

ORDINANCE NO. 2013-21

**ORDINANCE OF THE BOROUGH OF RED BANK,
COUNTY OF MONMOUTH, NEW JERSEY
AMENDING AND SUPPLEMENTING
CHAPTER V, "ANIMAL CONTROL"
ADDING NEW SECTION 5-5 "FERAL CATS"**

Mr. DuPont offered the following ordinance and moved its adoption on final reading:

WHEREAS, feral cats are free-roaming cats that can't live with humans or adapt to living as pets that often times live short lives struggling to find the basic elements of survival such as food, water and shelter; and

WHEREAS, feral cats constantly face the risk of disease and cruelty in an effort to survive and are usually found living in groups called colonies taking refuge in abandoned buildings; and

WHEREAS, the Monmouth County SPCA (MCSPCA) is working to address the feral cat issue by partnering with local towns to establish an effective Trap-Neuter-Return (TNR) program. TNR programs are a humane method of trapping feral cats, having them spayed or neutered, vaccinated for rabies, ear tipped, microchipped and then returning them to their colony to be cared for by a certified caregiver for the rest of their lives; and

WHEREAS, the Governing Body of the Borough of Red Bank finds and declares that stray and feral cats pose a danger to the health, safety, and welfare of the public, and desires to adopt an ordinance to establish a TNR program for Feral Cats in partnership with the MCSPCA; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank that Chapter V of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, "Animal Control," is hereby amended and supplemented as follows
(*strikeouts denote deletions, underlined text denote additions*):

SECTION ONE: Chapter V Animal Control is hereby amended and supplemented to add the following new subsection 5-5 entitled "Feral Cats".

Chapter V ANIMAL CONTROL

5-1 DOGS

No Change.

5-2 PENALTIES

No Change.

5-3 CATS

No Change.

5-4 VISCIOUS AND POTENIALLY DANGEROUS DOGS.

No Change.

5-5 FERAL CATS

5-5.1 Definitions.

The following terms shall have the meanings 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 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 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 Any person trained by a sponsor who provides food, water or shelter to or otherwise cares for a cat.

CAT As defined under Section 5-3.1 of this chapter.

DOMESTICATED CAT A cat that is socialized to humans and is appropriate as a companion for humans.

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

FERAL CAT A cat that is completely unsocialized and is not adoptable as a companion animal without significant rehabilitation that may or may not be successful.

FERAL CAT COLONY 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 (free-roaming) cats that congregate with a colony shall be deemed to be a part of it.

FREE-ROAMING CAT A cat that is regularly off the property of the owner and is not under the physical control and restraint of the owner.

NEUTERED As defined under Section 5-3.1 of this chapter.

NUISANCE Disturbing the peace by:

A. Habitually or continually howling, crying or screaming over a period of time; or

B. The habitual and significant destruction, desecration or soiling of property against the wishes of the owner of the property.

OWNER As defined under Section 5-3.1 of this chapter.

RESCUE GROUP 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.

SUITABLE SHELTER Shelter that provides protection from rain, sun, and other elements that is adequate to protect the health of the cat.

TNR Trap, neuter and return.

TNR PROGRAM A program pursuant to which feral and free-roaming cats are trapped, neutered or spayed, vaccinated against rabies and returned to the location where they congregate (if appropriate).

ZOONOTIC DISEASE Those diseases transmittable to humans from animals, including parasitic, bacterial, fungal and viral diseases.

5-5.2 Protection of endangered and protected species.

It shall be the duty of all individuals to avoid taking rare, threatened, or endangered species, or other federal trust resources under the applicable federal and state laws, including the federal Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703-712), and the New Jersey Endangered and Nongame Species Conservation Act of 1973 (N.J.S.A. 23:2A et seq.).

5-5.3 Responsibilities of owners of domesticated cats.

A. Owners of domesticated cats shall provide appropriate and adequate food, water and shelter for their cats. Owners of domesticated cats shall be encouraged to

keep their cats indoors at all times. The owner of a domesticated cat shall license that cat pursuant to Borough ordinances.

- B. The owner of a domesticated cat shall exercise reasonable care to guard against the cat creating a nuisance.
- C. The owner of a sexually intact (not spayed or neutered) domesticated cat shall not permit his/her cat to roam unsupervised.
- D. An owner shall not abandon a domesticated cat.
- E. An owner shall adhere to the provisions of Section 5-3 of this chapter.

5-5.4 Feral cat colonies.

- A. Feral cat colonies shall be permitted, and caregivers shall be entitled to maintain them strictly in accordance with the terms and conditions of this article.
- B. Sponsorship of colony TNR programs. The Monmouth County S.P.C.A. is approved as sponsor.
- C. Sponsor requirements: It shall be the duty of the sponsor to:
 - 1. Register feral cat colonies as provided in Subsection G;
 - 2. Review and approve of colony caregivers;
 - 3. Help to resolve any complaints over the conduct of a colony caregiver or of cats within a colony;
 - 4. 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
 - 5. Report annually to the Borough Clerk and Animal Control Officer on the following:
 - a. Number of colonies in the Borough and the location of each colony;
 - b. Total number of cats in each colony;
 - c. Number of cats and kittens spayed and neutered pursuant to the TNR program; and
 - d. Number of cats and kittens placed in permanent homes.
 - e. The Borough Clerk shall provide copies of this data to the United States Fish and Wildlife Service New Jersey Field Office and the New Jersey Division of Fish and Wildlife, as appropriate.
 - 6. The sponsor shall obtain and maintain liability insurance for all activities, actions and work performed pursuant to this article and the laws of this state, naming the Borough of Red Bank as an additional named insured, providing an annual copy of the declaration of insurance and proof of payment of same.
- D. Feral cat caregiver requirements. Caregivers are responsible for the following:
 - 1. Registering the feral cat colony with the sponsor;
 - 2. Taking reasonable steps 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;
 - 3. Taking reasonable steps to result in the spay/neuter, by a licensed veterinarian, of the colony population;
 - 4. Finding permanent, inside homes for colony cats who exhibit the potential for acclimating to such a placement;

5. 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;
 6. Providing food, water and, if feasible, shelter for colony cats, as well as providing adequate containment and disposal of the products of defecation; failure to clean the area shall constitute a violation of this article and the caregiver is subject to fines and penalties as provided for by Borough Ordinance.
 7. Observing the colony cats at least twice per week and keeping a record of any illnesses or unusual behavior noticed in any colony cats;
 8. Obtaining the written approval of the owner of any property, to which the caregiver requires access to provide colony care;
 9. Taking reasonable steps to prevent colony cats from creating a nuisance on adjacent properties;
 10. 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;
 11. 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
 12. Obtaining proper medical attention to any colony cat that appears to require it.
- E. Colony cat requirements.
1. The left ear of a colony cat that has been spayed or neutered and vaccinated shall be ear tipped.
 2. 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.
- F. Disposition of colony cats.
1. An Animal Control Officer 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 the cat for an EAID. If an EAID is found, the officer shall be responsible for contacting the sponsor or other person named as owner of the cat.
 2. 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.
 3. 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.

G. Registration of feral cat colonies.

1. 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 article. No colonies may be established except in accordance with this article.

5-5.5 Enforcement.

A. Rights of the Borough. The Borough shall have the following rights:

1. The right to seize or remove cats from a colony that have not been vaccinated against rabies and/or cats that are demonstrating signs of the disease.
2. 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 10 days to remove and relocate the cat and have failed to do so.
3. 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 10 days of the Borough's notice to the sponsor of the caregiver's failure to comply with this article.

B. Nuisance complaints.

1. The requirements of this article notwithstanding, animal control officers and police officers may investigate any nuisance complaint.
2. The provisions of 5-3.1 through 5-3.4 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 Borough.

5-5.6 Study and review.

Not later than December 31, 2015, the Borough of Red Bank shall study the effectiveness of the TNR program and review the continuance of this article. If the TNR program is eliminated, the Borough's Animal Control Officer (ACO) shall resume primary responsibility for the management of feral cats within the Borough, including, as necessary, the capture and transport to the County Animal Shelter for handling in accordance with the interlocal agreement between the Borough and the county applicable to handling such animals. The Borough will also continue to work in partnership with the United States Fish and Wildlife Service and the New Jersey Division of Fish and Wildlife to control cats in sensitive wildlife locations.

5-5 5-6 CANVASSING

No Change.

5-6 5-7 PET WASTE.

No Change.

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and adoption according to law.

Seconded by Ms. Lee and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Ms. Lewis	(x)	()	()	()
Mr. Zipprich	(x)	()	()	()
Mr. DuPont	(x)	()	()	()
Ms. Horgan	(x)	()	()	()
Ms. Lee	(x)	()	()	()
Mr. Murphy	(x)	()	()	()

Dated: October 9, 2013