

ORDINANCE 2013 – 06

AN ORDINANCE OF THE TOWN OF BETTERTON REGARDING ANIMAL CONTROL
AND TO PROHIBIT THE HARBORING OF FERAL CAT COLONIES WITHIN TOWN
LIMITS

FOR THE PURPOSES of protecting, maintaining, and enhancing the public health, safety, and general welfare by amending Section 6-301 through 6-303 of the Code of Ordinances of the Town of Betterton; providing that the Mayor and Council’s designee shall be among the parties authorized to apply and enforce Chapter 64 of the Code of Public Local Laws of Kent County within the boundaries of the Town of Betterton; providing that it shall be unlawful to harbor a feral cat colony within the boundaries of Betterton; providing that the Mayor and Council’s designee shall be among the parties authorized to institute action to correct, abate, or otherwise remedy a violation of this article; providing that the title of this Ordinance shall be deemed a fair summary; and generally relating to dogs, cats, and other animals in the Town of Betterton.

RECITALS

WHEREAS, pursuant to Sections 5-202 and 5-209 of the Local Government Article of the Annotated Code of Maryland, the Mayor and Council of the Town of Betterton (the “Mayor and Council”), as the legislative body of the Town of Betterton, Maryland (the “Town”), have the express ordinance-making power to prevent and remove nuisances; and

WHEREAS, it is the duty of the Town to protect, maintain, and enhance the public health, safety, and general welfare by establishing animal control requirements and procedures; and

WHEREAS, the Town Charter confers upon the Town the power to adopt by Ordinance and enforce within the corporate limits health, sanitary, and other similar regulations not in conflict with the laws of the State of Maryland or with the Town Charter; and

WHEREAS, pursuant to Ordinance 2004-03A, the Town adopted the Kent County Animal Control Ordinance as amended from time to time to provide uniform and more effective enforcement of Animal Control violations throughout Kent County and the municipalities therein; and

WHEREAS, pursuant to Ordinance 2010-01, the Town adopted an ordinance that provided feral cat caregivers additional responsibilities with respect to the feeding and care of feral cats on property other than the lands owned by the caregiver; and

WHEREAS since the time that Mayor and Council adopted Ordinance 2010-01, feral cat colonies have become an ever-growing nuisance within the Town and presently threaten the public health, safety, and welfare of the Town and its inhabitants; and

WHEREAS the Mayor and Council are desirous of deleting those provisions of Chapter 64 of the County Code, as applied and enforced within the Town, that would permit the harboring of feral cat colonies within the town limits; and

WHEREAS, the Mayor and Council, for the good and welfare of the community, deem it necessary and appropriate to amend Section 6-301 of the Town's Code of Ordinances for the purposes of providing that the Mayor and Council's designee shall be among the parties authorized to apply and enforce Chapter 64 of the Code of Public Local Laws of Kent County within the boundaries of the Town of Betterton; providing that it shall be unlawful to harbor a feral cat colony within the boundaries of the Town of Betterton; providing that the Mayor and Council's designee shall be among the parties authorized to institute action to correct, abate, or otherwise remedy a violation of this article; providing that the title of this Ordinance shall be deemed a fair summary; and generally relating to dogs, cats, and other animals in the Town of Betterton.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE MAYOR AND COUNCIL OF BETTERTON AS FOLLOWS:

SECTION 1. Pursuant to the authority granted to them under Section 201, Article II, General Powers, of the Charter of the Town of Betterton, the Mayor and Council do hereby make the following amendment to the "Betterton Code of Ordinances".

That Section 6-301(a) of Article 3 of Chapter VI, PUBLIC HEALTH, SAFETY, AND CONDUCT with incorporates the Kent County Animal Control Ordinance is hereby amended as follows:

Section 6-301. County Animal Control Ordinance Adopted.

- (a) The Kent County Animal Control Ordinance contained in Chapter 64 of the Kent County Code of Ordinances and as may be amended from time to time, is hereby adopted subject to the below exclusions and made part of this Code by reference, except as otherwise provided in this Code. **Chapter 64 shall be applicable and enforceable by Kent County, Kent County's designee, or the Mayor and Council's designee within the boundaries of the Town of Betterton. The complete text of the Kent County Animal Control Law, as applicable and enforceable in the Town, is on file and available for public review in the Town office.**

Section 64-1 Definitions

~~[FERAL CAT CAREGIVER—Any person who provides care, including food, shelter, or medical care, to one or more feral cats or has temporary custody of a feral cat.]~~

FREE-ROAMING CAT – A cat that lives outdoors at least part of the time, to include lost, abandoned, feral, stray, or owned indoor/outdoor cats.

~~[MANAGED FERAL CAT COLONY—A colony of feral cats that is registered with the Humane Society of Kent County, Inc.]~~

~~[TRAP NEUTER RETURN PROGRAM (TNR) — A program approved by the Humane Society, or organization approved by the Kent County Commissioners, to trap, alter, vaccinate for rabies and distemper, ear tip, and return feral cats to their original location.]~~

Section 64-6 Impoundment

- A. Unrestrained dogs shall be taken by law enforcement and/or animal control officers and impounded in an animal shelter and there confined in a humane manner. These officers may use whatever means necessary to capture such dogs. **Humanely trapped cats that are trapped on property other than their owners may be taken to the Humane Society for impoundment, or animal control officers may retrieve the trapped cats and take them to the Humane Society for impoundment.**
- D. The owner of an impounded dog or cat shall pay an impoundment fee and a daily board fee for each day impounded and any cost incurred for the care of the animal during impoundment until the animal is reclaimed or relinquished. **The impoundment fee shall be \$50, or a fee as determined by the Humane Society, but not less than \$50, the first time a cat or dog is released to the owner. The impoundment fee the second time the same animal is released to the owner shall be \$100, or a fee as determined by the Humane Society, but not less than \$100. The impoundment fee the third time and subsequent times the same animal is released to the owner shall be \$150, or a fee as determined by the Humane Society, but not less than \$150.**

Section 64-7 Animal care

- J. **It is unlawful for any person possessing, harboring, keeping, having an interest in, or having control or custody of a cat to permit or allow more than three cats to go or remain outdoors at the same time or to permit or allow any unneutered cat over the age of four months to go or remain outdoors.**
- K. **It is unlawful to place or maintain placement of food outdoors between the hours of six p.m. and six a.m. unless the food is located inside a proper enclosure which is inaccessible to at-large animals. It is also unlawful for a person to knowingly feed an animal that he or she does not own.**

Section 64-10 Feral cat colonies.

~~[No person] It shall [maintain] **be unlawful to harbor** a feral **or free-roaming** cat colony [without first registering the colony with the Human Society of Kent County. Those persons maintaining feral cat colonies on lands actively used in agriculture and zoned either Agricultural Zoning District (AZD) or Resource Conservation District (RCD), or on land constituting a farm as defined by the Land Use Ordinance, shall be exempt from the registration requirement. A registration certificate shall be issued to the colony caretaker responsible for the colony and shall contain the following information:~~

- ~~A. The name, telephone number, and address of the person to whom the certificate is issued.~~
- ~~B. The date of issuance.~~
- ~~C. The number of cats in the colony.~~
- ~~D. The address (location) of the colony] **within the boundaries of the Town.**~~

~~[A registration certification shall not be issued unless the caretaker responsible for the colony either certifies that the caretaker is an owner of the real property on which the colony is fed, water, and/or sheltered or supplies a legible copy of the written permission from the owner for the caregiver to feed, water, and/or shelter the colony on the owner's property.]~~

~~**[Section 64-10.1 Responsibilities of feral cat caregiver; acceptable standards of care**~~

- ~~A. Feral cat caregivers shall cooperate with any TNR program, making reasonable, good faith efforts to have all cats in the colony altered, ear tipped for identification, vaccinated against rabies, and returned to their home site following full recovery from surgery.~~
- ~~B. Feral cat caregivers shall cooperate with any TNR program and make reasonable, good faith efforts to have any new cat that comes to the colony altered, ear tipped, and vaccinated against rabies and distemper, as soon as possible.~~
- ~~C. Feral cat caregivers shall provide food and water to the colony cats on a regular basis, year round, using best practices to minimize, as reasonably as possible, any nuisance and/or unsanitary conditions.~~
- ~~D. Feral cat caregivers shall provide adequate shelter (in number and quantity) for colony cats using best practices to minimize nuisance.~~
- ~~E. Feral cat caregivers shall make reasonable, good faith efforts to provide needed veterinary care to colony cats that are visibly ill or injured.~~
- ~~F. Feral cat caregivers shall keep and maintain records for each colony cat, including each cat's rabies vaccination record/certificate.~~
- ~~G. Feral cat caregivers shall make reasonable, good faith efforts using best practices, to exclude cats from yards, gardens or similar property upon the request of the property owner.~~
- ~~H. Feral cat caregivers shall generally make reasonable efforts to address and resolve complaints regarding colony cats.~~
- ~~I. Feral cat caregivers shall ensure that a substitute caregiver is in place during the feral cat caregiver's temporary or permanent absence.~~
- ~~J. Feral Cat Caregivers shall not provide food and water and/or shelter for colony cats on property other than the lands owned by the Feral Cat Caregiver unless written permission has been obtained from the property owner. The Feral Cat Caregiver shall supply the Humane Society of Kent County with a legible copy of the written permission when registering the colony pursuant to Section 64-10 of the Kent County Animal Control Ordinance.]~~

Section 64-10.[2] 1. Responsibilities ~~of Humane Society and animal control officers.~~

- ~~A. The Humane Society and authorized Kent County animal control officers will trap and seize those feral cats that pose an imminent health risk to the public or are severely injured or sick.~~
- ~~B. The Humane Society and authorized Kent County animal control officers will release trapped ear-tipped cats as close to the trap site as possible.~~
- ~~C. The Humane Society and authorized Kent County animal control officers will transport to an animal shelter only those feral cats that are sick or injured.~~
- ~~D. The Humane Society shall notify TNR programs of the identity of feral cat caregivers for cats seized under Subsections B and C to enable the programs to assist caregivers if necessary.~~
- ~~E.]Anyone aware of a free-roaming cat bite must report it to the Kent County Health Department. [~~
- ~~F. A feral cat caregiver has up to 60 days to come into compliance with the standards of care. The Humane Society may reduce the time to come into compliance if the Humane Society concludes that the feral cats' conditions place their welfare of that of human beings in jeopardy.]~~

Section 64-10.[3]2. Enforcement; violations and penalties.

- A. The provisions of this article shall be enforced by those persons or agencies designated by the County Commissioners of Kent County **or the Mayor and Council of the Town of Betterton.** It shall be a violation of this article to interfere with an animal control officer in the performance of his/her duties. The animal control officer shall have the right to enter upon any premises at all reasonable times for the purpose of discharging the duties imposed upon him/her by this article where there is reasonable belief that a violation of this article has been committed.
- B. Violations of this article shall be deemed a code county infraction. Any person, firm, corporation or other legal entity found to have committed a code county infraction by violating any provision of this article or any amendment thereto shall be fined not more than \$400. Each and every day during which such violation occurs or continues may be deemed a separate offense.
- C. The animal control officer may issue a citation.
- D. The imposition of the penalties herein prescribed shall not preclude the County Attorney **or the Town Attorney** from instituting action to correct, abate, or otherwise remedy a violation of this article.

That Section 6-301(b) of Article 3 of Chapter VI, PUBLIC HEALTH, SAFETY, AND CONDUCT which incorporates the Kent County Animal Control Ordinance is hereby amended to provide for the below additional provision:

The Town hereby requests and authorized Kent County and the Kent County Humane Society, Inc., **or the Mayor and Council's designee,** to enforce the provisions of this Section.

SECTION 2. In this Ordinance, unless a section of the code is expressly repealed in its entirety and reenacted, new or added language is underlined and bold, deleted text is crossed out and enclosed in brackets, and amendments to the Ordinance occurring after its date of introduction are italicized.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Mayor and Council that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion thereof.

SECTION 4. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

This ordinance was introduced at a public meeting of the Mayor and Council of the Town of Betterton, held on the 26th day of November, 2013 and having been reviewed and considered for final action, was duly passed and adopted on the ____ day of _____, 2013. AND BE IT FURTHER ENACTED BY THE MAYOR AND COUNCIL OF THE TOWN OF BETTERTON, MARYLAND, that this ordinance shall become effective on the ____ day of _____, 2013.

A summary of this Ordinance shall be published in at least one newspaper having general circulation within the Town of Betterton.

BY AUTHORITY OF THE MAYOR AND COUNCIL
OF THE TOWN OF BETTERTON, MARYLAND

Annette Green, Clerk

Carolyn C. Sorge, Mayor

Donald E. Sutton, Councilmember

J. Michael Otwell, Councilmember

Ordinance 2013-06

An Ordinance of the Town of Betterton Regarding Animal Control and to Prohibit the Harboring of Feral Cat Colonies
within Town Limits

Page 7

Ronald Steen, Councilmember

Robert E. Pyfer, Councilmember

Approved as to Form:

Thomas N. Yeager
Attorney for the Town of Betterton