, and/or to the animals or residents of adjacent property.

- (b) It shall be a violation of this section to inappropriately collect an animal(s) as defined in this Chapter.

Sec. 5-100. - Enticement of another person's animal prohibited.

It shall be a violation of this Chapter to capture, lure, entice, or take any animal out of the enclosure, premises, or custody of the owner or community cat caretaker without authorization.

Sec. 5-101. - Animal mistreatment or abandonment prohibited.

- (a) Mistreatment of animals, such as abuse, neglect, mutilation, torture, and abandonment as defined in IC 35-46-3, may be referred to the appropriate law enforcement agency and/or county prosecutor.
- (b) Mistreatment of an animal, such as cruelty, neglect as defined in this Chapter, resulting in harm or death shall be a violation of this Chapter and cited as provided herein.
- (c) Abandonment of an animal shall be a violation of this Chapter and cited as provided herein.
- (d) Devocalization of any animal is strictly prohibited and may be cited as provided under this chapter. Devocalization is defined as: the knowing or intentional removal of the vocal cords of an animal for purposes of removing the animal's ability to make any vocalization.

Sec. 5-102. - Running at large prohibited; duty of owner to keep dog under control.

- (a) It shall always be the duty of the owner of any animal(s) or anyone having an animal in their possession to keep the animal under control while the animal is off the real property limits of the owner. For the purposes of this section, an animal is deemed under control when:
 - (1) it is confined within a vehicle;
 - (2) is secured by a leash or other device held by a competent person;
 - (3) is under demonstrated voice control or
 - (4) is properly confined within an enclosure with permission of the owner/occupant of the property where the enclosure is located.
- (b) It shall be unlawful for any animal to be:
 - (1) out of control,
 - (2) unattended off the premises of the owner,
 - (3) upon the property of another person without permission, or
 - (4) within a public space in violation of the rules of this chapter.
- (c) Animals on the property of the owner must be supervised by a responsible person when invitees are present.
- (d) Every animal shall be restrained or controlled so as to prevent it from chasing vehicles or attacking persons or other domestic animals.
- (e) The owner of any animal that is proven to be at large shall be in violation of this section, regardless of the precautions taken to prevent the escape of the animal and regardless of lack of knowledge of the offense at the time it occurs.

Sec. 5-103. - Confinement in a motor vehicle prohibited.

- (a) Confinement of any animal in any unattended motor vehicle is prohibited under conditions that endanger the health or well-being of an animal due to temperatures, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

- (b) It shall be unlawful for any living animal to ride in the bed of a pickup truck unless the animal is securely caged and protected from the environment or unless the bed of the pickup truck is enclosed with a camper shell or other device and there is appropriate and sufficient ventilation.

Sec. 5-104. - Exotic animals and native wildlife prohibitions.

- (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 (d) below.
- (c) The touching, handling, or physical interaction by a person, guest, customer, visitor, or client of an exotic and/or dangerous wild or exotic animal is prohibited, unless the person is acting within the scope of their legal authority.
- (d) This section shall not apply to zoological parks or zoos with permits, colleges or universities, or medical institutions.

Sec. 5-105. - Trapping and wild animals prohibitions.

- (a) Trapping of wild animals is regulated by the State under IC 14-22 et seq. Violations of these provisions may be referred to the appropriate State authorities.
- (b) The following regulations are set forth for trapping on the land, buildings, or other real property owned by the City:
 - (1) 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.
 - (2) 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 upon any land or waters which causes the trapping or capturing of any animal in any manner by which the animal is not either
 - (a) captured painlessly or
 - (b) killed instantly.
 - (3) It shall be unlawful for a person, having placed a trap, snare or similar device, to capture wildlife, to fail to inspect and empty it at least once during every twenty-four-hour period.
 - (4) No person may trap any animals without City authorization on the land, buildings, or other real property owned by the City.
- (c) The following regulations are set forth for the trapping of domestic animals:
 - (1) 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.
 - (2) 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 upon any land or waters which causes the trapping or capturing of any animal in any manner by which the animal is not captured painlessly
 - (3) It shall be unlawful for a person, having placed a 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) Notwithstanding anything to the contrary herein, incidental or unintended capture of a domestic animal in a trap lawfully set for wildlife purposes under applicable state law shall not, by itself, constitute a violation of this Section.

Sec. 5-106. - Care of a free-roaming cat.

- A) It shall be unlawful for a person to provide food, water or shelter to a free-roaming cat for a period of more than three (3) days unless in compliance with Secs. 5-26, 5-27 and 5-28 of this Chapter.
- B) A person will be presumed to be a harbinger of a free-roaming cat if they provide food, water, or shelter to a free-roaming cat for more than three (3) days.
- C) SBARC may impound free-roaming cats in violation of this Chapter and dispose of the cats in accordance with the criteria set forth in this Chapter.

Sec. 5-107. – Excessive Barking

It shall be a violation of this Chapter for an animal to bark, whine, howl, or make other sounds common to its species in excess, continuously for fifteen (15) minutes or for an aggregate twenty (20) minutes in a one-hour period

Secs. 5-108 – 5-115. - Reserved.

ARTICLE 10. ANIMAL WELFARE ENFORCEMENT

DIVISION 1. GENERAL PROVISIONS

Sec. 5-116. - Investigation.

- (a) SBARC may investigate animals, persons, and property believed to be in violation of this Chapter.
- (b) All SBARC staff and volunteers shall cooperate with all City, county, state and federal law enforcement in investigations.
- (c) SBARC staff will report all suspected Criminal or inhumane treatment to the South Bend Police Department.

Sec. 5-117. - Inspections and entry on property.

- (a) When it is necessary to inspect or investigate any premises within the jurisdiction of SBARC in order to enforce any of the provisions of this Chapter, perform any duty imposed by this Chapter or upon probable cause of a violation of this Chapter or State law, SBARC is authorized at all reasonable times to inspect the suspect premises, provided the following:
- (1) If the property is occupied, the inspector shall first present proper credentials to the occupant and request entry, explaining the reasons therefor;
- (2) If the property is unoccupied, the inspector shall make a reasonable effort to locate the owner or other person(s) having control of the property and request entry, explaining the reasons therefor;

- (3) If entry is refused or cannot be obtained because the owner or other person(s) having charge or control of the property cannot be found after reasonable search or refuses to permit entry, the inspector shall have recourse to secure lawful entry and inspection of the property via a warrant issued by a judge in good standing;
- (4) Under exigent circumstances, to the extent permissible by state and federal law.

Sec. 5-118. Pursuit of stray animals, animals at large, or dangers or threats to public safety.

SBARC may, with reasonable care, pursue, capture, and impound animals believed to be stray, at large, or a danger or threat to public safety.

- (a) SBARC staff may proceed upon public property in pursuit of animals.
- (b) SBARC staff may proceed upon private property in plain view. This authority does not extend to privately-owned structures or enclosures without the consent of the owner, lessee, or other occupant in control of the premises, unless
 - (1) There are exigent circumstances to enter an enclosure, such as an immediate danger to the public or animal; or
 - (2) SBARC staff obtains a warrant.
- (c) SBARC staff may proceed upon vacant and/or abandoned properties,
- (d) If an animal is captured without the knowledge or consent of the known owner or occupant of the premises, then a notice may promptly be affixed to the premises from which capture took place and where the owner is known to reside, if different, in an obvious location, directing the known owner or occupant to contact SBARC and providing sufficient information as to the reason for the capture and disposition process.

Sec. 5-119. – Impoundment

- (a) Animals may be impounded and held at SBARC or a designated facility when there is probable cause that any of the following apply:
 - (1) animal mistreatment as described in Section 5-101,
 - (2) animals trained, bred or kept for the purpose of animal fighting,
 - (3) animals considered public nuisance, dangerous, or vicious,
 - (4) animals unable to be cared for as a result of owner arrest, eviction, hospitalization, or force majeure event,
 - (5) animals that have been abandoned,
 - (6) animals considered to be stray or at large,
 - (7) for any other reason determined to be in the interest of the animal's safety or welfare, or
 - (8) animals that for any other reason are considered to be a danger or threat to public safety.
- (b) When an animal is believed abandoned, SBARC shall place on a conspicuous location on the premises two Animal Welfare Alert notices approximately 24 hours apart that such animal appears abandoned and subject to impoundment. Each notice requires the owner to contact SBARC within 24 hours to explain the condition and welfare of the animal. If the owner fails to contact SBARC, then 24 hours after the second notice the animal may be impounded.

- (c) Any animal found in violation of Sec. 5-105 may be seized immediately in accordance with Indiana State Code and Department of Natural Resources Regulations.
- (d) Upon impoundment, the following process will apply:
 - (1) 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. 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. For purposes of this subsection, "protective custody" shall mean to seize and place into the custody of SBARC for the animal's health, safety and protection, or due to the animal's involvement in active investigation, or when the owner is deemed incapable of providing for the animal's "minimum care" as defined in Sec. 5-8.
 - (2) Notice of the protective custody, holding period, responsibility of costs and possible disposition must be served by hand delivery to the owner or posting at the premises of the last known address of the owner. Notice may be served by first class mail, as appropriate.
 - (3) The owner of any animal, which is impounded or relocated under this section, shall be held responsible for payment of any expenses so incurred by SBARC. Fees will be paid prior to release or relocation of the animal.
 - (4) Impounded animals may be transported to a licensed veterinarian for examination and/or treatment.
 - (5) If, in the opinion of a veterinarian, the animal must be euthanized, euthanasia will be performed immediately. Costs of treatment, euthanasia, and/or care shall be the responsibility of the owner.
 - (6) 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 shall not be any less than twenty (20) feet from neighboring property. Disease vectors such as raccoons and opossums are not permitted to be rehabilitated inside City limits.
- (e) Any animal may be impounded pursuant to an order of the Animal Welfare Commission which
 - 1) provides for immediate impoundment, or 2) following a violation of an Order which permits impoundment for violations.

Sec. 5-120. - Entering motor vehicle to remove domestic animal; partial liability for damage; conditions for partial immunity; persons not liable.

Pursuant to IC 34-30-30-3, an Animal Welfare Officer that is acting within the course and scope of the person's employment is not liable for the cost of repairing damage to the motor vehicle caused by the person's forceable entry.

Sec. 5-121. - Interference with SBARC staff

- (a) No person shall release or attempt to release an animal from the custody of SBARC staff or release or attempt to release an animal from a humane trap which belongs to SBARC.
- (b) It shall be unlawful for any person to knowingly provide false information, a false statement or false representation to SBARC staff or hinder the investigation of any SBARC staff discharging or attempting to discharge any legal duty imposed by this Chapter.
- (c) The following shall be violations of this Chapter:

- (1) Any person, who by word or act, resists, abuses, molests, obstructs or impedes an SBARC staff member, or
- (2) who uses threatening language, uses force in order to intimidate, threatens to or attempts to do bodily harm toward such staff

while engaged in the enforcement of this Chapter or while engaging in the performance of any duty or in the exercise of such authority.

- (d) Nothing in this Section shall be construed as prohibiting conduct already prohibited by Indiana Code 35-45 et seq.
- (e) Any activity described in this Section not defined elsewhere in this Chapter as an ordinance violation, may be subject to an ordinance violation citation and fine for violation of this Section.

Sec. 5-122. - Determination of Public Nuisance Animal.

a. Definition:

1. A Public Nuisance Animal is defined as any animal which:

- (i). Has three (3) or more citations for any of the following behavior, as defined in this Chapter:
 - A. Running at large; or
 - B. Barking, whining, howling, or making other sounds common to its species in excess, continuously for fifteen (15) minutes or for an aggregate twenty (20) minutes in a one-hour period.
- (ii). Damages or disturbs private or public property in a manner that is disruptive or detrimental to resident quality of life or the community;
- (iii). Has an apparent isolated incident of biting a domestic animal or person causing injury rated on Section IV of the Animal Bite Classification System within the Official Indiana Bites Report form from Indiana State Department of Health, of no greater than a Level 2 ; or
- (iv). Exhibits other behaviors or characteristics that are disruptive or detrimental to resident quality of life or the community and requires measures beyond ordinary care to mitigate behaviors or risks.
- (v). Any public nuisance activity described in this Section not defined elsewhere in this Chapter as an ordinance violation, may be subject to an ordinance violation citation and fine for violation of this Section.

b. Determination:

1. If the City has investigated and determined that there exists reasonable grounds to believe that an animal meets the definition of a public nuisance animal, then SBARC may;
 - i. request a hearing by the Animal Welfare Commission for the purpose of determining whether or not the animal in question should be declared a public nuisance animal.

- ii. take appropriate steps to impound or seize the animal in question if it presents a danger to the public and further restrictions are required to protect the health or safety of the animal or the public.
 - iii. following impoundment, serve notice of the impoundment as provided in this chapter.
 - 2. An animal determined to be a public nuisance animal by the Animal Welfare Commission will be subject to appropriate restrictions for the lifetime of the animal, which may include, but are not limited to:
 - (i). Any or all restrictions listed under Regulated Animal Possession Permit issuance;
 - (ii). Requiring an owner to complete a course of animal obedience training approved by SBARC;
 - (iii). Keeping the animal indoors or in a secured enclosure;
 - (iv). Requiring the use of a leash whenever off the owner's premises;
 - (v). Identification via a microchip implanted into the skin of the animal, and such microchip number must be provided to SBARC;
 - (vi). Require periodic inspections of the location where the animal resides to ensure it meets Inspection Standards; and/or
 - (vii). Restrictions may include any other measures deemed appropriate by the Animal Welfare Commission based on the totality of the circumstances;
 - 3. If the animal in question dies, or is sold or transferred, the owner shall notify SBARC of the changed condition and new location of the animal in writing within five (5) business days.
- c. Violations of Order and Restrictions:
- (1) Any violation of restrictions placed by the Animal Welfare Commission may result in modification of the applicable Order to require more detailed or enhanced restrictions, and/or may result in the immediate impoundment or seizure of the animal and waiver of possession rights in the seized animal is authorized if provided in the order.
 - (2) A violation of the Animal Welfare Commission Order which also is a violation of this Chapter may result in citations and/or fines.
 - (3) Every owner of a public nuisance animal shall allow inspection by SBARC employees of any enclosures or physical safety measures required pursuant to an applicable Order.
 - (4) SBARC may also consider any violation of applicable orders and restrictions as a basis for a Regulated Animal Possession Permit issuance.

Sec. 5-123. – Determination of Dangerous Animal.

- (a) Definition:

(1) A Dangerous Animal is defined as any animal which:

- i. Has at least one instance of a bite to a domestic animal or person causing injury rated on Section IV of the Animal Bite Classification System within the Official Indiana Bites Report form from Indiana State Department of Health, of a Level 3 (moderate punctures); or
- ii. Demonstrates a propensity, tendency, or disposition to chase and/or attack unprovoked or to cause injury or to threaten the safety of persons or domesticated animals with or without a bite. Such a propensity, tendency, and/or disposition may be demonstrated by the animal's behavior towards wildlife.

(b) Determination:

(1) If the City has investigated and determined that there exists reasonable grounds to believe that an animal meets the definition of a dangerous animal, then SBARC may;

- (i). request a hearing by the Animal Welfare Commission for the purpose of determining whether or not the animal in question should be declared a dangerous animal.
- (ii). take appropriate steps to impound or seize the animal in question if it presents a danger to the public and further restrictions are required to protect the health or safety of the animal or the public.
- (iii). following impoundment, serve notice of the impoundment as provided in this chapter.

(2) At a hearing the Animal Welfare Commission may determine that an animal should instead be classified as a Public Nuisance Animal as defined in this Chapter.

(3) An animal determined to be a dangerous animal by the Animal Welfare Commission will be subject to appropriate restrictions for the lifetime of the animal, which may include, but are not limited to:

- (i). Any or all restrictions listed under Regulated Animal Possession Permit issuance and/or Public Nuisance designations;
- (ii). Requiring the use of a muzzle whenever off the owner's premises;
- (iii). Requiring the use of a muzzle when visitors are on the owner's premises;
- (iv). Requiring the use of a leash, of no more than three (3) feet in length, and under the control of a responsible adult, whenever off the owner's premises;
- (v). While on the owner'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. At least one (1) warning sign shall be posted on the enclosure in which the animal is maintained and must be visible from at least twenty (20) feet away.
- (vi). Warning signs on all entry points to the premises on which the animal is maintained and must be visible from at least twenty (20) feet away.
- (vii). Shall not be used for breeding;
- (viii). Alteration by a licensed veterinarian, unless:

- A. A licensed veterinarian certifies in writing that the animal is incapable of reproduction; or
 - B. 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.
- (ix). the owner shall maintain a liability insurance policy of no less than three hundred thousand dollars (\$300,000.00) for the animal;
- (x). Warning signs on all entry points to the premises on which the animal is maintained; and/or
- (xi). Any other measures deemed appropriate by the Animal Welfare Commission based on the totality of the circumstances.
- (4) If the animal in question dies or is euthanized, the owner shall provide notice to SBARC.
- (5) No later than two (2) business days prior to selling or transferring the animal, the owner shall notify SBARC of the intent to sell/transfer in writing and provide the contact information for the buyer/recipient. The owner shall notify the buyer/recipient of the animal's designation as a dangerous animal in writing, together with any restrictions imposed by the Animal Welfare Commission.
- (c) Violations of Order and Restrictions:
 - (1) Any violation of restrictions placed by the Animal Welfare Commission may result in: modification of the applicable Order to require more detailed or enhanced restrictions; the immediate impoundment or seizure of the animal; and waiver of ownership rights in the seized animal is authorized if provided in the order.
 - (2) A violation of the Animal Welfare Commission Order which also is a violation of this Chapter may result in citations and/or fines.
 - (3) Every owner of a dangerous animal shall allow inspection by SBARC employees of any enclosures or other physical safety measures required pursuant to an applicable Order.
 - (4) SBARC may also consider any violation of applicable orders and restrictions as a basis for a dangerous animal determination.

Sec. 5-124. - Determination of Vicious animal.

(a) Definition:

- (1) A Vicious Animal is defined as any animal which:
 - (i). Constitutes a physical threat to persons or animals because of an attack of such severity or intensity that caused severe property or physical bodily damage;
 - (ii). Has at least one instance of a bite to a domestic animal or person causing injury rated on Section IV of the Animal Bite Classification System within the Official Indiana Bites Report form from the Indiana State Department of Health, of at least Level 4;

- (iii). Was previously designated as a dangerous animal and makes an unprovoked attack on an animal or person; or
 - (iv). Has a prior bite history demonstrating a propensity, tendency, or disposition to attack unprovoked or to cause injury or to threaten the safety of persons or animals and makes an unprovoked attack on an animal or person.
- (2) An animal shall not be a Vicious Animal within the meaning of this article if:
- (i). It inflicts an injury upon a person when the animal is being used by a law enforcement officer carrying out official duties; or
 - (ii). The injury inflicted by the animal was sustained by a person who was committing a willful trespass or other tort; was tormenting, abusing or assaulting the animal; had in the past been reported to have tormented, abused or assaulted the animal; or was committing or attempting to commit a crime.
- (b) Determination:
- (1) If the City or a law enforcement officer has reasonable grounds to believe that an animal meets the definition of a vicious animal, then SBARC may:
 - (i). take immediate steps to impound or seize the animal in question,
 - (ii). following impoundment, serve notice of the impoundment as provided in this chapter, and/or
 - (iii). request a hearing by the Animal Welfare Commission for the purpose of determining whether or not the animal in question should be declared a vicious animal.
 - (2) The Animal Welfare Commission may find in a hearing that a Vicious Animal determination is applicable. Upon making a vicious animal finding, the animal in question shall be euthanized. SBARC may obtain a warrant to seize or impound the animal.
 - (3) If the Animal Welfare Commission determines that a Vicious Animal determination is not applicable, the Animal Welfare Commission may determine that the animal is a Dangerous or Public Nuisance Animal, and order applicable specific restrictions.
 - (4) After the determination, if the owner submits an appeal during the applicable period, euthanasia shall be placed on hold and the animal will remain in custody of SBARC, with the owner liable for all costs of keeping the animal, until a final order for the disposition of the animal.

Sec. 5-125. – Violations of Animal Welfare Commission Orders

- a. General Applicability: This section applies to any restrictions or orders imposed by the Animal Welfare Commission pursuant to determinations under this Article, including but not limited to Regulated Animal Possession Permit issuance, Public Nuisance Animal, and Dangerous Animal designations.

b. Consequences of Violation:

1. Any violation of restrictions or orders imposed by the Animal Welfare Commission shall be a violation of this Chapter and may result in:
 - (i). Modification of the applicable order to require more detailed or enhanced restrictions;
 - (ii). Immediate impoundment or seizure of the animal, with waiver of ownership rights in the seized animal if provided in the order;
 - (iii). Citations and/or fines as set forth in this Chapter.
2. Every owner subject to an Animal Welfare Commission order shall allow inspection by SBARC employees of any enclosures or physical safety measures required pursuant to the order.

c. Escalation: SBARC may consider any violation of applicable orders and restrictions as a basis for a new or escalated determination under this Article.

Sec. 5-126. - Reconsideration of Determination.

An owner may submit one (1) request for reconsideration per year to the Animal Welfare Commission to have a determination ordered by the Animal Welfare Commission modified or removed, no earlier than three hundred and sixty-five (365) days from the date of the determination or a prior request, subject to the following:

- (a) The request must be in writing.
 1. The request must be filed with SBARC and will only be submitted for a hearing before the Animal Welfare Commission if there have been no valid complaints within the last three hundred and sixty-five (365) days at the address of the owner, against the owner, and/or against the animal;
 2. The request shall include detailed information about how the change in circumstances or measures implemented have mitigated the risk to animal welfare and/or public safety as related to the determination;
 3. The Animal Welfare Commission has the authority to hear evidence, both for and against removal of the determination; and
 4. The Animal Welfare Commission may make a decision to remove, modify, or retain such determination based on the preponderance of the evidence.
- (b) Said provisions notwithstanding, in the event of an appeal with an outcome favorable to the owner, the owner may file for reconsideration under this Section prior to the expiration of three hundred sixty-five (365) days. A reconsideration under this provision shall be filed within fourteen (14) days of the favorable appeal outcome.
- (c) Upon the discovery or receipt of new information or evidence SBARC may by its own petition request a reconsideration at any time.

Sec. 5-127. - Recognition of animal welfare designations or citations by outside agencies.

- (a) SBARC may consider animal welfare designations or citations by other agencies as evidence in an administrative determination under this Chapter or a proceeding before the Animal Welfare Commission.
- (b) Nothing in this section prohibits or limits SBARC from acting under this Chapter, or the application of this Chapter, to address an animal or animal owner that moves into the City.

Sec. 5-128. - Penalties; Costs, and Fees.

- (a) Any person violating any of the provisions of this Chapter may be fined for each offense, in any sum not less than fifty dollars (\$50.00) and not more than two thousand five hundred (\$2,500.00) as set forth in Section 5-149, and each day's violation shall constitute a separate offense.
- (b) If an animal is retained at SBARC because its owner has been in violation of this Chapter, then the person redeeming the animal by paying the prescribed fees shall also be required to pay the costs incurred by SBARC for impoundment and caring for including, but not limited to:
 - (1) Surgeries,
 - (2) Vaccines,
 - (3) X-rays,
 - (4) Medications,
 - (5) Exams, including Veterinarian visits,
 - (6) Lab work,
 - (7) Boarding,
 - (8) Rescue equipment,
 - (9) Perishable personal protection equipment, and
 - (10) Grooming.
- (c) Violation of any provision of this Chapter may result in revocation of any permit(s) issued by SBARC and may require a re-inspection prior to reinstatement of the permit.
- (d) Upon finding of violations of this Chapter, the City may choose at any time to seek enforcement through a court of competent jurisdiction which may order relinquishment of an animal(s) deemed to be a public safety risk or a repetitive public nuisance that has not been abated or an animal that is a victim of cruelty, neglect, or abandonment, to SBARC for disposition. The owner of such animal(s) shall be liable to the City for all court costs, litigation costs and legal fees if the City prevails and as approved by the court, and the City may ask the court to require the issuance of a bond from owner to cover the costs of keeping any animal in custody of SBARC.

DIVISION 2. CHRONIC ANIMAL ORDINANCE VIOLATIONS – REGULATED ANIMAL POSSESSION PERMIT REQUIRED

Sec. 5-129. Purpose and intent.

- (a). The purpose of this Division is to protect the public health, safety, and welfare, and to prevent harm to animals, by regulating the future possession and care of animals by persons whose documented history of animal ordinance violation citations reasonably indicates an inability to comply with the requirements of this Chapter.

(b). This Division shall be interpreted and applied consistently with Indiana and Federal law governing animal care and welfare. If any provision is found to require action inconsistent with such state or federal regulations, it shall be deemed preempted to the extent of the inconsistency.

Sec. 5-130. Definitions.

Regulated Animal Possession Permit means a permit issued by SBARC with or without conditions, authorizing a person to possess or harbor one or more animals subject to the requirements of this Chapter.

Sec. 5-131. Permit required for continued animal possession.

(a) A person who meets the criteria in subsection (b) or (c) is not eligible to possess or harbor animals within the City unless that person qualifies for and holds a valid Regulated Animal Possession Permit issued pursuant to this Division.

(b) A person is subject to this Division if, within a rolling twenty-four (24) month period, the person has received three (3) or more citations for violations of this Chapter, and SBARC determines that such history reasonably indicates an inability to comply with the requirements of this Chapter in the future, demonstrating the need for added regulations.

(c) A person is subject to this Division if the person has received at least one (1) citation for violation of this Chapter indicating a heightened risk to:

1. animal welfare, to other persons or animals based upon the likelihood to sustain injuries or contract diseases, or
2. the public health, safety, and welfare

and SBARC determines the citation poses so great a risk to the considerations in subsections 1 and 2 above that added regulations are necessary before the accumulation of three citations.

Sec. 5-132. SBARC review of citation history.

(a) SBARC may review all relevant records regarding a person's prior citations, history of compliance, corrective actions undertaken, and any other information reasonably related to future compliance with this Chapter.

(b) After a review pursuant to subsection (a), SBARC may conclude one of the following:

1. A person's citation history indicates added regulations are needed for future compliance;
2. A person's citation poses so great a risk to animal, human, and/or public health, safety, and welfare that added regulations are necessary before the accumulation of three citations;
3. A person's citation history does not warrant a Regulated Animal Possession Permit at this time; or

4. A person's citation history demonstrates they are not qualified for a Regulated Animal Possession Permit at this time. A determination under this subsection means that possession of an animal shall constitute a violation of this Chapter.

Sec. 5-133. Issuance of Regulated Animal Possession Permit.

(a) If SBARC determines a person is qualified for a Regulated Animal Possession Permit and that added regulations are needed for future compliance, then SBARC may issue a Regulated Animal Possession Permit to the person, with or without conditions, authorizing the person to possess or harbor one or more animals subject to the requirements of this Chapter.

(b) SBARC must provide written notice to the affected person with sufficient information about the Regulated Animal Possession Permit requirements and a copy of the permit.

(c) SBARC may impose conditions as added regulations to the Regulated Animal Possession Permit reasonably related to the violation history, which may include, but are not limited to:

1. Requiring an owner to complete a course of animal obedience training approved by SBARC;
2. Keeping the animal indoors or secure on premises;
3. Providing suitable shelter and protection from the elements that shall provide adequate exercise room, light, ventilation, and sanitation;
4. Limiting the number of animal licenses;
5. Requiring periodic inspections of the location where the animal resides to ensure it meets Inspection Standards;
6. Any other measures deemed appropriate based on the totality of the circumstances of the animals licensed.

(d) If the person issued the Regulated Animal Possession Permit disputes the permit or the added regulations, then the person may file an appeal within ten (10) days of the date of issuance by following the process in Sec. 5-78 of this Chapter. Pursuant to Sec. 5-78 of this Chapter, upon timely request, the AWC shall conduct a hearing and may affirm, modify, or reverse SBARC's determination for the issued Regulated Animal Possession Permit.

(e). If SBARC has determined that there are reasonable grounds that animal welfare is at risk, or an animal presents a danger to the public health or safety while in the custody of the person awaiting the appeal, SBARC may take appropriate steps to impound or seize said animal.

Sec. 5-134. Animal Welfare Commission determination of Regulated Animal Possession Permit.

(a) If SBARC determines that a person's citation poses so great a risk to animal, human, and/or public health, safety, and welfare that added regulations are necessary before the accumulation of

three citations or recommends that a Regulated Animal Possession Permit be denied, then SBARC may request a hearing before the Animal Welfare Commission for a review and determination whether a Regulated Animal Possession Permit should be issued or denied. If a Regulated Animal Possession Permit is denied based upon a failure to qualify for the permit, possession of an animal constitutes a violation of this Chapter.

(b) If SBARC recommends that a Regulated Animal Possession Permit be denied, then SBARC will request a hearing before the Animal Welfare Commission for a review and determination whether a Regulated Animal Possession Permit should be denied. If a Regulated Animal Possession Permit is denied based upon a failure to qualify for the permit, possession of an animal constitutes a violation of this Chapter.

(c) If SBARC has determined that there are reasonable grounds that animal welfare is at risk, or an animal presents a danger to the public health or safety while in the custody of the person awaiting the AWC's determination, SBARC may take appropriate steps to impound or seize said animal.

(d) If AWC approves the issuance of an Regulated Animal Possession Permit, then AWC may impose conditions as added regulations to the Regulated Animal Possession Permit reasonably related to the violation history as set forth in Section 5-133(c).

Sec. 5-135. Regulated Animal Possession Permit post-issuance review.

(a) Regulated Animal Possession Permits shall be valid commencing with the date of issuance, are not transferrable, and subject to annual review.

(b) Upon review, SBARC may:

1. re-inspect the premises;
2. examine all animals in the person's possession; and
3. review all relevant records regarding a person's prior citations, history of compliance, corrective actions undertaken, and any other information reasonably related to future compliance with this Chapter

to determine whether the permit should be continued, modified, or denied. SBARC may require additional information or documentation from the applicant to decide the permit continuation.

(c) Following permit review, if it is determined the permit is denied due to the person no longer qualifying for a Regulated Animal Possession Permit, review of the decision shall follow the provisions in Sec. 5-78 and 5-134 of this Chapter.

(d) Following permit review, if it is determined the permit is continued, the person may continue to hold a Regulated Animal Possession Permit, with or without conditions, authorizing the person to possess or harbor one or more animals subject to the requirements of this Chapter.

(e) SBARC may impose conditions as added regulations to the reissuance of an Regulated Animal Possession Permit reasonably related to the violation history and current conditions, as set forth in Section 5-133(c).

(f) SBARC may rescind the requirement for Regulated Animal Possession Permit upon a showing of verified changed circumstances or demonstrated compliance.

Sec. 5-136. Reconsideration of determination.

- (a) An owner may submit one (1) request for reconsideration per year to SBARC to have a denial or issuance of a Regulated Animal Possession Permit with added regulations be reconsidered, no earlier than three hundred and sixty-five (365) days following the expiration of a full year from the date of the determination or a prior request, subject to the following:
 - 1. The request must be in writing.
 - 2. The request must be filed with SBARC and will only be reconsidered if there have been no valid complaints within the last three hundred and sixty-five (365) days at the address of the owner, against the owner, and/or against the animal.
 - 5. The request shall include detailed information about how the change in circumstances or measures implemented, such as obedience and/or behavior modification training of the animal, have mitigated the risk to animal welfare and/or public safety as related to the determination.
- (b) SBARC has the authority to review documentation both for and against removal of the determination.
- (c) SBARC may make a decision to remove, modify, or retain such determination based on the preponderance of the evidence.
- (d) Said provisions notwithstanding, in the event of an appeal with an outcome favorable to the owner, the owner may file for reconsideration under this Section prior to the expiration of three hundred sixty-five (365) days. A reconsideration under this provision shall be filed within fourteen (14) days of the favorable appeal outcome.
- (e) Upon the discovery or receipt of new information or evidence SBARC may by its own petition initiate a reconsideration at any time.
- (f) If a person receiving an unfavorable outcome on reconsideration on a Regulated Animal Possession Permit disputes the outcome, then the person may file an appeal within ten (10) days of the date of issuance by following the process in Sec. 5-78 of this Chapter. Pursuant to Sec. 5-78 of this Chapter, upon timely request, the AWC shall conduct a

hearing and may affirm, modify, or reverse SBARC's determination for the issued Regulated Animal Possession Permit.

Sec. 5-137. Enforcement.

- (a) Possession of animals without a Regulated Animal Possession Permit, if required under this Division, constitutes a violation of this Chapter.
- (b) Non-compliance with the Regulated Animal Possession Permit or the conditions imposed as added regulations constitutes a violation of this Chapter.
- (c) Following the provisions of Sec. 5-78 and 5-134 of this Chapter, SBARC may deny an Regulated Animal Possession Permit for failure to comply with the Regulated Animal Possession Permit or the conditions imposed as added regulations.
- (d) In addition to any remedies authorized in this Chapter, the City may seek injunctive relief and/or impoundment pursuant to Indiana law.

DIVISION 3. HEARING PROCEDURES

Sec. 5-138. – Animal Welfare Commission Hearings

- (a) This section establishes the hearing procedures when the Animal Welfare Commission receives a request for a hearing from SBARC. Upon receipt of the request for hearing, a hearing may be scheduled, in coordination with the Animal Welfare Commission (also referred to as the "Hearing Authority" for the purposes of this section) and its counsel. The hearing shall be scheduled within a reasonable timeframe.
- (b) When the hearing date is scheduled, SBARC shall receive a copy of the Hearing Authority's issued notice to the owner.
- (c) Notice of the hearing must be served to the owner, and must contain the following:
 - (1) Hearing date, time, and location;
 - (2) A statement referencing the hearing process under this section;
 - (3) A statement concerning the basis for the hearing, including the applicable ordinance violation(s) and what decisions may result from the hearing; and
 - (4) A statement describing the consequence for failure to appear for the hearing.
- (d) Manner of Serving Notice.
 - (1) Initial notice of hearing must be served upon the owner of the animal by any of the following methods:
 - (1) Mailing the notice by certified mail to the residence or place of business or employment, with return receipt requested;
 - (2) Personal service;
 - (3) Posting at the residence of the owner followed by sending notice by First Class mail;

- (4) Publication; or
- (5) Any manner of service allowable by Indiana Trial Rules.
- (2) The notice must be served at least ten (10) days before the hearing date. In computing the days for service, the day of service shall not be included.
- (3) Subsequent communication by the City, including any decisions by the Animal Welfare Commission, may be served by first-class mail.
- (e) Owner Request for Continuance.
 - (1) A request for a continuance of the scheduled hearing date and time shall be made in writing no later than forty-eight (48) hours in advance, and provide the following:
 - i. The reason for the continuance, and
 - ii. An approximate date or timeframe which is requested for the rescheduled hearing, which shall be no later than 10 business days from the original hearing.
 - (2) A continuance may be granted prior to the hearing at the discretion of the Animal Welfare Commission's Counsel. The safety of the public, the safety of any affected animals, and the burden on SBARC of any delay shall be given consideration when evaluating the request for a continuance.
 - (3) A continuance request made less than forty-eight (48) hours in advance, or made at the hearing, may be granted at the discretion of the Commissioners upon holding a vote.
 - (4) If any animals are impounded pending hearing, then the owner may be responsible for the additional costs of boarding and care due to the continuance.
- (f) Hearings.
 - (1) The Hearing Authority is permitted to hold a hearing presided by the legal representative assisting the Commissioners in making findings, approving an order, and preparing a final order.
 - (2) Hearings shall be held on a business day and conducted by the Hearing Authority in an orderly and structured manner, similar to proceedings under the Indiana Rules of Court for Small Claims. The owner may appear at the hearing and may be represented by an attorney. SBARC and the owner shall have the opportunity to present their case and hear the argument against them.
 - (3) The Commissioners shall consider the evidence introduced at the hearing and decide whether the evidence supports the determination. The Animal Welfare Commissioners are permitted to ask questions, deliberate, and make final determinations. Decisions on the findings, as well as on the specific restrictions or other terms of the final order, are determined by a majority vote.
 - (4) An order shall be issued following any determination. If the owner fails to appear at the hearing, the Hearing Authority may find the owner in default and may issue an order with applicable prohibitions, restrictions, and/or limitations.
- (g) Hearing Determinations and Order

- (1) The Hearing Authority shall consider the evidence presented and make a determination based upon the preponderance of the evidence.
- (2) Following the hearing, the Animal Welfare Commission shall submit a written determination to the Respondent.
- (3) The written determination shall include findings of fact, determination of legal status, and include any orders, restrictions, or requirements.
- (4) When an order is issued following a hearing that requires the owner to surrender animal(s) that are not presently in the custody of SBARC, such animal(s) must be surrendered to SBARC within twenty-four (24) hours of receipt of the written determination.
- (5) All animals that are impounded shall be held at SBARC or its authorized agent continuously during the ten (10) day appeal period following the determination. During that ten (10) day period, the owner will be responsible for all boarding costs and fees associated during that period and not covered by any bond posted pursuant to an appeal.
- (6) If the owner files an appeal of the written determination, the animal will be held at SBARC or its authorized agent during the appeal process. The owner shall be responsible for all boarding costs and fees associated during the appeal process.
- (7) The written determination may be served on the owner by first class mail or any method described in Subsection (d)(1) of this Section.
- (8) Any written determination that orders the impoundment and/or surrender of an animal may include a statement giving notice to the owner that a cash bond to cover the boarding fees and cost of care may be requested upon the filing of a petition for judicial review.

Sec. 5-139. - Appeal of the hearing determination.

- (a) Hearing determinations may be appealed by filing a request for judicial review with a court of competent jurisdiction within St. Joseph County, as may be applicable under I.C. 4-21.5-5.
- (b) The request for judicial review under this section must be filed by a verified petition. The verified petition must include a copy of the written determination and adhere to the Indiana Rules of Trial Procedure. The petition must be filed within ten (10) calendar days of service of the written determination on the owner.
- (c) In computing the time frame to file the verified petition under this section, the day the written determination is served shall not be included. The last day of the ten (10) day period is to be included unless it is a Saturday, a Sunday, or a day the court is closed and in those situations the period runs until the end of the next day that is not a Saturday, a Sunday or a day on which the court is closed.
- (d) The City may petition the court for a bond as necessary, pursuant to IC 34-49 or other applicable law, from owner to cover the costs of care of the animal while it is in the custody of SBARC during the appeal process.
- (e) If the animal is returned to the owner after final adjudication the bond will be processed in accordance with the court's decision.

ARTICLE 11. – ADMINISTRATION

DIVISION 1. ANIMAL RESOURCE CENTER (“SBARC”)

Sec. 5-140. - Duties of SBARC.

SBARC shall have those duties and responsibilities set forth by this Chapter together with those set forth in policies and procedures duly adopted by the City. SBARC enforces all City ordinances and Indiana state laws regarding animal care and control.

DIVISION 2. ANIMAL WELFARE COMMISSION

Sec. 5-141. - Animal Welfare Commission.

- (a) The Animal Welfare Commission shall consist of five members who shall each be appointed to serve a three-year term, with terms to be staggered such that no more than two (2) members finish their term in a given year. No limit shall be set on the number of terms a member can serve. All members shall serve without compensation.
- (b) Two (2) of the Animal Welfare Commission members shall be appointed by the Mayor.
- (c) The three (3) remaining members shall be appointed by the South Bend Common Council.

At least one (1) member appointed by the South Bend Common Council must be a licensed veterinarian or a registered veterinary technician. In the event of a vacancy in the seat held by the veterinary professional member, the Animal Welfare Commission may continue to meet and conduct business.

- (d) Selections shall not be based on political affiliations, but on the member’s interest in and knowledge of animal welfare and enforcement.
- (e) Subject to applicable sections of the South Bend Municipal Code for citizen members, the members of the Animal Welfare Commission shall serve at the pleasure of the appointing authority and each member shall serve until a qualified successor is duly appointed.
- (f) In the case of vacancy in Animal Welfare Commission membership due to death, resignation, incapacity, removal, or other cause, the appointment to fill the vacancy so occurring shall be made by the original appointing body for the unexpired term only.

Sec. 5-142. - Officers; agenda, meetings and meeting minutes of the Animal Welfare Commission.

- (a) At the first meeting of each year the Animal Welfare Commission shall elect a Chair, Vice-Chair, and Secretary from its membership.
- (b) The Animal Welfare Commission meets as follows:
 - (1) At a reasonable cadence as agreed upon between the Animal Welfare Commission and the City,
 - (2) Upon special call by the Chair upon the written request to the Chair by any three (3) members, and

- (3) Upon written request to the Chair by the Department of Community Investment and/or SBARC.
- (c) Three (3) members of the Animal Welfare Commission shall constitute a quorum to conduct business. Official action may be taken by a majority vote of those in attendance.

Sec. 5-143. - Duties and responsibilities of the Animal Welfare Commission.

- (a) The Animal Welfare Commission shall have the following duties and responsibilities:
 - (1) To recommend proposed policies, principles, standards and regulations for the control and humane treatment of all animals regulated by this Chapter;
 - (2) To review and make advisory recommendations aimed at improving regulations and enforcement of the regulations codified into this Chapter to the South Bend Common Council;
 - (3) To review and determine appeals on denials, suspensions and revocations of licenses and permits in Article 7 of this Chapter;
 - (4) Hold hearings to review evidence of non-compliance with this Chapter as brought forward by SBARC, and make hearing determinations, and receive recommendations from SBARC concerning applicable orders.
 - (5) Commissioners shall make recommendations and determinations in a fair and impartial manner based on facts and evidence presented.
- (b) The Animal Welfare Commission may adopt rules and procedures to govern all hearings it must conduct under Chapter 5. If there are any rules or procedures that are not covered by this Chapter or adopted by the Animal Welfare Commission, the Commission will follow the Indiana Administrative Procedure Act, Title 4, Articles 21.5 and 22 of the Indiana Code.

Secs. 5-144-5-145. - Reserved.

DIVISION 3 – SBARC OPERATIONS

Sec. 5-146. - Management of the animals.

- (a) SBARC shall have those duties and responsibilities set forth by this Chapter together with those set forth in policies and procedures duly adopted by the City. Any owner who surrenders an animal to SBARC immediately relinquishes all ownership or legal rights to the animal and the animal becomes property of SBARC. SBARC 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.
- (b) Any animal in the custody of SBARC may be transported or housed at a remote facility, under the direction of SBARC, irrespective of the agency that seized the animal:
 - (1) Animals may be transported to a licensed veterinarian for examination and/or treatment. If in the opinion of said veterinarian, the animal must be euthanized,

euthanasia will be performed immediately. Costs of treatment, euthanasia, and/or care shall be the responsibility of the owner.

- (2) When a community cat is captured, SBARC may impound the cat or may return it to its harbinger or community cat caretaker if, in the opinion of SBARC, the return would not present a danger to the public, a continued or repeated public nuisance, or otherwise result in a violation of this Chapter.

Sec. 5-147. – Reclaim of Animal in SBARC Custody.

- (a) SBARC reserves the right to refuse reclamation if the animal is being held by the City pending further investigation and/or enforcement if such refusal is in the best interests of the health and/or safety of the animal or the public.
- (b) A person may reclaim or redeem an animal in the custody of SBARC upon meeting all of the following requirements:
 - (1) The person must submit valid proof of ownership to SBARC.
 - (2) The person must pay all redemption fees and any other service, boarding, or medical fees, and pay all other outstanding penalties due for ordinance violations under this Chapter.
 - (3) Any dog or cat, prior to its release by SBARC, shall be implanted with a microchip and registered for purposes of identification and reclaiming. The cost for this process shall be at the owner's expense before the animal's release.
 - (4) All animals shall be registered/licensed with the City prior to release.
 - (5) The owner must demonstrate the ability to provide minimum care and, when applicable, show a treatment plan is in place.
- (c) The owner will automatically relinquish ownership rights in the animal to SBARC if the owner fails to complete all the conditions for reclaiming their animal by the following established timeframes:
 - (1) Stray animal with a form of identification (such as a microchip, rabies tag, pet tag with owner information): 7 calendar days
 - (2) Stray animal with no form of identification: 3 calendar days
 - (3) Animal completing bite quarantine: 1 calendar day following the end of the quarantine period
 - (4) Safe harbor for reasons of tragedy beyond the control of the owner (such as house fire or death of owner): 7 calendar days
 - (5) Owner arrest: 7 calendar days
- (d) If the reclaim timeframe does not end on a business day, the last day to reclaim the animal is the next business day SBARC is open.
- (e) SBARC may require an animal that has previously been impounded as a stray or running at-large to be altered by a licensed veterinarian at the owner's expense upon a second or subsequent redemption.
 - (1) If the alteration appointment is made by the owner, the appointment must be scheduled within thirty (30) days of reclaim and evidence of the scheduled appointment shall be provided to SBARC.

- (2) If SBARC has a reasonable belief that the owner will not comply with this requirement, SBARC may transport the animal directly to the veterinarian of the owner's choice for completion of the procedure, and the owner may pick up the animal from the veterinarian following the procedure.
- (3) Failure to comply with the requirements of subsection (e)(1) constitutes a violation of this Chapter.
- (f) Upon failure to reclaim the animal within the timeframe, the animal becomes the property of SBARC.
- (g) In addition to the relinquishment of ownership rights set forth herein, the registered owner of a microchipped animal may be subject to a fine for failure to reclaim the animal in an amount not to exceed \$750 per animal.

Sec. 5-148. - Animal euthanasia.

- (a) Animals in the custody of SBARC may be euthanized only when necessary and consistent with SBARC policies and the requirements of this Article.
- (b) No person other than the following may euthanize any domestic animal within the City:
 - (1) Authorized agent of SBARC,
 - (2) A licensed veterinarian,
 - (3) A veterinary staff member under the direct supervision of a veterinarian, or
 - (4) Other animal shelters and/or public animal facilities which euthanize animals in the City.
- (c) Individuals authorized to perform euthanasia must be trained in humane procedures by a licensed veterinarian or a registered veterinary technician prior to being authorized to conduct animal euthanasia and shall perform the animal euthanasia in a humane manner as specified by the American Veterinary Medical Association's Guidelines for Euthanasia of Animals and/or The Humane Society of the United States's Euthanasia Reference Manual.

Sec. 5-149. – SBARC fees and penalties.

- (a) In addition to any other fees required to be paid under federal and state law, SBARC has the following fee schedule:

Adoption Fees	
Dog (older than 6 months)	\$100
Puppy (6 months and under)	\$200
Cat (older than 6 months)	\$75
Kitten (6 months and under)	\$100
Small Mammal	\$50
Bird	\$75
Reptile	\$75

Invertebrate	\$50
Amphibians	\$50
Fish	\$25

Surrender Fee	\$50
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License Fees	
Altered Animal– 1 year rabies	\$20
Altered Animal –3 year rabies	\$40
Unaltered Animal– 1 year rabies	\$50
Unaltered Animal –3 year rabies	\$100
Rental Horse	\$20

Permit Fees	
Urban Chicken Permit	20
Honey Beekeeping Permit	20
Pigeon Permit	20
Pet Shop Permit (selling altered dogs/cats and/or other animals)	\$ 250
Pet Shop Permit (selling unaltered cats and/or dogs, including any additional animals)	\$1,000
Groomers Permit	\$100
Minor Breeders Permit	\$50
Breeders Permit	\$500
Kennel/Cattery Permit (per 25 animals)	\$150
Rental Horse Permit	\$100
Zoological Park Permit	\$0
Attraction Animal Permit	\$500
Reinspection Fee	\$50

Redemption Fees	
First redemption	\$25
Second redemption	\$50

Third redemption	\$100
Fourth redemption (and subsequent)	\$200

- (b) SBARC service charges or user or permit fees may include reasonable costs incurred for the care of the animals and operations. Such costs will be accurately assessed by SBARC according to a schedule of costs it maintains.
- (c) Violation of any provision of this Chapter may be subject to penalties in an amount not less than those set out below.

Citation	1st	2nd	3rd	4th + subsequent	Section
Failure to Provide Minimum Care	\$250	\$500	\$1,500	\$2,500	Sec. 5-08
Grooming Offense	\$100	\$200	\$300	\$500	Sec. 5-09
Medical Offense	\$250	\$500	\$1,000	\$1,500	Sec. 5-09
Inappropriate Training Methods	\$250	\$500	\$1,000	\$2,000	Sec. 5-10
Improper Restraint	\$75	\$150	\$250	\$500	Sec. 5-11
Improper Fastening/Tethering	\$75	\$300	\$1,000	\$2,500	Sec. 5-12
Improper Muzzling	\$75	\$250	\$750	\$1,500	Sec. 5-13
Failure to Contain Animal on Property	\$75	\$150	\$300	\$500	Sec. 5-14
Failure to Identify	\$50	\$75	\$100	\$250	Sec. 5-21
Removal of Excrement	\$50	\$100	\$250	\$500	Sec. 5-22
Failure to Vaccinate Against Rabies	\$150				Sec. 5-23
Underage Sale or Transfer of Kittens/Puppies	\$250	\$500	\$1,000	\$1,500	Sec. 5-24
Failure to Contain Animal in Heat	\$75	\$250	\$500	\$1,500	Sec. 5-25
Community Cat Caretaker Violation	\$75	\$250	\$500	\$1,500	Sec. 5-27
Improper Trapping	\$250	\$500	\$1,000	\$1,500	Sec. 5-28 ; Sec. 5-105
Dog Park Violation	\$50	\$100	\$250	\$500	Sec. 5-29
Nuisance Dog Park Citation	\$75	\$300	\$1,000	\$2,500	Sec. 5-29(o)
Acreage Violation	\$250	\$500	\$750	\$1,000	Sec. 5-36
Failure to Provide Adequate Housing/Stable Requirements - Horses	\$250	\$500	\$1,500	\$2,500	Sec. 5-44
Rental Horse Regulation Violation	\$250	\$750	\$1,500	\$2,500	Sec. 5-45
Above the Unaltered Animal Limit	\$250	\$500	\$1,000	\$1,500	Sec. 5-60
Failure to License	\$150				Sec. 5-60
Kennel/Cattery Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-63
Grooming Shop Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-65

Pet Shop Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-66
Rental Horse Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-67
Minor Breeder Permit Violation	\$250	\$500	\$750	\$1,500	Sec. 5-68
Breeder Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-69
Chicken Permit Violation	\$50	\$150	\$250	\$500	Sec. 5-70
Honey Bee Permit Violation	\$100	\$250	\$750	\$1,500	Sec. 5-71
Pigeon Permit Violation	\$50	\$150	\$250	\$500	Sec. 5-72
Animal Event Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-73
Zoological Park Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-75
Animal Attraction Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-76
Animal Rescue Organization / Animal Welfare Organization Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-77
Failure to Notify - Vehicular Collision	\$50	\$100	\$250	\$500	Sec. 5-81
Failure to Notify - Lost/ Stray Animals	\$50	\$100	\$250	\$500	Sec. 5-82
Bite Class I or II	\$100	\$250	\$500	\$750	Sec. 5-83
Bite Class III or IV	\$500	\$750	\$1,000	\$1,500	Sec. 5-83
Bite Class V	\$2,500				Sec. 5-83
Violation of Bite Quarantine Procedure	\$250	\$750	\$1,000	\$1,500	Sec. 5-83
Failure to Notify - Veterinary Professional	\$50	\$100	\$250	\$500	Sec. 5-84
Offensive Use of Animal	\$250	\$750	\$1,500	\$2,500	Sec. 5-91
Improper Disposal of Dead Animals	\$100	\$250	\$500	\$750	Sec. 5-92
Antagonization of Animals	\$75	\$250	\$500	\$1,500	Sec. 5-93
Animals as Prizes	\$75	\$150	\$250	\$500	Sec. 5-94
Poisonous Bait	\$500	\$1,500	\$2,500	\$2,500	Sec. 5-95
Dying, Staining, or Tattooing	\$100	\$200	\$300	\$500	Sec. 5-96
Animal Fighting	\$1,000	\$2,500	\$2,500	\$2,500	Sec. 5-98
Inappropriate Animal Collection	\$250	\$750	\$1,500	\$2,500	Sec. 5-99
Enticement of Animals	\$75	\$250	\$500	\$750	Sec. 5-100
Abandonment	\$500	\$1,500	\$2,500	\$2,500	Sec. 5-101
Animal Mistreatment	\$1,000	\$2,000	\$2,500	\$2,500	Sec. 5-101
Running at Large	\$75	\$300	\$1,000	\$2,500	Sec. 5-102
Confinement in Motor Vehicle	\$500	\$1,500	\$2,500	\$2,500	Sec. 5-103
Exotic Animals/Native Wildlife	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-104
Barking/Public Nuisance	\$50	\$150	\$300	\$500	Sec. 5-107 ; Sec. 5-122
Interference with SBARC Staff	\$100	\$250	\$500	\$1,500	Sec. 5-121
Violation of AWC Determination	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-125
Regulated Animal Possession Permit Violation	\$500	\$1,000	\$1,500	\$2,500	Sec. 5-137
Failure to Comply w/ Mandatory Spay/Neuter	\$250	\$500	\$750	\$1,000	Sec. 5-147

Failure to Reclaim	\$150	\$250	\$500	\$750	Sec. 5-147
Prohibited Euthanasia of Animals	\$2,500				Sec. 5-148

- (d) SBARC has authority to waive or reduce fees based on responsible animal ownership, operational needs, and/or administrative considerations.

Sec. 5-150. - Disposition of fees, donations, and bequests.

- (a) All money generated, received or collected as the result of payment of fees required shall be deposited into SBARC's revenue fund.
- (b) All money received by SBARC through donations, gifts, bequests or devises shall be payable to SBARC and deposited into Fund 217.
- (c) Any person or organization desiring to assist SBARC by raising funds on its behalf shall not act until they have received written approval of their fundraising proposal from SBARC.
- (d) All money generated, received or collected in response to SBARC's special fundraising projects shall be payable to SBARC and shall be deposited into the appropriate City Fund and used in a manner consistent with the announced purpose of any special fundraising event or project.

Secs. 5-151-5-157. - Reserved.

SECTION III. This Ordinance shall take effect thirty (30) days after adoption by the Common Council and approval by the Mayor and any publication required by law.

Canneth J. Lee, Council President
South Bend Common Council

Attest:

Bianca L. Tirado, City Clerk
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the ____ day of _____, 2026, at _____ o'clock .m.

Bianca L. Tirado, City Clerk
Office of the City Clerk

Approved and signed by me on the _____ day of _____, 2026, at ____ o'clock
____.m.

James Mueller, Mayor
City of South Bend, Indiana