

Mayor Nolan offered the following Ordinance pass third and final reading and moved on its adoption and authorized its publication according to law:

ORDINANCE NO. O-11-10
AN ORDINANCE CREATING SECTION 5-16 ENTITLED “ PERMITTING THE MANAGED CARE OF FREE-ROAMING CATS” TO THE REVISED GENERAL ORDINANCE OF THE BOROUGH OF HIGHLANDS

New section 5-16

WHEREAS the Mayor and Council of the Borough of Highlands are aware of the problems in the Borough 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 Borough of Highlands (“Borough”) or the County of Monmouth to address issues created by feral cats; and

WHEREAS, the population of feral cats has been increasing in the Borough; 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 Mayor and Borough Council deem it in the public interest to amend its ordinances in order to meet these stated goals;

THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Highlands, County of Monmouth and State of New Jersey that the following section be added to the Ordinances of the Borough of Highlands as follows:

5-16.1 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 any person employed or appointed by the Borough 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 any person who provides food, water or shelter to or otherwise cares for a cat.

Domesticated cat means a cat that is socialized to humans and is appropriate as a companion for humans.

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 – spraying and neutering the cats to stabilize the population of the Feral Cat colony.

Nuisance means disturbing the peace by (a) habitually or continually howling, crying or screaming, or (b) the habitual and significant destruction, desecration or soiling of property against the wishes of the owner of the property.

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.

Suitable Shelter means shelter 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, 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.

5-16.2 Responsibilities of owners of domesticated cats.

1. Owners of domesticated cats shall provide appropriate and adequate food, water and shelter for their cats.
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.

5-16.3 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. Sponsorship of Colony TNR Programs.

The Monmouth County SPCA is approved as Sponsor. Other persons may apply to the Borough to serve as colony TNR program sponsors (“Sponsors”). Any person or entity so applying shall comply with the requirements of this article for sponsors and execute a Monmouth County SPCA approved sponsor contract. Any person intending to undertake the responsibilities of sponsor shall advise the Monmouth County SPCA in writing and provide his/her/its address and telephone number.

3. Sponsor requirements.

It shall be the duty of the Sponsor to:

- a. Review and approve of colony caregivers;
- b. Help to resolve any complaints over the conduct of a colony Caregiver or of cats within a colony;
- c. 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; and
- d. Report annually to the Borough on the following:
 - i. number of colonies in the Borough;
 - ii. total number of cats in colonies;
 - iii. number of cats and kittens spayed and neutered pursuant to the TNR program; and
 - iv. number of cats and kittens placed in permanent homes.
- e. Register Feral Cat colonies as provided in Section 4.
- f. Equally responsible with that of the Animal Control Officer for humanely capturing, trapping, neutering, vaccinating, identifying and spaying or neutering feral cats.
- g. Obtain and maintain liability insurance for all activities, actions and work performed pursuant to Ordinance and laws of the State of New Jersey, naming the Borough of Highlands as an additional named insured and providing an annual copy of the Declaration of Insurance and proof of payment of the same.

4. Feral Cat Caregiver requirements.

Caregivers are responsible for the following:

- a. registering the Feral Cat colony with the Sponsor;
- b. taking steps that are reasonably likely to result in the vaccination of the colony population for rabies and making reasonable efforts to update the vaccinations on cats that can be recaptured;
- c. taking steps that are reasonably likely to further the objective of the spay/neuter of at least ninety percent (90%) of the colony population;

- d. 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;
 - e. providing food, water and, if feasible, shelter for colony cats;
 - f. observing the colony cats at least twice per week and keeping a record of any illnesses or unusual behavior noticed in any colony cats;
 - g. obtaining the approval, in writing, of the owner of any property, to which the Caregiver requires access to provide colony care;
 - h. 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;
 - i. 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; and
 - j. obtaining proper medical attention to any colony cat that appears to require it.
 - k. taking reasonable steps to prevent cats from creating a nuisance in adjacent properties.
5. 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) 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.
6. 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 can not 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.

i. Requirements in General.

- a. It shall be the responsibility of all residents of Highlands 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.

7. Registration of Feral Cat colonies.

- a. The sponsor shall register Feral Cat colonies maintained by approved Caregivers. Feral Cat colonies within the Borough 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 Borough of Highlands with a colony management plan for the Borough 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 Borough administrator.

5-16.4 Ordinance Enforcement.

1. The Borough shall have the following rights:

- 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 and Sponsor have been given 30 days to remove and relocate the cat and have failed to do so.
- c. the right to seize or remove a colony of cats when the Caregiver regularly fails to comply with the requirements of this Article and the Sponsor has not been able to obtain a replacement or substitute Caregiver within 30 days of the Borough's notice to the Sponsor of the Caregiver's failure to comply with this Ordinance.

2. The requirements of this Ordinance notwithstanding, Animal Control Officers and Police Officers may investigate any Nuisance complaint.

5-16.5 Study and Review.

Not later than December 31, 2015, the Borough of Highlands shall study the effectiveness of the TNR Program and review the continuance of this Ordinance. This Ordinance however shall continue as provided until specifically rescinded or amended.

5-16.6

All ordinances or parts of ordinances inconsistent with this Ordinance are repealed to the extent of such inconsistency.

5-16.7

If for any reason any Section of this Ordinance shall be declared unconstitutional or illegal by any court of competent jurisdiction, the remaining sections hereof shall remain in full force and effect.

5-16.8

This Ordinance shall take effect upon final passage and publication according to law.
Seconded by Mr. Francy and adopted on the following roll call vote:

ROLL CALLL:

AYES: Mr. O’Neil, Mr. Francy, Ms. Kane, Mayor Nolan
NAYES: Mr. Connelly
ABSENT: None
ABSTAIN: None

DATE: May 4, 2011

CAROLYN CUMMINS, BOROUGH CLERK

Introduced: April 6, 2011
Publication: April 15, 2011, Two River Times
P.H./Adoption: May 4, 2011
Publication:

I hereby certify this to be a true copy of Ordinance O-11-10 adopted by the Governing Body of the Borough of Highlands on May 4, 2011.

BOROUGH CLERK/DEPUTY CLERK