

## AGENDA

AGENDA OF THE WORK SESSION OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, AND STATE OF ARIZONA, TO BE HELD ON TUESDAY, JANUARY 14, 2020 AT 5:30 PM AT THE CITY HALL BUILDING, 915 S. TOVREAVILLE ROAD, BISBEE, ARIZONA.

THE MEETING WAS CALLED TO ORDER BY \_\_\_\_\_ AT \_\_\_\_\_ PM.

### ROLL CALL

#### **COUNCIL**

Councilmember Louis Pawlik, Ward III, Mayor Pro Tempore  
Councilmember Joni Giacomino, Ward II  
Councilmember Bill Higgins, Ward I  
Mayor David M. Smith  
Councilmember Leslie Johns, Ward I  
Councilmember Joan Hansen, Ward II  
Councilmember Anna Cline, Ward III

#### **STAFF**

Theresa Coleman, City Manager  
Ashlee Coronado, City Clerk  
Keri Bagley, Finance Director  
Joelle Landers, Personnel Director  
Jesus Haro, Public Works Director  
Albert Echave, Police Chief  
George Castillo, Fire Chief

#### **CITY ATTORNEY**

James Ledbetter

THE FOLLOWING ITEM WILL BE DISCUSSED AND/OR CONSIDERED AT THESE MEETINGS:

1. Discussion on the proposed Animal Ordinance.  
Theresa Coleman, City Manager

### ADJOURNMENT

Individuals with hearing disabilities can contact the City Clerk's Office (520) 432-6012 to request an Assisted Listening Device, at least 24 hours before the meeting.

Anyone needing special accommodation to attend this meeting should contact Ashlee Coronado at (520) 432-6012 at least twenty-four hours before the meeting.

Public documents referred to herein may be viewed during regular business hours at the City Clerk's Office at 915 S. Tovreaville Rd., Bisbee, AZ.

Pursuant to A.R.S. § 38-431.03(A) (3), the Council may vote to enter executive session at any point during this meeting for discussion or consultation for legal advice with its attorney(s), who may appear telephonically.



AGENDA ITEM NUMBER 1

## MAYOR & COUNCIL WORK SESSION FOR JANUARY 14, 2020

**DATE ACTION SUBMITTED:** January 8, 2020

**PRESENTATION/ DISCUSSION ONLY**

**SUBJECT: DISCUSSION ON THE PROPOSED ANIMAL ORDINANCE**

**FROM:** Theresa Coleman, City Manager

**RECOMMENDATION:** DISCUSSION ONLY

**PROPOSED MOTION:** WORK SESSION ONLY

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**DISCUSSION:**

The proposed Animal Ordinance was drafted by staff after comparing other Animal Ordinances with various cities and towns in Arizona. Staff also took articles from the American Bird Conservancy into consideration when dealing with the subject of feral cats. The section on defanging and declawing vicious dogs was part of the existing Code that was adopted by Mayor and Council in 2014 and was not a new addition.

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**FISCAL IMPACT:**

**DEPARTMENT LINE ITEM ACCOUNT:**

**BALANCE IN LINE ITEM IF APPROVED:**

**Prepared by:** Ashlee Coronado  
Ashlee Coronado  
City Clerk

**Reviewed by:** Theresa Coleman  
Theresa Coleman  
City Manager

**AN ORDINANCE OF THE CITY OF BISBEE, AMENDING THE CITY CODE,  
CHAPTER 6, ANIMALS, AND PROVIDING FOR REPEAL AND SEVERABILITY**

**WHEREAS**, the City of Bisbee has a vested interest in protecting the health, safety and welfare of the public;

**WHEREAS**, the City of Bisbee has a strong interest in making sure animals are respected and treated humanely;

**WHEREAS**, amendments and changes to the language of this Chapter 6 would help clarify that the City and Public share responsibilities toward animals, both domestic and wild;

**WHEREAS**, there is a need to mitigate and avoid adverse, improper interactions with animals, both domestic and wild; and

**WHEREAS**, it is in the best interests of the City of Bisbee and its Citizens to adopt these amendments to the City Code, as set forth in Exhibit A hereto.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:**

**Section 1.** The amendments to Chapter 6 of the City Code, as set forth in the attached Exhibit A, incorporated herein by reference, are hereby adopted.

**Section 2.** If any Section, subSection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of Chapter 6.

**PASSED, APPROVED AND ADOPTED** by the Mayor and Council of the City of Bisbee on this \_\_\_ day of \_\_\_\_\_, 2019.

**APPROVED:**

\_\_\_\_\_  
David Smith, Mayor

**ATTEST:**

\_\_\_\_\_  
Ashlee Coronado, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
James Ledbetter, City Attorney

## **CHAPTER 6 ANIMALS ARTICLE**

### **6.1 INTRODUCTION AND GENERAL PROVISIONS**

#### **6.1.1 Purpose**

The City Council of the City of Bisbee has adopted this Article 6 for the purpose of providing safe and humane care and treatment of animals, while seeking to protect Residents, Visitors and all animals within the City of Bisbee.

#### **6.1.2 Definitions (O-01-12)**

In this article, unless the context otherwise requires:

- A. "Abandon," "Abandonment," or "Abandoned" means the act of placing an animal on public property or within a public building, unattended or uncared for, or on or within the private property of another without the express permission of the owner, custodian or tenant of the private property. An animal shall also be considered abandoned when it has been unattended and without adequate food, water, ventilation or shelter, for a period in excess of twenty-four hours, regardless of where such animal is found or kept.
- B. "Abuse" refers to physical injury, pain, and/or death to an animal.
- C. "Animal Control Officer" or "ACO" means the Animal Control Officer and any assistant ACOs, appointed by the Chief of Police.
- D. "Animal" means all mammals, fowl, insects and reptiles, with the exception of man.
- E. "Animal shelter" means an establishment authorized and working in conjunction with the City for the confinement, maintenance and safe-keeping of dogs or other animals which come into the custody or control of the City.
- F. "At large" means any dog off the premises of the owner and not under control of a person by a leash no more than six (6) feet in length.
- G. "Baiting" means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals.
- H. "Bite" means any actual puncture, tear, or abrasion of the skin inflicted by the teeth of an animal.
- I. "Fowl" means poultry of any kind, including but not limited to chickens, pheasants, quail, guineas, turkeys, peacocks, ducks and geese.
- J. "Herd" means more than three animals of the same species.

- K. "Impound" means the reception into custody by Law Enforcement, fire personnel or the ACO of any dog or other animal for confinement in the animal shelter or in a place of confinement, providing appropriate care.
- L. "Livestock" means animals, such as cattle, swine, sheep, goats, donkeys, burros, horses, mules, asses and other meat or grazing animals.
- M. "Neglect" means an act involving failure to provide for animal health or safety, including but not limited to failure to provide adequate food, water, shelter, heating, cooling, ventilation, exercise, or necessary veterinary care to an animal or to adequately confine an animal in a manner appropriate to its species, breed, age, and condition.
- N. "Owner" means any person owning, harboring, feeding, sheltering or keeping an animal.
- O. "Service Animal" is an animal that has completed a formal training program that assists its owner in one or more tasks of daily living and which is sufficiently conditioned to be of no danger to the health or safety of the general public.
- P. "Stray dog" means any dog running at large.
- Q. "Vicious dog" or "vicious animal" means any animal that has bitten a person or animal without provocation.

### **6.1.3 Contracting for Services**

The City council may enter into a contract with any organization for the operation of an animal pound or shelter and may enter into a contract with any licensed veterinarian for the medical care and humane disposal of animals impounded under the provisions of this Chapter.

### **6.1.4 Cruel Treatment Prohibited**

- A. It is unlawful for any person to torture or mistreat any animal.
- B. No person shall unnecessarily overload, overdrive, torture, torment, injure, beat, mutilate, inhumanely kill, or otherwise abuse any animal or cause or permit the same to be done.
- C. Any person who commits any of the following acts shall be in violation of this Section:
  - 1. Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;
  - 2. Betting or wagering any money or other valuable consideration on the fighting or baiting of animals;
  - 3. Attending a meeting or event which includes the fighting or baiting of animals; or,
  - 4. Providing or allowing property for use in the housing, training, transport, fighting or baiting of animals.

- D. It is unlawful for any person to poison any domestic animal, which term includes but is not limited to fowl and livestock. It is unlawful to distribute poison in any manner whatsoever with the intent or the purpose of poisoning any domestic animal, or to willfully injure or disfigure any domestic animal, within the City, except that any Officer or Agent of the United States, this State or of the City, who uses poison to be taken by predatory animals, shall be exempted from the provisions of this Section.
- E. Violation of this Section will be a class 1 misdemeanor.

#### **6.1.5 Care Requirements**

- A. Any animal kept on an owner's premises shall receive appropriate and humane care and treatment. Care and treatment of an animal shall include, but not be limited to, a clean, safe shelter that provides protection from the weather at all times; veterinary care; sufficient heat, cooling and ventilation; wholesome and appropriate amounts of food; and, exercise consistent with the normal requirements and feeding habits of the animal's size, species and breed.
- B. The owner or caretaker of an animal shall provide clean water for the animal in a sufficient quantity to keep the animal healthy. Water shall be provided at all times in a stable container that is sized appropriately for the animal's species and breed.
- C. Owners and caretakers of animals shall provide all vaccines, grooming, cleaning and parasite control required to ensure that the animal or animals are maintained in a humane state.
- D. The owner or caretaker to any sick or injured animal shall seek veterinary care, when needed to facilitate recovery and/or prevent suffering.
- E. Under no circumstances shall an animal be abandoned within the meaning of Section 6.1.2.A.
- F. Violation of this Section will be a class 2 misdemeanor.

#### **6.1.6 Trapping**

Any person who is a property owner or agent of property owner, may only trap domestic or feral animals on their property by use of humane, live traps. Trapped domestic or feral animals may be turned over to the ACO, Law Enforcement, a licensed veterinarian or an animal shelter. The relocation and abandonment of any species of domestic or feral animal is strictly prohibited, and may be charged as a violation of 6.1.5.

#### **6.1.7 Interference with an Animal Control Officer ("ACO") or Law Enforcement**

- A. It is unlawful for any person to fail or refuse to permit Law Enforcement or the ACO to inspect any animal or the premises on which the animal is kept to determine whether any provision of this chapter is being violated. Absent an emergency circumstance,

nothing in this Section shall be construed as to empower Law Enforcement or the ACO to enter the home or dwelling place of any person without a warrant.

- B. Interference with Law Enforcement or an ACO or a violation of this Section is a class 2 misdemeanor.

#### **6.1.8 Feeding of Feral Animals**

- A. It is unlawful to feed or harbor any feral animal within City limits as feral animals constitute health and environmental risks to domesticated animals, other wildlife and persons.

- B. Exceptions are, as follows:

A person may feed or harbor:

1. Birds; and,
2. Tree squirrels.

- C. Violation of this Section is a class 3 misdemeanor.

#### **6.1.9 Diseased Animals**

- A. It is unlawful to allow any domestic animal, afflicted with a contagious or infectious disease to run at large, or to be exposed in any public place whereby the health of persons or other animals may be affected. It is unlawful for such diseased animal to be shipped or removed from the premises of its owner, except under the supervision of Law Enforcement.

- B. It is the duty of Law Enforcement or the ACO, at the owner's expense and under the direction of a licensed veterinarian and/or health official, to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the State Health Officer or State Veterinarian is empowered to act.

- C. A person who violates this Section is guilty of a class 3 misdemeanor.

#### **6.1.10 Protection of Animals and Public**

- A. No person shall transport or carry on any public highway or public roadway, any dog or other animal in or on a motor vehicle, unless the dog or other animal is enclosed within the vehicle or protected by a container, cage, cross-tether, or other device to prevent the animal from falling from, being thrown from, or jumping from said motor vehicle.

- B. Any animal in a parked motor vehicle shall be confined in the manner set forth above, so as to prevent it from reaching to or beyond the outside edge of such vehicle with any portion of its body. A Law Enforcement Officer or the ACO shall be empowered to remove an animal that it not so confined from a motor vehicle, when it appears that said

animal may itself be in danger or when it appears that said animal may endanger the safety of the public.

- C. No person shall leave or confine any animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, injury or death to the animal.
1. Removal authorized. A Law Enforcement Officer, Fire Department Personnel or the ACO shall be empowered to take all steps that are reasonably necessary to remove an animal from a motor vehicle if the animal's safety, health, or well-being appears to be in immediate danger from heat, cold or lack of adequate ventilation and the conditions could reasonably be expected to cause suffering injury or death.
  2. Notice Required. A Law Enforcement Officer, Fire Department Personnel or the ACO, who removes an animal in accordance with the foregoing subSection C.1, shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing the address of the location where the animal may be claimed. The Owner may claim the animal only after payment of all charges that have accrued for the maintenance, care, medical treatment and impoundment of the animal.
- D. Violation of this Section will be a class 3 misdemeanor.

#### **6.1.11 Housing Requirements for Livestock and Fowl**

- A. Any person, who keeps or causes to be kept any horses, mules, cattle, donkeys, burros, goats, sheep, fowl or other livestock, if allowed by the specific zoning ordinances associated with the property, shall keep such animals in a pen or similar enclosure to prevent them from roaming at large. Any such livestock or fowl running at large may be impounded, as provided in this Chapter. It is unlawful to cause or allow any stable, pen or other enclosure where any animals are or may be kept to be unsanitary.
- B. Violation of this Section will be a petty offense.

#### **6.1.12 Noisy Animals Prohibited**

- A. It is unlawful for any person to keep or harbor within the City any animal, which frequently or for continuous duration, barks, howls, whines, or makes other noises by day or night, disturbing the peace and quiet of any reasonable person or family.
- B. No person shall keep or harbor an animal which barks, howls, whines, or makes other noises in violation of this Section. It shall be a violation of this Section if the barking, howling, whining, or other noises that are made continually occur and are audible beyond the property line of the premises on which the animal is located if:
1. It occurs for more than five minutes between the hours of 10:00 p.m. and 8:00 a.m.; or,



2. It occurs for more than fifteen minutes between the hours of 8:00 a.m. and 10:00 p.m.; or,
  3. For a shorter duration than cited above, but on more than three occasions within a given ten-day period, if attested to by complaints from two or more separate properties.
- C. It shall be a defense to such violation if the owner of an animal proves by a preponderance of the evidence that the animal was barking, howling, whining, or making other noises, because it was being provoked by a person, another animal or otherwise being incited to make noise.
- D. A person who violates this Section is guilty of a petty offense.

#### **6.1.13 Removal of Animal Waste**

- A. The owner or custodian of any animal, including but not limited to dogs, cats, livestock, fowl or any other animal under his or her control within the City, shall be responsible for the immediate clean-up and proper disposal of all feces deposited by an animal on public property including but not limited to sidewalks, walkways, trails, recreation areas, and parks, or on any privately owned property without the consent of the owner.
- B. The animal fecal matter shall be immediately placed in a closed or sealed container and thereafter disposed of by depositing said matter in a trash receptacle, sanitary disposal unit or other closed or sealed container.
- C. The person owning, possessing, harboring, feeding or having care, charge, control or custody of any animal shall take reasonable steps to assure no urine or animal waste smell is detectable by adjacent property owners.
- D. Exceptions to this Section shall include: unsighted persons while relying on a guide dog; police officer or other Law Enforcement Officer accompanied by police dogs; or, horses and/or livestock taking part in an authorized public event or parade that have separate rules and regulations regarding the collection and removal of animal feces.
- E. Violation of this Section is a petty offense.

#### **6.1.14 Dangerous Animals – Prohibited**

- A. It is unlawful to permit any vicious dog or vicious animal to run at large within the City and such animals shall be immediately impounded by Law Enforcement, Fire Department Personnel or the ACO.
- B. Violation of this Section is a petty offense.

#### **6.1.15 Dangerous Animals**

Members of Law Enforcement, the ACO or any other City Personnel are authorized to euthanize in a safe and humane manner any dangerous or vicious animal, when doing so is necessary for

the protection of any person, animal or property. Alternatively, Law Enforcement, an ACO or other City Personnel may euthanize a severely injured animal, if doing so is humanely justified.

#### **6.1.16 Animals within Limits of City; At Large**

- A. It is unlawful for any person or entity to herd, hold, pasture or detain any herd, drove or band of goats, livestock, swine, sheep, horses, cattle, donkeys, burros, mules, asses, fowl or any other animals within the corporate limits of the City.
- B. It is unlawful for any person to permit or allow any animal belonging to him/her or under his/her control to run at large within the City.
- C. It is unlawful for any person to drive or cause to be driven any animal into the City with the intention or the purpose of having such animal impounded.
- D. It is unlawful for any person to permit, suffer or allow any chickens, ducks, turkeys, geese or any fowl owned by him/her or under his/her care or control, to run at large or to trespass within the corporate limits of the City, on either public or private property.
- E. Violation of this Section is a petty offense.

#### **6.1.17 Duties of Animal Control Officer**

It is the duty of the ACO to capture any of the animals named in this Chapter 6, which are running at large within the City.

#### **6.1.18 Impounding**

- A. Any animal found running at large shall be returned to its known owner or impounded.
- B. On the impounding of an animal, the Animal Shelter shall make reasonable efforts to identify and contact the animal's Owner to inform him or her that the animal has been impounded and the steps necessary to redeem the animal.
- C. Each stray dog impounded and not eligible for a sterilization program shall be kept and maintained at the Animal Shelter for a minimum of seventy-two hours or one hundred twenty hours for an animal that is impounded with a microchip or wearing a license or any other discernible form of owner identification, unless claimed or surrendered by its owner. Any person may purchase or adopt a dog on expiration of the impoundment period, if the person pays all pound fees established by the City and complies with the licensing and vaccinating provisions of this Article.

#### **6.1.19 Notice of Impounding of Animals**

Within twenty-four hours of the taking up of any animal running at large, the ACO shall notify the owner of said animal, if known, of the fact of its being taken up, if the animal be licensed, tagged or branded and the owner of is reasonably known to the ACO. He or she shall notify such owner of the fact that an animal, describing the same, and if not redeemed within the time specified in said notice, it will be sold to discharge the cost and penalty of permitting it to run at

large within the City limits, and the expense of impounding and keeping the same. Alternatively, the ACO can direct that the animal be humanely euthanized, if no shelter is available or the animal is injured or in poor health.

#### **6.1.20 Care of Animals**

Any animal seized and impounded under the provisions of this Chapter shall be provided with proper care, food and water while so confined by the ACO or Animal Shelter; at the expense of the owner.

#### **6.1.21 Claimed by Owner**

If at any time prior to the time established in 6.1.18(C), the owner of any animal so seized and impounded shall claim the same, he or she shall be entitled to the possession thereof upon payment to the ACO or animal shelter of such sum as provided in this article and the legal charge and expense incident to such taking up and keeping.

#### **6.1.22 Fees**

Law Enforcement shall charge, for taking up, impounding and registering any animal so taken up, fees as determined by resolution of the Council.

#### **6.1.23 Places of Business**

A business establishment, in its discretion, may allow or disallow dogs or other animals on its premises, subject, however, to the laws regarding service animals as set forth in A.R.S. 11-1024.

#### **6.1.24 Limitation on the Number of Fowl in a Single Household; and Prohibition for Roosters**

- A. No person shall keep more than six (6) fowl at any one time. The keeping, maintaining or harboring of roosters within the City limits is prohibited.
- B. As of the date this Ordinance is adopted, any fowl in excess of six (6) may remain for a period of time not exceeding twenty-four (24) months. Any person keeping fowl in excess of six (6) after the twenty-four (24) month period expires is in violation of this Section.
- C. Violation of this Section is a petty offense.

#### **6.1.25 Maintaining Livestock**

- A. It is unlawful for any person to keep and maintain within the corporate limits of the City any livestock.
- B. As of the date this Ordinance is adopted, any livestock remaining in the City in violation of 6.1.25 may remain until the animal is deceased.

C. Violation of this Section is a petty offense.

#### **6.1.26 Bees – Keeping – Permission Required**

A. It is unlawful to keep or care for bees or maintain any stands or hives of bees within the corporate limits of the City without the written permission of the City Manager, and such permission must be renewed every two years.

B. Violation of this Section is a petty offense.

### **ARTICLE 6.2 CANINE SPECIFIC REQUIREMENTS**

#### **6.2.1 License Required**

No owner shall keep, maintain or harbor a dog over three months of age, unless a license is obtained for the dog from the department of the City that is authorized to issue such licenses. Tourists or transient owners keeping or maintaining a dog within the City shall not be required to obtain a license for the dog if it has a valid current license from another City or County, is not kept or maintained within the City more than thirty days, and has a rabies vaccination certificate, signed by a licensed veterinarian showing the vaccination of the dog and the vaccination is effective for the period of time, during which the dog is kept within the City.

#### **6.2.2 License Fee (O-02-07)**

All license fees are established by Council under a separate Section of the City code.

#### **6.2.3 Limitation on the Number of Canines in a Single Household**

It is unlawful for any household to own, harbor or hold more than three dogs. Three dogs, which are over three months of age, unless specific permission is obtained from the Department of the City, which issues dog licenses. Tourists, guests or transient owners staying in the household for a period of thirty (30) days or less are exempt from this limitation.

#### **6.2.4 Securing of Dogs**

A. When on the site where they are housed, all dogs shall be confined in a manner providing them ready access to water and shelter without posing a risk to the health or safety of the dog.

B. If a properly fenced area is not available, pulleys, running lines or trolley systems are the preferred methods of outdoor confinement, because they allow more mobility for the dog. These systems must be at least 15 feet in length and at least 7 feet above the ground. Dogs shall not be chained, tied, fastened or otherwise tethered to dog houses, trees, fences, residential structures or other stationary objects, including pulleys, running lines or trolley systems, as a means of confining the dog, unless each of the following conditions is met:

1. The dog is not restrained in this manner for any continuous period longer than nine (9) hours.
  2. The tether is connected to the dog by a buckle-type collar or a body harness made of nylon or leather, not less than one inch in width.
  3. The tether shall not be less than ten (10) feet in length; shall terminate in a swivel at each end; shall not weigh more than 1/8 of the dog's weight; and shall be free of tangles.
  4. The dog is tethered in such a manner as to prevent injury, strangulation or entanglement. The tether shall be located at sufficient distance from any fence or other structure from which the dog could potentially hang, if the dog were to jump over a fence or to climb and fall off the structure.
  5. The dog may not be tethered outside during periods of extreme weather, including without limitation, extreme heat or freezing temperatures, thunderstorms, wind storms or snow storms.
  6. The dog must have ready access to water, shelter, and a clean, dry area. Excrement shall be removed from the area on a regular basis and shall not be allowed to accumulate.
  7. The dog is at least nine (9) months of age. Puppies shall not be tethered.
  8. The dog is neither sick nor injured.
  9. If there are multiple dogs, each dog must be tethered separately.
- C. A dog or other animal that is found kept without food, water or proper care, including confinement that violates this Section, shall be taken into custody and impounded by the ACO.
- D. A dog off the site where they are housed must be kept on a leash not more than six (6) feet in length.
- E. Violation of this Section is a class 2 misdemeanor.

#### **6.2.5 Vicious Dogs (O-14-01)**

- A. Procedure for Viciousness Determination
1. Law Enforcement Officers, the ACO, an Animal Shelter employee, the City Attorney, or any citizen, having reasonable grounds to believe a dog is vicious, may petition the City Magistrate for a determination that the animal is vicious.
  2. Upon the receipt of the petition, or at any time thereafter, if the City Magistrate finds that there are reasonable grounds to believe that the dog meets the

definition of "vicious animal," the City Magistrate may order that the animal be impounded on such terms as the Court deems necessary to protect the public safety.

3. After notice to the owner, the City Magistrate shall conduct a hearing to determine if the animal is vicious. The decision shall be based on the preponderance of the evidence presented at the hearing.
4. A viciousness determination hearing may be conducted with and as a part of any other related proceeding involving the same animal and same owner.
5. At the conclusion of this hearing, the Magistrate may award reasonable attorney's fees to the prevailing party.

#### C. Disposition of Vicious Dogs

Upon a determination that a dog is vicious, the Court shall enter such orders as it deems to be necessary to protect the public. These orders may include one or more of the following:

1. That the dog be securely confined indoors or in a securely enclosed and locked pen or kennel, with secure gate, sides, and ceiling, except when the dog is leashed and muzzled. These premises shall be designated with a prominent sign reading "Vicious Dog."
2. That the dog be spayed or neutered.
3. That the dog be euthanized in a safe and humane manner.
4. That the Court require such further relief as may be appropriate in the particular circumstances to protect the public from any future harm or injury.

### ARTICLE 6.3 CATS

#### 6.3.1 Limitation on the Number of Felines in a Single Household

- A. It is unlawful for any household to own, harbor or hold more than five (5) cats, which are over three months of age, unless specific permission is obtained from the Department of the City, which issues animal licenses. Tourists, guests or transient owners staying in the household for a period of thirty (30) days or less are exempt from this limitation.
- B. Violation of this Section is petty offense.

#### 6.3.2 Complaints of Cats at Large; Penalties

- A. Law Enforcement or the ACO may pick up a cat when they suspect that the cat is at large; or, the cat is feral.
- B. When a cat Owner can be identified, the Owner will be counseled and may be cited for failing to control his or her cat.
- C. Violation of this Section is a petty offense.

### **6.3.3 Feline Owners**

All provisions of this Section, unless specifically altered by Article 6.3 are also applicable to the households and the owners of cats.

## **ARTICLE 6.4 WILDLIFE**

### **6.4.1 Definitions**

"Wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustaceans and fish, including their eggs or spawn. The term "wildlife" also includes domesticated animals who are not under the care of a person or persons and/or which need veterinary attention.

### **6.4.2 Unlawful Feeding of Wildlife; Penalties**

- A. A person commits unlawful feeding of wildlife by intentionally, knowingly or recklessly feeding, attracting or otherwise enticing wildlife into an area, except for:
  - 1. Public employees or authorized agents acting within the scope of their authority for public safety or for wildlife management purposes;
  - 2. Normal agricultural or livestock operational practices;
  - 3. Tree squirrels; and,
  - 4. Birds.
- B. Violation of this Section is a petty offense.



CATS INDOORS!

THE CAMPAIGN FOR SAFE BIRDS & CATS

# “MANAGED” CAT COLONIES: THE WRONG SOLUTION TO A TRAGIC PROBLEM



## THE PROBLEM

Nobody knows how many homeless cats roam free in the U.S., but estimates range from 60 to 100 million! Whether *stray* (abandoned or lost) or *feral* (descendants of strays living in the wild), these non-native predators often lead short, miserable lives, and can wreak havoc on populations of birds and other wildlife already under siege from many other threats.

Unchecked, cat populations can skyrocket. In warmer climates, a female cat can have up to three litters per year, with four to six kittens per litter. Unaltered, free-roaming pet cats also contribute to the problem. Animal welfare groups work hard to encourage people to adopt their pets from shelters, keep them indoors, spay or neuter their cats, and never abandon them. However, cat overpopulation remains a serious problem, and millions of homeless cats are euthanized each year.

Aggregations of stray cats or “colonies” often form around an artificial food source, such as garbage dumps or places where people deliberately leave food out for cats. While artificial feeding may seem humane, it exacerbates the overpopulation problem because the cat colony will grow. Animal control officers are often called in to trap the cats and permanently remove them. Cats unsuitable for adoption are usually euthanized.

## TRAP/NEUTER/RELEASE

While many humane groups, conservation organizations, and local authorities agree that homeless cats should be humanely and permanently removed from the wild, some people advocate “managing” colonies of stray cats through a practice called **Trap/Neuter/Release** or TNR. TNR varies, but in general, volunteers live-trap the cats and take them to a veterinarian or clinic. If funds are available, the cats may be tested for fatal feline diseases such as feline leukemia virus (FeLV) or feline immunodeficiency virus (FIV). Cats testing positive for these diseases or seriously ill cats may be euthanized. The cats are usually vaccinated against rabies and may be vaccinated for other diseases. The cats are spayed or neutered, and the tip of one ear is clipped to easily identify cats that have been de-sexed. The cats are then released, usually at the trap site, where they continue to be fed for as long as they remain in the colony. This could be a day, a month, or years. Kittens and recently abandoned or lost cats may be put up for adoption.

TNR is being practiced, sometimes with explicit legal authorization, in cities, suburbs, college campuses, public parks and beaches, farms, areas adjacent to wildlife refuges, and islands. Some TNR advocates oppose cat registration, spay/neuter requirements, or cat restraint laws unless they are exempted. Some volunteers use their own funds and/or secure donations or public funding from local governments.



Photo: Dan Castillo

## AN INEFFECTIVE WAY TO END CAT OVERPOPULATION

TNR efforts in the U.S. began in the early 1990s, and some groups claim to have trapped, neutered, and released thousands of cats. Organizations promoting TNR occur in at least 40 states plus Washington, DC and Puerto Rico. TNR is especially popular in California, Florida, and Hawaii; states with highly endangered ecosystems and wildlife. (See state fact sheets at: [www.abcbirds.org/cats](http://www.abcbirds.org/cats)). One of the largest TNR efforts was in California. From 1999 to 2002, Maddie’s Fund gave \$9.5 million to the California Veterinary Medical Association to reimburse 1,116 veterinarians who spayed or neutered 170,334 un-owned cats for release. Only half of those cats were vaccinated against rabies, and far fewer received vaccines for other fatal feline diseases.



Photo: Linda Winter

The founding theory behind TNR is based on perpetual maintenance of cat colonies. Although proponents often claim that cat colonies die out in just a few years, it is now common to hear of “managed” cat colonies that have existed for 10 or



more years. For example, when the Stanford Cat Network began TNR in 1989, they claimed there were approximately 500 cats on campus. Fifteen years later, they claim there were originally 1,500 cats on campus in 1989, and now there are approximately 200 cats on campus. Whichever number is believed, TNR has not eliminated the stray cat population on the Stanford University campus.

Cat colonies perpetuate themselves because they often serve as dumping grounds for unwanted cats and the food attracts more cats. Colonies often contain cats too wary to be caught. Cats that have been spayed or neutered, vaccinated, and regularly fed will also live longer. In a study of managed cat colonies in two Florida parks, Crandon Marina and A.D. Barnes Park, the cat colonies did not decrease in size, and the cats did not keep new cats from joining the colony, or away from food. The well-fed cats in both colonies were observed stalking and killing wildlife, including a Common Yellowthroat (Castillo, D. and A.L. Clarke. 2003. Trap/neuter/release methods ineffective in controlling domestic cat "colonies" on public lands. *Natural Areas Journal* 23:247-253).

### RISKS TO HUMAN HEALTH

Cat colonies, even managed ones, pose a serious human health risk. Diseases that can be transmitted to humans, such as ringworm, cat scratch fever, and toxoplasmosis, cannot be controlled in managed cat colonies. Rabies is a very real threat. Raccoons and skunks are common visitors to feeding stations, as well as foxes, opossums, and rats. Raccoons and skunks are the most common carriers of rabies in wildlife, and cats are the domestic animal most commonly reported rabid in the U.S. Feeding stations artificially put these animals in close contact with each other. Cats are rarely caught for follow-up vaccination, de-worming or other health concerns. The National Association of State Public Health Veterinarians passed a resolution opposing TNR because it poses a health risk.

### DEADLY TO WILDLIFE

There is extensive documentation that free-roaming cats are efficient predators of birds and other wildlife, even if well-fed (see **Domestic Cat Predation on Birds and Other Wildlife** at [www.abcbirds.org/cats](http://www.abcbirds.org/cats)). The American Veterinary Medical Association's position statement on managed cat colonies states, "The colony should be restricted to a well-defined relatively safe area, and not on lands managed for wildlife or other natural resources (e.g. state parks, wildlife refuges, etc.)." However, cat colonies are common in public parks and beaches, despite the presence of sensitive wildlife species.

For example, in 1994 Alley Cat Allies sought an injunction to stop the National Park Service (NPS) from removing a stray

cat colony from park land. It is against NPS policy to allow pets, including domestic cats, on park property without restraint. NPS removed 28 cats and three kittens (none were euthanized) from the park before the hearing, and the case was dismissed as moot. A legal decision in favor of the feeders could have set a precedent for all NPS lands. Since the food source was removed, a new cat colony has *not* formed there (Sealy, D. 1996. Removal of a colony of free-ranging domestic cats from an area administered by the National Park Service: A Case History. pp. 75-77 In *Uncommon Care for Common Animals*. Proceedings of the 1995 International Wildlife Rehabilitation Council Conference, Virginia Beach, VA, 223 pp.).



Photo: Alan Hopkins

Another example is the Ocean Reef Club TNR program on North Key Largo, FL. Starting in 1989, the volunteer group ORCAT reportedly trapped and had spayed or neutered approximately 200 cats per year for five years. However, the cat population only grew larger. More intense efforts were needed, which led to the community association-sponsored "Feral Cat Center" in 1995 with an annual budget of \$100,000 and paid staff. By 1999, Ocean Reef's cat population was considered "stabilized" at about 500, which is where it stands today. Adjacent to Ocean Reef Club is the Dagny Johnson Key Largo Hammock Botanical State Park, and across the road is the Crocodile Lake National Wildlife Refuge. These areas provide the last remaining habitat for the highly endangered Key Largo woodrat and Key Largo cotton mouse. A captive breeding program has been established in an attempt to save the woodrat from extinction (Clarke, A.L. and T. Pacin. 2002. Domestic cat "colonies" in natural areas: a growing exotic species threat. *Natural Areas Journal* 22:154-159).

### THE SUFFERING DOES NOT END

Managed cat colonies are not a humane solution for the cats themselves because they still face a multitude of hazards and diseases (see **The Great Outdoors Is No Place For Cats** at [www.abcbirds.org/cats](http://www.abcbirds.org/cats)). Cats that have been captured once are extremely hard to catch subsequently for re-vaccination or to treat for illness or injury.

Not all volunteers have the money for testing and vaccination, and many debilitating and life-threatening illnesses cannot be treated on a one time basis, such as roundworm, ringworm, fleas, ticks, ear mites,



Photo: Alan Hopkins

abscesses, respiratory infections, urinary tract infections, and eye infections. According to PETA, half of the 32 cats in one colony were shot by a man who claimed they were attacking his children. Cats in another colony were shot with darts. A loose dog killed several cats in another colony. A resident of Port St. Lucie, FL who tried TNR stated, "I was not helping these cats, I was only prolonging a terrible lonely and disease-filled life that I would not wish on anyone. The feral cat colony supporters need to realize that what they are doing is not humane or compassionate—it is a selfish act of the heart." (Letter to the Editor, Stuart News, 3/16/01).

### VOLUNTEERS OFTEN CAN'T MANAGE

Colony feeders must constantly trap new cats and kittens. Feeders are often overwhelmed by the cost and responsibility. According to the Universities Federation for Animal Welfare report, *The Fate of Controlled Feral Cat Colonies*, "The most common complaint from members of cat action groups was that they had too few people or too little money to adequately manage their population of cats."

TNR clearly is *not* in the best interest of birds and other wildlife or the cats, and even overwhelms the ability of well-meaning people who genuinely want to alleviate animal suffering. It also undermines efforts to encourage responsible pet ownership by keeping cats indoors.

### TNR MAY NOT BE LEGAL

A University of Florida law student conducted a thorough review of wildlife protection and animal cruelty laws, "Feral Cat Colonies in Florida: The Fur and Feathers Are Flying" ([www.law.ufl.edu/conservation/projects/projects\\_u\\_feralcats.shtml](http://www.law.ufl.edu/conservation/projects/projects_u_feralcats.shtml)) which was commissioned by the U.S. Fish & Wildlife Service. The review concluded that TNR is likely a violation of the Migratory Bird Treaty Act, the Endangered Species Act, and Florida state laws prohibiting abandonment and release of non-native animals.








### WHO OPPOSES TNR?

American Bird Conservancy, American Association of Wildlife Veterinarians, The American Ornithologists' Union, The Cooper Ornithological Society, the National Association of State Public Health Veterinarians, The Wildlife Society and its Florida Chapter, the Association of Avian Veterinarians, United Activists for Animal Rights, the New York Coalition for Animal Rights, the Florida Animal Control Association, Madison Audubon Society, and the Wisconsin Society for Ornithologists all oppose TNR. The Florida Fish & Wildlife Conservation Commission (FWC) passed a resolution on May 30, 2003 opposing TNR on FWC lands and all lands managed for wildlife (See [www.abcbirds.org/cats/florida\\_policy.htm](http://www.abcbirds.org/cats/florida_policy.htm)). In 2002, the U.S. Navy issued a policy letter

that stated that TNR efforts would no longer be established on Navy land and that all TNR efforts would be terminated by January 1, 2003 (See [www.abcbirds.org/cats/navypolicy.pdf](http://www.abcbirds.org/cats/navypolicy.pdf)).

### BETTER SOLUTIONS

Local officials and park managers often have the difficult task of finding solutions to cat overpopulation problems that satisfy cat feeders, conservationists, and the community at large. The following are some recommendations:

-  Educate cat owners to spay or neuter their cats from eight weeks to four month of age, and keep them indoors.
-  Educate the public that feeding stray cats is *not* the best solution for cats, wildlife, or people.
-  Enact and enforce legislation prohibiting abandonment of cats, and post warning signs in public wildlife areas.
-  Prohibit the feeding of stray cats, including those in managed colonies, in public parks and on beaches, wildlife refuges, or other public lands that serve as wildlife habitat; and publicize this information.
-  Involve wildlife experts from nearby colleges, parks, or state/federal agencies, community health officials, veterinarians, conservation groups, and animal shelter facilities to work together to solve cat overpopulation problems in your area.
-  Humanely remove stray and feral cats from communities, parks, and other public areas that provide habitat for wildlife, and take them to a shelter. To locate a shelter near you, see the **National Shelter Directory** at [www.asPCA.org/site/FrameSet?style=Shelter&url=../script\\_forms/shelter.html](http://www.asPCA.org/site/FrameSet?style=Shelter&url=../script_forms/shelter.html)
-  Support fully enclosed stray and feral cat sanctuaries on private property. Cats in sanctuaries, such as those at Best Friends, UT; Rikki's Refuge, VA; and the Humane Society of Ocean City, NJ, are safe, sheltered, and well-fed. In addition, the cats do not harm wildlife or create health hazards for the general public.

For more information, contact:

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