

O-22-30
09/21/22

AN ORDINANCE AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE CITY OF BAYONNE, CHAPTER 5, ANIMAL CONTROL

SECTION 1: The Revised General Ordinances of the City of Bayonne, **Chapter 5, Animal Control**, is hereby amended and supplemented by adding **ARTICLE VIII, Section 5-27 Trap Neuter and Return Program**, as follows (additions ****between asterisks and/or in bold****, deletions {within brackets and/or ~~struck through~~):

****ARTICLE 8**

Trap-Neuter-Return Program

5-27 Trap and Neuter Program

Purpose.

The purpose of this article is to establish an ordinance to implement a Trap-Neuter-Return (TNR) Program within the City of Bayonne for feral cats. The City believes it is in the best interests of the health, safety, and welfare of the citizens of Bayonne to institute a TNR Program in an effort to reduce the population of feral and stray cats, thus benefitting public health, improving the quality of life for residents and ensuring the humane treatment of said cats.

The City's Third-Party Animal Control Officer along with the City's Health Department shall administer and implement the program set forth in this Article in accordance with applicable guidelines and standards as set forth in state and local statutes. In the event the City does not have a Third-Party Animal Control Officer, the City's appointed Animal Control Officers along with the City's Health Department shall administer and implement the programs set forth in this Article.

5-27.1 Definitions.

For the purpose of this Ordinance, the following terms shall have the meanings set forth in this Article. When not consistent 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:

ANIMAL CONTROL OFFICER — Shall mean any person employed or appointed by the City or a third-party entity contracted with the City as an animal control officer

who is authorized to investigate violations of laws and regulations concerning animals, and to issue violations in accordance with New Jersey law and this Ordinance.

CAREGIVER — Shall mean any person who provides care, including food, water, shelter or medical care to a feral or stray cat on an uncompensated, voluntary basis and who must act in accordance with this Article and any rules and regulations that may be established by the Municipal Council by resolution.

DOMESTICATED CAT — Shall mean a cat that is socialized to humans and is appropriate as a companion for humans and remains indoors.

EAR MARKED — Shall mean a tagged, notched or tipped left ear as performed by a licensed veterinarian.

ELECTRONIC ANIMAL IDENTIFICATION DEVICE (EAID) — Shall mean an electronic chip inserted into the cat by a veterinarian in accordance with professional medical standards.

FERAL CAT — Shall mean a cat that (i) is born in the wild or is the offspring of an owned or feral cat and is not socialized or (ii) is a formerly owned cat that has been abandoned and is no longer socialized and is not appropriate as a companion for humans indoors.

FERAL CAT COLONY — Shall mean a group of cats that congregate, more or less, together as a unit. Although not every cat in a colony may be feral, any nonferal cats that congregate with a colony shall be deemed to be part of it.

NUISANCE — Shall mean disturbing the peace by (a) habitually or continually howling, crying, screaming or other objectionable noise resulting in serious annoyance to a reasonable person, or (b) the habitual and significant destruction, desecration, littering or soiling of public or private property against the wishes of the owner of the property.

OWNER — Shall mean any person, firm, corporation, partnership, association, trust, estate or any other legal entity.

STRAY OR LOST CAT — Shall mean a cat that is off the property of the owner, is not under the physical control and restraint of the owner, is not regularly provided with food by its owner and/or is temporarily lost.

SUITABLE SHELTER — Shall mean a shelter that provides protection from rain, sun and other elements that is adequate to protect the health of the cat.

TRAP NEUTER RETURN PROGRAM/TNR PROGRAM — Shall mean a program pursuant to which feral and stray cats are trapped, neutered or spayed, vaccinated against rabies and returned to the location where they congregate.

5-27.2 Responsibilities of Owners of Domesticated Cats.

- a. Provide appropriate and adequate food, water, and shelter for their cats, pursuant to N.J.S.A. 4:22-26;**
- b. Exercise reasonable care to guard against the cat creating a nuisance;**
- c. Not permit a sexually intact (not spayed or neutered) domesticated cat to roam unsupervised; and**
- d. Not abandon a domesticated cat, pursuant to N.J.S.A. 4:22-26.**

5-27.3 Feral Cat Caregiver Responsibilities:

- a. The City hereby establishes the following feral cat requirements:**
 - 1. Registering the feral cat colony with the City of Bayonne Health Department.**
 - 2. Making reasonable efforts to have all feral cats within their care spayed/neutered and ear-tipped for easy identification. Procedures are to be done by a licensed veterinarian.**
 - 3. Making reasonable efforts to have all feral cats within their care vaccinated against rabies.**
 - 4. Providing the Health Department with a description of each cat in the colony and copies of documents evidencing that the cats have been spayed/neutered and/or vaccinated against rabies.**
 - 5. Obtaining the approval of the owner of any property to which the caregiver requires access in order to provide colony care.**
 - 6. Making reasonable efforts to provide certain necessities to each colony cat under his/her care on a regular/ongoing basis, including, but not limited to, proper nutrition, adequate quantities of visibly clean and fresh water, shelter and medical care as needed. If**

medical care is unavailable or too expensive, the caregiver must not allow the cat to suffer.

7. Feeding is permitted during daylight hours only. Food must be offered to cats in a container and shall not be dumped on the ground. Any food remaining after cats have eaten must be removed before dark. Feeding areas must be maintained in a clean and sanitary condition at all times.
 8. Making reasonable efforts to remove young kittens from the colony after they have been weaned and placing said kittens in homes or foster homes for the purpose of subsequent permanent placement/domestication.
 9. Observing the colony cats at least twice per week and keeping a record of and reporting to the Animal Control Officer any illness or unusual behavior noticed in any colony cats.
 10. Reporting biannually, in writing, by June 30 and December 31 of each year to the Health Department on the status of the colony, including (i) data on the number and gender of all cats in the colony, (ii) the number of cats that have died or otherwise ceased being part of the colony during the year, (iii) the number of kittens born to colony cats and their disposition and (iv) the number of cats and kittens placed in permanent homes as companion cats.
- b. Feral cats meeting the requirements of this Article are exempt from any licensing of this Chapter.
 - c. An Animal Control Officer shall have the right to remove or authorize the removal of any stray cat or feral cat because of immediate public health or safety concerns.
 - d. No feral cat shall be released at any governmentally owned or managed park, natural area, area deemed as environmentally sensitive land or on any easement adjacent to such lands without approval from Animal Control Officer and/or Health Officer and his or her designee.
 - e. Healthy colony cats that have been trapped by the City's Animal Control Officer in accordance with this Article shall be considered to be "on the property of the owner," and thus shall not be subject to impoundment. Healthy feral cats shall be immediately returned to the location at which

they were found, released to a caregiver or adopted. Prior to being returned to the location at which they were found or released to a caregiver, feral cats shall be spayed/neutered and ear tipped while under anesthesia by a licensed veterinarian and vaccinated against rabies.

Notwithstanding the foregoing, whenever such cat is visibly injured or diseased and appears to be suffering and it reasonably appears that such cat cannot be expeditiously cured and returned to the field, transferred to a humane society or private animal nonprofit organization or placed in foster care, then the City's Animal Control Officer, acting in good faith and upon reasonable belief, may humanely euthanize the cat upon the advice of a licensed veterinarian.

5-27.4 Animal Control Officer's Responsibilities:

- a. Provide training for the cat colony caregivers.
- b. Help resolve any complaints over the conduct of a cat colony caregiver or of the cats within a colony with the assistance of the Health Officer.
- c. Provide a monthly activity report to the Health Department with their monthly invoice which includes (i) the date, times and location of service, (ii) source of cat, (iii) breed of cat, (iv) unique identifying features of cat, (v) detailed summary of the work performed for each service call, (vi) veterinary bills related to any and all service, (vii) photograph of the cat and (viii) any reports or complaints received regarding feral cats.
- d. Maintain all required records and documentation related to the service of feral cats in Bayonne in accordance with state and local laws.

5-27.5 Requirements of Feral Cats.

- a. The left ear of a feral cat that has been spayed or neutered shall be earmarked.
- b. The left ear of a feral cat that has been vaccinated shall be earmarked.
- c. If possible, an electronic animal identification device (EAID) shall be inserted into the feral cat by a licensed veterinarian, in accordance with professional medical standards. The registered caregiver shall be named the contact for purposes of the EAID.

5-27.6 Disposition of Feral Cats.

- a. An Animal Control Officer who has trapped a cat whose left ear has been earmarked or which bears some other distinguishing mark indicating that it belongs to a feral cat colony shall scan for an EAID. If an EAID is found, the Animal Control Officer shall be responsible for contacting the registered caregiver or other person named as owner of the cat.**
- b. In event the owner or caregiver is unable to immediately take custody of the cat, an Animal Control Officer shall return the cat to the appropriate colony.**
- c. In the event the cat does not have an EAID, the Animal Control Officer shall contact the Health Department in order for the cat to be properly placed in a colony. In the event the cat is a domestic cat, the Animal Control Officer shall arrange for care of the cat until the owner is located and may determine the disposition of said cat in those circumstances in which the domestic cat's owner cannot be located.**

5-27.7 Funding.

- a. The City established a Trap Neuter Release Reserve Account to fund and provide services to offset the costs of trapping, spaying/neutering and vaccinating captured feral cats that can be returned to an appropriate, controlled, protected and registered colony site.**
- b. The City may establish a fund to support the TNR Program. Any funds collected shall be given to the Chief Financial Officer and placed in an established fund dedicated to the fulfillment of the TNR Program, as allowed under applicable laws.**

5-27.8 Restrictions.

No feral cat colonies shall be permitted to be established in any area designated by state or federal agencies as areas reserved for protected or endangered species of birds.

5-27.9 Enforcement.

The Animal Control Officer shall have the following rights and authority:

- a. 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.

- b. **The right to seize or remove a cat from a colony that is creating a nuisance, as defined above, and the caregiver has been given thirty (30) days to remove and relocate the cat and has failed to do so.**
- c. **The right to seize or remove a colony of cats whenever the caregiver regularly fails to comply with the requirements of this Article and the Animal Control Officer and/or Health Officer and his or her designee has/have not been able to obtain a replacement or substitute caregiver within thirty (30) days of the City's notice and/or violation of the caregiver's failure to comply with this Article.**
- d. **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 FIV or leukemia.**
- e. **The Health Officer and his or her designee shall have the authority to issue notices and/or violations pursuant to this Article.**
- f. **The City Council shall have the authority to adopt by resolution further rules and regulations applicable to the TNR Program that are consistent with this Article.**

5-27.10 Nuisance Abatement and Resolution.

The requirements of this Chapter 5, Article VIII notwithstanding, the Animal Control Officer and/or the Health Officer and his or her designee may investigate any nuisance complaints.

The City's Animal Control Officer and/or the Health Officer and his or her designee shall investigate an alleged violation of this Article upon the receipt of two (2) written complaints in a form provided by the City of Bayonne, signed by two (2) unrelated City residents living in separate dwellings in the close vicinity of the alleged violation. For the enforcement of this subsection, one (1) of the written complaints may be provided by a person who works for a recognized business or agency that regularly or frequently provides service(s) in the close vicinity of the alleged violation. The written complaints shall specify the address or location of the alleged violation, the nature, time and date(s) of the act, the name and address of the owner or caregiver, if known, and a description of the animal, if known.

Animal Control Officer and/or the Health Officer and his or her designee, upon the receipt of two (2) written complaints as provided for in this Article, may issue a

violation to any person, including but not limited to a property owner and/or caregiver, alleged to be in violation of this Article.

5-27.11 Violations and Penalties

Any person who violates any one or more provisions of this Chapter 5, Article VIII, shall upon conviction of a violation, be subject to a minimum fine of \$100 and a maximum fine of \$1,250 for each separate offense. In the case of a continuing violation or violations, a fine of not more than \$1,250 may be assessed for each day that said violation or violations are not corrected or abated. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 2: All ordinances or parts of other ordinances in conflict with the provisions of this Ordinance shall, to the extent of the conflict, be, and are hereby repealed, provided that nothing herein shall in any way excuse or prevent prosecution of any previous existing violation of any ordinance superseded hereby.

SECTION 3: Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 4: This Ordinance shall be in full force and effect from its passage of publication by the Clerk as provided by law and shall continue in effect and operation until lawfully repealed by the Municipal Council of the City of Bayonne.**