

ORDINANCE NO. 19-2018

**AN ORDINANCE CREATING SECTION 5-10 ENTITLED “PERMITTING THE
MANAGED CARE OF FREE-ROAMING CATS” TO THE REVISED GENERAL
ORDINANCE OF THE TOWNSHIP OF ABERDEEN**

New Section 5-10

WHEREAS, the Township Council of the Township of Aberdeen is aware of the problems in the Township caused by a large feral cat population; and

WHEREAS, feral cats are cats that are significantly or completely unsocialized and not adoptable as companion animals; and

WHEREAS, there are no facilities in the Township of Aberdeen or the County of Monmouth to address issues created by feral cats; and

WHEREAS, the population of feral cats has been increasing in the Township; and

WHEREAS, communities throughout the United States have determined that the practice of trapping and euthanizing feral cats is not effective in reducing their numbers; and

WHEREAS, a present goal of Trap-Neuter-Return (TNR) is to decrease the number of cats in the environment and thereby reduce feral cat predation on wildlife; and

WHEREAS, programs for the managed care of feral cat colonies that include trapping, neutering and returning such cats to their habitats have proven to be effective in reducing the number of feral cats and is more humane than trapping and euthanizing; and

WHEREAS, TNR programs are beneficial to communities and the public health because cats in managed colonies are vaccinated against rabies, which has positive public consequences and are spayed or neutered, thereby controlling the population; and

WHEREAS, the Township Council deems it in the public interest to amend its ordinances in order to meet these stated goals.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Aberdeen, County of Monmouth, State of New Jersey that the following section be added to the Ordinances of the Township of Aberdeen as follows:

5-10.1 Definitions

For the purpose of this Ordinance, the following terms shall have the meaning set forth in this Section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, words in the singular number include the plural, and words in the male gender include the female gender.

Abandoned means that an owner or caregiver has forsaken a domesticated cat entirely, or has neglected or refused to provide care and support to the cat.

Animal Control Officer means a person employed or appointed by the Township who is authorized to investigate violations of laws and regulations concerning animals, and to issue citations in accordance with New Jersey law and this Code.

Caregiver means a resident of the Township of Aberdeen who provides food and water for or otherwise cares for a cat.

Domesticated cat means a cat that is socialized to humans, is licensed by the Township of Aberdeen and is appropriate as a companion for humans.

Free-Roaming Cat means a cat that is regularly off the property of the owner and is not under the physical control and restraint of the owner.

Ear Marked means a tagged, notched or tipped left ear as performed by a licensed veterinarian.

Feral Cat Colony means a group of cats that congregates, more or less, together as a unit. Although not every cat in a Colony may be feral, any non-feral cats that congregate with a Colony shall be deemed to be a part of it.

Managed Cat Colony – spaying and neutering the cats to stabilize the population of the Feral Cat colony.

Nuisance includes, but not limited to the following:

- A. Disturbing the peace by habitually or continually howling, crying, caterwauling, or screaming by a cat or cats;
- B. Spraying or leaving feces unburied or buried on private property by a cat or cats without permission of the owner of the property;
- C. Fighting by a cat or cats;
- D. The desecration or soiling of personal and/or real property by a cat or cats without permission of the owner of the property;
- E. Endangering the life or health of other animals or persons;

- F. Interfering with the rights of citizens, other than their owners, to enjoyment of life or property;
- G. Damaging the property of anyone other than their owner's property;
- H. Entering the property of anyone other than their owner's property;
- I. Killing or maiming domestic animals or wildlife;
- J. Fouling the air with odor and thereby causing unreasonable annoyance or discomfort to neighbors or others near to the premises where the cat or cats are kept or harbored;
- K. Causing unsanitary conditions in enclosures or surroundings where the cat or cats are kept or harbored;
- L. Becoming offensive or dangerous to the public health, welfare or safety by virtue of the number and/or types of cats maintained in light of the nature and the size of the property on which they are maintained.

Owner means any person, firm, corporation, partnership, association, trust, estate, or any other legal entity.

Rescue Group is a for-profit or not-for-profit entity, or a collaboration of individuals with at least one of its purposes being the adoption or placement of cats in homes with humans to serve as companion animals.

Stray Cat means a cat that is regularly off the property of the owner, is not under the physical control and restraint of the owner and is not regularly provided with food by its owner or which is not licensed by the Township of Aberdeen.

Suitable Shelter means shelter provided by an owner to a domesticated cat licensed by the Township of Aberdeen that provides protection from rain, sun, and other elements that is adequate to protect the health of the cat.

TNR means Trap, Neuter and Return.

TNR Program means a program pursuant to which feral and stray cats are trapped, tested for feline leukemia, neutered or spayed, vaccinated against rabies and returned to the location where they congregate.

Zoonotic Disease means those diseases transmittable to humans from animals, including parasitic, bacterial, fungal and viral diseases.

5-10.2 Responsibilities of owners of domesticated cats.

1. Owners of domesticated cats shall provide appropriate and adequate food, water and shelter for their cats and obtain licenses for their cats from the Township of Aberdeen.

2. The Owner of a domesticated cat shall exercise reasonable care to guard against the cat creating a nuisance.
3. The Owner of a sexually intact (not spayed or neutered) domesticated cat shall not permit his/her cat to roam unsupervised.
4. An Owner shall not abandon a domesticated cat.

5-10.3 Feral Cat colonies.

1. Feral Cat colonies shall be permitted and Caregivers shall be entitled to maintain them in accordance with the terms and conditions of this Ordinance.
2. Restriction of feral cat colony locations.
 - A. Neither feral cats nor feral cat colonies shall be maintained by any caregiver within two hundred feet (200') of any Township owned park or playground.
 - B. No feral cat colony can be established without the written approval of all adjacent property owners of a potential cat colony.
3. Sponsorship of Colony TNR Programs.

The Associated Humane Societies is approved as the Sponsor. Other residents of the Township of Aberdeen may apply to the Township to serve as colony TNR program caretakers. Any person or entity so applying shall comply with the requirements of this article for caretakers and execute an Associated Humane Societies approved caretaker contract. Any person intending to undertake the responsibilities of caretaker shall advise the Associated Humane Societies in writing and provide his/her/its address and telephone number.
4. Sponsor requirements.

It shall be the duty of the Sponsor to:

 - a. Review and approve of colony caregivers;
 - b. Send written notice of acceptance of the requirements and rules set forth herein by all colony caregivers prior to their approval;
 - c. Help to resolve any complaints over the conduct of a colony Caregiver or of cats within a colony;
 - d. Maintain records provided by colony Caregivers on the size and location of the colonies as well as the vaccination and spay/neuter records of cats in the Sponsor's colonies;
 - e. Report annually to the Township on the following
 - Number of colonies in the Township
 - Total number of cats in colonies
 - Number of cats and kittens spayed and neutered pursuant to the TNR Program
 - Number of cats and kittens placed in permanent homes

- f. Register Feral Cat colonies;
- g. Sponsor shall be equally responsible with that of the Animal Control Officer for humanely capturing, trapping, testing, neutering, vaccinating, identifying and spaying or neutering feral cats and testing them for feline leukemia.
- h. Sponsor shall obtain and maintain liability insurance in the minimum amount of Five Hundred Thousand Dollars (\$500,000.00) for all activities, action and work performed pursuant to this article and the laws of this state, naming the Township of Aberdeen as an additional named insured, providing an annual copy of the declaration of insurance and proof of payment of same.
- i. Sponsor shall agree to forever defend, protect, indemnify and hold harmless the Township of Aberdeen, its officers, agents and employees from and against any and all claims, causes of action, injuries, losses, damages, expenses, fees and costs arising out of or which may arise out of the creation and operation of the TNR Program.
- j. Sponsor shall investigate an alleged violation of this section upon receipt of two (2) sworn affidavits of complaint on a form provided by the Township, signed by two (2) unrelated Township residents living in separate dwellings in the vicinity of the alleged violation. One (1) of the affidavits may be provided by a person who works for a recognized business or agency that regularly or frequently provides services in the vicinity of the alleged violation. The affidavit shall specify the address or location of the alleged violation, the nature, time and dates of the alleged violation, the name and address of the owner or caregiver, if known, and a description of the animal, if known.

5. Feral Cat Caregiver requirements.

Caregivers are responsible for the following:

- a. Registering the Feral Cat colony with the Sponsor;
- b. All caregivers must acknowledge receipt and acceptance of the requirements and rules set forth herein;
- c. Taking steps that are reasonably likely to result in the vaccination of the colony population for rabies and making best efforts to update the vaccinations on cats that can be recaptured;
- d. Taking steps that are reasonably likely to and making best efforts to further the objective of the spay/neuter of at least ninety percent (90%) of the colony population;
- e. Providing the Sponsor with descriptions of each cat in the colony and copies of documents evidencing that the cats have been vaccinated and spayed/neutered;
- f. Providing food and water for colony cats;
- g. Remove all food provided within two (2) to four (4) hours of providing food;
- h. Observing the colony cats at least twice per week and keeping a record of any illnesses or unusual behavior noticed in any colony cats;

- i. Obtaining the approval, in writing, of the owner of any property, to which the Caregiver requires access to provide colony cats;
- j. In the event that kittens are born to a colony cat, the Caregiver shall take reasonable steps likely to result in the removal of the kittens from the colony after they have been weaned, and the placement of the kittens in homes or foster homes for the purpose of subsequent permanent placement or with the Sponsor for subsequent permanent placement;
- k. Reporting annually in writing to the Sponsor on the status of the colony, including data on the number and gender of all cats in the colony, the number of cats that died or otherwise ceased being a part of the colony during the year, the number of kittens born to colony cats and their disposition and the number of cats and kittens placed in permanent homes as companion cats;
- l. Providing proper medical attention to any colony cat that appears to require it;
- m. Taking reasonable steps to prevent cats from creating a nuisance in adjacent properties.

6. Colony Cat requirements.

- a. The left ear of a colony cat that has been spayed or neutered and vaccinated shall be eartipped.
- b. An electronic animal identification device (EAID), more broadly known as a microchip, shall be inserted into the cat by a veterinarian in accordance with professional medical standards. The colony number shall be used for purposes of the EAID.

7. Requirements in General.

- a. It shall be the responsibility of all residents of Aberdeen along with the Sponsor, feral cat Caregivers, and all involved individuals to use due consideration to avoid the taking of rare, threatened or endangered species under the Endangered and Non-Game Species Conservation Act, N.J.S.A. 23:2A-1, et seq. and pursuing the actions allowed by this Ordinance.

8. Registration of Feral Cat Colonies.

- a. The Sponsor shall register Feral Cat colonies maintained by approved Caregivers. Feral Cat colonies within the Township that are not registered by the Sponsor are not entitled to any benefits or protections set forth in this Ordinance. No colonies may be established except in accordance with this Ordinance. On an annual basis the Sponsor shall provide the Township of Aberdeen with a colony management plan for the Township containing all registered Feral Cat colonies with information on the number of cats, anticipated rate of attrition and the length of project, efforts to deter predation and to prevent immigration of more cats into each colony. The list of

registered Feral Cat colonies and the annual colony management plan shall be filed with the Township Manager.

5-10.4 Ordinance Enforcement

1. Any violation of this article shall be punishable by imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$2,000; or by any period of community service not exceeding 90 days. Each day that a violation continues may be deemed to be a separate offense.
2. Investigation and disposition of feral cats by Animal Control Officer.
 - a. In the event that the Sponsor becomes aware, either through a complaint or personal observation, of a feral cat or feral cat colony, he shall make a reasonable attempt to determine if the animal has a caregiver who will comply with the requirements and rules. If, after making such an attempt, no caregiver is identified or is willing to comply with the provisions set forth herein, the Sponsor shall take all necessary action to obtain permission from the property owner(s) to enter upon the property to capture and remove the feral cats, and in the absence thereof may exercise their powers as the certified animal control officer under NJSA4:19-15.16 to enter on to the property and to dispose of the captured cats in accordance with the provisions of this chapter.
 - b. The Sponsor shall make a good faith effort to contact animal sanctuaries in New Jersey and out of the state for the purpose of making arrangements to deliver feral cats and stray cats who do not have a caregiver. In the event that no animal sanctuary is available or willing to accept the cats, the Sponsor may deliver the cats to the Animal Shelter.
 - c. The Animal Control Officer and/or the Sponsor have the right to seize or remove cats from a colony that have not been vaccinated against rabies and which are demonstrating signs of the disease.
 - d. The Animal Control Officer and/or the Sponsor has the right to seize or remove a cat from a colony that is creating a nuisance, as defined above, when the caregiver has been given time to remove the nuisance but failed to do so.
 - e. The Animal Control Officer and/or the Sponsor has the right to seize or remove the colony of cats when the caregiver regularly fails to comply with the requirements of this chapter and the Animal Coordinator has not been able to obtain a replacement or substitute caregiver that has been approved to be a caregiver.
 - f. The Animal Control Officer and/or the Sponsor has the right to seize or remove cats from a colony if it is determined that there is a public health threat, including, but not limited to, zoonotic diseases, feline HIV or leukemia.

- g. The Animal Control Officer and Police Officers may investigate any nuisance complaint.
3. Disposition of Colony Cats.
 - a. An Animal Control Officer or sponsor who has trapped a cat whose left ear has been tipped or which bears some other distinguishing mark indicating that it belongs to a Feral Cat colony shall scan any cat trapped or picked up for an EAID. If an EAID is found, the officer shall return the cat to its colony or its Owner. If an EAID is not found, the officer shall contact the Sponsor and the Sponsor or any other person named as the Owner of the cat.
 - b. If the Owner or Sponsor is not able to immediately take custody of the cat, the officer shall return the cat to the appropriate colony.
 - c. If the cat does not have an EAID then the Animal Control Officer shall contact the Sponsor so the cat can be properly placed in a colony. If the cat is obviously a domestic cat the Sponsor shall arrange for care for the cat until the Owner is located and may determine the disposition of the cat in those circumstances where the domestic cat's owner cannot be located. If the cat does not have an EAID and the Owner cannot be located, then the Sponsor will nevertheless treat the cat as any stray with a seven (7) day holding period.

4. Nuisance complaints.

- a. The requirements of this article notwithstanding, animal control officers and police officers may investigate any nuisance complaint.
- b. The provisions herein remain in full force and effect and are not to be superseded by the aforesaid provisions. If there is any conflict between this article and the aforesaid ordinance, the ordinances are to be read in concert as they are consistent with protecting the public health, safety and general welfare of the Township.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions to be adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.