

Bill NO _____

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

The mission of the South Bend Animal Resource Center is to prevent animal cruelty and abandonment by promoting responsible, caring and compassionate attitudes towards animals. SBARC provides a Resource Center for orphaned animals and delivers programs for their adoption. SBARC's Division of Animal Welfare Enforcement encourages responsible ownership through public education and enforcement of legislation. SBARC strives to reduce unwanted pet population by advocating the neutering of companion animals.

SBARC's vision is to serve the South Bend community with programs and services that improve the welfare of animals. With the attitude of "Open Door ~ Open Heart", SBARC offers resources to our community through a range of services and programs for care, supplies, education, leisure and training. The animals under the care of SBARC become happy, healthy, well socialized and highly adoptable.

In light of SBARC's mission and vision, a replacement of the Animal Care regulations is appropriate to reflect the emphasis upon pet and animal protection through responsible pet ownership and due process protection for owners/guardians. This ordinance incorporates best practices for the humane treatment of animals through reasonable regulations for pet and animal owners/guardians.

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SECTION I. Chapter 5, Articles 1 through 9, Sections 5-1 through 5-124 are each and all hereby repealed.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/guardians or harborers 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/guardians or harborers to comply with reasonable regulations in order to be responsible owners/guardians or harborers.
- (c) The provisions of this Chapter supplement all state laws covering the same subject matter.
- (d) The provisions of this Chapter shall take effect when adopted, pursuant to Sec. 1-16.

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* means to desert an animal or to leave the animal, without making provisions for minimum care of the animal. The term does not include leaving an animal in a place that is temporarily vacated for the protection of human life during a disaster.
- (b) *Adequate housing* means a shelter constructed of solid wood or other weather resistant material, consisting of a structure with solid walls on all sides, a dry floor raised above the ground, and a solid roof sloped away from the entrance to protect the animal from weather and extreme cold. The shelter must allow for adequate ventilation and proper air flow, be large enough for the animal to stand up and turn around while maintaining its body heat, the entrance covered by a flexible wind-proofing material or self-closing door, and during winter and any day when the temperature is at or below 40°F, 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. 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.
- (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 concession* means any person, group of persons, partnership, or corporation who for compensation has any animal available for hire or on display.
- (f) *Animal event* means display, activity or show of wild or domestic animals in a shopping center, retail establishment, adjacent lot, or elsewhere.
- (g) *Animal fighting paraphernalia* means equipment or items used to train or condition animals for participation in an animal fighting contest or materials to promote animal fighting, the breeding of animals specifically for fighting, train animals for fighting or to track the results of animal fights.
- (h) *Animal hoarder* means any person who:

- (1) Owns or harbors multiple animals while failing to provide minimum care, with this neglect often resulting in illness and death from starvation, spread of infectious disease, and untreated injury or medical condition, and
 - (2) Persists, despite failure of the minimum care described in subsection (1) above, in accumulating and controlling animals.
- (i) *Animal Resource Center Manager* means the Animal Resource Center Manager for the South Bend Animal Resource Center and the Division of Animal Welfare. This was previously known as the Shelter Manager.
 - (j) *Animal rescue organization* means a group or person maintaining a 501(c) (3) tax status (an organization described in section 501 (c) (3) of the Internal Revenue Code commonly referred to as charitable organizations or non-profit organizations, as per Internal Revenue Service Standards), or business entity established pursuant to state law, with the primary purpose of promoting animal adoption.
 - (k) *Animal Welfare Alert (AWA)* means notice given as a warning to animal owners/guardians or harborers concerning witnessed or reported animal ordinance violations.
 - (l) *Animal Welfare Commission* means an advisory Commission as established in Division 2, Article 11 of this chapter. This as previously known as the Animal Control Commission.
 - (m) *Animal 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.
 - (n) *Animal welfare organization* means any entity organized and existing for the express actions of ensuring the health, safety and prevention of animal cruelty, reconnecting lost animals with owners/guardians, or otherwise promoting the cause of animal welfare through legitimate activities approved by the Division of Animal Welfare Enforcement.
 - (o) *At large animal* means any animal not under restraint or control of the owner/guardian or harbinger. This section does not apply to free-roaming and/or community cat(s).
 - (p) *Attack* means that an animal lunges in a violent, harmful or destructive way against a human, animal or property and exhibits three (3) or more of the following behaviors, including, but not limited to: snarling, biting, baring teeth, chasing, growling, snapping or pouncing.
 - (q) *Auction* means any place or facility where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this chapter or by Indiana State law.
 - (r) *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 dogs or cats.
 - (s) *Breeder's permit* means the permit required for any person(s) who intentionally or unintentionally causes or allows the breeding of one or more litters of dogs or cats in a twelve-month period.
 - (t) *Bite or puncture* means to seize or cut with the teeth, or the piercing or breaking of the skin.
 - (u) *Bite severity* 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 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.

- (v) *Business day* means any day that the Animal Resource Center is in operation, whether or not it is open to the public on such day, and excludes Federal, State and local holidays.
- (w) *Caretaker* means a person that provides food, water, shelter and veterinarian care for community cat(s) as defined by this chapter.
- (x) *Cattery* means any person or group of persons, partnership or corporation engaged in keeping more than one (1) unaltered cat for the purposes of breeding.
- (y) *Chicken coop*, also referred to as chicken pen, means an enclosure or enclosed structure used for housing urban chickens that provides shelter from the elements and meets the standards set forth in Sec. 21-02.11 of the South Bend Municipal Code.
- (z) *Chicken flock* means a group of more than one (1) urban chicken but:
 - (1) Contains no more than six (6) hens and no roosters; and
 - (2) Is issued a permit pursuant to Sec. 21-02.11 of the South Bend Municipal Code.
- (aa) *City* means the City of South Bend, Indiana.
- (bb) *Circus* means performances given by traveling companies on vacant lots with tents, or some other kind of temporary enclosure, where performances are given for a fee. Performances may include, but are not limited to trained animal acts, races, feats of horsemanship, acrobatics, strength, trapeze acting, or clowns. See also Sec. 4-22 of the South Bend Municipal Code.
- (cc) *Commercial* means of, pertaining to, or characteristic of commerce.
- (dd) *Commercial permit* means official document from SBARC giving authorization to engage in an activity commercial in nature involving animals.
- (ee) *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 and is cared for by a caretaker.
- (ff) *Crate* also referred to as airline kennel or cage means a metal, wire, plastic, or fabric enclosure with a door in which an animal may be kept temporarily for security or transportation. These are not acceptable as adequate housing.
- (gg) *Cruelty* means the mistreatment or neglect of an animal that causes unintentional or intentional pain and suffering to the animal.
- (hh) *Dangerous animal* means any animal that:
 - (1) inflicts moderate bite(s) and puncture(s) (bite severity level 3 as defined in Sec. 5-2) on a human being or domestic animal without provocation on public or private property; or
 - (2) kills a domestic animal without provocation while the suspect animal is off the owner/guardian's property; or
 - (3) has been previously deemed to be potentially dangerous because of injury inflicted on a human or domestic animal, the owner/guardian having received notice of such and

the animal again aggressively bites, attacks or endangers the safety of humans or domestic animals.

- (ii) *Dangerous wild or dangerous exotic animal* means a wild or exotic animal, not indigenous to the State of Indiana, not commonly found as a domestic animal, that would create a potential risk to public safety including but not limited to bears, wolves, lions, tigers, jaguars, leopards, cougars, alligators, crocodiles, caimans, snakes and reptiles that are venomous, apes, baboons, macaques, or any hybrid of like animal.
- (jj) *Devocalization* means the removal by a licensed veterinarian of an animal's vocal cords or any surgery thereby to silence an animal's ability to make any vocalization. (Ventriculocordectomy) or Vocal Cordectomy.
- (kk) *Division of Animal Welfare* means the municipally operated division, formerly known as the Division of Animal Care and Control, established for the purpose of animal control and enforcement as used and described throughout this Chapter. It is operated by and under the direct supervision of the Director of the Department of Code Enforcement and the Animal Resource Center Manager.
- (ll) *Director* means the Director of the Department of Code Enforcement for the City.
- (mm) *Dog park* means a designated park for dogs to exercise and play without leash in a controlled environment under the direct supervision of their owner/guardian or handler.
- (nn) *Domestic animal* means any animal that is a member of one (1) of the following species:
 - (1) Dog (*Canis familiaris*)
 - (2) Cat (*felis cattus* or *Felis domesticus*)
 - (3) Cattle (*Bos domesticus* or *Bos Taurus* or *Bos indicus*)
 - (4) Horse (*Equus caballus*)
 - (5) Donkey (*Equus asinus*)
 - (6) Pig (*Sus scroffa*) (Excluding pot-bellied pig)
 - (7) Sheep (*Ovis aries*)
 - (8) Goat (*Capra hircus*)
 - (9) Bison
 - (10) Chickens (Excluding urban chickens)
 - (11) Pigeons
 - (12) Rabbit (*oryctolagus cuniculus*)
 - (13) Mouse (*Mus musculus*)
 - (14) Rat (*Rattus rattus*)
 - (15) Guinea Pig (*Cavis procellus*)
 - (16) Chinchilla (*Chinchilla langier*)
 - (17) Hamster (*Mesocricetus auratus*)
 - (18) Gerbil (*Gerbillus gerbillus*)
 - (19) Mink
 - (20) Cow or Ox (Bovine)
 - (21) Ferret

(22) Llamas

(23) And all other domestic animals defined in IC 15-2.1-2-15.

- (oo) *Ear tipped* means the straight-line culling of the tip of the left ear of a cat while it is anesthetized.
- (pp) *Enforcement authority* means law enforcement agencies and officers acting on the behalf of the Division of Animal Welfare, including those sanctioned or authorized by the City of South Bend, the St. Joseph County and the State of Indiana.
- (qq) *Enticement* means to attract or lure.
- (rr) *Excrement* means waste matter discharged from the bowels; feces.
- (ss) *Exotic animal* means any animal whose normal habitat is not indigenous to the continental United States, excluding Alaska and Hawaii. This does not include fish and fur-bearing animals commercially bred for the furrier trade and birds defined under federal regulations, and nonpoisonous snakes and reptiles.
- (tt) *Finder* means a person that finds or locates a lost or stray animal.
- (uu) *Food* means nourishment that is appropriate for the species in adequate amounts to maintain good health.
- (vv) *Foster animal* means any animal placed by an animal welfare organization or rescue in temporary care at a foster home until it is adopted. Such animal is exempt from license requirements while it is a foster animal.
- (ww) *Foster home* means the physical location, away from an Animal Rescue Organization or the Animal Resource Center, providing temporary care to a foster animal.
- (xx) *Foster home provider* means a person having temporary guardianship of an animal. Persons must be registered under an Animal Rescue Organization or with Animal Resource Center.
- (yy) *Free-roaming cat* means any unowned, unaltered outdoor cat. Such animal shall be presumed harbored if it is fed or sheltered for three (3) consecutive days. This does not apply to community cats.
- (zz) *Handler* means any owner/guardian or harborer or agent of said owner/guardian or harborer keeping care and control of any animal in a public setting to include dog parks.
- (aaa) *Harborer* means a person that permits any animal habitually to remain and/or to be fed within his/her home, store, enclosure, yard or place of business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three (3) consecutive days. This does not apply to community cats.
- (bbb) *Hearing Officer* means a competent and impartial person who is an Indiana licensed attorney in good standing and designated as a Hearing Officer by the City to hold and conduct hearings, administer oaths to witnesses, and make findings of fact and determinations as required under this Chapter. An employee of the City may not be designated as the hearing officer.
- (ccc) *Impoundment* means to seize and place into the custody of the Animal Resource Center, any animals found in violation of this chapter and/or Indiana law, or to temporarily house animals

in protective custody or safe harbor as defined in Sec. 5-2, or for the health and safety of the animal.

- (ddd) *Inclement weather* shall mean weather conditions that are likely to adversely affect the health or safety of the animal, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold. This term includes, but not limited to, Wind Chill Advisory, Tornado Warning, Flood Warning, or Heat Advisory.
- (eee) *Kenel* 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.
- (fff) *Large or exotic birds* means any large or exotic pet bird including but not limited to caiques, conures, lorries, lorikeets, large parakeets, parrots, poicephalus, African greys, Amazons, Cockatoos, eclectus, and macaws.
- (ggg) *Law enforcement animal, K-9 dog and police dog* means a professionally trained dog used by law enforcement officers for law enforcement purposes and activities.
- (hhh) *Lawful trap, snare, or similar device* means a humane, box style trap of suitable size and construction appropriate for the target species.
 - (iii) *Leash* means a cord, rope, strap or other such physical restraint used to restrain an animal.
 - (jjj) *License* means a documented permission granted by SBARC to engage in the activity of animal pet ownership that would be otherwise unlawful.
- (kkk) *Medium or large reptile* means a cold-blooded vertebrate including but not limited to iguanas, monitors, snakes, and tortoises.
- (lll) *Microchip implant* means a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification and/or the recovery of animals by their owner/guardian(s).
- (mmm) *Microchip reader* means an electronic device that detects any implanted microchip.
- (nnn) *Minimum care* means care sufficient to preserve the health and well-being of an animal, including but not limited to the following requirements:
 - (a) Access, at least once a day, to food that is:
 - (i) Uncontaminated, wholesome and palatable;
 - (ii) Of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal; and
 - (iii) Appropriate for the animal's age and condition.
 - (b) Continuous access to potable water that is not in the form of ice or snow.
 - (c) Adequate housing as defined in Sec. 5-2.
 - (d) Veterinary care to relieve distress from injury, illness, neglect or disease.
 - (e) Continuous access to an area for the health and well-being of the animal that is:
 - (i) Adequate in space to allow the animal freedom of movement to prevent debility, stress or abnormal behavior patterns;

- (ii) Sufficient ventilation for proper air flow and to minimize odors, drafts, and condensation;
- (iii) Sufficiently heated and cooled as needed to protect the animal from extreme temperature or humidity; and
- (iv) Kept reasonably clean and free from excess waste or other contaminants that could adversely affect the animal's health.

(ooo) *Muzzle* means a fastening or covering for the mouth of an animal used to prevent eating chewing and/or biting.

(ppp) *Neglect* means any of the following:

- (a) endangering an animal's health by failing to provide or arrange to provide the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink;
- (b) restraining an animal for more than a brief period in a manner that endangers the animal's life or health by the use of a rope, chain, or tether that:
 - (i) is less than three (3) times the length of the animal;
 - (ii) is too heavy to permit the animal to move freely; or
 - (iii) causes the animal to choke;
- (c) restraining an animal in a manner that seriously endangers the animal's life or health;
- (d) failing to:
 - (i) provide minimum care as defined in Sec. 5-2 for; or
 - (ii) seek veterinary care for an injury or illness to an animal that seriously endangers the life or health of the animal;
- (e) leaving an animal outside and exposed to:
 - (i) excessive heat without providing the animal with a means of shade from the heat; or
 - (ii) excessive cold if the animal is not provided with straw or another means of protection from the cold; regardless of whether the animal is restrained or kept in an enclosure.

(qqq) *Noncommercial* means not of, pertaining to, or characteristic of commerce.

(rrr) *Owner/guardian* means a person who owns or has ownership or custody rights for an animal or who knowingly harbors one (1) or more animals for a period of longer than fourteen (14) days.

(sss) *Patron contact* means the touching, handling, or physical interaction by a person as a guest, customer, visitor or client to an establishment housing exotic and/or dangerous animal. Such contact is prohibited unless the person is acting within the scope of their legally authorized "enforcement authority" in each particular instance.

(ttt) *Person* means any individual, firm, corporation, limited liability company, partnership, organization, or commercial establishment.

(uuu) *Permit* means official document from SBARC giving authorization for the use or possession of animals as the document states therein that would otherwise be unlawful.

(vvv) *Pet* means any animal owned or harbored by any person, group of persons, partnership or corporation, except service dogs, or police or canine governmental dogs.

- (www) *Pet license* means the permit required by any person engaged in owning or harboring any dog or cat over the age of three months.
- (xxx) *Pet shop* means any person, group of persons, partnership or corporation, whether operated separately or relating to another business enterprise, except a licensed cattery, kennel or breeders, that buys, sells or offers for sale any species of animal; a permanent physical structure specifically designed and ventilated for the overnight and long-term housing and sale of animals both wholesale and retail.
- (yyy) *Pigeon loft* means a structure in which pigeons are kept for housing that provides shelter and protection.
- (zzz) *Potentially dangerous* means any animal that:
- (a) inflicts minor scratch(es) or minor bite(s) with punctures of four (4) or less (bite severity levels 1 and 2 as defined in Sec. 5-2) on a human or a domestic animal either on public or private property; or
 - (b) chases or approaches a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; or
 - (c) has a known propensity, tendency or disposition to attack, without provocation; or
 - (d) threatens the safety of humans or domestic animals.
- (aaaa) *Prohibited event* means any event where the enforcement authority determines it necessary to prevent animals from being present during the event to ensure public safety.
- (bbbb) *Protective custody impound* means to seize and place into the custody of the Animal Resource Center for the animal's health, safety and protection, or due to the animal's involvement in active investigation, or when the owner/guardian or harbinger is deemed incapable of providing for the animal's "minimum care" as defined in Sec. 5-2.
- (cccc) *Provoked or provocation* means the threat, injury or damage caused by the animal to a person or animal who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner/guardian or harbinger of the animal, or was tormenting, abusing, or assaulting the animal, or was committing or attempting to commit a crime.
- (dddd) *Public nuisance* means any animal which:
- (a) interferes with a pedestrian(s) or a passing vehicle(s),
 - (b) attacks another animal or a person(s),
 - (c) is at large,
 - (d) damages private or public property,
 - (e) barks, whines, howls or makes 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, or
 - (f) is a dangerous wild or exotic animal;
- An ear-tipped altered community cat may not be considered a public nuisance solely by virtue of its status as a community cat.

- (eeee) *Quarantining authority* means the Department of Code Enforcement, the South Bend Animal Resource Center, the 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).
- (ffff) *Rabies vaccination* means the injection administered by a licensed and accredited veterinarian, of a dog, cat or other animal with a rabies vaccine licensed by the U.S.D.A. and approved by the Indiana State Board of Animal Health (BOAH).
- (gggg) *Reckless Animal Owner* means any animal owner/guardian or harbinger, within any two-year period that is issued
- (a) three (3) or more violation citations of this Chapter, or
 - (b) one (1) violation citation of this Chapter that shows a severe lack of minimum care as defined in Sec. 5-2, or
 - (c) one (1) violation citation of this Chapter that shows a pattern of severe improper pet ownership that may endanger the public health, safety or welfare or cause other persons or animals to be injured or contract diseases, or cause severe distress to the animal from injury, illness, neglect or disease.
 - (d) The controlling date will be the date of each animal ordinance violation citation.
- (hhhh) *Rental horse* means any horse offered to the public for a fee for the purposes of riding or drawing a horse drawn vehicle.
- (iiii) *Residential* means of or pertaining to a residence.
- (jjjj) *Restraint* means a leash, lead, or other secured physical control of any animal's movement by the animal's owner/guardian or owner/guardian's designated agent.
- (kkkk) *Riding school* or *stable* means any place which has available for hire, boarding or riding instruction, any horse, pony, donkey, mule or burro.
- (llll) *Rodeo* means a performance featuring bronco riding, steer wrestling, calf roping, greased pig contest, bull riding, and/or similar animal events.
- (mmmm) *Safe harbor impound* means to seize and place into the South Bend Animal Resource Center, any animals due to tragic events, disaster, domestic violence of victim pet owner/guardian.
- (nnnn) *SBARC (South Bend Animal Resource Center)* means the Animal Resource Center and the Division of Animal Welfare. The Animal 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.
- (oooo) *Severe injury* means any physical injury to a human being or domestic pet or domestic livestock caused by an animal that results in multiple bites, broken bone(s), muscle tear(s) or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.
- (pppp) *Service animal* means an animal trained and certified and accredited to assist a person who is impaired by:
- (1) Blindness or any other visual impairment; or

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

(qqqq) *Small animal* means any small domestic animal including but not limited to ferrets, gerbils, guinea pigs, hamsters, mice and rats.

(rrrr) *Small birds* means any small pet bird including but not limited to canaries, finches, cockatiels, lovebirds, small parakeets and parrotlets.

(ssss) *Small reptile* means a cold-blooded vertebrate including but not limited to bearded dragons, frogs, geckos, skinks, salamanders, and turtles.

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

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

(vvvv) *Trap-neuter-return* also known as TNR means a management technique in which homeless, free-roaming cats are humanely trapped, evaluated, ear tipped, and sterilized by a licensed veterinarian, vaccinated against rabies, and then returned to their original habitat.

(wwww) *Unaltered* means an animal that has not been operated on to prevent it from procreating.

(xxxx) *Urban chicken* means a chicken living in the City limits officially known as *Gallus gallus domesticus*, which is a domestic bird. It does not include other fowl, such as, but not limited to roosters, peacocks, turkeys or waterfowl. Urban chickens are governed by the zoning regulations set forth in Sec. 21-02.11 of the South Bend Municipal Code addressing Residential District zoning regulations.

(yyyy) *Veterinarian* means any person licensed and accredited to practice veterinary medicine in the State of Indiana.

(zzzz) *Veterinary hospital/clinic* means any establishment maintained and operated by a licensed veterinarian for the purpose of hospitalization of animals or the diagnosis and treatment of diseases and injuries of animals.

(aaaaa) *Vicious animal* means any of the following:

- (1) Any animal which, without provocation, in an aggressive manner, inflicts severe bite(s) with four (4) or more punctures that may be deep, and may include crushing or tears from shaking, on a human being or domestic animal or kills a human being or domestic animal (bite severity levels 4 and 5 as defined in Sec. 5-2); or
- (2) Any animal previously determined to be and currently listed as a dangerous animal which, after its owner/guardian has been notified of this determination, continues the dangerous behavior, as defined herein or is maintained in violation of Chapter 5.

(bbbbb) *Water* means fresh potable unfrozen drinking water, not in the form of ice or snow.

(ccccc) *Wild animal* means any living vertebrate animal normally found in the wild state.

(dddd) *Zoological Park* means any permanent facility or operation other than a pet shop, displaying or exhibiting one (1) or more species of non-domestic animals, operated by a person, partnership, corporation or government agency.

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

ARTICLE 2. - ANIMAL CARE REGULATIONS

Sec. 5-8. General requirements for animal care and treatment.

(a) Every owner/guardian or harbinger of a domestic animal in the City shall:

- (1) Provide such animal with minimum care as defined in Sec. 5-2, and keep it 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 in adequate amounts to maintain good health, fresh potable, unfrozen drinking water at all times, 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 which shall include recommended vaccinations as required by accepted veterinary standards, and if the animal is diseased or 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 Department of Code Enforcement; and
- (6) Provide that such animal when confined outside:
 - (i) Has access to a shelter constructed of solid wood or other weather resistant material, consisting of a structure with solid walls on all sides, a dry floor raised above the ground, and a solid roof sloped away from the entrance to protect the animal from weather and extreme cold. During winter and any day when the temperature is at or below 40°F, the shelter must be just large enough for the animal to stand up and turn around, the entrance covered by a flexible wind-proofing material or self-closing door, and 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. 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.

- (ii) Must be brought into a temperature-controlled facility 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 warning has been issued by local, state, or national authority, except when the animal in visual range of a competent adult who is outside with the animal.
- (iii) 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.
- (iv) 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/guardian or harbinger of an animal shall see that any animal in their control and custody receives proper veterinary care as necessary to treat illness, disease or injury to prevent the transmittal of disease, to be vaccinated as required by law in order to promote humane animal health.
- (b) Any animal deemed by the Division of Animal Welfare 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 time frame given on AWA.
- (c) Any owner/guardian or harbinger keeping an animal requiring grooming deemed by the Division of Animal Welfare to maintain humane standards of care must show proof such grooming has been completed within time frame given on AWA.

Sec. 5-10. Training methods.

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

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

- (a) All animals that are the property of an owner/guardian or harbinger, or with a handler, shall be properly restrained as defined in Sec. 5-2.
- (b) Any owner/guardian or harbinger, or handler, who takes his/her dog(s) to an off-leash dog run-park must comply with the regulations as set forth in Sec. 5-30.

Sec. 5-12. Tethering.

- (a) It shall be unlawful:

- (1) To tether any animal longer than twelve (12) hours in a 24-hour period.
- (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 unsterilized animal for any period of time.
 - (5) To tether an animal at an unattended structure or premises for any purpose when it is not monitored by an owner/guardian or harbinger who is present at the property for the duration of such tethering.
 - (6) To tether an animal that is under six (6) months of age or is sick/injured.
 - (7) To tether more than three (3) animals simultaneously at the same residence.
 - (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 90 degrees or under 20 degrees, or when a heat advisory, wind chill warning/advisory, or tornado warning has been issued by local, state, or national authority, except when the animal in visual range of a competent adult who is outside with the animal.
 - (10) To tether an animal that is attached to a motorized vehicle, such as an automobile, truck, 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 trolley 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.

Sec. 5-13. Fastening animals with rope or chain, cable; choker collar.

- (a) No animal shall be hitched, tied or fastened 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 is not 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.

- (b) No person shall tether their animal using an agitation, pinch, prong, choke collar, or a collar exceeding 1½ inches wide for any animal under sixty (60) pounds. Animals over sixty (60) pounds shall not be tethered using a collar exceeding two (2) inches in width.

Sec. 5-14. Muzzling.

- (a) No animal shall be muzzled for an extended period of time 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 on the animal's head. The only exception is if the animal is being transported to a veterinarian, other emergency service or to the South Bend Animal Resource Center.
- (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, should not be used except for extremely short time periods, no longer than 30 minutes and emergencies, as they prevent panting and may cause the animal to overheat in a stressful situation.
- (f) Muzzle taping or muzzling an animal with anything other than an instrument that is specifically designed to safely and comfortably prohibit an animal from biting is prohibited.

Sec. 5-15. Duty to keep animal under restraint while on property.

- (a) It shall be the duty of every owner/guardian or harborer of any animal to ensure that the animal is confined by way of a fence, restraint, 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/guardian or harborer.

Secs. 5-16 – 5-20. Reserved.