

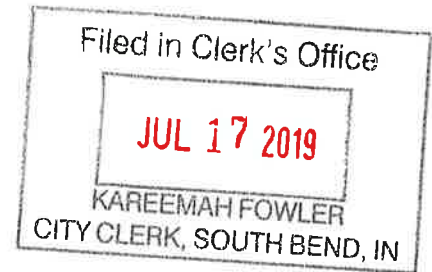
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CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
DEPARTMENT OF CODE ENFORCEMENT
TRACY SKIBINS
DIRECTOR

Tim Scott, Council President, South Bend Common Council
County-City Building
227 W. Jefferson Blvd
South Bend, IN 46601



RE: Bill No. 21-19 Animal Welfare-Substitute Bill

Dear Council President Scott:

Please find attached the substitute version for Bill No. 21-19 currently under consideration in the Health and Public Safety Committee. In this substitute bill, we have limited the scope of the ordinance to changes of name and to responsibilities of the Shelter Manger. These amendments will allow the Division to outwardly reflect the positive growth achieved over the last few years. Please note, many name changes must be made throughout all of Chapter 5 contributing to the length of the bill. The Title of the Bill 21-19 has also changed slightly to reflect the reduced subject matter.

The Department will address remaining changes to the ordinance in its entirety as time allows, while continuing to seek ways to improve and incorporate best practices for animal welfare management in close collaboration with the Animal Control Commission, Common Council, and our valued community members.

As indicated in my original cover letter filed July 2, 2019, I will present this substitute bill to the Council at its Committee meeting and regular evening meeting and may be accompanied by Assistant City Attorney Thomas E. Panowicz, and Jamie Morgan, Project Manager, Office of the Mayor.

Thank you for your assistance in this matter.

Sincerely,

Tracy Skibins

Cc: Karen White, Council Vice-President, Sixth District Representative
Jo M. Broden, Fourth District Representative, Committee Chair, Health & Public Safety

Substitute Bill No. _____

ORDINANCE NO. _____

Filed in Clerk's Office

JUL 17 2019

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING VARIOUS ARTICLES AND SECTIONS OF CHAPTER FIVE
OF THE SOUTH BEND MUNICIPAL CODE, GENERALLY KNOWN AS THE
RESPONSIBLE ANIMAL AND PET OWNERSHIP CARE AND CONTROL
REGULATIONS, BY UPDATING ENTITY NAME DEFINITIONS AND MANAGER
RESPONSIBILITIES**

STATEMENT OF PURPOSE AND INTENT

Since 2016, the Animal Care and Control Division of the Department of Code Enforcement has continued to excel in services that save and enhance the lives of animals in our community. Animal adoption has soared from 261 placements in 2016 to 652 in 2018. Pet licensing has grown to 1,671 licenses issued in 2018, an increase of almost 1,000 more than were sold in 2016. The staff has embraced a culture of community care that has driven up to these indicators of success. The City wishes to rename and rebrand this Division to signal its continued positive direction.

To best reflect the mission and vision of animal services on behalf of the City of South Bend, this ordinance updates various Articles and Sections of Chapter 5 of the South Bend Municipal Code: Responsible Animal and Pet Ownership Care and Control Regulations. These amendments are appropriate to reflect this change in mission, vision, and name, as follows:

- The mission of the South Bend Animal Resource Center ("SBARC") is to prevent animal cruelty and abandonment by promoting responsible, caring and compassionate attitudes towards animals.
- SBARC's vision is to serve the South Bend community with programs and services that improve the welfare of animals. With the motto "Open Door ~ Open Heart", SBARC offers resources for animal care, supplies, education, leisure, and training.

Additional amendment to the ordinance incorporates best practices for animal welfare personnel management. Revising the job description for the SBARC Manager will provide a more comprehensive understanding of the role and the Manager's accountability in developing operational policy.

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

SECTION I. Chapter 5, Article 1, Section 5-2 (f), (g), (bb), (ooo) and (rrr) of the South Bend Municipal Code definitions are each hereby deleted entirely and replaced with revisions to read as follows:

(f) ~~Animal Control Welfare Commission~~ ~~the Animal Control Commission shall be~~ means an advisory Commission as established in eDivision III of this eChapter. This was previously known as the Animal Control Commission.

(g) ~~Animal Control Welfare Officer~~ means a person authorized to carry out the provisions of this chapter, also referred to as AWO. This was previously known as Animal Control Officer.

(bb) ~~Division of Animal Care and Control Welfare~~ means the municipally operated division, formerly known as the Division of Animal Care and Control, established for the purpose of animal control, care enforcement as used and disposition, as set forth in this chapter, described throughout this Article. It is operated by and under the direct supervision of the Director of the Code Enforcement Department and the Shelter Manager Resource Center Manager.

(ooo) ~~SBACC means South Bend Animal Care and Control, the body that acts with authority derived from the Division of Animal Care and Control. SBARC (South Bend Animal Resource Center) means the Resource Center and the Division of Animal Welfare.~~ The Resource Center is where the City shelters animals and the Division of Animal Welfare enforces the ordinances relating to the care, treatment and control of animals. This was previously known as SBACC or South Bend Animal Care and Control.

(rrr) ~~Shelter manager Resource Center Manager~~ means the Shelter Manager Resource Center Manager for the South Bend Animal Resource Center and Division Animal Care and Control. the Division of Animal Welfare. This was previously known as the Shelter Manager.

SECTION II. Chapter 5, Article 1, Section 5-2 of the South Bend Municipal Code is updated to refer to the revised definitions from Section I above, as follows:

Sec. 5-2. Definitions.

(ee) ~~Enforcement Authority~~ means law Enforcement Control Agencies and officers acting on their behalf and Animal Control and Care Officers Animal Welfare Officers sanctioned by the City of South Bend, St. Joseph County, or the State of Indiana.

(ii) ~~Foster home~~ means the physical location away from an animal shelter Resource Center providing temporary care to a foster animal.

(iii) ~~Quarantining authority~~ means the Department of Code Enforcement, Division of Animal Care and Control Division of Animal Welfare, its agents, employees and designees, acting under directives and regulations of the Health Department of St. Joseph County or the Indiana State Board of Animal Health (BOAH).

(mm) *Impoundment*^{8 [8]} means to seize and place ~~in to~~ into the Animal Shelter Resource Center for the City of South Bend, any animals found in violation of this chapter and/or Indiana law, or to temporarily house animals in protective custody due to disaster or other tragic event.^[9]

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

(fff) *Protective custody impound* means to seize and place ~~in to~~ into the Animal Shelter Resource Center for the City of South Bend, any animals due to disaster or other tragic event.

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

SECTION III. Chapter 5, Article 3, and all or certain subparts of Sections 5-16, 5-20, 5-22, 5-36, 5-37, 5-38, 5-39, 5-40, 5-42, 5-43 and 5-44 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-16. Medical and grooming care requirements.

- (b) Any animal deemed by the ~~SBACC~~ SBARC staff to require medical evaluation must be evaluated by a licensed veterinarian to maintain humane care. Any treatment necessary shall be at the discretion of the veterinarian. Proof of compliance must be provided.
- (c) Any owner keeping an animal requiring grooming deemed by ~~SBACC~~ SBARC staff to maintain humane standards of care must show proof such grooming has been completed.²⁴
[24]

Sec. 5-20. Urban chicken regulations.

- (a) Anyone desiring to raise one (1) or more urban chickens within the city limits must file an application for an Urban Chicken Permit with the ~~Division of Animal Care and Control~~ Division of Animal Welfare in the Department of Code Enforcement and pay an annual filing fee of twenty dollars (\$20.00), if provisions for the chickens are deemed acceptable after inspection by the ~~Division of Animal Care and Control~~ Division of Animal Welfare and the application is approved. If the application is approved, the owner/harbinger of the chicken(s) will receive a durable metal tag, which must be affixed in plain view to the chicken coop. At the end of each calendar quarter, the ~~Division of Animal Care and Control~~ Division of Animal Welfare shall provide to the Office of the City Clerk an electronic report summarizing: the residential street location, number of urban chickens at each such location, size of the chicken coop and size of the chicken pen for each location which has been issued such a permit. The ~~Division of Animal Care and Control~~ Division of Animal Welfare may deny or revoke a permit to any person who has failed or refused to comply with the permit requirements, who has made any fraudulent or false statement or material representation in the permit application or in connection with the keeping of urban chickens, who has violated a state or any provision

of ~~this~~ the South Bend Municipal Code in connection with the application or keeping of urban chickens or who has kept urban chickens or other animals in such a manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public. Upon denial or revocation of a permit, the Law Department shall provide notice to the permit applicant or holder and shall provide for a written appeal and hearing pursuant to the procedures in Section 4-16 of ~~this~~ the South Bend Municipal Code.

- (c) The Department of Code Enforcement shall be responsible for the enforcement of this ~~s~~Section. The Department of Code Enforcement shall comply with the duties which require the filing of a summary list of all warning notices and citations issued by the last Friday of each month with the Law Department, the Chairperson of the Health and Public Safety Committee, the Chairperson of the Residential Neighborhoods Committee, the Office of the City Clerk, and the ~~Animal Control Commission~~ Animal Welfare Commission.

Sec. 5-22. Fastening animals with rope or chain; choker collar.

- (e) *Multiple tangling during tethering.* If one (1) or more dogs at a residence have required a response from the ~~Division of Animal Care and Control~~ Division of Animal Welfare to untangle tethers more than two (2) times in one (1) year, it shall be a violation of this ~~s~~Section.

Sec. 5-36. Notification of injury caused by motor vehicle to animals required.

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

Sec. 5-37. Notification of lost or stray animals required.

- (a) Persons finding a stray animal are to notify the ~~Division of Animal Care and Control~~ Division of Animal Welfare within 24 hours (or within the next business day). At the discretion of the Division of Animal Welfare, the animal may be kept by the finder and a found report left with the ~~department~~ Resource Center, to enable the finder an opportunity to return the animal to its rightful owner.
- (b) Upon demand by the ~~Division of Animal Care and Control~~ Division of Animal Welfare, any found animal will be surrendered to the Division and held for three (3) business days, before a disposition is made.
- (d) With the exception of the ~~SBACC~~ SBARC, the finder will be considered the found animal's owner for the purposes of this chapter only after the animal is in the finder's custody for fifteen (15) continuous days and has been presented for microchip scanning.

Sec. 5-38. Potentially dangerous animals.

- (a) If an ~~animal control officer~~ Animal Welfare Officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the ~~Shelter Manager of South Bend Animal Care and Control (SBACC) Resource Center Manager of SBARC~~ shall request a hearing by the ~~Animal Control Commission~~ Animal Welfare Commission for the purpose of determining whether or not the animal in question should be declared potentially dangerous or vicious.
- (1) Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for finding probable cause shall be sworn to and verified by the complainant and shall be provided to the ~~Animal Control Commission~~ Animal Welfare Commission.
 - (2) The hearing will be held within ten (10) calendar days at a special meeting of the ~~Animal Control Commission~~ Animal Welfare Commission and shall be open to the public.^{29 [29]}
 - (4) The ~~Shelter Manager of South Bend Animal Care and Control (SBACC) Resource Center Manager of SBARC~~ shall notify the owner/guardian of the animal of the date and time of such hearing, at which time he or she may present evidence as to why the animal should not be declared potentially dangerous or vicious.
 - (5) The ~~Animal Control Commission~~ Animal Welfare Commission may consider all relevant evidence, including incident reports, affidavits of witnesses, photographs and/or video media, and whether the incident reasonably indicates whether or not the animal in question is potentially dangerous and/or vicious in ordinary circumstances where the average person could not reasonably be expected to foresee and take measures to prevent injury.
 - (6) If the owner/guardian of the animal fails to appear at the hearing, the ~~Animal Control Commission~~ Animal Welfare Commission may find the owner/guardian in default, and all ownership rights of the animals shall be assumed waived.
 - (7)
 - b. An animal determined to be vicious shall be euthanized by the ~~South Bend Division of Animal Care and Control~~ South Bend Division of Animal Welfare when it is found by the ~~Animal Control Commission~~ Animal Welfare Commission that the release of the animal would create a significant threat to the public health, safety, and welfare.
 - c. If it is determined that an animal found to be vicious shall not be euthanized, the ~~Animal Control Commission~~ Animal Welfare Commission may impose reasonable conditions upon the ownership of the animal that protect the public health, safety and welfare, which are consistent with the chapter.
 - d. Decisions of the ~~Animal Control Commission~~ Animal Welfare Commission are subject to appeal to the Circuit Court of St. Joseph County. The Owner/Guardian of the animal(s) must do so within ten (10) calendar days, or they will waive their right to the appeal, and all decisions will be considered final. The Owner/Guardian must also notify the ~~Animal Control Commission~~ Animal Welfare Commission of their decision to appeal in writing, which will then be forwarded to the Law Department for the City of South Bend.

(b) If, upon investigation, it is determined by the ~~animal control officer~~ Animal Welfare Officer or law enforcement officer that probable cause exists to believe the animal in question poses an immediate threat to public safety, then the ~~animal control officer~~ Animal Welfare Officer or law enforcement officer may seize and impound the animal pending the hearing to be held pursuant to this section. The owner/guardian of the animal shall be liable to the City of South Bend ~~Division of Animal Care and Control~~ Division of Animal Welfare where the dog is impounded for the costs and expenses of keeping the animal, if the animal is later declared potentially dangerous or vicious.^{30 [30]}

(d)

(5) The enclosure shall be inspected and approved by the City of South Bend ~~Division of Animal Care and Control~~ Division of Animal Welfare prior to its usage for confinement.

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

(f)

(3) If the animal in question dies, or is sold or transferred, the owner/guardian shall notify the City of South Bend ~~Division of Animal Care and Control~~ Division of Animal Welfare of the changed condition and new location of the animal in writing within two (2) business days.

(4) Any violation of the above provisions and/or restrictions placed on the owner/guardian by the ~~Animal Control Commission~~ Animal Welfare Commission will result in immediate impoundment of the animal, fines to be issued in accordance with Section 5-106 of this chapter, and ownership rights in the animal be immediately waived. The ~~City of South Bend Animal Care and Control Resource Center~~ may also seek injunctive relief in a court of law against the owner/guardian and seek prohibition of ownership of animals for a time period deemed necessary by the court.

(5) An owner/guardian may submit one (1) request for reconsideration per year to the ~~Animal Control Commission~~ Animal Welfare Commission to have the designation of potentially dangerous or vicious removed from his or her animal.

b. The application must be filed with the City of South Bend ~~Division of Animal Care and Control~~ Division of Animal Welfare.

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

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

Sec. 5-39. Biting animals; report; procedure. [31]

(a) ~~The~~ Owner or harbinger of any animal which has bitten a person or another animal must report the incident to the St. Joseph County Health Department and the ~~Division of Animal Care and Control~~ Division of Animal Welfare and immediately make the animal available for

quarantine. Upon receiving the report of a bite, ~~Department of Animal Care and Control~~ the Division of Animal Welfare will quarantine the animal for ten (10) days with the place of confinement to be in the discretion of the ~~Division of Animal Control~~ Division of Animal Welfare. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or person.

- (b) During the quarantine period, the owner must provide a current rabies vaccination certificate for his or her cat or dog that is being quarantined. If proof of vaccination cannot be supplied, the animal will be vaccinated by a veterinarian at the owner's expense before after release, and the owner must provide the ~~Animal Control Commission~~ Animal Welfare Commission with name, address and phone number of the veterinarian performing the rabies vaccination, which will be verified before the animal can be released to the owner. ^{32 [32]}
- (1) If the animal is quarantined at the ~~shelter~~ Resource Center, a microchip shall be implanted in it prior to its release from quarantine. The animal shall be registered for its life with the ~~Division of Animal Care and Control~~ Division of Animal Welfare. The cost of the implant shall be at the owner's expense before release.
- (2) If the animal is quarantined in a place other than the ~~shelter~~ Resource Center, as determined by the ~~Division of Animal Care and Control~~ Division of Animal Welfare, a microchip shall be implanted in it within thirty (30) days following the animal's release from quarantine. The animal shall be registered for its life with the ~~Division of Animal Care and Control~~ Division of Animal Welfare. The cost of the implant and registry shall be at the owner's expense.
- (c) No person other than an ~~Animal Control Officer~~ Animal Welfare Officer 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 and immediately notify the ~~Division of Animal Care and Control~~ Division of Animal Welfare.

Sec. 5-40. Exotic animals and native wildlife.

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

Sec. 5-42. Destruction of animals.

- (a) All animals impounded by ~~South Bend Animal Care and Control~~ Resource Center, a public or private sheltering agency or rescue group shall be euthanized, only when necessary and consistent with the requirements of this ~~e~~Chapter by lethal intravenous injection of sodium pentobarbital, except as follows:
- (b) No person other than a duly authorized agent of the ~~animal control shelter~~ Resource Center may euthanize any domestic animal within the ~~e~~City limits; provided, however, this provision shall not apply to the following:

- (c) The ~~Division of Animal Care and Control~~ Division of Animal Welfare, other animal shelters, and/or public animal facilities which destroy animals in the eCity, shall use only sodium pentobarbital or a derivative substance for said purpose.
- (d) The duly authorized ~~animal control~~ Resource Center agent(s) must be trained in humane procedures by a licensed veterinarian or a registered veterinary technician and shall perform the destruction of animals in a humane manner as specified by the American Veterinary Medical Association AVMA's Guidelines for Euthanasia. ^{35 [34]} Said person(s) must have a letter from a licensed veterinarian citing ~~their~~ such person's competency in humane euthanasia procedures and must be evaluated by a licensed veterinarian on a yearly basis.

Sec. 5-43. Habitual animal offender.

- (b) If upon investigation by an ~~Animal Control Officer~~ Animal Welfare Officer it is found that an owner and/or harborer meets the definition of a Habitual Offender, the matter will be set for hearing before the ~~Animal Control Commission~~ Animal Welfare Commission.
- (c) If such owner and/or harborer is found to be a habitual animal offender the ~~Animal Control Commission~~ Animal Welfare Commission may order a limit, restriction, or prohibition against animal ownership for a minimum of five (5) years or more as determined by the ~~Animal Control Commission~~ Animal Welfare Commission based on the totality of the circumstances of the violations observed.

Sec. 5-44. Free roaming cat trap-neuter return regulations.

- (c) The ~~Division of Animal Care and Control~~ Division of Animal Welfare, or a community cat caretaker or a trap/neuter return organization, in order to encourage the stabilization of the free-roaming cat population may:
 - (3) Release the cat to the ~~Division of Animal Care and Control~~ Division of Animal Welfare 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. The Ccat must be returned as close as possible to its location of capture unless illness or injury presents imminent danger to the animal.
- (d) Traps discovered by the ~~Division of Animal Care and Control~~ Division of Animal Welfare to have been unlawfully set may be seized.

SECTION IV. Chapter 5, Article 4, and all or certain subparts of Sections 5-54 and Section 5-55 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-54. Appeals; re-inspections; denials or revocation of permit.

- (b) The permit holder may request a re-inspection for permit reinstatement based on compliance or may appeal the SBACC SBARC revocation. All requests for appeals must be in writing and addressed to the ~~Animal Control Commission~~ Animal Welfare Commission; whereupon,

the Commission shall set the appeal for hearing within forty-five (45) days of the receipt of the written request.

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

Sec. 5-55. Redemption of impounded animals seized for permit denials, suspensions or revocation.

- (a) When the re-inspection indicates full compliance that the conditions that caused the denial, suspension or revocation have been corrected, the permit shall be restored and impounded animals that are in the care of ~~SBACC~~ SBARC at the time of full compliance may be redeemed.
- (b) Animals seized will be impounded by ~~SBACC~~ SBARC for no less than five (5) business days. After five (5) business days, seized animals will be considered unredeemed unless the ~~SBACC~~ SBARC and the licensee whose permit was denied, suspended, or revoked reach an agreement regarding the housing and care of the seized animals for the period in which the licensee is working to correct the conditions that caused the denial, suspension or revocation.
- (c) Any animal remaining unredeemed after the prescribed holding period shall at once become the property of ~~SBACC~~ SBARC.

SECTION V. Chapter 5, Article 5, and certain subparts of Sections 5-60, 5-61, 5-62, 5-65 and 5-68 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-60. Kennel/cattery permit regulations.

- (a)(1) a. Initial application eligibility requires no more than three (3) unaltered pets, no outdoor housing in the absence of the owner, suitable exercise space for the breed and number owned, no history of violations with ~~SBACC~~ SBARC, and all animals current on vaccinations.
- (c) *Grandfather Clause.* Animals owned or harbored and exceeding the ownership limits of this ~~s~~Section at the time of passage of this law may be registered with the ~~Division of Animal Care and Control~~ Division of Animal Welfare within ninety (90) days of passage to be exempted from ownership limits. Animals owned or harbored in excess of these limits and not registered within this time frame will not be considered exempt

Sec. 5-61. Major breeders permit.

- (a) A major breeder's permit shall be obtained by:
 - (2) Any person who offers for sale, sells, trades, receives other compensation or gives away more than one (1) litter of dogs or cats in a 12-month period; excepting a litter of dogs or cats taken to the ~~Department of Animal Control~~ Division of Animal Welfare.
- (b) Such person shall:

- (2) Furnish the ~~Department of Animal Control~~ Division of Animal Welfare with information on the birth of each litter of dogs or cats as may be required by ~~Division of Animal Care and Control~~ the Division of Animal Welfare to register that litter of dogs or cats with ~~Division of Animal Care and Control~~ the Division of Animal Welfare, and to be assigned a litter number for each litter; and
- (3) Further be required to register with the ~~Division of Animal Care and Control~~ Division of Animal Welfare 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; and
- (5) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare) against common disease; in the case of dogs, against canine distemper, adeno-virus parainfluenza, parvovirus, coronavirus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleucopenia; and
- (6) Not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation or for free giveaway (except a puppy or kitten or litters of them taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare); and

Sec. 5-62. Minor breeders permit; sale of underage animal prohibited.

- (a) A minor breeder's permit shall be obtained by:
 - (2) Any person who offers for sale, sells, trades, receives other compensation or gives away any litters of dogs or cats; excepting a litter of dogs or cats taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare; or
 - (3) Any owner or person having custody of a dog or cat that has delivered a litter or caused the delivery of a litter, who chooses not to relinquish the animal to the ~~Division of Animal Care and Control~~ Division of Animal Welfare and also chooses not to have the animal spayed or neutered shall cause the animal to be implanted with a microchip and to register this dog or cat within thirty (30) days of having received notice to accomplish this procedure from the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (b) Such person shall:
 - (2) Not be allowed to offer for sale, sell, trade, receive other compensation or give away more than one (1) litter of dogs or one (1) litter of cats in a 12-month period; excepting a litter of dogs or cats taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare; and
 - (3) Furnish the ~~Division of Animal Care and Control~~ Division of Animal Welfare with information on the birth of each litter of dogs or cats as may be required by the ~~Division of Animal Care and Control~~ Division of Animal Welfare to register that litter of dogs or cats with the ~~Division of Animal Care and Control~~ Division of Animal Welfare, and to be assigned a litter number for each litter; and

- (4) Further be required to register with the ~~Division of Animal Care and Control~~ Division of Animal Welfare 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; and
- (6) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare) against common disease; in the case of dogs, against canine distemper, adeno-virus parainfluenza, parvovirus, coronavirus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleucopenia; and
- (7) Not offer a puppy or kitten under the age of ten (10) weeks for sale, trade, other compensation or free giveaway (except a puppy or kitten or litters of them taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare); and
- (c) Any owner or person having custody of a dog or cat which has been neutered within ten (10) weeks after giving birth to a litter or who turns the adult dog or cat over to the ~~Division of Animal Care and Control~~ Division of Animal Welfare within 10 weeks from the birth date of the litter, will be required to purchase a minor breeder permit at the rate of ten dollars (\$10.00).
- (d) Any owner or person having custody of a dog or cat which has delivered a litter, who chooses not to relinquish said animal to the ~~Division of Animal Care and Control~~ Division of Animal Welfare and also chooses not to have the animal neutered, will be required to purchase a minor breeder permit at the rate of one hundred dollars (\$100.00) plus any applicable kennel/cattery permit fee. The permit shall be issued provided all requirements of this chapter are met.

Sec. 5-65. Pet shop permit.

- (c) The pet shop permit holder shall be further required to register with the ~~Division of Animal Care and Control~~ Division of Animal Welfare the name, address, and telephone number of each buyer or new owner of any dog or cat transferred within five (5) days after the sale or transfer.
- (d) The ~~Animal Control Officer~~ Animal Welfare Officer or County Health Department of St. Joseph County may restrict the sale of any animal suspected of being diseased or otherwise unfit for sale. An examination by a licensed veterinarian may be requested at the expense of the enforcement agency. The ~~Animal Control Officer~~ Animal Welfare Officer may seize the animal to ensure and protect the health and safety of any other animals present and/or the public.
- (f) No puppy or kitten under the age of eight (8) weeks may be offered for sale, trade or other compensation or for free giveaway (except a puppy or kitten, or litter or litters taken to the ~~Division of Animal Care and Control~~ Division of Animal Welfare).

Sec. 5-68. Exceptions for Division of Animal Welfare and animal welfare organizations.

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

SECTION VI. Chapter 5, Article 6, Section 5-77 of the South Bend Municipal Code is amended to read as follows:

Sec. 5-77. Sale of puppies and kittens.

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

SECTION VII. Chapter 5, Article 7 Section 5-86, subparts (a), (b), (c) and (d) of the South Bend Municipal Code are amended to read as follows:

Sec. 5-86. Euthanizing animals.

- (a) All animals impounded by ~~South Bend Animal Care and Control~~ the Resource Center, a public or private sheltering agency or rescue group shall be euthanized; only when necessary and consistent with the requirements of this ~~a~~Article, by lethal intravenous injection of sodium pentobarbital, except as follows:
- (b) No person other than a duly authorized agent of the ~~Division of Animal Care and Control~~ Division of Animal Welfare may euthanize any domestic animal within the ~~e~~City limits; provided, however, this provision shall not apply to the following:
- (c) The ~~Division of Animal Care and Control~~ Division of Animal Welfare, other animal shelters, and/or public animal facilities which euthanize animals in the city, shall use only sodium pentobarbital or a derivative substance for said purpose.
- (d) The duly authorized ~~animal control~~ Resource Center agent(s) must be trained in humane procedures by a licensed veterinarian or a registered veterinary technician and shall perform the animal euthanization in a humane manner as specified by the AVMA's Guidelines for Euthanasia and shall use only sodium pentobarbital or a derivative substance for said purpose.

SECTION VIII. Chapter 5, Article 8, Division 1, Section 5-90 of the South Bend Municipal Code is hereby amended to read as follows:

DIVISION 1. - ~~SHELTER~~ RESOURCE CENTER MANAGER

Sec. 5-90. Duties of ~~shelter~~ Resource Center ~~m~~Manager.

- (a) The Division of Animal Care and Control Welfare shall be operated by the Shelter Resource Center Manager.
- (b) The Shelter Resource Center Manager will be advised on matters of policy by the Animal Control Welfare Commission.
- (c) The duties and powers of the ~~Director~~ Shelter Resource Center Manager are as follows:
- (1) To ~~cause to be enforced~~ ensure that all city ordinances and/or state laws regarding animal care and control ~~are enforced~~.
 - (2) To ~~maintain and operate the Division of Animal Care and Control's shelter which have been designated for the humane sheltering or protection and disposition of animals into its custody~~ manage the Resource Center's operations.
 - (3) To purchase all necessary materials for the proper and efficient performances of the services and work required of the ~~shelter~~ Resource Center consistent with the eCity's established purchasing procedures.
 - (4) ~~To cause to be picked up and transported to SBACC all unwanted animals, all animals illegally at large, and all sick, diseased, injured, lost, strayed, stolen or abandoned animals. Those animals whose owners request be euthanized may be surrender the animal to SBACC. The Shelter Manager shall determine if the animal can be saved. In addition, any animal whose illness would pose a health hazard to other animals or is injured so that it cannot rest comfortably for a minimum of three business days may be destroyed immediately as so authorized by the Shelter Manager or his/her authorized agent. If a possible owner is identified, the agencies shall undertake reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address. Upon the owner's or caretaker's initiation of recovery procedures, the agencies shall retain custody of the animal for five (5) business days to allow for completion of the recovery process. All other animals shall be kept at said shelter or place designated by said shelter for a period of not less than three (3) business days to afford owners the opportunity to claim the animal. After such period of time, unclaimed animals shall be placed in a suitable home, retained at the shelter or released to an accepted rescue organization or euthanized. Animals released to the shelter by their owners, or impounded animals not claimed within the legal time become the property of the shelter and disposition may be made in accordance with the criteria outline in this chapter. SBACC shall not ban, bar, limit or otherwise obstruct the adoption or transfer of any animal based on breed, breed mix, age, color appearance or size.~~
 - (5) ~~To ensure that no savable animal at South Bend Animal Care and Control shall be euthanized simply because the holding period has expired. Before an animal is euthanized,~~ To ensure that no savable animal at South Bend Animal Care and Control shall be euthanized all of the following conditions must be met:
 - a. ~~There are no empty cages, kennels, or other living environments in the appropriate area of the shelter, keeping in mind the overall health and wellbeing of the animals in SBACC's care;~~

- b.—The animal cannot share a cage or kennel with another animal;
 - c.—A foster home is not available;
 - d.—Not for profit animal rescue organizations are not willing to accept the animal;
 - e.—The animal is not an ear tipped community cat that has been spayed/neutered and vaccinated as described in Section 5-32 of this Chapter or the animal is not a free roaming cat subject to sterilization and release into an accepted program;
 - f.—All mandates, programs and services of the Chapter have been met; and
 - g.—The director of the agency certifies he or she has no other alternative.
- (6)—~~SBACC shall take appropriate action to ensure that all animals are checked for all currently acceptable methods of identification, including microchips, identification tags, and licenses. SBACC shall maintain continuously updated lists of animals reported lost, and match these lost reports with animals reported found and animals in the shelter. If a possible owner is identified, the agencies shall undertake reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address. Upon the owner's or caretaker's initiation of recovery procedures, the agencies shall retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact an owner or caretaker, and communications with persons claiming to be owners or caretakers, shall be recorded and be made available for public inspection for no less than three (3) years by submitting a completed Public Records (APRA) Request.~~^{39-[38]}
- (7)—~~To direct Animal Control Officers proceed upon public and private property in accordance with the above criteria, in pursuit of animals believed to be in violation of this Chapter. However, this authority does not extend to a privately owned structure or enclosure without the consent of the owner, lessee or other occupant in control of the premises or without other legal process or authority. Any animal pursued under this section may be confiscated and held by the Division of Animal Care and Control according to its rules and regulations. If an animal is confiscated without the knowledge or consent of the owner or occupant of the premises, a notice shall promptly be affixed to said premises in an obvious location, directing the occupant to contact the Division of Animal Care and Control providing the address and telephone number of same on said notice.~~
- (8)(4) ~~To cause to be investigated all reports and complaints that are significant concerning any inhumane treatment or negligent practices pertaining to animals and to submit a written report that includes the disposition of the complaint and condition of the animal to be reviewed by the Animal Control Commission. To cause to be impounded at the Division of Animal Care and Control or suitable places designated by the Division of Animal Care and Control all animals found in conditions adverse to their health and safety. To assist all law enforcement agencies in animal related investigations.~~
- (9)(5) ~~To enter into contract with any municipalities or governmental units or any person, association or corporation for the collection, transportation, sheltering and disposal by~~

~~said shelter for sick, diseased, injured, illegally at large, lost, strayed or abandoned animals provided that no such services be extended by said shelter outside the city, except under written contract with the unit, person, association or corporation concerned and at a charge based upon the actual cost of such services, including overhead; provided that no such contract shall be effective except upon the approval of city attorney or a duly designated associate, as to form and legality, the approval of the Mayor, and the ratification by the Common Council evidenced by adoption of a resolution. To establish partnership with other municipalities and animal rescues as necessary and appropriate.~~

- (10)(6) To ~~employ~~ hire and supervise all personnel necessary for the efficient performance of the duties required of ~~said shelter~~ the Resource Center and Division of Animal Welfare. ~~And require certification of all Animal Control Officers as per state recommendations.~~
- ~~(11)(7)~~ To prepare and submit, after review and comments of the ~~Animal Control Welfare Commission,~~ to the South Bend Common Council through the City Controller, an annual budget, for its financing of its operations and performance of its duties.
- ~~(12)(8)~~ To submit to the Mayor, the Board of Public Safety, and to the Common Council, ~~no later than January 30 of each year,~~ provide the Director with a report of its activities and operation for the prior year, to be submitted with the Department of Code Enforcement's annual report. The Director will submit this to the Mayor's office and the City Clerk by the assigned date.
- ~~(13)(9)~~ — ~~To establish reasonable fees to be charged to persons reclaiming and adopting animals, and to collect such fees, such fees to be adopted only after approval by Director and submission to the Mayor and Common Council for approval and adoption. To work with the Director and Director of Finance for the Department of Code Enforcement to create and maintain the Division of Animal Welfare annual budget and fee schedule. These fees are to be reasonable and are to be charged for services provided by the Resource Center.~~
- (14)(10) To prepare monthly reports for the Animal Control Welfare Commission ~~quarterly reports~~ on performance, operation and intake/outtake metrics including adoption, rescue transfer and euthanasia and any other statistics that the Animal Control Welfare Commission may request.
- (15)(11) To ~~provide~~ ensure that all dogs and/or cats released for adoption shall be spayed or neutered, implanted with an electronic microchip, and provisions made for a program to monitor said spay/neuter and microchip plan.
- (16)(12) To ensure that ~~A~~ny violations of the animal adoption contract shall result in impoundment of the animal. Return of the animal to the adopter will be at the discretion of the ~~Division of Animal Care and Control~~ Resource Center Manager.
- (17)(13) ~~Shall~~ To adopt internal rules and regulations as may be necessary or appropriate in its judgment to carry out the provisions of the ordinances and laws under which it exists and performs its functions, including Standard Operating Procedures (SOP) for the internal operations of the Resource Center and Division of Animal Care and Control Welfare.

(14) To cooperate with the Legal Department of the City regarding legal matters under this Chapter, such as hearings, appeals and search warrants.

(15) To work with approved nonprofits for the benefit of the Resource Center.

(16) To provide training opportunities and continuing education for all staff

(17) To enter into reciprocity agreements with other cities, counties, and states to report owners or harborers with a violation history of animal regulations that move out of or into the City.

(Ord. No. 10309-14, § I, 5-28-14)

Footnotes:

—(38)—

State Law reference—³⁹ IC 5-14-3-1 through IC 5-14-3-10 sets for Indiana's "Access to Public Records" state law.

SECTION IX. Chapter 5, Article 8 and certain subparts of Division 2, Animal Control Commission, Sections 5-95, 5-96, and 5-97 of the South Bend Municipal Code are amended to read as follows:

~~DIVISION 2. - ANIMAL CONTROL COMMISSION~~ ANIMAL WELFARE COMMISSION

~~Sec. 5-95. Animal control commission~~ Animal Welfare Commission established; membership.

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

(c) This selection shall not be based on political affiliations, but on interest in animal ~~care and control~~ welfare and knowledge of same.

~~Sec. 5-96. Officers; meetings and meeting minutes of the animal control commission~~ Animal Welfare Commission.

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

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

(d) Copies of all ~~Animal Control Commission~~ Animal Welfare Commission agendas shall be electronically sent to the Law Department, ~~Division of Animal Care and Control~~ the Division

of Animal Welfare, the Office of the City Clerk, and the Chairpersons of the Council's Health and Public Safety Committee and Residential Neighborhoods Committee.

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

--- (39) ---

Note— The Indiana Open Door Law requiring a minimum of 48-hour notice applies to all meetings of the ~~Animal Control Commission~~ Animal Welfare Commission pursuant to IC 5-14-1.5-5.

Sec. 5-97. Duties and responsibilities of the ~~animal control commission~~ Animal Welfare Commission.

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

- (1) To receive and review recommendations made by the ~~Shelter Manager~~ Resource Center Manager;
- (6) Such determinations shall be reduced to writing with the original of the same being maintained by the City and copies being sent to the person or persons filing an appeal, with copies also being maintained in the ~~Division of Animal Care and Control~~ Division of Animal Welfare. Electronic notification of such determinations shall be sent to all ~~Animal Control Officers~~ Animal Welfare Officers and the South Bend Police Department.

SECTION X. Chapter 5, Article 8 and all or certain subparts of Division 3, Implementation and Enforcement, Sections 5-105 through 109 inclusive, and Section 5-111 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-105. Interfering with enforcement.

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

Sec. 5-106. Impoundment.

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

- (b) Animals so removed will be impounded and held at the ~~Division of Animal Care and Control~~ Division Animal Welfare or a designated facility, provided, however, that in no event shall this period exceed five (5) calendar days, at which time the animal shall become the property of the ~~Department of Animal Control~~ Division of Animal Welfare. An animal may be held longer if an extension is necessary for the ~~Animal Control Officer~~ Animal Welfare Officer to have ample time to prepare a court case if prosecution is warranted, or a request for a bond has been filed as provided in paragraph (e) of this section. In the case of animals impounded for quarantine at the ~~Division of Animal Care and Control~~ Division of Animal Welfare, the animal will become the property of the Division if not claimed by closing time of the Division on the eleventh (11th) day of the quarantine....
- (c) Animals impounded for reasons of tragedy beyond the control of the owner, such as but not limited to house fire or death of the owner, will be held for seven (7) calendar days during which time a reasonable effort will be made to contact the owner and/or their representative to ~~make~~ reclaim or make alternative housing arrangements. After the seventh (7th) day of impoundment, the animals will become the property of the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (d) Animals awaiting disposition by the courts shall remain in the custody of the ~~Division of Animal Care and Control~~ Division of Animal Welfare, unless such disposition is made, or placed in a foster home until legal arrangements have been completed.
- (e) Pursuant to impoundment of an animal under paragraph (a) of this section, the ~~Division of Animal Care and Control~~ Division of Animal Welfare may file a petition with the court requesting that the owner or custodian of the animal post a bond to cover the costs of care of the animal while it is in the custody of the Division.
- (2)
- a. Bond must be posted within a maximum of three (3) business days following the bond hearing judgment. If bond has not been posted within the allotted three (3) business days, the animal shall immediately become the property of the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- b. Bond must be posted at the ~~Division of Animal Care and Control~~ Division of Animal Welfare in cash or certified funds only. The bond shall be deposited into the budget for the ~~Division of Animal Care and Control~~ Division of Animal Welfare, in a subaccount specific for each case. The Division may draw on this account to cover the actual expenses incurred in the care of the animal.
- d. Upon conviction of the accused, the court or hearing body, at its discretion may order any remaining bond money and/or the animal(s) forfeited to the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (4) This section applies to any and all animals housed at the ~~South Bend Division of Animal Care and Control Shelter Resource Center~~, or under the direction of the ~~South Bend Division of Animal Care and Control~~ Division of Animal Welfare at a remote facility, irrespective of the agency that seized the animals.

....

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

Sec. 5-107. Notice to owner.

(b)

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

Sec. 5-108. Redemption.

- (a) A person may reclaim an animal in the custody of the ~~Division of Animal Care and Control~~ Division of Animal Welfare upon providing the following:
- (2) Payment of redemption fee and any other service/medical fees, as approved by the ~~Shelter Manager~~ Resource Center Manager.
- (3) It shall be mandatory that any dog or cat not displaying a current city pet registration or current identification tag if not a city resident, affixed to its collar, after the effective date of this ~~eChapter~~, upon its redemption by its owner, and prior to its release by the ~~Division of Animal Care and Control~~ Division of Animal Welfare, be implanted with a microchip and registered for purposes of identification and recovery....
- (b) Stray or at-large animals will be held three (3) business days at the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (c) Unclaimed animals become the property of the ~~Division of Animal Care and Control~~ Division of Animal Welfare and may be placed for adoption, transferred to rescue or humanely euthanized, pursuant to Section 5-106.

Sec. 5-109. Inspections and entry on property.

- (a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this ~~eChapter~~ or when there is probable cause to believe that there exists in any building or upon any premises any violation of the provisions of this ~~eChapter~~ or State law, the ~~Animal Control Officer~~ Animal Welfare Officer or Health Officer or police officer is authorized at all reasonable times to inspect the same for compliance with the provisions of this ~~eChapter~~ or any state law; provided that:
- (b) In the event the ~~Animal Control Officer~~ Animal Welfare Officer, County Health Officer or his or her designee or police officer has probable cause to believe that the keeping or maintaining of an animal is so hazardous, unsafe or dangerous as to require immediate

inspection to safeguard the animal or the public health or safety, the officer shall first present proper credentials and request entry, explaining the reasons therefor....

Sec. 5-111. Penalties.

- (a) Violators shall be issued a citation and fined by a law enforcement officer or ~~animal control officer~~ Animal Welfare Officer as follows:
- (b) Upon finding of violations of this ~~eChapter~~, the City may seek injunctive relief through the court which may order relinquishment of an animal(s) deemed to be a public safety risk and/or a repetitive public nuisance that has not been abated or an animal that is a victim of cruelty, neglect, or abandonment, to the ~~Division of Animal Care and Control~~ Division of Animal Welfare for disposition.
- (c) In the event that an animal is retained at the ~~Division of Animal Care and Control~~ Division of Animal Welfare because its owner or harbinger has been in violation of this ~~eChapter~~, the person redeeming the animal by paying the prescribed fees shall also be required to pay the costs incurred by the ~~Division of Animal Care and Control~~ Division of Animal Welfare for impoundment and caring for including but not limited to:

SECTION XI. Chapter 5, Article 9 and certain subparts of Sections 5-121 and 5-123 of the South Bend Municipal Code are amended to read as follows:

Sec. 5-121. Permits and administration.

- (c) An application for a license or renewal of a license shall be made to the ~~Division of Animal Care and Control~~ Division of Animal Welfare. ... The horse shall be identified by breed, age, sex, color, markings, and the location of the stables where the horse is to be kept, recorded on a veterinary certificate provided by the ~~Division of Animal Care and Control~~ Division of Animal Welfare....
- (d) The annual fee per working animal license or renewal shall be one hundred dollars (\$100.00) for carriage horses and ten dollars (\$10.00) for riding horses, and shall be paid upon submission of an application to the ~~Division of Animal Care and Control~~ Division of Animal Welfare.
- (f) An owner or operator of a rental horse business shall keep an accurate daily record of the movement of each licensed horse when in the city limits including driver's name, horse's identification number, vehicle license plate number, time of leaving stable and time of return to stable. Such records shall be kept on the premises of the stable where rental horses are kept or maintained and shall be made available to the ~~Department Division of Animal Care and Control~~ Division of Animal Welfare upon request.
- (g) An owner or operator of a rental horse business shall make the stable (if located within the city limits) in which horses used in the rental business are kept open for inspection at all reasonable time by authorized personnel of the ~~Division of Animal Care and Control~~ Division of Animal Welfare to enforce the provisions of this ~~aArticle~~.

Sec. 5-123. Regulations.

- (c) Certified weights of all horses and horse drawn vehicles shall be registered with the ~~Division of Animal Care and Control~~ Division of Animal Welfare annually. At the discretion of the ~~Division of Animal Care and Control~~ Division of Animal Welfare, 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.

....

- (k) Every horse whose use requires a license hereunder shall be examined by a veterinarian prior to its use in a rental horse business, and thereafter at intervals of not less than once a year. The horse shall be examined and treated for internal parasites. Its general physical condition shall be evaluated, which examination shall include but not be limited to, inspection of teeth, hooves, and shoes, and for its physical ability to perform the work or duties required of it. The examination shall also include a record of any injury, disease, or deficiency observed by the veterinarian at the time, together with any prescription or professional recommendation regarding humane correction or disposition of the same. An Indiana health certificate containing the above information and signed by the examining veterinarian shall be maintained at the stable premises at which such horse is located, and shall contain the identification number, age and condition of the horse., ~~W~~with a copy on file with ~~SBACC~~ SBARC.
- (l) The rental horse business shall take immediate action to obtain veterinary treatment, care and attention when any horse is or becomes sick, diseased, lame or injured. If a horse dies while at work or in the stable area, or is involved in an accident resulting in an injury to a horse, the ~~Division of Animal Care and Control~~ Division of Animal Welfare shall be notified immediately.
- (m) A horse covered by this subchapter which is or becomes lame or suffers from a physical condition or illness making it unsuitable for work shall be removed from work by the rental horse business or may be ordered removed from work by the ~~Division of Animal Care and Control~~ Division of Animal Welfare. In the event of a dispute regarding such physical condition or illness, the Division may require that a rental horse be examined by a veterinarian in order to determine its ability to safely work as a rental horse. The cost of any such examination shall be borne solely by the rental horse company. A horse which has been removed from work under this division shall not be returned to work until it has recovered from the condition which caused removal from work, or until such condition has improved sufficiently that its return to work will not aggravate the condition or otherwise endanger the health of the horse. A violation of this section shall be presumed if a horse is found at work in a sick or disabled condition within forty-eight (48) hours after its removal from work for the same condition which caused such removal. Such presumption may be rebutted by offering a written statement from a veterinarian who examined the horse after the time of removal from work but prior to its return to work, which statement sets out the veterinarian's professional evaluation of the condition and his/her opinion that it was suitable for the horse to return to work prior the expiration of the 48-hour period. This statement shall be carried with the horse

during the presumed 48-hour recovery period; and provided to the ~~Division of Animal Care and Control~~ Division of Animal Welfare upon request.

SECTION XII. This ordinance shall be in full force and effect of and from its date of passage, approval by the Mayor, and any publication required by law.

Member of the Common Council

Attest:

City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2____, at _____ o'clock ____ . m.

City Clerk

Approved and signed by me on the _____ day of _____, 2____, at _____ o'clock ____ . m.

Mayor, City of South Bend, Indiana