

Borough of Matawan

Public Notice of Pending Ordinance 23-01

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Governing Body of the Borough of Matawan, in the County of Monmouth, State of New Jersey, on January 17, 2023. It will be further considered for final passage, after public hearing thereon, at a meeting of the Governing Body to be held at the Borough of Matawan, Matawan Municipal Community Center, 201 Broad Street, Matawan, New Jersey 07747 on February 7, 2023 at 7:00 o'clock PM. During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's Office for the members of the general public who shall request the same or on the Borough of Matawan website at www.matawanborough.com.

Karen Wynne, RMC
Municipal Clerk

**ORDINANCE 23-01
AMENDING AND SUPPLEMENTING CHAPTER V OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF MATAWAN
CHAPTER 5-13: ANIMAL CONTROL ENTITLED
"PERMITTING THE MANAGED CARE OF FREE ROAMING CATS AND
ESTABLISHING A MUNICIPAL COMMUNITY CAT ORDINANCE OF THE
BOROUGH OF MATAWAN**

WHEREAS, the Mayor and Council of the Borough of Matawan is aware of the problems in the Borough caused by feral cat populations; and

WHEREAS, there are no existing facilities in Matawan or Monmouth County to comprehensively address issues created by feral cats; and

WHEREAS, studies that have been undertaken have determined that the practice of trapping and euthanizing feral cats is not effective in reducing their numbers; and

WHEREAS, it is the desire for of the Mayor and Council to adopt a humane and modern approach to the issue of management of the feral cat population that includes a Trap-Neuter-Return (TNR) program to decrease the number of cats in the environment and thereby reduce feral cat predation on wildlife; and

WHEREAS, TNR programs for the managed care of community cat populations and return neutered 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, the Mayor and Council deems it in the public interest to amend its Ordinances in order to accomplish these stated goals:

NOW, THEREFORE, BE IT ORDAINED by the MAYOR and COUNCIL of the

Borough of Matawan, Monmouth County, New Jersey, hereby amends and supplements the Code of the Borough of Matawan Chapter 5 - 13 Animal Control, as follows:

1. Chapter V of the Borough Code, "Animal Control" is hereby amended to add Chapter 5-13, an Ordinance "Permitting the Management of Free Roaming Cats and Establishing a Community Cat Ordinance".

SECTION 5-13(1): TITLE: AN ORDINANCE PERMITTING THE MANAGEMENT OF FREE ROAMING CATS AND ESTABLISHING A COMMUNITY CAT ORDINANCE.

SECTION 5-13(2): DEFINITIONS:

ANIMAL: "Animal" means any live vertebrate creature including mammals, birds, reptiles, amphibians and fish, but not humans.

ANIMAL CONTROL OFFICER "Animal control officer" or "ACO" means a person 18 years of age or older who has satisfactorily completed the course of study approved by the Commissioner of Health and Senior Services of the State of New Jersey and the Police Training Commission as prescribed by paragraphs (1) through (3) of subsection a. of section 3 of N.J. P.L.1983, c. 525 (C.4:19-15.16a); or who has been employed in the State of New Jersey in the capacity of and with similar responsibilities to those required of, a certified animal control officer pursuant to the provisions of N.J. P.L.1983, c. 525 for a period of three years before January 17, 1987.

ANIMAL RESCUE ORGANIZATION "Animal rescue organization" means an individual or group of individuals who, with or without salary or compensation, house and care for homeless animals in the home of an individual or in other facilities, with the intent of placing the animals in responsible, more permanent homes as soon as possible.

ANIMAL RESCUE ORGANIZATION FACILITY "Animal rescue organization facility" means the home or other facility in which an animal rescue organization houses and cares for an animal.

ANIMAL SHELTER: "Animal shelter" shall mean any recognized, established facility or organization where animals are received, housed and provided veterinary care (if required), adopted out or otherwise transported to other recognized animal care agencies; or any facility establishment where animals are received, housed, and distributed to care agencies which the Borough has contracted for such services but expressly does not include any pet store or retail establishment that sells animals.

AT-LARGE: "At-large" means that an animal that is off the property of its owner and (1) the animal has entered upon the property of another person without authorization of that person, or (ii) the animal has entered onto public property, street or right-of-way, unless that animal is restrained by its owner, or a person caring for the animal on behalf of the owner, with a physical control device, such that the animal is under the physical control of the owner or person caring for the animal on behalf of the owner.

CAT: "Cat" means a member of the species *Felis catus*.

CAT OF LICENSING AGE: "Cat of licensing age" shall mean any cat which is not a community cat which has attained the age of seven months or, if age cannot be determined, a cat which possesses a set of permanent teeth.

COMMUNITY CAT: "Community cat" means any free-roaming cat that may be cared for by one or more persons that is located within the boundaries of the Borough of Matawan. Community cats may or may not be feral or neutered.

COMMUNITY CAT CAREGIVER: "Community Cat Caregiver" means any person who, in accordance with a community cat management/TNR program entered into with the Borough of Matawan to trap, neuter, vaccinate for rabies, ear tip and return free-roaming cats or feral cats:

1. Neuters, vaccinates for rabies, ear tip and return free roaming or feral cats;
2. Provides care including but not limited to food, shelter, and medical care or other sustenance measures when reasonably required to the cat; or
3. Has temporary custody of the cat.

COMMUNITY CAT COLONY: "Community Cat Colony" means a single community cat or a group of community cats that congregate together outside 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 part of it.

EARTIPPING: "Ear tipping" means the straight-line cutting of the tip of one ear of a cat with a horizontal; "V" while the cat is anesthetized and performed by a Veterinarian licensed by the State of New Jersey. Ear tipping the left ear is the best and universally accepted practice; although in the past cats may have been ear-tipped on the right ear.

FERAL CAT: "Feral Cat" means a cat that is unsocialized to humans and has a temperament of extreme fear of, and resistance to, contact with humans. Feral cats are included in the definition of "community cats" as community cats may or may not be feral. Feral cats are:

1. Born in the wild; or
2. Offspring of socialized or feral cats and not socialized; or
3. Formerly socialized cats that have been abandoned and have reverted to an unsocialized state.

FOSTER HOME "Foster home" means placement by an animal rescue organization of a cat or dog with an individual or group that is not an animal rescue organization for the purpose of temporarily caring for the cat or dog, without the individual or group assuming ownership, and with the intent of the individual or group relinquishing the cat or dog to the animal rescue organization or a suitable owner when one is located. A foster home may provide care to a cat or dog without the effect of the fostered cat or dog counting toward a municipality's household pet limit (should one exist); however, individuals or groups providing care in a foster home must comply with all other provisions of this ordinance.

HARBOR: "Harbor" means the act of caring for and keeping an animal or the act of providing a premise or residence to which the animal returns for food, shelter or care, where the caregiver is providing the primary source of sustenance for the animal for at least ten days, whichever

time is shorter. Community cat caregivers do not harbor community cats for the purposes of this ordinance but are subject to the provisions of the ordinance pertaining to community cats.

MICROCHIP: "Microchip" means an electronic animal identification device that is inserted into an animal, typically on the back between the shoulder blades, by a veterinarian in accordance with professional medical standards.

MUNICIPALITY: Borough of Matawan

NEUTER: To neuter an animal means to have a licensed veterinarian surgically sterilize the animal. For the purposes of this ordinance, neuter shall mean to neuter a male animal or spay a female animal.

NUISANCE: "Nuisance" means disturbing the peace by:

1. Habitual or continuous screaming or such other sounds made by a cat that lasts in excess of fifteen (15) continuous minutes which results in a serious annoyance to the hearer of the noise or continuous sound.
2. For the purpose of this ordinance, "habitually" means occurring on at least two separate occasions within a time period of one month; except that the screaming habitually, means making the sound persistently or continuously for at least 15 minutes occurring at least three separate times within a period of eight hours. For the purposes of this ordinance, "persistently" or "continuously" shall mean non-stop utterances for 30 consecutive minutes with interruption of less than 30 seconds at a time.

OWNER: "Owner" means any person, household, firm, corporation, or other organization who:

- a. Possesses, harbors, keeps, has control of a legal title to, a property interest in, or permanent custody of any animal regulated by this ordinance; or
- b. For three days or more has temporary custody of: keeps, possesses, or exercises control over any animal.

A person must be age 18 or older to be considered the legal owner of an animal. If a person under age 18 is considered the custodian or caretaker of the animal, the parent or legal guardian shall be considered the legal owner of the animal.

A community cat caregiver is not an owner of community cats for the purposes of this ordinance but is subject to the provisions pertaining to community cat caregivers.

PET SHOP: "Pet shop" shall mean any place of business which is not part of a kennel, wherein animals, including, but not limited to, dogs, cats, birds, fish, reptiles, rabbits, hamsters or gerbils, are kept or displayed chiefly for the purpose of sale to individuals for personal appreciation and companionship rather than for business or research purposes.

PHYSICAL CONTROL: "Physical control" means adequate ability to reasonably manage the actions of the animal to prevent the animal from engaging in biting, physical aggression towards people or animals, straying, or being at-large or other behavior regulated by this ordinance or state law.

POUND: "Pound" shall mean an establishment for the confinement of animals seized or captured by a municipality or the agent of a municipality under the provisions of this ordinance, or otherwise.

PROPER SHELTER: "Proper shelter" means a structure that is designed to protect cats in a reasonably close location to the area where the colony is being fed.

It will be designed and built according to accepted designs with materials that protects an animal from weather and is sufficiently ventilated and insulated to provide refuge from precipitation, wind, extreme temperature and direct sunlight; and

1. is fully enclosed with sturdy materials on three sides, with a fourth wall having an entranceway large enough to allow the animal to enter and exit comfortably, but not so large as to allow all heat to escape in cold temperatures; and
2. has a solid, waterproof roof; and
3. has a solid floor that does not sag under the animal's weight; and
4. has a door or flap covering the entranceway during temperatures of 40 degrees or below;
5. is positioned at a sufficient elevation to prevent water from running into the structure; and
6. is small enough to retain the animal's body heat in cold weather and large enough for the animal to stand, turn around and lay down in comfortably; and
7. is sturdy and structurally sound and in good repair; and
8. if it contains straw and such bedding shall be clean and dry; and
9. is surrounded by an area that is clear of debris, feces, and urine.
10. The materials that constitute the structure shall be periodically replaced to ensure cleanliness and that the insulation is sufficient for the needs of the colony.

SEVERE INJURY "Severe injury" means any physical injury that results in one or more broken bones or one or more lacerations requiring sutures, or an injury requiring reconstructive or plastic surgery.

SHELTER "Shelter" means any establishment where dogs or other animals are received, housed and distributed.

SPONSOR -an individual or entity qualified and approved by the Board of Health, if required. Borough Council to provide the services, and undertake the responsibilities of a TNR Program Sponsor, as set forth more fully in this Article.

STRAY: "Stray" means any animal that is found to be at-large, whether lost by its owner or otherwise, or that is on the common areas of apartments, condominiums, trailer parks or other multi-residential premises, and that does not have identification tag and for which there is no identifiable owner. The term "stray" shall not be applied to community cats managed in accordance with this ordinance.

SUFFICIENT FOOD: "Sufficient food" means access to uncontaminated, palatable food, appropriate for the species of animal, on a regular, ongoing basis in quantities sufficient to maintain a regular body weight as determined by Purina Body Score System or a veterinarian.

SUFFICIENT WATER: "Sufficient water" means access to clean, potable water on a regular, ongoing basis in quantities sufficient to prevent the animal from experiencing dehydration.

TNR: "TNR" means Trap-Neuter-Return.

TNR PROGRAM: "TNR Program" means a program pursuant to which community feral and stray cats are humanely trapped, spayed or neutered, vaccinated against rabies, and returned to the location at which they were trapped. A cat may receive a microchip as part of a TNR Program.

TRAP/HUMANE TRAP: "Trap" or "Humane Trap" means any trap used to capture stray dogs or cats that is constructed so that it does not harm the animal.

VETERINARIAN: "Veterinarian" means an individual who is licensed to engage in the practice of veterinary medicine in the State of New Jersey.

SECTION 5-13 (3): GENERAL PROVISIONS:

1. No person shall maintain, feed or keep a cat on private property without the written consent of the owner. No cat shall be maintained in a manner on any property that causes unsanitary conditions; infestation of insects or rodents; or any physical condition that endanger the health or safety of humans.
2. Community cat colonies shall be permitted, and caregivers shall be entitled to maintain them, in accordance with the terms and conditions of this chapter.

SECTION 5-13 (4): RESPONSIBILITIES OF CAT OWNERS OR CAREGIVERS OF COMMUNITY CAT COLONIES:

3. Owners of cats and Caregivers of Cat Colonies shall provide the cat (s) sufficient food; water; proper shelter and protection from weather; veterinary care as needed; grooming as required to prevent suffering; grooming as needed to prevent suffering; and other generally accepted standards of humane care and treatment.
4. The owner of a domesticated cat and Caregivers of Cat Colonies shall exercise reasonable care to prevent the cat from becoming a nuisance as defined herein.
5. The owner of a sexually intact (unneutered) domesticated cat shall not permit his/her cat to roam unsupervised.
6. An owner shall not abandon a domesticated animal in any private or public place. Engaging in Trap-Neuter-Return of feral cats in a manner consistent with the tenets of this Ordinance shall not be considered abandonment.
7. An owner of a domesticated cat (or other animal) shall ensure that the animal does not run or roam at-large.

SECTION 5-13 (5): COMMUNITY CAT MANAGEMENT Initiative's/TNR PROGRAM:

Matawan believes that the safest place for pet cats is indoors. Matawan also recognizes that feral and community cats, as defined in this chapter, are not, in the vast majority of cases, suitable to be taken indoors as pets, and their home is outdoors. The Borough further recognizes the need for innovation in addressing the issues presented by community cats.

To that end, Matawan finds that properly managed community cats are part of the solution to reducing the numbers of feral cats in the Borough of Matawan and the rate of euthanasia of cats in area shelters.

Community Cat Colonies shall be permitted in Matawan as part of a Community Cat Management/TNR Program in accordance with the following provisions:

1. Community Cat Caregivers - Community Cat Caregivers must ensure community cats are sterilized, vaccinated against the threat of rabies, and ear-tipped, and must cooperate with the Municipality to abate any nuisance.
2. Location of Community Cat Colonies - All managed community cat colonies must be maintained in compliance with trespassing and property laws.
3. Requirements for exemptions from certain provisions of this chapter - All cats that are part of an approved TNR/community cat program pursuant to this Chapter must be sterilized, vaccinated against the threat of rabies, and ear-tipped for easy identification. If these requirements are met the community cat is exempted from licensing, stray and at-large provisions of this and other ordinances.
4. The Provisions and terms of this Ordinance as it concerns Community Cat Colonies, and their protections shall supersede and inconsistency between the terms of the within Ordinance and the terms of any agreement with the Agency or Entity that is contracted to administer the Animal welfare regulations of the Borough of Matawan; the inconsistent terms of the Animal Control Service Agreement and/or Agreement on the administration of the TNR Program in the Borough of Matawan.

SECTION 5-13 (6): TRAPPING OF CATS BY NON COMMUNITY CAT CAREGIVERS:

1. A person who is not a community cat caregivers as defined in this ordinance, or who is not an Animal Control Officer employed by the Matawan, or a members of law enforcement, who traps a free roaming cat(s) for the purpose of providing medical attention to a sick or injured cat; or for the purpose of TNR, shall notify the Matawan ACO within 24 hours of the trapping of the cat(s); who will thereupon take possession of the cat. The ACO shall then make all reasonable efforts to determine if the cat is privately owned or belongs to an existing colony. The ACO or the contracted facility where the animal is taken shall contact the owner or colony caregiver as soon as possible by documented phone call or written notice. If the owner or community caretaker is unreachable within a reasonable period, and the cat is in need of medical attention, said treatment shall be provided without regard to contact the owner or caregiver. Medically necessary decisions shall include the opinion of a Veterinarian that the cat is suffering and should be humanely euthanized. All the costs of medical treatment provided to a privately owned cat, inclusive of euthanasia, shall be the responsibility of the owner.
2. The ACO shall undertake all reasonable measures to determine if the cat is privately owned or a member of an existing Cat Colony. The ACO shall undertake all reasonable measures to notify the owner of the cat in writing or the Cat Colony caregiver what medical and other actions will be undertaken to safeguard the condition of the cat. The ACO shall be authorized to undertake needed medical attention on behalf of the cat if the owner and Caregiver cannot be located to assist the cat. All care expenses of a

privately owned cat shall be borne by the owner.

SECTION 5-13 (7): DISPOSITION OF EAR TIPPED COMMUNITY 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 transport the cat to contracted municipal shelter, where the cat will be scanned of a microchip. If a registered microchip is found, the registered owner or colony caregiver will be contacted and advised the cat is located at the facility under contract by the Borough to provide shelter services.
 - a) The owner or colony caregiver shall be responsible for retrieving the cat from the shelter facility within 7 calendar days or advising the shelter if the owner or caregiver does not intend to retrieve the cat.

SECTION 5-13 (8): COMMUNITY CATS SUSPECTED OF BEING RABID:

If a trapped Community Cat is suspected of being rabid, the animal shall be immediately reported to the ACO and shall be quarantined, observed, and otherwise handled and dealt with as appropriate for an animal suspected of being rabid, or as required by the Department of Health.

SECTION 5-13 (9): PROCEDURES FOR THE RESOLUTION OF COMPLAINTS:

2. The requirements of this article notwithstanding, animal control officers may investigate any nuisance complaint. If an animal control officer determines that an ear-tipped community cat is causing a nuisance as defined by this article, the animal control officer shall attempt to contact the caregiver or owner. The caregiver or owner shall begin nuisance abatement procedures within 48 hours and make all reasonable efforts to resolve the nuisance in as short a time period as possible, not to exceed 60 days. If the caregiver or owner fails to resolve the nuisance, the animal control officer may remove the cat. If an animal control officer removes a community cat, the facility contracted by Matawan must notify the Community Cat caregiver and allow the caregiver to retrieve the cat from the facility for adoption or relocation. If an animal control officer reasonably determines that a cat is injured or poses a significant threat to public health, the officer may reduce the time that the owner or caregiver has to resolve the complaint, as necessary to protect the cat and public health, before taking further action. In the case of an emergency, the animal control officer may remove the cat, but within 24 hours the animal control officer must provide the caregiver or owner with notice of the cat's whereabouts and allow the caregiver or owner an opportunity to retrieve the cat for treatment, return, or relocation.
3. Factors to be considered during the nuisance abatement process shall include:
 - a) Recognition of the value of wildlife;
 - b) Recognition of the value of TNR in managing community cat colonies;
 - c) The availability of devices and strategies to minimize nuisance behavior by community cats that may have caused the complaint.

SECTION 5-13 (10): ENFORCEMENT OF THE TNR PROGRAM OF THE BOROUGH OF MATAWAN:

Enforcement of Community Cat Management Initiative/TNR Program of the Borough of Matawan shall have the following rights:

1. The right to seize or remove cats from a colony which have not been vaccinated against rabies and which are demonstrating signs of the disease.
2. The right to seize or remove a cat from a colony which is creating a nuisance as defined in this ordinance, after the community cat caregiver has been given 60 days to abate the nuisance or remove and relocate the cat and have failed to do so. The caregiver must begin nuisance abatement procedures within 48 hours after being notified of a nuisance by an animal control officer and must take all reasonable steps to resolve the nuisance in as short a time as possible, not to exceed 60 days.

SECTION 5-13 (11): TRAPPING REQUIREMENTS: It shall be unlawful and inhumane for any person to use inhumane methods to capture dogs, fowl, cats or any other animal. The trapping of any cat or any animal for any reason must meet the following requirements:

1. Traps shall not be left unattended for more than two hours;
2. Traps shall not be left set overnight;
3. In no event shall a trap be placed directly in the sun during the late spring or summer months. At no time shall a trap be left unattended in temperatures above 65 degrees F. or below 55 degrees F, or in snow, rain, or other extreme weather conditions.
4. Traps used to capture cats or any animals shall be of the type that is universally recognized as Humane Traps.
5. Any person who is found to be in violation of the provisions of this TNR Ordinance subsection for a Trapping violation shall be subject to a fine not to exceed \$150.00 for each offense.

SECTION 5-13 (12): ANIMALS AT LARGE PROHIBITED:

It shall be an offense under this section for any person having temporary possession/ custody of any cat under this provision to negligently or intentionally permit a sterilized or unsterilized cat to run at large. If the cat is trapped or retrieved while running at large, the owner shall be responsible for the cat under the provisions of this Chapter.

SECTION 5-13 (13): EXEMPTIONS:

1. A cat shall be considered exempt from these provisions if:
 - a. The ear tipped cat is part of a community cat management/TNR program in accordance with this ordinance; or if the ear tipped cat is part of a maintained colony but has not yet been trapped to be sterilized, vaccinated or ear tipped; in which case those cats shall not be considered cats roaming at large.

SECTION 5-13 (14): DESERTION/ABANDONMENT OF AN ANIMAL:

1. No person shall desert or abandon any cat or other animal at any public or private location, including at or in close proximity to a known community cat colony location.
2. The practice of TNR and the provision of care to a community cat in accordance

with the provisions of this ordinance do not constitute desertion or abandonment of the community cat. However, the placement of a cat at a community cat colony by a person other than the community cat caregiver, constitutes abandonment.

3. Any person who is found to be in violation of the provisions of this section shall be subject to a fine of \$350.00 for a first offense. For a Second offense, the Court may impose a fine not less than \$350.00 and up to the sum of \$700.00. The Court shall double the amount paid by an offender for the second offense for a Third offense.
4. The Fines set forth in this Ordinance are in addition to and are separate from any fines that may be imposed by a Court for violations of defendants charged for violation of the New Jersey Animal Cruelty Statute for abandonment.

BE IT FURTHER ORDAINED, any Ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies only.

BE IT FURTHER ORDAINED, if any provisions 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.

BE IT FURTHER ORDAINED, this Ordinance shall take effect immediately upon following the passage, adoption and publication pursuant to New Jersey State law.